

**Appendix 3 Legal Changes to Neighbourhood Planning – Letter from Derek Stebbing,
Examiner of the Coldean Neighbourhood Development Plan**

INDEPENDENT EXAMINATION OF THE COLDEAN

NEIGHBOURHOOD DEVELOPMENT PLAN 2020-2035

EXAMINER: DEREK STEBBING BA (Hons) DipEP MRTPI

Examination Ref: 03/DAS/CNP

Debbie Annells
Coldean Neighbourhood Planning Forum

Carly Dockerill
Brighton & Hove City Council

cc. Kevin Wright, South Down National Park Authority

Via email

16 March 2026

Dear Ms Annells and Ms Dockerill

You will be aware that sections 98¹ and 99² of the Levelling-up and Regeneration Act 2023 will be coming into force on 25 March 2026. This is by virtue of *The Levelling-up and Regeneration Act 2023 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026*, which were made on 2 March 2025.³

In relation to neighbourhood plans, sections 98 and 99 amend the Planning and Compulsory Purchase Act 2004⁴ and the Town and Country Planning Act 1990⁵ in respect of the legal compliance and the Basic Conditions requirements.

In summary, the further legal compliance requirements are as follows:

- so far as the qualifying body considers appropriate, and having regard to the subject matter of the plan, the plan must be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change; and
- so far as the qualifying body considers appropriate, and having regard to the subject matter of the plan, the plan must be designed to take account of any local nature recovery strategy under section 104 of the Environment Act 2021 that relates to all or part of the neighbourhood plan area.

In addition, there is a new Basic Condition requirement:

- the making of the neighbourhood development plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made. Note: this **replaces** the former Basic Condition

¹ View at: <https://www.legislation.gov.uk/ukpga/2023/55/section/98>

² View at: <https://www.legislation.gov.uk/ukpga/2023/55/section/99>

³ View at: <https://www.legislation.gov.uk/uksi/2026/169/made#top>

⁴ Section 38B of the 2004 Act: <https://www.legislation.gov.uk/ukpga/2004/5/section/38B>

⁵ Paragraph 8(2), Schedule 4B to the 1990 Act (and s.38C to the 2004 Act):

<https://www.legislation.gov.uk/ukpga/1990/8/schedule/4B> and

<https://www.legislation.gov.uk/ukpga/2004/5/section/38C>

that the neighbourhood plan be in general conformity with the strategic policies contained in the development plan for the area.⁶

A further Basic Condition⁷ related to the new environmental assessment framework⁸ is commenced albeit, until such time as a completed framework for the implementation of Environmental Assessment Reports is in place, compliance with this Basic Condition cannot be assessed.

As the examination of the Coldean Neighbourhood Plan is currently in progress, I am providing you with an opportunity to comment on these changes. I also consider that any persons who may have an interest in the examination should be given the similar opportunity to comment, including those who submitted representations at Regulation 16.

Therefore, I request that Brighton & Hove City Council place a notice on their website cross referencing this letter, advising that the anyone with an interest in the examination may, should they wish, comment on the legal compliance and Basic Conditions changes outlined above.

It should be made clear that there is no need for responses to repeat representations that have already been made in relation to any other matters (since the Regulation 16 representations stand as submitted). Similarly, it is not an opportunity to raise new matters that do not relate to these legal points.

I suggest that the local authority's website should advise that **2 weeks** will be provided to submit comments to Brighton & Hove City Council. I would also request Brighton & Hove City Council contact those who made representations at Regulation 16 to this opportunity. Should any person(s) request additional time in order to respond, you should seek to accommodate this providing a revised and reasonable response time is proposed.

Any responses received at the end of the 2 week (or, where requested, extended) period, along with those of the Coldean Neighbourhood Planning Forum and Brighton & Hove City Council, should be forwarded to the IPe office team for my attention.

Should you have any questions in relation to this letter or any other related examination matters, please contact the IPe office team in the first instance.

In the interests of transparency, may I prevail upon you to ensure that a copy of this letter is placed on the Neighbourhood Forum, the South Downs National Park Authority and City Council's websites.

Thank you in advance for your assistance.

Yours sincerely

Derek Stebbing

Examiner

⁶ Basic Condition '(e)' is replaced by '(ea)'.

⁷ New Basic Condition '(fa)'.

⁸ Part 6, Levelling-up and Regeneration Act 2023: <https://www.legislation.gov.uk/ukpga/2023/55/part/6>