

Brighton & Hove City Council

Culture, Heritage, Sport, Tourism & Economic Development Committee

Agenda Item 75

Subject: Brighton Marina Neighbourhood Plan – Submission for Examination and appointment of Examiner

Date of meeting: 18 April 2024

Report of: Corporate Director – City Services

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Ward(s) affected: Whitehawk & Marina

For general release

1. Purpose of the report and policy context

- 1.1 Brighton Marina Neighbourhood Forum has submitted its draft Neighbourhood Plan to the Council. The Council must now take responsibility for progressing the Plan through the subsequent stages of the neighbourhood plan process, as set down in legislation.
- 1.2 To meet the Neighbourhood Planning regulations, the Council published the Draft Plan for formal 'Regulation 16' consultation over a 6-week period from 5 February to 18 March 2024. The next step is to appoint an independent person to undertake an examination of the Neighbourhood Plan and to submit the Draft Plan for examination together with all representations received in response to the Regulation 16 consultation.
- 1.3 This report therefore seeks Committee agreement for officers to proceed with the appointment of an examiner and the submission of the Draft Neighbourhood Plan for examination. At this stage, the Council is not required to reach a formal view on the content of the Neighbourhood Plan.
- 1.4 Officer comments on the plan have been prepared in response to the recent Regulation 16 consultation and the Committee is also requested to endorse these as attached at Appendix 1 and for these to be submitted for consideration by the Neighbourhood Plan Examiner.

2. Recommendations

- 2.1 That the Committee agrees that officers proceed with the appointment of a suitably qualified and experienced independent person to undertake examination of the Brighton Marina Neighbourhood Plan;
- 2.2 That the Committee agrees to submit the Draft Neighbourhood Plan and its supporting documents for examination, together with all representations received in response to the Regulation 16 publication of the Draft Plan; and

- 2.3 That the Committee endorses and agrees to submit the officer comments on the Draft Neighbourhood Plan set in Appendix 1 as the Council's Regulation 16 response for consideration at the examination.

3. Context and background information

The Neighbourhood Planning Process

- 3.1 Neighbourhood planning is a way for local groups (i.e., parish councils or designated neighbourhood forums) to take a lead on planning the future of their local area. Preparation of a neighbourhood plan involves several prescribed stages which are set out in the relevant planning legislation. Once formally 'made', a neighbourhood plan becomes part of the city's statutory Development Plan and will be used to determine planning applications. The process requires neighbourhood plans to satisfy several tests called 'basic conditions' which are summarised in Appendix 2. An important basic condition is that the neighbourhood plan must be in general conformity with the strategic policies set out in the council's City Plan.
- 3.2 Brighton Marina Neighbourhood Forum has been working for several years to prepare a neighbourhood plan for its area and council officers have provided support and comments on the plan's preparation to date. The Forum has undertaken engagement with the local community and the publication of an initial draft version of its Neighbourhood Plan for an 8-week period of consultation took place from 9 November 2022 to 4 January 2023 (referred to as 'Regulation 14' consultation). Council officers submitted formal comments in response to the consultation which were agreed on 9 March TECC committee in 2023.
- 3.3 The Forum has now formally submitted its Draft Neighbourhood Plan and supporting documents to the Council¹. It is the third neighbourhood group in the city to have reached this stage of the process. From this point forward, planning regulations require that the Council takes responsibility for all subsequent stages of the neighbourhood plan process. This has already included making public the Draft Neighbourhood Plan and supporting documents for a period of at least 6 weeks and inviting representations (this stage is often referred to as 'Regulation 16' consultation).
- 3.4 The Council is now required to appoint a suitably qualified independent person to undertake formal examination of the Plan and to submit the Draft Plan for examination along with all twelve representations received in response to the Regulation 16 consultation.
- 3.5 Following receipt of the Examiners' report, the Council must then decide what action to take in response to any recommendations made by the Examiner and then decide whether the Plan should proceed to a local referendum. Due to its specific designation as a 'business area', Brighton

¹ Under Regulation 15 of the 2012 Neighbourhood Planning (General) Regulations, the neighbourhood body must submit the proposed Neighbourhood Plan, a map showing the neighbourhood area, a consultation statement, and a 'basic conditions statement'.

Marina will be subject to two local referendums. One for businesses and one for residents. If the Plan is supported by more than 50% of the residents and businesses voting in the two referendums, it will become part of the statutory Development Plan for the Brighton Marina Neighbourhood Area (alongside the City Plan).

Officer comments on the Draft Neighbourhood Plan

- 3.6 In response to the Regulation 16 consultation, council officers have reviewed the Draft Neighbourhood Plan and have compiled a schedule of comments attached at Appendix 1 to this report. It is necessary to ensure that the Neighbourhood Plan policies align with the Council's own plans for the Brighton Marina area. It is also important to consider whether the Neighbourhood Plan policies are deliverable in terms of being able to be used for determining planning applications.
- 3.7 Full officer comments made on the neighbourhood plan are set out in Appendix 1 to this report. Officers have not identified any substantial concerns to the Plan at this stage. In summary, officer comments have highlighted the following:
- The need for greater clarity in some policies to ensure that the plan can be used for Development Management purposes.
 - The need to update or review some of the policies to ensure alignment with The Environment Act, National Planning Policy (NPPF) and local planning policy (City Plan Part One and Two).
- 3.8 The Council is not required to reach a formal view on the content of the Neighbourhood Plan until after receipt of the examiner's report and recommendations. However, the Committee is requested to endorse that the officer comments in Appendix 1 be submitted in response to the Regulation 16 consultation for consideration at the Neighbourhood Plan examination.

4. Analysis and consideration of alternative options

- 4.1 As set out above, the appointment of an Examiner and submission of the Draft Neighbourhood Plan for examination forms the next stage of the neighbourhood plan process. This process is set down in Regulation 17 of the neighbourhood planning regulations and is required to progress the Neighbourhood Plan towards referendum and being formally 'made'.

5. Community engagement and consultation

- 5.1 Local community engagement has been undertaken by the Brighton Marina Neighbourhood Forum prior to submitting the Plan, including Regulation 14 consultation on the draft Plan over an 8-week period in December 2022 to January 2023. Full details of the consultation and community engagement undertaken by the Marina Forum are set out in a Consultation Statement, which was submitted to the Council and forms one of the supporting documents to the Draft Neighbourhood Plan. The Consultation Statement was published by the Council as part of the Regulation 16 consultation.

- 5.2 In publishing the Draft Neighbourhood Plan for consultation, the Council has met the publicity requirements under Regulation 16 of the neighbourhood planning regulations. The draft Plan and supporting documents were published on the Council website for a period of 6 weeks from 5 February to 18 March 2024.
- 5.3 At the start of the consultation an email was sent to all consultees on the Planning Policy mailing list (which includes the national statutory bodies and a wide range of local stakeholders) and all city Councillors were informed. In addition, the Marina Forum were requested to email all consultees who had commented on the Plan at the Regulation 14 stage in 2022/2023 (as is specifically required by the regulations). Notices publicising the consultation were posted at key locations throughout the Neighbourhood Area and the Council's press office also published a news item about the consultation, which was publicised on the council's Facebook page.
- 5.4 In total 51 external responses were received during the consultation period from 40 individuals, 5 statutory consultees, and 6 organisations. The main issues raised by residents during the consultation centered around accessibility and movement in and around the Marina, and a lack of reference to water sports and boating facilities/berthing. A number of residents were concerned that the plan did not contain any policy mechanism for preventing second home ownership at the Marina. It is understood from the Forum's submitted Consultation Statement that one respondent raised a concern regarding short term lets at the Marina at the earlier stage of consultation on the draft plan. The officer comments at Appendix 1 notes concern that the opportunity to introduce a principal residence policy has not been explored in the neighbourhood plan and requests that the Examiner further advise on this issue.
- 5.5 Once an Examiner is appointed, the external responses received and the submitted neighbourhood plan and supporting documents will be forwarded to the Examiner and published on the council's website to form the examination library. The Examiner will consider all responses received during the consultation.

6. Conclusion

- 6.1 Brighton Marina Neighbourhood Forum has undertaken a substantial amount of work over several years to reach this important submission stage. The Council is now required to appoint an independent Examiner and submit the Plan for examination together with its supporting documents and the representations received. Council officers have also compiled a schedule of comments on the Draft Plan to be submitted for consideration at the examination. The Committee is requested to agree these next stages of the neighbourhood plan process.

7. Financial implications

- 7.1 Following the submission of the Draft Neighbourhood Plan by the Neighbourhood Forum, the City Council is now responsible for all

subsequent stages of the neighbourhood plan process. As such, it is responsible for funding the costs of the neighbourhood plan examination and for organising a local referendum. The Council is entitled to funding from central Government to help support this and has a specific budget set aside for neighbourhood planning.

Name of finance officer consulted: John Lack Date consulted: 26/03/2024

8. Legal implications

- 8.1 As stated above, the stages of the neighbourhood plan process are set down in planning legislation within the Town and Country Planning Act 1990 (as amended) and the Neighbourhood Planning regulations. The submission of the Draft Neighbourhood Plan for independent examination is the next stage of the statutory process and is required for the Plan to progress forwards towards the eventual goal of being approved at referendum and formally 'made'.

Name of lawyer consulted: Katie Kam Date consulted: 28/03/24

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 regarding the neighbourhood plan process.
- 9.2 The Draft Neighbourhood Plan has been prepared through an extensive process of local community engagement which is set out in detail in the Forum's Consultation Statement and their own Equalities Impact Assessment which has been submitted to the council. The Plan is required to be in general conformity with the City Plan (which has been subject to Equalities Impact Assessment) and this is one of the 'basic conditions' that will be assessed at the neighbourhood plan examination.

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' on which neighbourhood plans are examined is that they should contribute to this. The Plan's contribution to the achievement of sustainable development is addressed in the Forum's Basic Conditions Statement which was submitted and published alongside the draft Neighbourhood Plan.

11. Crime & disorder implications:

- 11.1 None identified

12. Public health implications:

12.1 None identified

Supporting Documentation

1. Appendices

1. Brighton Marina Neighbourhood Plan (Regulation 16 consultation draft)
Brighton & Hove Council officer comments on the Draft Neighbourhood Plan
2. Summary of the 'Basic Conditions' for Neighbourhood Plans

2. Background documents

1. Brighton Marina Neighbourhood Plan and all other Regulation 16 Consultation documents can be viewed on the Forum's website at <https://www.bmnf.org.uk/copy-of-correspondence-1>