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Report on Rottingdean Neighbourhood Plan 2018 - 2030

An Examination undertaken for Brighton & Hove City Council with the support of the Rottingdean Parish Council on the January 2023 submission version of the Plan.

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Date of Report: 18 October 2023

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Main Findings - Executive Summary

From my examination of the Rottingdean Neighbourhood Plan (the Plan) and its supporting documentation including the representations made, I have concluded that subject to the modifications set out in the Appendix to this report, the Plan meets the Basic Conditions.

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – Rottingdean Parish Council;
- the Plan has been prepared for an area properly designated – the Neighbourhood Plan Area, the boundary of which is coterminous with the Parish Council boundary, as identified on the Map at Appendix 13 of the Plan;
- the Plan specifies the period to which it is to take effect – from 2018 to 2030; and,
- the policies relate to the development and use of land for a designated neighbourhood plan area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Rottingdean Neighbourhood Plan 2018-2030

- 1.1 Rottingdean is a village within the Brighton & Hove City Council area, bordering the nearby villages of Saltdean, Ovingdean and Woodingdean. It is situated within a long dry valley that extends through the village and southwards to the coast at The Gap. The steeply sloped Beacon Hill to the west of the village forms an important backdrop to views of the village, and Rottingdean Windmill set upon its ridgeline forms a striking landmark from within the village and when approaching from Brighton. The Parish became part of the former County Borough of Brighton in 1928 but regained its Parish Council status in 1996. It is the only Parish Council within the City Council area. Much of the open downland surrounding the village was designated as part of the South Downs National Park in April 2010.
- 1.2 The village is 6 kilometres to the east of the centre of Brighton and is now a large village with a population of 3,176 persons (Census 2021). Despite recent developments at the fringe of the village, Rottingdean remains as a distinct settlement from the large Brighton and Hove urban area. It is an important local centre for its surrounding communities and is a popular

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destination for visitors to the area. There is a designated Conservation Area in the historic centre of the village, including the High Street and The Green. The Conservation Area was first designated in 1970 and its boundary was extended in 2012.

- 1.3 Historically, Rottingdean was given to William de Warenne, the Lord of Lewes, as a reward for his support of William the Conqueror during the Norman Conquest. Despite its proximity to the sea, it was primarily an agricultural village from the post-Medieval period until the 19th century. During the 17th and 18th centuries, it is reputed that the village became a focus for the smuggling of contraband goods, due to its easy access from the coast. The construction of the Newhaven turnpike road in 1824 led to improved access to the village from Brighton, and it became popular for day trippers from the expanding resort.
- 1.4 After the First World War, many of the farms in the area were sold, and this led to the conversion of farm buildings for residential use. The built environment of the village is varied, with groups of vernacular cottages focused around the High Street, large detached residences around The Green with St. Margaret's Church and the original manor (Challoners) to the north. Amongst its most famous residents, the author Rudyard Kipling lived at The Elms in Rottingdean between 1897 and 1903, writing some of his most important works whilst living there. The Kipling Gardens, which were formerly within the house's grounds, are now a popular attraction for visitors to the village, having been restored during the 1980s.
- 1.5 It was from the 1950s that the village grew considerably, as it expanded to the south and the sea. Along the coast road to the west of the village, towards Brighton, residential developments along crescents and avenues took place, whilst to the north-west smaller homes were built closer to the centre of the village. Further development to the north and west of the village is constrained by the Beacon Hill Local Nature Reserve and the South Downs National Park. Latterly, new developments have been focused upon the redevelopment or conversion of larger dwellings particularly along the seafront. The Brighton & Hove City Plan Part 2 allocates two housing sites within the Parish; the former St Aubyns School (93 dwellings) and Land adjacent to Ovingdean and Falmer Road, Ovingdean (aka 'Meadow Vale') (45 dwellings). Both developments are under construction and part completed.
- 1.6 Rottingdean has a good range of community and retail facilities, with a designated Local Shopping Centre at the Upper and Lower High Street. There is an extensive network of public footpaths, twittens and bridleways within the Plan area enhancing opportunities for leisure and recreation.

The Independent Examiner

- 1.7 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Plan by Brighton & Hove City Council

(the City Council), with the agreement of Rottingdean Parish Council (the Parish Council).

- 1.8 I am a chartered town planner, with over 45 years of experience in planning. I have worked in both the public and private sectors and have experience of examining both local plans and neighbourhood plans. I have also served on a Government working group considering measures to improve the local plan system and undertaken peer reviews on behalf of the Planning Advisory Service. I therefore have the appropriate qualifications and experience to carry out this independent examination.
- 1.9 I am independent of the Qualifying Body and the Local Authority and do not have an interest in any of the land that may be affected by the draft Plan.

The Scope of the Examination

- 1.10 As the independent examiner, I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.11 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the plan meets the Basic Conditions.
 - Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for "excluded development"; and
 - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.

- Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

1.12 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

1.13 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with and not breach European Union (EU) obligations (under retained EU law)¹; and
- meet prescribed conditions and comply with prescribed matters.

1.14 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.²

2. Approach to the Examination

Planning Policy Context

2.1 At the date of this examination, the adopted Development Plan for this part of the Brighton & Hove City Council area, not including documents relating to excluded minerals and waste development, is the Brighton & Hove City Plan (BHCP) Parts 1 and 2, which were adopted in March 2016 and October 2022 respectively, and the South Downs National Park

¹ The existing body of environmental regulation is retained in UK law.

² This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

Authority's (SDNPA) South Downs Local Plan 2014-2033 (SDLP), which was adopted in July 2019.

- 2.2 The Plan area is also covered by the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013) and its accompanying Sites Plan (adopted February 2017).
- 2.3 Brighton & Hove City Council is presently undertaking a review of the BHCP Part 1, and the City Council's latest Local Development Scheme (LDS) (approved March 2023) indicates that a Regulation 18 Scoping Consultation will take place in Spring 2024 with a further Regulation 18 consultation on the Preferred Strategy scheduled for Spring 2025. The SDNPA has also commenced a review of its Local Plan and the Authority's current LDS (Eighth Revision, December 2022) indicates that a Regulation 18 consultation is scheduled for January-March 2025.
- 2.4 The Basic Conditions Statement (at pages 11-16) provides a full assessment of how each of the policies proposed in the Plan are in general conformity with the relevant strategic policies in each of the adopted Local Plans. Whilst there is no requirement for the Plan to be in general conformity with any strategic policies in the emerging reviews of the Local Plans, there is an expectation that the City Council and the SDNPA and the Parish Council will work together to produce complementary plans.³ I therefore recommend a modification (see PM20) to address the future monitoring and review of this Plan in light of the emerging Local Plan reviews.
- 2.5 Planning policy for England is set out principally in the National Planning Policy Framework (NPPF) and is accompanied by the Planning Practice Guidance (PPG) which offers guidance on how this policy should be implemented. All references in this report are to the latest iteration of the NPPF⁴ and the accompanying PPG.

Submitted Documents

- 2.6 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Rottingdean Neighbourhood Plan 2018-2030 Submission Version (undated) and its Appendices;
 - the Strategic Environmental Assessment Final Determination of the Rottingdean Neighbourhood Plan, and Consideration of Habitats Regulations Assessments of relevance to the Rottingdean Neighbourhood Plan (November 2020);

³ Paragraph 184 of the NPPF and PPG Reference ID: 41-009-20160211.

⁴ A new version of the NPPF was published during the examination on 5 September 2023. It sets out focused revisions (to the previously published version of 20 July 2021) only to the extent that it updates national planning policy for onshore wind development. As such, all references in this report read across to the latest 5 September 2023 version.

- the Basic Conditions Statement (January 2023);
- the Consultation Statement (undated);
- all the representations that have been made in accordance with the Regulation 16 consultation⁵; and
- the request for additional clarification sought in my letter of 24 July 2023 to the Council and the Parish Council and their responses dated 9 August 2023 and 31 August 2023.⁶

Supporting Documents

- 2.7 I have also considered the various supporting documents to the submission Plan, certain of which form Appendices to the Plan, including:
- Rottingdean Conservation Area - Character Statement (undated) (Brighton & Hove City Council);
 - Neighbourhood Plan Housing Needs Survey Analysis - for Rottingdean Parish Council (June 2015) (AECOM);
 - St Aubyns School Site Planning Brief (January 2015) (Brighton & Hove City Council);
 - Site Assessments (July 2019) (Rottingdean Parish Council); and
 - Local Green Space Longlist (undated) (Rottingdean Parish Council).

Examiner Questions

- 2.8 Following my appointment as the independent examiner and my initial review of the draft Plan, its supporting documents and representations made at the Regulation 16 stage, I wrote to the City Council and the Parish Council on 24 July 2023⁷ seeking further clarification and information on eight matters contained in the submission Plan, as follows:

1. With regard to the Parish Policies Map (Map 1 in the draft Plan), I noted that the City Council, in its comments on the Submission Plan, had identified a series of inconsistencies, potential omissions and superfluous notations on this Map. The City Council had also identified some inconsistencies between Map 1 and Maps 2 and 3. I stated that I wish to ensure that Maps 1, 2 and 3 are entirely accurate and can be easily interpreted and understood in relation to the relevant accompanying policies in the Plan. In my assessment, Map 1 required replacement and Maps 2 and 3 required amendments. I therefore requested that the Qualifying Body, in liaison with the City Council, provide me with revised Maps 1, 2 and 3, ensuring that the Maps reflect the policy notations of the Brighton & Hove City Council's

⁵ View the submission documents at: [Rottingdean Neighbourhood Plan - Submission Consultation \(Regulation 16\) - Brighton & Hove City Council - Citizen Space \(brighton-hove.gov.uk\)](https://www.brighton-hove.gov.uk/rottingdean-neighborhood-plan-submission-consultation-regulation-16)

⁶ View at: [examiner-procedural-matters-and-questions---rottingdean-np-240723.pdf \(brighton-hove.gov.uk\)](https://www.brighton-hove.gov.uk/examiner-procedural-matters-and-questions---rottingdean-np-240723.pdf) and at [rottingdean-parish-council-and-bhcc-response-to-examiner-9-august-2023.pdf \(brighton-hove.gov.uk\)](https://www.brighton-hove.gov.uk/rottingdean-parish-council-and-bhcc-response-to-examiner-9-august-2023.pdf)

⁷ View at: [examiner-procedural-matters-and-questions---rottingdean-np-240723.pdf \(brighton-hove.gov.uk\)](https://www.brighton-hove.gov.uk/examiner-procedural-matters-and-questions---rottingdean-np-240723.pdf)

adopted City Plan, Parts 1 and 2 (CPP1 and CPP2) and any relevant policy notations of the adopted South Downs National Park Local Plan 2014-2033, which I may consider as potential modifications to the Plan. I added that the Qualifying Body should study the City Council's comments at Pages 1, 3 and 5 of their Regulation 16 response for more detailed comments on this matter, and also the South Downs National Park Authority's Regulation 16 response comments regarding Maps 1 and 2.

2. With regard to the map of the designated Rottingdean Parish Neighbourhood Area (Appendix 13 in the draft Plan), I noted that, at present, this Map is not referenced within the text of the Plan. In my assessment, it should be placed within the main body of the Plan, accompanying the 'Parish Profile Plan Overview' on Page 5. I therefore invited the Qualifying Body to provide some additional text for the first paragraph of 'Parish Profile Plan Overview' making reference to the accompanying Map and the designation of the Neighbourhood Area by Brighton & Hove City Council and the South Downs National Park Authority in March 2013 (rather than 2014 as stated on Page 5), which I may consider as a potential Modification to the Plan.
3. With regard to the Core Strategic Objectives at pages 10-13 in the draft Plan, I noted that, unlike the other Core Strategic Objectives, the topic of Access does not contain a specific Objective. I therefore invited the Qualifying Body to provide some suitable text for this missing Objective, which I may consider as a potential Modification to the Plan.
4. During 2021, the Government published details of its new 'First Homes' policy initiative. The 'First Homes' section of the PPG⁸ advises that neighbourhood plans are expected to contain First Homes policies. The guidance states that First Homes are now the Government's "preferred discounted market tenure and should account for at least 25 per cent of all affordable housing units delivered by developers through planning obligations". Policies in neighbourhood plans, like local plans, are expected to reflect this requirement. I considered that the Plan should include a reference to the provision of First Homes (at a level of at least 25% of all affordable housing to be provided) to reflect Government policy, possibly by the addition of a further Housing Policy linked to the third Objective of the 'Housing and Design' section of the Plan. Such a Policy should be in general conformity with (or potentially cross reference) the City Council's relevant strategic policy guidance on First Homes. I therefore invited both the City Council and the Qualifying Body to consider this matter, and if appropriate to provide draft text for a policy and supporting text on this matter, which I may consider as a Modification to the Plan.

⁸ [First Homes - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

5. I noted that paragraph 2.17 in the draft Plan refers to “*two other local wildlife protection sites, namely Whiteways Lane and Balsdean Woods*”. From the City Council’s comments on the Plan, I understand that these are designated Local Wildlife Sites (LWS) and that there are a further five such designated sites in the Plan area. Accordingly, I requested that the Qualifying Body provide additional or replacement text for paragraph 2.17 to reflect the seven Local Wildlife Sites, with a suitable cross-reference to Map 3, which I may consider as a Modification to the Plan. I further noted that Map 3 should be amended to remove the Sites of Nature Conservation Importance (SNCI) notation and its replacement with a Local Wildlife Site (LWS) notation covering the seven sites – see also Question 1 above.

6. With regard to the proposed Local Green Spaces (Refs. LGS1-LGS9) in the draft Plan, I noted that each of the proposed sites should be accompanied by an Inset Map (on an Ordnance Survey base, similar to Maps 4-6) within the Plan clearly identifying the boundaries of the proposed Local Green Space, which can be linked by cross-reference to Policy GOS1 in the draft Plan. I further noted that in the case of Site LGS8, I would expect the proposed designation to exclude the Church building of St. Margaret’s Church, and any linked ancillary buildings, and that I would visit each site during the course of my site visit. Accordingly, I therefore invited the Qualifying Body to provide a series of nine Inset Maps to address the above requirement, in order that future users of the Plan can identify the extent of land affected by each proposed Local Green Space, which I may consider as a potential modification to the Plan. I also sought confirmation from the Qualifying Body that all landowners affected by the proposed designation of their land as a Local Green Space were specifically consulted on the proposal during the course of the Plan’s preparation and given the opportunity to make representations on the proposal as it concerns their land ownership.⁹

7. With regard to Policy GOS3 (Wildlife and Biodiversity) in the draft Plan, I noted that this policy and its supporting justification at paragraphs 2.17-2.21 make no reference to the national policy requirement for Biodiversity Net Gain (BNG) for relevant new developments (which at the time of writing was to be a planning requirement from November 2023 or from April 2024 for small sites).¹⁰ I therefore invited the Qualifying Body to address this omission by providing some additional text for paragraph 2.21 that addresses the forthcoming requirement for relevant developments in the Plan area to provide BNG as part of the development proposals, which I may consider as a potential

⁹ PPG Reference ID: 37-019-20140306.

¹⁰ The Government’s announcement of 27 September 2023 has subsequently set out an updated timetable to deliver 10% BNG from January 2024 onwards (April 2024 remains in place for small sites): [Biodiversity Net Gain moves step closer with timetable set out - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/biodiversity-net-gain-moves-step-closer-with-timetable-set-out)

modification to the Plan. I commented that the Qualifying Body should liaise with the City Council to ensure that this text reflects the City Council's policy requirements for the City area, particularly in terms of the percentage (%) requirement being sought.

8. I noted that, as submitted, the draft Plan contains 13 Appendices, a number of which are lengthy, and that only a few of the Appendices are actually cross-referenced within the Plan itself. In my initial assessment, a number of the Appendices could be removed from the Plan and instead be made available for reference on the Parish Council's web-site via a link in the Plan, either as supporting evidence documents for the Plan (e.g. Appendix 6a-6c and Appendix 9a-9b) or for reference purposes regarding the preparation of the Plan (e.g. Appendix 2 and Appendix 4). From my assessment, I consider that Appendices 1, 2, 4, 5a-5d, 6a-6c, 8 and 9a-9b fall within those categories, with Appendix 13 being transferred to the main body of the Plan (see also Question 2 above). I therefore invited the Qualifying Body to provide me with their views on this matter.

2.9 In response to my letter of 24 July 2023, the City Council and the Parish Council provided me with responses to the questions listed above on 9 August 2023, followed by a further response from the City Council providing revised Maps on 31 August 2023. I have taken full account of the additional information contained in these responses as part of my assessment of the draft Plan, alongside the documents listed at paragraphs 2.6 and 2.7 above.

2.10 To avoid unnecessary repetition in subsequent sections of this report, I refer to the questions and to the responses from the City Council and Parish Council by their relevant number, e.g. Question 1. Readers should refer to paragraph 2.8 above, and to the response documents from the Parish Council and the City Council, for the full text of questions and responses.

Site Visit

2.11 I made an unaccompanied site visit to the Neighbourhood Plan Area on 22 August 2023 to familiarise myself with it and visit relevant sites and areas referenced in the Plan, evidential documents and representations.

Written Representations with or without Public Hearing

2.12 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections and comments regarding the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. I am satisfied that the material supplied is sufficiently comprehensive for me to be able to deal with the matters raised under the written representations procedure, and that there was not a requirement to convene a public hearing as part of this examination.

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Modifications

- 2.13 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications in full in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The Plan has been prepared and submitted for examination by the Rottingdean Parish Council, which is a qualifying body. An application to Brighton & Hove City Council and to the South Downs National Park Authority for the Parish Council area to be designated a neighbourhood planning area was made in 2012 and was approved by the City Council on 7 March 2013 and by the SDNPA on 14 March 2013, following consultation between 22 November 2012 and 21 January 2013. The designated Rottingdean Parish Neighbourhood Area is presently shown on the Map contained at Appendix 13 to the Plan. As part of my initial assessment of the Plan, I considered that this Map should be within the main body of the Plan to accompany the 'Parish Profile Plan Overview' on Page 5, and I raised this matter as Question 2 (see paragraph 2.8 above). I take account of the Parish Council's response on this matter, and I therefore recommend modification **PM1** accordingly.
- 3.2 It is the only Neighbourhood Plan for Rottingdean and does not relate to land outside the designated Neighbourhood Plan Area.

Plan Period

- 3.3 The Plan specifies (on the front cover and within the document) the period to which it is to take effect, which is between 2018 and 2030. This aligns with the end date of the adopted BHCP Part 1.

Neighbourhood Plan Preparation and Consultation

- 3.4 The Plan has been prepared in response to the Localism Act 2011. The Consultation Statement and its Appendices A-G contains a record of the principal consultation activities that took place. Work commenced on the preparation of the Plan in 2013 when a Neighbourhood Plan Steering Group comprising members of the community and Parish Councillors was established to guide the preparation of the Plan. A variety of methods were used to communicate with the community and stakeholders during the Plan preparation period, commencing in February 2013 with a Village Survey followed by the Annual Village Meeting in March 2013, two Focus Groups involving local community organisations in June 2013 and attendance at local events and conferences. Community engagement

continued at regular intervals throughout the Plan preparation period up to February 2021, when the Regulation 14 consultation commenced.

- 3.5 Regular updates on the progress of the Plan to the Rottingdean community were provided through the Parish Council's website and social media, as well as at Parish Council meetings and other community events. A questionnaire consultation (Village Survey) to all households was undertaken in Summer 2020, alongside the compilation of supporting studies as listed at paragraph 2.7 above. Other consultation meetings and discussions were held with key local groups and stakeholders during the period 2014-2018 to help inform the development of the Plan's Vision, Objectives and Policies.
- 3.6 Work on the preparation of the draft Plan continued during the period 2019 and 2020, culminating in the Regulation 14 consultation which was held from 14 February to 9 April 2021. This consultation was accompanied by the distribution of a leaflet to all households in the Plan area, and a consultation notice to statutory and regulatory consultees. Two webinars to publicise the draft Plan for local residents were held in February and March 2021. A total of 64 responses were received to the consultation, including six from statutory agencies (as listed at Appendix G to the Consultation Statement).
- 3.7 The outcomes from the Regulation 14 consultation were assessed, and a number of focused amendments and changes were made to the draft Plan in response to representations received during that consultation period. Further supporting documents were prepared following the Regulation 14 consultation including the Basic Conditions Statement and the Consultation Statement. A Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) Determination Report to determine whether or not the Plan required SEA and HRA screening was prepared by the Council in November 2020.
- 3.8 The Neighbourhood Plan was formally submitted to Brighton & Hove City Council in December 2022. The Plan was subject to further consultation from 2 February to 16 March 2023 under Regulation 16 and I take account of the 13 responses then received in writing this report, as well as the Consultation Statement. I am satisfied that the Plan has been prepared with an appropriate level of community engagement and consultation at the key stages during its preparation. The consultation process has been open and transparent, has met the legal requirements for procedural compliance and has had regard to the guidance in the PPG on plan preparation and engagement.

Development and Use of Land

- 3.9 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

Excluded Development

3.10 The Plan does not include any provisions and policies for 'excluded development'.¹¹

Human Rights

3.11 The Basic Conditions Statement (at Section 5) states that the Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998. I have also had regard to the Equalities Impact Assessment (October 2022) that has been prepared for the Plan. From my assessment of the Plan, its accompanying evidence base studies and the consultation responses made to the Plan at the Regulations 14 and 16 stages, I am satisfied that none of the Objectives and Policies in the Plan will have a negative impact on groups with protected characteristics. Many will have a positive impact.

4. Compliance with the Basic Conditions

EU Obligations

4.1 The draft Plan was screened for SEA and HRA by the City Council in a document dated November 2020, in liaison with the SDNPA. The Screening Determination Report confirms that the Plan has been assessed against the Schedule 1 criteria contained in the SEA Regulations¹² for determining the likely significance of the effects on the environment. It notes that:

- the geographic extent of any effects arising from the Plan is limited and that the magnitude of effects is low;
- there are no allocations for development: the scale and effects of the Plan are therefore limited;
- the policies are primarily focused on the acceptability of future proposals;
- local sensitive and valued receptors and environmental issues are reflected and addressed through policy requirements;
- the Plan is unlikely to result in any significant cumulative or transboundary effects;
- the Plan sits within an existing adopted planning framework that has already been subject to its own SEA; it does not create a new framework; and
- the Plan is considered to be in general conformity with the Local Development Plans, is supportive of these plans, and is considered to support sustainable development.

¹¹ See section 61K of the 1990 Act.

¹² The Environmental Assessment of Plans and Programmes Regulations 2004, commonly referred to as the 'SEA Regulations'.

As such, the Screening Report concludes (at Section 6, page 20) that the Plan is unlikely to give rise to significant environmental effects and therefore that SEA is not required. The Environment Agency, Historic England and Natural England were consulted on the draft Screening Report during October 2020, and they each concluded that the preparation of a SEA is not required. The SDNPA also agrees with that assessment. From my own consideration of the matter, I too arrive at that conclusion.

- 4.2 The Plan has also been assessed by the City Council, also in liaison with the SDNPA, in accordance with the HRA screening tests in order to assess its likely effects on sites of European importance within the surrounding area, comprising the Castle Hill Special Area of Conservation (SAC), the Arun Valley Special Protection Area (SPA), the Ashdown Forest SAC and SPA, the Pevensey Levels SAC/Ramsar site and the Lewes Downs SAC. The HRA Screening Assessment summarises (at Section 6, page 23) that the updated HRA screening and detailed assessments, undertaken on the BHCP Part 2 in 2018, considered the impacts of a greater amount of housing than set out in the BHCP Part 1 on the European sites, and that it is concluded that those existing HRA assessments are considered to cover the impacts of any development arising from the Plan. It therefore determines that the Plan does not require its own HRA screening assessment. Natural England were consulted on the draft Screening Report and agrees with the report's conclusion. The SDNPA also agrees. From my own consideration, I also concur with that conclusion.
- 4.3 On the basis of the information provided and my independent consideration of the SEA and HRA Screening Determination Reports and the Plan, I am satisfied that the Plan is compatible with EU obligations as retained in UK law.

Main Assessment

- 4.4 Having considered whether the Plan complies with various legal and procedural requirements, it is now necessary to deal with the question of whether it complies with the remaining Basic Conditions (see paragraph 1.13 of this report), particularly the regard it pays to national policy and guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic development plan policies.
- 4.5 I test the Plan against the Basic Conditions by considering specific issues of compliance of the Plan's 15 policies, which deal with Strategic Development in Rottingdean; Environment and Biodiversity; Housing and Design; Employment and Enterprise; Community Facilities; and Air Quality and Traffic Management.
- 4.6 I consider that overall, subject to the modifications I will recommend to specific policies, that individually and collectively the policies will

contribute to the achievement of sustainable patterns of development and meet the other Basic Conditions. I set out my detailed comments below.

- 4.7 The Plan is addressing a Plan period from 2018 to 2030. The Plan seeks to protect the village for future generations whilst also planning for the future of Rottingdean as a neighbourhood, with its own growth, development, and infrastructure needs. The Plan's Vision and Objectives provide the context for the policies in the Plan.
- 4.8 The NPPF states (at paragraph 29) that "*Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan*" and that "*Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies*". The NPPF (at paragraph 11) also sets out the presumption in favour of sustainable development. It goes on to state (at paragraph 13) that neighbourhood plans should support the delivery of strategic policies contained in local plans; and should shape and direct development that is outside of these strategic policies.
- 4.9 The Vision and Objectives for Rottingdean up to 2030 are set out on pages 9-13 of the Plan. The Planning Policies are set out in Chapters 1-6 (pages 15-59), and I am satisfied that the key issues arising from the NPPF and the strategic policies in the adopted BHCP Parts 1 and 2 covering the period up to 2030, as they affect Rottingdean, are appropriately referenced (within the Policy Chapters of the Plan) and more fully in the Basic Conditions Statement (at pages 9-16).
- 4.10 However, there are a number of detailed matters which require amendment to ensure that the policies have the necessary regard to national policy and are in general conformity with the strategic policies of the BHCP and the SDLP. Accordingly, I recommend modifications in this report in order to address these matters.

Vision and Objectives

- 4.11 The Vision of the Plan is as follows:

"We want Rottingdean to remain a characterful, chalk downland village by the sea, with its distinctive and vernacular architecture and varied natural features. We want a village which celebrates, respects and protects its heritage and promotes learning, culture and recreation. We want to ensure a healthier, more sustainable environment with access to quality open spaces and an improved public realm where residents and visitors can visit thriving shops, businesses and heritage assets with ease."

- 4.12 The Plan contains five Core Strategic Objectives for the Plan's Policy themes of Employment and Enterprise, Air Quality and Traffic Reduction,

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Environment and Biodiversity, Housing and Design and Access. However, as noted at paragraph 2.8 above (see Question 3), from my initial assessment of the draft Plan, I noted that, unlike the other Core Strategic Objectives, the theme of Access did not contain a specific Objective. I therefore, invited the Parish Council to consider providing some suitable text in order to address this point, which I could consider as a potential modification to the Plan. The Parish Council has proposed some text to address this omission, which I consider to be acceptable and recommended modification **PM2** sets out the necessary amendment to the Core Strategic Objective of Access on page 13 of the Plan. With recommended modification PM2, I consider that the draft Plan's section on the 'Vision and Objectives of our Plan' is in general conformity with the strategic policies of the BHCP and the SDLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Strategic Development in Rottingdean

- 4.13 Chapter 1 of the draft Plan covers the theme of Strategic Development in Rottingdean and contains two policies (Policies S1 and S2). In my assessment, the title of this chapter requires amendment, as it conveys a distinct impression that it contains strategic planning policies for development within the Plan area, which are a matter for the adopted BHCP and South Downs Local Plan (and their reviews) rather than for this Neighbourhood Plan. Even though this might be an impression, rather than the actual intention, I consider that the most appropriate title for this introductory section of the Plan's policies is "The Plan's Spatial Framework" in order to remove any doubt that Policies S1 and S2 are strategic policies, and I therefore recommend modification **PM3** accordingly.
- 4.14 Policy S1 (Development within and beyond the settlement boundary) defines the Rottingdean village boundary which is shown on Map 1 - The Parish (Policies Map) at page 8 in the draft Plan. It goes on to state that proposals for infill development within the boundary will be supported, provided that they accord with the design and development management policies of the Development Plan and other policies of the Neighbourhood Plan. It further states that, in particular, development proposals should comply with a series of twelve planning criteria.
- 4.15 I have given careful consideration to the content of this Policy, and to the representations that have been made concerning the Policy. In my assessment, the Policy is justified in the context of establishing a spatial framework for the Plan area, with appropriate developments within the settlement boundary being supported. However, the last of the twelve planning criteria listed within the Policy clearly only relates to development proposals outside the development boundary, and it should therefore be a separate clause within the Policy. I also take account of the City Council's comments on that part of the Policy, and therefore

recommend modification **PM4** to address amendments to the final part of the Policy in order to provide greater clarity for users of the Plan.

- 4.16 Policy S2 (Strategic Gaps) is in six parts and states that the Plan identifies Local Gaps at the Beacon Hill Nature Reserve (Gap 1) and land lying to the west of Falmer Avenue bounded by Westmeston Avenue and Dean Court Road, adjacent to Whiteway bridleway (Gap 2), which are then described within the Policy text as Strategic Gaps. I am clear that the term 'Strategic Gap' and the definition of such Strategic Gaps is a matter of strategic planning policy, and therefore a matter for local plans rather than neighbourhood plans, which should contain non-strategic policies. I therefore consider that this Policy should be entitled as 'Local Gaps', as the Policy itself states in its introduction. From my assessment of the two proposed Gaps, as defined on Map 2 (to be re-titled 'Local Gaps (Policies Map)' – see **PM23**), I consider that they are appropriate as Local Gaps, although they are both within the South Downs National Park, and therefore are also protected by policies in the South Downs Local Plan. The Policy and its supporting text require amendment to confirm their status as Local Gaps and to provide clarity for users of the Plan. The necessary amendments are addressed by recommended modification **PM5**.
- 4.17 In reaching my conclusions regarding this Policy, I have also given full and careful consideration to the representations that have been made concerning the Policy and to supporting documents for the Plan by Parker Dann on behalf of their clients. I note that the proposed Local Gap (Gap 2) affects a site to the east of Dean Court Road presently being considered for potential residential development. I visited the area during the course of my site visit, taking account of the material set out in the technical studies submitted with the representations. I am clear that the site in question forms a significant part of the gap between Rottingdean and Saltdean, albeit that it lies directly to the rear of existing properties in Dean Court Road. The site is within the National Park. I consider that the land in question has been appropriately included within the proposed Local Gap, in accordance with that part of the Plan's Spatial Strategy, in view of its location between Rottingdean and Saltdean, and I do not make any recommendation to exclude the site from the proposed Local Gap. Should any proposals come forward during the Plan period for the development of the site, they will need to be assessed by the City Council and the SDNPA in the context of the relevant Development Plan policies affecting the site.
- 4.18 With recommended modifications PM4 and PM5, I consider that the draft Plan's chapter on Strategic Development in Rottingdean (to be renamed 'The Plan's Spatial Framework') and its accompanying policies (Policies S1 and S2) is in general conformity with the strategic policies of the BHCP and the SDLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Environment and Biodiversity

- 4.19 Chapter 2 of the draft Plan addresses the theme of Environment and Biodiversity in the Plan area and contains three policies (Policies GOS1-3). I have considered these policies in the context of national policy, the strategic policies of the adopted Local Plan and the representations received at the Regulation 16 consultation stage. I make detailed comments on each Policy as below.
- 4.20 Policy GOS1 (Local Green Space designation) proposes the designation of nine Local Green Spaces (ref. LGS1-LGS9) within the Plan area and states that proposals for built development (excepting the installation of essential utilities infrastructure) on Local Green Spaces will not be permitted unless it can clearly be demonstrated that it is consistent with the role and function of that Local Green Space.
- 4.21 The nine Local Green Spaces are each described at paragraphs 2.6-2.14 in the supporting text to the Policy, but in each case there is not an accompanying plan defining the boundaries of the specific site. I raised this matter with the Parish Council as Question 6 (see paragraph 2.8), and the Inset Maps that were supplied on 31 August 2023 are referenced below under 'Mapping'. The Parish Council also confirmed to me on 9 August 2023 that the owners of each of the nine sites were notified directly of the intention to propose the designation of the site as a Local Green Space at key stages during the preparation of the Plan. No representations objecting to the proposed designations were received at the Regulation 16 consultation stage, although a representation was received stating that a historic green space between New Barn Road and Court Farm Road should have been considered for designation. This is outside the purview of my examination but may be a matter for the Parish Council to consider at a future review of the Plan.
- 4.22 Appendices 6a-6c to the Plan comprise the supporting evidence to the identification of the proposed Local Green Spaces, and I am satisfied that the assessment of 14 potential sites in the Plan area was undertaken on the basis of the criteria set out in the NPPF, leading to the selection of the nine proposed sites. In the case of LGS7 (St. Aubyns Field), I note that the proposed designation is consistent with the objectives of a Planning Brief prepared by the City Council in January 2015 for the former St Aubyns School site. (As a minor grammatical point, the site should be described as St Aubyns Field on page 27 of the Plan as the apostrophe in the school's name was dropped in 1940. Other references at paragraphs 2.4 and 2.12 are correct).
- 4.23 I visited each of the nine sites during the course of my site visit to the Plan area, taking account of the material at Appendices 6a-6c and 7 in the draft Plan. In undertaking my assessment, I have considered the sites on the basis of whether I consider that they clearly meet the criteria set out at paragraph 102 of the NPPF (see also paragraph 101 and the guidance

in the supporting PPG).¹³ This has primarily been based upon my own site visits, considered alongside the supporting material. Inevitably, this requires a judgement of the key factors identified for each of the nine proposed Local Green Spaces. In my assessment, each site very clearly satisfies the criteria for designation set out in the NPPF, and I conclude that they should be designated as Local Green Spaces.

- 4.24 With regard to the Policy text, and specifically in relation to managing development within a Local Green Space, this should be consistent with those for Green Belts (NPPF paragraph 103). Therefore, I recommend that the Policy text as drafted be modified to reflect that requirement. Recommended modification **PM6** addresses the necessary amendments to Policy GOS1.
- 4.25 Policy GOS2 (Amenity open spaces) states that other valued green and open spaces including those currently in use for recreation, playing fields, allotments and tennis courts will be retained for their appropriate community use, until approved evidence shows they are no longer needed. I consider that the Policy is justified but some amendment to the Policy text is necessary as there is no indication what '*approved evidence*' would comprise. Accordingly, I recommend modification **PM7** in order to provide clarity to the Policy requirements, for future users of the Plan.
- 4.26 Policy GOS3 (Wildlife and biodiversity) provides that proposals that contribute to the conservation and enhancement of the landscape of the South Downs and its special qualities, and conserve wildlife or enhance biodiversity will be supported. The accompanying Map 3 identifies two Wildlife Corridors, the Rottingdean Wildlife Corridor and the Ovingdean Wildlife Corridor, and the Policy goes on to state that new development proposals which cause potential harm to the wildlife corridors would only be supported when suitable mitigation measures are proposed. It also states that new developments should avoid causing harm to the special qualities of the National Park.
- 4.27 With regard to the supporting text, I noted as part of my initial assessment of the draft Plan that paragraph 2.17 refers to "*two other local wildlife protection sites, namely Whiteways Lane and Balsdean Woods*". From the City Council's comments on the Plan, I noted that these are designated LWS and that there are a further five such designated sites in the Plan area, which are not identified in the draft Plan. Accordingly, as Question 5, I requested that the Parish Council provide additional or replacement text for paragraph 2.17 to reflect the seven LWS, with a suitable cross-reference to Map 3. I further noted that Map 3 should be amended to remove the SNCI notation and its replacement, with a Local Wildlife Site notation. I take account of the Parish Council's response dated 9 August 2023 in my assessment of this part of the Plan. Amended

¹³ NPPF, Paragraph 101, further states that LGS should be capable of enduring beyond the end of the Plan period. Further advice is provided in the PPG section *Open space, sports and recreation facilities, public rights of way and local green space* (see Reference IDs: 37-005-20140306 to 37-022-20140306).

Map 3, that was supplied on 31 August 2023, is referenced below under 'Mapping' at paragraphs 4.55-4.58.

- 4.28 As Question 7 (see paragraph 2.8), I noted that neither the Policy nor its supporting text at paragraphs 2.17-2.21 make any reference to the national policy requirement for Biodiversity Net Gain (BNG) for relevant new developments.¹⁴ I invited the Parish Council to provide some additional text for paragraph 2.21 to address this omission, and I take account of the Parish Council's response on this matter. In addition to amendments to paragraphs 2.17 and 2.21, I consider that some amendments are also necessary to the Policy text, in part to reflect the comments made by the City Council, but also to include an appropriate reference to the Policy requirement for BNG. These amendments are all addressed by recommended modification **PM8**.
- 4.29 Finally, in my view, paragraphs 2.22 and 2.23 in this chapter, under the heading of Conservation Area Enhancements, are misplaced within the Plan and should form part of Chapter 3 (Housing and Design). I consider that these paragraphs should form a new final sub-section to Chapter 3, to follow Policy H3, with the two paragraphs of text to be re-numbered to 3.13 and 3.14. Recommended modification **PM9** addresses this amendment.
- 4.30 With recommended modifications PM6-PM9, I consider that the draft Plan's chapter on Environment and Biodiversity and its accompanying policies (Policies GOS1-GOS3) is in general conformity with the strategic policies of the BHCP and the SDLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Housing and Design

- 4.31 Chapter 3 of the draft Plan addresses the theme of Housing and Design in the Plan area and contains three policies (Policies H1-H3). I make detailed comments on each Policy below.
- 4.32 Policy H1 (Balancing the Housing Mix) states that housing developments of five or more dwellings should conform to the housing mix set out within the Policy, insofar as the proportions would be consistent with the size of the site and the development of a good layout and design in relation to the immediate locality. The proposed housing mix is based upon data set out in paragraph 3.2 of the draft Plan and the Housing Needs Survey Analysis prepared in June 2015 by AECOM for the Parish Council. That report is, in my assessment, now unlikely to be reliable being some eight years old. Nevertheless, I have taken account of the report's conclusions and policy recommendations in my consideration of this Policy.

¹⁴ See footnote 10 above.

- 4.33 As drafted, the Policy sets a rather confusing, and potentially contradictory, policy position where the second part of the Policy suggests that a different housing mix to that set out in the first part of the Policy would be preferred. This does not provide sufficient clarity for users of the Plan and having considered the supporting evidence and the comments of the City Council, I conclude that the second part of the Policy should be deleted. This necessary amendment is addressed by recommended modification **PM10**.
- 4.34 Policy H2 (Design) is a lengthy Policy stating that development proposals will be supported, provided they complement, enhance and reinforce the local distinctiveness of the village and where appropriate are designed to enhance the setting of the Conservation Areas and their surroundings. It goes on to state that proposals must show clearly how the scale, mass, density, layout, materials to be employed and design of the site, building or extension fits in with the character of the immediate area and wider context within the village. It includes eleven design principles which proposals for new development should take into account.
- 4.35 As drafted, the Policy contains some areas of repetition, for example with two references to the Village Character Statement and the City Council's Urban Characterisation Study. In order to provide clearer and more succinct policy guidance for users of the Plan, I consider that the eleven design principles set out in the third part of the Policy would be better placed as part of its supporting text, with the Policy itself referring to the need for development proposals to take these principles into account. The City Council, the SDNPA and the Environment Agency have made a number of detailed comments regarding the design principles, with which I concur. It would be appropriate for the Parish Council to consider those comments as part of the non-policy updating of the Plan following this report and prior to any future referendum (see paragraph 4.61 below). As two examples, there is no reference to fencing as a consideration in the fifth principle and the provision of Bat boxes and Swift bricks in the fourth principle should more closely reflect the City Council's guidance. Recommended modification **PM11** addresses the necessary amendments to the Policy text.
- 4.36 Policy H3 (Design Principles in the Conservation Area and their Settings) sets out three design principles for the satisfactory planning of new developments within the Rottingdean Conservation Area. Subject to two focused amendments, I am satisfied that this Policy provides clear policy guidance for users of the Plan. Paragraph 3.9 (to be re-numbered 3.10) also requires an amendment to confirm that it relates to Policy H3. These amendments are addressed by recommended modification **PM12**.
- 4.37 Finally, with regard to paragraph 3.7 of the supporting text in this chapter, there is no Policy H4 within the draft Plan and the text of this

paragraph therefore requires some amendment for accuracy.¹⁵
Recommended modification **PM13** sets out the necessary amendments.

- 4.38 With recommended modifications PM10-PM13, I consider that the draft Plan's chapter on Housing and Design and its accompanying policies (Policies H1-H3) is in general conformity with the strategic policies of the BHCP and the SDLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Employment and Enterprise

- 4.39 Chapter 4 of the Plan addresses the theme of Employment and Enterprise in the Plan area and contains three policies (Policy TO1 and Policies EE1 and EE2).
- 4.40 Policy TO1 (Visitor Accommodation) states that the conversion of visitor accommodation (hotels and guest houses) to other uses will only be supported where survey data indicates there is no longer sufficient demand. In my assessment, the term '*survey data*' is insufficiently specific to provide clarity for users of the Plan on what will be necessary to meet the Policy's requirements. Accordingly, I recommend a modification to the Policy text to provide clarity, and this is addressed by **PM14**.
- 4.41 Policy EE1 (Shop Front Character & Design in the Conservation Area) states that proposals for the alteration to the external appearance of existing retail units in the Conservation Area will be supported where they would preserve or enhance the character and appearance of the Conservation Area, their frontages incorporate flint, brick and render, the shop windows make use of domestic windows and the design of fascia boards achieves a balance between the desired visual impact and sustaining the character of the village. I am satisfied that the Policy is appropriately drafted and that it provides clear planning guidance for the design of shopfronts in the Conservation Area.
- 4.42 Policy EE2 (Accessible Retail Units) states that modifications to existing shopfronts, steps and entrance points which improve access for all will be supported. As drafted, this Policy does not provide sufficiently clear guidance on the nature of such modifications which could, for example, include external ramps and handrails. In my assessment, this could potentially conflict with other policies and guidance for the Conservation Area within which many of the village's retail units are situated, and also with Policy EE1 referenced above. I have given careful consideration to whether the Policy is justified and also to the Rottingdean Conservation Area Character Statement. I consider that the effective implementation of this Policy will be very difficult with many of the existing shops within the Conservation Area fronting directly onto the pavement, which in some

¹⁵ Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

parts is narrow, resulting in a further narrowing of the public spaces. The modifications potentially included within the scope of this Policy could also have a significant adverse visual impact upon the street scene and public realm in the Conservation Area. It is therefore my conclusion that the Policy should be deleted from the Plan, and this is addressed by recommended modification **PM15**.

- 4.43 With regard to the supporting text for these policies at paragraph 4.4, the City Council advise that the retail parade at Meadow Parade, where only one retail business presently remains, is not protected by any of the policies in the adopted BHCP, and that the final sentence of this paragraph should be deleted as being incorrect. This necessary amendment is addressed by recommended modification **PM16**.
- 4.44 With recommended modifications PM14-PM16, I consider that the draft Plan's chapter on Employment and Enterprise and its accompanying two policies (Policy TO1 and Policy EE1), taking account of the recommended deletion of Policy EE2, is in general conformity with the strategic policies of the BHCP and the SDLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Community Facilities

- 4.45 Chapter 5 of the draft Plan addresses the theme of Community Facilities in the Plan area and contains one Policy (Policy CF1).
- 4.46 Policy CF1 (Provision of Community Facilities) states that proposals to redevelop or change the use of an existing community facility or land or buildings last used as a community facility will only be supported where one of the two criteria set out within the Policy is met. These criteria concern the provision of a replacement facility to compensate for the loss of the existing facility or where it can be demonstrated that the retention of the existing facility is no longer economically viable or feasible. Taking into account amendments to these policy criteria suggested by the City Council, with which I concur, the amendments to the Policy text are addressed by recommended modification **PM17**.
- 4.47 With recommended modification PM17, I consider that the draft Plan's chapter on Community Facilities and its accompanying Policy (Policy CF1) is in general conformity with the strategic policies of the BHCP and the SDLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Air Quality and Traffic Management

- 4.48 Chapter 6 of the draft Plan addresses the theme of Air Quality and Traffic Management in the Plan area and contains three policies (Policies AQ1-AQ3).

- 4.49 Policy AQ1 (Reducing Traffic Volume passing through the village) states that development proposals should show how they integrate with other roads and the existing built environment. The Policy further states that sites should be laid out to provide car parking in conformity with the BHCP Part 2, with the aim of recording emissions and seeking improvements in air quality. As drafted, the Policy does not link directly to its title, and also partly duplicates the content of Policy AQ2. I recognise that air quality is a major concern in the centre of the village, but I consider that Policy AQ2 should be the principal Policy addressing that specific issue. In the context of the Objectives and Intentions (set out on page 56) for the policies in this Chapter, I consider that this Policy should be redrafted to focus upon measures to reduce traffic congestion in the village, for example by promoting active and sustainable travel. Accordingly, I recommend modification **PM18** in order to address the necessary amendments to the Policy text.
- 4.50 Policy AQ2 (Improving Air Quality in Rottingdean High Street) states that new proposals for residential or commercial development should have regard to the existing Air Quality Management Area (AQMA) in Rottingdean High Street, and that development proposals must demonstrate how air quality improvements can be made, either by direct action or by mitigation. I consider that the Policy is clearly aligned with the Plan's objective to improve air quality. Subject to some focused amendments, to add sufficient clarity to the text of the Policy, I am satisfied that the Policy is appropriate and justified. Recommended modification **PM19** addresses the necessary amendments.
- 4.51 Policy AQ3 (Electric Vehicle Charging Points) states that all new detached or semi-detached residential properties in the neighbourhood area should be provided with an electric car vehicle charging point to industry standards, and that proposals for the installation of electric vehicle charging points in existing residential or commercial areas will be supported. As drafted, the Policy is flawed, as the installation of electric vehicle charging points is now a requirement of the Building Regulations for new dwellings and that the installation of such charging points in existing residential and commercial areas is, in most cases, permitted development. However, I recognise that the intentions of the Policy are important and that it should be redrafted to provide more general support for the installation of electric vehicle charging points at appropriate locations across the Plan area, as part of the measures to improve air quality and achieve sustainable development. Recommended modification **PM20** addresses the necessary amendments to this Policy.
- 4.52 With recommended modifications PM18-PM20, I consider that the draft Plan's chapter on Air Quality and Traffic Management and its accompanying policies (Policies AQ1-AQ3) is in general conformity with the strategic policies of the BHCP and the SDLP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Appendices

- 4.53 As drafted, the Plan contains 13 Appendices. However, only a small number of these Appendices are directly referenced from within the main body of the Plan. Furthermore, even where referenced, there is little explanation of the content and relevance of the document(s) attached as an Appendix. I raised this matter with the Parish Council as Question 8, noting that, in my assessment, Appendices 1, 2, 4, 5a-5d, 6a-6c, 8 and 9a-9b all contain material that is either supporting evidence to the Plan or is more related to the work undertaken during the preparation of the Plan. Such material could instead be made available on the Parish Council's web-site. The Parish Council responded that it is content to make the suggested changes. Subsequent to that response, and upon my detailed examination of the draft Plan, I also consider that Appendix 11 is not directly related to the content of the Plan, as it is entitled "*Specific issues in relation to the delivery of Policy GOS4 – Conservation Area Enhancements*". The Plan does not contain a Policy GOS4, and the section of the Plan (at paragraphs 2.22-2.23) addressing Conservation Area Enhancements makes no reference to Appendix 11. Furthermore, it also appears to duplicate in part the material contained in Appendix 10a.
- 4.54 Accordingly, I consider that Appendices 1, 2, 4, 5a-5d, 6a-6c, 8, 9a-9b and 11 should be removed from the Plan, with Appendix 13 being transferred to the main body of the Plan (see **PM1**). I consider that this is necessary in order to provide improved clarity for users of the Plan regarding its content. Recommended modification **PM22** sets out the necessary amendments.

Mapping

- 4.55 Upon my initial assessment of the Plan and the Regulation 16 consultation responses, I noted that the City Council, in its comments on the Submission Plan, had identified a series of inconsistencies, potential omissions and superfluous notations on Map 1 - The Parish (Policies Map) at page 8 in the draft Plan. The City Council had also identified some inconsistencies between Map 1 and Maps 2 and 3 in the Plan. As Question 1, I stated that I wish to ensure that Maps 1, 2 and 3 are entirely accurate and can be easily interpreted and understood in relation to the relevant accompanying policies in the Plan. I therefore requested that the Parish Council, in liaison with the City Council, provide me with revised Maps 1, 2 and 3, ensuring that the Maps reflect the policy notations of the Brighton & Hove City Council's adopted City Plan, Parts 1 and 2 (BHCP1 and BHCP2) and any relevant policy notations of the adopted South Downs National Park Local Plan 2014-2033.
- 4.56 Additionally, with reference to Question 5, I noted that Map 3 – Wildlife Corridors (Policy Map) at page 32 in the draft Plan was incomplete, and I requested that it be amended to identify the Local Wildlife Sites referenced at paragraph 2.17.

- 4.57 Finally, with reference to Question 6, I requested that the Parish Council provide a series of nine Inset Maps to define the site boundaries of the nine proposed Local Green Spaces (LGS1-LGS9) shown at pages 25-28 in the draft Plan and referenced within Policy GOS1, in order that future users of the Plan can identify the extent of land affected by each of the proposed Local Green Spaces.
- 4.58 The City Council provided the necessary new and replacement maps with its response dated 31 August 2023, all of which I consider to be clear and accurate. However, following my assessment of Policy S2 (see paragraphs 4.16 and 4.17 above), I consider that Map 2 should be re-titled as 'Local Gaps' (as set out in the introductory text to Policy S2) in order to ensure that it is clear that this is not a strategic policy. Recommended modification **PM23** addresses the necessary amendments to the Plan to take account of the above mapping revisions.

Other Matters

- 4.59 The draft Plan at present lacks a statement or policy regarding its future monitoring and review. Both the City Council and the SDNPA have commenced reviews of their current adopted Local Plans and public consultations are expected to take place during 2024 and 2025. I consider that the Plan should include a new section entitled 'Monitoring and Review' containing a statement that the Plan will be reviewed when necessary in order to align with the new Local Plans being prepared by the City Council and the SDNPA. This is addressed by recommended modification **PM21**.
- 4.60 The draft Plan references a number of matters and objectives that are part of the Parish Council's Project List, for example to '*continue to make traffic management measures a priority in order to attract developer contributions.*' I do not comment in this report on the Project List, which is outside the purview of this examination, and which contains projects that are priorities of the Parish Council and which largely extend beyond planning policy considerations.¹⁶

Concluding Remarks

- 4.61 The City Council and the SDNPA, in their detailed comments on the draft Plan at the Regulation 16 consultation stage, identify a series of desirable amendments to non-policy elements of the Plan, in order that it is up to date and accurate. For example, the City Council identifies a need for consistent terminology in the Plan concerning the adopted City Plan and parts of the supporting text where points could be made more clearly and accurately. The Parish Council is advised to take account of the suggested amendments, with which I concur, when the Plan is being updated for the purposes of any future referendum.

¹⁶ See PPG Reference ID: 41-004-20190509.

- 4.62 Amendments to the text can be made consequential to the recommended modifications, alongside any other minor non-material changes¹⁷, factual up-dates, or corrections in agreement between the City Council and the Parish Council.¹⁸ As an advisory comment, when the Plan is being redrafted to take account of the recommended modifications, it should be re-checked for any typographical errors and any other consequential changes, etc.
- 4.63 I consider that, with the recommended modifications to the Plan as summarised above and set out in full in the accompanying Appendix, the Rottingdean Neighbourhood Plan meets the Basic Conditions.

5. Conclusions

Summary

- 5.1 The Rottingdean Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan, and the supporting documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Rottingdean Neighbourhood Plan, as modified, has no policies or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

Overview

- 5.4 It is clear that the Rottingdean Neighbourhood Plan is the product of much hard work since 2013 by the Parish Council, the Neighbourhood Plan Steering Group and the many individuals and stakeholders who have contributed to the development of the Plan. There is no doubt in my view that the Plan reflects the aspirations and objectives of the Rottingdean community for the future development of their community up to 2030.

¹⁷ PPG Reference ID:41-106-20190509.

¹⁸ See for example Representation Ref: SNPS:6 and SNPS:18.

The output is a Plan which should help guide the area's development over that period in a positive way and it should inform good decision-making on planning applications by Brighton & Hove City Council.

Derek Stebbing

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Pages 5 and 62	<p><u>Parish Profile Plan Overview</u></p> <p>First paragraph of text – delete the words “in 2014” in the second line of text and replace with “in March 2013”.</p> <p>Add the words “as shown below.” at the end of the first paragraph of text.</p> <p><u>Appendix 13 – Rottingdean Parish Neighbourhood Area Map</u></p> <p>Place this Map within the main part of the Plan, directly following the ‘Parish Profile Plan Overview’ on Page 5.</p> <p>Delete Appendix 13.</p>
PM2	Page 13	<p><u>Core Strategic Objective – Access</u></p> <p>Add the following text beneath the heading:</p> <p>“Our aim is for Rottingdean to be a village that is welcoming, inclusive and accessible, providing barrier-free services and amenities that promote independence and equity of access and opportunity, including access to digital services and housing.”</p>
PM3	Pages 15 and 16	<p><u>Chapter 1 – Strategic Development in Rottingdean</u></p> <p>Amend title of this Chapter to read “The Plan’s Spatial Framework” and amend Contents Page accordingly.</p>
PM4	Page 17?	<p><u>Policy S1 – Development within and beyond the settlement boundary</u></p> <p>Remove the 12th bullet point, and place the text as a fourth clause of text to the Policy to read as follows:</p> <p>“Proposals for development outside the village boundary will only be supported if they are appropriate to a countryside location and they</p>

		are consistent with the relevant policies in the adopted Brighton & Hove City Plan or the South Downs Local Plan."
PM5	Pages 18-21	<p><u>Policy S2 – Strategic Gaps</u></p> <p>Amend Policy title to read "Local Gaps".</p> <p>Delete clauses 1-6 of the Policy text in full, and replace with:</p> <p>"Beacon Hill Nature Reserve (Gap 1)</p> <p>Land lying to the west of Falmer Avenue bounded by Westmeston Avenue and Dean Court Road, adjacent to Whiteway bridleway (Gap 2)</p> <p>Development proposals within the designated Local Gaps which would detract from the open character and appearance of the rural area or which would result in the coalescence of Rottingdean with other settlements will not be supported.</p> <p>Proposals for the re-use or conversion of existing buildings within the Local Gaps will be supported, together with other proposals that are appropriate to the rural areas concerned, subject to such proposals conforming with all relevant policies in the adopted South Downs Local Plan and in this Plan."</p> <p>Amend all references to 'Strategic Gaps' on pages 18 and 19 to read "Local Gaps".</p> <p>(The amendment to Map 2 is addressed by PM23).</p>
PM6	Page 29	<p><u>Policy GOS1 – Local green space designation</u></p> <p>Amend Policy title to read "Local Green Spaces".</p> <p>Delete existing Policy text in full and replace with:</p> <p>"Sites LGS1-LGS9, as listed below and as defined on the accompanying Inset Maps, are designated as Local Green Spaces in accordance with the criteria set out at paragraph 102 of the NPPF and Policy DM38 of the adopted Brighton & Hove City Plan.</p>

		<p>LGS1 – The Bowling Green LGS2 – Kipling Gardens and the Croquet Lawn LGS3 – Land on the Eastern Cliff, Marine Drive LGS4 – Lutyens Gardens, The Green LGS5 – Quaker Burial Ground, The Green LGS6 – Land surrounding Scout Hut, Whiteways Lane LGS7 – St Aubyns Field, Steyning Road/Newlands Road LGS8 – St Margaret’s Churchyard, The Green LGS9 – St Martha’s Convent Gardens</p> <p>Development proposals in the designated Local Green Spaces listed above will be managed in accordance with national policy for Green Belts.”</p>
PM7	Page 29	<p><u>Policy GOS2 – Amenity open spaces</u></p> <p>Amend Policy title to read “Amenity Open Spaces”.</p> <p>Delete the words “until approved evidence shows they are no longer needed” in the Policy text (and end the first sentence after the word “use”).</p> <p>Add new second paragraph of Policy text to read: “Proposals for any alternative use or loss of these amenity open spaces will not be supported, unless there is substantial evidence that the facilities will not be required to meet the future needs of the community.”</p>
PM8	Pages 30 and 33	<p><u>Paragraph 2.17</u></p> <p>Amend 3rd sentence of text to read: “The Parish of Rottingdean has a well-managed Nature Reserve, Beacon Hill, and six other Local Wildlife Sites (LWS), Meadowvale, Ovingdean Copse (part), Wivelsfield Road Grassland (part), High Hill Pasture, Rottingdean Pond, Whiteways Lane and Balsdean Downland West, as shown on Map 3.”</p> <p>Amend 4th sentence of text to read: “With the exception of Rottingdean Pond, none of these sites has a permanent water source.”</p> <p>Amend 5th sentence of text to read:</p>

		<p>“Rottingdean Pond, situated between them and in the heart of our village, is used extensively by local wildlife, including amphibians, invertebrates, wildfowl and other bird species, rodents, foxes and badgers.”</p> <p><u>Paragraph 2.21</u></p> <p>Add new 2nd and 3rd sentences of text to read as follows:</p> <p>“In accordance with national planning policy, development proposals will be expected to provide at least 10% measurable Biodiversity Net Gain (BNG), in accordance with the relevant policies of the City Council and the South Downs National Park Authority. This will ensure net gains in biodiversity that are additional to appropriate mitigation.”</p> <p><u>Policy GOS3 – Wildlife and biodiversity</u></p> <p>Amend Policy title to read “Wildlife and Biodiversity”.</p> <p>Delete Policy text in full and replace with:</p> <p>“Proposals that conserve and enhance the landscape of the South Downs and its special qualities, and conserve and enhance wildlife and biodiversity will be supported. Proposals which respect, enhance and provide green linkages with biodiversity and green space within and around developments will be encouraged, particularly where the space forms part of, or is adjacent to, the Wildlife Corridors defined on Map 3.</p> <p>Proposals for new development which would cause any potential harm to the Wildlife Corridors will not be supported unless they are justified in the public interest and suitable mitigation measures are proposed.</p> <p>Development proposals should avoid causing harm to the special qualities of the South Downs National Park, including development in its setting.</p> <p>In accordance with the Environment Act 2021, development proposals will, where necessary, need to include a Biodiversity Net Gain (BNG) requirement of at least 10% above the baseline position.”</p>
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PM9	Page 35	<p><u>Conservation Area Enhancements</u></p> <p><u>Paragraphs 2.22 and 2.23</u></p> <p>Place these two paragraphs within Chapter 3, to follow Policy H3, and be re-numbered as "3.13 and 3.14" (see also PM11).</p>
PM10	Page 39	<p><u>Policy H1 – Balancing the Housing Mix</u></p> <p>Delete the 2nd part of Policy text comprising the sentence commencing "Proposals that increase ...".</p>
PM11	Page 42	<p><u>Policy H2 – Design</u></p> <p>In the 1st paragraph of Policy text, in the 3rd line amend "conservation areas and their surroundings." to read "Conservation Area and its surroundings."</p> <p>Delete 3rd paragraph of Policy text and replace with:</p> <p>"Proposals for new development in the Plan area will be supported where they clearly show that they have taken into account and followed the design principles underpinning this Policy which are set out at paragraph 3.9 in the Plan."</p> <p>Delete the eleven bullet point design principles from the Policy text and place in the supporting text as new paragraph 3.9 under the sub-heading of "Design Principles for New Developments in the Plan area" with an appropriate introductory sentence.</p> <p>Re-number paragraphs 3.9-3.11 to become "3.10-3.12".</p>
PM12	Page 43	<p><u>Policy H3 – Design Principles in the Conservation Area and their Settings</u></p> <p>Amend Policy title to read "Design Principles in the Conservation Area and its Setting".</p> <p>In the 1st line of Policy text: amend "Conservation Areas" to read "Conservation Area".</p> <p><u>Paragraph 3.9</u></p> <p>Paragraph 3.9 (to be re-numbered 3.10): delete the words "This policy" in the 1st line of text and replace with "Policy H3".¹⁹</p>

¹⁹ There is also a typo in the 9th line of paragraph 3.9 ('aAea' should be "Area").

PM13	Page 40	<p><u>Paragraph 3.7</u></p> <p>Delete 3rd sentence of text.</p> <p>Amend "Policy H4" in the 4th sentence of text to read "Policy H3".</p>
PM14	Page 47	<p><u>Policy TO1 – Visitor Accommodation</u></p> <p>Delete the words "Survey data indicates there is no longer sufficient demand" in the Policy text, and replace with:</p> <p>"It can be demonstrated from bookings, reservations and occupancy data that the continued use of the premises as a hotel or guest house will no longer be economically viable."</p>
PM15	Page 50	<p><u>Policy EE2 – Accessible Retail Units</u></p> <p>Delete this Policy in full.</p>
PM16	Page 47	<p><u>Paragraph 4.4</u></p> <p>Delete the final sentence of this paragraph.</p>
PM17	Page 54	<p><u>Policy CF1 – Provision of Community Facilities</u></p> <p>Amend the word "conditions" in the 3rd line of Policy text to read "criteria".</p> <p>Delete the words "or by car" on the 5th line of the first criterion.</p> <p>Amend second criterion to read as follows:</p> <p>"It can be demonstrated that active, flexible and appropriate marketing of the site for community uses has been undertaken and that it would not be economically viable or feasible to retain the existing community facility, and that there is no reasonable prospect of securing an alternative community use of the land or building."</p>
PM18	Page 58	<p><u>Policy AQ1 – Reducing Traffic Volume through the village</u></p> <p>Amend Policy title to read "Reducing Traffic Congestion in Rottingdean".</p> <p>Delete existing Policy text in full, and replace with: "Proposals for new development within the</p>

		<p>Plan area which incorporate measures and/or infrastructure to promote walking and cycling, and the use of public transport, in order to reduce traffic generation, will be encouraged.</p> <p>The Parish Council will work in partnership with the City Council, East Sussex County Council, public transport providers and other stakeholders to promote measures that will achieve a reduction in the volumes of traffic passing through the village, for example by promoting active and sustainable travel wherever possible."</p>
PM19	Page 59	<p><u>Policy AQ2 – Improving Air Quality in Rottingdean High Street</u></p> <p>2nd line of text – amend "AQMA" to read "Air Quality Management Area".</p> <p>2nd line of text – delete "Their designs and layouts" and replace with "Proposals should take account of the 'Air quality and emissions mitigation guidance for Sussex (2021)' published by the Sussex Air Quality Partnership."</p> <p>2nd/3rd lines of text – delete "should provide particular support" and replace with "The design and layout of development schemes should ensure that there is good access" and continue with "for local residents etc."</p>
PM20	Page 59	<p><u>Policy AQ3 – Electric Vehicle Charging Points</u></p> <p>Delete existing Policy text in full, and replace with:</p> <p>"The Parish Council will support all initiatives to introduce additional electric vehicle charging points at appropriate locations within the Plan area, in order to promote improvements to air quality and to encourage sustainable development."</p>
PM21	Page 60	<p>Add new Chapter 7 to the Plan entitled "Monitoring and Review".</p> <p>Add new paragraph 7.1, as follows:</p> <p>"7.1 Brighton & Hove City Council and the South Downs National Park Authority are each undertaking reviews of their current adopted Local Plans. Public</p>

		consultations are expected to take place in 2024 and 2025. In due course, this Neighbourhood Plan will be reviewed when necessary to seek to align the Neighbourhood Plan with the new Local Plans covering the Parish."
PM22	Pages 61 onwards	<p><u>Appendices</u></p> <p>Delete Appendices 1, 2, 4, 5a-5d, 6a-6c, 8, 9a-9b and 11 from the Plan, and re-number Appendices 3, 10a-10b and 12 to be Appendices 1, 2a-2b and 3 respectively.</p> <p>(Appendix 13 is transferred to the main body of the Plan by PM1).</p>
PM23	Pages 8, 20, 25-29 and 32	<p><u>Mapping</u></p> <p>Replace Maps 1, 2 and 3 with the revised Maps supplied by the City Council in its response to the examiner dated 31 August 2023.</p> <p>Amend title of Map 2 to read "Local Gaps (Policies Map)" but with no change to the Notation Panel.</p> <p>Add Maps LGS1-LGS9 beneath each of the respective entries for LGS1-LGS9 on pages 25-28.</p> <p>Amend title of Map presently titled "GS6" to read "LGS6".</p> <p>Add new Map entitled 'New Local Green Spaces – Overview' beneath Policy GOS1 on page 29, but amend title to read "Local Green Spaces – Overview (Policy GOS1)".</p>