



Report to Adur District Council, Brighton and Hove City Council, and West Sussex County Council

by Anne Napier BA(Hons) MRTPI MIEMA CEnv

an Inspector appointed by the Secretary of State

Date: 31 July 2019

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Shoreham Harbour Joint Area Action Plan

The Plan was submitted for examination on 31 May 2018

The examination hearings were held on 19 and 20 September 2018

File Ref: PINS/Y3805/429/7

Abbreviations used in this report

AA	Appropriate Assessment
ALP	Adur Local Plan 2017
AQMA	Air Quality Management Area
AMR	Authority Monitoring Report
B&HCP1	Brighton and Hove City Plan (Part 1) 2016
DtC	Duty to Co-operate
HRA	Habitats Regulations Assessment
LDS	Local Development Scheme
LP	Local Plan
MHCLG	Ministry of Housing, Communities and Local Government
MM	Main Modification
NPPF	National Planning Policy Framework
NPPF18	Revised National Planning Policy Framework 2018
PPG	Planning Practice Guidance
RP	Shoreham Harbour Regeneration Partnership
SA	Sustainability Appraisal
SPA	Shoreham Port Authority
SPD	Supplementary Planning Document
SCI	Statement of Community Involvement
VDS	Whole Plan Viability and Deliverability Study 2018

Non-Technical Summary

This report concludes that the Shoreham Harbour Joint Area Action Plan provides an appropriate basis for the planning of the identified regeneration area, provided that a number of main modifications [MMs] are made to it. The Councils have specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Councils prepared schedules of the proposed modifications and carried out sustainability appraisal of them. The MMs were subject to public consultation over a six-week period. In some cases, I have added consequential modifications where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Clarification of the approach required within the Plan area for decentralised and renewable energy, with clear and specific guidance, including in relation to the Shoreham Heat Network and its potential impact on sites within the regeneration area;
- Robust support for identified protected employment areas;
- Clarity on the required approach to flood risk assessment on non-allocated 'windfall' sites, a requirement to consider the most up-to-date flood risk evidence, and strengthened consequential protection for the environment and sites elsewhere;
- A requirement for the provision of up-to-date ecological information for all development applications, and clear guidance on the need for like-for-like compensatory habitats;
- Identification of the need for air quality impact assessments for development proposals;
- Clarification of the approach to public open space and green infrastructure, including that provided by the proposed segregated cycle route along the A259 corridor;
- Amendments to the requirements for the assessment of the design of development proposals, including the provision of public art, and the impact of proposals on existing living conditions of neighbouring occupiers and those of potential future occupiers;
- Identifying the need to consider the navigational safety of vessels in the harbour mouth; and
- The provision of a robust monitoring mechanism to support the delivery of the Plan.

Introduction

1. This report contains my assessment of the Shoreham Harbour Joint Area Action Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework 2012 (NPPF) (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The revised NPPF was published in July 2018 and further revised in February 2019. It includes a transitional arrangement in paragraph 214 which indicates that, for the purpose of examining this Plan, the policies in the 2012 NPPF will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised NPPF, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF and the versions of the PPG which were extant prior to the publication of the 2018 NPPF.
3. The Joint Area Action Plan (the Plan) has been prepared by the Shoreham Harbour Regeneration Partnership (RP), which has been established between Adur District Council, Brighton & Hove City Council, West Sussex County Council (the local planning authorities) and the Shoreham Port Authority (SPA).
4. The starting point for the examination is the assumption that the local planning authorities have submitted what they consider to be a sound plan. The Shoreham Harbour Joint Area Action Plan, submitted in May 2018, is the basis for my examination. The May 2018 Submission version is the same document as the November 2017 Publication version but corrects a formatting error in the earlier printed version.

Main Modifications

5. In accordance with section 20(7C) of the 2004 Act, the Councils requested that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **MM01, MM02, MM03** etc, and are set out in full in the Appendix.
6. Following the examination hearings, the Councils prepared a schedule of proposed MMs and carried out sustainability appraisal of them. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report.

Policies Map

7. The Councils must maintain adopted policies maps which illustrate geographically the application of the policies in the adopted development plans. When submitting a local plan for examination, the Councils are required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as the Adur Policies Map 2017 (and Inset Map 4) and the Brighton & Hove Policies Map 2018 (and Inset Map – Shoreham Harbour Regeneration Area), as set out in the Core Submission Documents (Refs CSD02-01 - CSD02-03 and CSD03-01 - CSD03-03). The maps in the Plan, including detailed extracts, reflect these policies maps (Maps 1-12).
8. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, there are some instances where the geographic illustration of policies on the submission policies maps are not justified and changes are needed to ensure that the relevant policies are effective.
9. These further changes to the policies maps were published for consultation alongside the MMs and were included in the Schedule of Proposed Additional Modifications to the Plan, January 2019 (<https://www.adur-worthing.gov.uk/shoreham-harbour-regeneration/main-modifications/>).
10. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Councils will need to update the adopted policies maps to include all the changes proposed in the Adur Policies Map 2017, the Brighton & Hove Policies Map 2018 and Maps 1-12 of the Plan and the further changes published alongside the MMs.

Consultation

11. I am satisfied that sufficient opportunity for comment has been provided for those who wished to make representations on the Plan in accordance with The Town and Country Planning (Local Planning) (England) Regulations 2012. I have taken into account all comments made.

Assessment of Duty to Co-operate

12. Section 20(5)(c) of the 2004 Act requires that I consider whether the Councils complied with any duty imposed on them by section 33A in respect of the Plan's preparation.
13. The RP in its current form was formally established in 2011, partly to produce a joint area action plan for the Shoreham Harbour Area, which falls within the administrative areas of three local planning authorities. A Joint Leaders Board and Joint Project Board oversee the work of the RP and several subject specific sub-groups. The approach taken to the joint production of an action plan for the area inherently demonstrates a strong commitment to the principles of co-operation with other authorities.

14. It is clear from the evidence provided, including the Statement of Compliance with the Duty to Cooperate (DtC), the Statement of Joint Working and Cooperation with the Environment Agency, and Statement of Common Ground between the Shoreham Harbour planning authorities (including East Sussex County Council and the South Downs National Park Authority) and the SPA, that the RP has engaged constructively with relevant bodies prescribed in s110 of the Localism Act 2011, together with other organisations.
15. This includes neighbouring planning authorities, including minerals and waste planning authorities, the South Downs National Park Authority, as well as other bodies, such as the Environment Agency and Highways England. This engagement has ensured that strategic issues with the potential for cross boundary impacts are considered and suitably addressed within the Plan, including the safeguarding of mineral wharves, flood risk and transport.
16. Overall, I am satisfied that where necessary the Councils have engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the DtC has therefore been met.

Assessment of Soundness

Background

17. Shoreham Harbour is an active and vibrant commercial port, that is nationally important for the supply of mineral resources, particularly for the south-east of England. The port includes a number of established businesses, which require harbour locations to support their activities. However, over time, a number of sites within the harbour area have become vacant or are occupied by uses that do not require access to the port to operate.
18. Within this context, a regeneration strategy for the harbour area has been developed, which represents the culmination of a number of years' work. Broadly, it seeks to unlock vacant or underused previously developed sites and consolidate port related activities within the eastern harbour arm, with the western harbour arm redeveloped for other uses, primarily residential and mixed use. The Plan, as indicated in paragraph 1.7.4, is intended to supersede existing adopted development briefs for the mixed-use allocations.

Main Issues

19. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified nine issues upon which the legal compliance and soundness of the Plan depends. Under these headings my report deals with the main matters of soundness and legal compliance rather than responding to every point raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

Issue 1 – Whether the Plan would be consistent with, and justified in the context of, the existing development plans for the area and national planning policy?

20. The area covered by the Plan lies within the administrative areas of Brighton & Hove City Council, which is a unitary authority, and Adur District Council and West Sussex County Council. The development plans for the area currently comprise the *Adur Local Plan 2017 (ALP)* and the *Brighton & Hove City Plan (Part 1) 2016 (B&HCP1)*, the *West Sussex Joint Minerals Local Plan 2018*, the *West Sussex Waste Local Plan 2014*, and the *East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013* and *Waste and Minerals Sites Plan 2017*.
21. It is clear, from the evidence provided, that the proposed regeneration of the area represents a long-held aspiration that is fully supported by the policies and aims of the ALP and B&HCP1. Furthermore, it is evident the Plan has been prepared within the context of these existing plans and the waste and minerals plans for the area.
22. The introduction to the Plan highlights the need for development proposals to comply with the development plan. However, to be consistent with national policy and appropriately reflect relevant legal requirements, it is necessary to amend paragraph 1.1.3 to include reference to the potential for material considerations to justify decisions otherwise than in accordance with the development plan. This is addressed by **MM01**.
23. The document includes a spatial strategy and area-wide policies, followed by specific policies for each of the seven character areas that make up the wider regeneration area. These areas are clearly defined and this structure represents a logical and effective approach to addressing the various issues identified for the Plan area as a whole. I find this approach soundly based.
24. The Plan area is identified within both the ALP and the B&HCP1 as an area for growth, with significant levels of new housing and economic development, together with environmental improvements and a focus on achieving development that supports more sustainable energy use. The Plan provides detailed policies to support the implementation of this strategy, with different types and scales of development proposed for each character area.
25. The evidence, including the Sustainability Assessment (SA), demonstrates that this approach has evolved and developed over time. The evolution of the strategy for the area indicates that the overall scale of growth proposed was modified as part of the wider plan making process, to reflect what was considered to be achievable, within current economic and environmental constraints. Moreover, in developing the strategy for growth and regeneration of the Plan area, a number of alternative approaches were considered and discounted. This is clearly set out within the SA.
26. The scale and type of development identified within the Plan is consistent with that identified in the adopted higher-level plans for the area. Within the Plan area, four allocations are proposed to be the focus for development: Aldrington Basin (Policy CA2); South Portslade (Policy CA3); Southwick Waterfront (Policy CA5); and Western Harbour Arm (Policy CA7). Three of the

allocations are identified for mixed-use development, with Southwick Waterfront proposed for employment-based development only.

27. Within the allocations, all sites that were assessed as developable have been identified for development. However, no upper limit, or cap, is proposed for development within the Plan area and the policies of the Plan would enable the assessment of additional sites that may come forward for development, so-called 'windfall' sites.
28. Consequently, I find the approach within the Plan is justified and represents an effective and sufficiently flexible mechanism for the delivery of development and the positive regeneration and enhancement of the Plan area. Subject to the modifications below, the Plan would be consistent with, and justified in the context of, the existing development plans for the area and national planning policy.

Issue 2 – Whether the Plan would be effective in addressing the challenges of climate change, and promoting energy efficiency and the sustainable use of resources?

29. The vision of the plan, as set out within the spatial strategy, is to maximise the potential of the area for the benefit of existing and new residents, businesses, port-users and visitors through long-term regeneration. The first objective, within this strategy, seeks to ensure that the development and use of land associated with this regeneration contributes to the mitigation of adaptation to climate change.
30. Both the ALP and the B&HCP1 include sustainability requirements for new developments, in the form of statements to accompany proposals, or standards and issues to be addressed. Furthermore, both the ALP and the B&HCP1 include requirements for water efficiency, which are reiterated within the Plan, as well as standards for non-residential development. The Plan requires non-domestic floorspace to achieve a standard of BREEAM 'Excellent', which matches that of the B&HCP1, but is higher than the 'Very Good' required in the ALP.
31. There is nothing before me that leads me to consider that such a requirement would not be feasible or viable within the plan area. Moreover, whilst this would introduce an element of discrepancy between the Plan and the ALP, given the overall benefits gained from consistency across the relatively limited regeneration area, the national planning policy support for addressing the challenges of climate change, and the wider environmental benefits that would result, I consider that this approach is justified and would be soundly based.
32. The Plan outlines previous studies undertaken that have highlighted the potential of the harbour area to contribute significantly to meeting the renewable energy needs of the sub-region. This is a position supported by the Port, which has been identified as having the potential to be a hub for renewable energy generation and waste heat distribution and has been granted EcoPort status in recognition of its commitment to addressing climate change.

33. The submissions demonstrate that considerable work has been undertaken in relation to the development of a heat network within the Plan area. Whilst this project remains at a relatively early stage of development, it clearly has significant support and a number of detailed technical feasibility studies have been undertaken to support its development. The Plan appropriately reflects the intended development of the heat network, including in relation to the extent and type of development proposed and, subject to the modifications identified below, is positively prepared in this respect.
34. The plan sets out a hierarchy of demand reduction, efficient energy supply, and renewable energy provision as the most cost-effective means of reducing energy consumption and greenhouse gas emissions for new development. The criteria of Policy SH1 appropriately reflect this approach. However, as worded, the policy and supporting text are ineffective, as they are not sufficiently clear in setting out how this policy is expected to be delivered across the plan area.
35. It is necessary to amend Policy SH1, to include explicit support for low and zero carbon energy generation, including solar photovoltaics. This will positively reflect the supporting text to the policy and ensure that the Plan is consistent with both national policy and the approach in Policy 19 of the ALP.
36. Evidence indicates that it is significantly more cost effective to connect buildings designed with a centralised heating system, than to retrofit those without such a system. Consequently, for clarity and to ensure its effective implementation, Policy SH1 should be modified to clearly identify that all development across the regeneration area is expected to apply the heating/cooling hierarchy and be designed to be ready for connection to a heat network, where no network is in place.
37. Furthermore, for similar reasons, the need for developments to meet identified specification requirements, including the siting of plant rooms, should be clearly identified within the policy. Moreover, in order to be effective and positively prepared, Policy SH1 should also be amended to clearly identify the need for development within the identified Shoreham Harbour Heat Network Area to connect to district heat networks, where they exist.
38. To be justified, the supporting text to the policy should be amended, to include reference to the national and local policy context for low carbon and energy efficient development. Furthermore, as currently worded, the plan does not clearly articulate a hierarchical preference for the various heating and cooling systems listed. This issue can be overcome by a clear identification of the preferred hierarchy, with a separation of the system options from the technology choices within hierarchy.
39. Additional supporting text is necessary, to set out clearly the approach to heating and cooling systems, including the requirement for a feasibility assessment for the chosen system, to ensure that the policy will be effective. Furthermore, for clarity and to be effective, it is necessary to provide guidance within the text on the requirements for such assessments. For similar reasons, indicative space requirements for plant rooms and operational requirements for such systems should also be included within the text, to support the implementation of the policy.

40. These policy requirements were assessed as part of the Whole Plan Viability Study and, from the available evidence, I am satisfied that they would not compromise delivery of development or prejudice the effective regeneration of the area. However, to ensure Policy SH1 remains effective and provides sufficient flexibility to take account of changing circumstances, it is necessary to identify clearly within the supporting text the need for viability assessments and their requirements, to support proposals where the developer considers that compliance with the heating and cooling hierarchy would render the proposed development unviable.
41. To provide sufficient clarity and to support the effective delivery of the policy, the supporting text should be reorganised, with the guidance and requirements for the provision of heating and cooling networks, applicable across the whole plan area, preceding more specific details about the Shoreham Heat Network. Moreover, for the same reasons, the additional requirement for development within the Shoreham Heat Network, including the allocated sites in and around the Western Harbour Arm, to connect to the proposed network once complete should be made explicit within the supporting text. All the above alterations are addressed by **MM04**.
42. In addition, changes are also required to the text and policies for the Harbour Mouth and Western Harbour Arm character areas. To be positively prepared and effective, Policy CA6 should be amended, to include support for the development of infrastructure necessary to deliver the Shoreham Heat Network, which would reflect the current status of the project. Additional supporting text is also necessary, to include support for the delivery of the heat network within the area priorities for the Harbour Mouth and to refer to the intended technology and location of the abstraction and discharge point for the marine source heat pumps. These changes would be addressed by **MM17** and **MM18**.
43. For the same reasons, similar modifications are required to Policy CA7, to include support for the heat network and, for consistency and completeness, to identify the need for development within the Western Harbour Arm to connect to the network, once constructed. Amendments are also required to the area priorities and the supporting text, to reflect these changes. **MM19** would satisfactorily address these necessary alterations.
44. Subject to these modifications, I find that the Plan would be effective in addressing the challenges of climate change and promoting energy efficiency and the sustainable use of resources.

Issue 3 – Whether the Plan has been positively prepared with regard for the activities and requirements of Shoreham Port and justified in respect of the quantitative and qualitative mix of floorspace and land proposed for economic development?

45. It is clear from the examination submissions that SPA has been an active partner within the RP and the retention of a thriving commercial port is seen by the Councils as an integral part of the regeneration proposals for the plan area. The port serves a variety of firms and is a significant local employer. The Port Masterplan, produced by the SPA, aims to significantly increase the

trade capacity of the port, which would in turn have the potential to increase port related employment.

46. The masterplan seeks to consolidate port related activities within the harbour, which would enable the modernisation of the port and secure its important role within the economy. The consolidation of port activities within the Eastern Arm, Canal and South Quayside would largely occur through the relocation of existing uses and maximising the potential of vacant and underused sites. This would also enable the redevelopment of land within the Western Harbour Arm for non-port related developments.
47. The evidence base demonstrates that the Plan has been prepared to take account of, and is consistent with, the intentions of the Port Masterplan. Moreover, as the SPA is a main landowner within the port, this provides further confidence that the aspirations for the retention, consolidation and expansion of the port activities, as set out within the Plan and masterplan, have a reasonable likelihood of being realised.
48. Wharves within the port are vital to the supply of aggregates to support new development in the region, which is recognised within the Plan. In addition, a number of waste management facilities are situated within the port area. It is clear, from the evidence provided, that the approach to regeneration within the Plan, including the consolidation and relocation of existing development, has been prepared to take full account of these facilities.
49. I am satisfied that the approach proposed within the Plan would not compromise their continued operation in line with the respective waste and minerals plans for the area. Moreover, the continued cooperation and collaboration between the various authorities and the RP has been recognised in the completion of a Statement of Common Ground between the various bodies concerned, providing further confidence in this respect.
50. However, as currently worded, the Plan is not positively prepared, as artificial lighting associated with development within the Western Harbour Arm could compromise the safety of vessels and their crew leaving and entering the port. Consequently, it is necessary to amend Policy CA7, to require development proposals to address potential implications for navigational safety. This would ensure that the interests of the port in these respects are adequately safeguarded and would not be prejudiced by development within the Plan. **MM19** would appropriately address this matter.
51. The total area of employment land and floorspace allocated within the Plan reflects the requirements for the area identified in the ALP and B&HCP1. This is clearly set out within Policy SH3, and Policies CA2, CA3, CA5 and CA7 identify the respective allocations for this proposed development.
52. The specific identified requirements of the respective Councils are reflected in the allocations proposed, which would provide a range of employment land and premises to help to strengthen and support the local economy. The Plan reflects a clear understanding of the economic needs of the area and is based on local and strategic economic strategies, which positively encourage sustainable economic growth and identify the Plan area as a strategic location for such growth. This is reflected in the priorities of the Local Strategic

Statement, prepared by the Coastal West Sussex and Greater Brighton Strategic Planning Board, which supports the development of strategic sites within the Plan area by prioritising the infrastructure improvements needed to enable sites to be delivered.

53. The process followed for site identification and selection is evidenced through the supporting documents and the SA. This demonstrates that the process was iterative, with sites identified through the Port Masterplan, employment land reviews, the Shoreham Harbour Capacity and Viability Study and the preparation of the Shoreham Harbour Development Briefs. As part of this process, the relationship of the identified sites to the port was fully considered and, as a result, several of the identified sites have been allocated primarily for employment use, rather than residential or mixed-use. Having regard to the full range of evidence available to me, I am satisfied that the process followed was clear, robust and justified.
54. To contribute to meeting forecast needs, the Plan also seeks to ensure that suitable employment land and premises are safeguarded and upgraded, with some existing employment areas protected within the relevant character area policies. However, in this regard, the Plan does not adequately consider the potential for changes of use of employment premises through the use of provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015.
55. In this respect, therefore, the Plan is not positively prepared and the relevant character area policies would not be effective. Consequently, it is necessary to include additional supporting text to Policy SH3, to identify a robust monitoring mechanism for the use of land within the identified protected employment areas, with the potential for intervention, if required, to seek to remove permitted development rights. Given the identified need to protect these employment areas, for the wellbeing of the wider area, I am satisfied that such an approach would be justified. This is addressed by **MM05**.
56. In addition, for effectiveness, it is necessary to amend Policy CA3, to ensure that it correctly refers to the full range of employment development considered acceptable for the southern portion of the allocated site SP6. This is addressed by **MM15**.
57. For these reasons, subject to the above modifications, I find that the quantitative and qualitative mix of employment floorspace and land proposed for economic development would be justified and the plan is soundly based in this regard. Together with the ALP and the B&HCP1, the Plan would provide an appropriately flexible and responsive policy framework that would meet the identified requirements for the area, including the activities and requirements of Shoreham Port.

Issue 4 – Whether the Plan has been positively prepared in respect of the scale and mix of housing to meet the identified needs of different groups in the community over the plan period?

58. Both the ALP and the B&HCP1 designate Shoreham Harbour as a broad location for development, with minimum targets for housing delivery within the Plan area of 1,100 homes in Adur and 300 homes in Brighton & Hove. The

policies and allocations of the Plan would meet these targets. As such, if delivered, the scale of development proposed would play an important part in helping to meet the significant housing shortfall across the whole coastal area, which is recognised within the Local Strategic Statement, as well as within both the ALP and B&HCP1.

59. Currently, however, Objective 4 of the spatial strategy is misleading, as it suggests that the provisions of the Plan would address these shortfalls, which is not the case. To be positively prepared and justified, and to accurately reflect the position of the Plan in the overall hierarchy of development plan documents, it is necessary to clarify that, rather than addressing these needs, the Plan would contribute to meeting them. These changes are addressed by **MM06**.
60. Both the ALP and the B&HCP1 have a number of policies addressing housing mix, tenure and affordable housing. Policy SH4 of the Plan requires development to provide a mix of dwelling types, sizes and tenures in accordance with identified local needs and to provide affordable housing in accordance with the higher-level policies. In addition, whilst adopted policies in both the ALP and the B&HCP1 address national planning policy requirements for inclusive design and accessible environments, it is appropriate that these matters are also addressed by Policy SH9, which is considered below.
61. Policy SH9 explicitly addresses place making and design quality. The opportunity for higher density development and anticipated likely provision of smaller dwellings on the allocated sites within the Plan area, including those in the Western Harbour Arm, is consistent with the overall approach to housing mix within both the ALP and the B&HCP1 and the evidence of objectively assessed need for both Council areas.
62. In addition to Policy SH4, the three allocations for residential and mixed-use development, and the individual sites within them, are identified in Policies CA2, CA3 and CA7. The supporting documents and the SA demonstrate that as with the sites proposed for employment development, the process followed for site identification and selection was iterative. Sites were identified and assessed through the Port Masterplan, the Shoreham Harbour Capacity and Viability Study and the preparation of the Shoreham Harbour Development Briefs, including in relation to capacity. The sites are also included within the respective Councils' Strategic Housing Land Availability Assessments.
63. As part of this process, several of the initially identified sites were not allocated primarily for residential or mixed-use, due to the potential relationship of these sites to the port. As with the employment sites, having regard to the full range of evidence available to me, including that within the SA, I am satisfied that the site identification and selection process is clear, robust and justified.
64. An assessment of projected housing delivery over the Plan period identifies the potential to deliver a total of 1,790 net dwellings, which exceeds the minimum

delivery requirement identified above. Furthermore, the details provided¹ indicate that a significant proportion of these dwellings will be provided by 2022, with some 731 dwellings expected to be completed within Adur and some 124 dwellings in Brighton & Hove.

65. Given the evidence of housing delivery within the area since the start of the Plan period, including sites under construction, coupled with the approach taken by the Councils to continued engagement with landowners and developers, I am satisfied that the housing delivery identified has a reasonable prospect of being achieved. As such, the Plan is likely to make a significant and meaningful contribution to housing land supply within the area.
66. For the above reasons, I find that the Plan is soundly based in this regard. It has been positively prepared in respect of the scale and mix of housing to meet the identified needs of different groups in the community over the plan period, and appropriately supports and is consistent with the existing policies of the respective development plans on these matters.

Issue 5 - Whether the Plan positively and effectively addresses identified transport and flood risk constraints?

Transport

67. The Plan recognises that transport improvements will be required to support the scale and type of development proposed and reduce existing and future impacts from traffic congestion, including related air quality and noise impacts. To this end, the Shoreham Harbour Transport Study provides evidence for the ALP and the Shoreham Harbour Transport Strategy 2016, which was developed alongside the Plan.
68. The necessary mitigation measures identified in the Transport Study were considered as part of the examination of the ALP and found sound. There is nothing before me that leads me to consider that circumstances have materially altered since that time. These mitigation measures have been included within the Transport Strategy. The evidence provided indicates that these measures are now being delivered as sites come forward, or as funding becomes available.
69. The Plan includes reference to the Transport Strategy and the package of integrated transport measures, which is envisaged will guide the provision of transport infrastructure to support the regeneration proposed. These measures focus on improvements to the existing road network and encouragement for the use of sustainable modes of transport.
70. As well as identifying significant traffic issues within the area, the Plan identifies the potential for significant improvements to the current environment for pedestrians and cyclists. A long-distance footpath currently crosses the Plan area, with part of the route of the England Coast Path also

¹ Councils' Matters Statement 4 Appendix A

envisaged to be included. A national cycle route also runs through the area and the Transport Strategy identifies the provision of a core cycle route along the A259 as a critical infrastructure proposal.

71. I am satisfied that the package of measures proposed within the Strategy would clearly support the delivery of the policies and proposals of the Plan and make a significant contribution to addressing key transport constraints. Following consultation, the Councils propose to include reference within the Plan to the commitment to produce a Local Cycling and Walking Infrastructure Plan, to improve safe routes for walking and cycling and to seek funding for their implementation. As this would include proposals identified in the Plan and the Transport Strategy, this would further support the delivery of these measures.

Flood risk

72. The Plan area is coastal, with part of it adjacent to the River Adur and some sites that are low lying. As a result, the approach to flood risk has been appropriately identified as a key issue for the regeneration of the area. The Strategic Flood Risk Assessments for the area identify that, whilst some areas are affected by fluvial and surface water flooding, the most significant risk is presented by tidal flooding.
73. Both the ALP and the B&HCP1 carried out Sequential and Exception tests for flood risk. The relevant reports conclude that the allocation of sites within the Plan area was justified and the tests had been passed, in accordance with national planning policy. There is nothing before me that would lead me to conclude otherwise on this issue. As such, I consider that the allocations are soundly based in this regard.
74. Nonetheless, the Plan does not address the approach to development that may come forward on sites that have not been identified within the character area allocations, so-called windfall sites. Therefore, to be justified and effective, it is necessary to amend the supporting text to Policy SH6, to identify the approach required in relation to the sequential test for the assessment of flood risk on those sites. In particular, to be positively prepared and consistent with national policy, it is necessary to specify the area of search for sites at lower risk of flooding. In this specific case, to support the regeneration of the area in accordance with the policies of the Plan, it is appropriate that the sequential test search area is restricted to the character area in which the proposed development site is situated. This is addressed by **MM07**.
75. To address the issue of flood risk on allocated sites, the RP prepared a Flood Risk Management Guide, which has been adopted as a Supplementary Planning Document (SPD). This provides clear guidance on the approach to flood risk on sites within the Plan area. However, for effectiveness, it is appropriate that additional text is included to support Policy SH6, to clarify that responsibility for the delivery and maintenance of flood defences rests with the landowner, which is a matter that has been taken into account in the assessment of viability and deliverability. **MM07** also addresses this matter.
76. The requirement for development proposals to comply with the principles and approach to flood risk management set out within the SPD is specified in Policy

SH6. However, to be effective, justified and consistent with national policy, it is necessary to amend the Policy to refer to potential updated guidance and include a requirement to take this into account. To be positively prepared, it is also appropriate to amend the policy to make explicit reference to support for the delivery of measures to mitigate flood risk and coastal erosion within the Plan area, as well as to correct a drafting error, to delete duplicated text within the policy. All these matters are addressed by **MM08**.

77. Policy SH6 makes reference to the requirement for flood mitigation, including defences to a given height in specific circumstances. However, it also refers to land raising, as does the supporting text to Policy CA7. Having regard to the concerns expressed by the Lead Local Flood Authorities in this regard, I consider the reference to land raising to be erroneous and misleading, as it implies the creation of new land form, which I understand was not the intention and which would have the potential to have further consequences elsewhere in terms of flood risk. Consequently, to be effective, justified and consistent with national policy, the references to land raising should be deleted, as identified in **MM09**.
78. For the above reasons, therefore, and subject to the modifications identified, I find that the Plan positively and effectively addresses identified transport and flood risk constraints.

Issue 6 - Whether the policies of the Plan would support the positive management of environmental assets and natural resources, make appropriate provision for green infrastructure and open space, and enable the effective delivery of appropriate recreation and leisure development?

Natural Resources

79. Screening under the Habitats Regulation Assessment (HRA) process was carried out for both the ALP and the B&HCP1, which found that there would be no likely significant effects on any of the identified protected sites. Furthermore, in light of the Wealden judgement,² further specific screening was carried out in respect of the Plan, which concluded that it was not likely to have any significant effects, including potential in-combination impacts, due to the scale and type of development proposed, and the relationship and distance of Shoreham Harbour to any European designated sites.
80. This assessment has been further supported by additional analysis undertaken for the emerging Brighton & Hove City Plan Part 2, including in relation to Ashdown Forest. The development proposed within the Plan is consistent with that in the ALP and B&HCP1 and there is nothing before me that would lead me to dispute these findings. Furthermore, given the reasons for the assessment that the policies and proposals of the Plan are unlikely to have significant effects, which have been reached without assuming any avoidance or mitigation measures, the recent Court of Justice of the European Union

² Wealden V SSCLG [2017] EWHC 351Admin

(CJEU) judgement³ is not of direct consequence for the Plan. As such, I consider the HRA requirements to have been adequately addressed.

81. Whilst much of the regeneration area comprises previously developed land, it also includes important environmental assets and falls within The Living Coast Brighton & Lewes Downs Biosphere. The conservation and enhancement of these assets and the natural resources of the area represents a further key objective for its regeneration. To this end, to ensure that the Plan is justified and effective, it is necessary to amend the vision for the regeneration of the area, in paragraph 2.1, to make specific reference to providing benefits to the natural environment, as set out in **MM02**.
82. The impact of the proposed regeneration of the area on natural resources and biodiversity has been comprehensively assessed during the plan preparation process, including within the SA, which includes a specific objective in this regard. The Shoreham Harbour Ecology and Green Infrastructure Study identifies the potential impacts of the development proposed and proposes a number of enhancements. These are reflected within the Plan and include the preparation of a Green Infrastructure Strategy, a green corridor alongside the A259, habitat creation at Portslade and Southwick Beaches, linear intertidal habitat creation at the Western Harbour Arm and green roofs and walls.
83. The Study includes a specific assessment of vegetated shingle within the regeneration area, the existing area of which represents the largest area of this internationally important habitat within Brighton & Hove. However, currently, Policy CA4 only reflects the intention of the RP to promote the enhancement and creation of coastal vegetated shingle habitats. Having regard to the critical role of the RP in the delivery of development within the Plan area, to ensure the plan is positively prepared, it is necessary to amend Policy CA4 to also include reference to delivery of such habitats. This is addressed by **MM16**.
84. The Plan area is located outside, but close to, the Adur Estuary Site of Special Scientific Interest, which has particular ecological significance for its intertidal mudflats. The evidence also demonstrates that the Plan area provides important habitat for birds and reptiles. Policy SH7 appropriately requires that development should ensure no net loss and seek to provide a net gain to biodiversity. However, the policy does not identify a mechanism to assess potential impacts in this regard and, as such, the Plan would be ineffective and not positively prepared. To be effective and consistent with national policy, Policy SH7 should be amended, as set out in **MM11**, to require the submission of up-to-date ecological information with development applications.
85. The Councils acknowledge that there is potential for development within the Western Harbour Arm to have adverse ecological impacts. The evidence base and the SA demonstrate that the likely significant effects in this regard have

³ CJEU judgement (Case C-323/17) in *People over Wind, Peter Sweetman v Coillte Teoranta*

been carefully considered. A guidance note has been jointly prepared by Adur Council, Natural England, the Environment Agency and Sussex Wildlife Trust, for development that has the potential to impact on intertidal habitats, which is intended to be included in the proposed Green Infrastructure SPD.

86. Together with the South Downs National Park authority, these organisations are working to identify potential areas for habitat creation. Moreover, the approach to protecting intertidal habitats is intended to form part of the Green Infrastructure Strategy. This is currently being prepared in two parts, as a SPD, to provide guidance for new development, and as an Action Plan, to guide the delivery of green infrastructure on land owned by the project partners. Currently, however, whilst Policy SH7 includes a commitment to prepare such a strategy, the Plan does not clearly set out the Councils' approach to mitigation, including in relation to identifying the need for and location of like-for-like compensatory habitat.
87. To ensure the policy will be effective in addressing these issues, it is necessary to amend Policy SH7 to confirm that, where impacts on biodiversity cannot be avoided or mitigated, compensatory actions will be required and that like-for-like compensatory habitat should be provided at or close to the site. In addition, consequential alterations to the supporting text are required to refer to the development of a strategy to address this issue.
88. These changes to the policy and supporting text are also addressed by **MM11**. Following consultation on the MM, I have further amended the text, for clarity and flexibility, to remove reference to specific partners in developing the strategy and to include the acronym (EcIA) to distinguish the Ecological Impact Assessment from Environmental Impact Assessment.
89. The Shoreham Heat Network intends to use marine source heat pumps to provide the heat source for the network, which would involve pipes in the water in the Harbour Mouth area. This could result in a temperature change within the water, which in turn may impact on marine ecology. Proposed changes to the Plan to reflect the on-going development of the project are discussed above. However, in addition, to ensure the effective implementation of the project and delivery of the associated development, it is necessary to amend paragraph 3.1.24 of the supporting text to Policy SH1, to make specific reference to the need for appropriate environmental permits. This is also addressed by **MM04**.
90. Due to the risks of flooding identified above, Policy SH6 appropriately restricts the use of basement parking and requires mitigation and emergency planning provisions to be included as part of development proposals. However, the policy does not adequately address the risk of pollution resulting from this type of development. To be effective and consistent with national policy, it is necessary to amend the policy to include reference to drainage and contaminants. This is addressed by **MM10**.

Air quality

91. The Plan area includes two Air Quality Management Areas (AQMAs), which were declared for exceedance of nitrogen dioxide. Air Quality Action Plans exist for both Adur and Brighton & Hove Councils and, in addition, each

Council produces an Air Quality Annual Status Report, which show that significant progress has been made towards achieving air quality objectives.

92. Much of Character Areas 2 and 3 and part of Character Area 7 fall within these AQMAs. The proposals within the Plan were assessed through the SA process for the impacts on air quality, both individually and cumulatively. This identified the potential for mixed positive and negative impacts in areas of new development and in relation to area wide policies supporting new development.
93. As a result, a number of mitigation measures are proposed within the relevant character area and area wide policies, including: reducing the need to travel by car and contributing to behaviour change; the prioritisation of pedestrians and cyclists over vehicular traffic in the layout of new development; infrastructure enhancements; new green infrastructure and improved open spaces; and requirements for air quality impacts and appropriate mitigation to be considered as part of proposals, including measures such as setting back development from main roads. To be effective, it is necessary to amend Policy CA7 to require sufficient set back in this regard, as included in **MM20**.
94. Both the ALP and the B&HCP1 include policies relating to air pollution, which require major development in the plan area to address air quality, contribute to implementing Air Quality Action Plan objectives, and demonstrate that appropriate mitigation measures would be provided. However, whilst requiring the issue to be considered, the Plan does not include a specific requirement for air quality assessment for development proposals. Given the issues identified above and having regard to the potential impacts resulting from the scale of development proposed, I consider that the absence of a specific requirement in this regard for development within the regeneration area would render the plan unsound.
95. Consequently, to be positively prepared and effective, it is necessary to amend Policy SH7 to require all development proposals to be accompanied by an assessment of air quality impacts for existing and future occupants, including cumulative impacts. In this regard, the existing Sussex-wide guidance on assessment methodology would support this requirement, enabling a consistent approach across authorities in the area. **MM12** addresses this issue.
96. Considered overall, therefore, I am satisfied that the Plan would not delay compliance or contribute to any future non-compliance with the Ambient Air Quality Directive (Directive 2008/50/EC).

Open space, green infrastructure and recreation

97. The provision of green infrastructure can have multiple benefits, including in relation to healthy living, through the provision of open spaces and green links. One of the objectives of the Plan is to enhance the leisure, recreation and tourism activities within the harbour area. To this end, Policy SH8 requires the provision of public open space to support new development. However, the extent of provision required is not made sufficiently clear and the requirement for on-site provision within Policy SH8 conflicts with the more flexible approach of the character area policies.

98. Consequently, to be effective and consistent with national planning policy and legal requirements, it is necessary to amend Policy SH8 to clarify that any open space provided should reflect the need generated by the development. In addition, to avoid potential conflict with Policies CA2, CA3 and CA7, it is also necessary to amend Policy SH8 to clarify the approach to the provision of public open space and green infrastructure. Both these matters are addressed by **MM13**.
99. The need to amend Policy CA7 to refer to sufficient space for a segregated cycle route is referred to above. However, in addition to the air quality justification for this change, the route is also necessary in order to deliver green infrastructure improvements. Therefore, to be effective and justified, this purpose should also be clarified within the policy, as set out in **MM20**.
100. Policy SH10 refers to the provision of infrastructure necessary as a result of new development. Paragraph 5.1.20 identifies a number of likely infrastructure requirements for major developments on allocated sites in the Plan area. However, the list of requirements does not identify the need for contributions for green infrastructure. Given the aims and objectives of the Plan, this omission would potentially undermine the approach identified elsewhere in the Plan. Consequently, to ensure effective delivery and in line with **MM22**, it is necessary to include specific reference to contribution to green infrastructure within the list of potential infrastructure requirements.
101. For clarity and to ensure that the Plan is positively prepared and effective, it is necessary to amend paragraph 2.2.19 to include specific reference to the need to plan to meet the recreational and leisure needs of existing communities, as well as those of new development. This is addressed by **MM03**.
102. Accordingly, for these reasons and subject to the modifications identified, I find that the Plan will support the positive management of environmental assets and natural resources, including in respect of air quality, make appropriate provision for green infrastructure and open space, and enable the effective delivery of appropriate recreation and leisure development.

Issue 7 - Whether the Plan will be effective in enabling the regeneration of the Harbour and neighbouring communities, with high quality development, for the benefit of existing and future residents, businesses, port-users and visitors?

103. As part of the regeneration of the area, the Plan seeks to promote high quality design, that maximises its waterfront setting, respects local character and form, and enhances key gateways and public spaces. It also seeks to protect and enhance the area's historic assets, including the Scheduled Monument at Shoreham Fort, listed buildings and Conservation Areas.
104. Policy SH9 addresses place making and design quality and includes a number of requirements for new development. However, as prepared, it is not consistent with national policy and is insufficiently precise to support the effective delivery of these aims, as it does not adequately clarify the design issues that are likely to be considered in assessing a scheme, or provide a sufficiently clear indication of how a decision maker is likely to react to a proposal.

105. To address these issues with regard to the public realm, it is necessary to amend the policy to include specific reference to the requirement to consider key design aspects of the public realm elements of proposals, such as its purpose and function, access and linkages, uses and activities, comfort, image and sociability.
106. In addition, for similar reasons, it is also necessary to amend the policy, so that it is consistent with the ALP, B&HCP1 and the Community Infrastructure Levy Regulations 2010, to clarify that public art is expected to be delivered on site, as an integral part of the design of the development, as part of the drive to improve the quality of the built environment through the regeneration process, rather than provided through financial contributions.
107. To be consistent with national policy and effective, Policy SH9 should also be amended to make specific reference to the need for all development proposals to demonstrate a high standard of design that will enhance the visual quality of the environment and include the requirement for development to make a positive contribution to the creation of places that are safe, inclusive and accessible, which promote health and well-being.
108. Currently, the policy implies a requirement for new residential development to meet a specific external space standard. No such standard is proposed and, as such, to be justified, effective and ensure sufficient flexibility in approach, it is necessary to amend the policy to require new residential development to provide usable private outdoor amenity space, which is appropriate to the scale and character of the development.
109. In addition, although the policy requires consideration of daylight and sunlight impacts for new development, the wider potential impacts of proposals on the living and working conditions of existing and potential future occupiers are not identified. To be positively prepared and to support the effective delivery of development, it is necessary to include reference to the need to consider a wider range of factors, including potential impacts on privacy, outlook, overshadowing, artificial lighting and disturbance from noise, odour, vibration and air pollution.
110. Furthermore, as place making and design quality are integral to the objectives of the Plan and national planning policy, it is appropriate that significant amendments are made to the supporting text, to provide additional justification for the amended approach, clarify how it is expected to be met, and support the effective implementation of the policy. All the changes identified above would be addressed by **MM14**.
111. Taking into account these modifications, I consider the requirements of Policy SH9 would provide an appropriately strong basis for the Councils to require the potential impacts of new development on existing occupiers and neighbouring users to be addressed. This will be particularly important on sites where there are design constraints.
112. Policy CA2 identifies site AB4 as suitable for mixed use redevelopment and, having regard to the context of the site, I consider this is appropriate. However, taking into account the difference in land levels involved, it will be particularly important that the redevelopment of the site is undertaken

sensitively, so that any new building respects the living conditions of neighbouring residential occupiers on Kingsway. Policy CA2 does not include specific height limits for such development. However, I am satisfied that such restrictions are not necessary, as Policy SH9, as amended, would enable sufficient safeguards of this nature to be secured, whilst providing a sufficiently flexible approach to the redevelopment of the site.

113. The character area policies within the Plan and Policy SH9, as amended, clearly identify what will and will not be permitted within the Plan area. Moreover, the character area policies provide sufficient detail on the form, scale, access and quantum of development envisaged in each character area, whilst providing for a reasonable degree of flexibility to take account of changing circumstances.
114. In relation to the Western Harbour Arm, detailed assessment of building heights has taken place, through the Tall Buildings Capacity Study, which appropriately underpins the approach proposed across the identified sites, including in relation to heritage assets and important views. I am satisfied that the approach identified in Policy CA7 will be effective in managing the scale and height of development. Consequently, subject to the identified changes, I consider the Plan is soundly based in this regard.
115. The omission of area priorities and paragraphs 4.6.1-4.6.4 is referred to above, in relation to Policy CA6. However, in addition to those changes, the text for paragraph 4.6.2 should be amended to improve the clarity of the reference to the listed Shoreham Fort. This is also addressed by **MM17**. There are a number of heritage assets in or adjacent to the regeneration area. These are clearly identified within the text and maps of the Plan, including in relation to Policy CA7. Subject to this modification and having regard to the full range of evidence available to me, I am satisfied that the Plan's approach to heritage assets and their significance is sound.
116. Consequently, subject to these modifications, I find that the Plan will be effective in enabling the regeneration of the Harbour and neighbouring communities, with high quality development, for the benefit of existing and future residents, businesses, port-users and visitors.

Issue 8 - Whether the policies of the Plan would be effective in enabling the provision of infrastructure necessary to support the level and type of growth proposed?

117. Although the Whole Plan Viability and Deliverability Study 2018 (VDS) identified viability gaps for development proposals within the Plan, it also identified several intervention mechanisms to address some of the potential constraints to development. Some of these are being actively pursued by the RP, whilst others have been identified as potential future interventions, if required. Whilst the use of compulsory purchase is not relied upon, the Councils have identified this as an option to bring forward stalled sites if necessary, although engagement with businesses and landowners is preferred.
118. The evidence provided demonstrates that the members of the RP are significantly and actively involved in delivering the infrastructure necessary to support the development proposals within the Plan. This includes investment

in off-site infrastructure projects, including flood defence works, the allocation of funding to secure delivery of identified green infrastructure improvement sites, improvements to the public realm and amenity space, and the delivery of schemes identified in the Transport Strategy, as development comes forward or through relevant investment programmes, such as the Strategic Transport Infrastructure Programme established by West Sussex County Council.

119. A number of sites within the Plan area are in the ownership of the RP members, including the SPA, and have been allocated in the Plan. These are being taken forward for development by the relevant RP member, or as a joint venture enterprise. In addition, the RP members are actively investigating the potential relocation of some existing uses within the area, which do not require a waterside location, to other land within the ownership of the RP members. The disposal of assets within the Plan area has also been used to enable the delivery of other sites. The RP have also secured external funding, or have assisted developers in doing so, for a number of projects, such as flood defence works and the development of the proposed district heat network.
120. The viability appraisal within the VDS was carried out in accordance with the provisions of the NPPF 2012, which requires proposals to provide competitive returns to a willing landowner and a willing developer, to enable the development to be deliverable. The VDS identifies a number of sites with viability gaps. However, very clear evidence was provided to demonstrate that this viability assessment does not take into account all circumstances including, for example, where the landowner is developing the site and not seeking a competitive return from the sale of the land. This situation applies to several sites within the allocations, including a number of those with an identified deficit in the VDS.
121. Subject to the modification in relation to green infrastructure referred to above (**MM22**), Policy SH10 and the related supporting text clearly set out the likely infrastructure requirements for development proposals. Overall, I am satisfied that the VDS demonstrates that the costs attributable to policies in the Plan would not be excessive or unreasonable. However, due to a formatting error, the policy is unacceptably imprecise. To be effective, it is necessary to include specific reference to the potential need for direct agreement with utility providers to provide infrastructure, such as sewerage infrastructure. This is addressed in **MM21**.
122. The RP members have established the Shoreham Harbour Delivery Group, to coordinate the delivery of the regeneration project and the proposals within the Plan. It is intended that this Group will complement the work of the existing various sub-groups within the RP. Whilst there is some overlap between these groups, there is a clear and established delivery mechanism to support the effective delivery of the planned development and the infrastructure necessary to support it.
123. Furthermore, whilst there are different approaches between Adur and Brighton & Hove Councils to the use of planning obligations and community infrastructure levy finance, a clear and coordinated approach has been identified to the funding of infrastructure in compliance with the legal and policy requirements, together with the provision of guidance for potential

developers. Moreover, the infrastructure requirements needed to support the development of the Plan area are set out clearly within the Infrastructure Delivery Plans for the ALP and the B&HCP1.

124. Consequently, given these various approaches, notwithstanding the viability issues identified, I am satisfied that the policies of the Plan would be effective in enabling the provision of infrastructure necessary to support the level and type of growth proposed, which has a reasonable prospect of being delivered within the lifetime of the Plan.

Issue 9 - Whether the Plan provides an effective approach to monitoring and review?

125. The monitoring framework for the Plan is set out within the SA, with delivery of the Plan's key development sites intended to be monitored through the Authority Monitoring Reports (AMR) of Adur and Brighton & Hove Councils. However, currently, this framework is not sufficiently robust.

126. To be effective, positively prepared and consistent with national policy, the monitoring framework should be included as an Appendix to the Plan and incorporate key monitoring indicators and triggers for potential intervention, including the indicator referred to above, in relation to protected employment areas. Progress on the delivery of the Plan as a whole, utilising the monitoring indicators, should be reported in the AMRs for each Council, which should include the housing trajectory for the regeneration area.

127. **MM23** and **MM05** address these issues and will support the effective delivery of the Plan. As a result, subject to these amendments, I find that the framework will provide a suitably robust and sufficiently flexible approach to monitoring delivery, which will enable the RP to respond to potentially changing circumstances in the future, including the identifying the need for review, if required.

Assessment of Legal Compliance

128. My examination of the legal compliance of the Plan is summarised below.

129. The Shoreham Harbour Joint Area Action Plan has been prepared in accordance with the Adur Local Development Scheme 2018-2020, the published Addendum to the Brighton & Hove Local Development Scheme 2017-2020 and the West Sussex Minerals and Waste Development Scheme 2018-2021.

130. Consultation on the Plan and the MMs was carried out in compliance with the Adur & Worthing Statement of Community Involvement 2012, the Brighton & Hove Statement of Community Involvement 2015 and the West Sussex Statement of Community Involvement 2018.

131. Sustainability Appraisal has been carried out and is adequate.

132. The Habitats Regulations Assessment Screening Report May 2018 sets out why an AA is not necessary. For the reasons given above, I share the conclusions of the screening assessment and am satisfied that the process undertaken in relation to the Conservation of Habitats and Species Regulations 2017 is adequate.
133. The Plan includes policies designed to secure that the development and use of land in the regeneration area contribute to the mitigation of, and adaptation to, climate change. This is particularly evident in relation to Policies SH1 and SH6, for the reasons given above.
134. The Shoreham Harbour Joint Area Action Plan complies with all relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.
135. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of several matters during the examination including e.g. the provision of safe, inclusive and accessible places. Having regard to the evidence base and consultation responses, including the Equality and Health Appraisal, I consider that the Plan is likely to have generally positive or neutral impacts on persons with a protected characteristic. Given the aims of the Plan and its policies, including those to create mixed and healthy communities, and encourage improvements to the public realm, open space, transport links and pedestrian facilities, I consider that the Plan will help to eliminate discrimination and inequality, and foster good community relations.

Overall Conclusion and Recommendation

136. The Plan has a number of deficiencies in respect of soundness and legal compliance for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
137. The Council has requested that I recommend MMs to make the Plan sound and legally compliant and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Shoreham Harbour Joint Area Action Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Anne Napier

Inspector

This report is accompanied by an Appendix containing the Main Modifications.