

**City Plan Part Two Brighton and Hove City Council's Development
Plan (the Plan/Local Plan) April 2020 Examination
Inspector – Ms R Barrett MRTPI IHBC
Programme Officer – Pauline Butcher**

Inspector Note 6

Hearing agendas

I sent out my matters, issues and questions for examination some time ago (Inspector Note 3 dated 10 September 2021). In light of the responses received, I have produced agendas for each hearing session. I now include those for the first week of hearings. Each hearing session will only cover issues about which I require further information, having read all written submissions. I expect to go round the table once on each item. Rebuttals of others' contributions are not encouraged and I will act to prevent the repetition of points made by previous speakers. However, I may myself seek further comment in the interests of clarification, or where there is a matter that I need to pursue further.

R Barrett
INSPECTOR

26 October 2021

10:00am Tuesday 2 November 2021 (Day 1)

Opening and Matter 1: Legal and procedural matters

Agenda

Inspector's opening announcements

Opening statement from Council

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 Local 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. 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)?

Issue 3 Sustainability Appraisal (SA)

1. Has the Plan been subject to a SA² 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)

¹ S33A(4) Planning & Compulsory Purchase Act 2004

² SD05a&b SD06a&b

Issue 4 Habitats Regulation Assessment (HRA)

1. Have the requirements for appropriate assessment under the Habitats Regulations been met? Have the results of the HRA³ 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?
2. What any the specific requirements of this Plan as set out in City Plan Part 1?
3. Is the Plan consistent with the City Plan Part 1? (See Initial Question 17 and the Council's response)

Issue 5a Other matters

1. Does the Plan accord with national policy? Mindful of the Council's suggested Main Modifications (BHCC02 updated by BHCC04), would the Plan reflect the changes introduced in the current NPPF (July 2021)?

Inspector's closing remarks

³ SD08a&b

2:00pm Tuesday 2 November 2021 (Day 1)

Matter 2: The scale and distribution of development

Agenda

Inspector's opening announcements

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. 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?

Inspector's closing remarks

9:30am Wednesday 3 November 2021 (Day 2)

Matter 3: Supply and delivery of housing land (policies H1, H2, H3 and SSA1 to SSA4)

Agenda

Inspector's opening announcements

Whether the Local Plan has been positively prepared and whether it is justified effective and consistent with national policy in relation to its approach to housing.

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 housing/mixed use 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?
3. 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?
4. 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?
5. 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?
6. 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?
7. Overall, will the Plan realistically deliver the dwellings required over the plan period? What contingencies are in place should housing delivery fall below expectations?

8. 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?

Inspector's closing remarks

2:00pm Wednesday 3 November 2021 (Day 2)

Matter 11: Housing policies

Agenda

Inspector's opening announcements

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?

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

2. 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?

3. 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. 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?

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?

Inspector's closing remarks

9.30am Friday 5 November 2021 (Day 3)

Matter 16: Environment and energy

Agenda

Matter 16 Environment and Energy DM37-46

Inspector's opening announcements

Whether the Local Plan has been positively prepared and whether it is justified effective and consistent with national policy in relation to its approach to the environment and nature conservation.

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. Should the policy include a specific net gain target? If so would this be justified by the evidence?
4. 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. 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. In requiring sustainable drainage systems (SUDS) to be designed and located *in accordance with* the SUDS SPD, would policy DM43 be justified and effective?
2. 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?

DM44 Energy efficiency and renewables

1. 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?
2. 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. 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?

Inspector's closing remarks

2.00pm Friday 5 November 2021 (Day 3)

Matters 4,9,12 &13: Employment, retail and community

Agenda

Inspector's opening announcements

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 building a strong, competitive economy?

Issue 1 Delivering employment land

1. What is 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 9 Opportunity site for business and warehouse uses (E1)

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

Issue 1 Land at Hangleton Bottom

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. What benefits would the proposed development bring? What are the potential adverse impacts of developing the site and how might they be mitigated?

4. Would any Modifications proposed by the Council address any shortcomings?

Matter 12 Community policies

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 community facilities?

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?

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

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 policy 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?

Inspector's closing remarks