

Report to	<b>Planning Committee</b>
Date	<b>14 March 2024</b>
By	<b>Director of Planning</b> (Interim)
Title of Report	<b>Making of the Rottingdean Neighbourhood Development Plan (NDP)</b>
Purpose of Report	<b>To make the Rottingdean Neighbourhood Development Plan (NDP) part of the South Downs National Park Authority's (SDNPA) statutory Development Plan</b>

#### **Decision**

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#### **Recommendation:**

**The Committee is recommended to:**

- 1. Note the outcome of the Rottingdean Neighbourhood Development Plan (NDP) Referendum; and**
  - 2. Agree to make the Rottingdean Neighbourhood Development Plan (NDP) part of the Development Plan for that part of the Parish within the South Downs National Park (SDNP).**
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#### **Executive Summary**

- The Rottingdean Neighbourhood Development Plan (NDP) successfully passed the referendum and can now be made by the South Downs National Park Authority (SDNPA).
- The Rottingdean NDP was put to a referendum having been recommended for approval by the Examiner subject to modifications, which were accepted by the Local Planning Authority in a Decision Statement published in December 2023.
- SDNPA has been involved at the appropriate statutory stages in the development of the Rottingdean NDP and officers are satisfied that the Rottingdean NDP meets the legal requirements.

#### **I. Introduction and Summary**

- I.1** Rottingdean Parish Council (RPC) is the Qualifying Body with responsibility for preparing the Rottingdean Neighbourhood Development Plan.
- I.2** The parish of Rottingdean is within the local authority area of Brighton & Hove City Council (B&HCC). The countryside part (the majority by area) of the parish is located within the South Downs National Park (SDNP). The settlement of Rottingdean is outside the SDNP. The Local Planning Authorities for the areas of the parish inside and outside the SDNP are South Downs National Park Authority (SDNPA) and B&HCC respectively. The Rottingdean Neighbourhood Area (Appendix I) was designated in March 2013 by SDNPA and B&HCC. The boundary of the Neighbourhood Area follows that of the parish.

- 1.3 As the settlement of Rottingdean is outside the SDNP, the Lead Authority for the NDP is B&HCC.
- 1.4 The Rottingdean NDP was subject to public consultation between 14 February to 9 April 2021 (Pre-submission Regulation 14) and 2 February to 16 March 2023 (Submission Regulation 16). The NDP was then examined by Mr Derek Stebbing as Independent Examiner. The Examiner's Final Report (Appendix 2) was received on 18 October 2023, and B&HCC (in consultation with the SDNPA and RPC) agreed to the Examiner's modifications, and the reasons for them, on 14 December 2023. The Rottingdean NDP (Referendum Version) was subjected to a community referendum on 9 February 2024, with 89% voting yes.
- 1.5 As the referendum resulted with more than half voting in favour, the Rottingdean NDP is now part of the Development Plan. The SDNPA are required to take a decision to formally 'make' the NDP within 8 weeks of a successful referendum, unless to do so would breach, or would otherwise be incompatible with any European Union obligation or any of the Convention Rights (within the meaning of the Human Rights Act 1998).

## **2. Rottingdean Neighbourhood Development Plan (NDP)**

- 2.1 The parish of Rottingdean consists of large areas of open downland with the village extending from the coast northwards up the dry valley. Beacon Hill to the west forms an important backdrop to views of the village. Rottingdean Windmill set upon the ridgeline forms a striking landmark from within the village and when approaching from Brighton. The village is relatively large with a population of 3,176 persons (Census 2021). It is the only Parish Council within the Brighton & Hove City Council area. The open downland surrounding the village was designated as part of the South Downs National Park in April 2010. By area the majority of the parish consists of open downland within the SDNP including Balsdean Farm and Rottingdean Place. The village of Rottingdean is outside the SDNP.
- 2.2 The Rottingdean NDP sets out a vision for celebrating, respecting and protecting the heritage of the village with an emphasis on ensuring a healthier, more sustainable environment with access to quality open spaces and improved public realm. There are five core strategic objectives identified which are expressed in 14 policies in the NDP. There are no allocations for housing or other forms of development in the Rottingdean NDP. There are no Local Green Spaces identified within the SDNP. The policies include an overall spatial framework for the parish, local gaps, wildlife & biodiversity, housing mix, design, visitor accommodation, shop fronts, community facilities and reducing traffic congestion through supporting walking, cycling and public transport.
- 2.3 The following are specifically relevant to the SDNP. Within the SDNP there are two local gaps identified in policy S2 (page 21 of the Rottingdean NDP) at Beacon Hill (Gap 1) to the west and at land bounded by Westmeston Avenue and Dean Court Road adjacent to Whiteway Bridleway (Gap 2) to the east of the village respectively. The policy states that development proposals which would detract from the open character and appearance of the rural area or result in coalescence of Rottingdean with other settlements will not be supported.
- 2.4 In addition, policy GOS3 (page 49 of the Rottingdean NDP) supports proposals that conserve and enhance the landscape of the South Downs and its special qualities.
- 2.5 The Examiner suggested a number of modifications to the policies in the NDP. These included clarifying policy S2. This was to be clear the policy was non-strategic by referring to local gaps. The Examiner considered the policy reference to local gaps was appropriate. The Examiner was satisfied the Rottingdean NDP was in general conformity with the strategic policies of the Development Plan and meets the basic conditions subject to the proposed modifications which were made prior to the referendum. The proposed modifications were accepted by B&HCC in publishing their Decision Statement on 14 December 2023. The Rottingdean NDP was amended accordingly before going to referendum.

### **Referendum results**

2.6 The referendum took place on Friday 9 February 2024 with the following results:

Turn out = 20.94%

Votes & percentage in favour = 512 (89%)

Votes & percentage against = 61 (11%)

### 3. Making of the Rottingdean Neighbourhood Development Plan (NDP)

3.1 The enactment of the Neighbourhood Planning Act 2017 means that a NDP automatically becomes part of the Development Plan following a successful referendum. However, the Local Planning Authority has a statutory duty to ‘make’ a NDP, within eight weeks of a referendum, if more than half of those voting have voted in favour of the plan. The Local Planning Authority is not subject to this duty if (and only if) the making of the NDP would breach, or would otherwise be incompatible with, any European Union obligation or any of the Convention Rights (within the meaning of the Human Rights Act 1998).

3.2 The Examiner concluded that the Rottingdean NDP with modifications met these legislative obligations/rights. No information has subsequently arisen to suggest the making of the Rottingdean NDP would be in breach or incompatible with the legislation.

3.3 The Rottingdean NDP is now part of the Development Plan for that part of the parish of Rottingdean located within the SDNP, along with the South Downs Local Plan (SDLP). For the avoidance of doubt, the Rottingdean NDP is considered to be consistent with the SDLP.

3.4 B&HCC are ‘making’ the Rottingdean NDP on Thursday 28 March 2024.

### 4. Planning Committee

4.1 The Rottingdean NDP has not previously been presented to Planning Committee, and all SDNPA responses to the NDP during its preparation have been dealt with through delegated powers by officers. Members have been updated on the NDP through the half yearly update to Planning Committee.

### 5. Next Steps

5.1 The Neighbourhood Planning Regulations 2012 (as amended) require Local Planning Authorities to publish a statement setting out their decision to make a NDP and reasons for making that decision. This statement should be published as soon as practical after the decision is taken to make the NDP. This report forms the SDNPA Regulation 19 “Decision Statement” for this NDP.

5.2 Following the “making” of the Rottingdean NDP, copies of the NDP will be made available to the Development Management (DM) teams at the SDNPA and B&HCC respectively. The policies maps will also be entered onto the relevant electronic mapping systems.

### 6. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No
Does the proposal raise any Resource implications?	B&HCC are the lead authority for the Rottingdean NDP. SDNPA have provided officer time at the appropriate statutory stages. No direct costs have been incurred.  Rottingdean Parish Council will be able to receive 25% of Community Infrastructure Levy (CIL) receipts collected from development within the Neighbourhood Area.
How does the proposal represent Value for Money?	As stated above no direct costs were incurred by the SDNPA.

<b>Implication</b>	<b>Yes*/No</b>
Which PMP Outcomes/ Corporate plan objectives does this deliver against	Outcome(s): 1, 4, 5, 9
Links to other projects or partner organisations	Brighton & Hove City Council, Rottingdean Parish Council.
How does this decision contribute to the Authority's climate change objectives	The Rottingdean NDP states, "By making biodiversity an integral part of our Neighbourhood Plan we can help to manage environmental risk and improve resilience to flooding, poor air quality and climate change."
Are there any Social Value implications arising from the proposal?	None
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	The Qualifying Body prepared a Consultation Statement to support the submission version of the NDP, setting out how all sections of the local community (people who live, work or carry out business in the neighbourhood area), including hard to reach groups, have been engaged in the plan's production.
Are there any Human Rights implications arising from the proposal?	None
Are there any Crime & Disorder implications arising from the proposal?	None
Are there any Health & Safety implications arising from the proposal?	None
Are there any Data Protection implications?	None

## **7. Risks Associated with the Proposed Decision**

<b>Risk</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Mitigation</b>
A legal challenge to a NDP can be launched by way of judicial review within six weeks of the LPA publishing a decision to make the NDP.	Low	Medium	Officers at SNDPA are satisfied the Rottingdean NDP meets the legal requirements. The NDP has been through the correct statutory process, including Examination and Referendum, the Authority is 'obliged' to make the NDP. This is unless making the NDP would breach, or would otherwise be incompatible with, any European Union obligations or any of the Convention Rights (within the meaning of the Human Rights Act 1998)

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Appendices  
1. Rottingdean NDP Neighbourhood Area  
2. Rottingdean NDP Examiner's Report  
SDNPA Consultees Director of Planning; Chief Finance Officer; Monitoring Officer;  
Legal Services.  
External Consultees None  
Background Documents [Rottingdean NDP Decision Statement](#)  
[Rottingdean NDP Referendum Version](#)

