

City Plan Part Two Brighton and Hove City Council's Development Plan (the Plan/Local Plan) April 2020 Examination

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Inspector Note 3

Matters, Issues and Questions

Introduction

This document sets out the Matters, Issues and Questions (MIQs) relating to the soundness of the submitted Plan. They do not intend to cover every policy in the Plan but are based on the main issues identified by the Inspector taking account of the views of the Council and other representors. Prior to the forthcoming hearing sessions, responses are invited from participants on these MIQs. Further information about the examination, hearings and format of written statements is given in the Guidance Notes.

Matter 1 Legal and procedural requirements

Has the Plan been prepared with due regard to the appropriate legislation, procedures and regulations?

Issue 1 Duty to Cooperate

1. What strategic, cross-boundary matters have arisen through the preparation of the Plan and what cooperation took place to resolve them? (defined as matters having a significant effect on at least two planning areas)¹ (See Initial Question 13 - 16 and the Council's response)
2. Has the Council maximised the effectiveness of the Plan by engaging constructively, actively and on an ongoing basis with prescribed bodies on the strategic matters relevant to this Plan and what form has it taken?
3. In overall terms, has the Duty to Cooperate under sections 22(5)(c) and 33A of the Planning and Compulsory Purchase Act 2004 (2004 Act) and Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations (2012) (2012 Regulations) been complied with, having regard to advice contained in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (the PPG)?

¹ S33A(4) Planning and Compulsory Purchase Act 2004

Issue 2 Plan preparation and public consultation

1. Has the Plan been prepared in accordance with the published Local Development Scheme (LDS)² in terms of its form, scope and timing? (See Initial Question 18 and the Council's response)
2. Has public consultation been carried out in accordance with the Council's Statement of Community Involvement (2015 and 2020)³, and the requirements of the 2004 Act and 2012 Regulations?

Issue 3 Sustainability Appraisal (SA)

1. Has the Plan been subject to a SA⁴ and have the requirements for Strategic Environmental Assessment been met? Is it evident that reasonable alternatives have been considered and how the SA has influenced the Plan and dealt with mitigation measures? Are there any representations on the SA itself? (See also Initial Question 6 and the Council's response)

Issue 4 Habitats Regulation Assessment (HRA)

1. Have the requirements for appropriate assessment under the Habitats Regulations been met? Have the results of the HRA⁵ been carried forward in the Plan? (See Initial Question 6 and the Council's response)

Issue 5 Purpose of the Plan and consistency with City Plan Part One Brighton and Hove City Council's Development Plan Document (March 2016) (City Plan Part 1)

1. Is the intention and purpose of the Plan and its relationships with other plans clear? Is the Plan consistent with the City Plan Part 1? (See Initial Question 17 and the Council's response)
2. Is its relationship with the Joint Area Action Plan (JAAP) for Shoreham Harbour and respective policies maps clear?
3. Does the Plan set out an appropriate framework and allow an appropriate role for neighbourhood plans, having regard to the current progress made in relation to their preparation in the City? (See Initial Question 26 and the Council's response)
4. Do the proposed changes to the policies map correctly illustrate geographically the application of the policies in the Plan?

² CD11

³ CD12a&b

⁴ SD05a&b SD06a&b

⁵ SD08a&b

Issue 5 Other matters

1. Does the Plan contain policies designed to secure that the development and use of land in the City contributes to the mitigation of, and adaptation to, climate change? How does it interact with the City Plan Part 1 on this matter?
2. Will the Plan help to advance equality of opportunity between people who share a 'protected characteristic' as defined in the Equality Act 2010 and those that do not share it and further the aims of the Act?
3. Does the Plan accord with national policy? Mindful of the Council's suggested Main Modifications (BHCC02), would the Plan reflect the changes introduced in the current NPPF (July 2021)?

Matter 2 The scale and distribution of development (location of development, spatial strategy, scale of development, site selection - policies H1, H2, H3 and SSA1 to SSA4

Is the Plan positively prepared and justified, effective and consistent with national policy and the City Plan Part 1 in relation to the scale and distribution of development proposed and the site selection process?

Issue 1 Scale and distribution of development

1. What context does the City Plan Part 1 provide in terms of the scale of development required in the area? What are the specific requirements for housing, employment, retail etc? Is the scale of development in the Plan consistent with this? (see Initial question 20-22 and Council's response)
2. What context does the City Plan Part 1 provide in terms of the distribution of development in the City? Is the proposed distribution of development in accordance with the City Plan Part 1 and sustainable development principles? Does this include at least 10% of the housing requirement on sites of less than 1 hectare? (see Initial question 20-23 and Council's response)
3. Are there any other specific requirements of this Plan as set out in City Plan Part 1?
4. Does the Plan include sufficient flexibility and contingencies to take account of any changes in circumstances, including any review and revision of the City Plan Part 1?

Issue 2 Site selection

1. Was the methodology used to assess and select the proposed site allocations both in the urban area and urban fringe appropriate? Were reasonable alternatives considered and tested? Are the reasons for selecting the preferred sites and rejecting others clear? How did landscape and other constraints inform this process?

Matter 3 Supply and delivery of housing land Policies H1, H2, H3 and SSA1 to SSA4

Whether the Local Plan has been positively prepared and whether it is justified, effective and consistent with national policy in relation to the approach towards the supply and delivery of housing land to meet the City Plan Part 1 requirements?

City Plan Part 1 sets a housing requirement for the area of 'at least 13,210' new dwellings in the period 2010-2030. It also sets out how it will be distributed in line with the strategic policy framework which sets the overall amounts of new development to be delivered across the City and the broad locations where significant new housing development will take place. To this end it allocates eight broad 'Development Areas' within the City where major development is expected to be concentrated (Policies DA1 – DA8) with the potential for 6005 dwellings. City Plan Part 1 strategic site allocations within those development areas provide a total of 3,635 new homes. A further allowance for around 1,060 units is made for some development on greenfield sites in the City's urban fringe as a whole based on information in the 2014 and 2015 Urban Fringe Assessments and the 2021 update⁶. No specific sites on the urban fringe were allocated in CPP1, with the exception of Toads Hole Valley (Policy DA7).

Revising the housing requirement is not within the scope of this Plan. Discussions at the hearings will therefore focus on ensuring the Part 2 Plan allocates sufficient housing land to deliver the housing requirement as set out in the adopted City Plan Part 1. This principle also applies to the provision of a five year housing land supply and whilst I will need to satisfy myself that the proposals in the Plan are such that the aims of the City Plan Part 1 will be met and development delivered in accordance with it, it is not necessary for me to consider whether the Council has a five year housing supply as part of this Examination. (See Initial Question 22 and the Council's response)

In responding to the following questions, the Council should seek to identify and address specific concerns raised in the representations.

Issue 1 Meeting the housing requirement

1. Does the Plan deliver the City Plan Part 1's housing requirement (for at least 13,210 new dwellings) and its timescale for delivery?
2. Do the proposed allocations and policy framework accord with the spatial and other requirements of the City Plan Part 1, which concentrates housing in the large identified sites in Development Areas and selected sites in the rest of the City, including the urban fringe?

⁶ ED21a-c, ED22a-g, ED24

3. Is the expected contribution from windfalls, which exceeds that in the Part 1 Plan realistic and justified by evidence? What is the justification for the inclusion of small identified sites? Given the reliance on windfalls, small sites, prior approvals and estate regeneration, none of which are based on allocations in this Plan, are the assumptions made regarding supply from those sources based on robust evidence?
4. Should the submitted Plan include a housing trajectory? Should it set out the anticipated rate of development for strategic site allocations in accordance with NPPF paragraph 74?
5. Would there be a supply of deliverable sites and developable sites that would meet the City Plan Part 1's housing requirement? What assumptions have been made in relation to delivery rates and are these justified?
6. Is there sufficient range and choice of sites allocated in the Plan in terms of location, type and size to provide adequate flexibility to meet the City Plans Part 1's housing requirement?
7. NPPF paragraph 69a states that local planning authorities should identify, through the development plan and brownfield registers, land to accommodate at least 10% of housing requirements on sites no larger than one hectare. Should this be recognised specifically in the Plan? (See Initial Question 23 and the Council's response)
8. Does the Plan provide appropriate support for entry level exception sites, suitable for first time buyers in accordance with NPPF paragraph 72? If not should it?
9. Overall, will the Plan realistically deliver the dwellings required over the plan period? What contingencies are in place should housing delivery fall below expectations?
10. In preparing City Plan Part 1, by spreading the housing shortfall from earlier in the Plan period, the Council was able to demonstrate a 5.0 year housing land supply on adoption of that Part 1 Plan. However, the Examining Inspector concluded that the lack of flexibility in the housing supply would require very close consideration in the preparation of this Plan. The Council has confirmed that at present it is unable to demonstrate a 5 year housing land supply. In the context of the requirement set within the City Plan Part 1, has this Plan met the expectation to increase flexibility in the Council's 5 year housing land supply position in accordance with the Examining Inspector's expectations?

Matter 4 Employment and retail land

Whether the Local Plan has been positively prepared and whether it is justified, effective and consistent with national policy in relation to the approach towards the building a strong, competitive economy?

Issue 1 Delivering employment land

City Plan Part 1 sets out the overarching strategic policy related to the economy, recognising the need for inward investment opportunities, diversification and business resilience and the role and needs of certain sectors of the economy. It supports the retail, culture and leisure economy of the City recognising their role in the local and sub-regional economy, sustainable transport and sets out the strategic approach to safeguarding needed employment sites and bringing forward new employment floorspace guided by the evidence base. That focuses development towards Development Areas (DA1-DA8) which provide opportunities for regeneration and include strategic allocations bringing forward employment floorspace to meet a proportion of the forecast need for employment floorspace over the plan period. City Plan Part 1 acknowledges that there is a shortfall of employment sites to meet the identified needs and specifically identifies a role for this Plan in allocating additional employment sites and mixed use allocations to ensure employment land delivery is maintained over the plan period (CP3.6). This it does through Policies SSA1-SSA4, in the mixed use housing allocations in Policy H1, and in Policy E1 in accordance with CP3.6.

The role of this Plan is to allocate non B class uses (as was then) and additional employment and mixed use allocations to ensure employment land delivery is maintained over the Plan period. It is recognised that outstanding requirements will be met through a coordinated partnership approach with neighbouring authorities and the Local Enterprise Partnership.

1. Given the above, can the Council confirm the context to the provision of employment land provided by City Plan Part 1 and the role of this Plan in this regard? (see Initial question 20-22 and Council's response)
2. Would the Plan meet those requirements? Would the Plan make appropriate provision for non B class uses (as was then) and additional employment and mixed use allocations to help ensure employment land delivery is maintained over the Plan period? (see Initial question 20-22 and Council's response)

Matter 5 Strategic site allocations (SSA1-SSA7)

Whether the proposed strategic allocations are soundly based

Issue 1 SSA1 Brighton General Hospital site

Issue 2 SSA2 Combined Engineering Depot

Issue 3 SSA3 Land at Lyon Close

Issue 4 SSA4: Sackville Trading Estate and Coal Yard

Issue 5 SSA5: Madeira Terrace and Madeira Drive

Issue 6 SSA6: Former Peter Pan Leisure site

Issue 7 SSA7: Land adjacent to American Express Community Stadium

The Council is requested to address the following questions for each of the proposed strategic allocations. For those sites where representations have been made, the Council should respond to the particular issue(s) raised. In doing this any updated information regarding the planning and development status of the sites should be included.

1. Are the strategic allocations appropriate and justified in light of the potential constraints, infrastructure requirements and adverse impacts?
2. Are the site boundaries appropriate? Is there any justification for amending the boundaries? Are there any significant factors that indicate that any sites/parts of sites should not have been allocated?
3. Are the sites viable and deliverable? Is there any risk that site conditions and constraints might prevent development or adversely affect viability and delivery?
4. How were the site capacities determined? What assumptions have been made? Are these justified? What is the expected timescale and rate of development and is it realistic?
5. What benefits would the proposed development bring? What are the potential adverse impacts of developing the site and how might they be mitigated?
6. Are the detailed policy requirements for each site, effective, justified and consistent with national policy? Do they adequately address all issues/concerns in relation to each site?
7. Would the Modifications proposed by the Council address any shortcomings?

SSA1 Brighton General Hospital site: In the absence of floorspace figures would the requirement for community facilities be effective? Does it appropriately reflect requirements in relation to heritage/biodiversity/ food growing?

SSA3: Land at Lyon Close: Would the policy be clear and effective, in requiring a mixed use redevelopment of sites identified? Would it strike the right balance between the retention and promotion of employment floorspace and provision of new homes? Have the minimum development requirements been based on tall building development and if so would it be soundly based?

SSA5: Madeira Terrace and Madeira Drive: Would the policy ensure the effective restoration and regeneration of Madeira Terrace and Drive having regard to their heritage significance and At Risk status?

SSA6: Former Peter Pan Leisure site: Would the policy ensure the effective restoration and regeneration of Madeira Terrace and Drive having regard to their heritage significance and At Risk status?

Matter 6 Housing and mixed use allocations in the rest of the City (H1)

Whether the proposed housing and mixed use allocations are soundly based

Issue 1 Housing site allocations (Table 6)

- Former St Aubyn's School
- Land between Marine Drive and rear of 2-18 The Cliff
- 25 Ditchling Rise/rear of 57-63 Beaconsfield Road
- 60-62 & 65 Gladstone Place
- 76-79 & 80 Buckingham Road
- 87 Preston Road
- Eastergate Road Garages
- Land between Manchester Street/Castle Street
- Preston Park Hotel
- George Cooper House
- Old Ship Hotel (garage)
- Saunders Glassworks
- 2-16 Coombe Road
- Outpatients Dept Royal Sussex Hospital
- Whitehawk Clinic
- Buckley Close Garages
- Former playground, Swanborough Drive
- Former Hollingbury Library
- 29-31 New Church Road
- 189 Kingsway Hove
- Kings House, Grand Avenue
- Victoria Road Former Housing Office (adjacent Portslade Town Hall)
- Land at corner of Fox Way and Foredown Road
- Smokey Industrial Estate (Corner of Church Road, Lincoln Road and Gladstone Road)
- Land south of Lincoln Street Cottages

- Hove Sorting Office
- Former Belgrave Centre and ICES, Clarendon Place Portslade
- Wellington House

Issue 2 Mixed use housing site allocations (Table 7)

- City College, Pelham Tower (and car park)
- 71-76 Church Street
- Post Office site, 62 North Road
- 27-31 Church Street
- Former Dairy Crest Site, 35-39 The Droveaway
- Kingsway/Basin Road North
- Prestwich House, North Street
- Regency House, North Street
- Former Flexer Sacks, Wellington Road
- Church Road/Wellington Road/St Peter's Road
- Station Road site Portslade

The Council is requested to address the following questions for each of the proposed allocations. For those sites where representations have been made, the Council should respond to the particular issue(s) raised. In doing this any updated information regarding the planning and development status of the sites should be included.

1. Are the housing and mixed use housing allocations appropriate and justified in light of the potential constraints, infrastructure requirements and adverse impacts?
2. Has the cumulative impact of development on proposed site allocations included in sites H1 and H2 been reflected within the strategic transport modelling? Have Highways England's concerns been overcome? What is the timescale for the expected SoCG on this matter?
3. Are the site boundaries appropriate? Is there any justification for amending the boundaries? Are there any significant factors that indicate that any sites/parts of sites should not have been allocated?
4. Are the sites viable and deliverable? Is there any risk that site conditions and constraints might prevent development or adversely affect viability and delivery?
5. How were the site capacities determined? What assumptions have been made? Are these justified? What is the expected timescale and rate of development and is it realistic?
6. What benefits would the proposed development bring? What are the potential adverse impacts of developing the site and how might they be mitigated?

7. Are the detailed policy requirements for each site, effective, justified and consistent with national policy? Do they adequately address all issues/concerns in relation to each site?
8. Would the Modifications proposed by the Council address any shortcomings?
9. Are the detailed policy requirements for each site, effective, justified and consistent with national policy? Do they adequately address all issues/concerns in relation to each site? In the absence of a floorspace figure for employment uses, in some cases, would those site allocations be effective? Should the housing and other uses required on each site be stated as a minimum?
10. Given that a number of sites are proposed to be deleted from Table 6 and 7, either as they are not going to be available or are substantially complete, would it be necessary, for the purposes of soundness, to include other sites? If so which ones and why? Please address 1-6 above in relation to any additional sites proposed by the Council.

Additional site specific questions are as follows:

- **Land between Marine Drive and rear of 2-18 The Cliff:** The requirement for compliance with policies CP10 and DM37 to mitigate any adverse impacts on designated sites and provide biodiversity net gains is noted. However, how have the impacts of development on this Local Wildlife Site been taken into account?
- **Land between Manchester Street/Castle Street:** Is the indicative capacity of this site soundly based?
- **Preston Park Hotel:** Are the requirements for occupation to be phased to align with the delivery of sewerage network reinforcement justified?
- **Saunders Glassworks:** Is the indicative number of residential units soundly based? Would the site be capable of accommodating other permitted uses? Would the inclusion of such uses be necessary for soundness?
- **27-31 Church Street:** Is the proposed indicative mix justified?
- **Land at corner of Fox Way and Foredown Road:** How have flood risk considerations been reflected in this proposed allocation? What contribution does this site make to the green infrastructure in the locality and is its proposed allocation justified?
- **Hove Sorting Office:** Are the development requirements soundly based?
- **71-76 Church Street:** Does the indicative capacity of this site sufficiently take account of heritage considerations?

Matter 7 Housing site allocations in the urban fringe (H2)

Whether the proposed housing allocations in the urban fringe are soundly based

Issue 1 Land at Oakdene Southwick Hill/Land West of Mile Oak Road

Issue 2 Land at Mile Oak Road, Portslade

Issue 3 Land off Overdown Rise, Mile Oak

Issue 4 Benfield Valley

Issue 5 Land at and adjoining Horsedean Recreation Ground, Patcham

Issue 6 Land at Ladies mile, Carden Avenue

Issue 7 Land to north east of Coldean Lane

Issue 8 Land north of Valley Halls, Coldean Lane

Issue 9 Land at and adjoining Brighton Racecourse

Issue 10 Land at South Downs Riding school and Reservoir Site

Issue 11 Land north of Warren Road (Ingleside Stables)

Issue 12 Land at Ovingdean Hall Farm & at Bulstrode/Ovingdean Farm

Issue 13 Land adjacent to Ovingdean and Falmer Road, Ovingdean

Issue 14 Land at Former Nursery, Saltdean

Issue 15 Cluster at Coombe Farm and Saltdean Boarding Kennels, Westfield Avenue North, Saltdean

Issue 16 Land at west of Falmer Avenue, Saltdean

The Council is requested to address the following questions for each of the proposed housing allocations. For those sites where representations have been made, the Council should respond to the particular issue(s) raised. In doing this any updated information regarding the planning and development status of the sites should be included. (see Matter 6 issue 2/2)

1. How did the Urban Fringe Assessment (2014,2015 and 2021) take account of environmental constraints, such as the South Downs National Park, Registered Parks and Gardens, local designations such as LWS and Local Nature Reserves (LNR), ecology, biodiversity (including biodiversity net gain) more generally, climate change, and infrastructure, including local transport infrastructure requirements? Would the development plan's policy framework along with proposed site specific measures, together, appropriately avoid, minimise and mitigate adverse development impacts?
2. Would those site allocations impacting LWS and LNR accord with the NPPF paragraph 174, which seeks to protect and enhance valued landscapes, sites of biodiversity or geological value and provide net gains for biodiversity?
3. Are the urban fringe housing allocations appropriate and justified in light of the potential constraints, infrastructure requirements and adverse impacts?

4. Are the site boundaries appropriate? Is there any justification for amending the boundaries? Are there any significant factors that indicate that any sites/parts of sites should not have been allocated?
5. Are the sites viable and deliverable? Is there any risk that site conditions and constraints might prevent development or adversely affect viability and delivery?
6. How were the site capacities determined? What assumptions have been made? Are these justified? What is the expected timescale and rate of development and is it realistic?
7. What benefits would the proposed development bring? What are the potential adverse impacts of developing the site and how might they be mitigated?
8. Are the detailed policy requirements for each site, effective, justified and consistent with national policy? Do they adequately address all issues in relation to each site, including heritage, landscape, infrastructure, ecology and any other concerns? Should the 'potential number of dwellings units' required on each site be stated as a minimum to ensure soundness?
9. Would any Modifications proposed by the Council address any shortcomings?
10. Given that one site is proposed to be deleted from Table 8, would it be necessary, for the purposes of soundness, to include a replacement site? If so which one and why? Please address 1-8 above in relation to any additional sites proposed by the Council.
11. Would the wording of policy H2 (i), when read alongside para 3.69, provide a requirement for serviced plots for self and custom build housing? If not, should it?
12. Should the wording of para 3.73, in relation to supporting studies, be amended to reflect best practice in relation to Environmental Impact Assessment and heritage assessment?
13. Is amendment to para 3.76 required to reflect the methodology adopted to assess the ecological impacts of potential site allocations?

Additional site specific questions are as follows:

- **Land at Former Nursery, Saltdean:** Given the findings of the Urban Fringe Assessment Update 2021, would the potential number of dwelling units be soundly based?
- **Benfield Valley:** How have the impacts on air quality and traffic been assessed and any adverse impacts mitigated?

- **Land at and adjoining Horsdean Recreation Ground, Patcham:** Given the findings of the Urban Fringe Assessment Update 2021, in respect of the integrity of the Patcham Court Field LWS impacts, would the allocation of this site be soundly based?
- **Land at Ladies Mile, Carden Avenue:** How have any adverse impacts on traffic and flood risk and the local drainage/sewerage system been taken into account?
- **Land to north east of Coldean Lane:** How have any adverse impacts on traffic been taken into account?
- **Land north of Varley Halls, Coldean Lane:** How has the impact of development on heritage assets and the LWS been taken into account?
- **Land at and adjoining Brighton Racecourse:** Given that this site includes a LWS and LNR, and taking into account the Urban Fringe Assessment 2021 Update and site specific requirements, would the proposed allocation be soundly based? Given that there is Rights of Way across this land and previous development proposals have raised traffic and access concerns, would the site be deliverable?
- **Land at South Downs Riding School and Reservoir Site:** Given its proximity to the Bevendean Down LNR and other constraints, and taking into account site specific mitigation measures, would this allocation be soundly based?
- **Land north of Warren Road (Ingleside Stables):** Given its proximity to the Bevendean Down and Whitehawk Hill LNRs and other constraints, and taking into account site specific mitigation measures, would this allocation be soundly based?
- **Land at Ovingdean Hall Farm & at Bulstrode/Ovingdean Farm:** Given its proximity to heritage assets and other constraints, and taking into account site specific mitigation measures, would this allocation be soundly based?
- **Land at Former Nursery, Saltdean:** Would the site boundary be soundly based? Given landscape constraints is the potential number of dwelling units justified?

Matter 8 Site allocations for purpose built student accommodation (PBSA) (H3)

Whether the proposed PBSA allocations are soundly based

Issue 1 Lewes Road Bus Garage, Lewes Road (250 bedspaces)

Issue 2 118-132 London Road (232 bedspaces)

Issue 3 45 & 47 Hollingdean Road (40 bedspaces)

1. What is the context provided by the City Plan Part 1 for PBSA?
2. What is the identified need for PBSA? How has this been calculated and is it based on robust evidence? What contribution to that need would the proposed allocations make?

The Council is requested to address the following questions for each of the proposed allocations. For those sites where reps have been made, the Council should respond to the particular issue(s) raised. In doing this any updated

information regarding the planning and development status of the sites should be included.

1. Are the allocations appropriate and justified in light of the potential constraints, infrastructure requirements and adverse impacts?
2. Are the site boundaries appropriate? Is there any justification for amending the boundaries? Are there any significant factors that indicate that any sites/parts of sites should not have been allocated?
3. Are the sites viable and deliverable? Is there any risk that site conditions and constraints might prevent development or adversely affect viability and delivery?
4. How were the site capacities determined? What assumptions have been made? Are these justified? What is the expected timescale and rate of development and is it realistic?
5. What benefits would the proposed development bring? What are the potential adverse impacts of developing the site and how might they be mitigated?
6. Are the detailed policy requirements for each site, effective, justified and consistent with national policy? Do they adequately address all issues/concerns in relation to each site?
7. Would the Modifications proposed by the Council address any shortcomings, particularly in respect of Ground Water Source Protection Zones?

Matter 9 Opportunity site for business and warehouse uses (E1)

Whether the proposed opportunity site for business and warehouse uses are soundly based

Issue 1 Land at Hangleton Bottom

The Council is requested to address the following questions responding to any particular issue(s) raised. In doing this any updated information regarding the planning and development status of the site should be included.

1. Is the allocation appropriate and justified in light of the potential constraints, infrastructure requirements and adverse impacts?
2. Is the site boundary appropriate? Is there any justification for amending it? Are there any significant factors that indicate that any parts of the site should not be allocated?
3. Is the site viable and deliverable? Is there any risk that site conditions and constraints might prevent development or adversely affect viability and delivery?

4. How was the site capacity determined? What assumptions have been made? Are these justified? What is the expected timescale and rate of development and is it realistic?
5. What benefits would the proposed development bring? What are the potential adverse impacts of developing the site and how might they be mitigated?
6. Are the detailed policy requirements for the site, effective, justified and consistent with national policy? Do they adequately address all issues/concerns in relation to the site?
7. Would any Modifications proposed by the Council address any shortcomings?

Matter 10 Special Area policy SPA7- Benfield Valley

1. How would the identification of this area secure the long term and enduring positive management, maintenance and enhancement of the Benfield Valley and its relationship to the National Park and urban areas?
2. Is the boundary of the Special Area policy appropriate? Is there any justification for amending the boundary?
3. What are the potential benefits and adverse impacts of allocating a part of the site for housing? Would this be compatible with the policy aims and its status as a LWS, and recognition as a green wedge? How would this impact on the proposed designation of the rest of Benfield Valley as a Local Green Space? How have the heritage, ecology, biodiversity, open space/ recreation, visual impact, landscape, traffic and air quality and the community use of the area been addressed in the proposed allocations? What would be the adverse impacts and how have they been taken into account? Could any adverse impacts be mitigated? (the detailed issues of the proposed allocations will be dealt with under H2 site allocation in the urban fringe)
4. What is the justification for residential densities to be higher than the surrounding residential areas and up to three storeys? Is it based on robust evidence? Was this based on a site specific LVIA as requested by Natural England? How has this been dealt with? How were the buffers around the development sites identified? Are they soundly based?
5. Is the detailed policy wording clear and effective, justified and consistent with national policy?

Development management policies

Matter 11 Housing Policies

Whether the Plan has been positively prepared and whether it is justified, effective and consistent with national policy in relation to the provision of housing and whether it adequately addresses the needs for all types of housing and the needs of different groups in the community (as set out in paragraph 62 of the Framework)

DM1 Housing quality, choice and mix

1. Is the requirement for all new residential development to meet the nationally described space standards and be accessible and adaptable in accordance with Building Regulation M4(2) justified? What is the evidence for the requirement for M4(3) (Wheelchair User Dwellings) given the necessity for local plan policies for wheelchair accessible homes to be applied only to those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling? In light of paragraphs 003 to 008 of the PPG *Housing-Optional technical standards*, which sets out the requirement for evidence to determine the need for additional standards and the need to clearly state what proportion of new dwellings should comply with the requirements, would these requirements be soundly based?
2. Given the CIL Viability Study 2017 (and subsequent addendums) would the requirements in C-E of this policy have any significant impact on the viability of delivering housing within the City?
3. Do the policy requirements, including those for usable outdoor amenity space strike the right balance between providing high quality living conditions for future residents and delivering housing to meet identified needs?

DM2 Retaining housing and residential accommodation (C3)

1. What is the justification for this policy, in protecting only existing dwellings (C3)? Should its requirements be extended to include other forms of residential accommodation (e.g. C4 HMOs)?

DM3 Residential conversions and the retention of smaller dwellings

1. What is the justification for the size threshold in part A of this policy? Would this policy, which would protect smaller family housing, strike the right balance in meeting the need for new housing and protecting existing?
2. Is this policy clearly written and unambiguous, so it is evident how a decision maker should react to development proposals? In particular, is the phrase 'suitable for family occupation' clear and unambiguous?

DM4 Housing and accommodation for older persons

1. What is the evidence of the need for housing for older persons and is it robust? Is the approach to housing and accommodation for older people justified, effective and consistent with national policy and City Plan Part 1 policies CP19 and CP20? Should it seek to meet local needs on a neighbourhood basis? Should the submitted Plan do more to support co-living/ inter-generational communities to impact on loneliness at all stages of life?
2. Is there any evidence that the requirements of the policy would affect the viability or deliverability of this type of housing?
3. Does this policy provide a clear indication of how a decision maker should react to a development proposal for retirement housing and care homes?

DM5 Supported accommodation (specialist and vulnerable)

1. Is there robust evidence of the need for supported accommodation? Would this policy effectively protect/support provision to meet identified needs?
2. Does this policy provide a clear indication of how a decision maker should react to a development proposal for this type of development?

DM6 Build to rent

1. Would the requirements of this policy be justified, effective and consistent with national policy, with particular regard to criteria 1B separate letting, 1D regarding unified ownership, 1E regarding on site management, 1F regarding the length of tenancies and 1G regarding the quality of the accommodation?
2. Would the affordable housing requirements accord with national policy?

DM7 Houses in multiple occupation (HMOs)

1. Would this policy, when read together with City Plan Part 1 policy CP21, provide an effective policy framework to support the provision of HMOs, whilst permitting reversion to C3 family homes, given potential adverse impacts of HMOs and demand for family accommodation in the City?
2. Would the policy requirements be justified, effective and consistent with national policy and City Plan Part 1?
3. Do the internal private and outdoor space standards set out in 2D of this policy accord with national policy and the PPG?
4. Should the communal living space minimum space standards in paragraph 2.69 be included within policy?

DM8 Purpose built student accommodation (PBSA)

1. Would the policy requirements be justified, effective and consistent with national policy, City Plan Part 1 and, would they together with CP21, support the provision of PBSA to meet identified needs in the City, whilst supporting mixed and balanced communities?
2. Would the inclusion of specific reference to food growing in this policy be justified?

Matter 12 Community policies

DM9 Community Facilities

1. Does this policy set out appropriate criteria to support development of community facilities and protect existing community uses, where appropriate?

DM10 Public houses

1. Does this policy strike the right balance between protecting public houses and enabling those that are not economically viable either now or in the future/no longer needed by the community to change to another use?

Matter 13 Employment and retail policies

DM11 New business floorspace

1. Are modifications required to ensure this policy is effective and consistent with national policy, particularly in relation to the uses sought?
2. How does the policy interact with City Plan Part 1 policies CP2 and CP3 in particular?
3. Is a specific policy required to support live work units?

DM12 Changes of use within regional, town, district and local shopping centres and DM13 Important local parades, neighbourhood parades and individual shop units

The Plan proposes to allocate ten Important Local Parades in Policy DM13 as smaller centres that provide access to day-to-day necessities such as newsagents, convenience stores, off-licences, pharmacies and post offices, within walking distance from home. As an update to the hierarchy of shopping centres set out in City Plan Part 1 Policy CP4, the secondary frontage of the Regional Centre has been amended to facilitate a new centre called Brunswick Town Local Centre. This centre is shown on the updated Policies Map and is detailed within Policy DM12.

1. How have changes to the shopping areas within the retail hierarchy been identified, in particular the identification of changes to the secondary frontage of the regional centre and the 10 'Important Local Parades'? Is that methodology soundly based and has it been consistently applied so

as to meet NPPF requirements to define a network and hierarchy of town centres, promote their long-term vitality and viability and to define the extent of town centres and primary shopping areas?

2. Are modifications required to this policy to reflect changes to the Use Classes Order which have the effect of restricting controls on changes of use within shopping parades? Do the policies make clear the range of uses permitted in identified shopping areas, as part of a positive strategy for the future of each centre?
3. Would the policy requirements be justified, effective and consistent with national policy and City Plan Part 1 CP4?

DM14 Commercial and leisure uses at Brighton Marina

1. Would the policy requirements be justified, effective and consistent with national policy and City Plan Part 1 policy CP4?
2. Are Modifications required to this policy to reflect changes to the Use Classes Order which have the effect of restricting controls on changes of use within shopping parades? Do the policies make clear the range of uses permitted in identified shopping areas, as part of a positive strategy for the future of each centre?
3. In requiring a window display to retain an active frontage, would the policy be effective?

DM15 Commercial and leisure uses on the seafront and DM16 markets

1. Would the policy requirements be justified, effective and consistent with national policy and City Plan Part 1?
2. Are Modifications required to policy DM15 to reflect changes to the Use Classes Order which have the effect of restricting controls on changes of use within shopping areas?

DM17 Opportunity areas for new hotels and safeguarding conference facilities

1. Would the policy requirements be justified, effective and consistent with national policy and City Plan Part 1 policy CP6?
2. How have the strategic allocations and development areas been identified as areas of search for new hotel development? Is that methodology robust and has it been consistently applied?

Matter 14 Design and heritage DM18-32

DM18 High quality design and places

1. How would the policy interact with the Urban Design Framework Supplementary Planning Document, in particular aspects of design relating to natural light for residential development, tall buildings, public realm, intensification of neighbourhoods, and public art? Should it provide specific policy to guide tall building development? Does it adequately reflect the principles set out in the National Design Guide and National Model Design Code and NPPF para 127 and 128?
2. Are the key design aspects, set out in A-D justified by appropriate available evidence, having regard to national policy and local context, including meeting the requirements of the City Plan Part 1?
3. Are Modifications to this policy or its supporting text required to ensure that it is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?

DM19 Maximising development potential

1. Would this policy reflect the application of the minimum density standards set out in City Plan Part 1 policies CP12 and CP14, along with national policy set out in NPPF para 125?

DM20 Protection of amenity

1. Is this policy and its supporting text clearly written and unambiguous, so it is evident how a decision maker should react to development proposals? Does the policy effectively address the impact of development on natural daylight and sunlight?

DM21 Extensions and alterations

1. Is this policy and its supporting text clearly written and unambiguous, so it is evident how a decision maker should react to development proposals? Does the policy effectively guide upward extensions and the impact of development on nearby trees?

DM22 Landscape design and trees

1. Would this policy be effective in requiring, in the first instance, retention of trees and then replacement to the satisfaction of the Council? Does it effectively reflect the importance of trees and planting in providing climate change mitigation and environmentally sustainable and climate resilient townscape?
2. Are Modifications to this policy or its supporting text required to ensure that it is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?

DM23 Shop fronts and DM24 Advertisements

1. Do the policies effectively reflect the heritage balance set out in NPPF paras 201 and 202?
2. Are these policies and supporting texts clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?
3. Are the requirements for advertisements clear and effective in light of guidance set out in PPG ID 18b paragraph 026?

DM25 Communications infrastructure

1. Does this policy accord with requirements of NPPF paras 117 and 118?
2. Is it clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?

DM26 Conservation areas

1. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that, in the exercise, with respect to any buildings or other land in a conservation area, of any functions under the planning Acts special regard shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Further NPPF paragraphs 201-202 set out how to weigh the impact of development on the significance of a designated asset. Overall, is the wording of this policy and explanatory text clear and justified having regard to the statutory provisions and national policy?
2. In the absence of a commitment to produce up to date management plans for conservation areas, would this policy be effective?

DM27 Listed buildings

1. Section 66(1) of the same Act sets out ...'in considering whether to grant planning permission for development which affects a listed building or its setting ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.' In this context, the supporting text to this policy explains national policy requirements where substantial harm is identified. In the absence of the same for less than substantial harm, would the policy as a whole be effective?
2. Overall, is the wording of this policy and explanatory text clear and justified having regard to the statutory provisions and government policy?

DM28 Locally listed buildings

1. NPPF paragraph 203 sets out how to weigh the impact of development on the significance of a non-designated asset. Does this policy effectively reflect this?

DM29 Setting of heritage assets

1. What is the justification for the considerations to be taken into account in assessing the contribution of setting to the significance of a heritage asset and the impact of development on that setting, with regard to the local context?
2. The last paragraph of this policy sets out that, where there are impacts on the setting of multiple heritage assets, priority should be given to enhancing the setting of those assets of greatest significance. In the absence of a consideration of impacts, would this policy be justified, effective and consistent with national policy?

DM30 Registered parks and gardens

1. Are modifications to this policy or its supporting text required to ensure that it is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?
2. NPPF paragraphs 201 and 202 set out how to weigh the impact of development on the significance of a designated asset. Is this reflected in this policy?

DM31 Archaeological interest

1. Should the policy explicitly require suitable field evaluation/survey at pre-determination stage?
2. Does the policy address the way in which development affecting the different categories of remains should be weighed as set out in NPPF paragraphs 201 to 203 and PPG *Conserving and enhancing the historic environment* ID 18a 040?

DM32 The Royal Pavilion Estate

1. Does the policy effectively identify the gardens' historic interest and acknowledge the previous restoration scheme and the need to enhance the successes of that scheme? Are Modifications required to ensure that the policy is effective in these regards?

Matter 15 Transport and Travel DM33-36

DM33 Safe, sustainable and active travel

1. In the absence of any reference to trams, cars and other forms of transport, would the policy be effective?
2. Is the requirement for *universally accessible* cycle facilities clear and unambiguous? What is the justification for the requirement for all development to provide a specific range of facilities to encourage and enable cycling? Would the requirement generally accord with NPPF paragraph 106D?
3. Should the policy include a specific requirement for street trees along cycle routes? In light of their benefits should this policy provide more effective support for street trees along cycle routes?
4. Should the policy or supporting text refer to any other recent relevant national and local documents?

DM34 Transport interchanges and DM35 Travel plans and transport assessments

1. Does policy DM34 provide appropriate support for a park and ride facility?
2. In general terms would the policies be justified, effective and consistent with national policy? Is it clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?

DM36 Parking and servicing

1. Would the parking standards set out in appendix 2 of the Plan, accord with NPPF paragraph 107? Are they justified and would they strike the right balance between providing appropriate levels of car parking spaces and promoting sustainable forms of travel in areas with good public transport accessibility?
2. In referring to any subsequent revisions to the parking standards as set out in appendix 2, would the policy be justified and effective?
3. Does the policy provide appropriate support for car free developments in general?

Matter 16 Environment and Energy DM37-46

DM37 Green infrastructure and nature conservation

1. Does the policy approach to biodiversity net gain and the mitigation hierarchy accord with NPPF paragraph 180, which sets out the mitigation hierarchy (avoid, mitigate, compensate)? Are modifications necessary to address this?

2. Does the policy appropriately set out the requirements for internationally designated sites, including the Habitats Regulations requirements, nationally and locally protected sites so as to be justified, effective and consistent with national policy, with particular regard to biodiversity net gain and the mitigation hierarchy?
3. In relation to the nature conservation requirements, is the term *priority species and habitats* clear and unambiguous?
4. Should the policy include a specific net gain target? If so would this be justified by the evidence?
5. What was the methodology used to identify the LWS (appendix 3)? Is it robust and is each justified by the evidence? How were the boundaries defined?
6. Are other modifications required to ensure that the policy is justified, effective and consistent with national policy and to ensure that it is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?

DM38 Local green spaces

1. What is the justification for each of the local green spaces designated? What methodology was used to assess land for designation and is it robust? Would each accord with the criteria set out in NPPF paragraphs 101 and 102? How were the boundaries defined? Is there any justification for amending the boundaries?
2. Overall, would the methodology used accord with the purpose of local green spaces which allows communities to identify and protect green areas of particular importance to them through local and neighbourhood plans?
3. Is there justification for any other local green spaces that would meet the criteria set out in national policy and guidance?
4. Any future development on the designated local green spaces would be subject to general green belt restrictions as set out in NPPF paragraphs 147-151. In this regard, what implications would designation have on the operational needs of Hollingbury Park and any necessary highway access routes encroaching on Benfield Valley? Would either be a limitation to designation?

DM39 Development on the seafront

1. In requiring proposals that generate a need for enhanced coastal defences to accord with the relevant Shoreline Management Plan and Coastal Strategy Study, would the policy be justified and effective?

2. Does the policy provide appropriate safeguards against development that would be likely to have an adverse impact on designated sites, such as Beachy Head West Marine Conservation Zone (MCZ)? Is reference to an MCZ assessment necessary?
3. Does the policy and supporting text, in encouraging enhancements to sea defences provide appropriate protection for nature conservation?

DM40 Protection of the environment and health-pollution and nuisance and DM41 Polluted and hazardous substances and land stability

1. Does policy DM40 provide appropriate protection from light pollution of all kinds? In this regard would it accord with NPPF paragraph 185C, which aims to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation?
2. Should the policy refer to the lower pollution levels from some motorised forms of transport, such as electric cars and very modern diesel vehicles, so as to support their use? In its absence would the policy be effective and consistent with national policy?
3. Does policy DM41 reflect the complex and iterative nature of site investigations so as to provide appropriate flexibility and accord with national policy?
4. Would the detailed policy wording ensure that the policies are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?

DM42 Protecting the water environment and DM43 Sustainable drainage

1. Should the policy set a water efficiency target of 100 litres per person per day by 2040?
2. Does policy DM42 clearly express the need for development to ensure adequate waste water infrastructure at an appropriate time?
3. In requiring sustainable drainage systems (SUDS) to be designed and located *in accordance with* the SUDS SPD, would policy DM43 be justified and effective?
4. Does policy DM43 and supporting text provide clear guidance that SUDS should be considered at an early stage in the design process, encouraging master planning where appropriate? Is reference to the emerging Urban Design Framework SPD necessary in this respect?
5. Would policy DM43 and DM42, together provide appropriate safeguards for water quality and quantity?

DM44 Energy efficiency and renewables

1. Would the approach to energy efficiency and renewables accord with national policy, in particular the Written Ministerial Statement 2015 on nationally described standards? How would it interact with City Plan Part 1 policy CP8? Should it take into account the whole energy life cycle of development?
2. In seeking to encourage all development to improve energy efficiency, would the policy be effective in meeting its aim to contribute towards a carbon neutral city by 2030? What is the evidence to support the standards encouraged and are they justified? What is the justification for the areas indicated where greater reductions in CO2 emissions would be encouraged (Low Carbon Opportunity Zones – Development Area 1-7, H2 allocations and industrial areas identified and safeguarded in CP3.3)?
3. Are Modifications to the policy and supporting text required to clarify the interrelationship with the standards encouraged for all new development and the Future Homes Standard and Future Buildings Standard? In light of those emerging standards would the policy be effective?
4. In considering City Plan Part 1 policy CP8 and this policy, does the Plan provide appropriate support for energy efficiency retrofitting?
5. Are Modifications required to ensure that the policy is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?

DM45 Community energy and DM46 Heating and cooling network infrastructure

1. Paragraph 2.367 refers to *low carbon opportunity zones*. What is their purpose? How have these been identified and is the approach taken robust and justified by the evidence?
2. Would the policies, together, accord with NPPF paragraphs 155 and 156, which together, require Plans to support the use and supply of renewable and low carbon energy and heat and for local planning authorities to support community led initiatives for the same?

Matter 17 Infrastructure and Viability

Whether the Plan is positively prepared and justified, effective and consistent with national policy and the City Plan Part 1 in relation to infrastructure and viability.

Issue 1 Infrastructure

1. Is the Plan's approach towards infrastructure justified, effective and consistent with national policy, so as to ensure the timely delivery of the scale and distribution of development in the Plan?
2. What are the likely impacts of the proposed development on infrastructure, and what specific improvements are required or have been proposed?

Issue 2 Viability

1. Were viability assessments undertaken during the preparation of the Plan in accordance with the relevant national guidance? Are the recommendations of any viability assessment reflected in the Plan? (See Initial Question 25 the Council's responses)
2. Are the policy requirements such that the cumulative cost of all relevant policies will not undermine the deliverability of the Plan having regard to the types of development and sites proposed?

Matter 18 Monitoring and review

Whether the Plan would be able to be monitored effectively to ensure timely delivery of its proposals in conformity with the City Plan Part 1?

Issue 1 Monitoring

1. How would the implementation of the Plan policies be achieved? What mechanisms are there to assist development sites to progress?
2. How would the implementation of the Plan be monitored? Would it be effective? How would the results of monitoring be acted upon? What would trigger a review of the Plan?
3. Overall does the Plan deal adequately with uncertainty?

R Barrett

Inspector appointed to examine the City Plan Part Two Brighton & Hove City Council's Development Plan April 2020