

IPSR40: NOW PLANNING with RAPPLEYS, acting for landowners adjoining East Cowes to the east and south

STATEMENT: MATTER 3

Issue 1: Whether the spatial strategy is sound.

Q 3.2: Is plan making for the IPS justified in not pursuing larger sites, including possibly new settlements?

1. Plainly, with regard both to the findings of HO1 and the statements in HO19, the plan-making for the IPS is not justified in failing to pursue and allocate larger sites. The chief basis for dismissing such an approach in the 2018 consultation draft IPS would seem – indeed are stated – to be the “overwhelming opposition” to the proposals (see ISA EA2 Table 4.2).
2. Moreover, the determination not to allocate larger sites means the island will continue to rely on its stable of SME housebuilders – who, with the removal in particular of the option of allocating housing sites adjoining the boundaries of existing settlements, will be disproportionately affected by the higher costs / lower returns of small brownfield and infill site development (absence of scale economies and added costs brownfield development) and almost certainly also the absence of opportunities to spread risks across a portfolio of sites.
3. As we set out in our response to Matter 1, the failure to allocate sites adjoining East Cowes is a case in point. East Cowes is a primary settlement, the land adjoining the settlement boundary has none of the NPPF footnote 7 protections, is not in a dark skies area and East Cowes is an IPS target for economic growth, including in relation to the island’s dynamic and competitive marine engineering sector, and is also an obvious candidate for accommodating opportunities that may arise from the Solent Freeport. Housing supply and the availability of labour (particularly having regard to the evidence in the Employment Land Study (EC1) in section 9 and in its concluding statements at paras 9.10-9.11. Given the focuses for employment allocations on East Cowes, the significant undersupply of housing against acknowledged needs and the absence to the south and east of the settlement of NPPF footnote 7 protections, it seems very odd indeed – not positive, justified or effective in plan-making terms – for the IPS to pursue a spatial strategy that precludes development adjacent to and related to the primary settlements generally and East Cowes particularly. Land adjacent to East Cowes could meet the need for larger and easier/less costly sites that are sustainably located.

Q 3.3: The Housing Evidence Paper B (notably at paragraph 5.32) sets out the rationale for not pursuing additional bigger edge of settlement sites and scaling back from the approach initially presented at earlier stages of the plan. Is this justified?

4. We judge that failing to pursue bigger edge of settlement sites and scaling back from the approach in the first, 2018, consultation draft of the IPS not to be justified. Our reasons are as follows:

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- i. Re 5.32.i: Given the time that has elapsed since 2018 and the NPPF's requirement for at least a 15 year plan period, it is implausible that there has been or will be insufficient time to work up viable garden village options and at least to begin their delivery. All large sites have long lead in times.
- ii. Re 5.32.ii: There is nothing unsustainable about extending the boundaries of settlements (where they are not constrained by the application of the policies that apply to the protection of the NPPF footnote 7 land). Indeed, often such sites are more economic for housebuilders, especially the SME housebuilders that dominate the island market, quicker to yield new housing and less disruptive for neighbouring uses.
- iii. Re 5.32.iii: The adjustments IPS proposes to the settlement boundaries are negligible. They do not take the opportunities available, certainly at East Cowes, to address local housing and other needs (e.g., shortages of open space).
- iv. Re 5.33.iv: The so-called "island realistic housing number" is not based on sound evidence. See our Statement in response to Matter 2. The evidence and circumstances simply do not justify that position. While HO1 concludes with the statement quoted, that statement contradicts everything else in the paper.
- v. Re 5.33.v: What requires "priority" are is the identification of sufficient deliverable and viable allocations to meet the SM-calculated housing need for the island that the IPS accepts is valid. We also note that some of the permitted schemes would appear not to have commenced – and think it reasonable to ask the Council to provide more certainty on the deliverability of these schemes in full, not least because they constitute a significant share of the 543 dwellings that the IPS provides for.

Q3.4: Are there any reasonable alternative strategies for the island and if so, have these been appropriately considered by the ISA process?

5. As we state in our Statement in response to Matter 1, we cannot find the evidential basis, in the ISA or anywhere else to justify the abandonment of the first Reg 18 consultation draft approach (and we cannot find the SA for the second Reg 18 draft IPS). The ISA for the Reg 19 IPS (the Reg 22 IPS which is being examined) does not consider the patently reasonable alternative of meeting the island's full OAN) – chiefly on grounds that the 2018 Reg 18 consultation draft which did propose to do so met "overwhelming opposition" (ISA Table 4.2). The only reason the ISA gives for dropping a spatial strategy that allowed for development on the boundaries of settlements is that doing so would harm the "identity" of nearby settlements. That is a judgment that seems misplaced, and very obviously so in the case of East Cowes.
6. With respect to the "inability" of the island to deliver any more housing than the 543 dpa the IPS provides for, we point out that no part of the evidence base shows that the island is outlier in respect of conversions of planning permissions to constructed dwellings. Further, as the HBF point out (IPSR99) at pages 33-40 of their representation on the Reg 19 IPS, by removing the one large site (Pennyfeathers) the share of permitted dwellings that was

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delivered rises to 70% - and that prior to the Core Strategy's adoption, delivery averaged 648 dpa. As we point out in our Statement in response to Matter 2, a key consideration is the fact that the Core Strategy allocated no sites – at once increasing planning uncertainties, risks and costs, considerations that disproportionately significant in markets dependent on SME housebuilders.

7. The ISA tests no alternative of allocating sustainably located large sites in areas of the island that are not constrained by environmental protections – noting, of course, that NPPF para 11 (the presumption) does not prevent development on the footnote 7 land unless the application of the NPPF policies provides a clear reason for “refusal”. There is nothing we are aware of that positively precludes development in a National Landscape subject to the application of the tests at NPPF (December 2023) paragraph 183 and now the new legislation that obliges local authorities to further the purposes of their designation. Paragraph 184 only prevents major development within a Heritage Coast unless it is compatible with its special character. The presumption of course does not apply to the allocation of land for development that would be likely to have a significant effect on a habitats site unless an appropriate assessment has concluded that the integrity of a site will not be adversely affected.
8. Put simply, the evidence does not support the preferred option *compared to* reasonable alternatives – the task of the ISA. The ISA however does not assess even the alternative of meeting the full OAN or a much larger share of it, and dismisses – in circumstances in which only 53% of the OAN is met – on grounds of a potential adverse effect on the identity of nearby settlements – the long-standing alternative (Core Strategy SP1) of allowing development on suitable land immediately adjacent to settlements, not even adjacent to primary settlements.
9. In our view, and with regard to the case law, those facts make the ISA legally non-compliant and, accordingly, the IPS in its current form unlawful.

Q3.5 Will Policy G2 be effective in ensuring the right amount of growth occurs in the right places?

10. Consistent with our grave concern that in the circumstances that the IPS advances (that only 64% of the OAN could “realistically” be met), we consider that G2 will not be effective in ensuring the right amount of growth occurs in the right places. Two parts of the policy preclude anything other than development within settlements: the requirement that the requirement of Policies H4, H7 or H10 are met; and the 1-4 requirements in the final part of Policy G2. In effect, these parts of G2 eliminate the chance of windfall schemes coming forward on all but sites within settlements and principally brownfield sites. The ISA – because it does not compare reasonable alternatives to the preferred spatial strategy – does not compare the impact of this stringent policy to a reasonable alternative likely to yield more housing in light of the very significant need that the IPS leaves unmet.