

Philip Jones - HDC Local Plan Main Modifications Examination hearing statement for Matter 6f

Introduction

1. This Hearing Statement accords with the guidance provided within the Inspector's Guidance Note (IDJB06). It is structured around the Agenda for Matter 6f (IDJB07) and concerns the soundness of allocation STO3. It will not raise issues under every heading but raise the key concerns on soundness. It has been written with the assistance of Planning Counsel.
2. The overarching point this Hearing Statement will demonstrate is that STO3 is **unsound**. References to the NPPF will be to the September 2023 NPPF.
3. It is critical context that it is not necessary to allocate STO3 within the Local Plan. As MM142 and MM144 make clear, the updated Requirement of 18,719 (in reaction to which STO3 was allocated) is met by the deliverable supply of 20,915. There is no need for the Council to rely on STO3 (which provides 50 homes) to be allocated for the Council to either meet their requirement, have sufficient flexibility over their requirement, or have a five-year supply upon adoption. On all these metrics the Council exceeds the minimum number required by much more than 50 homes.

4. The Figure 1 will be referred to orientate the Inspector:



Transport and movement:

Highway access arrangements

5. The question of highway access is a critical one for considering the soundness of any allocation.
6. The NPPF requires at 104 that “*Transport issues should be considered from the earliest stages of plan-making*” for a number of objectives to be received one of which is “*the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account*”. If an allocation fails to do this then it will be **inconsistent with national policy** and thus **unsound**.

7. Furthermore, if the Inspector is not satisfied that a Site can be properly accessed then they cannot be satisfied that the Site is deliverable. This would mean that the allocation is **ineffective** and thus **unsound**.
8. The issue of access is therefore critical to soundness.
9. The problem with STO3 is that it remains entirely unclear how the allocation will be accessed.
10. The MM244 STO3 site description and site plan do not identify how vehicular access to the allocation would be achieved. The Site Assessment (53 – 56 of HDCJB14c) references that “*vehicular access can be achieved from Fryern Road*”.
11. However – as raised at 3.3 of my Representation – the legacy of the evidence base for the Local Plan is relevant. STO1 and STO3 were combined and assessed during the Reg 18 and Reg 19 stages before being separated again as STO1 and STO3 at Main Modification stage. The legacy of this aggregation/segregation ranges from proofing errors (the mixed-up reverse labelling of STO1 and STO3 labels on the Main Modifications allocation map) to substantive (conclusions in the site assessment which clearly apply to STO1 and have not been removed).
12. The reference in the Site Assessment for STO3 (referred to as SA732 in HDCJB14c) to access from Fryern Road is left over from STO1 because – as shown by Figure 1 above – STO 3 does not adjoin Fryern Road.
13. This lack of clarity for STO3, can be contrasted with how Policy HA18 deals with STO1 – where it clearly requires access to be taken from Fryern Road.
14. This uncertainty makes STO3 unsound for several reasons.
15. Firstly, if the intention is for access to be taken from Fryern Road – via STO1 – then this places a risk on deliverability.

16. Secondly, if this is the intention then nowhere in the evidence base is the environmental impact of the transport infrastructure (ie the access road) of STO3 assessed. This is not hypothetical. As shown by Figure 1 there are real environmental impacts given the access road will have to cross:

- i) The hedged and vegetation western boundary which is likely used for foraging and commuting by Barbastelle bats in a nearby colony functionally linked to The Mens SAC. They amongst the rarest in the UK, classed as ‘vulnerable’ and are highly light sensitive. Accordingly, the Habitat Regulations Assessment for DC/23/0290, required to meet the legal obligations of CHSR 2017, states: *“It is our understanding that no trees have been removed as part of this development and there will be no severance to the flight lines of foraging or commuting bats or removal of habitat within the site.”* An access road running through this wooded hedgerow, together with domestic lighting on both sides, would require removal of habitat and create flight line severance – breaching this condition.
- ii) The Plan-level HRA (HDCJB12) does not take account of this evidence. It also confuses and conflates STO1 and STO3 characteristics and contains other material errors about STO3 - see Annex D of my Main Modifications Representation. HRA regimes should embody *“the precautionary principle”* and require *“a high standard of investigation”* (R. (on the application of Wyatt) v Fareham BC [2022] EWCA Civ 983 [9]). The treatment of STO3 within HDCJB12 falls below these standards.
- iii) These issues are not addressed by the current HA18 Policy (MMJB01) and its limited requirement in relation to an HRA for sites only relating to the Arun Valley. At the very least, the HA18 Policy also needs to be amended to include a condition requiring that there will be no adverse effect on Barbastelle habitats functionally linked to The Mens SAC and any application would need to be supported by an HRA. However

there is real concern about kicking such an important issue down the line to application stage.

- iv) The boundary between the Western and Eastern Field within STO3 (see Figure 1) is Ancient Woodland (addressed below) and any access into it would destroy Ancient Woodland.

17. The Examination therefore has no evidence that access can be made to STO3 and this renders the Main Modification both **inconsistent with national policy** and **ineffective** and thus **unsound**.

The effect on the Air Quality Management Area

18. This is both an issue with STO3 and a wider issue with HA18. The starting point is that the NPPF requires at 186 that:

Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications....

19. This is a highly pertinent issue for Storrington because it contains Horsham District's only AQMA. While STO3 is not within the AQMA the traffic impacts associated with it, the other HA18 allocations (i.e at least 247 homes) and other nearby developments which drawing on Storrington's facilities will have a clear detrimental effect adding traffic and congestion to the roads within the AQMA.

20. Paragraph 186 is clear that this issue needs to be addressed at plan-making stage with a strategic approach rather than 'kicked down the road' and addressed only when determining individual applications.

21. However, HA18 does exactly that. It provides no strategic assessment of cumulative air-quality impacts, instead relying on individual site assessments and a requirement for an Air Quality Impact Assessment.
22. This issue is compounded by the fact that in the Site Assessment for those sites coming forward (HDCJB14c) there is assessed to be potential for mitigation, without identifying what the mitigation(s) would be, or demonstrating their effectiveness, affordability or deliverability. This is stark given the highly relevant context that the rejected sites in Storrington (HDCJB14d), the AQMA impact was the principal reason for rejection, with no AQMA mitigation deemed possible.
23. Overall both STO3 – and HA18 more widely – seek to kick the issue of impact on the AQMA down the road to individual determinations. This is contrary to 186 and so is **inconsistent with national policy** and thus **unsound**.

Impacts and mitigation:

The landscape, including the setting of the South Downs National Park

24. The overall landscape north of this part of the South Downs is a series of valleys and ridges running east-west. Storrington is largely contained in the valley closest to the National Park. The STO3 Site is at the top of the downslope of the next valley to the north. Contrary to the Site Assessment in HDCJB14c – STO3 has a substantial 12.5% downslope.
25. STO3's position near the top of this ridge means that it will be visible from a public right of way 1–1.5km to the north, against the backdrop of the South Downs National Park. Development would introduce built development into a currently undeveloped foreground and make the built form of Storrington substantially more apparent from the north and from the Public Rights of Way Network that run through and around the site.
26. Development would alter the existing relationship between the rural landscape north of Storrington and the South Downs National Park. Nearby developments do not set a precedent for STO3 to create a substantially greater urban presence in this rural landscape. STO3's slope makes tree screening / landscaping to mitigate the wider landscape impact near impossible.

27. There will therefore be a harmful impact on both the landscape and the setting of the National Park.
28. This has two critical impacts.
29. The first is that STO3 fails to “*be sensitively located and designed to avoid or minimise adverse impacts on the designated areas*” as required by NPPF paragraph 176 and so is **inconsistent with national policy** and thus **unsound**.
30. However, the harm to the setting of the National Park also triggers the Inspector’s duty under Section 11A(1A) of the National Parks and Access to the Countryside Act 1949 (‘the 1949 Act’). This – as introduced in Levelling-Up and Regeneration Act 2023 – places a strengthened duty on the Inspector to ‘further’ the statutory purposes of National Parks and “*if it appears that there is a conflict between those purposes, must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park*”.
31. This requires – per **New Forest National Park Authority v Secretary of State for Housing, Communities, Local Government and Another** [2025] EWHC 726 (Admin) – the Inspector to determine firstly if STO3 would be in conflict with the section 5(1) purposes or will undermine their fulfilment. Here it would be.
32. The Inspector then – to fulfil the strengthened duty – need to explain why such a conflict would be justified. In this case there is no justification given STO3 is **unsound** and also not necessary for the Council to meet their requirement.

The countryside, trees and woodland

33. STO3 is unsound because it fails to identify and address the ramifications of Ancient Woodland being present on the Site. The presence of this woodland is not mentioned in either the Site Assessment or the Plan-level HRA.

34. The detailed argument for the presence of Ancient Woodland is set out in Annex C in my Main Modification Representation.
35. However briefly it concerns the woodland on the boundary between the western and eastern field of STO3.
36. This woodland appears on maps as far back at 1707. While the definition of Ancient Woodland requires a area that has been wooded continuously since at least 1600 AD, this does not require cartographic evidence stretching back to 1600. This is well illustrated the fact that Natural England's Ancient Woodland Inventory Handbook for England (widely regarded as the best guidance for identify Ancient Woodland) uses Epoch 1 Maps (1840 – 1900) as a starting point for determining Ancient Woodland.
37. The woodland in question has been present on a map 140 years older than the starting point for the Ancient Woodland Inventory Handbook for England.
38. An Ancient Woodland Indicator survey recorded a substantial range of indicator species and concluded that the number of species constituted very strong evidence that the woodland strip had been wooded since at least 1600 and should be considered ancient woodland and irreplaceable habitat. The Ancient Woodland Inventory Handbook for England supports using indicator species to corroborate a conclusion that a stretch of woodland is ancient.
39. Together the cartographic and ecological evidence therefore supports that the boundary is Ancient Woodland (see Annex C to the Main Modifications Representation for more detail).
40. However, the ramifications of this have been entirely missed by STO3. The policy wording attempts to address this issue by requiring a minimum 15m buffer from woodland, but it does not grapple with the fact – see above – that the Ancient Woodland runs entirely between the two fields.
41. Therefore, to develop the Eastern Field would require the Ancient Woodland to be breached by an access road and it will be impossible to provide the buffer.

42. These issues make STO3 undeliverable as any planning application would result in the loss of an irreplaceable habitats for which there are no exceptional circumstances. This renders STO3 **ineffective** and thus **unsound**.

The maintenance of settlement separation

43. For the reasons set out above in relation to landscape, STO3 also diminishes the sense of separation between Storrington and the northern ridge of the valley which runs close to the West Chiltington Parish Boundary.

Heritage assets

44. STO3 would have an adverse impact on nearby heritage assets and this renders it **unsound**.
45. STO3 comprises two fields immediately south and east of East Wantley. East Wantley contains two Grade II listed buildings, the farmhouse and barn, a Granary and Old Mill cottage. The fields have historically formed part of East Wantley Farm. The relationship is therefore not simply one of geographical proximity: the agricultural land forms part of the historic rural setting of the listed buildings.
46. The western field slopes towards East Wantley, with an average northward slope of approximately 12.5%. The eastern field is smaller and lies close to East Wantley. Figure 1 shows that proposed development within the eastern field would be less than 110 metres from East Wantley. These physical characteristics are directly relevant to whether the mitigation proposed in the site assessment can realistically protect the heritage setting.
47. The current winter and night-time photographs (provided in the Main Mod Rep) demonstrate clear views from East Wantley across the western field of STO3 and the very limited amount of artificial lighting presently visible. Residential development would introduce multiple domestic windows, external lighting, vehicle movements

and associated activity into the existing rural setting. This is relevant both to heritage setting and to the wider dark rural environment.

48. The site assessment proposes locating development towards the southern part of STO3, with landscaping intended to provide separation from the listed buildings. However, the slope means that development positioned higher (toward the southern edge) will increase exposure in the wider landscape (see paragraphs 24-32), while moving development lower to reduce wider landscape exposure would bring it closer to East Wantley. The evidence therefore presents a substantive tension between the heritage and landscape mitigation strategies. The impact of development in the STO3 eastern field – necessarily much closer to the heritage assets – is not considered at all.
49. The drafting of the STO3 element in HA18 does not appropriately address this. It simply requires proposals to have appropriate regard to the setting of these heritage assets, but – setting aside that this replicates the stronger protections within national policy – it provide no clear guidance or mitigation as to how clear heritage impacts can be managed.
50. The real concern – which goes to soundness – is that the allocation does not grapple with the tension between the heritage and landscape mitigation strategies. In reality this is because there is unlikely to be an acceptable solution that addresses both. This will make STO3 undeliverable and so **ineffective** and thus **unsound**.

Conclusion

51. To make the Plan sound STO3 should be removed. It is clearly **unsound** and the impacts have not been clearly assessed or articulated. Critically there is no need for STO3 to be included within the Plan for the Council to meet their Requirement.