

Subject:	Adoption of the Brighton & Hove City Plan Part 1		
Date of Meeting:	24 March 20016 17 March 2016 – Policy & Resources Committee		
Report of:	Acting Executive Director Environment, Development & Housing		
Contact Officer:	Name:	Helen Gregory, Principal Planning Officer	Tel: 29-2293
	Email:	Helen.gregory@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The purpose of this report is to recommend adoption of the Brighton & Hove City Plan Part 1 (including its annexes and the Policies Map) following the receipt of the Inspector's Report that concluded that subject to modifications the City Plan Part 1 is sound. Once adopted, the City Plan Part 1 will replace a number of policies in the 2005 Brighton & Hove Local Plan.
- 1.2 The City Plan Part 1 is the strategic land use development plan for Brighton & Hove (excluding the National Park). Adoption of the plan will help to ensure there is the right balance between homes and jobs in the city. It will help to deliver housing, economic growth, a high standard of design, regeneration of key sites and ensure effective infrastructure planning. This is particularly important in Brighton & Hove where there are constraints on outward growth (sea to the south and National Park to the north) and a significant housing need.
- 1.3 An adopted City Plan will ensure that decisions on new development are based on local priorities and that full weight can be given to locally adopted strategies and development policies. An adopted City Plan gives certainty and confidence to the development industry and will ensure development schemes progress in a properly planned and coordinated manner with the timely provision of necessary infrastructure.
- 1.4 This report also seeks approval of an updated study as a background evidence document to support the City Plan. A summary of this updated document is set out in Appendix 4 and copies have been placed in Members' Rooms.

2. RECOMMENDATIONS:

Policy and Resources Committee recommend to Council that:

- 2.1 The submitted Brighton & Hove City Plan Part One including its annexes and Policies Map, amended to include all the main modifications recommended by the planning inspector to make the plan sound, together with other minor

modifications already noted by 16 October 2014 Policy and Resources Committee be adopted and published (including any consequential and other appropriate alterations for the purposes of clarification, improved accuracy of meaning or typographical corrections, being necessary) in accordance with Section 23 of the *Planning and Compulsory Purchase Act 2004* and Regulation 26 of the *Town and Country Planning (Local Planning) (England) Regulations 2012*.

- 2.2 It notes that on adoption of the City Plan Part 1 a number of policies in the 2005 Brighton & Hove Local Plan will be superseded. These superseded policies are listed in Annex 4 of the City Plan Part 1 (a copy is placed in the Members' Rooms and available on the council's website);
- 2.3 That the 'Objectively Assessed Need for Housing: Brighton & Hove, June 2015' study is approved as supporting evidence for the City Plan and further Development Plan Documents (summarised in Appendix 4).

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The City Plan Part 1 sets the strategic development and land-use priorities to 2030 and a number of city wide development management policies. The City Plan is of fundamental importance to the city's future prosperity. It provides an imperative for delivering much needed affordable homes and for encouraging sustainable development and high quality design. The City Plan provides the strategic planning framework to underpin the work of the Greater Brighton Economic Board; a strong grounding for Duty to Co-operate work with adjoining authorities and the preparation of neighbourhood plans. Its policies will be material planning considerations in the determination of planning applications.

City Plan Examination

- 3.2 Following a six week consultation from February to March 2013 on the Proposed Submission document, the City Plan Part 1, its Annexes and Policy Map along with supporting documentation were submitted to the Secretary of State for Examination in June 2013.

Examination timeline

- **June 2013** – the Secretary of State appointed Inspector Laura Graham BSc MA MRTPI to examine the Plan for soundness (whether the City Plan is positively prepared, effective, justified and complies with national planning policy)
- **July 2013** - The Inspector took into account all written representations made on the City Plan Part 1 and held a number of public hearing sessions in October 2013 in order to test the plan and its evidence base. The key areas of discussion related to the Duty to Cooperate, housing land supply and viability issues.
- **October 2013** - Hearings in public held over 6 days at the Brighthelm Centre. The hearing sessions were attended by contributors from the development industry and also a number of residents and amenity groups.
- **13 December 2013** - Following the completion of the examination hearings, the Inspector published her 'Initial conclusions' on 13 December 2013. This included a request for the council to carry out more detailed analysis of the

potential for housing from the urban fringe. Further work was therefore undertaken to address the Inspector's concerns.

- **16 October 2014** - A number of proposed 'Main Modifications' to the City Plan Part 1 were considered at the Policy & Resources meeting on 16 October 2014. At this meeting these modifications were approved and consultation took place between November and December 2014. The 187 representations made on the Proposed Modifications were sent to the Inspector for her consideration in February 2015.
- **April 2015** - The Inspector published a number of further matters and issues which she invited respondents to address through matter statements. This led to a focused number of further modifications related to an updated objectively assessed housing need figure and to reflect changes in national planning policy.
- **June - August 2015** - consultation was undertaken on these further modifications. The 43 representations received were forwarded to the Inspector for her consideration.
- **September - November 2015** a final stage of consultation was undertaken on further changes to one policy (CP8 Sustainable Buildings) following further changes in Government policy. The 15 representations were forwarded to the Inspector for her consideration.
- **5 February 2016** - Inspector's Report Published.

The Inspector's Report

- 3.3 The Planning Inspector published her report 5 February 2016. The Inspector concludes that subject to the recommended main modifications the City Plan Part 1 is legally compliant and sound and provides an appropriate basis for the planning of the City. The Inspector also confirmed that the Duty to Cooperate requirements have been met.

Overall Spatial Vision and Development Area Proposals

- 3.4 The Inspector concludes that overall the Plan seeks to meet the city's development needs, so far as is compatible with preserving the natural and built heritage of the city and its surroundings. The Plan will deliver sustainable development, in accordance with the NPPF. The Sustainability Appraisal has adequately considered alternative options to meeting development needs.
- 3.5 The scale and mix of development in the eight Development Areas was found to be appropriate and deliverable and will assist in meeting the spatial objectives of the City Plan. The Inspector considers the benefits of the proposed development at Toad's Hole Valley to meet the city's need for housing outweigh the likely harm to the landscape and the setting of the National Park.

Housing Target and 5 Year Housing Land Supply

- 3.6 The Inspector has recognised the significant constraints the city faces in finding new land for development because of its location between the English Channel and the South Downs National Park and the limited supply of vacant, derelict or underused brownfield sites within the urban area. Whilst she accepts the City Plan's housing target of 13,200 new homes is a very significant shortfall against the need for new housing (30,120 new homes to 2030), she acknowledges the

city's housing target is expressed as a minimum. She considers this offers scope for the housing target to be increased when more detailed consideration of individual sites is undertaken through Part 2 of the City Plan. The Inspector considers the Plan, as proposed to be modified in relation to urban fringe housing potential, will strike the right balance between meeting the needs for new housing and retaining open space. Further, she considers the 2014 Urban Fringe Assessment study to be robust.

- 3.7 The NPPF requires local planning authorities to describe how they will maintain delivery of a five year supply of housing land to meet their housing target. The Inspector considers the council's 5 year supply trajectory of housing sites to be an ambitious but realistic expectation of housing delivery throughout the Plan period and therefore acceptable. She notes the lack of flexibility in the 5 year supply of housing sites and considers this to be significant weakness of the Plan. However, she considers the adoption of the City Plan Part 1 will give greater certainty for the allocations contained within the Plan and will also facilitate allocation of additional housing sites in City Plan Part 2.

Other Matters Considered by the Inspector

- 3.8 **Employment** - the Inspector recognises the city acts as an important economic growth hub for the wider sub-region and notes that the council has not sought to accommodate all identified employment needs in full. In light of the findings of the Employment Land Study 2012 she considers that the approach to safeguarding employment land is justified with the modifications to policies providing further flexibility.
- 3.9 **Brighton Marina** - whilst she did not support the council's designation of Brighton Marina as a District Centre, the Inspector considered the rest of the hierarchy of shopping centres appropriate and supported the council's evidence and approach to setting a local threshold for requiring a retail impact assessment. Given the limited opportunities to increase the supply of new housing the Inspector considered it important that Brighton Marina make as significant a contribution to the provision of new housing as possible. She considered there was convincing evidence that a cliff height restriction would threaten the viability of development and that a design-led approach would be preferable and these changes are reflected in the main modifications.
- 3.10 **Other Housing Needs** - the Inspector supported the Affordable Housing Policy given the considerable level of need in the city and considers the Plan strikes an acceptable balance between the need for student accommodation and general housing needs. The plan has not met in full the government's requirements to identify a five year supply of deliverable sites and sites/ broad locations in the later years of the Plan period to meet the identified need for gypsies and traveller permanent pitches. However the Inspector notes the council's commitment to address this and considers this issue can be resolved more quickly through the adoption of City Plan Part 1 which will enable the council to move forward with Part 2 of the Plan and if necessary an early review of the Policy.
- 3.11 **Sustainable Buildings** - with regard to the City Plan Policy on Sustainable Buildings (CP8), the Inspector accepts that there are local circumstances to justify retaining the policy albeit in a significantly modified form. Specific

standards relating to energy performance and higher water efficiency standards have been retained. The modifications to this policy also addressed her concerns with development viability.

Main Modifications to the City Plan Part 1

3.12 Appended to the Inspector's Report is a schedule of modifications she considers necessary to make the Plan sound (this is attached at appendix 2). Those main modifications that relate to the City Plan annexes have been placed in the Members' Rooms and are available on the council's website: <https://www.brighton-hove.gov.uk/content/planning/planning-policy/city-plan-part-one-examination>).

3.13 The changes shown are either underlined (additions) or struck through text (deletions). None of the Main Modifications are unexpected:

- they relate to matters discussed at the examination hearing sessions;
- arose from the Inspector's Initial Conclusions Letter (December 2013) which led to further work and main modifications consultation agreed by Policy & Resources Committee 16 October 2014;
- they were required to bring a number of policies in conformance with changed national policies and were consulted upon over the summer and autumn 2015;
- The majority of these modifications remain as consulted upon, only one new main modification has been added which relates to the inclusion of the list of superseded Local Plan policies as an annex to the Plan, which is necessary for legal compliance.

3.14 The council is also able to make additional minor modifications to the Plan where these do not materially affect the policies. These have largely been made in response to submission stage consultation responses and are not considered to represent a major shift in policy and include changes for clarification, consistency of terminology, correcting errors, and consequential amendments to reflect the Main Modifications. These were noted at the 16 October 2014 Policy & Resources Committee and were subject to formal consultation as part of the Modifications consultation but they are not included in the Inspector's schedule of main modifications as she considered they were not needed to make the Plan sound or legally compliant. These are included at Appendix 3 of the report.

3.15 For information, the Brighton & Hove City Plan Part 1 incorporating the Inspector's modification and the other minor modifications is available to view electronically on the council's website: <https://www.brighton-hove.gov.uk/content/planning/planning-policy/city-plan> including the Annexes (Annex 1 Implementation and Monitoring Plan, Annex 2 Infrastructure Delivery Plan and Annex 3 Housing Implementing Strategy, Annex 4 Local Plan Policies to be replaced by the City Plan Part 1) and the modified Policies Map. Hard copies of each of these documents have been placed in the Members' Rooms.

Next stage

3.16 Following adoption (which takes effect immediately on the resolution of Council), the council must make the City Plan Part 1 (and annexes) publicly available as soon as reasonably practicable. This includes the Policies Map, along with an

'adoption statement' and the final Sustainability Appraisal report and they must be published and made available for inspection. Parties involved in the process will also be notified.

- 3.17 There will be a period of six weeks for legal challenge during which any person aggrieved by the adoption of the City Plan Part 1 could make an application to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004 on the grounds that the document is not within the appropriate powers, or that a procedural requirement has not been complied with. The adopted City Plan Part 1 would remain in effect pending the outcome of any challenge unless the Court grants an interim order suspending its operation until the final determination of the challenge.
- 3.18 The adopted City Plan Part 1 will have the status as the Development Plan immediately following adoption. All decisions on applications and appeals (notwithstanding when an application or appeal was submitted) will need to be in accordance with the adopted Development Plan, unless material considerations indicate otherwise. The City Plan Part 1, once adopted, will replace a number of saved Brighton & Hove Local Plan policies (2005) and this is clarified in Annex 4 to the Plan.

Updated Supporting Evidence

- 3.19 During the examination, an update to the Objectively Assessed Housing Need study was required given the publication of updated household projections by the DCLG in February 2015. The latest demographic projections expect stronger population growth and household formation over the plan period to 2030. Following interrogation of the demographic projections for Brighton & Hove, taking into account affordable housing need and market signals, the study advises that the objectively assessed housing need figure should be 30,120 homes. This is reflected in main modifications to the City Plan. A summary of the study is attached at Appendix 4 to this report.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The City Plan Part 1 has been found to be sound and legally compliant subject to the main modifications required by the Inspector. As provided by s23(4) of the Planning and Compulsory Purchase Act 2004 the council cannot adopt a City Plan that is materially different from that recommended by the Planning Inspector; the Council cannot choose to accept some of the modifications and not others. The only options available to the council at this stage are to either adopt the Plan in its entirety, with all of the Main Modifications required by the Inspector, or to not adopt the Plan at all.
- 4.2 A considerable amount of resources have been expended on the preparation and examination of the Plan to date and to not adopt the Plan at this stage would risk this being wasted. As the council is expected to have an up-to-date, National Planning Policy Framework (NPPF) compliant, sound local plan in place, if this Plan is not adopted the process will have to be started again, either in its entirety or on focused elements. Each of the legal stages of its preparation, including submission and examination would need to be undertaken. The government is

proposing to introduce a target that all Local Plan are in place by April 2017 otherwise it will intervene.

- 4.3 The recommendations in this report comply with the statutory requirements set out in The Planning and Compulsory Purchase Act 2004 and regulations made under that Act. Regard has been taken account of the NPPF and the National Planning Practice Guidance.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The City Plan Part One has been subject to a number of stages of public engagement that have significantly helped to shape the Plan. There has been close working with the city's many Partnerships including the Economic Partnership, the Strategic Housing Partnership, the City Sustainability Partnership and Brighton & Hove Connected in preparing the document.
- 5.2 Formal consultation was also undertaken during the examination stage of the plan relating to the proposed modifications, further proposed modifications and proposed further modifications.

6. CONCLUSION

- 6.1 The City Plan Part 1 has been found to be sound and legally compliant subject to the main modifications required by the Inspector. An adopted City Plan will ensure that decisions on new development are based on local priorities and that full weight can be given to locally adopted strategies and development policies.
- 6.2 An adopted City Plan gives certainty and confidence to the development industry and will help to deliver investment in the city. The adoption of the plan will result in the council being able to demonstrate a five-year housing land supply and so be in a stronger position to safeguard strategic employment sites, protect open spaces and resist inappropriate development in the urban fringe. With a clear and up to date policy framework in place, local decision making can ensure timely development and secure the most appropriate uses on key regeneration sites such as Preston Barracks and Black Rock site. At a time when the development industry is recovering from the recession, the City Plan will be critical for guiding and encouraging the investment that developers and the construction industry are seeking to bring to the city and secure the infrastructure needed (e.g. schools and health facilities).
- 6.3 An adopted City Plan gives greater certainty for the Council and all stakeholders to see development schemes progressed in a properly planned and coordinated manner. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise, so an up to date Plan is critical for development management decision making. Without an up-to-date Plan, all planning decisions will be based on the guidance in the National Planning Policy Framework (NPPF), and local priorities will only be afforded limited weight.
- 6.4 Adoption of the City Plan Part 1 allows work to progress on the preparation of Part 2 of the City Plan which will contain the remaining site allocations and a

streamlined number of development management policies. This will ensure that the city has a clear, up-to-date local policy framework to guide development management decision making.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The costs associated with the examination and the process of adopting the City Plan Part 1 are funded from existing Planning Strategy and Projects revenue budgets and one-off revenue funding allocations made available for public examination costs.

Finance Officer Consulted: Sue Chapman

Date: 12/02/16

Legal Implications:

- 7.2 The statutory background to adoption of the City Plan Part One is set out in the body of the report. The report also advises as to the legal consequences of not adopting the Plan.

It is not considered that any adverse human rights implications arise from the report.

Lawyer Consulted: Hilary Woodward

Date: 09/02/16

Equalities Implications:

- 7.3 A Health and Equalities Impact Assessment was undertaken on the submission City Plan and the proposed main modifications. Overall the HEQIA concluded that the City Plan, as modified, presents policies that are co-ordinated to address health and well-being outcomes throughout the city.

Sustainability Implications:

- 7.4 A key requirement of the NPPF is to achieve sustainable development. A Sustainability Appraisal (SA), incorporating the requirements of Strategic Environmental Assessment (SEA) has been carried out on the City Plan Part 1 and the proposed modifications. The Inspector concludes that overall the Plan seeks to meet development needs, so far as is compatible with preserving the natural and built heritage of the city and the surroundings. The Plan will deliver sustainable development, in accordance with the NPPF. The Sustainability Appraisal has adequately considered alternative options to meeting development needs.

Any Other Significant Implications:

Crime & Disorder Implications:

- 7.5 The City Plan Part 1 addresses crime and disorder through development area proposals, special area policies and a number of citywide policies.

Risk and Opportunity Management Implications:

- 7.6 The City Plan Part 1 has been found to be sound and legally compliant subject to the main modifications required by the Inspector. There are considered to be no significant risks associated with adoption of the City Plan Part 1. Conversely, there would be significant risks associated with a decision not to adopt and this is considered in section 4 of the Report.

Public Health Implications:

- 7.7 The City Plan Part 1 addresses health inequalities and the healthy planning agenda through a city wide Health City policy and where appropriate, in a number of other policy areas. The City Plan was subject to an Equality and Health Impact Assessment.

Corporate / Citywide Implications:

- 7.8 The City Plan will be a significant tool in steering development in the city for the next 20 years. It will contribute to delivering the Corporate Plan, plans and strategies across the city council directorates, along with the Sustainable Community Strategy. It will also help to deliver city-wide strategies of public and voluntary sector partners and promote investment and economic growth.

SUPPORTING DOCUMENTATION

Appendices:

1. Inspectors Report
2. Appendix to Inspectors Report – Main Modifications
3. Schedule of Other Modifications
4. Summary of Update Study - Objectively Assessed Need for Housing: Brighton & Hove, June 2015, GL Hearn

Supporting Documents

1. City Plan Part 1 as modified
2. City Plan Part 1 annexes as modified

Documents in Members' Rooms

1. City Plan Part 1 Annexes showing Main Modifications
2. City Plan Part 1 Policies Map as modified
3. Objectively Assessed Need for Housing: Brighton & Hove, June 2015, GL Hearn

Background Documents

1. Submission City Plan - 31 January 2013 Policy & Resources Committee
2. Submission City Plan Part One
3. City Plan Part One - Changes Arising From Examination Process - 16 October 2014 Policy & Resources Committee