

Portsmouth City Council's Response to the Inspectors' questions for Matter 1 Procedural and legal requirements



Matter 1: Procedural and legal requirements

Issue: Whether the Plan has been prepared in accordance with relevant procedural and legal requirements.

Plan preparation and scope

1) How has the Plan been prepared in accordance with the Local Development Scheme [KD22]?

1.1.1 Yes, the Plan has been prepared in accordance with the Local Development Scheme (LDS). As the Plan took several years to prepare there have been several iterations of the LDS. The current version of the LDS [KD22] was approved by Cabinet at its meeting on 29th April 2025 [KD27 and KD28]. Cabinet also resolved at the same meeting to start work on the Local Plan Addendum.

2) Does the Plan clearly distinguish between strategic and non-strategic policies?

1.2.1 Yes, the Plan says in the title of every policy whether the policy is strategic or a development management policy. There are also two core policies, which are similarly identified.

Consultation/Statement of Community Involvement

3) Has the Plan been prepared in accordance with the Council's Statement of Community Involvement [KD21] and statutory consultation requirements, including in respect of the publication and availability of documents, advertisements and notifications?

1.3.1 Yes, the Plan has been prepared in accordance with the Council's Statement of Community Involvement (SCI). The Plan was prepared in accordance with three iterations of the SCI, adopted in 2006, 2017 and 2023 [KD21]

Co-operation

4) How is the Plan and its preparation consistent with the policies in the Framework on maintaining effective cooperation?

1.4.1 Throughout the preparation of the Plan, the Council has constructively engaged with key partners on strategic cross-boundary issues. The Duty to Cooperate Statement (DTC01) documents this work and highlights its outcomes, demonstrating that the Council has maintained effective cooperation in line with the policies in the Framework. The Statement is supported by numerous statements of common ground with neighbouring local authorities and statutory bodies, which are all published in the examination library.

Equalities

5) In what ways does the Plan seek to ensure that due regard is had to the aims expressed in Section 149 of the Equality Act 2010 in relation to those who have a relevant protected characteristic?

1.5.1 The Integrated Impact Assessment (IIA) [KD23] explains how the Council as a public authority has met its public sector equality duty as set out in Section 149 of the Equality Act 2010 in the preparation of the Local Plan. The IIA explains how all policies within the Pre-Submission Local Plan (2024) [KD01] and the Pre-Submission Local Plan Addendum (2025) [KD02] were assessed against the nine protected characteristics listed in the Act. The IIA identified and considered any possible beneficial or detrimental effects that may arise from the policies and implemented changes to the policies where necessary to avoid discrimination and negative impacts upon people with protected characteristics. The Pre-Submission Local Plan (2024) was amended prior to consultation in several ways in response to the findings of the IIA. For example, criterion 1 c) of

Policy PLP27: Employability and Skills was amended so that it referenced people with protected characteristics. No further amendments to the policies included in the Addendum were required.

- 1.5.2 Work on equalities has been done iteratively throughout the preparation of the Plan. The final round of Regulation 18 consultation in 2021 included a Health Impact Assessment. The findings of this influenced the policies in the Pre-Submission Local Plan (2024). The Health Impact Assessment can be accessed in the archive of the Examination Library. The first Pre-Submission consultation in 2024 was accompanied by a comprehensive IIA of each draft policy and was used to redraft the policies presented for consultation. The IIA that accompanied the publication of the Pre-Submission Local Plan Addendum [KD02] related to both the Portsmouth Pre-Submission Local Plan (2024) [KD01] and the Pre-Submission Local Plan Addendum (2025).

Climate change

6) Does the Plan comply with Section 19(1A) of the Planning and Compulsory Purchase Act 2004 in including policies designed to ensure that the development and use of land in the city contributes to the mitigation of and adaptation to climate change?

- 1.6.1 Yes, the Plan complies with the requirements of Section 19(1A) of the Planning and Compulsory Purchase Act 2004 by including policies PLP2: Climate Emergency and PLP31 to PLP37 in the Climate Emergency chapter of the Plan. Policy PLP2 provides the overarching policy framework for addressing climate change and supports the objectives of the Council's 2019 Climate Emergency Declaration and Climate Change Strategy [CE19]. In addition, Policies PLP31 to PLP37 set out a comprehensive suite of strategic, City-wide measures addressing key climate change issues, including Flood Management, Sustainable Drainage Systems, Sustainable Construction, Renewable Energy, Protecting Coastal Zones and Remediation of Land Contamination.
- 1.6.2 The Plan's approach to climate change is further embedded through its strategic site allocation and site allocation policies, all of which ensure that the use and development of land within the City contributes to the mitigation of and adaptation to climate change and is consistent with the objectives and requirements of the Plan's wider climate change policy framework. Taken as a whole, the Plan provides a robust and comprehensive framework to ensure that development contributes positively to the City's response to climate change, consistent with the requirements of Section 19(1A) of the Act.

Habitats Regulations Assessment ('HRA')

7) The Plan makes several references to the delivery of a bridge connecting Tipner West to Horsea Island. For example, contributions towards such a bridge would be required by several policies, and the IQR indicates that the bridge is critical to the delivery of the Port Solent site allocation (in Policy PLP11). In that context, does the Plan express support for, depend on or require the delivery of the bridge? If so, can it be concluded that the Plan will not have likely significant effects on, or otherwise affect the integrity of, habitat sites¹?

- 1.7.1 The Plan expresses in-principle support for a sustainable transport bridge between Tipner West and Horsea Island, in line with Policy K of the adopted Portsmouth Transport Strategy 2021-2038 as part of its strategy to progress the South East Hampshire rapid transport (SEHRT) network (LTP4) [IN08].
- 1.7.2 To this end, land is safeguarded for the future landfall of a possible bridge under policies PLP3 and PLP9. Safeguarding preserves the opportunity for future construction in the location most likely to maximise value for money. Although this Plan is being examined under the 2024 NPPF, the safeguarding approach is consistent with Policy TR1 of the new NPPF 2026 [PCC08] which

¹ Any site which would be included within the definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017

makes clear that there is to be a Vision-Led approach to planning for transport and states at TR1(d) that this should be achieved by: *"(d) Identifying and protecting sites and routes which will widen transport choice and are essential to facilitate sustainable development, including networks for walking, wheeling and cycling, and public transport infrastructure."*

- 1.7.3 Despite the safeguarding of land, and the identification of a proposed sustainable transport bridge as "critical infrastructure", no Tipner West – Horsea Island bridge is allocated in the Plan, and its delivery is not a requirement of the Plan. In particular, the Plan does not rely on the delivery of a Tipner West – Horsea Island bridge for soundness: although the quantum of housing capable of delivery at Port Solent would be significantly constrained without the bridge, the PLP11 allocation is not a strategic allocation and the Plan would remain sound, even if it were removed entirely. It should be noted that a main modification is required to the Plan and is proposed in the Supplementary Schedule of Changes to delete the new bridge from table 12.1: Local Plan Monitoring of the Plan.
- 1.7.4 The consequence for regulation 105 of the Conservation of Habitats and Species Regulations 2017, as confirmed in the Local Plan HRA, is that the Plan will not have likely significant effects on designated nature conservation sites, by virtue of its in-principle support for a sustainable transport bridge that is not allocated in, or required by, the Plan.
- 1.7.5 The rationale for not allocating a Tipner West – Horsea Island bridge is clear: in April 2025, PCC's Full Council decided to remove from the Plan all elements that risked adversely impacting the integrity of designated nature conservation sites. At the time (and in the absence of any detailed bridge designs) it was not possible to conclude with certainty that the proposed Tipner West – Horsea Island bridge could be delivered without such impacts. Since then, high level work has been carried out on possible design solutions that could avoid harm to the integrity of designated nature conservation sites. That work notes that:
- the impacts of a Tipner West – Horsea Island bridge can only properly be assessed once a detailed design is submitted; but
 - at a high level, there is a reasonable prospect that a bridge could be designed in a manner that would not have adverse effects on integrity of designated nature conservation sites.
- 1.7.6 To be clear, the Council's position is that this Plan does not provide any support for proposals (including proposals for a Tipner West – Horsea Island bridge) that will have adverse effects on the integrity of designated nature conservation sites. While the Council does not consider it necessary to do so, it would be content, if the examining inspectors considered it necessary, to amend paragraph A44 of the Plan by adding: "Nothing in this Plan should be taken as providing in-principle support for the approval of a planning application for a bridge that has adverse effects on the integrity of designated nature conservation sites".
- 8) **To what extent does the Plan rely on the Imperative Reasons of Overriding Public Interest² decision for the North Solent Shoreline Management Plan [CE06] and subsequent strategies informed by it? Is there sufficient prospect of growth anticipated by the Plan being delivered in line with the measures supported by the Shoreline Management Plan and the subsequent strategies? If not, can it reasonably be concluded that harm to the integrity of habitats sites would be avoided?**
- 1.8.1 The Plan proceeds on the basis that:
- in 2010, the North Solent Shoreline Management Plan (SMP) [PCC07] was adopted, applying a "Hold the Line" policy to the Portsmouth frontage;

² Pursuant to Regulation 107 of The Conservation of Habitats and Species Regulations 2017

- the “Hold the Line” policy was assessed at the time as likely to have adverse effects on the integrity of designated nature conservation sites in and around Portsmouth;
 - nonetheless, in 2011, the Secretary of State confirmed that imperative reasons of overriding public interest (IROPI) justified proceeding with the SMP, notwithstanding those adverse effects (see Appendix A8 of [SS16]); and
 - the SMP continues to govern shoreline management in and around Portsmouth, supported by accompanying strategies, including: i) the Portchester Castle to Emsworth Coastal Flood and Erosion Risk Management Strategy [PCC09]; and the Portsea Island Coastal Strategy [PCC10] (both of which also received IROPI approval).
- 1.8.2 As identified at 4.72 of the HRA for the Plan [KD18], provided the Plan does not require the North Solent SMP or the Portsea Island Coastal Strategy policies for the frontage to be altered, the Plan will not have likely significant effects on designated nature conservation sites as a result of coastal squeeze. That is because such coastal squeeze is caused by the SMP and its strategies, not the Plan. As a matter of fact, the Plan does not require SMP policies for the frontage to be altered. Instead, Policy PLP36: Coastal Zone of the Plan stipulates that ‘Development proposals in the Coastal Zone... will be permitted where they: e) Are consistent with the Shoreline Management Plan and South Inshore and South Offshore Marine Plans.’ As such, the Plan has no likely significant effects on designated nature conservation sites as a result of coastal squeeze: see HRA paragraphs 6.166 and 6.168.
- 1.8.3 In response to the second and third questions, growth anticipated by the Plan will be delivered in line with the measures supported by the Shoreline Management Plan and the subsequent strategies. As such, it can reasonably be concluded that the Plan will not cause any further harm to the integrity of habitats sites as a result of coastal squeeze.
- 9) **How are the outcomes of the latest HRA [KD18], which was prepared following consultation on the Plan, reflected in specific policies? In particular, does the HRA appropriately consider the potential impacts on supporting habitat for Solent Wader and Brent Geese on Horsea Island?**
- 1.9.1 The latest version of the HRA was published to support Submission and did not result in changes to specific policies as the relevant safeguards were already included.
- 1.9.2 The HRA does appropriately consider impacts on supporting habitat on Horsea Island. Paragraphs 6.32 to 6.66 of the HRA discuss impacts on functionally linked habitat at length. This includes consideration of the parcels of functionally linked land affected, identification of the only parcel of functionally linked land that will be lost (area P60 as a result of delivery of Policy PLP3), and consideration in paragraphs 6.43 and 6.44 that sufficient land should be able to be identified to offset this loss. Paragraph 6.45 of the HRA specifically discusses Horsea Island Strategic Open Space (PLP9), the potential effects it could have on functionally linked land parcels P48A, P48B, P75 and Support Area P48C and the policy wording that ensures the protection of those land parcels. This is expanded on in paragraphs 6.68 to 6.70 of the HRA.
- 10) **Does the HRA otherwise comply with The Conservation of Habitats and Species Regulations 2017 and is it robust?**
- 1.10.1 Yes, the HRA has been undertaken in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), as well as relevant case law. The HRA report is considered robust. The HRA breaks down the assessment process into an initial test of Likely Significant Effects and a subsequent Appropriate Assessment. It reserves consideration of mitigation to the Appropriate Assessment stage in line with the People Over Wind and Sweetman v Coillte Teoranta (European Court of Justice case C-323/17) and considers the impacts of the plan in combination with that of other plans and projects. Natural England was consulted upon the

assessment, and revisions made to the report in line with their comments. Natural England confirmed their agreement with the HRA via the Statement of Common Ground [SCG27].

- 1.10.2 Chapter 1 of the HRA introduces the concept of HRA and sets out the legislative basis. Chapter 2 of the HRA provides the methodology for both stages of HRA undertaken (Likely Significant Effects and Appropriate Assessment) and quotes relevant case law such as the People over Wind case. Chapters 3 and 4 then set out the information on the European sites considered, including qualifying features and conservation objectives, and the relevant impact pathways. Chapter 5 sets out HRA Stage 1 (Likely Significant Effects) while Chapter 6 sets out HRA Stage 2 (Appropriate Assessment).

Sustainability Appraisal ('SA')

11) Are the methodologies used for the SA of the Publication Plan [KD09], the Addendum [KD11] and their previous iterations appropriate?

- 1.11.1 Yes, there are specific methodologies outlined for appraisals of options and the draft Plan as a whole, which have been prepared in accordance with the Strategic Environmental Assessment (SEA) Regulations, taking account of the effect characteristics and 'significance criteria' presented in Schedules 1 and 2. Appraisals are structured to explore potential effects under each of the topics and SA objectives established through scoping and agreed with statutory consultees. This method is applied consistently throughout the SA process. Each iterative report follows a three-step process of 1) exploring, identifying, and appraising reasonable alternatives (and eliciting a Council response in terms of preferred approach), 2) appraising the preferred approach in full (i.e. the draft Plan), and 3) outlining the next steps for plan-making and SA - including where appropriate, identifying monitoring measures. This structure to the report is also designed to meet the requirements of the SEA Regulations.

12) Have reasonable alternatives been appropriately considered and have adequate reasons been given as to why these have not been selected? In particular:

a. Are the reasonable alternatives sufficiently distinct to highlight different sustainability implications?

- 1.12.1 Yes, early options were more extensive and as the Plan progressed these became more focussed reflecting the evidence base at the time of undertaking, including in terms of site availability and the site selection process. All options assessed are sufficiently distinct from each other in terms of sustainability implications.

b. Which employment sites were assessed for their suitability for release of housing for spatial strategy option 3 of the Interim SA Report [KD08] and what were the reasons for discounting them for housing?

- 1.12.2 Option 3 of the Interim SA Report [KD08] considered the principle of releasing existing employment land rather than looking at specific sites. As option 3 was not taken forward, no individual sites were identified and assessed in terms of their suitability for release for housing as part of the SA process. In relation to Options 3 and 8, the SA identified an early broad assumption that existing employment land/areas could be repurposed to deliver the shortfall of either 1,000 homes (with no exported housing needs) or 2,974 homes (with a reduced reliance on strategic development sites). This assumed land outside of the strategic sites across the City Centre and within existing employment locations would (subsequently) be identified to meet the indicative capacity requirement (if that option were progressed).
- 1.12.3 Outside of the SA process, a number of employment sites were provisionally assessed for their suitability for release for housing, via the Business Needs, Site Assessments, and Employment Study, July 2016 [TE01]. As noted in paragraph 7.6 of KD08, the Business Needs, Site Assessments, and Employment Study ranked the City's employment sites from A (highest) to E

(lowest) based on a number of suitability criteria. Those with the lowest scores (D and E) were assessed in the 2023 Housing and Economic Land Availability Assessment [HO08] for their potential for housing.

1.12.4 The answer to question 22 of matter 6 explains which employment sites were assessed for their suitability for housing in a number of evidence based studies.

c. Were reasonable alternatives identified having appropriate regard to the changing circumstances that occurred between each iteration of the SA? In particular, to what extent were the changes that followed the production of the SA of the Publication Plan, which included an increase to local housing need calculated using the standard method in the Planning Practice Guidance ('PPG')³ and a forecast surplus of employment land, considered when identifying reasonable alternatives for the SA of the Addendum?

1.12.5 Yes, reasonable alternatives identified were reviewed at each stage to ensure they remained appropriate when circumstances changed. Key Plan-wide reasonable alternatives were considered in the SA accompanying the Regulation 18 Plan [KD08]. Whilst the housing need figures were based on the figures at that time, which were subsequently updated to a higher figure, the options in KD08 were not revisited for the SA to accompany the Pre-Submission Local Plan 2024 [KD09] because this would not have altered the assessment. Had the assessments been re-run using the higher local housing need figures, the shortfall figures would obviously have increased, but it would not have changed the fact that there was a lack of alternative land supply options, with all reasonable HELAA sites being exhausted, so it would not have altered the conclusions of the assessment of reasonable alternatives in KD08.

1.12.6 In terms of a forecast surplus of employment land, this is only applicable to office space (with a small shortfall in industrial land estimated). The surplus relates predominantly to development at Lakeside North Harbour, which was not deemed reasonable by the Council to test for its potential to be repurposed for housing given significant road constraints and pedestrian safety constraints, and the premier high-quality nature of the offices available at this site in a functional office location that would be diluted by housing provision on the site.

d. What were the reasons for discounting housing growth option H4 and thereby the housing numbers specified for the sites at paragraph 5.57 of the SA of the Publication Plan?

1.12.7 The Council's reasons for discounting Option H4 are provided at Paragraphs 7.18-7.19 of the Interim SA Report [KD09]:

'The majority of the factors considered in Option H3, the preferred approach, also apply to this option, but this one has the potential to deliver a higher number of new homes than that generated by the preferred approach. A number of sites, as outlined in section 5 of this report, would see an uplift in density and housing numbers. It is considered that this would be at odds with the approach to residential density established in the Urban Characterisation Study and the Housing Density Background Paper (2021). It would lead to an intensity of Development coming forward in locations across the city that leads to potential adverse impacts on local character, housing standards, historic environment and a higher level of demand on local services (e.g. healthcare and schools) and amenities than the preferred approach. This would have potential to undermine the plan's six strategic objectives.

The balance of positive and negative effects on sustainability objectives is very similar to the preferred approach, but based on the consideration of the above evidence, Option H4 is considered a less favourable option when compared against the preferred approach.'

³ Reference ID: 2a-002-20241212

- e. **Within the SA of the Addendum, are the development parameters for options 1 to 3 for Tipner West those specified in the table at paragraph 4.7 of the Tipner West Topic Paper [TP10]? What are the development parameters for the fourth option for Tipner West, and how does the preferred option inform Policy PLP3?**

1.12.8 Yes, the parameters for Options 1 to 3 for Tipner West [KD11] are those specified in the Tipner West Topic Paper (paragraph 4.7). The SA introduced the fourth option for a housing-only scheme to test the effects of boosting housing supply in this way. The Council outlined its reasons for the preferred option in paragraphs 5.3.1-5.3.5. Option 4 was disregarded as it would not deliver new jobs. The preferred option informed policy PLP3 principally by way of the land use quanta set out in part 1 of the policy, as the other policy criteria would have been applied for either of the options ultimately selected.

- f. **Have reasonable alternatives to each of the Plan's strategic and non-strategic policies been appropriately considered?**

1.12.9 The SA has not identified alternatives to every strategic and non-strategic policy. Rather, the focus has been on the spatial strategy at the 'heart' of the Plan, and the assessment of distinct strategic options identified as having a bearing on the significance of effects. With regards to alternatives for wider development management policies, these have been appraised on a policy-by-policy basis, recognising that in many cases alternatives are either a 'do-nothing' scenario with represents a continuation of the baseline, or the alternatives are too nuanced such that they are not sufficiently distinct to highlight different sustainability implications. Working with the Council, specific policy matters for which strategic options could be identified have been explored in each iterative SA report. For example, in the SA to accompany the Addendum 2025 [KD11], options relating to the affordable housing policy were considered so that changes made in the December 2024 NPPF could be taken into account.

- 13) **Does the discussion on the preferred approach at Section 7 of the SA of the Publication Plan remain valid following changes to circumstances, such as the increase to local housing need after its production, and were these changes appropriately considered and reflected in the SA of the Addendum?**

1.13.1 Yes, the discussion at Section 7 of the SA of the Publication Plan [KD09] remains valid. As noted in the Council's answer to Question 12c) reasonable alternatives for growth were considered in the SA accompanying the Regulation 18 Plan [KD08] and did not need to be revisited despite increases in local housing need, as this would not have changed the conclusions of the assessment. With regards to the discussion in Section 7 of the SA of the Publication Plan [KD09], the Local Plan has been prepared taking into account the evidence of the Strategic Flood Risk Assessment (SFRA) in determining the preferred approach. The options tested in the SA of the Publication Plan all failed to meet local housing need, and only one option (Option H4) resulted in additional growth to that proposed in the preferred approach. That additional growth would be achieved through uplifts in densities and housing numbers that had wider implications for local character, the historic environment, housing standards and demand on local services. The SA of the Local Plan Addendum [KD11] updated the context around the identification of alternatives (including the level and location of growth) whilst focusing in on the key updates being made to the Plan. This continued to demonstrate the limited land supply options, and more detailed changes at Tipner West and Horsea Island East.

- 14) **What is the intended purpose of the proposed monitoring framework at Table 2 of the SA Submission Statement [KD13]?**

1.14.1 The proposed monitoring framework at Table 2 of the SA Submission Statement [KD13] is intended to identify measures that if captured by the Council, could inform subsequent assessments either as baseline data, or as an indicator of improvement or decline, or as an indicator of performance in relation to predicted effects.

- 15) **Overall, is it clear how SA has informed judgements about the growth promoted in the Plan, the choice of development strategy, and the strategic and non-strategic policies it contains?**
- 1.15.1 Yes, each iterative report has sought to provide a Council response to the alternatives explored and either discounted or progressed. Ultimately the SA is only one piece of evidence that feeds into the Council's decisions regarding choice of strategy, policies and the progression of sites, but at each stage it has sought to capture the choices and judgements being made at that time, reflective of the evidence available at that time.