

## CROSS BOUNDARY PARISH COUNCIL GROUP

### MATTER 1 POSITION STATEMENT

*Refs are to Core Documents in the Examination Library*

#### DUTY TO CO-OPERATE

***Question 1.1 Is there clear evidence that, in the preparation of the Plan, the Council has engaged constructively, actively and on an ongoing basis with neighbouring authorities and prescribed bodies on strategic matters and issues with cross-boundary impacts in accordance with section 33A of the PCPA 2004, as amended (the 2004 Act)?***

1. There is no evidence that either the section 33A duty or the requirements of NPPF19 paras 24 – 27 have been met in the preparation of the draft Suffolk Coastal Local Plan (hereafter SCLP).
2. NPPF19 (para. 24) is clear that LPAs are under a duty to co-operate with each other and other prescribed bodies, on ***strategic matters*** that cross administrative boundaries.
3. The employment land requirement for Felixstowe Port is a ***strategic matter*** and is acknowledged as such within the context of the Ipswich Strategic Planning Area (ISPA) Statement of Common Ground (SOCG, ref. A.13, March 2019). This document identifies how the ‘aspirations’ as these relate to the Port of Felixstowe will be delivered collectively and across the ISPA and to be delivered through the respective Local Plans including but not exclusively, the SCLP .
4. However, the submitted Duty to Co-Operate Statement (Ref. A12, updated March 2019) provides no tangible evidence of the ‘on-going’ or ‘effective’ collaboration essential in the preparation of a ‘positively prepared’ and/or ‘justified’ strategy as per the requirements of NPPF19 (para. 26) in respect of the needs of the Port. The Statement (ref. A.12) merely summarises the findings of a relatively small number of documents prepared (some commissioned jointly with other authorities) as part of SCLP’s evidence base, none of which address specifically the need for and the suggested approach to port-related employment land. It seems that the Council’s attempt to evidence cross-boundary and working arrangements is entirely reliant on a series of IPSA Board meetings. However,

the ISPA Board Meetings *Action Notes* (referred to in the ISPA SOCG ref. A.13) do not reveal any real evidence of the consideration of ‘alternative options’, or on-going and effective collaboration on matters pertaining to the Port of Felixstowe’s employment land requirements. To the contrary, it is clear for the reasons set out below that the Council have in fact proposed to meet the port-related land requirements exclusively, on the basis not of detailed discussions and joint evidence gathering with neighbouring authorities that should have taken place, but on the basis of a limited and restricted study commissioned by its own consultants (Lichfields). Such an isolationist approach is a breach of section 33A and inconsistent with the NPPF.

5. NPPF para. 27 is clear that in order to demonstrate effective and on-going joint working, authorities should prepare and maintain Statements of Common Ground that document the cross-boundary matters being addressed and progress in cooperating to address these matters. Submission of a single ISPA SOCG (ref A.13) in which it is agreed that Suffolk Coastal will meet all of the requirement for new port-related employment (B1/B8) land is not sufficient evidence of NPPF19 compliant effective and/or on-going collaboration across administrative boundaries on this specific matter.
6. In particular, there is no evidence of any consideration given to an alternative approach that might have seen 2 or more of the authorities within the sub-region contributing to Port of Felixstowe’s B1/B8 employment land requirement(s).
7. It is no answer for the Council to rely on the Lichfield and Partners Port of Felixstowe Growth and Development Needs Study (ref. D1, July 2018) (“the Lichfields Study”) to explain why there has been no real engagement with local authorities as to whether or not an alternative approach to meeting any port-related employment land requirement, on the basis that the need for port-related land only arises within SCDC’s own area. Para. 6.18 of the Lichfields Study specifically identifies the potential opportunities available for other districts/Authority areas to accommodate some of this employment land requirement. It states in terms that:  
*“Beyond the immediate District of Suffolk Coastal, the opportunity remains for some demand to be met at strategic locations elsewhere across the Ipswich IEA: a number of logistics sites are currently being proposed in neighbouring local authorities such as Babergh and Mid Suffolk and whilst they do not offer the same advantages to the Port, they may appeal to certain occupiers that are able to be more flexible in terms of functional requirements”*. (emphasis added)

8. Given this finding of the Lichfields Study, there is no evidence at all as to what discussions or work has taken place on a joint basis after July 2018 with neighbouring authorities to identify what level of demand can be met across the wider Ipswich IEA and how it might be met in other neighbouring districts.
9. In any event it is clear that, rather than the Lichfields Study being a jointly commissioned study commissioned by the ISPA to examine sites across the sub-region, the Study's remit was artificially restricted to examining sites solely within the Council's area. It states that the "appraisal exercise has focussed upon the availability and suitability of sites within Suffolk Coastal District" (para. 5.46) and that its remit was limited from the outset:

*"Although it is beyond the remit of this study to appraise the suitability of these wider sites for meeting growth needs of the Port of Felixstowe in detail, it is important to recognise these could have some potential role in meeting Port-related distribution and needs over the new Local Plan period" (emphasis added).*

10. It repeats the same point at paragraph 5.28.
11. Therefore, it is clear that the Lichfields Study was artificially limited in scope and in any event indicates that further work and investigation was required as to what sites beyond SCDC's own area might be suitable to be including in any analysis as to how to meet the Port's needs.
12. The only substantive justification for this limited area of search is set out at paras 5.19 – 5.25 which contend that the justification for focussing on the A14 corridor and SCDC's area alone are based partly on (1) the economics of onshore distribution and logistics and (2) "partly due to growing reliability issues with the Orwell Crossing itself". It is clear that the Lichfields Study has simply taken the feedback received from "stakeholders" at a March 2018 workshop and accepted that feedback wholesale, rather than subjecting it to rigorous independent economic analysis.
13. Setting aside the fact that there is no evidence as to whether or not other authorities were included in the March 2018 stakeholder workshop, and so their views are not known, the points received from these "stakeholders" again do not provide a sound basis to limit the area of search to SCDC's area alone:

- a. There is no detailed justification in economic terms in the Lichfields Study for the arbitrary limitation of the area of search to just 10 miles from the Port along the A14. The purported justification to end the area of search at this point appears to be at paragraph 3.26. That merely reports where port-related uses are currently located rather than presenting any credible economically based analysis as to where they could be located. In any event, the Study admits that within Ipswich itself, port-related uses can be found.
  - b. In terms of the constraints of the Orwell bridge, given that the Plan period stretches to 2036 and that there is an on-going consultation into improvements to the A14 and the bridge, issues with the Orwell bridge, even if they present a current constraint, should not pre-determine the area of search in principle for port-related uses. The Lichfields Study at Appendix 4 refers to work underway to identify broad locations for crossings (at page 62) but nonetheless it describes the bridge as “the cut off or the spatial extent for viable off-port commercial activity supporting the operation of the Port of Felixstowe”.
14. In summary, the narrow and limited remit of the Lichfields Study provides no real justification for the failure by SCDC to engage strategically and in detail with other authorities on this question and in order to identify a solution on a sub-regional or regional basis. A jointly commissioned study should have been undertaken with input from all neighbouring authorities in order to (a) agree on the requirement and (b) the area of search and potential sites.
15. Ultimately, there is no transparent ‘audit-trail’ or evidence that supports the apparent conclusion reached by the Council that it would be appropriate for the SCDCLP to deliver the Port of Felixstowe’s employment needs in their entirety and alone. The issue as to how to best support the growth of the Port is a regional if not national issue. It should have been addressed strategically in co-operation with other authorities, rather than in isolation merely by SCDC alone. Its approach is clearly contrary to the provisions of section 33A of the PCPA 2004 and the provisions of NPPF2019 and para. 27 specifically.

## **SUSTAINABILITY APPRAISAL**

### ***1.2. Is the SA adequate?***

### ***1.3 Has the SA been undertaken on basis of a consistent methodology and is the assessment robust?***

16. The Sustainability Appraisal (SA – ref. A3, December 2018) has not been undertaken on the basis of a consistent methodology and therefore cannot be considered robust or credible and renders the policy choices taken in the SCLP unjustified. Set out below are some examples of the inconsistent and unsound application of the methodology to the SA of the Innocence Farm site.
17. Page 549 of the SA (ref. A3, December 2018) gives a neutral scoring to the ‘Improve the health of the population overall and reduce health inequalities’ indicator and further, identifies that this indicator is ‘unlikely to be affected’ by development at Innocence Farm. Conversely, the SA assesses the effect on ‘the maintain and where possible improve air quality’ indicator to be a double minus or ‘negative’. Furthermore, this effect is deemed to be permanent within the context of the SA, with development ‘likely to result in an increase in emissions through increases in associated traffic movement’.
18. To acknowledge that the development of the site would have a significant detrimental impact on air quality, yet to assess impact on health as neutral (given the close-proximity of residential land uses and school in particular) is not credible and renders the Sustainability Appraisal and ultimately the SCLP unjustified insofar as has not been informed by a robust evidence base.
19. Furthermore, Page 537 of the SHELAA (ref. D10, December 2018) assesses the ‘compatibility with neighbouring uses’ as ‘green’ with ‘no issues identified’. The Group, at all previous consultation stages, have highlighted their concerns and provided evidence pertaining to the potential impact on neighbouring land-uses. To assess them as “green” is flawed.
20. Para. 12.390 of the draft SCLP (ref. A1, January 2019) identifies that the site lies in an area of ‘very high archaeological potential’. Furthermore, the site has not been subject to systematic archaeological evaluation and its development ‘has the potential to impact on

archaeological remains'. Whilst page 550 of the SA (ref. A3) identifies the lack of an archaeological assessment to-date, it concludes that there will be a positive effect on this indicator. Again, this conclusion is not credible and certainly not based on any available evidence, rendering the draft SCLP unjustified in this respect and the deliverability status of the site itself unknown.

***1.4 Has the SA taken into account reasonable alternatives and has sufficient reasoning been given for the rejection of alternatives?***

21. There is no evidence that any alternatives to Policy SCLP35 have been considered in the SCLP or the preparation of the SA that should have informed it. The SA, at page 967, merely refers to the 'appraisal of alternative sites' to be found at Appendix D. However, Appendix D does not explain what alternative approaches or policy options were considered and discounted (or for what reasons). The Lichfield Study itself had made clear that the need for additional port-related employment land was only in effect a contingency if existing land in the supply pipeline did not come forward. That option (i.e. a "do nothing" approach in respect of additional allocation) was not assessed.
22. Similarly, there is no audit trail, within the context of the SA, to identify how the LPA arrived at the conclusion that Felixstowe Port's employment land requirements needed to be delivered in full on a single (greenfield) site rather than on a number of smaller disparate sites some of which are already established or have extant planning permission for appropriate employment uses. This is particularly surprising bearing in mind the findings of the Lichfield Study (ref. D1, July 2018). As set out above, this document clearly identifies, at para. 6.18, that beyond the immediate District of Suffolk Coastal, the opportunity remains for some demand to be met at strategic locations elsewhere across the Ipswich IEA, i.e. at 'reasonable alternatives' to Innocence Farm itself.
23. Furthermore, and in direct response to the Inspector's question, there are insufficient reasons provided for the 'rejection' of alternative site options. For instance, it is far from clear that the SA has in fact assessed properly or at all any of the 9 other alternative sites identified in the Lichfield Study and listed at Appendix 7 (the Site Appraisal Matrix). The Lichfields Study had identified at least one other site being promoted for port-related uses (Christmasyards Woods) but also a number of other sites being promoted for other

uses. These could, and should, have been assessed as reasonable alternatives to Innocence Farm.

24. The fact that the site promoters themselves admit that the proposed allocation is unsound without significant additional land take to provide for a bridge over the A14 renders the Lichfields Study and its limited site appraisal redundant. It also means that the SA is out of date and needs to be revised wholesale and consulted upon in order for the impacts of this larger site to be assessed and, if it were still the preferred option, for reasonable alternatives to it to be assessed. Further, the deliverability (costs and timescales) of the proposed bridge would need to be at the very least estimated, in order for any revised SA to be credible.

## **HABITATS REGULATION ASSESSMENT.**

### ***1.5 Has the HRA been undertaken in accordance with the CHSR (2017)?***

### ***1.6 Has the HRA screened all the proposed allocations and considered in-combination effects? If so, where are the results set out?***

25. The submitted HRA has not been carried out in accordance with the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”).
26. Under the Regulations and the Habitats Directive which they implement, a two stage process was required: (1) screening for significant likely effects, and (2) if significant likely effects were identified as a result of that screening process, an appropriate assessment to identify if there would be any adverse effects on the integrity of the site in question should have been carried out pursuant to Article 6(3) of the Habitats Directive.
27. The HRA seems to have initially screened Policy 12.35 and concluded a risk of Likely Significant Effect (“LSE”) at the Reg 18 stage “other than that being dealt with through RAMS” (see Document B8 at page 40). This is because the Innocence Farm site was within 1km of the Stour & Orwell SPA and Ramsar Site with one section of the allocation being 730m from the protected site.

28. A hydrological risk was also identified but after a map check “none was found”. The recommendation was that reference to LSE should then be removed but that supporting text should be added to the Regulation 18 draft “to identify that project level HRA will need to ensure that hydrological impacts are checked [sic] and adequately mitigated for if required. Recommendation is not mitigation”.
29. At the Reg 19 stage (based on the Screening Table 3 at page 44 of the Habitats Regulation Assessment – Document A4) the Council took the view – apparently based on the earlier screening opinion at the Regulation 18 stage - that there would be no LSE following the amendments made before the Regulation 18 plan was published.
30. That was not a lawful approach. Having identified a likely significant effect at the screening stage at Regulation 18 stage, an appropriate assessment was required to assess whether or not there would be an adverse effect on site integrity. The fact that the plan suggested that a project level HRA was necessary to ensure that hydrological impacts are checked is itself evidence that the risk of LSE could not be ruled out. The appropriate assessment should have considered amongst other things the effectiveness of any mitigation strategy designed to protect the hydrological impact on the SPA. There was no reason why this could not have been done at the plan stage.