

Dear Mr Hayward,

EXAMINATION OF THE HAVANT BOROUGH LOCAL PLAN

1. The Stage 1 hearing sessions finished on 16 July 2021. We would like to thank the Council's team and all other participants for their hard work and constructive contributions over the 5 days.
2. We advised the Council that we would write as soon as practicable to set out our initial findings. This letter does not set out our findings on all of the issues discussed during the Stage 1 hearings. Instead, the letter focuses on the areas where we have soundness and/or legal compliance concerns. These are set out in turn below.

Soundness

Hayling Island - Transport

3. The Plan allocates in the region of 900 new homes on Hayling Island. It is clear from the evidence that the existing highway network in the area, most notably the A3023, is already congested at regular times during the day. Indeed, the Hayling Island Transport Assessment (HITA) states at Paragraph 2.7: *'Traffic flows on the A3023 can be particularly heavy, not only during peak hours, but also during the hours in between and at weekends. During all school holiday periods, and particularly in the summer, traffic flows are at their highest and there is often a continuous procession of vehicles present during daylight hours'*.
4. The HITA and its addendum are modelled on a neutral weekday outside of school holidays. The Council has referred to Section 3.36 of Unit M1.2: Data Sources and Surveys, Highway Surveys, of the Government Transport Analysis Guidance (WEBTag) to provide support to this approach. This states: *'...it is recommended that traffic counts for modelling purposes should be collected during a 'neutral', or representative month avoiding main and local holiday periods, local school holidays and half terms and other abnormal traffic periods'*.
5. However, we are mindful that the guidance goes on to say *'...there can be instances where a particular period (e.g. weekends or school holidays) is of interest, for example in regions with relatively high levels of seasonal tourism. The period for the surveys should be selected with careful consideration of the purpose of the transport model'*.
6. Hayling Island sees a significant level of tourist traffic and the Council confirmed at the hearing sessions that there is no reason to believe that this will change in the near future. Indeed, the Council are seeking to regenerate the sea front to encourage continued tourism on the Island.
7. As set out above, the HITA and its addendum suggest that the highest levels of traffic on Hayling Island are during the school holidays and during sunny

weekends. We consider that over the course of the year these periods represent a significant period of time.

8. The purpose of the modelling is to demonstrate to a reasonable and proportionate degree that the level of housing and other development allocated on Hayling Island would not have any severe impacts on the surrounding highway network. We accept the Council's view that the housing allocations themselves are most likely to generate the highest number of transport movements during the weekday peaks am and pm periods, namely associated with commuting and school runs. However, future residents of the proposed housing sites would still likely generate significant traffic movements during the school holidays and at weekends, when the traffic is at its heaviest.
9. Therefore, although we accept that traffic generated from the allocated sites themselves would likely be lower during school holidays and weekends, the existing traffic is heavier, so a lesser volume of additional movements could still feasibly result in severe impacts. Without an understanding of the potential impacts from the proposed development in the Plan during the tourist periods and weekends we are unable to conclude that as a result of the Plan, there would be no unacceptable impacts on highway safety, or that the residual cumulative impacts on the road network would not be severe. Based on the current evidence we are therefore unable to find the level of proposed development on Hayling Island sound. Consequently, we cannot consider the Plan's spatial strategy to be justified.
10. At the hearing session it was suggested that sensitivity testing could be undertaken during tourist periods and weekends. We are unclear what this might look like, but we are of the view that to overcome this concern, it would need to be robustly demonstrated through suitable modelling that there would be no severe impacts on the highway network during these times, including the deliverability of any potential mitigation.

Meeting Housing Need

Policy KP1 - Havant Town Centre

11. The Council owns a large amount of land within Havant town centre that is subject to Policy KP1, as can be seen from exam ref: EB70. We are content that there is a reasonable prospect of the proposed regeneration of the Civic Plaza car parks and the Belbeck Road car park sites being delivered over the Plan period, given they are in the Council's ownership. We understand that these two sites could deliver around 200 dwellings (80 at the Belbeck Road car park and 120 at the Civic Plaza car parks). In addition, we understand that permission has already been granted in the town centre for 43 other dwellings¹.

¹ Planning permissions 20/00251 (29 dwellings) & 13/01236, which is substantially complete (14 dwellings).

12. This leaves some 500 dwellings to be delivered over the Plan period in other areas in the town centre. The master planning work provided in exam ref: EB71, which supports the Council's levelling up bid shows that Phase 1 of the Meridian Centre, which is in the Council's ownership would not involve any housing development. EB71 states that 296 new homes are proposed to be delivered through Phase 2 of the Meridian Centre development. However, when comparing the landownership map (exam ref: EB70) with the master planning work (exam ref: EB71) it can be seen that the delivery of Phase 2 involves land outside of the ownership of the Council and there is no evidence of any landowners willing to release their land. We consider that this raises considerable doubts whether this number of dwellings will come forward, even if the levelling up bid was successful.
13. We acknowledge that the Council own the Meridian Centre and its purchase was a statement of intent in regenerating the town centre. Therefore, we accept that if the development of the Meridian Centre as proposed in the levelling up bid could not be delivered for whatever reason, the centre could realistically be redeveloped within the confines of the Council's ownership within the Plan period. Whilst it is unclear how many dwellings might result from such a scenario, given the reduced parcel of land in which to deliver any redevelopment it is reasonable to assume that it would be lower than 296 new homes.
14. In terms of the Market Parade area, we are mindful that the Council does not own any land in this part of the town centre. We note that the Council does have regeneration plans for Market Parade, but it is unclear how such development will be delivered given landownership constraints.
15. The Council has referred to the use of compulsory purchase powers to assemble land for the regeneration schemes. However, even if successful this can be a long-winded process delaying the delivery of new homes significantly. Further, we observed on our site visit that there are likely to be existing occupiers in terms of both homes and business/retail units who would need to be relocated. It is unclear how and how long this would take to achieve.
16. Whilst permission was granted within Market Parade for 130 apartments in 2016 this has now expired and no evidence has been provided to suggest that this is still of any interest to the site promoter. The Council has not provided any other evidence of demonstrable interest from the private sector.
17. Given all of the above, we are not of the view that the evidence suggests there is a reasonable prospect of sites becoming available to allow all 750 dwellings to be viably delivered in Havant town centre in the Plan period. Based on the current evidence we consider that somewhere in the region of 450 dwellings would be a reasonable estimate. This leaves a shortfall of some 300 dwellings that we consider should be removed from the Council's

anticipated supply. It is unclear if any further work could address these concerns.

Policy KP2 – WaterlooVille Town Centre

18. Policy KP2 allocates 600 new homes to WaterlooVille town centre. The Council has previously set out that it owns limited land within the boundary of Policy KP2, which is confirmed by the ownership map that the Council has provided at our request (exam ref: EB70). Further, the only specific private sector interest that the Council has been able to provide details for, is a potential development at Wellington Way for 264 built to rent apartments. However, it is understood that this may not in its current form be pursued by the site promotor. We accept that it does nonetheless show recent developer interest in the site and therefore there is a realistic prospect of a development of a similar scale being delivered on the site over the Plan period.
19. The Council has also set out that whilst it has regeneration plans for WaterlooVille, the focus is currently on Havant town centre where it owns much more land. Further, it is clear that little background work has been done to deliver any Council driven regeneration within WaterlooVille town centre and to show how the complexities of multiple landownership and the relocation of existing residents and businesses, where necessary, would be overcome.
20. Given all of this, with the exception of some recent demonstrable interest in the Wellington Way site, it is unclear how the other 335 or so new homes would be delivered over the Plan period and so these should be removed from the Council's anticipated supply. It is again unclear if any further work could address these concerns.

Policy KP3 – Hayling Island

21. Policy KP3 includes several allocated sites, including those at Southwood Road, Beachlands, Eastoke Corner and West Beach. All of these sites are subject to flood risk and taking into account climate change and associated sea level rise over the lifetime of the developments, will all have significant parts of the site that fall within Flood Zone 2 or 3. The Strategic Flood Risk Assessment (SFRA) (exam ref: EB33) sets out that these sites fail the sequential test.
22. It is clear that the Council has allocated all sites that it considers to be sustainable. On this basis, it might be reasonable to conclude that the sequential test is therefore actually met for these sites. Nonetheless, Paragraph 159 of the National Planning Policy Framework (NPPF) sets out that '*Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere*'.

23. We are mindful that the SFRA (Pages 15 & 16 and in Appendix C) sets out that for each of the sites that '*further detailed work will need to establish how the site can be developed safely*'. In the absence of suitable evidence to demonstrate that the developments proposed at these sites can be made safe for their lifetime, we are unable to find that these allocations sound.
24. Suggested modifications to these sites have been put forward that would require development to raise all living accommodation above the design flood level and ensure that the building remains structurally sound in the face of potential inundation. However, it is unclear whether this can be successfully achieved. Further, the requirement for a Flood Warning & Evacuation Plan has also been suggested, but again, it is unclear if procedures can be successfully put in place to evacuate future residents in an emergency if required.
25. The allocations at Southwood Road, Beachlands and Eastoke Corner would have delivered some 155 new dwellings, which based on the current evidence should be removed from the Council's anticipated supply. Further work would be required to demonstrate that these allocations can be made safe for their lifetime.

Policy KP5 - Southleigh

26. Policy KP5 proposes a large development of 2,100 new homes at Southleigh. The Council's most recent housing trajectory (exam ref: TP01c) anticipates 1,100 of these new homes being delivered over the Plan period, with completions starting from 2026/27 (5-6 years time). The Mainland Transport Assessment Addendum: Southleigh Study (Part 1 and 2) and the A27 Junction Feasibility Study suggest that a new direct link from the proposed development to the A27 will be necessary to mitigate the impacts of the scheme and identifies some route options. It is clear from the evidence that the local highway network around the site is already constrained.
27. Both National Highways (formerly Highways England) and Hampshire County Council, as the local highway authority, do not have an in-principle objection to the site, but have raised concerns with regard to whether a need for improvements to the A27 has been suitably demonstrated. Further, they are of the view that additional work is necessary, including the need to demonstrate that there would be no severe impact on the strategic road network (SRN) as a result of any direct link road to the A27. We accept the Council's view that the most appropriate time to undertake such work would be as part of a planning application for the site when the full details of the proposed development would be known.
28. Whilst there will clearly be a need to undertake detailed work associated with the development scheme at the application stage, we are content that the evidence suggests that there is a reasonable likelihood that a suitable and viable highway solution could be achieved for the site.

29. Notwithstanding this, we do have reservations about the anticipated timescales for delivery in the housing trajectory. At the hearing, the Council set out that the principal site owner is waiting for the site to be allocated before investing heavily in bringing the site forward. It is also understood that a developer has not yet been engaged. Given all of this and the level of detailed site assessment work and pre-application consultation that would be required, including the considerable further highway work needed, it is, in our view, unlikely that a planning application would be submitted within the next 2 years.
30. We are also particularly mindful that although the potential for local highway improvements to suitably mitigate the impacts of the development has not been ruled out, the current evidence suggests that there is a real prospect that a new link road to the A27 could be required, which would be a significant piece of infrastructure. It was discussed at the hearing that the preferred option (1b+) would run through third party land. Whilst the land is proposed to be safeguarded for such use by Policy IN2 of the Plan and the current landowners have not objected, this could lead to delays in securing such agreements or as a last resort the potential for a lengthy process of compulsory purchase. Further, a new rail crossing would also be needed and the Council confirmed that only limited discussions have taken place with Network Rail. This could be another aspect of the preferred option that could lead to delays.
31. The Council confirmed at the hearing that their assumption of completions from the site starting in 2026/27 assumes that some dwellings would be delivered before the potential link road. However, the evidence suggests that a link road, should it ultimately be required, could well be needed in the short term due to the existing highway conditions around the site. Consequently, there is no evidence to confirm that dwellings could be delivered before the potential link road.
32. We have been provided with details of a study by Lichfields, titled '*Start to Finish*' (Second Addition, February 2020). This suggests that sites of 2,000+ dwellings take on average 8.4 years from validation of first application to first completions, including the delivery of necessary infrastructure. The study indicates the difficulties and timescales involved in getting these sites going and given the circumstances of this site, we consider that the Council's forecast of first completions in 2026/27 to be unrealistic.
33. In the absence of robust evidence to demonstrate that the impacts of the scheme can be accommodated on the local highway network without the need for a link road, or that homes can be delivered on the site before the link road is delivered, we consider that first completions are unlikely to occur until 9-10 years from now. As a result, and based on the assumed delivery rate of the Council, this removes 400 dwellings from the Council's anticipated supply over the Plan period. A significant amount of further work would be required to demonstrate that the Council's delivery assumptions are robust.

Policy H27 – Rook Farm

34. Rook Farm is proposed as an allocation for 390 dwellings under Policy H27 and is subject to further site-specific guidance under Policy E17 for Solent Waders and Brent Geese. The site's importance relates mainly to Brent Geese. In this regard, it is subject to an outstanding objection from Natural England. The site is identified as a 'core area' and it comprises 'Functionally Linked Land'. In order to mitigate for the loss of the appeal site, it is likely that any replacement site would need to be on Hayling Island. At the time of the hearings, no such replacement site had been secured, despite the scheme first being proposed for development in an outline application that was refused planning permission in 2017 (Ref APP/17/00007).
35. Whilst the site promoter stated at the hearings that they were at an advanced stage in securing a replacement mitigation site, that site is not currently in the public domain, nor have Natural England or the Council's ecologist had a chance to review it and any supporting justification. In these circumstances, it is unclear whether an appropriate mitigation site can be secured, and there are consequently, in our view, significant uncertainties over the site's delivery. Given this, we are unable to find that the site currently meets the definition of 'deliverable' or 'developable' as set out at Annex 2 of the NPPF. On this basis, 390 dwellings should be removed from the Council's anticipated supply.

Policy H40 - Campdown

36. Campdown is proposed to be allocated for around 650 dwellings under Policy H40 and is subject to further site-specific guidance under Policy E17 in relation to Solent Waders and Brent Geese. A planning application (Ref APP/19/01101) was submitted in relation to this site in late 2019, although this has not yet been determined. The site is subject to outstanding objections from both Natural England and Historic England.
37. In relation to Solent Waders and Brent Geese, parts of the Campdown site are identified as a 'primary support area' and a 'secondary support area', and it comprises 'Functionally Linked Land'. It also has particular importance for Curlews, which are a difficult species to mitigate for. In this regard, Natural England has expressed significant concern as to whether its function is capable, in principle, of being adequately replaced elsewhere.
38. Whilst the site promoter stated at the hearings that they were at an advanced stage in securing a mitigation site, it is not in the public domain, nor have Natural England or the Council's ecologist had the chance to consider its merits. Moreover, the Council has suggested deleting the cross references to Warblington Farm providing mitigation for the site in Policies E17 and H40. In these circumstances, it is unclear whether Campdown is capable of being adequately mitigated with reference to Curlews. Accordingly, it is our view that the site does not currently meet the definition of 'deliverable' or 'developable' as set out at Annex 2 of the NPPF. On this

basis, 650 dwellings should be removed from the Council's anticipated supply.

39. Separately, there are 3 Scheduled Monuments either within or in close proximity to Campdown. In this regard, the site largely surrounds a scheduled Roman villa on 3 sides and contains part of the alignment of a Roman road. In their representations, Historic England state that encroachment into the surrounding open area has the potential to impact on the understanding of the Villa and how it functioned, and the current appreciation of the site. Accordingly, Historic England advise that further work be undertaken to fully assess the contribution of the setting of the 3 Scheduled Monuments to their significance. The Council propose to address this concern by including a requirement in Policy H40 for a 'Setting Study' to be submitted at the planning application stage.
40. However, in the absence of this study, it is unclear how much land would need to be left open in order to satisfactorily address the settings of these Scheduled Monuments. In this regard, we note that despite ongoing discussions since the submission of application Ref APP/19/01101, and a downward revision in the yield of that proposal from 780 to 664 dwellings (a very similar figure to that proposed in the Local Plan), Historic England's objection remains extant. Accordingly, there is a real possibility that this capacity could be reduced further once the Setting Study has been produced. In these circumstances and even if our other concerns could be overcome, we also consider that the assumed contribution of 650 dwellings from this site is likely to be overly optimistic.

Sustainability Appraisal

41. The Sustainability Appraisal (SA) (CD10) and its addendums (CD11 and CD12) only consider reasonable alternatives in relation to housing provision. The Plan seeks to allocate more employment land than the identified need. To ensure the SA is legally compliant, we consider that the SA should consider reasonable alternatives in terms of the quantity of employment land provided and the strategy for meeting the need, including the site allocations.
42. At the hearings it was also discussed whether there were reasonable alternatives for any other policies in the Plan. We acknowledge that compliance with national policy and viability issues play a significant role in considering reasonable alternatives. However, even bearing these things in mind, we consider that there are some reasonable alternatives that should have been assessed to inform the selection of the preferred options. These are set out in the bullet points below:
- Policy H1 – High Quality New Homes: different thresholds for enhanced accessibility and adaptability standards and wheelchair accessibility standards should be considered as reasonable alternatives.

- Policy H3 – Housing Density: a range of densities in the various areas and the likely benefits and impacts should be assessed as reasonable alternatives.
- Policies C1 – Protection of Existing Employment Sites, C8 – Food, Drink and Entertainment Uses and E6 – Best and Most Versatile Agricultural Land: we consider that reasonable alternatives exist for these policies, such as taking a less restrictive approach and should be assessed.
- Policy E9 - Provision of Public Open Space in New Development: different thresholds for open space should be considered as reasonable alternatives.
- Policy E12 - Efficient Use of Resources and Low Carbon Design: There are likely to be reasonable alternatives associated with the requirement for different standards.
- Site Allocations: The Plan allocates some sites for uses that are not supported by the site promoter, who are advocating them for other or additional uses. For example, Site Allocation C9 - Interbridges West and Site Allocation C10 - Land at Hulbert Road. The SA should assess the sites for the other promoted uses as reasonable alternatives.

43. Given all of the above, the SA has not assessed all reasonable alternatives. For the Plan to be justified it must represent an appropriate strategy, taking into account the reasonable alternatives. We would therefore be unable to find the above aspects of the Plan sound.

44. Further, the SA is not compliant with the requirements of Strategic Environmental Assessment and would therefore be at risk of legal challenge on adoption. Further SA work is required to ensure both soundness and legal compliance. This could be completed through the course of the examination in the event that it was to proceed.

Legal Compliance

Statement of Community Involvement (SCI)

45. The Planning and Compulsory Purchase Act (the P&CPA) 2004 at Section 19 (3) requires the preparation of a local development document to comply with the SCI. The Regulation 19 consultation undertaken in 2019, was done so having regard to the Council's adopted SCI, 2013. This sets out that: *'The main methods the Council will use to involve the community in the planning process are set out in Table 1 at the end of this section'* (our emphasis). Table 1 identifies (amongst other things) the following methods:

- Leaflets: Published on the website and distributed in libraries.
- Exhibitions/Displays: Provided at key stages in the production of Local Plan documents at the Public Service Plaza, libraries, community centres, shopping centres and other public buildings as appropriate.
- Local Plan newsletter: Produced quarterly or more frequently as necessary – emailed to everyone with an email contact on local plan database, all Councillors, Skills and Employability Partnership Board, community teams and on Council website and social media feeds.

46. The Council accepted at the hearing session that leaflets and exhibitions/displays were not provided at libraries. Further, the Council also conceded that a Local Plan newsletter was not produced quarterly.
47. The Council has suggested that the use of 'main methods' in the SCI, 2013 means that not every method had to be used. However, on a fair reading, the use of the word 'will' rather than 'may' or 'could' has set up a reasonable expectation that these methods would have been used. Further, we consider that reference to 'main methods' suggests that others could be used in addition, but not instead.
48. The Council is of the view that no party has been prejudiced by any non-compliance and they went well beyond the methods set out in Table 1. We accept that additional methods of engaging were undertaken, including electronic methods and the use of social media. However, Section 19(3) of the Act is clear in that it requires compliance with the SCI. We appreciate that the Council considers there has been no prejudice, however, the simple truth is that it is very difficult to be certain of that. There might conceivably have been prejudice at the time to those who do not use the internet and rely on libraries to keep informed about news and events in the area.
49. Whilst we are mindful that a second Regulation 19 consultation was undertaken in 2020, which we consider complied with the newer SCI that was adopted in 2019 (but after the first consultation), it was however, focused on changes to the Plan rather than representing a full consultation. We acknowledge that the Council has confirmed that no comments were turned away, but we consider that it would not have been clear to consultees that comments were allowed on all aspects of the Plan. The 2020 Regulation 19 consultation does therefore not resolve the non-compliance of the 2019 Regulation 19 consultation.
50. It is clear that the consultation did not comply with the Act and there is an unknown possibility that some party or parties could have been prejudiced. Consequently, there is a risk that the plan could be vulnerable to legal challenge at adoption. The way to lessen this risk, by reducing the risk of prejudice, would be to carry out a further full consultation in compliance with the Council's SCI, 2019 (as the Act requires). However, we would still be obliged to conclude that the preparation of the Plan, which ends on submission, was not legally compliant and therefore would be at risk of challenge.

Next Steps and Implications

51. To address the concerns set out above, the following tasks would need to be completed:
- 1) Further transport modelling for Hayling Island to robustly demonstrate that there would be no severe impacts on the highway network during

school holiday periods and weekends when traffic is at its busiest, including the deliverability of any required mitigation.

- 2) Provide further evidence to show that 750 dwellings can be delivered in Havant Town Centre (Policy KP1) and 600 dwellings in Waterlooville Town Centre (Policy KP2).
 - 3) Undertake further work to demonstrate that proposals at Southwood Road, Beachlands and Eastoke Corner (Policy KP3) can be made safe for their lifetime in terms of flood risk.
 - 4) Provide evidence to show that dwellings can be delivered on the Southleigh site (Policy KP5) before any potential new link road.
 - 5) Provide evidence to demonstrate that Site Allocation H27 - Rook Farm can be delivered in terms of habitats mitigation.
 - 6) Demonstrate that Site Allocation H40 - Campdown can be delivered in terms of habitats mitigation and that 650 dwellings can be provided on the site, having regard to historic environment constraints.
 - 7) Undertake further SA work to assess all reasonable alternatives.
52. If the further work found that the Council was unable to meet its housing needs, we consider that it would need to discuss this matter with its neighbours. If they were unable to help with any unmet need, it would be necessary to provide evidence to show that Havant is an authority that cannot sustainably meet its housing needs in accordance with Paragraph 11 b) of the NPPF.
53. Turning to the practicalities of proceeding with the additional work as part of the examination, once complete it would need to be consulted upon and then re-examined. In addition, if the Council chose to undertake another full consultation the additional representations could also mean that the hearings already undertaken would need to be repeated.
54. This would all take a considerable period of time and would be costly for all parties involved. It is also clear that the outcome of the further work is very uncertain, and the process would be complex and likely difficult for participants of the examination to follow.
55. We are of the view that the further work and any subsequent changes that would need to be made to the Plan would be more akin to plan preparation rather than an examination. It is also important to note that we have not examined other aspects of the Plan including a significant number of site allocations, which might lead to further concerns in terms of housing land supply.

56. Given the above, our strong advice is that it would be better to withdraw the Plan, undertake the additional work and consult on it in line with the SCI, 2019 and then resubmit the Plan for examination. It is highly likely that this would prove a more expedient route to adopting a sound plan. The examination process itself would be simpler, more efficient and therefore more cost effective. It would also avoid the potential of a legal challenge relating to the consultation procedure and the time and expense associated with such court proceedings. Crucially, in relation to the latter point, it would remove the uncertainty about the legal compliance of the Plan's preparation and would allow the Council to move forward with confidence.
57. We acknowledge that these findings will come as a disappointment to the Council, but we have not come to them lightly. We would be grateful if the Council could provide a response to this letter and confirm how it would like to proceed as soon as it is able to do so.
58. Please note that we are not seeking the views of any other party in relation to the above matters at this stage. However, we will assist the Council with any queries and with any further advice it may require.

Yours sincerely,

Jonathan Manning & Thomas Hatfield

INSPECTORS