

Brighton & Hove City Council

Culture, Heritage, Sport, Tourism & Economic Development Committee

Agenda Item 39

Subject: Rottingdean Parish Neighbourhood Plan – Decision
Statement

Date of meeting: 8 December 2023

Report of: Executive Director – Economy, Environment & Culture

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Ward(s) affected: Rottingdean & West Saltdean

For general release

1. Purpose of the report and policy context

- 1.1 The examination into the Rottingdean Parish Neighbourhood Plan has now been completed and the examiner's report has been published. Subject to a number of modifications, the Examiner recommends that the Plan can proceed to local referendum. The examiner also concludes that the referendum should extend to all persons entitled to vote who are resident within the Rottingdean Parish Neighbourhood Area.
- 1.2 This is the second Neighbourhood Plan in the city to have reached this final stage. The Council must now publish a Decision Statement setting out what actions it intends to take in response to each of the examiner's recommendations. A proposed Decision Statement is included at Appendix 1 of this report. All proposed modifications have been discussed with and agreed by the Rottingdean Parish Council.
- 1.3 The Committee is therefore asked to recommend to Council that all the examiner's recommendations for modifications to the Neighbourhood Plan are accepted and published in the Council's Decision Statement. Also, that the amended Plan is then made subject to a local referendum to be held within the Rottingdean Parish Neighbourhood Area.

2. Recommendations

That Committee recommends to Council:

- 2.1 To determine that the Rottingdean Parish Neighbourhood Plan be modified according to the recommendations in the independent examiner's report and as set out in the attached Decision Statement (Appendix 1) and that the Decision Statement be published.

- 2.2 To approve the examiner's recommendation that the Neighbourhood Plan proceed to referendum, subject to modifications set out in the Decision Statement. The referendum area is the Rottingdean Parish Neighbourhood Area.
- 2.3 In the event that more than 50% of those voting support the Neighbourhood Plan at referendum, that the Council formally 'makes' the Rottingdean Parish Neighbourhood Plan at its next meeting following the referendum.

3. Context and background information

The Neighbourhood Plan examination

- 3.1 Rottingdean Parish Council submitted their draft Neighbourhood Plan to the Council in January 2023. The Council published the draft Neighbourhood Plan and supporting documents for public consultation as the lead authority for the South Downs National Park Authority (SDNPA) in accordance with Regulation 16 of the Neighbourhood Planning Regulations over a 6-week period from 2 February to 16 March 2023.
- 3.2 The Tourism, Equalities, Communities & Culture Committee (TECC) Committee on 15 June 2023 agreed Council comments in response to the Regulation 16 consultation and that officers should submit the draft Plan for examination. Council officers then appointed a neighbourhood plan examiner and the Rottingdean Parish Neighbourhood Plan examination formally commenced on 17 July 2023.
- 3.3 The role of the Neighbourhood Plan examiner is to assess whether the Neighbourhood Plan meets certain legal requirements known as 'Basic Conditions'. These state that Neighbourhood Plans should:
- i) Have regard to national policies and advice contained in guidance issued by the Secretary of State;*
 - ii) Contribute to the achievement of sustainable development,*
 - iii) Be in general conformity with the strategic policies contained in the development plan for the area (i.e the City Plan); and*
 - iv) Not breach, and otherwise be compatible with, EU obligations.*
- 3.4 From his initial assessment of the Plan and supporting documents, the appointed Examiner identified several matters seeking further clarification and information. These matters centred around map inaccuracies and the need for amendments, alterations to the appendices of the plan and wording changes / additions in relation to policies for First Homes, Local Wildlife Sites, Local Green Spaces and Biodiversity Net Gain (BNG). Full details are contained within the Examiner's Report and set out as part of the Decision Statement. The City Council and Parish Council responded jointly on these matters.
- 3.5 The examiner issued his final report on 18 October 2023, and this has been published on the Council's website. The report concludes that, subject to

several recommended modifications, the Rottingdean Neighbourhood Plan meets the Basic Conditions and can proceed to referendum.

- 3.6 The examiner is also required to consider what is the appropriate referendum area if the Council decides that the Plan should proceed to that stage. In his report, he considers that the referendum should extend to those persons entitled to vote who are resident in the designated Neighbourhood Plan Area (i.e., there is no requirement to extend the referendum beyond the Parish boundary).

Rottingdean Plan Content

- 3.7 The Rottingdean Neighbourhood Plan sets out several policies to enhance and conserve the Parish. Policies relate to the identification of two Local Gaps (Policy S2), nine valued local green spaces (Policy GOS1) and the protection of Amenity Open Spaces. Policy GOS3 identifies Wildlife Corridors in the Parish and aims to conserve and enhance wildlife and biodiversity in these areas. It also sets out the need for applicants to demonstrate Biodiversity Net Gain in new developments.
- 3.8 The plan sets out the housing mix for developments of five or more dwellings within policy H1, with Policy H2 outlining the design principles for new development proposals within the Parish. Policy H3 specifically relates to development proposals in the Conservation Area.
- 3.9 The Plan seeks to protect the visitor accommodation and community facilities with policies T01 and CF1, whilst setting parameters for the alteration of shop fronts in policy EE1.
- 3.10 The Plan addresses the issues air pollution in the Parish with three policies AQ1-3. These policies encourage new development to incorporate measures and /or infrastructure to promote sustainable travel in the Parish. The plan also sets out a policy for providing specific support for Electric Vehicle charging points.

Council actions – next steps

- 3.11 In response to the examiner's report, the Council must publish a Decision Statement setting out what actions it determines to take in response to each of the examiner's recommendations. Appendix 1 of this report sets out the proposed Decision Statement with each of the examiner's recommended modifications to the Plan along with his reasons. It also sets out proposed Council actions in response to each of the examiner's recommendations. The examiner's proposed modifications have been discussed and agreed with Rottingdean Parish Council.
- 3.12 The Council must also decide whether to send the Plan as modified to referendum and to agree the examiner's recommendations about the referendum area. The local referendum must be held within a period of 8 weeks from the Council's decision.

- 3.13 If the Neighbourhood Plan is supported by more than 50% of those voting in the referendum, it then comes into force as part of the statutory development plan for the Rottingdean Parish Neighbourhood Area and it will be used alongside the City Plan to make planning decisions. The Neighbourhood Plan must be formally 'made' (i.e., adopted) by the Council within a further 8 weeks of the referendum date. The Neighbourhood Plan Area includes parts of the South Downs National Park and therefore the National Park Authority will also be required to formally 'make' the Neighbourhood Plan.
- 3.14 Appendix 2 presents a tracked changes update of the Neighbourhood Plan highlighting all the modifications recommended by the examiner and the updates to the supporting text agreed between the Council and the Parish Council. These amendments will be incorporated into a final 'Referendum Version' of the Neighbourhood Plan which will be made available ahead of the Council meeting on 14 December.
- 3.15 The implications of the Neighbourhood Plan being 'made' are that it will then form part of the statutory development plan for the Neighbourhood Area and that the proportion of Community Infrastructure Levy (CIL) receipts from developments within the Neighbourhood Area required to be spent within the area (the 'neighbourhood portion') will increase from the current 15% to 25%. Unlike with neighbourhood forums, the CIL neighbourhood portion is passed directly to the Parish Council who then takes full responsibility for identifying local projects and spending the CIL receipts. The Parish Council is already a statutory consultee for planning applications falling within its Parish area and this will remain unchanged after the Neighbourhood Plan is in place.

4. Analysis and consideration of alternative options

- 4.1 If the Council wishes to depart from any of the Examiner's recommendations it must notify relevant people and invite representations. Any representations must be submitted within six weeks of the Council inviting representations. It is also possible for the Parish Council to request intervention from the Secretary of State. Once the consultation is complete, the Council may then refer the issue(s) to further independent examination if it considers it appropriate. The Council must issue its final decision within five weeks. The Neighbourhood Plan would then be revised and sent to referendum.

5. Community engagement and consultation

- 5.1 The Neighbourhood Planning Regulations do not make any provision for public consultation on modifications to the Plan recommended by the examiner which the Council is minded to accept. As noted above, the Council is required to undertake public consultation if it wishes to depart from the examiner's recommendations.
- 5.2 Extensive community engagement and consultation has been undertaken at earlier stage of the Neighbourhood Plan preparation process. Substantial

community engagement was undertaken by the Parish Council in preparing the Plan including surveys, focus groups, mail drops to all businesses and households, posters and leaflets, use of the village website and during the pandemic two webinars.

- 5.3 Prior to submitting the Plan, the Parish Council undertook a formal public consultation (Regulation 14) over an 8-week period between February and April 2021. This included a leaflet drop to every household and discussion via audio video events to publicise the plan and seek the views of residents. The plan and supporting documents were placed on the website along with a form for residents to submit comments. This was supported by a leaflet seeking views posted around the village and delivered to every household in the Parish. Two webinars were held, and 30 residents attended the two events. A Parish Council You Tube channel was created to allow the public to view the webinars and submit further comments.
- 5.4 Full details of the consultation and community engagement undertaken by the Parish Council were set out in a Consultation Statement which was submitted to the Council and formed one of the supporting documents to the Neighbourhood Plan.
- 5.5 The Council undertook a further 6-week consultation in February and March 2023 following submission of the draft plan. The draft Plan and supporting documents were published on the Council website, an email was sent to all consultees on the Planning Policy database (which includes the national statutory bodies and a wide range of local stakeholders) and all city councillors were informed. In addition, the Parish Council were requested to email all consultees who had commented on the Plan at the earlier Regulation 14 stage in 2021 (as is specifically required by the Regulations). Notices publicising the consultation were posted at key locations throughout the Rottingdean Parish Neighbourhood Area and the Council's Press Office also published a news item about the consultation. The consultation was also publicised by the South Downs National Park Authority (SDNPA) during this time as the Neighbourhood Area extends within the SDNPA boundary.
- 5.6 Overall it is considered that residents in the Rottingdean Parish Neighbourhood Area have had extensive opportunities to input to and comment on the Neighbourhood Plan during its preparation. The Neighbourhood Plan referendum now provides the opportunity for residents in the Neighbourhood Area to either to support or reject the Plan.

6. Conclusion

- 6.1 The Rottingdean Parish Neighbourhood Plan has taken several years to reach this stage but is now nearing its conclusion. The Parish Council is to be commended on all its hard work on reaching this stage.
- 6.2 Overall the examiner considers that the Plan as modified will meet the required 'Basic Conditions' and make a positive contribution to sustainable development, promoting economic growth, supporting social wellbeing, whilst conserving the natural and historic environment within the

Neighbourhood Plan area.

- 6.3 The Committee is therefore urged to recommend to Full Council to agree all the modifications to the Plan as set out in the examiner's report and to approve his recommendation that the Neighbourhood Plan proceed to local referendum subject to the modifications set out in the Council's Decision Statement.

7. Financial implications

- 7.1 There are no direct financial implications from the recommendations of this report. The Neighbourhood Plan referendum will be organised and administered by the City Council's Electoral Services team with costs of the referendum charged to planning services. The Council is entitled to claim £20,000 from the Government (Department for Levelling Up, Housing and Communities) once it has set a date for the referendum to cover the costs charged to planning. Any significant variations to budget will be reported as part of the council's monthly budget monitoring process.

Name of finance officer consulted: John Lack Date consulted: 10/11/2023

8. Legal implications

- 8.1 The designation of Neighbourhood Areas, Forums, and the making of Neighbourhood Plans, are governed by the Town and Country Planning Act the Neighbourhood Planning (General) Regulations 2012 (as amended). It is a requirement of Regulation 18(2)(a) of the Neighbourhood Planning Regulations 2012 (as amended) that local authorities publish a Decision Statement setting out how they intend to respond to an examiner's recommendations.
- 8.2 If supported at referendum, the Rottingdean Neighbourhood Plan will become part of the statutory Development Plan and its policies will be used alongside those in the adopted City Plan (and South Downs Local Plan within the National Park area).
- 8.3 Following a vote in favour of the Neighbourhood Plan, Regulations 19 and 20 of the Neighbourhood Planning (General) Regulations 2012 (as amended) require local authorities to publish a Decision Statement explaining the Council's decision and its reasons to formally 'make' (i.e. adopt) the Neighbourhood Plan.
- 8.4 Adoption of the Neighbourhood Plan will be done via an Adoption Statement published on the council's website which will publicise the referendum results, and pursuant to Regulations 20 of the Neighbourhood Planning (General) Regulations 2012 formally confirm the 'making' of the Rottingdean Parish Neighbourhood Plan. The Council will also contact all relevant stakeholders to inform them that the Plan has been made.

Name of lawyer consulted: Katie Kam Date consulted 09/11/23:

9. Equalities implications

- 9.1 The Equality Act 2010 places a duty on all public authorities in the exercise of their functions to have regard to the need to eliminate discrimination, to advance equality of opportunity and to foster good relations between persons who have a “protected characteristic” and those who do not. This duty applies to the Council when taking formal decisions with regard to the neighbourhood plan process.
- 9.2 The Neighbourhood Plan has been prepared through an extensive process of local community engagement which is set out in detail in the Parish’s Consultation Statement (which was submitted alongside the draft Plan) and is summarised in section 5 above. The Plan is also required to be in general conformity with the City Plan (which has been subject to Equalities Impact Assessment).

10. Sustainability implications

- 10.1 The purpose of the planning system is to contribute to the achievement of sustainable development and one of the ‘Basic Conditions’ against which neighbourhood plans are tested is that they should contribute to this.
- 10.2 To meet UK environmental regulations, the draft Plan was screened for Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) by the City Council in a document dated November 2020, in liaison with the South Downs National Park Authority. The Screening Report concludes 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 October 2020, and they each concluded that the preparation of a SEA is not required. The SDNPA also agrees with that assessment. The examiner concludes that the Plan has been prepared with regard to achieving the principles of delivering sustainable development as identified in the Basic Conditions Statement and, subject to his recommended modifications and if approved at referendum, would assist in delivering sustainable development within the Neighbourhood Area.

Supporting Documentation

1. Appendices

1. Rottingdean Parish Neighbourhood Plan – Council Decision Statement (draft)
2. Rottingdean Parish Neighbourhood Plan 2018-2030: Submission Draft showing proposed modifications as tracked changes.

2. Background documents

Rottingdean Parish Neighbourhood Plan 2018-2030 Examination Report (18 October 2023) – published on Council website at <https://www.brighton-hove.gov.uk/planning/planning-city/rottingdean-neighbourhood-plan>