



Intelligent Plans
and examinations

Report on Brighton Marina Neighbourhood Plan 2023 - 2030

An Examination undertaken for Brighton & Hove City Council with the support of the Brighton Marina Neighbourhood Forum on the Summer 2023 submission version of the Plan.

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Main Findings - Executive Summary

From my examination of the Brighton Marina Neighbourhood Plan (the Plan) and its supporting documentation including the representations made, I have concluded that subject to the modifications set out in the Appendix to this report, the Plan meets the Basic Conditions.

I have also concluded that:

- the Plan has been prepared and submitted for examination by a qualifying body – the Brighton Marina Neighbourhood Forum;
- the Plan has been prepared for an area properly designated – the Neighbourhood Plan Area, the boundary of which is identified on the map at Page 3 of the Plan;
- the Plan specifies the period to which it is to take effect – from 2023 to 2030; and,
- the policies relate to the development and use of land for a designated neighbourhood plan area.

I recommend that the Plan, once modified, proceeds to referendums on the basis that it has met all the relevant legal requirements.

I have considered whether the referendums' area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Brighton Marina Neighbourhood Plan 2023-2030

- 1.1 The Brighton Marina is within the Brighton & Hove City Council area and the designated Neighbourhood Area is unusual in that, in its entirety, it is land reclaimed from the sea. The Marina is 4 kilometres to the east of the centre of Brighton and has a residential population of 1,614 persons (Census 2021) but also has significant retail, leisure and commercial businesses within the area, offering employment to people from the City and wider area, together with many visitors and tourists coming to the Marina for leisure and recreational purposes. The Marina covers an area of approximately 0.51 sq. km (127 acres).
- 1.2 The Brighton Marina was first conceived as the vision of a local businessman, Henry Cohen, in the 1960s. The proposals for the Marina progressed through various legal stages, culminating in the Brighton Marina Act 1968. Construction work began in 1971 and continued through the 1970s, with the Marina opening to the public in July 1978. Initially, the development comprised just a harbour area.

- 1.3 In the 1980s, the Marina was purchased by the Brent Walker group who implemented significant areas of new development, by forming new land areas at the western end of the harbour, creating inner harbour promontories and a Village Square with retail facilities, a cinema, car park and the first residential properties. The Brent Walker group collapsed financially in 1991 and development at the Marina then ceased for a short period. Development of further residential properties in the inner harbour area resumed in the mid-1990s, and in 1996 a Brighton-based company, Brunswick Developments, purchased the Brighton Marina Company. The following five years saw considerable further residential development including the five main blocks of apartments south of Strand Road, a public house and leisure units.
- 1.4 Further changes of ownership of parts of the Marina occurred in 2004 and 2013. In July 2006, planning permission was granted by the City Council for a new district in the south-western part of the Marina including 853 new apartments. Phase 1 of this development commenced in 2013, including 195 apartments, a new Royal National Lifeboat Institution (RNLI) building and a number of cafés and restaurants. This phase was completed in 2016, but subsequent phases have yet to be commenced.
- 1.5 The adopted Brighton & Hove City Plan Part 1 notes that "*Different construction phases within the Marina have occurred without the benefit of a planned approach. Consequently, the Marina has become characterised by piecemeal development and areas of poor public realm*". The Neighbourhood Plan has been prepared to introduce policies which will improve this situation in the period up to 2030.

The Independent Examiner

- 1.6 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Plan by Brighton & Hove City Council (the City Council), with the agreement of the Brighton Marina Neighbourhood Forum (the Forum).
- 1.7 I am a chartered town planner, with over 45 years of experience in planning. I have worked in both the public and private sectors and have experience of examining both local plans and neighbourhood plans. I have also served on a Government working group considering measures to improve the local plan system and undertaken peer reviews on behalf of the Planning Advisory Service. I therefore have the appropriate qualifications and experience to carry out this independent examination.
- 1.8 I am independent of the Qualifying Body and the Local Authority and do not have an interest in any of the land that may be affected by the draft Plan.

The Scope of the Examination

- 1.9 As the independent examiner, I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum¹ without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.10 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the plan meets the Basic Conditions.
 - Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for "excluded development"; and
 - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.
 - Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.²
 - Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').
- 1.11 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

¹ As this Plan relates to an area designated as a business area under Section 61H of the 1990 Act, there are two applicable referendums (see Section 61E(5)(b) of the 1990 Act).

² See footnote above.

The Basic Conditions

1.12 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with and not breach European Union (EU) obligations (under retained EU law)³; and
- meet prescribed conditions and comply with prescribed matters.

1.13 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.⁴

2. Approach to the Examination

Planning Policy Context

- 2.1 At the date of this examination, the adopted Development Plan for this part of the Brighton & Hove City Council area, not including documents relating to excluded minerals and waste development, is the Brighton & Hove City Plan (BHCP) Parts 1 and 2.
- 2.2 The Plan area is also covered by the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013) and its accompanying Sites Plan (adopted February 2017).
- 2.3 Brighton & Hove City Council is presently undertaking a review of the BHCP Part 1 and the City Council's latest Local Development Scheme (LDS) (approved March 2023) indicates that a Regulation 18 Scoping Consultation will take place in Spring 2024, with a further Regulation 18 consultation on the Preferred Strategy scheduled for Spring 2025. In response to Question No. 1 (see paragraph 2.8 below), the City Council has advised that the Scoping Consultation did not take place in Spring 2024, and that the City Council's Cabinet is expected to agree to proceed

³ The existing body of environmental regulation is retained in UK law.

⁴ This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

with the consultation at its meeting to be held in September 2024. Following that approval, the LDS will then be updated.

- 2.4 The Basic Conditions Statement (at Pages 8 and 9) provides a full assessment of how each of the policies proposed in the Plan are in general conformity with the relevant strategic policies in the adopted BHCP, there is an expectation that the City Council and the Forum will work together to produce complementary plans.⁵ The draft Plan includes a short section (at Page 26) regarding its future Monitoring and Review which I consider addresses this matter satisfactorily, subject to one focused amendment (see **PM11**).
- 2.5 Planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published in December 2023 and all references in this report are to the NPPF (December 2023) and its accompanying PPG⁶, notwithstanding that the draft Plan and the Basic Conditions Statement were prepared on the basis of the NPPF published in July 2021. In practice, the December 2023 changes to the NPPF (as they relate to the Plan) are minimal. However, it is nevertheless important that the Plan reflects the contents of the most recent edition, including updated references to the NPPF's revised paragraph numbers (for example, see specific references on pages 13, 16 and 20 of the Plan). These references should be updated to reflect the current (December 2023) version of the NPPF, and this matter is addressed by recommended modification **PM1**.

Submitted Documents

- 2.6 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Brighton Marina Neighbourhood Plan 2023-2030 Submission Version (Summer 2023);
 - the Strategic Environmental Assessment Screening Determination Report and Consideration of Habitats Regulations Assessments of relevance to the Brighton Marina Neighbourhood Plan (April 2022);
 - the Basic Conditions Statement (dated 2023);
 - the Consultation Statement (dated 2023);
 - all the representations that have been made in accordance with the Regulation 16 consultation ; and

⁵ PPG Reference ID: 41-009-20160211.

⁶ Planning policy for traveller sites was also updated in December 2023. The government is presently consulting on further changes to the NPPF (albeit these are not likely to be published in final form until later in 2024): [Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system)

- the request for additional clarification sought in my letter of 28 May 2024 to the City Council and the Forum and their responses dated 19 June 2024 and 20 June 2024.⁷

Supporting Documents

- 2.7 I have also considered supporting documents to the submission Plan, including:
- Results of the Community Survey Autumn 2019 (Brighton Marina Neighbourhood Forum); and
 - Equalities Impact Assessment 2023 (Brighton Marina Neighbourhood Forum).

Examiner Questions

- 2.8 Following my appointment as the independent examiner and my initial review of the draft Plan, its submitted and supporting documents, and representations made at the Regulation 16 stage, I wrote to the City Council and the Forum on 28 May 2024 seeking further clarification and information on four matters regarding the submission Plan, as follows:
1. With regard to the section of the Plan addressing Local Policies (at Page 13), I requested that the City Council confirm that the Review of the City Plan Part 1 is proceeding in accordance with the following timetable, as contained in the current Local Development Scheme (2023), which I noted includes a Regulation 18 Scoping Consultation to be held in Spring 2024:
 - Assessment of Need for the Review
 - Evidence gathering and Scoping – 2023
 - Scoping Consultation (Reg. 18) – Spring 2024
 - Preferred Strategy Consultation (Reg 18) – Spring 2025
 - Pre-submission Consultation (Reg 19) – Spring 2026
 - Submission of Plan to Government – Autumn 2026
 - Public Examination – Winter 2026/2027
 - Adoption – 2027
 2. With regard to the City Plan Part 2, it is stated in the draft Plan on Page 14 that the City Plan Part 2 was adopted in October 2022, whilst on Page 26, it states that "*the Inspector's report has recently been received in relation to Part 2 of the Plan*". I requested that the City Council confirm that the entry on Page 26 is not correct, and presumably dates from a point in 2022.
 3. With regard to City Plan Policy DA2, as referenced on Page 14 in the draft Plan, I noted that certain representations question the need for a

⁷ The documents listed above and the Supporting Documents can be found at: <https://www.brighton-hove.gov.uk/planning/planning-city/brighton-marina-neighbourhood-plan>

new primary school within or in the vicinity of Brighton Marina, as there is considered to be surplus capacity at some existing primary schools. I therefore requested that the City Council provide me with an update on this element of Policy DA2, and whether or not a site has been identified for the proposed new primary school.

4. With regard to the City Council's representations at the Regulation 16 Consultation stage, I noted from those representations that it was considered that, in a number of areas, the Qualifying Body had not taken account of comments that were made on the draft Plan by the City Council at the Regulation 14 stage between 9 November 2022 and 4 January 2023. Accordingly, the City Council had now repeated many of those detailed comments at the Regulation 16 stage. In my assessment of Appendices 3 and 4 in the Consultation Statement, I agreed that many of the City Council's detailed comments did not appear to have been addressed. I therefore requested that the Qualifying Body review the full representations that had been made by the City Council (dated February 2024) and provide me with a note which provides a commentary on the Neighbourhood Forum's position on the proposed amendments set out in those representations.

2.9 In response to my letter of 28 May 2024, the City Council and the Forum provided me with responses to the questions listed above on 19 June and 20 June 2024 respectively. I have taken full account of the additional information contained in these responses as part of my assessment of the draft Plan, alongside the documents listed at paragraphs 2.6 and 2.7 above.

2.10 To avoid unnecessary repetition in subsequent sections of this report, I refer to the questions and to the responses from the City Council and the Forum by their relevant number, e.g. Question No. 1. Readers should refer to paragraph 2.8 above, and to the response documents from the Forum and the City Council, for the full text of questions and responses.

Site Visit

2.11 I made an unaccompanied site visit to the Neighbourhood Plan Area on 22 June 2024 to familiarise myself with it and visit relevant sites and areas referenced in the Plan, evidential documents and representations.

Written Representations with or without Public Hearing

2.12 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections and comments regarding the Plan and presented arguments for and against the Plan's suitability to proceed to referendums. I am satisfied that the material supplied is sufficiently comprehensive for me to be able to deal with the matters

raised under the written representations procedure, and that there was not a requirement to convene a public hearing as part of this examination.

Modifications

- 2.13 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications in full in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The draft Plan has been prepared and submitted for examination by the Brighton Marina Neighbourhood Forum. The Brighton Marina Business Neighbourhood Forum submitted an application in September 2014 for a neighbourhood area and to have its Forum formally designated. The neighbourhood and forum applications were subject to public consultation between 2 October and 13 November 2014 and were reported to the City Council's Economic Development & Culture Committee on 15 January 2015. The decision to designate the Neighbourhood Area and Forum was deferred on that occasion in order to address issues raised over the area boundary and a representation. The applications were then subsequently determined and approved at the Committee's meeting held on 18 June 2015. The Neighbourhood Area was designated as the Brighton Marina Business Neighbourhood Area, and membership of the Forum was open to all workers and residents within the Neighbourhood Area. The designation of the Forum for a further five years was approved by the City Council on 3 November 2020, following consultation held between 4 August and 15 September 2020. The boundary of the Neighbourhood Area remains identical to the original boundary that was designated in 2015.
- 3.2 A small number of representors have raised concerns about a potential conflict of interest within the Forum. The sector guidance for examiners advises that "*An independent examiner has no authority to consider such allegations of misconduct. Such matters should be dealt with through internal complaints handling procedures of the qualifying body or local planning authority*".⁸ Therefore, this is not a matter I have investigated

⁸ See paragraph 1.16. View at:

https://www.rics.org/content/dam/ricsglobal/documents/dispute-resolution-service/Npiers_Planning_Guidance_To_Service_Users_And_Examiners_Rics.pdf This comprehensive guidance on the examination process was produced by a sector led working party comprising examiners and representatives from the Royal Institution of Chartered Surveyors, the Royal Town Planning Institute, Intelligent Plans and Examinations, Locality and the former Ministry for (now 'Ministry of') Housing, Communities and Local Government.

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further given it is outside the statutory scope of the examination (see 1.10 above).

- 3.3 I am satisfied it is the only Neighbourhood Plan for the Brighton Marina and does not relate to any land outside the designated Neighbourhood Plan Area.

Plan Period

- 3.4 The Plan specifies (on Page 6) the period to which it is to take effect, which is between 2023 and 2030. This aligns with the end date of the adopted BHCP Part 1. However, the Plan should also specify the plan period on its front cover, and recommended modification **PM2** addresses this requirement.

Neighbourhood Plan Preparation and Consultation

- 3.5 The Plan has been prepared in response to the Localism Act 2011. The Consultation Statement and its Appendices 1-12 contains a record of the principal consultation activities that took place. Work commenced on the preparation of the Plan in June 2017 following the inaugural Annual General Meeting (AGM) of the Forum and the election of a Neighbourhood Plan Steering Group comprising representatives of the resident and business communities.
- 3.6 During 2017 and 2018, initial work focused on the preparation of a Vision Statement, which was adopted by the Forum in September 2018. In November 2018 a planning consultant was appointed to assist with the preparation of the Plan, and in May 2019 the Forum, at its AGM, agreed the policy areas to be covered by the Plan. A Community Survey of residents and businesses was undertaken between 13 September and 24 October 2019, which attracted 150 respondents from residents and workers from within the Neighbourhood Area. Appendix 2 of the Consultation Statement sets out details of the responses that were received.
- 3.7 Work on the preparation of the draft Plan then continued during 2020 and 2021, and in February 2022 the draft Plan's policies were submitted to the City Council for Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening (see also paragraph 4.1 below). A SEA and HRA Screening Determination Report to determine whether or not the Plan required SEA and HRA screening was issued by the City Council in April 2022. Further work was then undertaken on the preparation of the draft Plan, and this culminated in the Regulation 14 consultation which was held from 9 November 2022 to 4 January 2023. This consultation was accompanied by the distribution of a letter to all 987 residential properties and all commercial properties in the Plan area, together with separate consultations to statutory and regulatory consultees. A total of 46 responses were received to the consultation,

including six from statutory agencies (as set out in detail at Appendices 3-11 to the Consultation Statement).

- 3.8 The outcomes from the Regulation 14 consultation were assessed, and a number of focused amendments and changes were made to the draft Plan in response to the representations received during that consultation period. Further supporting documents were prepared following the Regulation 14 consultation including the Basic Conditions Statement and the Consultation Statement.
- 3.9 The draft Neighbourhood Plan was formally submitted to Brighton & Hove City Council on 16 November 2023. The Plan was subject to further consultation from 5 February to 18 March 2024 under Regulation 16 and I take account of the 51 responses then received in writing this report, as well as the Consultation Statement. I am satisfied that the Plan has been prepared with an appropriate level of engagement and consultation with residents and businesses within the Neighbourhood Area at the key stages during its preparation. The consultation process has been open and transparent, has met the legal requirements for procedural compliance and has had regard to the guidance in the PPG on plan preparation and engagement.

Development and Use of Land

- 3.10 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

Excluded Development

- 3.11 The Plan does not include any provisions and policies for 'excluded development'.⁹

Human Rights

- 3.12 The Basic Conditions Statement (at Page 10) states that the Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998. From my assessment of the draft Plan, the Equalities Impact Assessment and the consultation responses made to the Plan at the Regulations 14 and 16 stages, I am satisfied that none of the Objectives and Policies in the Plan will have a negative impact on groups with protected characteristics. Many will have a positive impact.

⁹ See section 61K of the 1990 Act.

4. Compliance with the Basic Conditions

EU Obligations

4.1 The draft Plan was screened for SEA and HRA by the City Council in a document dated April 2022. The Screening Determination Report confirms that the Plan has been assessed against the Schedule 1 criteria contained in the SEA Regulations¹⁰ for determining the likely significance of the effects on the environment. It notes that:

- *"The Brighton Marina NP sits within an existing adopted planning framework that has already been subject to its own SEA during the preparation of City Plan Part 1; this included a specific SEA assessment of the Brighton Marina Development Area (DA2). It does not create a new framework.*
- *The Brighton Marina NP is in considered to be in general conformity with other Development Plans: this includes City Plan Part 1 and City Plan Part 2 which is currently in the examination stage; is supportive of these plans and does not influence other plans within the planning hierarchy.*
- *The Brighton Marina NP is considered to support sustainable development.*
- *There are no allocations for development; the scale and effects of the Brighton Marina NP are therefore limited.*
- *Although the Brighton Marina NP supports residential development associated with the Inner Harbour Strategic Allocation allocated in City Plan Part 1, the impacts of this allocation have already been tested through the SA/SEA of City Plan Part 1.*
- *Local sensitive and valued receptors and environmental issues are reflected and addressed through policy requirements.*
- *The geographic extent of any effects arising from the Marina NP is limited and the magnitude of effects is low.*
- *The policies are primarily focused on the acceptability of future proposals.*
- *The Brighton Marina NP is unlikely to result in any significant cumulative or transboundary effects."*

As such, the Screening Report concludes (at Section 6, page 14) that the Plan is unlikely to give rise to significant environmental effects and therefore that SEA is not required. The Environment Agency, Historic England and Natural England were consulted on the draft Screening Report during February-April 2022, and they each concluded that the preparation of a SEA is not required. From my own consideration of the matter, I too arrive at that conclusion.

4.2 The Plan has also been assessed by the City Council in accordance with the HRA screening tests in order to assess its likely effects on sites of

¹⁰ The Environmental Assessment of Plans and Programmes Regulations 2004, commonly referred to as the 'SEA Regulations'.

European importance within the surrounding area, comprising the Castle Hill Special Area of Conservation (SAC), the Arun Valley Special Protection Area (SPA), the Ashdown Forest SAC and SPA and the Lewes Downs SAC. The HRA Screening Assessment summarises (at Section 6, page 18) that the updated HRA screening and detailed assessments, undertaken on the BHCP Part 2 in 2018, considered the impacts of a greater amount of housing than set out in the BHCP Part 1 on the European sites, and that it is concluded that those existing HRA assessments are considered to cover the impacts of any development arising from the Neighbourhood Plan. It therefore determines that the Plan does not require its own HRA screening assessment. Natural England were consulted on the draft Screening Report and agrees with the Report's conclusion. From my own consideration, I also concur with that conclusion.

- 4.3 On the basis of the information provided and my independent consideration of the SEA and HRA Screening Determination Report (dated April 2022) and the Plan, I am satisfied that the Plan is compatible with EU obligations as retained in UK law.

Main Assessment

- 4.4 Having considered whether the Plan complies with various legal and procedural requirements, it is now necessary to deal with the question of whether it complies with the remaining Basic Conditions (see paragraph 1.12 of this report), particularly the regard it pays to national policy and guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic development plan policies.
- 4.5 I test the Plan against the Basic Conditions by considering specific issues of compliance of the Plan's eight policies, which deal with Design; Public Realm/Open Spaces; Connectivity; Residential Development; Natural Environment/Marine Wildlife; Cafés, Restaurants, Retail Facilities and Other Commercial Facilities; Energy Use, Waste Minimisation and Recycling; and Community Facilities.
- 4.6 I consider that overall, subject to the modifications I will recommend to specific policies, that individually and collectively the policies will contribute to the achievement of sustainable patterns of development and meet the other Basic Conditions. I set out my detailed comments below.
- 4.7 The Plan is addressing a Plan period from 2023 to 2030. The Plan seeks to introduce policies that will achieve higher standards of development within the Marina, as evident through the Plan's Vision and Objectives.
- 4.8 The NPPF states (at paragraph 29) that "*Neighbourhood planning gives Communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan*" and that "*Neighbourhood plans should not*

promote less development than set out in the strategic policies for the area, or undermine those strategic policies". The NPPF (at paragraph 11) also sets out the presumption in favour of sustainable development. It goes on to state (at paragraph 13) that neighbourhood plans should support the delivery of strategic policies contained in local plans; and should shape and direct development that is outside of these strategic policies.

- 4.9 The Vision and Objectives for Brighton Marina up to 2030 are set out on pages 11-12 of the Plan. The Planning Policies are set out on pages 15-23, and I am satisfied that the key issues arising from the NPPF and the strategic policies in the adopted BHCP Parts 1 and 2 covering the period up to 2030, as they affect Brighton Marina, are appropriately referenced within the draft Plan and more fully in the Basic Conditions Statement (at pages 8-9).
- 4.10 However, there are a number of detailed matters which require amendment to ensure that the policies have the necessary regard to national policy and are in general conformity with the strategic policies of the BHCP. Accordingly, I recommend modifications in this report in order to address these matters.

Vision and Objectives

- 4.11 The Vision of the Plan is as follows:

"We want Brighton Marina to be developed in a way that realises the full potential of this special place by the sea for residents, workers and visitors. Our shared aim for Brighton Marina is that future development of the Marina fulfils the objectives of supporting high quality of life, sustainability, connectedness and being a highly-valued asset. A place where residents, tourists and businesses all thrive."

- 4.12 The Plan contains four Objectives, as follows:

High Quality of Life:

- A positive choice as a feel-good place to live, work and visit.
- Public spaces and facilities that are enjoyable places to be.
- Making the most of our location on the coast and by the sea.

Sustainability:

- Economically sustainable. A mix of residential and commercial premises and property uses that are always in demand, maximising numbers of people in the Marina throughout the year.
- Environmentally sustainable. Aiming to have a positive effect on the natural environment and marine wildlife, and to minimise negative impacts.
- Future sustainable. Able to respond to changing requirements and demand to provide a significant contribution to the City's need for homes, workplaces and leisure space.

Connectedness:

- Connected within itself. Development plans must bring stakeholders together to make a cohesive and enjoyable place for individual employees, residents, berth holders and visitors.
- Connected to the city. Joined up transport links and welcoming entrances for vehicles, pedestrians, cyclists and boats.
- Development should make the Marina better and easier for pedestrians to get around.
- Residents across long-standing and new developments have a great sense of community, respect and shared interests and work together to build a collective sense of pride and belonging.
- Represented in the city by being an electoral ward.

A Valuable Asset:

- Valued as a unique part of the city. Brighton's marina and the City's access to the sea. The UK's largest marina.
- Valued for quality of management.
- Valued in the city and region for its positive environmental and economic contribution.

The Planning Policy Context

4.13 The draft Plan has been prepared in the context of national policy to contribute to the achievement of sustainable development, and the Plan (at Page 13) describes the three overarching objectives, economic, social and environmental, which are interdependent and need to be pursued to achieve sustainable development. This section of the Plan also then sets out the relevant policies in the adopted BHCP that are considered to be of particular relevance to the Neighbourhood Area.

4.14 Policy DA2 of the BHCP Part 1 (Brighton Marina, Gas Works and Black Rock Area) addresses one of the eight identified Development Areas within the City and sets out a series of strategic development requirements for each of the three areas covered by the policy. In summary, it sets out the following requirements for the Brighton Marina area:

- 1,938 residential units (including the 853 residential units already granted planning permission) for the outer harbour, 1,000 residential units allocated for the inner harbour;
- 5,000 square metres (net) retail (A1-A5) floorspace;
- 2,000 square metres employment (B1a, B1c) floorspace;
- 10,500 square metres of leisure and recreation floor space;
- A community building within the Marina;
- A health facility within or in the vicinity of the Marina to be agreed with the relevant NHS organisation;
- A primary school or increase in the number of school places within or in the vicinity of the Marina.

4.15 A number of representations that were made to the draft Plan at the Regulation 16 consultation stage questioned the need for a new primary school within or in the vicinity of the Marina, as identified in Policy DA2 set out above. I raised this matter as Question No. 3 (see paragraph 2.8 above) and the City Council's response (from the Head of School Organisation) confirms that "*the Council does not consider there to be a need for a new primary school due to falling school rolls across the city and therefore no site has been identified for the proposed new primary school in the DA2 area*". On the basis of that response, I have therefore given no further consideration to the possible requirement for a new primary school within or in the vicinity of the Marina during the Plan period. I do not recommend any modifications to the draft Plan, as the requirement is set out in an adopted policy within the BHCP Part 1 (which is presently subject to a review - see paragraph 2.3 above).

The Neighbourhood Plan Policies

4.16 The draft Plan contains eight policies (Policies BM1-BM8) which are set out within this section of the Plan. In my assessment of these policies, I have taken into account the Forum's responses to Question No. 4, and the matters raised in representations that have been made to the draft Plan at the Regulation 16 consultation stage, including those made by the City Council.

Policy BM1 – Design

4.17 This policy states that new development within the Marina should be designed to reflect its relationship to the English Channel in general, and to the Marina in particular. It goes on to state that, as appropriate to its scale, nature and location, new development should respect its prominence and visibility from the waterside and that development proposals will be supported that bring forward high quality design appropriate to their location within the Marina.

4.18 The City Council has raised a number of concerns regarding the text of this policy and to its supporting text. I concur with the City Council's suggested amendments, which I consider will secure the necessary clarity in this policy and its requirements. The amendments are set out in recommended modification **PM3**.

4.19 With recommended modification PM3, I consider that the draft Plan's policy on Design (Policy BM1) is in general conformity with the strategic policies of the BHCP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Policy BM2 – Public Realm/Open Spaces

4.20 Policy BM2 states that, as appropriate to their scale and location, new developments should incorporate public realm and/or open spaces

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development and should demonstrate good connectivity between buildings and spaces within the Marina and wider area. Within the context of their wider development, areas of public realm and other open spaces should demonstrate the ways in which they respond to safety and surveillance and attractiveness for their users. Proposed developments which do not demonstrate appropriate responses to these principles will not be supported.

- 4.21 The City Council has made a number of detailed comments regarding the text of this policy. In my own assessment, I have taken account of those comments and recommend a number of focused amendments to the policy to ensure there is clarity for users of the Plan. These amendments are addressed by recommended modification **PM4**.
- 4.22 With recommended modification PM4, I consider that the draft Plan's policy on Public Realm/Open Spaces is in general conformity with the strategic policies of the BHCP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Policy BM3 - Connectivity

- 4.23 Policy BM3 states that all new elements of public realm should be designed and arranged so that they secure improved connectivity and are connected in a sensitive, legible and imaginative way both to related developments and to other adjacent developments and associated public realms. Development proposals which positively address the difficulties for pedestrians getting around the Marina will be supported.
- 4.24 The City Council has made a number of general comments regarding this policy. I consider that the policy is appropriately drafted, but also consider that it should include a reference to the City Council's emerging Eastern Seafront Masterplan Supplementary Planning Document (SPD) in order to take account of initiatives to be contained in that SPD. This addition is addressed by recommended modification **PM5**.
- 4.25 With recommended modification PM5, I consider that the draft Plan's policy on Connectivity (Policy BM3) is in general conformity with the strategic policies of the BHCP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Policy BM4 – Residential Development

- 4.26 Policy BM4 states that proposals for new residential development will be supported where they help to deliver the strategic allocation for the Marina as identified in Policy DA2 of the BHCP Part 1. It goes on to state that proposals for new residential development should incorporate the following three design principles as appropriate to their scale and location:

- access and permeability;
- high quality design; and
- housing type and mix.

Proposed developments which do not demonstrate appropriate responses to these design principles will not be supported.

4.27 The City Council has made a number of comments regarding this policy. Again, I have taken those comments into consideration as part of my own assessment of the draft policy. I note, in particular, that the City Council considers that the policy does not identify what types of housing are needed within the Plan area to improve and widen housing choice. I agree with that assessment, and I therefore recommend a number of amendments to the policy text and to its supporting justification in order to provide the necessary clarity for users of the Plan. These amendments are addressed by recommended modification **PM6**. I have further considered those representations which seek a 'Principal Residence' policy within the Plan, to be applied to new residential developments, in order to address issues arising from short-term lettings of some existing properties for holiday use. However, I have not been provided with sufficient evidence to suggest that the holiday and second homes issue is so exceptional in the Plan area that such a policy is necessary or justified. I also note that the Consultation Statement has not highlighted this matter.

4.28 With recommended modification PM6, I consider that the draft Plan's policy on Residential Development (Policy BM4) is in general conformity with the strategic policies of the BHCP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Policy BM5 – Natural Environment/Marine Wildlife

4.29 Policy BM5 states that development proposals should respect the natural environment within which the Marina is located. Proposals for new development should incorporate the following environmental design principles as appropriate to their scale and location:

- mitigation of flood risk;
- integrity of the cliffs to the north of the Marina; and,
- water quality within the Marina and more widely in the English Channel.

Proposed developments which do not demonstrate appropriate responses to these design principles will not be supported.

4.30 The City Council has made some extensive comments regarding this policy, which are generally in the interests of improving its accuracy, clarity and future implementation. Having also taken into account the Forum's response to Question No. 4 (see paragraph 2.8 above), it is my assessment that the City Council's proposed amendments to the text of this policy are all justified, and accordingly recommended modification **PM7** addresses the necessary amendments.

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- 4.31 With recommended modification PM7, I consider that the draft Plan's policy on Natural Environment/Marine Wildlife (Policy BM5) is in general conformity with the strategic policies of the BHCP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Policy BM6 – Cafés, Restaurants, Retail Facilities and Other Commercial Facilities

- 4.32 This policy states that the Plan supports the availability of a wide range of retail and commercial facilities in the Marina. It goes on to state that insofar as planning permission is required, proposals for the use of existing commercial floorspace for commercial, business and service uses will be supported, particularly uses that are complementary to the harbour and marine activities. Proposals for the use of land and/or buildings for boating, leisure and recreational activities will be particularly supported.
- 4.33 The City Council query whether this policy is required, as existing Policies DM14 and DA2 in the adopted BHCP are already being used for the determination of planning applications. However, in my assessment, this policy is fully justified as the provision of a wide range of retail and commercial facilities is essential for the continuing vitality and vibrancy of the Marina, for its residents and visitors and for the overall sustainability of the development. I do concur with a focused amendment to the policy text that has been suggested by the City Council, and this amendment is addressed by recommended modification **PM8**.
- 4.34 With recommended modification PM8, I consider that the draft Plan's policy on Cafés, Restaurants, Retail Facilities and Other Commercial Facilities (Policy BM6) is in general conformity with the strategic policies of the BHCP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Policy BM7 – Energy Use, Waste Minimisation and Recycling

- 4.35 This policy states that development proposals which demonstrate the highest standards of energy use, waste minimisation and recycling will be supported. Proposals which incorporate zero carbon construction energy initiatives, which provide for a reduction in vehicle movements, which provide recharging facilities for electric vehicles and any other similar initiatives which would reduce carbon emissions at the Marina will be particularly supported. New residential development should include charging facilities for electric vehicles in accordance with the standards set out in Appendix 2 of the BHCP Part 2.
- 4.36 The City Council has made a number of detailed comments regarding the wording of this policy, and also comment that the requirement for electric vehicle charging facilities duplicates standards set out within the BHCP

Part 2 and also the Building Regulations. Despite that duplication¹¹, I consider that taking into account the local context and the primary purposes of this policy, it is important to stress the need for sustainable energy use within the Marina environment. I do, however, concur with the City Council's other detailed comments on the policy text, and these are addressed by recommended modification **PM9**.

- 4.37 With recommended modification PM9, I consider that the draft Plan's policy on Energy Use, Waste Minimisation and Recycling (Policy BM7) is in general conformity with the strategic policies of the BHCP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Policy BM8 – Community Facilities

- 4.38 Policy BM8 states that, insofar as planning permission is required, proposals for the change of use of existing community facilities to other uses will not be supported unless:

- it can be demonstrated that there is no need for the community facility and that there is no reasonable prospect of the property concerned being occupied by an alternative community or social use; or,
- it can be demonstrated that the continued use of the premises concerned by the existing community use is unviable; or,
- they include the replacement of the existing community facility in an accessible and convenient location.

Proposals that would result in the availability of additional community facilities (Use Classes E(e), E(f), F1 and F2) in the Neighbourhood Area will be supported where they would not have an unacceptable detrimental impact on the amenities of any residential properties in the immediate locality. Proposals that would result in the opening of a GP surgery, a Post Office or provision of community meeting space would be particularly supported.

- 4.39 The City Council comment that the policy largely duplicates Policy DM9 in the BHCP Part 2, and question whether it is required. However, from my assessment and in particular from my site visit, I recognise that the provision of community facilities within the Marina is, and will continue to be, an important issue, particularly in light of further residential development, and I consider that the policy is justified and appropriately drafted. The City Council also seek the deletion of the final paragraph of the policy's supporting justification, as it is not relevant to the implementation of the policy. I agree with that point, and recommended modification **PM10** addresses this matter.

¹¹ See NPPF, Paragraph 16 f).

4.40 With recommended modification PM10, I consider that the draft Plan’s policy on Community Facilities (Policy BM8) is in general conformity with the strategic policies of the BHCP, has regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

Other Matters

4.41 The draft Plan includes a short section regarding its future Monitoring and Review. The City Council has commenced a review of the BHCP Part 1 and public consultations are expected to take place during late-2024 and 2025. I consider that the sub-section entitled “Review of the Plan” is appropriately drafted, and I do not recommend any modifications. However, within the introductory paragraph to this part of the Plan, the final sentence is inaccurate¹², as confirmed by the City Council’s response to Question No. 2 (see paragraph 2.8 above), and the necessary amendment is addressed by recommended modification **PM11**.

4.42 The draft Plan references six non-land use Community Actions (Refs. BMCA1-BMCA6), which recognise the role that the Forum plays within the wider life of the Marina, for example to explore opportunities to incorporate public art within the wider public realm. I do not comment in this report on the Community Actions, which are outside the purview of this examination, and which contain projects and initiatives that are priorities of the Forum and which largely extend beyond planning policy considerations.¹³

Concluding Remarks

4.43 The City Council, in their detailed comments on the draft Plan at the Regulation 16 consultation stage, identify a series of desirable amendments to non-policy elements of the Plan, in order that it is up to date and accurate. For example, the City Council suggests that a Glossary of terminology be added to the Plan, and that the Plan be published with a higher contrasting and darker text to improve its accessibility for all users. The Neighbourhood Forum is advised to take account of the City Council’s comments and suggestions, with which I concur in full, when the Plan is being updated for the purposes of any future referendums.

4.44 Amendments to the text can be made consequential to the recommended modifications, alongside any other minor non-material changes¹⁴, factual up-dates, or corrections in agreement between the City Council and the Neighbourhood Forum.¹⁵ As an advisory comment, when the Plan is being redrafted to take account of the recommended modifications, it should be

¹² Modifications for the purpose of correcting errors is provided for in Paragraph 10(3)(e) of Schedule 4B to the 1990 Act.

¹³ See PPG Reference ID: 41-004-20190509.

¹⁴ PPG Reference ID:41-106-20190509.

¹⁵ See for example Representation Ref: SNPS:6 and SNPS:18.

re-checked for any typographical errors and any other consequential changes, etc. In this regard I note, for example, that the Submission Version of the draft Plan includes a superfluous reference to 'Appendices' within its Contents page.

- 4.45 I consider that, with the recommended modifications to the Plan as summarised above and set out in full in the accompanying Appendix, the Brighton Marina Neighbourhood Plan meets the Basic Conditions.

5. Conclusions

Summary

- 5.1 The Brighton Marina Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan, and the supporting documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendums.

The Referendums and their Area

- 5.3 I have considered whether or not the statutory referendums' area should be extended beyond the designated area to which the Plan relates. The Plan, as modified, has no policies or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendums to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendums on the Plan should therefore be the boundary of the designated Neighbourhood Area.

Overview

- 5.4 It is clear that the Brighton Marina Neighbourhood Plan is the product of much hard work since 2017 by the Neighbourhood Forum, the Neighbourhood Plan Steering Group and the many individuals and stakeholders who have contributed to the development of the Plan. There is no doubt in my view that the Plan reflects the aspirations and objectives of the Brighton Marina residential and business communities for the future development of their area up to 2030. The output is a Plan which should help guide the Marina's development over that period in a positive way and it should inform good decision-making on planning applications by Brighton & Hove City Council.

Derek Stebbing

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Throughout the Plan	Update all references to the National Planning Policy Framework (NPPF) in the draft Plan, for example at Pages 13, 16 and 20, to the NPPF that was published in <u>December 2023</u> .
PM2	Front Cover	Specify the Plan period " 2023-2030 " on the Front Cover of the Plan.
PM3	Pages 15 and 16	<p><u>Policy BM1 – Design</u></p> <p><u>Policy text</u></p> <p>Second paragraph of text – first bullet point – add the following text after the words "visual appeal":</p> <p>"whilst recognising the prominence of the location in views along the coast, including the setting of important heritage assets such as the Madeira Terrace;"</p> <p>Second paragraph of text – second bullet point – delete text in full.</p> <p>Third paragraph of text – add new second sentence of text to read as follows:</p> <p>"New developments should seek to improve connectivity and linkages to areas beyond the Marina, both eastwards to the Undercliff Walk and westwards to Madeira Drive."</p> <p>Fifth paragraph of text – add new third sentence of text to read as follows:</p> <p>"Regard should be given to connectivity throughout the Plan area and in particular to the pedestrian and vehicular movements to/from and around the Marina."</p> <p><u>Supporting text</u> (on Page 16)</p>

		<p>Final paragraph – delete existing text in full and replace with:</p> <p>“The policy approach takes account of the ongoing work of the Building Better, Building Beautiful Commission, the National Design Guide and the National Model Design Code. More detailed area-specific design principles should be set out as part of a future masterplan and design code to support this Neighbourhood Plan as well as Policies CP12 (Urban Design) and DM18 (High Quality Design and Places) in the adopted Brighton & Hove City Plan.”</p>
PM4	Page 17	<p><u>Policy BM2 -Public Realm/Open Spaces</u></p> <p><u>Policy text</u></p> <p>Second paragraph – Safety and Surveillance – delete the words “all new elements of” in the first and second lines of text and replace the word “arranged” with the words “laid out” in the second line of text.</p> <p>Second paragraph – Attractiveness – delete existing text in full and replace with:</p> <p>“public realm should also be attractive and meet the needs of residents, boat owners and visitors using the Marina during the day and night. Proposed developments which demonstrate appropriate responses to these design principles will be supported.”</p> <p>Add new sub-section to the second paragraph, entitled “Landscaping” and to read as follows:</p> <p>“areas of public realm should include appropriate landscaping features, clearly defined routes for all users of the Marina and open spaces that provide attractive, safe areas for informal recreational and leisure activities, particularly for children and young people.”</p> <p><u>Supporting text</u></p> <p>Second paragraph – amend text of second sentence to read as follows:</p>

		<p>“New developments which will deliver improvements to the public realm in the Marina will be supported. Proposals that incorporate public art into the wider public realm will be welcomed.”</p>
PM5	Page 18	<p><u>Policy BM3 – Connectivity</u></p> <p>Add new third paragraph of policy text to read as follows:</p> <p>“The City Council is preparing an Eastern Seafront Masterplan SPD and development proposals within the Plan area should take account of that document in ensuring that connectivity to areas beyond the Marina is secured by attractive and fully accessible routes.”</p>
PM6	Page 19	<p><u>Policy BM4 – Residential Development</u></p> <p><u>Policy text</u></p> <p>Second paragraph – Housing Type and Mix – Delete existing text in full and replace with:</p> <p>“new residential developments should provide for an appropriate mix of dwelling types, tenures and sizes, including affordable housing, to meet housing requirements and to improve housing choice within the Plan area in accordance with Policies CP19 and CP20 in the adopted Brighton & Hove City Plan.”</p> <p>Delete third paragraph of text which commences <i>“Proposed developments which do not demonstrate ...”</i> in full.</p> <p><u>Supporting text</u></p> <p>First paragraph – delete all text after the words “development area” in the sixth line of text.</p> <p>Second paragraph – add the words “including affordable housing,” after the words “housing types,” in the second line of text.</p>

PM7	Page 20	<p><u>Policy BM5 – Natural Environment/Marine Wildlife</u></p> <p>Second paragraph of policy text:</p> <p><u>Mitigation of Flood Risk</u></p> <p>Delete the text of this sub-section in full and replace with:</p> <p>“All proposals for new development within the Plan area should demonstrate that they will be safe for their lifetime, taking account of the vulnerability of their users, will not increase the risk of flooding elsewhere and, where possible, will reduce the overall flood risk profile of the Marina. All new development should have regard to the Sea Defence Management Plan of the Brighton Marina Estate Management Company and to the Brighton & Hove City Council Strategic Flood Risk Assessment (SFRA) and SuDS Supplementary Planning Document (SPD 16). The need for a site-specific Flood Risk Assessment will be informed by national Policy and the SFRA.”</p> <p><u>Integrity of the cliffs to the north of the Marina</u></p> <p>Delete the text of this sub-section in full and replace with:</p> <p>“Proposals for new development in the Plan area should demonstrate that the proposals will avoid any adverse impacts on the cliffs located to the north of the Marina. The cliffs are protected for their unique and irreplaceable geological features, being designated as the Brighton to Newhaven Site of Special Scientific Interest (SSSI) and the Friar’s Bay to Black Rock Marina Local Geological Site.”</p> <p><u>Water Quality</u></p> <p>Delete the text of this sub-section in full and replace with:</p> <p>“Proposals for new development in the Plan area should incorporate appropriate sustainable drainage systems (SuDS) and demonstrate no unacceptable impacts on the quality of the water environment both</p>
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		<p>within the immediate environment of the Marina and more widely in the English Channel.”</p> <p>Add new fourth sub-section entitled “Biodiversity” to read as follows:</p> <p>“Proposals for new development in the Plan area should avoid any adverse impacts on biodiversity in accordance with the mitigation hierarchy, conserve and enhance existing biodiversity and complement UNESCO Biosphere objectives. Proposals should ensure that the existing unique wildlife habitat and ecosystem of the Marina as identified in the Local Wildlife Site (LWS) BH33 designation is safeguarded at all times. In accordance with the Environment Act 2021, development proposals will, where required, need to include a Biodiversity Net Gain (BNG) requirement of at least 10% above the baseline position.</p> <p>Add new fifth sub-section entitled “Addressing Climate Change” to read as follows:</p> <p>“Proposals for new development in the Plan area should demonstrate that they take into account the necessary mitigations and resilience in order to respond to the climate change risks identified for the Brighton & Hove area in the City Council’s Climate Risk and Vulnerability Assessment (CRVA).”</p>
PM8	Page 21	<p><u>Policy BM6 – Cafés, Restaurants, Retail Facilities and Other Commercial Facilities</u></p> <p>Second paragraph of policy text – delete the words “Insofar as planning permission is required,” in the first line of text. Paragraph will now commence with the words “Proposals for the use of”.</p>
PM9	Page 22	<p><u>Policy BM7 – Energy Use, Waste Minimisation and Recycling</u></p> <p>First paragraph of policy text – delete existing text and replace with:</p> <p>“Proposals for new development within the</p>

		<p>Plan area should demonstrate the highest standards of energy efficiency, waste minimisation and recycling.”</p> <p>Second paragraph of policy text – add the words “which generate renewable energy” after the word “vehicles,” in the fifth line of text.</p>
PM10	Page 23	<p><u>Policy BM8 - Community Facilities</u></p> <p>Delete the final paragraph of supporting text.</p>
PM11	Page 26	<p><u>Monitoring and Review</u></p> <p>First paragraph of text – delete the second sentence in full and replace with:</p> <p>“Part 1 of the Brighton and Hove City Plan was adopted in March 2016, and Part 2 of the Plan was adopted in October 2022.”</p>