

Report to	Planning Committee
Date	12 June 2014
By	Director of Planning
Title of Report	Making of the Arundel and Kirdford Neighbourhood Development Plans
Purpose of Report	To make two neighbourhood plans part of the statutory development plan for those parts of the Arundel and Kirdford parishes, respectively, within the South Downs National Park

Recommendation: The Committee is recommended to:

- (1) Note the outcome of the Arundel and Kirdford neighbourhood plan referendums;**
 - (2) Agree to make the Arundel Neighbourhood Development Plan part of the SDNPA's Development Plan for the part of the designated neighbourhood area that lies within the South Downs National Park; and**
 - (3) Agree to make the Kirdford Neighbourhood Development Plan part of the SDNPA's Development Plan for the part of the designated neighbourhood area that lies within the South Downs National Park**
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1. Introduction and Summary

- 1.1 Kirdford Parish Council and Arundel Town Council have both produced neighbourhood development plans for their respective parishes, which lie partially within the National Park. Where neighbourhood plan areas cut the National Park boundary working arrangements have been put in place by the SDNPA and neighbouring local planning authorities to support the neighbourhood plan making process. A 'lead' Authority was agreed for both Arundel (Arun District Council) and Kirdford (Chichester District Council).
- 1.2 Both plans have passed the examination stage, subject to proposed modifications. The lead Authorities have made the modifications to the Plans, in consultation with South Downs National Park Authority. As the referendum results show the majority of those voting were in favour of the neighbourhood plans being used in determining planning applications within the neighbourhood area. It is now necessary for South Downs National Park Authority to formally make the plans part of the National Park's Development Plan.

2. Background

- 2.1 The SDNPA Planning Committee designated the neighbourhood areas for Kirdford on 13 September 2012 and for Arundel on 14 March 2013. The parish councils undertook a pre-submission consultation for a minimum of six weeks¹. The comments received were considered in drafting the proposed plans for submission to the Local Planning Authorities.
- 2.2 The proposed plans were publicised by the Local Planning Authorities (including SDNPA) for a minimum of six weeks and comments invited from the public and stakeholders. SDNPA itself provided representations to both neighbourhood plan examinations. This drew upon an internal consultation with Members on the proposed Kirdford representation and the proposed representation for the Arundel Neighbourhood Plan was reported to the SDNPA Planning Committee in January of this year.

¹ Arundel Town Council undertook two separate consultations during this stage.

- 2.3 The neighbourhood plans have been subject to an independent examination to review whether they met requirements set out in legislation, including a number of ‘basic conditions’.² This was relevant to whether the plans would be able to proceed to referendum.
- 2.4 The neighbourhood plan examiners concluded that, subject to a number of modifications, the plans met all of the legal requirements. The examination reports are set out in **Appendix I**. Kirdford was the 13th neighbourhood plan in England to pass this stage; Arundel 14th. The examiner of a neighbourhood plan is only allowed to recommend modifications (s)he thinks are necessary to: (a.) make the plan conform to the ‘basic conditions; (b.) make the plan compatible with the Convention rights; (c.) make the plan comply with the definition of an NDP (i.e. it must contain planning policy) and (d.) to correct errors.
- 2.5 The Local Planning Authority must consider each of the examiners recommendations and decide what action to take in response to each one. Officers at the ‘lead’ Local Planning Authorities determined that the examiners recommendations should be accepted in full in consultation with SDNPA (Regulation 19- ‘decision on a plan proposal’). They agreed that the neighbourhood plans as modified met the tests set out in para. 2.4 above.
- 2.6 The ‘Decision Statements’ prepared by the ‘lead’ LPAs are in **Appendix 2**. The Decision Statements were published on the websites of both Local Planning Authorities and sent to the Parish Councils and any person who asked to be notified of the decision.
- 2.7 The examiner for both the Kirdford and Arundel Neighbourhood Plans substantially supported SDNPA’s representations and the proposed modifications address the Authority’s concerns. No substantive new issues arose as a result of the examiners’ reports and therefore approval for the Decision Statements was not sought from Planning Committee. This is in line with the delegated arrangements for neighbourhood plans where the main settlement is outside the National Park. A ‘referendum version’ of the neighbourhood plan was prepared, incorporating the modifications – the plans are in **Appendix 3**.
- 2.8 The examiner for each plan determined that the referendum area should be the same as the designated neighbourhood area. The referendums were organised by the respective district councils. The question asked at neighbourhood planning referendums is set out in legislation: *“Do you want [name of Local Planning Authority] to use the neighbourhood plan for [name of neighbourhood area] to help it decide planning applications in the neighbourhood area?”*³
- 2.9 The Neighbourhood Plan referendum in Arundel was held on 8 April 2014. Turnout was 26.6%. 631 residents voted in favour of the Plan while 67 voted against. 90% of those voted in support of the question. The referendum in Kirdford was held on 1 May 2014. Turnout was 43.95%. 334 residents voted in favour, while 19 voted against. This is a vote of 95% in support of the Plan.

3. Making of the neighbourhood plans

- 3.1 The Local Planning Authorities have a statutory duty to ‘make’ the neighbourhood plan, as soon as reasonably practical, if more than half of those voting have voted in favour of the plan⁴. The LPA is not subject to this duty if (and only if) the making of the plan would breach, or would otherwise breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).
- 3.2 In both cases the Examiners concluded the Plans meet these legislative obligations/rights. No information has subsequently arisen to suggest the making of the plans would be in

² The ‘basic conditions’ being: (i) have regard to national policies and advice contained in guidance issued by the Secretary of State; (ii) Contribute to the achievement of sustainable development; (iii) Be in general conformity with the strategic policies contained in the development plan for the area; (iv) Not breach, and be otherwise compatible with, EU obligations (Para. 8(2) of Schedule 4B to TCPA 1990) or any of the Convention rights (within the meaning of the Human Rights Act 1998).

³ Anyone is qualified to vote in the referendum if they are entitled to vote in an election of a ward councillor whose ward is in the referendum area.

⁴ Paragraph 38A (4)(a) Planning and Compulsory Purchase Act 2004 (as amended).

breach with or incompatible with this legislation. SDNPA's Sustainability Officer has been consulted by the 'lead' Local Planning Authority and parish councils throughout the development of these neighbourhood plans. He has prepared a statement setting out how the Neighbourhood Plans have complied with the Strategic Environmental Assessment (SEA) Directive and Habitats Directive. The 'lead' Local Planning Authority will be responsible for the publication of the 'Environmental Report' where plans have been subject to the SEA Directive.

- 3.3 Chichester District Council's Development Plan Panel agreed the Kirdford Neighbourhood Plan should be taken to Cabinet on 29 May 2014 (the Plan is expected to be made at a meeting of the Full Council on 23 June 2014). Arun District Council determined the Arundel Neighbourhood Plan should be made at a meeting of Full Council on 30 April 2014.
- 3.4 As the neighbourhood plans, including their preparation, do not breach, and are not otherwise incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1988), the only option available for Members is to make the plan part of the development plan for the part of the neighbourhood areas within SDNP.
- 3.5 This will make the neighbourhood plans part of the development plan for the South Downs National Park with immediate effect. The decision of the SDNPA Planning Committee will need to be reported on the Authority's website (this triggers the period in which a legal challenge can be made: see Risk Management below), details given of where the plans can be inspected and any person notified who asked to be notified of the making of the Neighbourhood Plans.
- 3.6 The making of the plan will result in the Kirdford Neighbourhood Plan sitting in the development plan alongside the 'saved' policies of the *Chichester District Council Local Plan 1999*. In Arundel, the neighbourhood plan policies will sit alongside the *Arun District Local Plan 2003*. The *West Sussex Waste Local Plan (April 2014)* and *West Sussex Minerals Local Plan (July 2003)* are also a part of the development plan in both parishes.
- 3.7 The South Downs National Park Authority will continue working on its Local Plan which will set the strategic context within which the Kirdford and Arundel Neighbourhood Plans will ultimately sit (on adoption the SDNP Local Plan will replace the 'saved' policies in the Development Plan).

4. Resources

- 4.1 Both the Arundel and Kirdford Neighbourhood Plans were supported by Department for Communities and Local Government 'Front-runner' funding for £20,000 each. No costs were incurred by SDNPA from the preparation of the neighbourhood plans, although there has been considerable input from the Neighbourhood Planning Officer and Sustainability Officer during the plan making process.

5. Risk management

- 5.1 **Risk:** There are grounds for launching a legal challenge to a Neighbourhood Plan by way of judicial review within six weeks of the Authority publishing a decision to make the neighbourhood plan. At this stage, this applies if a Local Planning Authority declines to make an NDP, if a referendum has resulted in over half of those voting in favour, as soon as reasonably practical.
- 5.2 **Mitigation:** Officers at the 'lead' Local Planning Authorities and SDNPA are satisfied the plans meet the legal requirements. Decisions on neighbourhood plans are brought to the first available Committee, wherever possible, to ensure plans are progressed in a timely manner.

6. Crime and Disorder Implication

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

7. Human Rights Implications

- 7.1 The neighbourhood plans have 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.

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. Examiner's Report – (a) Kirdford Neighbourhood Plan; (b) Arundel Neighbourhood Plan.
2. Decision Statement – (a) Kirdford Neighbourhood Plan by Chichester District Council; (b) Arundel Neighbourhood Plan by Arun District Council.
3. Neighbourhood Plan (Referendum Version) – (a) Kirdford; (b) Arundel.

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: Arundel Neighbourhood Development Plan: Submission version, 16 January 2014