

Brighton & Hove City Council

Tourism, Equalities, Communities & Culture Committee

Agenda Item 31

Subject: Adoption of the Brighton & Hove City Plan Part 2

Date of meeting: 15 September 2022 TECC
20 October 2022 Full Council

Report of: Executive Director, Economy, Environment & Culture

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 The purpose of this report is to recommend adoption of the Brighton & Hove City Plan Part Two (CPP2). This follows the receipt (July 2022) of the Examination Inspector's Report which concludes that, subject to modifications, the CPP2 is sound. Once adopted, the CPP2 will supersede the 2005 Brighton & Hove Local Plan retained policies and become part of the statutory development plan for the city.
- 1.2 The main role of CPP2 is to support the implementation and delivery of City Plan Part One (adopted March 2016) which sets out the strategic planning framework for the city to 2030. Part Two builds upon and complements the Part One Plan and will ensure the delivery of high quality, sustainable place making development by setting out an up-to-date suite of detailed development management policies and additional site allocations.
- 1.3 An adopted CPP2 will ensure that decisions on new development are based on local priorities and that full weight can be given to locally adopted development plan policies. An adopted Plan gives certainty and confidence to local communities and the development industry and will ensure development schemes progress in a planned and coordinated manner with the timely provision of necessary infrastructure.

2. Recommendations

Tourism, Equalities, Communities & Culture Committee recommend to Council:

- 2.1 To agree to adopt and publish the Proposed Submission Brighton & Hove City Plan Part Two, as amended to include all the main modifications required by the CPP2 Examining Inspector to make the plan sound, in

accordance with Section 23 of the Planning and Compulsory Purchase Act 2004 and Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012. This includes changes required to the adopted Policies Map, together with other additional (minor) modifications already noted by the 16 March 2022 Tourism, Economy, Culture & Communities Committee (including any consequential and other appropriate alterations for the purposes of clarification, improved accuracy of meaning or typographical corrections, being necessary).

- 2.2 To agree amendments needed for planning application validation requirements.
- 2.3 To note that on adoption of the City Plan Part Two the policies in the retained 2005 Brighton & Hove Local Plan will be superseded. These superseded policies are listed in Appendix 5 of the City Plan Part Two.

3. Context and background information

- 3.1 In April 2020 Council approved the CPP2 for publication consultation and submission to the Secretary of State for formal examination. The Inspector was appointed in June 2021 and examination hearings took place in November 2021. The Inspector's Post Hearing Note (November 2021) indicated that public consultation was necessary on a number of proposed changes/ main modifications she was considering necessary to find the Plan sound. The 10 March TECC committee agreed the Schedule of Main Modifications for consultation which took place 15 March - 5 May 2022. Twenty respondents made representations; 49 representations related to the Main Modifications and were sent to the Inspector for her consideration and published on the examination website in May 2022.
- 3.2 The CPP2 has been found to be sound and legally compliant subject to the main modifications required by the Inspector. At this point, the Council cannot adopt a Plan that is materially different from that recommended by the Examination Inspector; the Council cannot choose to accept some of the modifications and not others. The only options available to the Council at this stage are to either adopt the Plan in its entirety, with all of the Main Modifications required by the Inspector, or to not adopt the Plan at all.

Inspector's Report

- 3.3 The Inspector's Report, in Appendix 1, was received 19 July 2022 and published in accordance with the Regulations shortly after. The receipt of the Inspector's Report formally closed the examination. The Inspector's Report concludes that, subject to a number of main modifications, appended to her report (in Appendix 3) the '*CPP2 provides an appropriate basis for the planning of the city...*' and is sound, legally compliant and capable of adoption.
- 3.4 In overall terms, the Inspector found that:
 - The Duty to Co-operate and all other legal requirements had been met.

- The plan will further the public sector equality duty. It is inherently inclusive of a wide population demographic, including those with protected characteristics, thus helping to advance equality of opportunity for all.

3.5 In relation to the **detailed development management** policies, the report concludes that, subject to the main modifications recommended:

- The plan has been positively prepared, is justified and effective with regard to policies aimed at meeting the city's local housing needs; building a strong, competitive local economy; promoting high quality design and requiring the protection of the city's built and natural environments; policies promoting and providing for sustainable transport and those which encourage energy efficiency and reduction in carbon dioxide emissions in new development.
- The Plan will help ensure a range of house types, tenures and sizes are provided to support mixed, balanced and sustainable communities to deliver the aims of CPP1. This includes policies to raise the quality of new housing and require minimum internal space standards.
- Changes to the retail hierarchy, adjustments to shopping centre boundaries and identification of Important Local Parades were based on a thorough review, are appropriate and provide a sound basis for seeking to protect the city's regional, town and local centres.
- The approach to protecting community facilities was considered appropriate and will guard against the unnecessary loss of valued local facilities.
- The approach towards infrastructure, viability and monitoring was positively prepared, justified, effective and consistent with national policy.

3.6 In relation to the **site allocations**, the report concludes:

- The scale and distribution of development proposed and the approach to site allocations has been positively prepared, is sound and consistent with the spatial strategy and framework set out in CPP1.
- Through strategic site allocations, mixed use housing allocations, and safeguarded land, CPP2 will help maintain the delivery of additional employment land over the Plan period and fulfil its role in reducing the shortfall of employment floorspace against the forecast need.
- The proactive approach to site allocations will help maximise the sustainable provision of housing and help address concerns of the CPP1 Examining Inspector regarding a lack of flexibility in housing supply.
- With respect to the *principle* of allocating housing in the urban fringe, the report notes it is not the role of the CPP2 to revisit the overall approach to development needs established in CPP1, including the role of the urban fringe: '*...allocations in the Urban Fringe are a requirement of CPP1 policy CP1, which sets a minimum housing requirement of 1,060 on greenfield sites in the Urban Fringe to be allocated in CPP2. To be consistent with CPP1, CPP2 will need to deliver that requirement.*'
- The methodology used to allocate specific urban fringe sites was considered thorough and robust and the proposed allocations consistent with national planning policy and guidance. The Inspector notes that mechanisms to ensure site specific assessment and mitigation are

included in Policy H2 and that any development will also be subject to other policies in the Plan.

- That one urban fringe site, land at and adjoining Horsdean Recreation Ground, Patcham (site no.16) should be removed as the Inspector considered an appropriate planning balance had not been struck with regard to the benefits of planned housing provision and the need to safeguard components of local wildlife habitats.
- In relation to Policy DM38 Local Green Space and those representations seeking the inclusion of Whitehawk Hill LNR and wider racecourse as a Local Green Space, the Inspector concluded its designation would not meet national policy or guidance but there may be scope for an amended smaller boundary to come through the preparation of a neighbourhood plan.
- In relation to SA7 Benfield Valley, the Inspector concluded the allocated housing sites (north and south of Hangleton Lane) were within the least sensitive parts of the open space, the potential for mitigation and biodiversity net gain had been demonstrated and the allocation would enable the open space as whole to still function as a 'green wedge'.

Schedule of Main Modifications to the Plan

- 3.7 The schedule of changes to the Plan required by the Inspector in order for it to be found sound are set out in Appendix 3. They are the same as the Schedule of Main Modifications that were considered at the 10 March TECC committee and agreed for public consultation. No further changes to the Plan have been recommended by the Inspector other than a factual correction to a Policy Reference in MM10. A summary of the main changes to the Plan that will result from the main modifications is included at Appendix 2 before the schedule.
- 3.8 A number of proposed Additional (Minor) Modifications (factual updates or editorial corrections) were agreed by March TECC 2022 and published as part of the Main Modifications consultation. These additional modifications (in Appendix 4) will be incorporated into the adopted version of the CPP2.

Policies Map

- 3.9 The council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. The policies map will be updated accordingly and published on the council's website following adoption.

Next Stages

- 3.10 Following adoption (which takes effect immediately on the resolution of Council), the council must make the amended CPP2 publicly available as soon as reasonably practicable in accordance with Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The amended Policies Map, an adoption statement and the final Sustainability Appraisal report must also be published and made available for inspection. Parties involved in the process will also be notified.

- 3.11 There will be a 6 week period for legal challenge to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004. This would need to be based on the grounds that the document is not within the appropriate powers, or that a procedural requirement has not been complied with. The adopted CPP2 would remain in effect pending the outcome of any challenge unless the Court grants an interim order suspending its operation until the final determination of the challenge.
- 3.12 On adoption, CPP2 will supersede retained policies in the Brighton and Hove Local Plan 2005. The CPP1 (2016), the Waste and Minerals Plan (2013), the Waste and Minerals Sites Plan (2017), the Shoreham Harbour Joint Area Action Plan (2019) and, on adoption, CPP2, and made Neighbourhood Plans, will together comprise the development plan for Brighton and Hove Council's administrative area (not within the South Downs National Park). All decisions on applications and appeals (notwithstanding when an application or appeal was submitted) will need to be in accordance with the adopted Development Plan unless material considerations indicate otherwise. Amendments are needed for planning application validation requirements.

4. Analysis and consideration of alternative options

- 4.1 The CPP2 has been found to be sound and legally compliant subject to the main modifications required by the Inspector. As provided by s23(4) of the Planning and Compulsory Purchase Act 2004 the Council cannot adopt a Plan that is materially different from that recommended by the Planning Inspector; the Council cannot choose to accept some of the modifications and not others. The only options available to the Council at this stage are to either adopt the Plan in its entirety, with all of the Main Modifications required by the Inspector, or to not adopt the Plan at all.
- 4.2 The Council is expected to have an up-to-date, National Planning Policy Framework (NPPF) compliant, sound local plan in place. If this Plan is not adopted the city will not have its own local planning policy framework in place to make planning decisions and will need to continue to rely on out-of-date policies and the NPPF. Also, the process will have to be started again, either in its entirety or on focused elements. Each of the legal stages of its preparation, including submission and examination would need to be undertaken at significant additional financial cost. It would also impact on the review of the City Plan Part 1 which is due to commence this year.

5. Community engagement and consultation

- 5.1 Four phases of public consultation since 2016 have informed the preparation of the CPP2. At each stage, full details of the consultation undertaken, and representations received were included in published Statements of Consultation along with a main summary of issues raised and how they were taken into account. Bespoke workshops and events were held at the early stages with formal responses sought at the later stages. As well as views collated from the issues and options events, 5,068 representations were received from 838 respondents and seven petitions (9,579 signatures in

total). Further detail is set out at Appendix 5. The Inspector found the consultations complied with the Council's Statement of Community Involvement.

6. Conclusion

- 6.1 An adopted CPP2 will ensure that decisions on new development are based on local priorities and that full weight can be given to locally adopted development plan policies. An adopted Plan gives certainty and confidence to the development industry, gives communities more influence and certainty about how the city will develop. It will ensure better quality development and place-making and help to ensure that development schemes progress in a planned and coordinated way in the right places with supporting infrastructure.

7. Financial implications

- 7.1 There are no direct financial implications arising from the recommendations of this report. The cost of officer time, document production and consultation associated with the recommendations in this report will be funded from existing revenue budget within the Planning service. Any significant variations to budget will be reported as part of the council's monthly budget monitoring process.
- 7.2 The decision not to proceed with the City Plan Part 2 would require the legal stages to be undertaken again adding additional officer time and financial costs.

Name of finance officer consulted: John Lack Date consulted (15/08/22):

8. Legal implications

- 8.1 The statutory background to the adoption of City Plan Part Two is set out in the body of the report.

Name of lawyer consulted: Hilary Woodward Date consulted (9/8/22):

9. Equalities implications

- 9.1 The Plan will help deliver equalities outcomes from new development. A Health and Equalities Impact Assessment (HEQIA) was undertaken during the preparation of the CPP2. In her report, the Inspector notes that the HEQIA concludes that the CPP2 has largely neutral or positive benefits for health and equalities and overall CPP2 was found to be inherently inclusive of a wide population demographic including those with protected characteristics thus helping to advance equality of opportunity for all.

10. Sustainability implications

- 10.1 The Plan contributes positively to delivering a Carbon Neutral City by 2030 through a suite of policies that widen the application of sustainability

standards, encourage developers to deliver low and zero carbon energy solutions, ensure development is designed for adaptability, flexibility and re-use, climate change adaptation and resilience.

- 10.2 A Sustainability Appraisal (SA) incorporating the requirements of Strategic Environmental Assessment (SEA) was undertaken to inform and support the CPP2. The SA concludes that the plan provides a policy framework that seeks to avoid, reduce and mitigate the risk of any adverse effects, thereby resulting in positive social, economic and environmental effects overall. The Inspector noted that the SA methodology used to test the plan was robust and resulted in improvement in the sustainability of policies.

11. Other Implications

Social Value and procurement implications

- 11.1 With respect to Policy DM45 Community Energy, developers of medium scale and major development schemes are encouraged to actively seek community energy partners to deliver low and zero carbon energy solutions which are 'led by' or 'meet the needs' of communities through full community ownership and control of a low carbon energy solution or project and that can add social value.
- 11.2 There are no procurement implications.

Crime & disorder implications:

- 11.3 During the preparation of the CPP2 the site assessment and sustainability assessment process has considered crime and disorder issues. A number of policies also address crime and public safety issues (DM8, DM18, DM20, DM23, DM24, and DM40)

Public health implications:

- 11.4 A HEQIA assessment has been carried out to inform the draft version of the City Plan Part Two to ensure that the policies are coordinated to address health and well-being outcomes throughout the city. In her report, the Inspector notes that the HEQIA concludes that the CPP2 has largely neutral or positive benefits for health.

Supporting Documentation

1. Appendices

1. Inspector's Report
2. Summary of changes to the CPP2 resulting from the Main Modifications
3. The Inspector's Schedule of Main Modifications (as appended to her report)
4. Schedule of Additional Modifications including change to the Policies Map
5. Summary of City Plan Part 2 Consultation stages

2. Background documents

1. 10 March 2022 TECC Committee - City Plan Part 2 – Consultation on Modifications arising from Examination Hearings (Agenda Item 83)
2. 23 April 2020 Council report - Proposed Submission City Plan Part 2 – Extract from the proceedings of the Tourism, Equalities, Communities & Culture Committee held on the 5 March 2020 (Agenda Item 88)
3. [Proposed Submission City Plan Part 2 \(April 2020\)](#)
4. Proposed Changes to the Policies Map ([SD 03a](#), [b](#) and [c](#))