

Compiled by the Planning Policy, Projects & Heritage Team  
at Brighton & Hove City Council

# **Proposed Submission City Plan Part 2 Examination**

**BHCC 52 ci - Appendix 11  
copies of representations by  
Plan (MM) order May 2022**

**(redacted version)**

## **Appendix 11**

### **Copies of Representations in Plan Order**

**Respondent Number** 001

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** N/A

**On behalf of** N/A

**Main Modification Number** MM08

**CPP2 reference** DM10, pages 43-44

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** No

**Unsound because**

- (1) Not Positively Prepared
- (2) Not Justified
- (3) Not Effective

**Reason for Supporting or Objecting**

The modification states that planning permission will not be granted for development that will result in the loss of a pub unless the business owner can show that the pub is no longer viable. The supporting text states that the business owner must first attempt a range of initiatives to drum up business, including live music and providing guest accommodation. Two problems with this.

- 1) DM10 paints a picture of pubs as community assets, citing The Bevy as an example. But The Bevy is exceptional. Most pubs are businesses, run for profit by breweries and other large companies, many of which own hundreds of pubs. The description of pubs as community assets provides opinion but no hard evidence of pubs in general providing a community benefit. It is hard to see how pubs whose customers are not drawn from the immediate vicinity are community assets. It is not appropriate for BHCC to dictate how private or publicly listed companies run their businesses and use their assets. It is highly unlikely that BHCC officers have the time or skillset required to comment on whether a business is 'viable' or to offer advice on how to make it viable.
- 2) The supporting evidence cites the CAMRA public house viability test. This advocates assessing pubs on a case-by-case basis, taking account of a pub's location, structure and target market. DM10 does not do this. DM10 makes no allowance for the location of the pubs or the nature of their surroundings and structure. Struggling pubs will be compelled to lay on live entertainment several nights a week, in spite of being surrounded by domestic dwellings and in historic (sometimes listed) buildings that are impossible to sound insulate. That is, in effect, a change of use, from pub to performance venue.

My own local pub (a listed building in a conservation area) is a prime example. It lays on loud live entertainment seven nights a week. Far from being a community asset, it bans locals once a week in order to hand the pub over to an entertainment venture that operates an 'all you can drink' ticket option, in contravention of Home Office safe drinking guidelines. It has converted an upper story of the pub's premises to an airbnb flat aimed at stag and hen parties. Neighbours who want to move away are finding it

impossible to find buyers for homes they have happily occupied for decades. All of this will be ratified by DM10, leaving residents with no power to object.

DM10 contradicts other parts of the City Plan. If any other business or property owner wished to apply for change of use, they would have to comply with DM20 (Protection of Amenity) and DM40, which states that 'noise and vibration...can have a serious impact on residential amenity and quality of life'. But DM10 demands that pubs impose such nuisance on their local environment.

### **Changes Necessary**

Ensure that DM10 does not result in effective change of use (from pubs to live entertainment venues) with an even weaker set of conditions than businesses would have to meet if they were applying for change of use or redevelopment.

Remove the blanket restriction on pub closures.

Either remove examples of initiatives that pubs should try or insert text stating 'subject to the pub's locality, to appropriate noise restrictions or sound insulation being introduced'.

Remove the blanket permission to pubs offering accommodation. Insert conditions such as only in circumstances where the publican or a manager lives on the premises or where the pub has applied for permission to operate as a hotel or self-catering holiday let.

These changes will avoid undermining existing planning laws.

**Respondent Number** 014

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Quod

**On behalf of** St William Homes LLP

**Main Modification Number** MM09

**CPP2 reference** Policy DM11 New Business Floorspace

**With the inclusion of the Main Modification do you consider the Plan is sound?** Not Answered

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** No

**Unsound because**

(3) Not Effective

(4) Not Consistent with National Policy

**Reason for Supporting or Objecting**

Our written representations are made in respect of the Council's proposed 'Main Modifications' (BHCC44) following the conclusion of the Examination in Public in March 2021 and the publication of the Inspector's Post Hearing Action Note (INSP09) that was published on 3 December 2021. These representations follow on from the representations that St William submitted to the Proposed Submission version on 30th October 2020 and the Examination in Public Matters Statements on 4th October 2021. Whilst it is acknowledged that it is not necessary to repeat previous comments these representations provide a mixture of new comments to newly proposed main modifications but do also repeat previous comments where suggested amendments have not been incorporated into the draft CPP2.

In respect of Main Modification 09 – Policy DM11 New Business Floorspace and in line with St William's previously submitted comments to the draft CPP2, we do not consider that the current wording of Policy DM11 (MM09) is effective nor consistent with national policy on account of the categorisation of sub-uses under Use Class E. We consider this approach to be against the spirit of the new class order, and not to accord with paragraph 82 of the NPPF, which requires planning policies to be flexible enough to accommodate needs not anticipated in the plan and to enable a rapid response to changes in economic circumstances.

Use Class E was introduced by the Government in September 2020 to "help streamline the system"<sup>1</sup> by providing greater opportunity for a range of flexible uses (commercial, business and service) to take place concurrently, or by allowing them to change between types of commercial uses without constituting development in order to "protect and grow our economy post Covid". The Council has duly updated CPP2 to reflect the changes made via the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 to the extent that it refers to Use Class E, but as proposed by Main Modification 09 (Figure 1 - refer to full representation for extract of BHCC44), draft Policy DM11 continues to seek restrictions on specific sub-uses under Class E to which explicit references to Use Class E(g) (former Class B1) are applied throughout the policy and supporting text. This is at odds with the intended purpose of the new class order and should duly be reviewed.

To address this matter, we recommend that Policy DM11 is updated so that it refers to “Use Class E, B2 and B8”, as applicable business uses, removing reference to sub-uses within Use Class E. This would therefore recognise the flexibility intended by the introduction of Use Class E, and also acknowledge that other commercial uses are capable of generating meaningful employment to support CPP2, as demonstrated by the Employment Densities Guide (2010). No explanation has been provided as to why these amendments cannot be incorporated into the Plan.

1 Ministry of Housing, Communities & Local Government. September 2020. Permitted development rights and changes to the Use Class Order - Flexible use on the high street: key facts brief

### **Changes Necessary**

Policy DM11 should be updated so that it refers to “Use Class E, B2 and B8”

**Respondent Number** 014

**Representation Number** 002

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Quod

**On behalf of** St William Homes LLP

**Main Modification Number** MM14

**CPP2 reference** DM18 High Quality Design and Places

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

### **Reason for Supporting or Objecting**

In respect of Main Modification 14, we have the following comments which are a combination of new and previous comments:

Impact on public realm: The proposed amendment to the last sentence of Policy DM18 High Quality Design and Places (set out at Figure 2 - please refer to full representation for extract of BHCC44) does not appear to be clear or effective enough meaning it does not meet the soundness test because it is unclear what is meant by 'impact on public realm'. We consider that the previous wording was more appropriate.

References to design guidance: We recognise the purpose behind the introduction of references to the National Design Guide and the Urban Design Framework SPD within paragraph 2.147 however it is not clear that references to 'future design codes or guidance' that do not yet exist could be found to be sound given the detail of these is currently unknown. The inclusion of a reference to future design codes and guidance should be removed.

Exceptional site constraints: The constraints of a site are a key factor when considering design solutions for such sites and the following previously proposed amendments (outlined in Figure 3 - please refer to full representation for extract of St William Homes representations to the Proposed Submission City Plan Part 2 (30 October 2020) are required to make this policy effective in line with the tests of soundness.

### **Changes Necessary**

As set out in response to question 5 and in respect to paragraph 2.148 and 2.150:

Paragraph 2.148

"The scale of consideration of local context should be commensurate with the scale and impact of the proposals as well as any significant and exceptional site constraints. For example, from the street scale in the case of a single dwelling proposal to a neighbourhood, and/or city-wide scale in the case of a larger

and/or strategic development, where bespoke design solutions will be required in order to deliver complex sites and ensure the potential of brownfield sites is maximised”

Paragraph 2.150 to be revised to read as follows:

“This is a major factor in determining the visual character of an area. Generally the aim should be to create a sense of harmony and visual continuity between existing and new. The basic proportions of a building, including its height, width and depth, the shape of its gables and the pitch of the roof, can be varied to suit the local context. What matters is not so much the absolute size of a new building or development, but its size relative to its surroundings, and the quality of design and appearance within views. Elements of any building that are visible from a highway are of particular importance”.

**Respondent Number** 017

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM14

**CPP2 reference** DM18 High Quality design and places

**With the inclusion of the Main Modification do you consider the Plan is sound?** Not Answered

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Not Answered

**Unsound because**

**Reason for Supporting or Objecting**

Historic England's comments on the Main Modifications relate to our remit and previous comments.

Historic England supports the proposed modifications to the following policies that seek to enhance and conserve the distinctive, historic character of the city and its heritage assets.

**Changes Necessary**

Not Answered

**Respondent Number** 013

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Brighton Active Travel

**On behalf of** Brighton Active Travel

**Main Modification Number** MM16

**CPP2 reference** DM22

**With the inclusion of the Main Modification do you consider the Plan is sound?** Not Answered

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Not Answered

**Unsound because**

**Reason for Supporting or Objecting**

Brighton Active Travel (BAT) broadly supports the amendments to the city plan

DM22 Landscape Design and Trees

As well as trees for development there needs to be a proactive policy on new tree planting in existing neighbourhoods with low tree cover

**Changes Necessary**

Not Answered

**Respondent Number** 017

**Representation Number** 002

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM18

**CPP2 reference** DM26 Conservation Areas

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Historic England's comments on the Main Modifications relate to our remit and previous comments.

Historic England supports the proposed modifications to the following policies that seek to enhance and conserve the distinctive, historic character of the city and its heritage assets.

**Changes Necessary**

**Respondent Number** 017

**Representation Number** 003

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM19

**CPP2 reference** DM27 Listed Buildings

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Historic England's comments on the Main Modifications relate to our remit and previous comments.

Historic England supports the proposed modifications to the following policies that seek to enhance and conserve the distinctive, historic character of the city and its heritage assets.

**Changes Necessary**

**Respondent Number** 017

**Representation Number** 004

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM20

**CPP2 reference** DM28 Locally Listed Heritage Assets

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Historic England's comments on the Main Modifications relate to our remit and previous comments.

Historic England supports the proposed modifications to the following policies that seek to enhance and conserve the distinctive, historic character of the city and its heritage assets.

**Changes Necessary**

**Respondent Number** 017

**Representation Number** 005

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM21

**CPP2 reference** DM29 The Setting of Heritage Assets

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Historic England's comments on the Main Modifications relate to our remit and previous comments.

Historic England supports the proposed modifications to the following policies that seek to enhance and conserve the distinctive, historic character of the city and its heritage assets.

**Changes Necessary**

**Respondent Number** 017

**Representation Number** 006

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM22

**CPP2 reference** DM20 Registered Parks and Gardens

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Historic England's comments on the Main Modifications relate to our remit and previous comments.

Historic England supports the proposed modifications to the following policies that seek to enhance and conserve the distinctive, historic character of the city and its heritage assets.

**Changes Necessary**

**Respondent Number** 017

**Representation Number** 007

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM23

**CPP2 reference** DM31 Archaeological Interest

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Historic England's comments on the Main Modifications relate to our remit and previous comments.

Historic England supports the proposed modifications to the following policies that seek to enhance and conserve the distinctive, historic character of the city and its heritage assets.

**Changes Necessary**

**Respondent Number** 017

**Representation Number** 008

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM24

**CPP2 reference** DM32 The Royal Pavilion Estate

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Historic England's comments on the Main Modifications relate to our remit and previous comments.

Historic England supports the proposed modifications to the following policies that seek to enhance and conserve the distinctive, historic character of the city and its heritage assets.

**Changes Necessary**

**Respondent Number** 013

**Representation Number** 002

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Brighton Active Travel

**On behalf of** Brighton Active Travel

**Main Modification Number** MM25

**CPP2 reference** DM33

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Brighton Active Travel (BAT) broadly supports the amendments to the city plan

MM25 Policy DM33 Safe, sustainable and active travel

3) cycle parking should include provision of cycle hangars for residential parking with the aim of providing residential hangars to fulfil all existing demand and encourage a switch to bicycles etc as a core means of travel

DM33

Para. 2.253 p 100

BAT supports the inclusion of having regard to the Brighton and Hove bus service improvement plan.

**Changes Necessary**

**Respondent Number** 009

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Home Builders Federation

**On behalf of** N/A

**Main Modification Number** MM28

**CPP2 reference** amendments to DM36

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

Not Answered

**Changes Necessary**

Not Answered

**Respondent Number** 008

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM29

**CPP2 reference** Policy DM37 page 110

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

The Sussex Wildlife Trust (SWT) supports all of the modifications to policy DM37 listed on page 110. We agree they are needed for the policy to be consistent with NPPF and that the amended/additional footnotes allow better understanding of the policy aims and appropriate application.

**Changes Necessary**

N/A

**Respondent Number** 008

**Representation Number** 002

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM29

**CPP2 reference** Policy DM37 page 112 – Part C point i)

**With the inclusion of the Main Modification do you consider the Plan is sound?** No

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** No

**Unsound because**

(2) Not Justified

(4) Not Consistent with National Policy

**Reason for Supporting or Objecting**

Whilst the amendments to point i) of Part C are preferable to the previous version. The Sussex Wildlife Trust (SWT) still objects to this part of the policy and does not believe it is consistent with paragraph 179 of the NPPF or the Planning Practice Guidance (ID: 8-013-20190721) in regards to the need to safeguard locally designated sites.

We are disappointed that the Inspector Note 9 Post Hearing Action Points [INSP09] does not refer to the discussions at the examination (matter 16) around the question of consistency with national policy of developing on locally designated sites. SWT understood that the Inspector had not come to a decision on this issue during the examinations and would take it away as an issue to consider further. We therefore expected some reference to this in INSP09.

SWT is clear that allocating locally designated sites within development plans cannot be considered 'safeguarding' and therefore is not consistent with the requirements of national policy. It is particularly problematic when the plan would meet the housing numbers required by the CPP1 without allocating locally designated sites. It must be recognised that these locally designated sites provide economic, social and environmental services to the city and should be valued as core components of the city's ecological network.

**Changes Necessary**

In order to be consistent with the NPPF and NPPG the wording in part C i) should be amended to the following:

'...or there are exceptional circumstances that justify the development of the site that can be demonstrated to outweigh the need to safeguard the nature conservation value of the site.'

**Respondent Number** 008

**Representation Number** 003

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM29

**CPP2 reference** Policy DM37 page 112 move and amend final paragraph to follow bullet point list on page 111

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

The Sussex Wildlife Trust supports the movement of this paragraph. This is required to clarify that the content applies to all sites whether designated or not.

**Changes Necessary**

**Respondent Number** 008

**Representation Number** 004

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM29

**CPP2 reference** Policy DM37 page 112 moving paragraph to new section headed 'Designated Sites' on page 111

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

The Sussex Wildlife Trust supports this modification and believe it is required to demonstrate consistency with NPPF paragraph 180.

**Changes Necessary**

N/A

**Respondent Number** 008

**Representation Number** 005

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM29

**CPP2 reference** Policy DM37 page 112 – Part C

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

Excluding our objection to the modification to point i), the Sussex Wildlife Trust supports the other modifications to Part C listed under MM29. We do see these as necessary to ensure consistency with the NPPF and clarity of how the policy should be used by applicants.

**Changes Necessary**

N/A

**Respondent Number** 008

**Representation Number** 006

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM29

**CPP2 reference** Supporting text to Policy DM37 page 115 - new paragraph

**With the inclusion of the Main Modification do you consider the Plan is sound?** No

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** No

**Unsound because**

(4) Not Consistent with National Policy

### **Reason for Supporting or Objecting**

Whilst the Sussex Wildlife Trust (SWT) supports the majority of the modifications to the supporting text for policy DM37, we object to the explanation of exceptional circumstances in relation to Part C of the policy and do not believe this is consistent with national policy.

Locally designated sites are key infrastructure that meets the wider needs of the city. These sites are a finite resource, being core areas within the ecological network and the development of them simply make the valuable areas of habitat smaller. It is clear that national policy considers local sites to be key components of wider ecological networks (para 179) and that the planning system should make these more resilient (para 174) and safeguard them (para 179).

Given that once built on, these core sites are gone forever, the examples of exceptional circumstances in this new paragraph are both vague and extensive. We do not believe it meets the bar set in the NPPF for equivalent issues e.g. footnote 63. For example, a new bus stop is transport related infrastructure, but is clearly not exceptional enough to warrant adverse impacts on a Local Wildlife Site.

Furthermore, we disagree that the examination of the City Plan Part 1 (CPP1) sets out exceptional circumstances. The CPP1 Inspector's Report [CD23] clearly states that the CPP1 does not allocate urban fringe sites and that decisions on whether individual sites should be developed, will be made through the process of preparation of the CPP2. We would not consider the City's large unmet housing need as exceptional. Indeed, this is likely to be the situation for many years to come due to the geography of the city. Additionally, the majority of local authorities in Sussex are failing to meet their 5 year housing supply and again this is not exceptional i.e. it is typical across the county.

Including this explanation in the supporting text opens up a discussion about housing numbers every time a locally designated site is put forward for development. The section of paragraph about allocated sites is not needed because the policy is clear that it is referring to sites that are already allocated in the plan or sites where there are exceptional circumstances. There is no requirement to prove exceptional circumstances for allocated sites. We feel this just confuses things.

### **Changes Necessary**

This paragraph should be amended so that it simply reads as follows:

In relation to Part C of the policy, examples of exceptional circumstances include development required as part of nationally significant infrastructure projects or major flood defence or transport related infrastructure that meets the wider needs of the city. Any development proposals on locally designated sites, whether allocated or not, will still be required to meet the requirements under section C ii) and C iii) for mitigation and net gain in biodiversity/geodiversity as well as requirements relating to ecological assessment.

**Respondent Number** 003

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** South Downs National Park Authority

**On behalf of** N/A

**Main Modification Number** MM29

**CPP2 reference** DM37 paragraph 2.279 on page 114

**With the inclusion of the Main Modification do you consider the Plan is sound?** Not Answered

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Not Answered

**Unsound because**

**Reason for Supporting or Objecting**

Policy DM37 Green Infrastructure and Nature Conservation and modification MM29. We support the additional wording to paragraph 2.279 on page 114 of the supporting text referencing the People and Nature Network (PANN) 2020 and the Sussex Natural Capital Investment Strategy. The PANN is important in setting out how a range of partners can work together to plan positively for nature and natural services within and around the protected landscapes of the South East.

**Changes Necessary**

Not Answered

**Respondent Number** 009

**Representation Number** 002

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Home Builders Federation

**On behalf of** N/A

**Main Modification Number** MM29

**CPP2 reference** supporting text to DM37

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** No

**Unsound because**

(2) Not Justified

(4) Not Consistent with National Policy

**Reason for Supporting or Objecting**

Modification is not necessary for the soundness of the local plan and could create uncertainty in decision making contrary to clarity required by paragraph 16 of the NPPF.

The HBF do not consider the proposed amendment to the supporting text at paragraph 2.282 on page 115 of the City Plan Part 2 to be required for the soundness of the local plan and as such it is unnecessary. Whilst Sussex Local Nature Partnership has an ambition to achieve a 20% target for biodiversity net gain from all development the inclusion of this statement is irrelevant to the soundness of the local plan or what is actually required of development under the Environment Act 2021. The paragraph whilst merely stating a future ambition could create uncertainty amongst decision makers as to what development is actually required to deliver. We would therefore recommend that this modification is not taken forward.

**Changes Necessary**

Modification not taken forward.

**Respondent Number** 007

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** N/A

**On behalf of** N/A

**Main Modification Number** MM31

**CPP2 reference** DM40

**With the inclusion of the Main Modification do you consider the Plan is sound?** Not Answered

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Not Answered

**Unsound because**

**Reason for Supporting or Objecting**

Thank you for the information about the modifications to City Plan 2 - there were several sections which I felt were particularly welcome with regard to reducing and mitigating sensory pollution - noise and light pollution, and I welcome reference to The South Downs National Park International Dark Skies status in MM31. For me the wildlife/biodiversity impacts and human impacts of light pollution are even more important considerations.

The only slight worry I had was that we should be careful not to encourage the use of floodlighting as a crime deterrent, as there is no evidence for this actually working. (You can check this with the IDA) and such floodlighting can be pretty extreme at times.

In general good lighting design will make things more visible, - only the things which need to be visible, but this is distinct from making things brighter. If you use too much light you create glare which often actually renders things less visible and of course creates more light pollution. It's all about the sort of excellent lighting design which has been achieved for the footpaths in the Valley Gardens scheme.

Anyway thank you for the good work

**Changes Necessary**

Not Answered

**Respondent Number** 003

**Representation Number** 002

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** South Downs National Park Authority

**On behalf of** N/A

**Main Modification Number** MM31

**CPP2 reference** DM40, criteria g) on page 123

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Policy DM40 Protection of the Environment and Health – Pollution and Nuisance and modification MM31. We support the change of wording relating to DM40 criteria g) on page 123 deleting the word 'outdoor'. As a result the policy covers all forms of lighting, both indoor and outdoor. The change means the policy provides further protection to the night sky and the sensitivity of the South Downs National Park International Dark Sky Reserve from the potential impact of light spill from poorly designed development.

**Changes Necessary**

**Respondent Number** 014

**Representation Number** 003

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Quod

**On behalf of** St William Homes LLP

**Main Modification Number** MM32

**CPP2 reference** Policy DM41 Polluted and hazardous substances and land stability

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

With reference to Matter 32 – Policy DM41 Polluted and hazardous substances and land stability, our previous suggested amendments which have not been incorporated into the draft CPP2, set out below. The management and remediation of contaminated land is tightly controlled and highly regulated and the existing processes in place often result in an iterative process of information gathering and decision making between relevant regulators including the Local Planning Authority and the Environment Agency through the separate land contamination control regime. This allows for some matters to be dealt with via planning condition alongside these parallel processes, even in circumstances when sites are known to be contaminated. Planning conditions can be an equally effective medium for ensuring the objectives of the policy are met without unduly delaying the consideration of a planning application.

Policy DM41 Polluted sites, hazardous substances and land stability supporting paragraph 2.319 to be amended to read:

“2.319 In some instances it may be appropriate for permission to may be granted subject to conditions requiring site investigation, discovery strategy and any remedial measures as deemed necessary once a competent person has carried out an options appraisal.”

**Changes Necessary**

**Respondent Number** 008

**Representation Number** 007

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM36

**CPP2 reference** Policy SA7, page 156

**With the inclusion of the Main Modification do you consider the Plan is sound?** No

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** No

**Unsound because**

(2) Not Justified

(4) Not Consistent with National Policy

**Reason for Supporting or Objecting**

The Sussex Wildlife Trust (SWT) objects to a locally designated site being allocated in the local plan. This is not consistent with the requirement of the NPPF to safeguard these sites or the requirement of the NPPG for plans to include policies to secure their protection from harm or loss and also help to enhance them and their connection to wider ecological networks. Locally designated sites are a finite resource and should be protected and enhanced through the planning system.

**Changes Necessary**

Delete the housing allocation portion of this policy

**Respondent Number** 017

**Representation Number** 009

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM36

**CPP2 reference** SA7 Benfield Valley

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

As previously stated, we suggest that a heritage assessment is required in relation to the effects that the housing allocation areas may have on the setting Listed Benfield Barn and Conservation Area. The siting, form and scale of the housing would have to be very carefully planned to ensure no harmful impacts arise and the positive benefits sought by the policy are realised.

**Changes Necessary**

**Respondent Number** 004

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** RSPB

**On behalf of** N/A

**Main Modification Number** MM37

**CPP2 reference** Supporting text to Policy SSA1 (para 3.18, p. 155)

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

The additional text provides an appropriate level of measures to protect the important swift nesting colony at the Brighton General Hospital site, in accordance with BHCC Policy DM37. As stated in the RSPB's Written Representation, we do not believe that it is a requirement for BHCC to decide what is the appropriate action to take by the Applicant for SSA1, but that in order for the City Plan Part 2 to be considered 'sound', wording in regards to the protection of swift nest sites through all phases of development (including between demolition of old buildings and construction of new buildings) needs to be included to be consistent with policy DM37. In regard to SSA1 and Main Modifications, the RSPB now believes the plans to be sound.

**Changes Necessary**

Not Answered

**Respondent Number** 008

**Representation Number** 008

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM37

**CPP2 reference** Supporting text to Policy SSA1, Paragraph 3.18 page 155

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

The Sussex Wildlife Trust strongly supports the inclusion of this new paragraph and believe it is necessary to ensure the policy is consistent with the requirements of the NPPF to conserve and enhance biodiversity.

**Changes Necessary**

N/A

**Respondent Number** 015

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Ornithological Society

**On behalf of** N/A

**Main Modification Number** MM37

**CPP2 reference** SSA1 Brighton General Hospital site, Elm Grove, Freshfield Road

**With the inclusion of the Main Modification do you consider the Plan is sound?** Not Answered

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Not Answered

**Unsound because**

**Reason for Supporting or Objecting**

We fully support the new paragraph 3.19 regarding the protection of the existing Swift colony.

**Changes Necessary**

Not Answered

**Respondent Number** 017

**Representation Number** 010

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM37

**CPP2 reference** SSA1 Brighton General Hospital Site, Elm Grove, Freshfield Road

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Support the modification.

**Changes Necessary**

**Respondent Number** 017

**Representation Number** 011

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM38

**CPP2 reference** SSA2 Combined Engineering Depot, New England Road

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Support the modification.

**Changes Necessary**

**Respondent Number** 005

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Environment Agency

**On behalf of** N/A

**Main Modification Number** MM40

**CPP2 reference** Page 62 MM40 Policy SSA4 Page 162

**With the inclusion of the Main Modification do you consider the Plan is sound?** Not Answered

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Not Answered

**Unsound because**

**Reason for Supporting or Objecting**

Pleased to see the modifications made as follows:

Page 62 MM40 Policy SSA4 Page 162 SSA4 Sackville Trading Estate and Coal Yard Add criterion (k) to policy to read: k) Development must ensure that groundwater sources are protected to the satisfaction of the Environment Agency.

**Changes Necessary**

Not Answered

**Respondent Number** 017

**Representation Number** 012

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM41

**CPP2 reference** SSA5 Madeira Terrace and Madeira Drive

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

We support the modification.

**Changes Necessary**

**Respondent Number** 017

**Representation Number** 013

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM42

**CPP2 reference** SSA6 Former Peter Pan leisure site (Adjacent Yellow Wave), Madeira Drive

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Support the modificaton.

**Changes Necessary**

**Respondent Number** 017

**Representation Number** 014

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM43

**CPP2 reference** SSA7 Land Adjacent to American Express Community Stadium, Village Way

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Support the modification

**Changes Necessary**

**Respondent Number** 002

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Southern Water

**On behalf of** Planning Policy

**Main Modification Number** MM44

**CPP2 reference** Policy H1, Table 6 page 175 (page 69 of the Schedule of Proposed Main Modifications) for the newly proposed development of 30 homes at 154 Shoreham Road Hove, and 24 homes at Land at Preston Road/Campbell Road, Brighton.

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

For the newly proposed development of 30 homes at 154 Shoreham Road Hove - Southern Water identified no wastewater constraints. The site is within Southern Water's Inner, Outer and Total Capture Zones for groundwater (equivalent to SPZ 1, 2 and 3 respectively) and development would therefore be required to ensure protection of the public water supply source, no other water constraints were identified.

For the 24 homes development at Land at Preston Road/Campbell Road, Brighton -

Southern Water identified no wastewater or water constraints. The site is within Southern Water's Total Capture Zone for groundwater (equivalent to SPZ 3) and development may therefore be required to ensure protection of the public water supply source.

**Changes Necessary**

As specific site considerations are not included in the original Table 6 (compared to Table 8 which does include these) we cannot make a further suggestion on how to incorporate the information we have provided.

**Respondent Number** 008

**Representation Number** 009

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM44

**CPP2 reference** Policy H1, Table 6 page 174

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

The Sussex Wildlife Trust strongly supports the deletion of 2-18 The Cliff from this table. We believe it would not be justified or consistent with the NPPF to allocate development on this Local Wildlife Site. Particularly the requirement to safeguard locally designated sites.

**Changes Necessary**

N/A

**Respondent Number** 015

**Representation Number** 002

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Ornithological Society

**On behalf of** N/A

**Main Modification Number** MM44

**CPP2 reference** Policy H1 Urban Housing Sites

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

We welcome the removal of Site 5, Land between Marine Drive and the rear of 2- 18 The Cliff from the site allocations as it will safeguard the designated Local Wildlife Site (LWS) and its colony of Common Lizard.

**Changes Necessary**

**Respondent Number** 017

**Representation Number** 015

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Historic England

**On behalf of** N/A

**Main Modification Number** MM45

**CPP2 reference** H2 Housing Sites - Urban Fringe

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

We support the added reference within a footnote to the policy noting Historic England Advise Note 12 in relation to the requirement to assess the heritage impacts of developing sites.

**Changes Necessary**

**Respondent Number** 016

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Coldean Neighbourhood Planning Forum

**On behalf of** N/A

**Main Modification Number** MM45

**CPP2 reference** Policy H2 – Housing Sites Urban Fringe Supporting Text to Policy H2 Paragraph 3.76, Page 185

**With the inclusion of the Main Modification do you consider the Plan is sound?** Not Answered

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Not Answered

**Unsound because**

**Reason for Supporting or Objecting**

We wish to make objections to these modifications:

Policy H2 – Housing Sites Urban Fringe

Supporting Text to Policy H2

Paragraph 3.76, Page 185

Current

However, detailed surveys (including species surveys) will be required to support development proposals, and these must be used to inform the development of specific mitigation requirements.”

Proposed

Development will not be permitted where there the site is of ecological significance, either in part or whole, established by surveys and species surveys specific to the site or sites.

Where a site, regardless of size, is located in an area with underground chalk aquifers identified as Groundwater Source Protection Zones by the Environment Agency,

development will need to ensure that groundwater resources are protected from pollution and safeguard water supplies, in line with the requirements of Policy DM42

**Changes Necessary**

as set out in answer to question 5.

**Respondent Number** 019

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** N/A

**On behalf of** N/A

**Main Modification Number** MM45

**CPP2 reference** Policy H2 - Coldean Lane, know as Site 21A

**With the inclusion of the Main Modification do you consider the Plan is sound?** Not Answered

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Not Answered

**Unsound because**

### **Reason for Supporting or Objecting**

I am writing as a resident of Coldean, and also as a member of the Coldean Neighbourhood Planning Forum. I wish to respond to the consultation on modifications to City Plan 2, and in particular to the inclusion of a sensitive ecological site of chalk grassland north-east of Coldean Lane, known as Site 21A.

You may be familiar with this site since a large development, known as Bluebell Heights, went ahead on an adjacent site in 2021, a project that has been plagued with problems ranging from illegal logging, destruction of wildlife habitat, lack of planning for pedestrians and traffic, failure to consider flood risk and ecological damage, and absence of any planning to secure the safety of residents in respect of the nearby footbridge over the A27.

In summary, the main points are that:

- 1) the original ecological evidence and assessment of housing need on City Plan 2 were inadequate (badly timed and inaccurate respectively);
- 2) the original period of consultation was not sufficient or equitable;
- 3) as indicated in the attached Biological Report, Site 21A is a habitat for rare and protected species; and
- 4) the Environment Act imposes new statutory duties on Councils that can be met by protecting Site 21A.

In detail:

1. Liz Hobden, Head of Planning, responded to the Forum's original email by stating that the Planning Committee cannot consider our feedback 'at this late stage'. However, in his invitation for responses, Martin Osborne, Co-Chair of the Tourism, Equalities, Communities and Culture Committee, states very clearly on the B&H Council website that 'this consultation is an important step in enabling the inspector to complete her report. I urge you to take part and give us your views.' We agree with Martin that all feedback on the proposals should be taken into account, up to the deadline of 11.59pm on 5 May.

2. We note that in her Modifications to City Plan 2, the government planning inspector removed one site (Horsdean Recreation Ground, Patcham) on the grounds of the potential impact of development on wildlife, and also reduced the size of permitted development at a second site (a former nursery in Saltdean). This demonstrates that changes to City Plan 2 are not outside the planning inspector's scope, and there is precedent for amending the plans in the light of ecological evidence, such as that presented in the Biological Report. We note, incidentally, that the key site considerations that led to the withdrawal of Horsdean Recreation Ground from City Plan 2 are identical to those for Site 21a in Coldean Woods (see [https://consultations.brighton-hove.gov.uk/planning/city-plan-part-two-proposed-submission/user\\_uploads/h2-cpp2-april-2020.pdf](https://consultations.brighton-hove.gov.uk/planning/city-plan-part-two-proposed-submission/user_uploads/h2-cpp2-april-2020.pdf)).

3. The current development of 'Bluebell Heights' by Hyde Housing on Coldean Woods has exposed numerous problems that were overlooked during the consultation. These include: destruction of badger setts and ecologically significant habitats; inadequate and inaccurate evidence of housing need; lack of informed and expert advice on the local ecology; lack of mitigation measures before work began; lack of meaningful consultation with residents; no planning for safe access by road and by foot; no risk assessment for the proximity of a footbridge spanning the A27; lack of planning for parking arrangements and access to public transport; and serious risk of damage to Brighton & Hove's aquifer. Unsurprisingly, this multitude of oversights has not given Coldean's residents confidence that their concerns will be addressed or indeed heard. We do not believe that the planning inspector was provided with accurate evidence and information to enable her to make a sound judgement on Site 21A.

4. Since City Plan 2 was written in May 2021, the Environment Bill has passed into law. It specifies a legally binding 2030 species abundance target, which this extraordinarily rich site has the potential to fulfil, boosting efforts to stem the decline in biodiversity and contributing to the national target of protecting 30% of land and sea for nature by 2030. Other provisions in the Act, notably the statutory 10% Biodiversity Net Gain, as well as the requirements that will emanate from the Nature Recovery Green Paper, may also be secured through the protection of Site 21a.

5. We note that the original circulation of City Plan 2, in May 2021, was limited to online access, due to Covid-19 restrictions. There appears to have been no mitigation for this, in terms of extending the consultation period or making physical or audio copies available, meaning that anyone without access to the website, whether through lack of digital literacy, visual impairment or due to shielding, has not had an opportunity to have their voice heard, thus failing to meet Objective 1.5 of the Council's Equality & Inclusion Policy Statement and Strategy ('We will ensure that alternative communication routes remain available for people with specific requirements.')

6. The consultation events we have conducted locally indicate that open green spaces and the environment are the top priority for residents of Coldean. There are strong feelings among residents that Coldean is being overlooked, and considered inferior to areas such as Patcham. We hope that Councillors of all persuasions will demonstrate that this is not the case by coming to our aid and protecting this unique and valuable landscape.

Finally, in spite of Ms Hobden's assurance that raising objections to development plans is sufficient to safeguard Site 21A, recent experience tells us that the only certain way of protecting this ecologically significant site is to withdraw it from City Plan 2 permanently. The Forum has contacted all Brighton & Hove's councillors and Brighton & Hove's MP with this information and appears thus far to be receiving considerable positive feedback on its endeavours to remove Site 21A from City Plan 2.

### **Changes Necessary**

**Respondent Number** 008

**Representation Number** 010

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM45

**CPP2 reference** Policy H2 – Table 8 Urban Fringe Allocations, page 180 - delete Land at and Adjoining Horsdean Recreation Ground

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

The Sussex Wildlife Trust (SWT) supports deletion of Land at and Adjoining Horsdean Recreation Ground, Patcham. It is a locally designated site and should be safeguarded under paragraph 179 of the NPPF.

**Changes Necessary**

N/A

**Respondent Number** 008

**Representation Number** 011

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Wildlife Trust

**On behalf of** N/A

**Main Modification Number** MM45

**CPP2 reference** Policy H2 – Table 8 Urban Fringe Allocations, page 180

**With the inclusion of the Main Modification do you consider the Plan is sound?** No

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** No

**Unsound because**

(2) Not Justified

(4) Not Consistent with National Policy

**Reason for Supporting or Objecting**

The Sussex Wildlife Trust (SWT) objects to a locally designated site being allocated in the City Plan. This is not consistent with the requirement of the NPPF to safeguard these sites or the requirement of the NPPG for plans to include policies to secure their protection from harm or loss and also help to enhance them and their connection to wider ecological networks. Locally designated sites are a finite resource and should be protected and enhanced through the planning system.

It was demonstrated during the hearing sessions and through our matter statements that allocating on locally designated sites is neither justified, effective nor consistent with national policy. Whilst all locally designated sites would benefit from ongoing management, allowing development of part of them is not an essential or reasonable way to achieve that. Particularly, for those sites that already have active community groups working to enhance them e.g. Benfield Valley Project and Friends of Whitehawk Hill. SWT is particularly concerned that the Land at and adjoining Brighton Racecourse is not referred to in INSP09, as again it was our understanding that the Inspector would be considering this site further and had not come to a decision.

It is clear that allocating development on locally designated sites is not a sustainable approach in a City with an astronomically high OAN that can never be met. The sites should be valued for what they already provide to the city and safeguarded.

It is also not clear why there is no modification to DM38 in relation to designating Whitehawk Hill as a Local Green Space. We understood that this had been agreed by BHCC during the course of the examination discussions and expected to see it in the Inspector Note 9 Post Hearing Action Points [INSP09].

**Changes Necessary**

Add Whitehawk Hill to policy DM38 and designated as a Local Green Space.

Delete the following allocations:

Land at Oakdene Southwick Hill/Land West of Mile Oak Road

Benfield Valley

Land north of Valley Halls, Coldean Lane

Land at and adjoining Brighton Racecourse

Land north of Warren Road (Ingleside Stables)

**Respondent Number** 006

**Representation Number** 001

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** N/A

**On behalf of** N/A

**Main Modification Number** MM45

**CPP2 reference** Modification to Policy H2 (Urban Fringe Housing Allocations) - deletion of Site 16 (land adjoining Horsdean Recreation Ground, Patcham) - as a local professional consultant ecologist, I wholeheartedly agree with the removal of this site as a proposed hous

**With the inclusion of the Main Modification do you consider the Plan is sound?** Yes

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?** Yes

**Unsound because**

**Reason for Supporting or Objecting**

Modification to Policy H2 (Urban Fringe Housing Allocations) - deletion of Site 16 (land adjoining Horsdean Recreation Ground, Patcham) - as a local professional consultant ecologist, I wholeheartedly agree with the removal of this site as a proposed housing allocation - to allocate it for development would not align with the council's objectives to protect and enhance biodiversity; in fact it would be in direct conflict with this agenda, as it would result in land take from a LWS (Patcham Court Field) and threaten the integrity and valuable ecology this important site.

**Changes Necessary**

Not Answered

**Respondent Number** 015

**Representation Number** 003

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Ornithological Society

**On behalf of** N/A

**Main Modification Number** MM45

**CPP2 reference** Policy H2 Housing Sites - Urban Fringe

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

We also welcome the removal of Site 16, land at, and adjoining Horsdean Recreation Ground, from the site allocations, as it will safeguard the designated Patcham Court Field LWS

**Changes Necessary**

**Respondent Number** 015

**Representation Number** 004

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Sussex Ornithological Society

**On behalf of** N/A

**Main Modification Number** MM45

**CPP2 reference** Housing allocations on parts of designated LWS's and on the Whitehawk

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Housing allocations on parts of designated LWS's and on the Whitehawk

The following sites have all been allocated for development on part of land designated as a Local Wildlife Site or Local Nature Reserve:

Land west of Mile Oak Road, Portslade (UF sites 1 and 2) which will destroy about a third of Oakdene. Southwick Hill LWS (BH22).

Land North of Varley Halls, Coldean (UF site 21a) will effectively split the Land at Coldean Lane LWS (BH87), significantly reducing its value as a wildlife corridor.

Land at and adjoining Brighton Racecourse (UF site 30) which is on the designated Whitehawk Local Nature Reserve. which is not only a nature reserve but a key green wedge in Brighton's Nature Network.

Land north of Ingleside Stables, Warren Road (UF site 33) as 50% of the proposed development would be on the Bevendean Horse Paddocks LWS (BH86)

Site 43, Benfield Valley (SA7) which is on an LWS and is recognised to be an important green corridor stretching northwards from the A270 Old Shoreham Road to the A27 Bypass, connecting with the SDNP beyond. The development will also interrupt the connectivity of this green corridor.

There are several other allocations that we did not comment on in our Reg 19 response that are also on parts of LWS's.

The cumulative impact of these allocations will be to reduce the area of space designated as being set aside for nature in Brighton & Hove. Policy DM37, Green Infrastructure and Nature Conservation states that:

Development proposals will be required to demonstrate that they safeguard and/or contribute positively to the existing multifunctional network of Green Infrastructure that covers all forms of green and open spaces;

the interrelationship between these spaces and ensure that the natural capital of the area is retained, enhanced and complements UNESCO Biosphere objectives.

Quite clearly the only way all the allocations on LWS's and the Whitehawk LNR can go ahead in a way that Brighton & Hove's natural capital can be retained and enhanced in total, is if there is a plan to replace the natural capital being lost as a result of these CCP2 allocations. We believe this will best be achieved if it occurs in a single off-site location, which could be inside or outside Brighton & Hove, rather than relying on developers to come up with piece-meal proposals.

This is because it is a well-established fact that nature thrives better in larger interconnected areas than in small, isolated areas.

CCP2 has no plan to establish such an offsite nature recovery area to compensate for the loss of designated areas for nature in the parts of LWS's and an LNR that are being allocated for development. Indeed, our feeling is that CCP2 is unsound as no such plan exists and no plans to develop such a plan forms part of CCP2. Without such compensatory plans we do not believe that Brighton & Hove's natural capital can be retained and enhanced - rather it will deteriorate - and an adverse impact on the city's UNESCO Biosphere objectives is also likely.

### **Changes Necessary**

**Respondent Number** 005

**Representation Number** 002

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** Environment Agency

**On behalf of** N/A

**Main Modification Number** MM46

**CPP2 reference** Page 77 MM46 Supporting text to Policy H3, para. 3.81 page 186

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Policy H3 Purpose Built Student Accommodation. Add new paragraph after paragraph 3.81 to read: "Where a site is located in an area with underground chalk aquifers identified as Groundwater Source Protection Zones by the Environment Agency, development will need to ensure that groundwater resources are protected from pollution and safeguard water supplies, in line with the requirements of Policy DM42."

**Changes Necessary**

**Respondent Number** 003

**Representation Number** 003

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** South Downs National Park Authority

**On behalf of** N/A

**Main Modification Number** MM47

**CPP2 reference** Policy E1, page 188, paragraph 2.87

**With the inclusion of the Main Modification do you consider the Plan is sound?**

**With the inclusion of the Main Modification do you consider the Plan is Legally Compliant?**

**Unsound because**

**Reason for Supporting or Objecting**

Policy E1 Opportunity site for business and warehouse uses and modification MM47. We support the additional wording in the supporting text on page 188, paragraph 2.87 regarding the use of design and materials being expected to reflect the setting of the National Park and the reference to the relevant sections of the South Downs Integrated Landscape Character Assessment (SDILCA).

**Changes Necessary**

**Respondent Number** 018

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** National Highways

**On behalf of** N/A

**No specific comments to make** N/A

**General comments to make** We have been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

We will be concerned with plans and/or proposals that have the potential to impact on the safe and efficient operation of the SRN. In the case of the Brighton & Hove City Council, our interest relates primarily to the A23, A27 and associated junctions.

We have reviewed the main modifications being proposed as part of the current consultation and have concluded that they would not result in any significant changes to the previously assessed SRN impacts. As such, there is no requirement for any additional assessment of these impacts.

On this basis, we can confirm that our previous position, as detailed within the existing Statement of Common Ground, dated 9 November 2021, between National Highways and Brighton & Hove City Council, remains appropriate. Considering the above, there are no material matters of concern for National Highways currently.

**Respondent Number** 020

**Name** [REDACTED]

**Email Address** [REDACTED]

**Organisation** N/A

**On behalf of** N/A

**No specific comments to make** N/A

**General comments to make** Representor (Respondent) No 132 ... Consultation on Main Modifications to City Plan Part 2

MMs responded to: This representation relates to a failure to comply with planning law after the earlier review and subsequent documentation added by B&HCC (notably BHCC35 and BHCC46 where this is the first opportunity to respond) and is generic, rather than mandating specific MMs to alter to ensure the plan is executed successfully.

The Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) Regulation 17(1) stipulates that “The responsible authority shall monitor the significant environmental effects of the implementation of each plan or programme with the purpose of identifying unforeseen adverse effects at an early stage and being able to undertake appropriate remedial action”.

\*\*\* The Local Plan’s Monitoring Plan specifies “how” this is done and the annual Authority Monitoring Report publishes the monitoring results. “how” is crucial, no doubt why the CPP1 Inspector challenged the lack of thresholds and appropriate actions in the initial monitoring plan in her first note to B&HCC1, even before raising her “matters”. Not updating the sustainability monitoring in CPP1 to ensure it remains appropriate given the passage of time (BHCC46 Para 10.1.1), increases the risks of unforeseen adverse effects derailing the City Plan. Where, as in this case, it is known that thresholds are obsolete, actions are inappropriate or targets need updates to reflect historic underperformance against earlier targets (see comments on BHCC35 below), just saying CPP1 covers this is unacceptable.

In the absence of a revised sustainability monitoring plan and the opportunity to consult on a such a plan, CPP2 does not comply with the above SEA Regulations so the Inspector’s decision that CPP2 is SOUND without this, must be challenged.

B&HCC’s response in BHCC35 (which this is the first chance to comment on) to monitoring issues raised, shows B&HCC failed to learn from the execution of CPP1’s monitoring plan and identify where improvements are essential, including (but not exclusively) not recognising ...

A. The performance of an indicator in 20162 did/can not monitor the implementation of the plan in subsequent years 2017, 2018, 2019 nor will it monitor it in 2023, 2024 etc.

B. A check on a 5-year moving average<sup>3</sup> of an indicator’s data (already 12-18 months old), does not meet Regulation 17’s requirement for an early warning of adverse effects. i.e. an effect may take many years to impact the 5-year average enough to trigger action

C. Underperformance on a Sustainability Transport indicator cannot be addressed by revisiting an Air Quality<sup>4</sup> action plan! This is not an appropriate remedial action Nor can a Transport threshold alert be actioned by reviewing transport plan Targets<sup>5</sup>

Nor should any annual target set in 2013, when there has been substantial (cumulative) underperformance since it was set, be carried forward to 2022 without adjustment.

To suggest when an indicator’s measure falls to 499,999 action is needed, but at 500,000<sup>6</sup> it is not<sup>7</sup>, shows not only misplaced faith in the accuracy of the measurements but also a failure to understand that indicators are proxies to flag possible adverse effects to investigate, not exact measurements of the state of the resources whose sustainability must be protected.

B&HCC's poor understanding of the purpose of monitoring is further evidenced in BHCC35's last but one paragraph which excuses missing a threshold and also in the preceding paragraph that argues whether or not a threshold was precisely exceeded, neither respecting that the purpose of Regulation 17(1) is to protect the execution of the plan and that indicators are there to help identify adverse effects, they are not measures whose precise accuracy should be debated.

It is very hard to see how a Judicial Review challenge in (say) 2026 alleging that a development was not sustainable, could be defended based on CPP2's soundness, if (for example) transport sustainability had not been monitored in accordance with Regulation 17.

This risk to the plan re Sustainable Transport is magnified, as CPP2's appraisal also ignored the recent council traffic study that said the Transport Infrastructure could not support the Development Plan<sup>8</sup> and CPP2's Sustainability Assessment (Transport Assessment) is based on 2010 traffic measurements<sup>9</sup>, contrary to the DfT requirement to use recent measurements.

A major risk to the execution of the development plan has not been dealt with adequately or dealt with as required by planning law, so in this respect, CPP2 is not sound.

The comments below on material B&HCC submitted during the Review, where this is the first opportunity to comment, include additional concerns about SEA Regulations compliance.

BHCC35. See the relevant comments in the text above.

BHCC46 The following paragraph 4.1.20 in BHCC46 requires comment/objection in this monitoring context, in addition to the comments on Para 10.1.1 above.

4.1.20 In the city, carbon emissions generated by energy consumption from domestic buildings make up the greatest proportion of total carbon emissions and is higher than the England average. This is in part due to the large proportion of historic buildings and older building stock in the city. Overall, monitoring of total carbon emissions from all sources per capita shows an overall downward trend over the long term, however there is still a significant reduction to be achieved if the Climate Change Act targets are to be met, making it imperative that new buildings are highly energy efficient.

Firstly, whether or not there is a comforting overall downward trend is not germane. The issue is whether or not the plan is on track to meet the Climate Change Act targets (and not just for domestic carbon emissions, a minority and shrinking component of the targets).

BEIS publishes annual measurements so perhaps no further indicators are needed, but where are CPP2's annual targets, thresholds and remedial actions for these indicators?

Secondly, if planned developments make it harder to meet Climate Change Act's targets, are they sustainable developments? Is this the same as UK Air Quality targets (c.f. CPP1's Policy SU9 that implemented NPPF's directives re AQMAs), so those developments must be refused?

Either carbon reduction targets fall within Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) Regulation 17(1) and need indicators, thresholds, annual targets (ideally with trajectories) and appropriate remedial actions in a Monitoring Plan, or the monitoring of adherence to UK carbon targets should be covered elsewhere in CPP2, but in neither case has appropriate publication and consultation taken place. The record on Transport Carbon reduction as evidenced in BHCC35, should be a major concern in its own right, not just as an indicator that CPP1's transport plan has failed.

RMS 15.04.2022

References:- All material referenced is already online in the council's recent submissions or in my earlier representations, except Reference 1, so they are not repeated here but some pointers to the relevant sections/paragraphs are provided for convenience.

1. Full letter available on request ... ID-01 Letter to Council 22nd July 2013 Final paragraph

... There are no trigger points or indications of what steps will be taken if expectations are not being achieved. Without this, the Plan may not be considered effective

2. BHCC35 Table ... Bottom Row, 3rd Column, 1st sentence
3. BHCC35 Table ... Middle Row, 2 nd Column, 1st sentence
4. BHCC35 Table ... Bottom Row, 3rd Column, 2nd sentence
5. BHCC35 Table ... Middle Row, 3rd Column, 2nd sentence
6. BHCC35 2nd Paragraph 1st Sentence
7. BHCC35 2nd Paragraph 3rd Sentence
8. See REPRESENT03c Page 21 and REPRESENT03b Page 5 Para 5
9. See Row 10 in Note submitted by Representator No 132 for previous Matters Review,

**Respondent Number** 010

**Name** [REDACTED]

**Email Address**

**Organisation** Horsham District Council

**On behalf of** N/A

**No Comments to Make**

Thank you for inviting Horsham District Council to respond to the City Plan Part 2 – Main Modifications consultation. We have no specific comments to provide on your modifications but do note that the City Plan (Parts 1 and 2) do not address fully current housing needs, as measured against the Government’s standard method.

We share your commitment to working with other local authorities to address strategic priorities and therefore are glad to see reference to an updated West Sussex and Greater Brighton Statement of Common Ground in the plan. We can confirm that it is our hope that this will be ready for signing imminently. We trust that these comments are of use.

**Respondent Number** 011

**Name** [REDACTED]

**Email Address**

**Organisation** Natural England

**On behalf of** N/A

**No Comments to Make**

Natural England has no comments to make on this consultation request regarding the Main Modifications to your City Plan.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland, ancient and veteran trees which you can use to assess any impacts on ancient woodland or trees.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise local planning authorities to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our Site of Special Scientific Interest Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-getenvironmental-advice>

**Respondent Number** 012

**Name** [REDACTED]

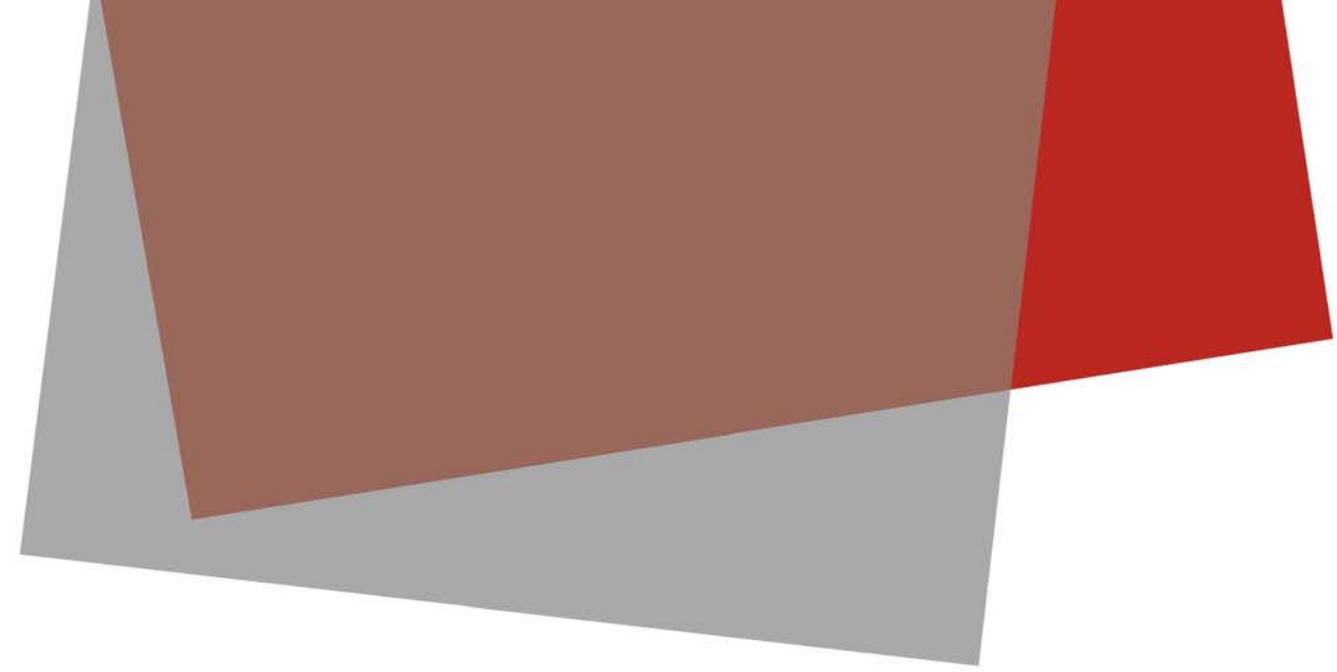
**Email Address**

**Organisation** West Sussex County Council

**On behalf of** N/A

**No Comments to Make**

To confirm, WSCC as a service provider have no comments to make on the Main Modifications of the City Plan Part 2. Please continue to inform us of any future consultations



Brighton & Hove  
City Council