

Brighton & Hove City Council

Tourism, Equalities, Communities & Culture Committee

Agenda Item 65

Subject: Brighton Marina Neighbourhood Plan - Council Response to Regulation 14 Consultation

Date of meeting: 9 March 2023

Report of: Executive Director Economy, Environment and Culture

Contact Officer: Name: Carly Dockerill
Tel: 01273 292382
Email: carly.dockerill@brighton-hove.gov.uk

Ward(s) affected: Rottingdean

For general release

1. Purpose of the report and policy context

1.1 This report considers the Council's response to the Draft Brighton Marina Neighbourhood Plan that was published for consultation between 9 November 2022 and 4 January 2023 under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012.

1.2 The Draft Neighbourhood Plan has been prepared by the Brighton Marina Neighbourhood Forum and the Council is a statutory consultee. Once formally 'made', a neighbourhood plan becomes part of the city's statutory development plan and will therefore be used in the determination planning applications in the Brighton Marina Neighbourhood Area.

2. Recommendations

2.1 That the Committee endorse the officer comments set out in Appendix 1 which have been submitted to Brighton Marina Neighbourhood Forum as a draft response to its recent public consultation on the Draft Brighton Marina Neighbourhood Plan under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012.

3. Context and background information

Neighbourhood Plan making process

3.1 Brighton Marina has been working to prepare a neighbourhood plan for several years. Neighbourhood plans are required to be in general conformity with strategic policies in the City Plan. Once formally 'made', they become part of the statutory land use development plan with equivalent weight and legal status as the City Plan and the South Downs Local Plan.

3.2 The Council has a statutory duty to provide advice and assistance to Neighbourhood Forums that are preparing a neighbourhood plan. Planning

officers have had regular contact with Brighton Marina Neighbourhood Forum and have provided comments and planning advice throughout the preparation of the draft Neighbourhood Plan, via meetings and email correspondence. Officers recognise and support the hard work that has gone into preparing the draft neighbourhood plan.

- 3.3 The Neighbourhood Planning (General) Regulations 2012 set out a series of prescribed stages in the preparation of a neighbourhood plan. Regulation 14 requires that Neighbourhood Forum should undertake public consultation on its draft plan for a period of at least 6 weeks. This stage provides the main opportunity for the Council as a statutory consultee, to make comments on the Neighbourhood Plan in its draft (pre-submission) form. The comments made are intended to help ensure that the draft plan is in general conformity with the City Plan and that the policies will be effective when determining planning applications. The plan should also accord with council's priorities and aspirations for the Brighton Marina area.
- 3.4 Following the completion of the Regulation 14 consultation, the Brighton Marina Forum Council may make amendments to the draft Neighbourhood Plan. Planning officers will continue to assist the Forum and offer advice regarding any proposed changes. The next stage will be for the Forum to submit their draft Neighbourhood Plan to the Council. The Council itself then takes responsibility for the later stages of the neighbourhood plan process including Regulation 16 consultation and submission of the draft Plan for independent examination. The appointed examiner will consider whether the Plan meets the 'basic conditions' (these are summarised for information in Appendix 2). Following receipt of the examiners' report, the council must then decide what action to take in response to the examiner's recommendations and to decide whether the Plan should proceed to a local referendum.

Summary of the Brighton Marina Neighbourhood Plan and Council Officer Comments

- 3.5 The Brighton Marina Neighbourhood Plan area follows the boundaries of Brighton Marina itself (see Appendix 3). The focus of the Neighbourhood Plan is to ensure that future development at the Marina fulfils the objectives of supporting a high quality of life, sustainability, connectedness and being a highly valued asset. A place where residents, tourists and businesses all thrive.
- 3.6 Appendix 1 sets out the officer consultation comments collated from across different council services. The draft response includes an initial summary of general comments followed by a schedule of detailed comments cross-referenced to specific policies and paragraphs in the draft Neighbourhood Plan.
- 3.7 Council officers support and welcome the Neighbourhood Plan for the Brighton Marina Neighbourhood Area. Comments have been made to recommend that some policies are more concisely worded or clarified to assist applicants when preparing a planning application and assist planning officers who will be determining planning applications (these recommendations are set out in Appendix 1).

3.8 One of the basic condition tests that the Neighbourhood Plan must meet is that it is in general conformity with the strategic policies of the citywide local plan. Officer comments have raised a concern regarding the Neighbourhood Plan draft policy BM8 Community Facilities, which duplicates much of CPP2 policy DM9 Community Facilities. It also contains safeguarding allocations for the ASDA Pharmacy and the Master Mariner public house. In planning policy terms, it would be difficult to safeguard the pharmacy as this is an in-store facility, which is part of the wider ASDA supermarket. Whilst the identification of The Master Mariner Public House is supported in principle as an important community facility at the Marina, it is considered that its placement in draft policy BM8 would provide less protection than that afforded by the CPP2 policy DM10 Public Houses. The adopted local plan policy requires the demonstration of both a lack of viability and demonstration that the local community no longer needs the public house and that alternative provision meeting a similar need exists in the locality. Given that the policies of the Neighbourhood Plan, once made, would take precedence over non-strategic policies in the City Plan (e.g., CPP2 DM10), the protection of the Master Mariner pub could be weakened by the proposed Neighbourhood Plan policy.

4. Analysis and consideration of alternative options

4.1 The officer comments set out in Appendix 1 have already been submitted to the Brighton Marina Forum as a draft Council response to the Regulation 14 consultation. The comments represent the professional view of council officers. The Committee Members now have the option to agree the comments already submitted, to make amendments, or to add further comments.

5. Community engagement and consultation

5.1 It is the responsibility of Brighton Marina Neighborhood Forum as a designated neighbourhood planning body to undertake effective community engagement and to set this out in a consultation statement when they submit the Draft Neighbourhood Plan to the local authority.

5.2 At the Regulation 14 consultation stage, the Forum is required to publicise its draft Neighbourhood Plan for at least 6 weeks. They chose to undertake the consultation for 8 weeks from 9 November 2022 until 4 January 2023 to take account of the Christmas holiday period. The forum had both an electronic survey as well as a paper form to respond. The forum also held a drop-in session on 23 November for interested parties to drop in and discuss the plan. It is understood that the Forum publicised the consultation widely within the Brighton Marina area. In addition, the Council emailed over 700 contacts on their mailing list on behalf of the Forum to publicise the Neighbourhood Plan consultation. Contacts on the councils list include statutory consultees as well as civic and amenity groups, representatives from equalities groups, the Community & Voluntary Sector, developers /landowners/consultants, local businesses, the Environment Transport & Wildlife sector, as well as many individuals.

6. Conclusion

6.1 The Forum has reached an important stage in the preparation of its neighbourhood plan, and this is strongly supported. It is important for the council to make its detailed comments on the Draft Brighton Marina Neighbourhood Plan at this stage to ensure that the draft Plan is in general conformity with City Plan policies and is likely to meet the basic condition tests for a neighbourhood plan.

6.2 Although the council is not required to reach its final view until after the Plan has been independently examined, the consideration of the emerging Neighbourhood Plan at this stage by the TECC Committee provides an opportunity to highlight any issues of potential concern to the Council, particularly areas where the Neighbourhood Plan may not be in conformity with the City Plan and/or other Council policies. Such comments will assist the Neighbourhood Forum to address potential issues of conformity before the Plan is submitted to the Council and put forward for formal examination.

7. Financial implications

7.1 There are no financial implications arising at this stage of the neighbourhood plan process.

7.2 After completing the Regulation 14 consultation, the Neighbourhood Forum is required to submit the draft Neighbourhood Plan (including any amendments) to the Council, which will then be directly responsible for the later stages of the neighbourhood plan process including submitting the draft Plan for independent examination and organising a local referendum. The Council is entitled to funding from central Government to help support this and has a specific budget set aside for neighbourhood planning.

Name of finance officer consulted: John Lack Date consulted: 22/02/23

8. Legal implications

8.1 The Council as local planning authority is under a duty to give such advice or assistance to qualifying bodies (here, the Brighton Marina Neighbourhood Forum) as, in all the circumstances, they consider appropriate for the purpose of, or in connection with, facilitating the making of proposals for neighbourhood plans within their area. This report aims to fulfil part of that duty

Name of lawyer consulted: Katie Kam Date consulted 22/02/23

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 will apply to the Council when it takes formal decisions at the later stages of the neighbourhood plan process.

9.2 Council officers will request that the Forum (as the qualifying body responsible for preparing the Neighbourhood Plan) is satisfying its statutory duties by preparing an Equalities Impact Assessment to support the Neighbourhood Plan.

9.3 In broad terms it is understood that the Draft Neighbourhood Plan has been prepared through a lengthy and extensive process of local community consultation. Therefore, the policies and objectives set out in the Draft Plan should reflect the aspirations of local people and benefit the local community, including those with protected characteristics. However, it will be important for the Forum to set out how they have engaged with different sections of the local community and to consider the impacts of the proposed Plan policies in terms of promoting better community integration and advancing equality of opportunity.

10. Sustainability implications

10.1 The purpose of the planning system is to contribute to the achievement of sustainable development and one of the 'basic conditions' on which neighbourhood plans are examined is that they should contribute to this.

11. Other Implications

Public health implications:

11.1 One of the Neighbourhood Plan's objectives is to 'support strong, vibrant and healthy communities; fostering well-designed beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being'.

Supporting Documentation

1. Appendices

1. Brighton Marina Neighbourhood Plan (Regulation 14 consultation draft)
Brighton & Hove City Council response (draft version subject to agreement by TECC committee)
2. Summary of the Basic Conditions for Neighbourhood Plans
3. Map of Brighton Marina Neighbourhood Area

2. Background documents

Brighton Marina Neighbourhood Plan Regulation 14 Consultation Draft 2022
available to view on the Forum's website

https://www.bmnf.org.uk/files/ugd/f3b05a_e206ae44f67c4d96a667daa92963d14b.pdf

