

# Brighton & Hove City Council

## Tourism, Equalities, Communities & Culture Committee

## Agenda Item 60

**Subject:** Hove Station Neighbourhood Plan – Supplementary Regulation 16 Consultation

**Date of meeting:** 12 January 2023

**Report of:** Executive Director – Economy, Environment & Culture

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**Ward(s) affected:** Central Hove; Goldsmid; Hove Park; Westbourne; Wish

**For general release**

### **1. Purpose of the report and policy context**

- 1.1 This report explains the additional work that has been undertaken following the decision of the Hove Station Neighbourhood Plan examiner to temporarily suspend the Neighbourhood Plan examination in May 2022.
- 1.2 The Neighbourhood Forum had to make amendments to the Basic Conditions Statement (BCS) to address concerns raised by the examiner. Following amendments, the Council has undertaken an additional 6-week 'supplementary' public consultation in accordance with the Neighbourhood Planning Regulations. It should be emphasized that these amendments only relate to the BCS which is a supporting document. The Neighbourhood Plan itself remains the same as previously submitted by the Forum in 2021.
- 1.3 Agreement is required to endorse the Council response to the supplementary Regulation 16 consultation (Appendix 1). Agreement is also sought for officers to submit the amended BCS and associated representations to the Neighbourhood Plan examiner so that the Neighbourhood Plan examination can resume.

### **2. Recommendations**

- 2.1 That Committee agrees the officer comments in Appendix 1 as the Council response to the supplementary Regulation 16 consultation on the amended Basic Conditions Statement submitted by Hove Station Neighbourhood Forum to support their Neighbourhood Plan; and
- 2.2 That Committee agrees that the amended Basic Conditions Statement and all representations received in response to the supplementary Regulation 16 consultation should be submitted to the Neighbourhood Plan examiner with the request that he resume the Neighbourhood Plan examination.

### **3. Context and background information**

- 3.1 Hove Station Neighbourhood Forum has been working for several years now to prepare a neighbourhood plan for its area. In early 2021, the Neighbourhood Forum formally submitted its draft Neighbourhood Plan to the Council along with other supporting documents. The Council then published the draft Neighbourhood Plan and supporting documents for public consultation in accordance with Regulation 16 of the Neighbourhood Planning Regulations over an 8-week period from 20 May to 15 July 2021.
- 3.2 At the September 2021 TECC Committee, Council comments in response to the Regulation 16 consultation were formally agreed and it was also agreed that officers should submit the draft Plan, supporting documents and all Regulation 16 representations for examination. Council officers then appointed a neighbourhood plan examiner and the Hove Station Neighbourhood Plan examination formally commenced on 24 January 2022.
- 3.3 The examination was expected to last 6 to 8 weeks. However, the examiner identified some concerns with the Basic Conditions Statement (BCS), one of the supporting documents to the Neighbourhood Plan. A BCS is required to set out how the neighbourhood plan meets various legal requirements and specified 'basic conditions' such as having regard to national planning policy and being in general conformity with the policies in the relevant local plan (i.e Brighton & Hove City Plan). In this case, the examiner considered that the Hove Station BCS provided insufficient detail on how the Neighbourhood Plan would conform with the City Plan and national policy and that it failed to include some of the key legal requirements.
- 3.4 The examiner determined to temporarily suspend the Neighbourhood Plan examination in May 2022 to enable the Neighbourhood Forum to make the necessary amendments to its BCS. The Forum would then re-submit the amended BCS to the Council which would then undertake a supplementary Regulation 16 consultation to allow consultees the opportunity to make any comments on the amended BCS. Following this, the amended BCS and any representations received would be submitted to the examiner and the Neighbourhood Plan examination would then resume.
- 3.5 Having made the necessary amendments to their BCS, the Forum re-submitted the revised document to the Council on 31 October 2022. The Council then undertook a 6-week public consultation from 3 November to 15 December 2022. Following advice from the Council's Senior Solicitor, the consultation was advertised as supplementary to the previous Regulation 16 consultation and focused only on the BCS as now amended. All the other Neighbourhood Plan documents remain exactly the same as published for consultation in May 2021. All representations previously submitted in response to the Regulation 16 consultation in 2021 (including the Council comments agreed at TECC Committee on 16 September 2021) will be considered by the Neighbourhood Plan examiner once the examination resumes, along with representations on the supplementary consultation.

- 3.6 In response to the supplementary consultation, officers have reviewed the amended BCS submitted by the Neighbourhood Forum and have indicated that they have no further comments to make on behalf of the Council (see Appendix 1). In addition, a total of 8 responses have been received from other consultees. All the responses are from statutory bodies and major infrastructure providers. None of the responses received have made substantive comments about the amended BCS. Two submissions are standard responses from the respective consultees and the other six state that the respective organisations do not wish to make further comments on the Neighbourhood Plan.
- 3.7 Although the scope of the supplementary Regulation 16 consultation has been very limited, it was considered important to publish the amended BCS for comment to ensure that the Neighbourhood Planning regulations have been fully met.

#### **4. Analysis and consideration of alternative options**

- 4.1 As explained above, the Neighbourhood Plan examination commenced in January 2022 but has been suspended to allow amendments to be made to the BCS and for subsequent public consultation on these. Now that these stages have been completed (as previously agreed with the examiner), both Council officers and the Neighbourhood Forum wish to restart the examination as soon as possible. The Neighbourhood Plan examiner has been contacted and has indicated that he will be available to resume the Hove Station Neighbourhood Plan examination from mid-February 2023.

#### **5. Community engagement and consultation**

- 5.1 Extensive community consultation was undertaken at earlier stages during the preparation of the Hove Station Neighbourhood Plan, as was set out in the report to TECC Committee on 16 September 2021. The subsequent amendments to the BCS and the supplementary Regulation 16 consultation are primarily a technical requirement requested by the examiner to ensure that the Neighbourhood Planning regulations have been fully met. As explained above, the supplementary public consultation has had a very limited scope with consultees only being invited to comment on the amendments to the BCS, rather than the Neighbourhood Plan itself.
- 5.2 To ensure fairness and no potential disadvantage to any interested party, Council officers have sought to ensure that the supplementary Regulation 16 consultation has been publicised in a manner broadly equivalent to the original Regulation 16 consultation in May-July 2021. The amended BCS and other Neighbourhood Plan documents were published on the Council website for a period of 6 weeks (as required by the Regulations). At the start of the consultation an email was sent to all consultees on the Planning Policy database (which includes the national statutory bodies and a wide range of local stakeholders) and all City councillors were informed. In addition, hard copies of all the relevant Neighbourhood Plan documents were made available at the Hove and Jubilee libraries.

## **6. Conclusion**

- 6.1 The suspension of the Hove Station Neighbourhood Plan examination was unexpected and the additional work over the past few months by the Neighbourhood Forum and Council was dictated by the Neighbourhood Plan examiner. The Forum and Council have now fulfilled these requirements and wish to move on with the Neighbourhood Plan examination as quickly as possible. The Committee is requested to agree the two recommendations so that next stages of the neighbourhood plan process can proceed.

## **7. Financial implications**

- 7.1 Following the submission of the draft Hove Station Neighbourhood Plan by the Neighbourhood Forum in 2021, the Council is now responsible for all subsequent stages of the neighbourhood plan process. This includes funding the costs of the neighbourhood plan examination and organising a local referendum. The Council is entitled to claim funding from central Government to help support this and has a specific budget set aside for neighbourhood planning. The additional cost to the Council of undertaking the supplementary Regulation 16 consultation has been negligible as it was mainly undertaken online through the Council's consultation portal with emails sent to consultees.

Name of finance officer consulted: John Lack    Date consulted: 21/12/2022

## **8. Legal implications**

- 8.1 There is no specific provision in the planning regulations setting out how further amendments can be made to the BCS once a Neighbourhood Plan has been submitted. The examiner's decision to suspend the Neighbourhood Plan examination to allow the Neighbourhood Forum the opportunity to amend their BCS was a pragmatic one, taking account of the Forum and Council's strong desire to continue with the Neighbourhood Plan examination rather than withdraw the Plan. Council officers also sought advice from the Council's Senior Solicitor on the scope of public consultation on the amended BCS and the process that should be pursued.
- 8.2 Following the Senior Solicitor's advice, the public consultation has been treated as supplementary to the earlier Regulation 16 consultation undertaken from May-July 2021. Although the consultation has had a very limited scope focusing on the amendments to the BCS, the process followed has been broadly equivalent to the original Regulation 16 consultation with all previous consultees being invited to submit any further representations. This is considered necessary to ensure fairness and avoid any potential disadvantage to any interested party.

Name of lawyer consulted: Katie Kam                      Date consulted: 13/12/2022

## **9. Equalities implications**

- 9.1 The Equality Act 2010 places a duty on all public authorities in the exercise of their functions to have regard to the need to eliminate discrimination, to advance equality of opportunity and to foster good relations between persons who have a “protected characteristic” and those who do not. This duty applies to the Council when taking formal decisions with regard to the neighbourhood plan process. The Neighbourhood Forum itself is not a ‘public authority’, however the Equality Act states that any person who is not a public authority but who exercises public functions must have due regard to the matters covered under the duty.
- 9.2 As explained in this report, the amendments to the BCS have been undertaken for technical reasons to demonstrate that the Neighbourhood Planning regulations have been met, and do not alter the Neighbourhood Plan itself. The supplementary Regulation 16 consultation undertaken by the Council was broadly equivalent to the original Regulation 16 consultation reported to TECC Committee on 16 September 2021. It was advertised to the same consultees as the earlier consultation. This included a wide range of community and voluntary groups on the Planning Policy database, including several groups representing people with protected characteristics or promoting equality issues such as disabled access

## **10. Sustainability implications**

- 10.1 There are no direct sustainability implications arising from the amendments to the BCS. However the amended document sets out more clearly than before how the draft Neighbourhood Plan supports national and local sustainability objectives by having regard to national planning policy and through being in conformity with policies in the City Plan 1 and 2.

## **Supporting Documentation**

### **1. Appendices**

1. Brighton & Hove Council officer comments in response to the Hove Station Neighbourhood Plan Supplementary Regulation 16 consultation.

### **2. Background documents**

1. The amended Basic Conditions Statement (October 2022) and all other Regulation 16 Consultation documents can be viewed on the Council website at [Hove Station Neighbourhood Plan \(brighton-hove.gov.uk\)](https://www.brighton-hove.gov.uk/hove-station-neighbourhood-plan)

