



The countryside charity
Sussex

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Mrs Eileen Lintill (Chairman)
Chichester District Council Cabinet
East Pallant House
CHICHESTER, PO19 1TY
West Sussex

5th May 2020

[By email: elintill@chichester.gov.uk]

Dear Mrs Lintill,

I am writing on behalf of CPRE Sussex, the Countryside Charity.

I understand that you have made the decision to delay the submission of your draft Local Plan and carry out further assessment work. As you know, we made representations in relation to the draft plan and expressed concern about the volume of development to the south of the district, particularly the impact this would have on protected landscapes and other sensitive, designated areas.

I appreciate that as of 15 July 2020 the adopted Plan will be more than 5 years old and therefore under current national planning policy the Council's housing land supply will be measured against a higher figure derived from the Government's standard methodology. In consequence, from mid-July the Council may not be able to demonstrate an ongoing 5-year supply of housing land. I would like to draw your attention to recent court cases which emphasise the primacy of the plan-led system, even in the face of a lack of a 5-year supply of housing land.

For example, in March of this year, Mr Justice Holgate dismissed land promoter Gladman Developments' bid to overturn two appeal decisions blocking plans to build 240 homes in the Essex district of Uttlesford and another 120 near Corby in Northamptonshire. Given shortfalls in both authorities' five-year supply, the claimants argued that this rendered the most important relevant development plan policies out of date and the "tilted balance" in favour of sustainable development set out in paragraph 11(d) of the National Planning Policy Framework (NPPF) should therefore have been decisive in determining the appeals (DCS Numbers 200-008-785 and 200-008-716).

Holgate's verdict was grounded in the legal principle, set out in section 38(6) of the Planning and Compulsory Purchase Act 2004, that decisions on planning applications are governed by

the development plan "read as a whole, unless other material considerations indicate otherwise". He ruled that NPPF policies, including the tilted balance, do not have the same "force of statute" and "have to be understood in the context of the development plan-led system". "The NPPF cannot and does not purport to displace or distort the primacy given by the presumption in section 38(6) to the statutory development plan," he concluded.

This decision makes it clear that a lack of five-year supply does not reduce the weight of policies. Applicants will now need to argue why plan policies should be given reduced weight in the tilted balance.

In short, the lack of a five-year housing land supply should not 'open the door' to inappropriate and speculative development.

I understand that you are preparing a Policy Statement for Housing to help manage and guide planning applications for housing development in the interim period before the new Local Plan can be adopted. I hope that this statement can reflect the point I have made above.

In terms of the standard methodology itself, the government has indicated that this is under review. Many local people would argue that the methodology is flawed and needs to be overhauled. We hope that you will encourage the Government to develop a more 'realistic' methodology for calculating housing need. Parishes in Surrey have banded together and wish to see a pause in the Housing Delivery Test to take account of the very unusual circumstances created by Coronavirus. In the case of Chichester District, it is not only the current lockdown but also the geographical situation that will make attainment of high housing targets problematic.

In terms of developing the new Local Plan I would like to draw your attention to Paragraph 003 Reference ID: 2a-003-20190220, of MHCLG Guidance: Housing and Economic Needs Assessment, guides councils in how to assess their housing needs:

<https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments>

This is of relevance to Chichester District as it sets out 'Exceptional Circumstances' which warrant a departure from the Standard Method. The Exceptional Circumstances are the Covid-19 pandemic and the consequent ramifications for the economy, housing market, house sales and build rates, and Climate Change and consequent sea-level rise and consequences for Chichester District.

Not only has the northern part of the District been taken into the South Downs National Park and thus reduced the land area available to be considered but the accelerating speed of climate change and the associated Sea Level Rise threatens the southern part of the area such that CDC stands to lose areas along the English Channel such as Climping, West Wittering and Selsey. Chichester itself could be threatened if the burning of fossil fuels is not reduced so as to hold the global temperature increase to 1.5 degrees Celsius. See the website www.surgingleas.com. In this case, the NPPF refers to "exceptional circumstances" as providing a means to effectively deal with an extraordinary situation.

Your recent communications reference the fact that the Council has declared a Climate Emergency and is considering how to ensure that it is reflected in how the Local Plan and other council initiatives are undertaken but make no mention of Covid-19.

I believe you have good grounds to set a Housing Target which is not in accordance with the Standard Methodology.

My final point relates to local democracy. Following the introduction of regulations allowing Council meetings to take place virtually during the coronavirus lockdown (through to April 2021), we note that the Government has said it is up to each LPA to decide how they conduct meetings, how voting procedures work and how to ensure that the public has access.

CPRE Sussex would expect that:

- All planning decisions that would normally come to a Planning Committee should continue to do so (and not be delegated to officers or an ad hoc committee comprising officers and certain Planning Committee members) – including major applications, but also those where Parish/Town Council and officers disagree or where local councillors call for it to do so.
- Members of the public and Parish/Town Council representatives should have the right to address the Committee for the normal permitted length of time, if not indeed for an extended time.
- There should be facility for members of the public to listen/watch in real time to (and preferably view) the Planning Committee discussions and decision-making.
- A recording (audio or preferably audio-visual) should subsequently be made available via the Council website.
- Other than for genuinely urgent applications, for example directly related to tackling Covid 19, these systems should be in place prior to any Planning Committee taking place. If necessary, committee meetings should be delayed to ensure there is no gap in the transparent operation of a democratic planning system.
- The extension of all deadlines attached to the determination of planning applications and responding to consultations.
- More generally, the publication of a report setting out how, under the Covid 19 regulations, the council will follow best practice for the involvement of communities, particularly disadvantaged communities and those with less access to technology and broadband.

I would be very grateful if you could confirm in due course what arrangements you are putting in place to meet the requirements of the Covid 19 Regulations, so that we can help communicate this to our members and the public. If we can help in any way, please do let us know.

I appreciate that these are very difficult times and Council staff and resources are under enormous pressure. We thank you for the good work you are doing and hope that you and colleagues remain safe and well.

I look forward to your response in relation to the points I have made above.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dan Osborn', is positioned above the typed name.

Dan Osborn
Chair, CPRE Sussex

cc Diane Shepherd, Chief Executive, CDC: dshepherd@chichester.gov.uk
& Planning Department: dcplanning@chichester.gov.uk