

Report to	Planning Committee
Date	12 June 2014
By	Director of Planning
Title of Report	Fernhurst Neighbourhood Plan Submission
Purpose of Report	To agree the proposed content of SDNPA's representation to the appointed Neighbourhood Plan Examiner

Recommendation: The Committee is recommended to:

- 1. Note that Fernhurst Parish Council has submitted the Fernhurst Neighbourhood Plan and supporting documents to SDNPA for a six week period of public consultation and**
 - 2. Agree the content of SDNPA's proposed representation on the submitted Plan, see Appendix 4.**
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1. Introduction and Summary

- 1.1** The parish of Fernhurst lies wholly within the South Downs National Park, and consequently SDNPA is the responsible local planning authority. Chichester District Council is responsible for a range of statutory services in the Parish, including its role as the housing authority.
- 1.2** The formal submission of the Fernhurst Neighbourhood Plan marks the completion of two years work by the Parish Council in preparing their neighbourhood plan. The Plan contains a suite of planning policies for the parish including five site allocations. It is accompanied by a series of supporting documents, including a Sustainability Appraisal, Consultation Statement and Basic Conditions Statement. It is first Neighbourhood Plan that has been submitted that is wholly or predominantly within the South Downs National Park.

2. Background

- 2.1** It is for the Local Planning Authority to decide whether a particular Neighbourhood Plan falls within the scope of the SEA Directive (2001/42/EC). Fernhurst Parish Council sought a Screening Opinion from the SDNPA, which in this case recommended the Plan should be subject to a Sustainability Appraisal (SA). This SA forms part of the submission.
- 2.2** Once a parish council or neighbourhood forum has submitted the neighbourhood plan to the Local Planning Authority (LPA), a check has to be undertaken to ensure the plan complies with the statutory requirements¹. The LPA is not required to consider whether the draft plan or order meets the 'basic conditions' at this stage. It will be the Examiner's role to form her own conclusions regarding this matter. The findings of the check are in **Appendix I**.
- 2.3** A six-week publicity period commenced on 2 May 2014 to invite representations from local residents and other stakeholders². The consultation has been widely publicised with help from the Parish Council. This has included public notices in the local press, posters and postcards in parish shops/services and bus shelters and letters to a contact list of local

¹ The statutory requirements as set out in paragraph 6 of Schedule 4B to the Town and Country Planning Act (TCPA) 1990.

² TCPA 1990 Regulation 16 Neighbourhood Planning (General) Regulations 2012.

business interests, landowners, statutory bodies, residents and community organisations. The consultation ends 13 June 2014 (at 23:59 hours).

- 2.4 The submission documents (the 'plan proposal') are:
- (i) a map showing the designated neighbourhood area
 - (ii) the submitted Neighbourhood Development Plan (NDP)
 - (iii) the Sustainability Appraisal (SA)
 - (iv) the Basic Conditions Statement (BCS) and
 - (v) The Consultation Statement.

The NDP, SA and BCS are provided in **Appendix 2**. Other supporting documents were submitted as background information and may be viewed on the Authority's website: www.consult.southdowns.gov.uk.

- 2.5 Neighbourhood Plans must meet a set of basic conditions before they can be put to a referendum and be 'made' (that is become part of the development plan for the area). An independent examiner has been appointed by South Downs National Park Authority in consultation with Fernhurst Parish Council and she will have to consider whether the Plan meets these basic conditions :-
- have regard to national policies and advice contained in guidance issued by the Secretary of State
 - contribute to the achievement of sustainable development
 - be in general conformity with the strategic policies of the development plan for the area and
 - be compatible with EU obligations and human rights requirements.
- 2.6 In assessing the Plan the Examiner can make one of the following recommendations:
- that the Neighbourhood Plan should proceed to Referendum, on the basis it meets all the legal requirements
 - that the Neighbourhood Plan as modified should proceed to Referendum; or
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis it has not met the relevant legal requirements.
- 2.7 The development plan for this parish consists of *Chichester District Local Plan 1999*, *West Sussex Waste Local Plan (April 2014)* and *West Sussex Minerals Local Plan (July 2003)*. The National Planning Practice Guidance (NPPG) published in March 2013 states that neighbourhood plans can be developed before or at the same time as the Local Planning Authority is producing its Local Plan. The situation where neighbourhood plans are submitted ahead of the production of an up-to-date strategic planning document has been considered in recent neighbourhood plan examinations and a High Court Challenge – some observations relating this are set out in **Appendix 3**.
- 2.8 In such a circumstance, the NPPG urges the Local Planning Authority and the neighbourhood plan body to discuss and aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging Local Plan (the South Downs Options Consultation Document is an early non-statutory stage) and the adopted development plan.
- 2.9 Officers of the Authority attended meetings with the neighbourhood plan steering group to discuss the alignment of the emerging neighbourhood plan with existing planning policy. This led to issues being resolved but several significant concerns remained when the pre-submission document³ was published. These formed the basis of a report to the SDNPA Planning Committee in August 2013.
- 2.10 The Planning Committee suggested SDNPA and the Parish Council should endeavour to engage in dialogue with one another to address the policy concerns. Unfortunately, it was not possible to continue working with the Parish Council at this stage. However, SDNPA

³ The pre-submission neighbourhood plan was published by the Parish Council and subject to consultation from 3 June to 21 July 2013.

set out in writing where Officers considered the evidence base needed to be enhanced in order to robustly demonstrate the appropriateness of the policy framework. Since then, the Parish Council has substantially sought to address the perceived gaps in the evidence base and a number of policies have been redrafted.

- 2.11 As the Examination will commence at the end of the publicity period, it is important that SDNPA draws the Examiner's attention to any remaining reservations the Authority has regarding the neighbourhood plan. This report does not take into account representations made by local residents and other consultees during this period. The Authority is aware of all the comments made at the Pre-Submission stage (these are set out in the Consultation Statement) – all of the representations raised during the consultation process will be considered by the Examiner.
- 2.12 It is important that SDNPA, in its role as the guardian for a nationally designated landscape, identifies any conflict in the Plan with the National Park Purposes and Duty as set out in the Environment Act 1995. As Local Planning Authority, we must also identify any concerns relating to the general conformity of the draft Neighbourhood Plan with strategic policies in the development plan⁴.
- 2.13 The Neighbourhood Plan was submitted to SDNPA during the first consultation on the Local Plan⁵. This stage of the Local Plan does not contain planning policies or site allocations. It is also not directly relevant to the Examiner's assessment of the Neighbourhood Plan as neighbourhood plans may only be tested against strategic policies of the development plan that are already in force, although the National Planning Policy Guidance states: *"the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested"*.
- 2.14 The draft schedule in **Appendix 4** sets out the proposed content for the Authority's representation on the submitted neighbourhood plan. It sets out where, as currently worded, the policies have the potential to harm National Park Purposes or be in conflict with strategic policies contained in the development plan. SDNPA's Sustainability Officer has assessed the submitted Sustainability Appraisal and whether the plan is likely to give rise to significant effects on internationally designated habitats. The schedule also identifies factual errors or outdated information – these do not relate to whether the Plan meets the Basic Conditions and are labelled appropriately.

3. Assessment of the proposed approach – key findings

- 3.1 The strategy has been prepared taking into account the evidence and data which was available, at the time of writing, to support the South Downs National Park Local Plan. The Settlement Hierarchy Study (2013) identifies groups of settlements with broadly similar sustainability characteristics – tiers 1 to 5, with tier 1 containing the more sustainable settlements. Fernhurst village is identified as a Tier 3 settlement (one of 12 in total). The SDNPA Local Plan Options Consultation Document (2014) describes these villages as being: *"relatively sustainable and, subject to landscape and other constraints, could contribute towards meeting objectively assessed housing needs for the National Park."* It proposes that *"within Tier 3 villages, development on brownfield land and other sites within the built-up area/settlement boundary will normally be allowed... a limited allocation/settlement extension may be made to meet local development needs, including for affordable and local housing... generally neighbourhood plans will determine new settlement boundaries and site allocations, provided these are of a modest scale in keeping with the existing settlement, and do not have a potentially adverse landscape impact."*
- 3.2 The Neighbourhood Plan seeks to address Fernhurst's own housing needs through a 'brownfield first' approach. This is justified by a Sustainability Appraisal (SA) which has tested the relative merits of an allocation strategy for housing based on using brownfield

⁴ A review has been undertaken to establish which of the saved policies in the Chichester District Council Plan 1999 have strategic implications for the South Downs National Park, taking account of Planning Practice Guidance for Neighbourhood Planning (published March 2014).

⁵ Options Consultation Document, South Downs National Park Authority (consultation period 28 February to 30 April 2014).

land versus an alternative approach using greenfield land, incorporating the 2010 Chichester District Council Strategic Housing Land Availability Assessment (SHLAA) sites on the edge of the settlement policy area⁶. No other sites were included in this greenfield option since: “they were not available or they were known to have restrictive covenants on them. Other sites were undevelopable because there was no access”. The SA also individually tests the housing site allocations.

- 3.3 The SA found the brownfield approach produced significantly greater benefits in sustainability terms. Comments from SDNPA’s Sustainability Officer on the SA are included in the schedule in **Appendix 4**. Significantly, the findings of the SA concur with feedback from an initial community survey which found that local residents were overwhelmingly in favour of new housing being provided on previously developed land (87% of respondents) whereas just 3% of residents concurred with the view that new homes should be developed on green fields on the periphery of the village.
- 3.4 The Plan has been prepared in the context of the *Chichester District Local Plan 1999*. The housing targets in the Plan are now very out of date, there being no provision beyond 2006. The housing market area in which Fernhurst sits has yet to be determined through evidence being gathered through the SDNPA Local Plan. The objectively assessed needs for market and affordable housing in the housing market area are still to be determined. However, some assumptions regarding the level of objectively assessed need for the National Park part of Chichester District were made in the 2013 Housing Study (Duty to Co-operate).
- 3.5 The last comprehensive analysis of land availability published for the Parish is the CDC SHLAA in 2010, which pre-dates the National Park designation. This work is currently being reviewed as part of a wider SHLAA assessment for the entire National Park. This is expected to be published as one document. No up-to-date local Housing Needs Survey for Fernhurst exists. There is, however, the Housing Register for Chichester District. This shows that there are currently 25 households with a local connection to the parish, of which 11 are in bands A-C and considered to have a priority need. 15 of the 25 have expressed an interest in shared ownership properties. 76% of the households are currently resident in the Parish. The highest demand is for small properties (15 of the 25 are seeking 1 bed dwellings). While there is a reasonable turnover of 1 bed dwellings in Fernhurst (34 of these were reallocated 2007-2012), larger properties become available much less frequently.
- 3.6 There is a supply of sites likely to come forward for development in National Park part Chichester District in the next five years. While there are no large sites with planning permission in Fernhurst parish itself, it is reasonable to expect that a proportion of this need can be addressed in other parishes nearby, including King Edward VII in Easebourne parish (which is adjacent to the parish of Fernhurst).
- 3.7 Fernhurst Parish Council legitimately wishes to prepare a strategy which addresses the needs of the local community, while properly balancing environmental constraints. Neighbourhood Plans can assist in dealing with a policy vacuum (see **Appendix 3**). However, with the SDNP Local Plan at such an early stage (with much evidence still to be collected and the draft strategy to be determined) it is difficult to understand the relative scale and impact of Fernhurst’s need compared to other parishes or the relative availability of land in Fernhurst compared to other suitable locations for development. Thus, it has not been possible to make a policy choice as to whether Fernhurst is more or less able to meet objectively assessed needs than other settlements of a similar size within its housing market area. The Neighbourhood Plan’s Sustainability Appraisal can only look at the reasonable alternatives appropriate to Fernhurst parish, it cannot look beyond.
- 3.8 Assessment of the individual site allocations is set out **Appendix 5**. It is recommended that SDNPA seeks the removal of the allocations for Hurstfold Industrial Estate and Fernhurst Business Park. The Hurstfold policy proposes development in an unsustainable location in open countryside; there would be a loss of employment with limited assurance it could be re-provided elsewhere (SDNPA provided pre-application advice on a residential scheme in

⁶ Land on the upper Glebe, Bennetts Field, Hawksfold Lane East, Northern section of Lower Nappers Farm and Land south east of Midhurst Road

this location in late 2013⁷). The site allocation proposed at Fernhurst Business Park is on land subject to an appeal decision which considered that part of the site was not previously developed land and the proposed scheme would be highly visible⁸ – the Neighbourhood Plan envisages a new access which would make the business park more visible. SDNPA should also seek changes to the wording of the Syngenta policy – significantly the removal of the residential quantum which has not been adequately evidenced and a requirement for the provision of some additional employment floorspace. Any scheme for this site would need to demonstrate the exceptional circumstances or public interest reason to justify an exception to the presumption against major development in paragraph 116 of the NPPF.

- 3.9 The Plan has been amended since the Pre-Submission version to take on board concerns raised by SDNPA and prepared in accordance with the Neighbourhood Planning Regulations. The absence of an up-to-date planning policy framework has made the preparation of a comprehensive plan for the parish a difficult exercise. As more evidence becomes available to support the Local Plan, SDNPA will need to keep the approach in the neighbourhood plan under review and this may mean SDNPA's Local Plan needs to include site allocations within the parish of Fernhurst beyond those being proposed in the neighbourhood plan. This can only be accurately established once the Local Plan's evidence base is in place.

4. Resources

- 4.1 The neighbourhood plan has received grant funding of £20,000 from the DCLG Neighbourhood Planning Front Runners scheme. The Parish Council has contributed to the cost of the evidence base from its own resources.
- 4.2 The costs of the examination will need to be met by SDNPA. If the Plan is approved, SDNPA would receive £20,000. If it is not successful, no contribution would be received and the plan would not be able to proceed to referendum. The referendum will be organised by Chichester District Council and the SDNPA will contribute towards the costs of that referendum. The costs of the Examiner are £750 per day (the number of days the examination will last are still to be confirmed but 2-3 weeks is an appropriate estimate)⁹. Chichester District Council has previously advised the referendum would cost approximately £2,500 (if combined with other elections).

5. Risk management

- 5.1 **Risk:** If the plan is not approved at examination, this would frustrate the Parish Council's ambition to have a bespoke local planning strategy for their area.
- 5.2 **Mitigation:** There would be the option of revisiting the plan, subject to any issues raised in the Examiner's report. Equally the Parish Council could decide not to pursue any further work on the neighbourhood plan. SDNPA obtained an independent opinion from Brian Dodd (a qualified planning inspector) on the Pre-Submission version of the Neighbourhood Plan. His report, which was made available to the Parish Council, identified where the plan policies needed to be made more robust in order to have a reasonable prospect of being successful at examination.

6. Crime and Disorder Implications

- 6.1 It is considered that the proposal does not raise any crime and disorder implications.

7. Human Rights Implications

- 7.1 The neighbourhood plan has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

⁷ Pre-application advice SDNP/13/04822/PRE

⁸ Appeal decision: Planning Inspectorate APP/L3815/A/08/2078644 (21 January 2009)

⁹ This is the daily rate for examiners appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). The number of days are an NPIERS estimate: "Top Tips for Local Planning Authorities"(2013)

8. Equalities Act 2010

8.1 Due regard, where relevant, has been taken to the South Downs National Park Authority's equality duty as contained within the Equalities Act 2010.

9. External Consultees

9.1 None.

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Appendices

1. SDNPA submission check (Schedule 4B to the TCPA 1990).
2. a. Fernhurst Neighbourhood Plan (all April 2014) -Submission Version (Regulation 15); b. Sustainability Appraisal; c. Basic Conditions Statement.
3. Note on the timing of Neighbourhood Plans
4. Proposed representation to the Examiner
5. Assessment of site allocations
6. Former Syngenta site – recent planning history
7. Former Syngenta site – High Level Viability Review

SDNPA Consultees

Chief Executive Officer, Director of Corporate Services, Director of Planning, Director of Strategy and Partnerships, Director of Operations, Legal Services, Chief Finance Officer, Monitoring Officer, Planning Policy Manager, Development Management Lead, Minerals and Waste Lead, Link Officer.

Background Documents

Planning Committee Report: Fernhurst Neighbourhood Development Plan – draft for informal consultation, 8 August 2013
<http://www.southdowns.gov.uk/about-us/about-the-authority/committees/planning-committee/2013-meetings/8-august-2013>