



**Brighton & Hove  
City Council**

**Proposed Submission City Plan Part 2  
Brighton & Hove Development Plan April  
2020**

**Hearing Session: 2 November 2021 (AM)**

**Statement in Response to Matter 1:  
Legal and procedural requirements**

**BY  
BRIGHTON & HOVE CITY COUNCIL**

## List of Abbreviations

AMR - Authority Monitoring Report  
CPP1 - City Plan Part 1  
CPP2 – City Plan Part 2  
DPD - Development Plan Document  
DTC - Duty to Cooperate  
HEQIA – Health & Equalities Impact Assessment  
HRA – Habitats Regulation Assessment  
JAAP – Joint Area Action Plan (Shoreham Harbour)  
LDS - Local Development Scheme  
LPAs - Local Planning Authorities  
LDS – Local Development Scheme  
LSS - Local Strategic Statement  
NPPF - National Planning Policy Framework  
NPPG – National Planning Policy Guidance  
SA - Sustainability Appraisal  
SAC – Special Areas of Conservation  
SCI – Statement of Community Involvement  
SEA – Strategic Environmental Assessment  
SOCG – Statement of Common Ground  
SDNP – South Downs National Park  
SDNPA – South Downs National Park Authority

## Issue 1 Duty to Cooperate?

**Q1. What strategic, cross-boundary matters have arisen through the preparation of the Plan and what cooperation took place to resolve them? (defined as matters having a significant effect on at least two planning areas)<sup>1</sup> (See Initial Question 13 - 16 and the Council's response)**

1. As set out in the Council's response to Initial Question 15, most strategic, cross boundary planning matters were addressed through the preparation and examination of the CPP1 and do not fall to be reopened as part of this Plan (see also SD10 Duty to Cooperate Paper, paragraphs 1.4 – 1.5).
2. However, because the Duty to Cooperate (DTC) is an ongoing activity, the council has prepared and updated a DTC Statement (SD10, May 2021) setting out how the council has continued to engage with neighbouring authorities and other groups / bodies throughout the preparation of the submitted Plan. This includes those strategic planning matters (e.g. housing and employment land provision) that go beyond the scope of this Plan.
3. With regard to the preparation of CPP2, the DTC has been specifically engaged in relation to:
  - a) The provision to be made for gypsy and traveller accommodation as required by CPP1 Policy CP22 (See SD10, paragraphs 3.9 – 3.19); and
  - b) Consideration of cross-border issues of the Ashdown Forest SAC (see SD10 paragraphs 3.20-3.26).
4. In relation to the provision for gypsy and traveller accommodation, SD10 details that the Council:
  - Undertook a joint site search exercise with the South Downs National Park Authority (SDNPA) in 2017 (ED05 – Gypsy and Traveller Site Assessments, BHCC and SDNPA) to look for suitable sites to accommodate assessed need (at that time for 6 pitches to be provided by 2019);
  - Commissioned an independent review of the robustness of the site search process and assessment of one shortlisted site<sup>2</sup> (ED06 – Brighton & Hove Detailed Traveller Site Assessment, 2017);
  - Contacted all neighbouring local planning authorities at the Regulation 18 Draft Plan stage to establish if the unmet need could be accommodated in neighbouring areas (SD10 Appendix 6)
  - Commissioned an updated Gypsy and Traveller Accommodation Assessment with the SDNPA (ED04 –BHCC and SDNPA, 2019) to take account of the government's revised traveller definition and to cover the period 2019-2034. This concluded there is no need for

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<sup>1</sup> S33A(4) Planning and Compulsory Purchase Act 2004

<sup>2</sup> The site was subsequently found to be unavailable for development.

additional pitches for need arising within Brighton & Hove (outside of the SDNPA) for traveller households that met the planning definition.

- Agreed a Statement of Common Ground (SOCG) with the SDNPA to continue to work jointly to seek to address the need arising in the National Park that falls within the administrative area of Brighton & Hove (SD10 Appendix 5).
  - Agreed a SOCG with all neighbouring authorities regarding their capacity to meet unmet need arising within the SDNPA area of Brighton & Hove (SD10, Appendix 5).
5. In relation to cross-boundary issues of the Ashdown Forest SAC, consultation with Natural England agreed the findings of HRA studies which concluded that planned growth in Brighton & Hove will not adversely impact the integrity of the SAC either on its own or 'in combination with other plans and projects (SD10, Section 3 and SD08c).

**Q2. Has the Council maximised the effectiveness of the Plan by engaging actively and on an ongoing basis with prescribed bodies on the strategic matters relevant to this Plan and what form has it taken?**

6. Yes, as described above and in BHCC01 Council's response to the Inspector's initial questions (Initial Question 13 - 16 and the Council's response). Further detail on the nature of engagement is set out in SD10 (Section 4 and 5; Appendix 1 and 2).

**Q.3 In overall terms, has the Duty to Cooperate under sections 22(5)(c) and 33A of the Planning and Compulsory Purchase Act 2004 (2004 Act) and Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations (2012) (2012 Regulations) been complied with, having regard to advice contained in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (the PPG)?**

7. Yes, the Council is satisfied that in preparing the CPP2 it has complied with the DTC requirements set out in legislation and advice in the NPPF and PPG.

**Issue 2 Plan preparation and public consultation**

**Q1. Has the Plan been prepared in accordance with the published Local Development Scheme (LDS)<sup>3</sup> in terms of its form, scope and timing? (See Initial Question 18 and the Council's response)**

8. Yes, the CPP2 has been prepared in accordance with CD11 Local Development Scheme (LDS) 2020-2023 in terms of its role, subject, coverage and in broad alignment with its timing<sup>4</sup>. The LDS has been kept

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<sup>3</sup> CD11

<sup>4</sup> CD11 page 4

up to date during the plan-making process with the November 2020 version reflecting Covid-19 pandemic delays to the Regulation 19 consultation. The government's national lockdown in early 2021 also impacted council staff capacity which resulted in a three month delay in Submission. All consultees were informed of the minor delay through a May 2021 newsletter and website update.

**Q2. Has public consultation been carried out in accordance with the Council's Statement of Community Involvement (2015 and 2020)<sup>5</sup>, and the requirements of the 2004 Act and 2012 Regulations?**

9. Yes, public consultation has been carried out in accordance with the Council's Statement of Community Involvement (SCI) (2015 and 2020), and the requirements of the 2004 Act and 2012 Regulations.
10. Preparation of CPP2 involved 3 separate phases of public consultation. Details of the Regulation 18 Issues and Options Scoping (2016) and draft CPP2 (2018) consultation are summarised in SD09ai Regulation 20 Statement of Consultation May 2021 (Section 1.3 and Table 1). More detail is presented in the separate Consultation Statements published for each stage of consultation<sup>6</sup>. This includes who was invited to make representations, how consultation was carried out, the number of representations received and how the issues raised in the representations were considered in formulating draft policies/ proposed submission plan along with copies of the representations<sup>7</sup>.
11. The Scoping stage consultation (30 June – 22 September 2016) allowed for views on the issues the Plan ought to address, possible policy options and a 'call for site exercise'. The Draft CPP2 consultation (5 July - 13 September 2018) invited comments on the detailed policy wording and proposed site allocations before the plan was finalised. These stages of plan preparation provided the opportunity for residents, local groups, stakeholders and statutory consultees to influence the shape of the plan and its policies and involved focused workshops and stakeholder events in accordance with the SCI.
12. The Regulation 19 consultation on the Proposed Submission CPP2 (7 September – 30 October 2020) invited formal representations on the soundness of the Plan and legal compliance matters. A summary of main issues is set out in Appendix 9 of SD09ai and copies of the representations were collated and submitted to the government<sup>8</sup>.
13. A temporary addendum to the SCI published 23 October 2020 reflected the updated NPPG (13 May 2020) relating to the availability of documents

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<sup>5</sup> CD12a&b

<sup>6</sup> CD22a Statement of Consultation for CPP2 Scoping Consultation; CD18a Statement of Consultation for Draft CPP2.

<sup>7</sup> CD18b Appendix 4 and Appendix 6 of CD22a

<sup>8</sup> SD09bi-bxiii Appendix 10 and SD09d Appendix 11

due to the Covid-19 restrictions. The council was unable to comply with the SCI 2015 requirements to place paper copies on deposit due to Covid-19 restrictions at the Regulation 19 consultation stage. Changes to the way the documents were made available were in accordance with the 2020 amended regulations<sup>9</sup>. All reasonably practicable means were considered to ensure effective community engagement in particular with those without internet access as detailed in SD09ai section 2.3.

### **Issue 3 Sustainability Appraisal (SA)**

**Q1. Has the Plan been subject to a SA<sup>10</sup> and have the requirements for Strategic Environmental Assessment been met? Is it evident that reasonable alternatives have been considered and how the SA has influenced the Plan and dealt with mitigation measures? Are there any representations on the SA itself? (See also Initial Question 6 and the Council’s response)**

14. A series of iterative appraisals have been undertaken following best practice guidance, as set out in the PPG, and incorporating the SA requirements of the Planning and Compulsory Purchase Act 2004 and the SEA requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended). A combined SA/SEA has been produced, published and consulted upon alongside each stage of plan preparation, as set out in the following table.

<b>Stage of document preparation</b>	<b>Type/Date SA report published</b>
CPP2 Scoping Paper	SA Scoping Report, June 2016 (CD21a&b)
Draft CPP2	SA, June 2018 (CD17a&b)
Proposed Submission CPP2	SA, April 2020 (SD05a&b)

15. SD06a&b (SA Addendum) has been prepared to assess the impacts of the proposed main and minor modifications, set out in SD02 (Schedule of Modifications, now superseded). This is for the purpose of the examination only and has not been subject to consultation. Following the examination hearings, it is envisaged SD06a&b will be superseded by an Addendum which is then consulted upon to address all final Main and Minor Modifications, including any that arise during the examination process.

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<sup>9</sup> The Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 15 July 2020

<sup>10</sup> SD05a&b SD06a&b

16. BHCC is confident the SEA requirements have been met. All reports were produced in accordance with Section 12 and Schedule 2 of the SEA Regulations. With the exception of SD06a&b, the SA has been subject to consultation alongside the Plan, in accordance with Section 13 of the SEA Regulations. Tables 1.1. and 1.2 in CD17a (SA Report, 2018) and SD05a (SA Report, 2020) set out the SEA requirements and relevant stages of SA. Each main section of CD17a and SD05a includes an introduction which clearly states the stage of the SA process it comprises and allows for cross-referencing with tables 1.1. and 1.2. Table 1.1 within SD06a sets out the SEA regulatory requirements and signposts to the relevant section of SD05a or SD06a which undertakes the requirements, providing a clearer representation of how all the SEA requirements have been met.
17. SD05a, Section 5, summarises the findings of the options, draft policy and final policy assessment undertaken for each policy. Full options assessments are presented in CD17a, Appendix D. SD05a, Section 6, describes the process in relation to site allocations. SD05a, Appendix D, also summarises the options considered and preferred approach. SD05b (NTS, 2020), Section 7, summarises the overall approach for assessing alternatives for Development Management and Site Allocation policies.
18. SD05a, Section 9, describes how the SA has influenced the plan at both Draft and Proposed Submission stages and summarises how policies have been amended to reflect SA findings. SD05a, Section 6, describes how the SA has influenced the site allocation process.
19. Requirements for mitigation have been identified through the SA policy assessments undertaken at each stage. Mitigation requirements for each policy are described in SD05a, Appendix G. SD05a, Section 7, summarises mitigation measures for the whole plan.
20. Representations have been submitted on the SA at each stage of consultation. Representations submitted on CD21a&b (Scoping Report) are summarised within CD17a, Appendix C. Representations submitted on CD17a are summarised within SD05a, Appendix C. Representations submitted on SD05a are summarised within SD09a (Regulation 20 Consultation Statement), Appendix 9 (p.240-242).

#### **Issue 4 Habitats Regulation Assessment (HRA)**

**Q1. Have the requirements for appropriate assessment under the Habitats Regulations been met? Have the results of the HRA<sup>11</sup> been carried forward in the Plan? (See Initial Question 6 and the Council's response)**

21. Yes, as indicated in the BHCC01 Council response to Initial Question 6, HRA was carried out prior to publication of the Plan at the Proposed

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<sup>11</sup> SD08a&b

Submission (Regulation 19) stage. The SD08a HRA Screening Report, supplemented by the SD08b Air Quality Impact Assessment of Traffic related Effects on Ashdown Forest concluded that the planned growth through the proposed CPP2 policies and site allocations will not result in an adverse effect on the integrity of Ashdown Forest SAC either alone or 'in combination' with other plans and projects'. Natural England was formally consulted on the HRA work and agreed these findings (SD08c).

**Issue 5 Purpose of the Plan and consistency with City Plan Part One Brighton and Hove City Council's Development Plan Document (March 2016) (City Plan Part 1)**

**Q1. Is the intention and purpose of the Plan and its relationships with other plans clear? Is the Plan consistent with the City Plan Part 1? (See Initial Question 17 and the Council's response)**

22. Yes, the intention and purpose of the Plan and its relationships with other plans is clear. As described in the LDS, the introduction to CPP2 and in the Council's response to Inspectors Initial Questions (Question 17) the CPP2 supports the delivery of the CPP1 strategy for accommodating growth through additional strategic site allocations SSA1-SSA7, through housing and mixed use allocations H1 – H3 and E1 and complementing the strategic policies by detailed development management policies (DM1 – DM46). BHCC01, Appendix 2 sets out the requirements of CPP2 in order to fulfil its purpose and meet the requirements of CPP1. Additional modifications are proposed to update CPP2 Section 1.

**Q2. Is its relationship with the Joint Area Action Plan (JAAP) for Shoreham Harbour and respective policies maps clear?**

23. Yes, the JAAP (CD09) forms part of the development plan for Adur, Brighton & Hove and West Sussex County Council and should be read in conjunction with the Adur Local Plan (2017), CPP1 and CPP2. This relationship is described in CPP1, paragraph 1.4, shown in Figure 1 and summarised in CPP2, paragraph 1.9 with factual updates to reflect its adoption included in BHCC02 Revised Schedule of Revised Modifications (AM01).

24. CPP1 Table 2, page 32 and Policy DA8 Shoreham Harbour indicate the role of the Development Area in meeting the city's housing target and employment needs. CPP2 Policy H1 at Tables 6 and 7 include the adopted JAAP housing allocations within the City Plan area. The tables cross reference the JAAP site allocations and policy reference numbers. Where a housing or mixed use housing site is located within the JAAP area, more detailed policy to guide and assess development proposals is set out in CD09.



25. In order to comply with legislation, following the adoption of Shoreham Harbour JAAP (24 October 2019) the council's adopted Policies Map (CD05 - 07) was updated in 2020.
26. SD03a Proposed changes to the Adopted Policies Map (Brighton & Hove CPP1 and Shoreham Harbour JAAP) to show the Proposed Submission CPP2 policies – West 2020 map was updated at the CPP2 submission stage in 2020 to show the JAAP designations and allocations as shown on the CD05-07.

**Q3. Does the Plan set out an appropriate framework and allow an appropriate role for neighbourhood plans, having regard to the current progress made in relation to their preparation in the City? (See Initial Question 26 and the Council's response)**

27. Yes. CPP2 allocates sites for development and sets out policies to guide decision making across the city, whilst leaving sufficient scope for neighbourhood groups to develop more area specific policies in Neighbourhood Plans.
28. Explicit links with neighbourhood plans are identified in policies DM38 (para 2.295) and DM45 (para 2.368) providing scope for neighbourhood plans to designate their own Local Green Spaces or Community Energy facilities. SSA4 recognises that proposed development should meet the policy requirements of a future Hove Station Neighbourhood Plan.
29. Neighbourhood plans could include policies that cover many other aspects pertinent to the neighbourhood area, such as design standards, transport, and accessibility. There is also scope for neighbourhood plans to promote more development than set out in the City Plan through allocations for land uses such as housing.

**Q4. Do the proposed changes to the policies map correctly illustrate geographically the application of the policies in the Plan?**

30. Yes, the proposed changes to the policies map are shown on:
  - SD03a - proposed changes to the policies map - West - April 2020
  - SD03b - proposed changes to the policies map - Central - April 2020
  - SD03c - proposed changes to the policies map - East - April 2020
31. CPP2 Appendix 6, Tables 1 and 2 describe the changes that are required to be made to the adopted CPP1 policies map to illustrate geographically the application of the CPP2 policies.
32. Changes that are required as a result of the council's proposed main modifications are set out in Table 4 of BHCC02 Revised Schedule of Main Modifications (and updated in BHCC05).

## Issue 5 Other matters

### **Q1. Does the Plan contain policies designed to secure that the development and use of land in the City contributes to the mitigation of, and adaptation to, climate change? How does it interact with the City Plan Part 1 on this matter?**

33. Yes. The CPP2 conforms with the adopted CPP1 which takes a proactive approach to mitigate climate change and adapting to its effects. This is reflected in the spatial strategy for accommodating sustainable growth to a suite of city wide strategic policies including: CP8 Sustainable Buildings; CP9 Sustainable Transport, CP10 Biodiversity, CP11 Flood Risk. These policies are supported by the following more detailed development management policies including:

DM22 Landscape Design and Trees  
DM37 Green Infrastructure and Nature Conservation  
DM39 Development on the Seafront  
DM42 Protecting the Water Environment  
DM44 Energy Efficiency and Renewables  
DM43 Sustainable Drainage

### **Q2. Will the Plan help to advance equality of opportunity between people who share a ‘protected characteristic’ as defined in the Equality Act 2010 and those that do not share it and further the aims of the Act?**

34. A combined Health & Equalities Impact Assessment (HEQIA) was undertaken at various stages of plan preparation to assess and identify the health and equalities impacts of CPP2. SD07a (HEQIA 2018), Section 5, concludes that CPP2 has largely neutral or positive benefits for health and equalities. Certain policies were found to be particularly beneficial for those with certain protected characteristics. Overall, CPP2 was found to be inherently inclusive of a wide population demographic, including those with protected characteristics, thus helping to advance equality of opportunity for all.

### **Q3. Does the Plan accord with national policy? Mindful of the Council’s suggested Main Modifications (BHCC02), would the Plan reflect the changes introduced in the current NPPF (July 2021)?**

35. Yes. The council has considered the potential implications of the revised NPPF (2021). This consideration is set out in full in BHCC01 – Council response to Inspectors Initial Questions at Appendix 1. Modifications are proposed in the revised schedule of Proposed Modifications (BHCC02) and further additional main modifications are set out in the council’s Matter Statements in response to INSP03 Matters Issues and Questions to ensure the CPP2 contains updated references to the 2021 NPPF. These will be included in a consolidated schedule of modifications (BHCC04). With these changes the CPP2 will remain in accordance with the NPPF.