Ipswich Local Plan Review 2018-2036 Proposed Main Modifications

Consultation representation form for:

Core Strategy and Policies Development Plan Document Main Modifications
Site Allocations and Policies (Incorporating IP-One Area Action Plan) Development Plan Document Main Modifications
Sustainability Appraisal of Main Modifications
Habitats Regulations Assessment of Main Modifications

Interested Parties can also comment on additional evidence submitted during and after the Hearing (these are listed in section K of the Core Documents on the Examination website documents K1-K6 and K8-K25) insofar as they relate to their representations on the Main Modifications

29th July 2021 (9.00am) – 23rd September 2021(11.45pm)

Consultation website: https://ipswich.oc2.uk/
Website: www.ipswich.gov.uk/mainmodifications
Email: planningpolicy@ipswich.gov.uk

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Council address:

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IPSWICH
BOROUGH COUNCIL

Please return to:	planningpolicy@ipswich.gov.uk Planning Policy Planning and Development Ipswich Borough Council Grafton House, 15-17 Russell Road Ipswich IP1 2DE
Return by:	**23rd September 2021 11.45 pm**
This form has two parts:	Part A – Personal details
	Part B – Your representation(s).

PART A Personal Details		
	1. Personal details*	2. Agent's details (if applicable)
Title		
First name		Kevin
Last name		Coleman
Job title *(where relevant)*		
Organisation *(where relevant)*	Mersea Homes Ltd	Phase 2 Planning and Development
Address *Please include post code*	C/o Agent	270 Avenue West Skyline 120 Great Notley Braintree Essex CM77 7AAk
E-mail Telephone No.		

Signature: K Coleman **Date:** 09/09/21

Please note that representations cannot be kept confidential and will be available for public scrutiny. However, representations published on the Council's website will exclude your personal contact details.

* If an agent is appointed and details provided above, you only need to complete the Title, Names and Organisation under Personal Details.

PART B Please complete a separate Part B for each representation you wish to make.

Your name or organisation *(and client if you are an agent)*:	Phase 2 Planning & Development

Please refer to guidance notes on completing this form.

3. Please indicate below which proposed Main Modification this representation relates to.

Main Modification number *Please use modification reference number, e.g. MM1, MM2 etc*	
MM43 (Policy CS10)	

4. Please indicate below which section(s) (if any) of the Sustainability Appraisal of the Main Modifications, Habitats Regulations Assessment of the Main Modifications and/or Additional Evidence (K1-K6 and K8-K25) this representation relates to, and relate your representation to the MM specified in 3. above.

Sustainability Appraisal of Main Modifications *Please state which part of the SA Report*	
Habitats Regulations Assessment of Main Modifications *Please state which part of the HRA Report*	
Additional evidence submitted during and after the Hearing *Please use the Core Document Library reference number*	K22

5. Do you consider the proposed Main Modification is:

		Please tick		Please tick
5. (1) Legally compliant	Yes	Tick	No	
5. (2) Sound	Yes		No	Tick

6. If you consider the proposed Main Modification would render the Plan unsound, please specify your reasons below (please tick all that apply below). See below for definitions.

	It would not be positively prepared
Tick	**It would not be justified**
Tick	**It would not be effective**
	It would not be consistent with national policy

Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that

unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

7. Please give details of why you consider the Proposed Main Modification (including reference to the Sustainability Appraisal/Habitats Regulations Assessment/Additional Evidence where relevant) is not legally compliant or is unsound. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the proposed Main Modification (including reference to the Sustainability Appraisal/Habitats Regulation Assessment/Additional Evidence where relevant), please also use this box to set out your comments.

Please provide details of your representation here:

Please see attached

(continue on a separate sheet / expand box if necessary)

Please provide a concise summary of your representation here (up to 100 words):

Please see attached

8. Please set out the changes to the Main Modification you consider necessary to make the Local Plan legally compliant and/or sound, having regard to the test you have identified at 6 above where it relates to soundness. You will need to say why this will make the Local Plan legally compliant and/or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Please specify the changes to the Main Modification you consider necessary here:

Please see attached

(continue on a separate sheet / expand box if necessary)

Please note *your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and any suggested changes.*

Please ensure that Part B of your form is attached to Part A and return both to the address provided by 11.45pm on 23rd September 2021.

Ipswich Local Plan Main Modifications Consultation – Representations on behalf of Mersea Homes Ltd to MM43 for Policy CS10 (Ipswich Garden Suburb).

Summary

In relation to the affordable housing requirement of 31% in Policy CS10, the Council's further written statement as per K22 seeks to explain why it considers it can rely on the Aspinal Verdi Whole Plan Viability Assessment as evidence to support that provision. We explain why, with cross reference to our original submissions, the Aspinal Verdi appraisal is flawed, and therefore cannot be relied, and in the absence of any other evidential base to support 31%, the Plan is unsound.

We also explain, again in response to K22, why in the absence of any Modification, the viability review mechanism text is unsound.

Introduction

In our original representations to the Submission Draft Plan, we raised three objections in relation to the submitted wording of Policy CS10, as follows:

1. The wording of the policy in relation to site specific matters and the role of the SPD;
2. The Affordable Housing provisions;
3. The wording of the Policy in respect of viability review provisions.

In relation to the first matter above, we support the changes that have been made to Policy CS10 in MM43 which provide greater clarity now on the function of the SPD, and these changes resolve our original objections.

In relation to the 2nd and 3rd matters however, we note that new document K22 contains a further explanation from the Council in which it seeks to provide additional evidence as to why, in their view, Modifications to the policy are not required to address the matters raised at the Hearing and in our original representations. For the reasons explained below, the further material produced as document K22 fails to provide the necessary justification for not amending the Policy, and therefore the absence of Modifications on these matters continues to render the Plan unsound.

These objections also cover a fourth matter, which relates to the revisions proposed to the uses allowed in the Local Centres. We understand that the Council has sought to update the Plan in relation to the new Use Classes order, but the revisions made are not in our view Justified as they unreasonably preclude certain uses that the submitted version of the Plan would have allowed.

The Affordable Housing Provisions

The substance of IBC's response on this matter, as set out in K22, is that the Whole Plan Viability Assessment produced by Aspinal Verdi is sound (see the paragraphs at the bottom of page 2 of K22).

However, nowhere in the Council's response in K22, and at no point during the Hearing session, were either the Council or Aspinal Verdi able to explain why the infrastructure costs assumed by Aspinal Verdi for the Ipswich Garden Suburb (£79,000 per acre) bore no relationship whatsoever to the actual infrastructure costs that were agreed as part of the two site specific viability appraisals for Henley Gate and Fonnereau (£420,000 per acre)[1].

[1] For ease of reference, we attach our original Reg 19 representation with the relevant paragraphs highlighted.

On page 3 of K22 the Council seeks to explain how different assumptions in appraisals can produce different results. That is of course the case. And the point is amply proved by the Whole Plan Viability Appraisal, in the sense that it's hardly surprising that, if one assumes an infrastructure cost of £79,000 per acre, rather than using the agreed figure of £420,000, it's possible to make it look like a development is viable at 31% affordable housing, even when it is patently not the case in practice, as the two detailed site specific appraisals have shown.

That is not to say that the Whole Plan Viability Appraisal is unsuitable in relation to the Plan as a whole. We have no evidence to suggest that for generic sites elsewhere in the Plan area it is not producing the right result. But clearly where there are detailed appraisals that have been prepared for the actual development site in question, that have been through a due process of peer review and testing, and which are agreed between the developers and the Council, these have to be afforded greater weight than a generic Whole Plan assessment that has not.

In relation to the Ipswich Garden Suburb, the assumption of £79,000 per acre is demonstrably wrong – firstly, because it fails to correlate with the site specific appraisals referred to, but also because the list of infrastructure allowed for in the Whole Plan Viability Assessment and which led to the figure of £79,000 is clearly well short of the actual infrastructure requirements of a major new community. It is obvious that the four items of infrastructure listed in the Whole Plan Viability Assessment are just generic items applicable to essentially any development, and do not take in to account the full infrastructure costs.[2]

At the Hearing and in correspondence subsequently, the issue of whether it is mathematically possible to deliver 31% affordable housing has been discussed, and remains a point of disagreement between ourselves and IBC. But frankly, whether or not it is mathematically possible is a red herring (and was only introduced by ourselves as an indication of just how far out of step the 31% figure is from reality).

What is undeniable is:

- The list of infrastructure allowed for in the Whole Plan Viability does not accord with what is actually required (and agreed as being required by IBC) to deliver major new development in the IGS;
- The infrastructure costs are therefore not reliable and therefore the appraisal itself is not reliable as regards the IGS.

As worded, Policy CS10 seeks 31% affordable housing, but the premise for that figure is a flawed viability assessment. This means that there is no credible evidence base to support that figure, regardless of whether it is mathematically possible or not.

There is however a credible evidence base to support an affordable housing target of 5%, because there are two site specific appraisals that show that outcome.

However, as we have stated previously, there is no harm in having an aspirational policy so long as it is credible. Therefore, a policy that seeks a minimum of 5% but a target higher than that of, say, circa 20% (as per our Hearing Statement), is credible, based on evidence, and yet still aspirational.

[2] Again, see our original Reg 19 representation for the comparison of infrastructure items allowed for by Aspinal Verdi compared to the site specific assessments.

The failure to provide a Main Modification to the affordable housing requirement to address the above means that the Plan remains unsound.

Viability Review

We note that IBC were asked by the Inspectors to review the wording of Policy CS10 with regard to the provisions for viability review, and in K22, IBC set out their reasoning for sticking to the wording as per the Submission Draft.

Although IBC correctly point out that the wording used has not prevented the grant of the permissions for Fonnereau and Henley Gate, each with viability review mechanisms, we would say that has been achieved in spite of the wording of the text, not because of it, and the text remains unclear.

The first relevant sentence, as currently drafted, states:

"The re-testing of the viability will occur pre-implementation of individual applications within each neighbourhood."

Notwithstanding the attempted explanation, this sentence still remains unclear as to what is meant by "applications" and what is meant by "each neighbourhood". Basically, the viability mechanisms in the Fonnereau and Henley Gate permissions require a review of viability prior to subsequent Reserved Matters phases (or more accurately at set trigger points within the s106). In that context, the word "applications" would be construed as Reserved Matters applications, and the word "neighbourhood" would actually mean "phase" (because each site within the IGS is referred to as a "phase").

As currently written, the wording states that where a planning application has been granted (subject to a viability appraisal), that viability appraisal has to be revisited in the period between the grant and implementation of that permission, which, given timescales for undertaking and agreeing such reviews, effectively means the re-appraisal process would start pretty much as soon as the s106 is signed, which cannot be the real intention. It also means that where a single neighbourhood has more than one "phase" (i.e. it is controlled by two different parties who each bring forward their own application, as will be the case for Red House Neighbourhood), each party would be subject to a review (because of the wording "individual applications"), regardless of what affordable housing level they are providing.

At the very least, the wording in this sentence should be clarified to make clear that the word "application" means the second and subsequent Reserved Matters applications (as there shouldn't be a review prior to the implementation of the first Reserved Matters), and the word "neighbourhood" should be changed to "phase" if IBC want to continue referring to individual application sites as phases.

The second relevant sentence states:

"Each phase of development will be subject to a cap of 35% affordable housing."

Again, on the basis that the word "phase" in this sentence means an individual planning application site as per the phases plan shown in the document, then this sentence is, we would suggest, seeking a requirement that would either be unlawful in the determination of a planning application if the Council were to insist upon achieving 35%, or if that isn't the case, serves no purpose. The reason we say this is that the policy target is 31% affordable housing. If Developer A is not able to achieve 31% affordable housing, it is unlawful to require Developer B to make up the shortfall of Developer A.

Therefore each “phase” (application site) cannot be expected to provide more than the policy target of 31%. A cap of 35% is therefore a meaningless provision.

If, however the use of the word “phase” here is intended to refer to subsequent phases of development within an application site, then we support this provision, because it would essentially provide that, even if viability improves, affordable housing is not provided at such a high proportion as to either result in an inappropriate concentration of affordable units in a single location, or risk the possibility that subsequent phases become inherently undeliverable due to requirements for high levels of affordable housing which provide no incentive on the developer to continue construction, notwithstanding the theoretical viability of the development overall.

In that context, either the word “phase” should be clarified in this instance as referring to a phase of development within a multi-phased application site, or, if the Council do not accept that clarification, the sentence should be removed.

Amended Local Centre Wording

In the Submitted version of the Plan, the uses permissible within the Local Centres included a specified amount of retail use (convenience and comparison), and also any use within the old Use Classes A2-A5, and non-retail uses falling within Class A1.

The new wording only allows for 5 specific uses in addition to retail – restaurants, cafes, offices, public houses and hot food takeaways.

This therefore means that all of the uses that were previously permitted under the old A1 non-retail usage are now no longer permissible. These uses include post offices, travel agency, hairdressers, funeral directors, hire shop, launderette and internet café, and others. We cannot see that there is any reasonable justification for preventing such uses within a Local Centre – they are all ‘classic’ Local Centre uses.

It is also not clear what the proposed amended wording means for A2 uses. Under both the old Use Classes Order and new Use Classes Order, general offices fall within a different use class to financial and professional services. So it is not clear therefore whether or not in referring to ‘offices’, the revised policy is only referring to new use class E(g)(i), or to professional and financial services under use class E(c).

The purpose of the new Class E Use Class is to promote the vitality of Local Centres by allowing uses to freely change between different types, and therefore there would need to be a very clear rationale for excluding uses that would otherwise fall within the same use class. There is nothing in the Modifications that explains why a hairdressers (by way of an example) would be inappropriate within a Local Centre.

In order to be sound, the list of uses should not therefore be precluding uses in Class E unless there are particular reasons for so doing.

A more appropriate update of the text to reflect the new Uses Classes would have been to ensure that the amendments allow for the same types of uses as the original text allowed i.e uses within Classes E(b) (for food and drink), E(c) (for financial and professional services), E(g)(i) (for offices) and then wine bars, public houses, and hot food takeaways as the additional sui generis uses that previously would have been permissible under Classes A4 and A5.

Policy CS10

Legally compliant? Yes

Sound? No (Justified/Effective)

Response:

By way of introduction, Mersea Homes Ltd is the principal developer for the Red House Neighbourhood, which comprises one of the three neighbourhoods that makes up the Ipswich Garden Suburb. Mersea Homes Ltd are also a partner in the delivery of the Fonnereau Neighbourhood.

Mersea Homes Ltd are broadly supportive of Policy CS10 and its various provisions, but in order to ensure effective delivery, there are three aspects of the policy that are considered to be unsound, as follows:

1. Elements of the detailed wording of the policy in relation to site specific matters and the role of the SPD, which relate to Effectiveness;
2. The Affordable Housing provisions, which relate to soundness issues in respect of the justification and the effectiveness of the Policy;
3. The wording of the Policy in respect of viability review provisions.

We deal with these three matters in turn below.

<u>Policy CS10 wording relating to the Ipswich Garden Suburb SPD</u>

In relation to the first matter, the text towards the end of the Policy deals with the SPD relationship. The text here is largely the same as in the existing adopted version of CS10 from the 2017 Core Strategy, but at the time the adopted version of CS10 was in preparation, the SPD had not been adopted. Although the current draft has updated to refer to the SPD as being adopted, there is then a slight anachronism in that the text goes on to state what the SPD "will" deliver instead of what it does provide. More generally, though, our concern at this point is the reference to the SPD identifying detailed locations for uses and infrastructure, which we do not consider is consistent with the stated purpose of the SPD as acting as guidance for development proposals (and arguably is also contrary to the relevant Local Plan Regulations in respect of the ability or otherwise for SPD to allocate land for development).

The text that refers to the SPD making site allocations can easily be removed if this section of the Policy is simplified as follows:

"An Ipswich Garden Suburb supplementary planning document (SPD) has been adopted <u>which provides guidance on how the allocations in the development plan will be delivered both in spatial terms and in terms of sequencing, along with more general supplementary planning and design advice</u>"

[This text is essentially copied from paragraph 1.11 of the SPD].

The text of Policy CS10 goes on to state that development proposals will be required to demonstrate that they are in accordance with the SPD. This sentence appears to misstate the purpose of the SPD as guidance in the determination of planning applications, and essentially prescribes the SPD the weight of statutory policy. The SPD clearly has weight as a material consideration, but the wording of Policy CS10 should, we consider, properly reflect that status. For example, the text might more appropriately state:

"Development proposals will be required to demonstrate how they have had regard to the principles and objectives of the adopted SPD."

Affordable Housing Requirements

Turning then to the provisions for affordable housing, the previous planning applications for the Henley Gate and Fonnereau Neighbourhoods were both accompanied by viability assessments which contain baseline evidence in relation to the relative viability of development in the Ipswich Garden Suburb. These assessments were closely scrutinised by IBC's own consultants and agreed as being correct.

Both agreed appraisals demonstrate the challenges for the delivery of Affordable Housing in the Ipswich Garden Suburb. Application IP/16/00608/OUT for the Henley Gate Neighbourhood was the subject of a resolution to grant from April 2018 based on 5% affordable housing provision 50/50 tenure split (with a viability review mechanism), and application IP/14/00638/OUTFL was the subject of a resolution at the same meeting based on 4% affordable housing provision 50/50 tenure split (also subject to viability review). Both applications were formally approved in January 2020. It should be noted that to achieve these reduced levels of affordable housing provision it was necessary for IBC to secure £10m of Infrastructure funding from the Government to reduce the very large infrastructure burden and allow the scheme to proceed.

Policy CS10 says that the Council will seek 31% affordable housing overall, but that no phase of the development shall provide more than 35% affordable housing. Two of the three Neighbourhoods (around 2000 homes out of the overall 3500) now have approval at affordable housing levels of 5% and 4%, therefore by our calculations, even allowing for the unlikely event that later phases of these approved schemes could deliver affordable housing at the maximum proportion, it is now mathematically impossible for 31% affordable housing to be achieved.

Firstly, therefore the overall quantum to be achieved requires revaluation in the light of the decisions already made.

Secondly, it will be apparent that, in coming to the conclusion that the Ipswich Garden Suburb can viably deliver 31% affordable housing across the board, the Aspinall Verdi Whole Plan Viability Appraisal is wildly different to the site specific appraisals that the Council has recently confirmed as being correct. The Aspinall Verdi appraisal uses a number of different assumptions to those contained in the agreed appraisals for Henley Gate and Fonnereau, but from an initial review of the model, it appears that the key variable relates to the assumed infrastructure costs. The Aspinall Verdi assessment assuming infrastructure costs of around £79,000 per net development acre and those costs are made up of the following -

- Decentralized power
- RAMS

- Natural Environment
- Electric Charging Points

Whereas the actual infrastructure costs agreed through the site specific appraisals for Henley Gate and Fonnereau include the following -

- Acoustic Fencing
- Strategic SUDs
- Strategic Foul Water Drainage
- Strategic Services & Diversions
- Strategic Roads on and off site
- Strategic footpaths and cycleways on and off site
- Archaeological
- Ecological Mitigation inc RAMS
- Travel Planning measures
- Green Infrastructure deliver inc allotments play areas sports pitches

The original Infrastructure Delivery Plan document produced by Gerald Eve and Mott Macdonald on behalf of the Council estimated the cost of Infrastructure to be £132,222,060 or approximately £535,000 per net developable acre. Subsequently for the agreed viability assessments as mentioned above savings were found and HIF funding secured so that this figure was able to be reduced to approximately £420,000 per acre (but that excludes decentralised power).

It is therefore clear that the Aspinall Verdi work has such significant errors in it, that it renders the outcomes as meaningless.

It is unclear as to why the Whole Plan Viability Appraisal has been progressed on the basis of assessing the Ipswich Garden Suburb as if there were no existing permissions and as if the whole of the 3500 units were unconsented, but the result is that the Appraisal has produced an outcome that is both unreliable, unevidenced, and effectively impossible to achieve.

The Council will be aware that we are currently in the process of pre-application discussions in advance of the submission of an outline application for the majority of the Red House Neighbourhood, and we are expecting to submit viability evidence in respect of that application.

Based on essentially the same assumptions used for the previous viability assessments, but updating those assumptions to a 2020 base date, we currently expect the level of affordable housing to be deliverable from the Red House Neighbourhood will be significantly less than 31% and we recommend that Aspinall Verdi review their report based on the Council's own latest evidence.

The policy is neither justified nor would it be effective in seeking affordable housing at the suggested level and needs to be corrected.

<u>Viability Review Provisions</u>

Both the Henley Gate and Fonnereau planning consents are subject to viability review mechanism, which require a reappraisal of viability at set points in the development programme. We have no objection in principle to viability review mechanisms and would expect the remaining permissions within the Ipswich Garden Suburb to be subject to such provisions, if affordable housing is to be delivered at less than the eventual policy requirement (the starting point, however, should be to set an appropriate policy requirement that is achievable, as discussed above).

As currently drafted, however, the text relating to viability review in Policy CS10 is impractical and imprecise. The wording states that viability will be re-tested prior to implementation of applications within each neighbourhood, but is not clear as to whether it is referring to outline applications or reserved matters applications. If the former, then the re-testing prior to implementation would serve no purpose, because in all likelihood the Outline permission will only have been granted relatively recently, and so the re-test would be likely to produce similar results. If the intention were to re-test before implementation of each Reserved Matters implementation, then re-testing might either be happening on an unrealistically frequent basis if a phase is made up of many Reserved Matters, or otherwise might not happen at all if a developer came forward with a single large Reserved Matters application for an entire site.

In practice, the s106 agreements for Henley Gate and Fonnereau set triggers for re-testing of viability based on fixed stages within the development process, informed by the likely development phasing, and the triggers are not linked to the approval process for subsequent applications. This is the most effective and practical approach to re-testing of viability on large sites.

Accordingly, the text of the Policy needs to exclude reference to re-testing on application, and instead say that triggers for re-testing of viability will be agreed as part of the s106 obligations at the planning permission stage.