

# Findon Neighbourhood Development Plan 2016-2035

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## Submission Version

A Report to the South Downs National Park Authority on the Examination  
of the Findon Neighbourhood Development Plan

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## Introduction

Neighbourhood planning is a process introduced by the Localism Act 2011 which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside, which currently is the saved policies of the (somewhat outdated) Arun Local Plan adopted in 2003 and in time by the South Downs Local Plan. Decision makers are required to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise.

The neighbourhood plan making process has been led by Findon Parish Council. A Working Group was appointed to undertake the plan preparation made up of Parish Councillors and lay members. Findon Parish Council is a “qualifying body” under the Neighbourhood Planning legislation.

This report is the outcome of my examination of the Submission Version of the Findon Neighbourhood Development Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum then the Plan will be “made” by the South Downs National Park Authority (SDNPA), which is the Local Planning Authority.

## The Examiner’s Role

I was formally appointed by the SDNPA in June 2016, with the agreement of the Parish Council, to conduct this examination. My role is known as Independent Examiner.

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 38 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both the SDNPA and Findon Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

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- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
- That the plan should proceed to referendum if modified
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I am to conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the Findon Neighbourhood Development Plan area.

In examining the Plan, the Independent Examiner is expected to address the following questions

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land covering the area designated by the SDNPA for the Findon Neighbourhood Development Plan on 13<sup>th</sup> September 2012.

I can also confirm that it does specify the period over which the plan has effect namely the period between 1<sup>st</sup> January 2015 and 31<sup>st</sup> March 2035.

I can confirm that the plan does not cover any “excluded development”.

There are no other neighbourhood plans covering the area covered by the Plan designation.

Findon Parish Council as a parish council is a qualifying body under the terms of the legislation.

## The Examination Process

The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I am satisfied that I am in a position to properly examine the plan without the need for a hearing. One party asked to appear at the hearing if I determined that one was required, but as I have stated I concluded that this was not necessary.

I carried out an unaccompanied visit to the village and the surrounding area on 6<sup>th</sup> July 2016 to familiarise myself with the plan area including taking in long distance views of the village.

Prior to my commencement of the examination I received a request from the Parish Council via the LPA:

“A NDP has been published at submission and consulted on. It did not include sites even though the SDNPA considers that they should be doing so and has raised concerns about the processes. To address this the group may look to include sites but if they have to consult again are reluctant to do so. They ask whether an Examiner might agree to the inclusion of sites within the settlement boundary as part of the examination without consultation on the basis that they would be subject to a planning application anyway and therefore there is ample opportunity for people to comment. As such sites are in the settlement boundary there is effectively a presumption in favour of their development anyway.

They ask the same about whether they can include sites outside of the settlement boundary without consultation as they consider they have the information on the views people have of the sites anyway and all land was considered as part of a landscape assessment of the land around Findon.”

My reply was that it would not be possible, as I believe that it would be contrary to the procedures set out in the Neighbourhood Plan Regulations, but more importantly the public would not have had the opportunity to make representations on the allocations being proposed by the Parish Council.

I subsequently received an email, again via the LPA, asking for me to accept an Addendum to the Submission Version of the Plan which had been prepared to take account of consultation responses made at Regulation 16 stage. I had to advise the

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qualifying body that the Plan that would be examined would be the Submission Version as required by Regulation 17 of the Neighbourhood Plan Regulations – not least that the consultation bodies and the public would not be aware of the proposed new amended version of the Plan and had not been invited to comment thereupon. I did however indicate that I would be prepared to consider a list of suggested amendments to the plan that the Qualifying Body would ask me to consider making as part of my recommendations. Some of those changes have been incorporated into my recommendations where necessary.

Upon the completion of my draft report, in accordance with my usual practice, I sent a copy to both the Parish Council and the SDNPA, for what I described as a “fact check”. Whilst I had not invited comments on my draft recommendations, I received a request from the Parish Council to delay the issue of my final report as they were concerned about my recommendation that Policy HD1 should be deleted. I have been sent a copy of the legal opinion that they had sought and an indication that they wished me to publish my report. They indicated that they will “now work with the SDNPA to find a sensible way forward in respect of the housing numbers”. I have made some changes to my report to further clarify my rationale. However, my conclusions and my recommendations remain unchanged.

My recommendations have concentrated on the wording of the development plan policies themselves. It will be necessary for the authors of the Findon plan to make consequential adjustments to the supporting text to reflect my recommendations relating to the policies so as to produce a coherent plan document that will allow decision makers to use it as a tool for development management decisions over the Plan period. It is beyond the scope of my examiner’s role to rewrite the text of the Plan to reflect the changes that have been required to meet the Basic Conditions. Some policies have had to be removed as they are not policies for the development and use of land. It is quite appropriate for these to be included but clearly differentiated from the development plan policies as Community Actions or Priorities. That is in accordance with Government advice.

### **The Consultation Process**

The Consultation Statement describes how the neighbourhood planning exercise has been carried out.

The Parish Council initially set up of a working group comprising 6 councillors and laymen. That led to the recruitment of 20 volunteers at a public meeting held in March 2013. There were approaches made to 51 local organisations to contribute as well as the working group attending the Findon Sheep Fair to give publicity to the preparation of the neighbourhood plan. In January 2014 a questionnaire was sent out to 942

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households and 45 businesses in the parish. That attracted a commendable 62% response rate. There was a further public event in June 2014 and 5 topic groups were formed. During the autumn of 2014, there was an assessment exercise looking at the possible housing sites using the results of the Landscape Appraisal and following further work undertaken which was presented to a public consultation event in April 2015. This response led the steering group to conclude that there was no community support for any of the development sites outside the settlement boundary. The Plan was then the subject of its Regulation 14 Pre Submission Consultation between 4<sup>th</sup> August 2015 and 16<sup>th</sup> October 2015 including a meeting with the SDNPA planners. This was conducted via the SDNPA's and Findon Parish council's websites and I am advised that it was viewed by 132 people. Followers of the Findon Parish Council's twitter account (70 regular followers) were alerted and publicity was given in the Parish newsletters which are available at local shops, the village school and the village hall. I was surprised that this generated only one contribution from a local resident although there were comments from statutory consultees. It is an unusually low response rate which may be a reflection of satisfaction with the policies or alternatively some residents would not have access to a computer.

### Regulation 16 Consultation

I have had regard, in carrying out this examination, to the comments made during the final round of consultation which took place between 4<sup>th</sup> March 2016 and 15<sup>th</sup> April 2016. This consultation was organised by the SDNPA who had received the Submitted Plan on 12<sup>th</sup> February 2016. This stage is known as the Regulation 16 Consultation.

In total 8 responses were received. These included Southern Water, the South Downs National Park Authority, Highways England, Natural England, West Sussex County Council, Environment Agency. I also received detailed comments from a local resident who offered a particularly cogent analysis of the issues, regarding housing numbers and the settlement boundary and a submission from Knights, on behalf of MLN (Land and Properties) Ltd who have an interest in a piece of land in the village. I will refer to the results of the Regulation 16 consultation where it is relevant. I have however read and taken into consideration, all the representations even if they are not specifically referred to in my report.

### The Basic Conditions

The neighbourhood planning examination process is different to a Local Plan examination, in that the test is not one of "soundness". The Neighbourhood Plan is

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tested against what is known as the Basic Conditions which are set down by legislation. It will be against these criteria that my examination must focus.

The matters which constitute the basic conditions, seek to establish in relation to the Neighbourhood Plan: -

- Whether, having regard to the national policies and advice contained in the guidance issued by the Secretary of State, it is appropriate to make the Plan?
- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Does the making of the Plan not breach or is otherwise incompatible with EU obligations or human rights legislation?
- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects.

### Compliance with the Development Plan

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Arun Local Plan (not as erroneously stated in the Plan's Introduction, the emerging South Downs Local Plan). This document is now somewhat out of date, having been adopted in 2003 and was meant to cover the period up to 2011. However, a number of the policies were saved in 2007.

The Findon Neighbourhood Plan has been prepared in parallel with the early stages of the National Park's own Local Plan. This has reached the Preferred Option Stage and is not expected to be adopted until 2018. It is the most up to date expression of local planning policy, but it still has to pass public examination and is open to challenge so it cannot be given full weight. Arun DC is also preparing a new Local Plan but for their area that falls outside the South Downs National Park. Contrary to the submissions made by one of the representations, the adoption of that plan in advance of the South Downs Local Plan being adopted, will not leave a policy vacuum, as I have been advised that the 2003 Plan, as it relates to that part of Arun District within the South Downs National Park, will remain the development plan. I discuss specific issues of conformity when looking at the individual policies but generally my conclusion is that there is no conflict with the strategic policies set out in the 2003 Local Plan.



## Compliance with European and Human Rights Legislation

The Parish Council requested the SDNPA to screen whether the Findon Neighbourhood Development Plan should be the subject of a Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”.

The SDNPA confirmed, having consulted with the statutory consultees, (to which no replies were received), to the effect that an SEA was not required and I have been sent a copy of that screening opinion. I am satisfied that the SDNPA’s conclusion is sound.

I understand that there are no European protected sites in close proximity to the Plan area and therefore it was not necessary for an Appropriate Assessment under the Habitats Regulations was required.

I have received no representations that there is any incompatibility with the European or Human Rights legislation and I am satisfied that this element of the Basic Conditions test is met.

## The Neighbourhood Plan: An Overview

One of the basic conditions that a neighbourhood plan must meet is that it should deliver sustainable development. One of the considerations in addressing that question, is whether its policies will provide “the supply of housing required to meet the needs of present and future generations” (Para 7 of the NPPF). Indeed, one of the stated aims of the Findon Neighbourhood Plan is “to review local housing need and the availability of sites within the built up area boundary to determine if future housing can be allocated without a review and extension of the current built up area boundary”.

Paragraph 16 of the NPPF states that neighbourhood plans should support the strategic development needs as set out in the local plan. The South Downs Local Plan is still at a relatively early stage in its production and its policies will have to go through public examination. The 2003 Arun Plan predates the NPPF and is now quite out of date but it does still constitute the development plan.

The advice set out in the Planning Practise Guidance is that where a local plan is still in preparation the Qualifying Body and the LPA should work closely together to meet

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the best assessment of housing need and housing supply. It is clear that the Neighbourhood Plan has had regard to the policies that the SDNPA is promoting in its latest version of the draft Local Plan. However the Parish Council in their letter to me dated 4<sup>th</sup> August 2016, state that they see the SDNPA's figure of 20 units to be allocated as "an arbitrary figure with little basis in fact". I find that a somewhat surprising viewpoint, when the Neighbourhood Plans own Housing Needs Assessment, carried out on its behalf by Action in Rural Sussex, (which is included within the Plan's Evidence base), identified that at that time there were 24 households in housing need.

In particular, it is evident from the chronology of the plan's production, that the neighbourhood plan steering group have attempted to identify sites for the 20 houses which Policy SD23 of the emerging plan has said, needs to be allocated in Findon either through the Local Plan or the neighbourhood plan. The group systematically assessed a list of potential sites around the edge of the settlement. This whittled down a list of 18 land parcels to 6 sites, with 12 sites being discounted. That initial work was informed by a Landscape Character and Sensitivity Assessment, commissioned from David Hare Associates by the Parish Council and also drew upon the work carried out by SDNPA for its Strategic Housing Land Availability Assessment. However, on a number of sites, it is clear that the group did not agree with the assessment's conclusions. This residual group then went through to a Stage 2 assessment via a public consultation exercise. However, it became apparent that the community's response was negative, with 73% of those responding, rejecting all the sites which lay outside the settlement boundary. It seems the analysis was whether the residents supported the allocations or not rather than a more methodical approach looking at selection criteria. A local resident has suggested that the consultation event and online survey did not highlight the fact that the village was to find the sites for the 20 units being set by the emerging Local Plan and he casts doubts over the level of illustrative material to help residents come to a view on the acceptability of the proposals. I am unclear whether the public were asked whether they supported the sites allocation or whether they were asked to rank sites against criteria.

Following that exercise there was a call for sites located within the settlement boundary. This generated 9 individual small sites with a capacity of 1 or 2 dwellings. However, these were not allocated as sites and any sites that come forward through the planning application process will constitute windfall development and will not therefore count against the allocation of 20 units.

The Submission Plan sets out that the steering group concluded that there were no sites acceptable to the community to enable the neighbourhood plan to meet its allocation. It therefore has proposed a Spatial Plan policy – Policy HD1, which promotes, in my opinion, somewhat unrealistically, that development proposals of a minimum of 20 new dwellings, to meet the parish housing allocations, provided the

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developments lay within the existing settlement boundary. The Neighbourhood Plan has also stated that it does not intend to change the settlement boundary. The supporting text then, tellingly, states that the “housing sites have been tested with our community and they have indicated they do not agree with any of the land being put forward”. This is a disappointing conclusion as the plan has backed away from making the difficult decisions, that it is empowered to make when taking up the challenge of planning for Findon’s future over the next 20 years. The Housing Needs Assessment prepared on behalf of the Parish, identified that there were 25 households in housing need requiring low cost market housing and affordable housing.

This failure to make the allocations of housing sites constitutes the biggest issue that this examination must consider, as it goes to the heart of the Basic Conditions. Essentially the Plan is arguing that it cannot allocate enough land within the settlement boundary, but at the same time, it rejects the possibility of changing the settlement boundary to allow the community’s housing needs to be met over the next 19 years, rather the Plan relies on the boundary that was drawn by the Local Plan adopted 13 years ago. These concerns were raised by the South Down’s planning officers at the Regulation 14 Pre Submission Consultation stage. Their report to the SDNPA’s Planning Committee at the Findon Reg 16 consultation stage stated it was “questionable as to whether it is contributing to the achievement of sustainable development”

It is evident that the Parish Council acknowledges that it is in a difficult position as I received the request as previously described, which sought to introduce allocations at the Post Submission examination stage. The Parish Council had argued that the public would have had an opportunity to comment on the sites at planning application stage, but that application would then have been set against the legal presumption in favour of the development plan.

My conclusion is that the neighbourhood plan’s policies relating to housing supply do not meet basic conditions in that they fail to contribute to the delivery of sustainable development by not allocating the sites to meet objectively assessed housing need including the affordable housing need that it has identified. I therefore have concluded that Policy HD1 should be deleted as it will not ensure that housing need is met.

It is not just Policy HD1 that affects housing supply but there are other policies which also affect the ability of the Plan to deliver new housing. This is particularly a key consideration when considering the establishment of a settlement boundary and also the strategic gap between the village and the northern boundary of Worthing. The existence of the settlement boundary constrains the location of any new housing. I do note that one of the stated aims of the plan at Pre Consultation stage was “To

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ensure that future residential development is within the settlement boundary to protect the agricultural land that lies outside the boundary". I appreciate that a neighbourhood plan can, as argued by the Parish Council, choose not to allocate land for housing, but at the same time it cannot put in place constraints as to where housing needs can be met.

One genuine option open to me is that my examination could decide that the Plan should not proceed to referendum on the grounds that it will not deliver sustainable development. However, I have concluded that there are many other valuable policies in the neighbourhood plan, which will allow the community to shape other aspects of planning policy as it affects Findon. I will therefore be recommending the deletion of the policy related to the location of new housing and also any reference to the settlement boundary. This is a fundamental change which, I am sure, will disappoint the Parish Council but at least it allows the majority of the plan to proceed to referendum. However, had I not been able to make that recommended modification, my only conclusion would be that the Plan as a whole would not meet the basic conditions.

I am conscious that my conclusion on housing land supply should not allow a policy vacuum to exist. I have sought reassurance from the Local Planning Authority that the emerging Local Plan can take on the role of allocating housing sites and reviewing the settlement boundary, as they will do with other settlements who are not preparing neighbourhood plans. In the meantime, the 2003 Arun Local Plan does remain as part of the development plan until the South Downs Local plan is adopted.

This does mean that the contentious matter of where new housing sites are to be allocated, will not be a matter that the residents of Findon will be able to vote on at referendum, but that is the consequence of the Plan's inability to identify the sites that need to be allocated for future housing.

Southern Water have objected to the absence of a specific policy dealing with infrastructure. A neighbourhood plan does not need to deal with all matters and in this respect I am satisfied that the matter is adequately covered by Policy GEN8 of the Arun Local Plan and no doubt there will also be an equivalent policy in the South Downs Local Plan.

The SDNPA has questioned whether it is appropriate to have the plan period up to 2035 which is 3 years longer than the proposed Local Plan period. That would have been appropriate if I had retained the housing supply policy as the requirement set out in the emerging Local Plan for allocations in Findon is 20 houses for the period up to 2032, and it could be that the figure would be higher for a longer plan period. As I am proposing the deletion of the housing supply policy that issue falls away and I do not need to change the plan period.

## **The Neighbourhood Plan Policies**

### **Policy BT1 Support for Business**

This policy seeks to generally support proposals to upgrade or extend existing employment sites subject a number of relevant caveats.

The supporting text refers to the village shops. Retail uses are, ordinarily, not treated as employment sites in planning terms. For example, the policies related to the protection of employment land which are set out in Section 1 of the NPPF are separate to retail policy. Reference to the need to support local shops would be better if it were to be included in Policy BT4, which deals with retail uses. That change would assist the clarity as to what uses this policy is seeking to support.

Arun DC, at the Reg 14 stage questioned whether the caveats to the general principle of support would be workable at a development management level. I consider that the matters of balance the benefits against harm to the amenities of surrounding properties, landscape, wildlife and cultural heritage to be generally within the competence of a development management officer.

#### ***Recommendation***

Delete para BT1.2 from supporting text

### **Policy BT2 Retention of employment land**

On a related point, this policy makes reference to “trade use”. As pointed out by the SDNPA in their representations, this is not a term that is generally recognised by the planning system. For example, it could be argued that restaurant or shop use is a trade use. The matter can be simply clarified, by the removal of the phrase “or trade use”.

The second part of policy refers to the relationship between residential and employment uses. The SDNPA and Arun District Council have suggested the deletion of this part of the policy. My view is that the wording as submitted, does not lend itself to being used as a tool of development management decision making, as it seems to want to prevent something happening in the future using planning powers. It is not necessarily the residential use per se that could cause the closure or relocation of existing businesses, but the effect that the noise or other nuisances from that business was having on the new residential properties that would be a driver for action. Often that raises issues of compliance with other legislation such as Environmental Protection law, which lies outside the planning system. A policy, notwithstanding its merits, cannot itself stop the closure or relocation of businesses. What the neighbourhood plan should be seeking to achieve, through the exercise of

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planning policy, is to avoid that situation from being able to materialise, by resisting residential development in such locations where the amenities of future residents would be unreasonably affected by the lawful activities of the pre-existing activities. I will propose revised wording to reflect that requirement.

### *Recommendations*

Delete “or trade use”

Replace the second paragraph with

“Residential development will not be permitted in locations where the amenities of future residents would be adversely affected by noise, smell or disturbance from existing employment uses”

### **Policy BT3 Support for new commercial uses**

The definition of a Class B1 use is “a use which can be carried out in any residential area without detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, dust or grit”. Therefore, the requirement for the impact on surrounding residential amenity to be “not unacceptable”, is unnecessary. If an office, research or development use or any industrial process does not meet that criteria, then it would not be a Use Class B1 use.

Arun DC have questioned the evidence behind this policy suggesting that all applications should be judged on their merits. The reference to “community amenity” is a difficult concept to use in development management, and clarity could be improved, by referring to “the amenity of the area”.

### *Recommendation*

Delete “on surrounding residential and community amenity “and replace with “on the amenity of the area”.

### **Policy BT4 Retention of Retail Frontages**

The current wording does not provide the clarity for the decision maker, as expected by the advice contained within the online Planning Practice Guidance which states that a policy “should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications”. I feel that reference to have “a long period” is ambiguous. It is recommended that a 12-month period of marketing would be appropriate, allowing seasonal differences in market conditions. The SDNPA have rightly pointed out that window displays are not within the remit of planning control.

### ***Recommendations***

Replace “long” with “at least a 12 month”

Delete the last sentence

Insert the text of Para 1.2 into the supporting text

### **Policy BT5 Car parking**

This policy meets the basic conditions and no changes are necessary.

### **Policy BT6 Shop front and business signage**

Whilst Arun question the evidence for the policy. I consider that this policy meets basic conditions and is appropriate to the National Park setting although the SDNPA has said that there may be circumstances where illuminated signs may be appropriate. That flexibility exists as the policy as it says that “illuminated signs will not *normally* be permitted”. Whilst it is usual for development plans to have policies relating to advertisements, I have to point out that applications for consent to display advertisements can only be determined on the basis of amenity and safety rather than having regard to development plan policy.

### **Policy BT7 Improving signage**

The removal of traffic signs is not a matter that is covered by planning legislation. Similarly, the removal of signs is a responsibility of the LPA using the advert regulations and is not really a matter for development plan policy. The second sentence should therefore be removed.

### ***Recommendation***

Delete the second sentence

### **Policy BT8 Sustainable Recreational and tourism activities**

This policy is in line with one of the National Park purposes and is in line with the aspirations of paragraph 28 of the NPPF.

### **Policy BT9 Communications Infrastructure**

This policy is in line with basic conditions and no changes are recommended.

### Policy BT10 Home Working

Ordinarily, “homeworking” is not considered to be a material change of use of residential property and often buildings are constructed within the curtilage of houses for such use under permitted development rights. However, Class E permitted development rights are restricted in national parks, so this policy does have a positive role to play. The SDNPA has recommended that the policy could be improved by requiring parking to be provided for visitors. Homeworking rarely, in my experience, generates significant additional traffic generation, beyond typical residential use and I do not consider that a change is necessary to meet the basic conditions. The policy calls for the imposition of conditions to prevent the buildings being converted into residential use. I consider that the requirement would be overly restrictive. If the accommodation is no longer required for office use, there is no reason why the building could not be used for residential purposes incidental to the enjoyment of the main dwelling. The wording can be improved by requirement to prevent separate residential use.

#### *Recommendation*

Insert “independent” before “residential use” in last sentence

### Policy BT 11 Redundant Agricultural and Rural Buildings

I do not believe that the statement that “conversion to residential use will not be permitted” accords with the Secretary of State’s policy, as set out in paragraph 55 of the NPPF, which states that “new residential development in the countryside should be avoided *unless the development will re-use redundant or disused buildings* and lead to an enhancement of the immediate setting”. Equally the emerging South Downs Local Plan allows conversion to residential use in principle. I note that the proposed changes to the supporting text which the Qualified Body recommends I make, seeks to justify the policy on the grounds the conversion of the existing buildings will have a greater impact on traffic flows or infrastructure than business use or holiday accommodation. Indeed, business use or holiday accommodation could add to the patronage of local services and facilities.

It is not appropriate for a policy dealing with the conversion of redundant buildings to deal with new build residential properties.

Policy DEV2 of the adopted Arun Plan deals with the conversion of rural buildings to residential use and accepts such uses if it can be demonstrated that a business use cannot be found following marketing.



### *Recommendations*

Delete “where a business or enterprise use is proposed”.

Delete “neighbourhood plan and the emerging SDNP Local Plan” and insert “development plan” in the second sentence.

Delete the last two paragraphs of the policy.

### **Policy GA1 Sustainable Transport**

The threshold of this policy as set out is any development that will “increase travel demand”. This is a particularly low threshold. The policy states that schemes will only be supported if they extend walking or cycling routes by making land available or through financial contributions or through the payment of Community Infrastructure Levy. Dealing firstly with the CIL payment issue – the Levy is effectively a tax that is payable by any development which meets the requirements of the South Down’s CIL charging scheme, irrespective of whether the proposal will increase travel demand. Equally there would be no guarantee that the LPA will decide to spend that CIL receipt on that purpose, although the Parish Council could spend its 25% of the CIL receipt. If a financial contribution is to be sought for such development, the regulations require that the scheme must meet the three tests set out in Regulation 122 of the CIL Regulations and then it would only be possible to collect the five pooled contributions to any one project. Paragraph 33 of the NPPF refers to policies and decisions that must take account of whether “improvements can be undertaken within the traffic network that cost effectively limit the *significant* impact of the development. Development should only be prevented or refused on transport grounds, where residential cumulative impacts of the development are *severe*” There may be some instances where development can usefully dedicate land for walking and cycling but equally they may not.

In order to meet the thresholds, set out by the NPPF, I propose to amend the threshold to development which “*significantly*” increases travel demand. I also will recommend the removal of references to requirements to pay the Community Infrastructure Levy and financial contributions. I will recommend qualifying the matter of the making of land available by inserting “where appropriate”.

### *Recommendations*

Insert “significantly” before “increase” and delete everything in the first bullet point after “purposes” and insert “where appropriate”

### **Policy GA2 Footpath and cycle path network**

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This policy meets basic conditions and no changes are required.

### **Policy GA3 Parking and new development**

The control of on street parking spaces is a matter that falls under the control of the Highway Authority and it is not a policy for the “use and development of land”. I propose to delete “either on or off street” so that it only relates to planning proposals that result in the net loss of parking spaces. That would cover the situation where on-site parking is replaced by the development.

#### ***Recommendation***

Delete “either on or off street”

### **Policy GA4 A24 Improvements**

This policy covers matters relating to the management of the A24. Again that is a matter that falls outside the remit of the development plan and whilst it is clearly a matter of local importance this cannot be planning policy but must be identified separately as a community action or priority. This is a view shared by Arun DC. My recommendation is that the policy be deleted.

#### ***Recommendation***

That the policy be deleted

### **Policy GA5 Traffic Management**

Again this policy relates to traffic management rather than a matter that can be dealt with by a development plan policy. The policy is therefore recommended for deletion and, as suggested by West Sussex County Council, should be referred to as a community aspiration including the designation of Quiet Lanes. The text set out in paragraph GA5.4 is factually wrong in that an Article 4 direction cannot remove development permitted rights in relation to hedges and trees, as they do not constitute “development”.

#### ***Recommendation***

That the policy be deleted

### **Policy CW1 Independent Living**

This policy is generally acceptable but it only supports development within the settlement boundary. However as stated earlier in this report, the settlement boundary cannot be established until the sites for meeting housing needs have been resolved. I am therefore proposing the removal of the reference to the settlement

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boundary but to draw attention to the need to comply with other relevant policies in the development plan.

### ***Recommendation***

Delete “inside the settlement boundary” and insert at the end of the policy “and compliance with other relevant policies in the development plan”

### **Policy CFW2 Medical facilities**

This policy meets basic conditions and no amendments are required.

### **Policy CFW3 Recreational facilities**

As drafted, this policy would prevent the building of ancillary sports buildings such as the pavilions, changing rooms etc. The overall thrust of policy is acceptable but more clarity can be provided if it explicitly allows ancillary buildings to the recreational use to be permitted.

### ***Recommendation***

Insert “including ancillary buildings such as changing rooms” after “recreational facilities” in the second sentence.

### **Policy CFW4 Provision of allotments**

This policy appears to be a proposal to use the parcel of land as identified on Map1 as allotments. I do not have sufficient evidence to support the assertion that the land is formally designated as allotments, although it is clearly currently not used for such purposes. However, the stipulation that it can be used for “no other purpose” is not justified in planning terms. It could, for example, perform alternative roles such as public open space. It will be a matter for the landowner to decide whether the land is best reserved for allotments and put to other beneficial uses. Similarly, there is separate legislation that protects allotment land.

### ***Recommendation***

Delete “(but for no other purpose)”

### **Policy CFW5 Assets of community value**

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This policy seeks to protect buildings which are *proposed* to be included in the Register of Assets or Community Value. The outcome of that proposal for designation is uncertain and indeed maybe open to challenge. It is inappropriate to protect *any* property that may be included in the register. As drafted the policy could apply to any building in the plan area. It will be better to protect those properties where an application for designation has been successful under its own separate procedure. I am not sure that the policy as written achieves its implied objective, which is to retain the value of the facility to the community. As written it would allow the two identified pubs to be sold and used as offices and the community would lose the use of that asset.

### ***Recommendations***

Delete “that may be” from the first sentence

Delete the final sentence of the policy.

### **Policy CFW6 Local Green Space**

The LPA has suggested that the list of exceptions be removed as the presumption against development would apply except where there is special circumstances policy. That would bring the policy generally in line with paragraph 76 of the NPPF.

The SDNPA has questioned whether it is appropriate to include the open spaces at village entrances and the footpath from Findon Church to the High Street. I believe that the Parish Council has justified the identification and I do believe that these matters can be left to local discretion so long as it meets the criteria set out in para 76 and I have had no contradictory evidence that they do not.

### ***Recommendations***

Delete “The Parish Council has designated”

Delete the second paragraph and bullet points

### **Policy CFW7 Local Open Space**

This makes basic conditions and no revisions are required.

### **Policy CFW8 Unlit village status**

SDNPA has recommended that the policy title being changed to “Dark Night Skies”

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so as to bring it in line with the emerging local plan policy. This would better reflect the status of the village within the National Park. The wording of policy includes reference to street lighting, however that is a matter that falls outside planning control, being the responsibility of the Highway Authority. That sentence should be removed from the policy and put into the supporting text.

### *Recommendation*

The policy be changed to “Dark Night Skies”

Delete the second sentence

### **Policy ES1 Gaps between Settlements**

This policy seeks the retention of the identified local gap between the edge of Findon and the built-up area to the south which falls within the Borough of Worthing. The policy refers to the identification of the gap in the 2003 Arun Local Plan. But that plan will in time be superseded so its inclusion is unnecessary as the development plan can it by itself designate the land as a local gap. Representations have been made on the inclusion of the land within the gap that they wish to promote for housing. I conclude that it constrains the search for housing land and so the maintenance of the gap should be left to the SDNPA to establish the settlement boundary for the village. Once established, the South Downs Local Plan landscape policies( currently SD5 of the current version of the plan) can protect the gap between Findon and Worthing as it deals with local gaps between settlements.

I am therefore proposing the deletion of the policy.

### *Recommendation*

The policy be deleted

### **Policy ES2 Surface water management**

The SDNPA are concerned about the drafting of the policy as they would normally require full details of drainage on new development of over 10 units to be accompanied by a full sustainable drainage strategy at least at application stage rather than just relying on a condition. However, the policy does require that development will not increase the risk of flooding and so it is quite appropriate for the LPA to require through the Local Validation Checklist full details of drainage proposals so that it can be satisfied that development will not pose a flood risk.

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The second part of this policy requires a condition to be imposed on any planning permission for new development requiring a surface water drainage scheme to be submitted to the LPA. Not all developments which require planning permissions will have implications for surface water disposal, for example changes of use or minor works. It would be more appropriate for the requirement to be caveated so that there is discretion as to whether the condition needs to be imposed.

The requirement for SUDS Systems to be recorded on the Flood Risk Register is not a matter of planning legislation as it is covered by a different regime.

The final requirement is for soakaways to be sufficient size “to take the heavy rainfall now experienced every year”. There will inevitably be some rainfall events where it is impossible for soakaways to be able to accommodate all surface water run-off on site. If the driveways alongside parking areas are designed to be constructed of permeable material, then that should be adequate for this policy.

### *Recommendations*

Insert “which will increase surface water run off” after “new development” in the second paragraph

Delete the last sentence of paragraph 3

Delete all of last paragraph after “materials”

### **Policy ES3 Protection of trees and hedgerows**

The only alteration required to this policy is the removal of the prefix ‘Findon’ when referring to a tree preservation order. The NPA recommend the removal of “ancient trees” from the second sentence. I think there is a role for that description as they are explicitly referred to in the description of irreplaceable habitats in para 118 of the NPPF

### *Recommendation*

Delete “Findon” in first paragraph

### **Policy ES4 Renewable Energy**

There is a typographical omission from the first line of the policy which has been brought to my attention—namely it should refer to “renewable for low carbon energy sources”.

The final requirement is the energy generating infrastructure is not sited on land in

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agricultural production or is on grade 1 or 2 agricultural land. The supporting text refers to the paramount importance attached to maintaining the agricultural land uses surrounding the Parish. I cannot therefore see how there is a value in protecting just Grade 1 or Grade 2 land if the other criteria is that the land is currently in agricultural use. That would cause confusion when dealing with Grade 3 land which was being farmed.

### ***Recommendations***

Insert " carbon energy sources" after "low" in first sentence

Delete "or Grade 1 or 2 agricultural" from the last point.

### **Policy ES5 Buildings or Structures of Special Character**

The SDNPA would prefer that the plan to refer to the South Down's local list but I consider it entirely appropriate for the neighbourhood plan to identify what buildings are important to define the distinctiveness of the community. The policy complies with Paragraph 135 of the NPPF and no amendment is necessary.

### **Policy ES6 Conservation Areas and Areas of Special Character**

This policy refers to be what is now a redundant classification - Areas of Special Character. That reference should now be removed.

Furthermore, the second part of the policy states that the Parish Council proposes that the LPA designates Nepcote as a Conservation Area. This is not a policy for the use and development of land. The aspiration for the area to be designated as a conservation area should be referred to separately as a community action/project and should not be part of the development plan policy.

### ***Recommendations***

Delete all references to Areas of Special Character

Delete the second paragraph of the policy

### **Policy ES7 Flint Walls**

This policy refers to the repair of flint walls which is an activity that falls outside the definition of development and planning control. It therefore needs to be removed from the policy. The Parish Council has proposed some other minor revisions to the grammar of the policy which I am happy to accommodate.

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Flint walls are part of distinctiveness of Findon as a village in the South Downs National Park and deserves particular protection.

### *Recommendation*

Replace policy with “Development proposals that result in the removal, reduction or replacement of flint walls listed in Appendix 4 will not normally be permitted”

### **Policy HD1 Spatial Plan of the Parish**

As previously referred to in the Overview section of this report, it is this policy that lies at the heart of the neighbourhood plan and the ability of the community to meet its future housing needs. It restricts the delivery of new housing to sites that lie within the settlement boundary. Any sites that do come forward inside the village envelope will not count as meeting the village’s allocation but will be windfall. It is not my view that the policy can be amended to make it comply with the basic conditions. I recommend that the policy be deleted and that the task of determining the location of new residential sites should fall to the Local Planning Authority. I note that the representations of Knights promote the allocation of land at the southern end of the village but I do not think it is appropriate for my examination to start allocating land when I believe that this is now a task best left to the SDNPA planners.

### *Recommendation*

That the policy be deleted

### **Policy HD2 Local Connection**

It is an accepted principle that in national parks there is strong presumption that affordable housing should be aimed at meeting local needs from within the immediate locality. The policy as drafted is generally in line with other similar policies in neighbourhood plans. The local resident who commented at Reg 16 stage, helpfully points out that the Arun policy on rural exception sites is the one approved in 2012, rather than the 2003 version. The policy does however also cover restrictions on the occupation of agricultural workers’ accommodation. That policy does not fit comfortably with the affordable housing thrust of the rest of the policy. The issue of agricultural worker dwellings does not need to be part of the substantive policy that deals with local connections for affordable housing and is adequately covered by Policy DEV7 of the adopted local plan and will no doubt be incorporated in a similar vein in the South Downs Local Plan. On a minor point, the supporting text inappropriately refers to para 74 of the NPPF, (which actually relates to open space provision). I suspect that the paragraphs being alluded to, are paragraphs 184 and 185.



### ***Recommendations***

Delete “delivered as part of Policy HD1”

Delete criterion f

Delete the final paragraph

### **Policy HD3 Live/ Work Units**

This policy complies with basic conditions and no changes are required.

### **Policy HD4 Self Build Houses**

This policy is in line with up-to-date government advice and meets basic conditions apart from the reference to the settlement boundary following my recommended removal of the Plan’s settlement boundary and pending the review by the SDNPA.

### ***Recommendation***

Delete “within the settlement boundary” and insert ‘subject to compliance with other development plan policies”

### **Policy HD5 Alterations and Roof Extensions**

Natural England has requested that the policy makes reference to the possible use of the structure by protected species. These species are protected by separate legislation and I find that this policy already meets basic conditions and no changes are required.

### **Policy HD6 Edge of Boundary Houses and Paddocks**

The policy seeks to retain the inter relationship between houses and paddocks on the fringes of the village. However, this policy relies on the retention of the settlement boundary. In the light of the fact that the plan has not met its housing allocation requirement and it has not reviewed the settlement boundary, it would be inappropriate to retain this policy as it could prejudice the village from meeting its housing requirements.

### ***Recommendation***

That the policy be deleted

### Policy HD7 Design of development

I think it is entirely appropriate for reference to be made to the Findon Village Design Statement. However, this document does not form part of the development plan and will not be subject to referendum. It appears to have been prepared in 2011 and 2012. The guidance contained within it cannot be given the same status as development plan policy although compliance is required by the wording of the policy, as it says the design of development “must follow the guidance”. It appears that much of the guidance goes beyond design matters covering a range of issues such as transport services, retention of community facilities, and double yellow lines. Some of the design advice is helpful but compliance with the non-adopted policy documents is inappropriate. It is recommended that users of the plan be *encouraged* to have regard to guidance set out in the Design Statement.

I share the concern of the SDNPA that the requirement that “developments must seek to reflect the design style of older traditional surrounding buildings” goes beyond the advice given in paragraph 60 of the NPPF, which states that “planning policies should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality, or initiative through unsubstantiated requirements to conform to certain development forms”. The test should be to promote good design that reflects the distinctiveness of Findon which as the surrounding texts refers to, and sensitive to the established character of the built environment of the village.

#### **Recommendations**

Delete “must” in the first sentence and insert “are encouraged to”  
Delete the second sentence

### Policy HD8 Outdoor space

This policy meets basic conditions.

### The Referendum Area

If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance I can confirm that the area of the Neighbourhood Plan as designated by the SDNPA is the appropriate area for the Referendum to be held and the area for the referendum does not need to be extended.

### Summary

Findon is a particularly attractive Downland village set in stunning countryside. I can fully understand the importance attached to retaining the landscape setting of the settlement. However, in my opinion, the Parish Council has missed its opportunity to positively plan for the Parish's own housing needs, by failing to allocate housing sites in the preparation of this Plan. This is why the delivery of sustainable development lies at the heart of the Basic Conditions. I suspect that it realised the seriousness of the situation when it enquired whether the allocations could be introduced Post Submission. However, they wanted to avoid further consultations which would have delayed the Plan's progress. Whilst "neighbourhood plans may be a reflection of the thinking and aspirations within the local community" the legislation and the policy is clear that plans should positively be prepared. As Greg Clark said in the Ministerial foreword to the NPPF "sustainable development is about positive growth- making economic, environmental and social progress for this and future generations"

The consequences are, that the allocation of housing sites and the establishment of a new settlement boundary that will accommodate rather than constrain the Parish's present and future housing needs, will now pass to the SDNPA. After careful consideration I conclude that there is sufficient sound policy in the remainder of the Plan to allow me to recommend that it proceed to referendum but without the key housing policies. It is unfortunate that the villagers will not be able to vote for a plan that includes the challenging issue of housing allocations in the referendum.

Finally, I am able to confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test.

**I am therefore prepared to recommend to the South Downs National Park Authority that the Findon Neighbourhood Development Plan, as modified by my recommendations, should now proceed to referendum**

JOHN SLATER BA(Hons), DMS, MRTPI

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5<sup>th</sup> August 2016