

Agenda Item 8
Report PC12/18

Report to	Planning Committee
Date	8 February 2018
By	Director of Planning
Title of Report	Petworth Neighbourhood Development Plan Decision Statement
Purpose of Report	To agree the Examiner's recommended modifications to Petworth Neighbourhood Development Plan and publish these in the Authority's 'Decision Statement'.

Recommendation: The Committee is recommended to:

- 1) Note the comments of the Examiner.**
- 2) Agree the proposed Decision Statement, with the exception of proposed policy H8.**
- 3) Invite representations on proposed policy H8 for a period of 6 weeks from the 8 February to the 22 March 2018.**
- 4) Delegate authority to the Director of Planning, in consultation with the Chair of the Planning Committee, to review the representations on policy H8, amend the policy if necessary and publish the Final Decision Statement.**

1. Introduction

- Petworth Town Council (PTC) submitted the Petworth Neighbourhood Development Plan (PDNP) to the South Downs National Park Authority (SDNPA) for examination in September 2017.
- An Independent Examiner was appointed to examine the Plan, this took place in November and December 2017.
- The Examiner considered representations and determined that no public hearing was required.
- The Examiner has now issued his final report and concludes, that subject to a number of modifications, the PNDP can proceed to referendum.
- The SDNPA must issue a 'Decision Statement' setting out how the PNDP will be modified in response to the Examiner's Report.
- Due to the inclusion of a new allocation it is proposed to invite representations from 8 February to 22 March 2018 on that aspect of the plan only before final approval of the Decision Statement.

2. Background

- 2.1 Petworth Town Council (PTC) are to be congratulated on progressing the PNDP to the final stage ahead of a community referendum. Getting to this stage is the result of considerable hard work by local volunteers and members of PTC over the past three years.

- 2.2 The Petworth NDP covers the plan period 2015 to 2033 and has been prepared for a designated neighbourhood area which follows the Petworth parish boundary. A small segment to the north of the Parish is not within the National Park in Chichester District (**Appendix 1**).
- 2.3 The following stages in the preparation of the NDP have been completed. Links to all relevant Planning Committee reports are included below and more detailed information on each stage is also on the website at <https://www.southdowns.gov.uk/planning/community-planning/neighbourhood-development-plans/>

Stage	Detail
Designated a Neighbourhood Area	16 January 2014
Pre-submission consultation on the plan (Reg 14)	The SDNPA response to the Pre Submission consultation was agreed by Planning Committee on the 11 May 2017
Submitted to SDNPA and published for consultation (Reg 16)	The SDNPA response to the Submission consultation was agreed by Planning Committee on the 12 October 2017
Independent Examination	Undertaken by Mr John Slater November / December 2017. Report issued January 2018

3. Recommended modifications to the PNDP to meet the Basic Conditions

- 3.1 The Examiner was appointed to assess whether the PNDP meets certain legal requirements for NDPs, known as the 'Basic Conditions', these state NDPs should:
- 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 contained in the development plan for the area,
 - Not breach, and otherwise be compatible with, EU obligations.
- 3.2 The Examiner has now issued his report and identified a number of modifications which are necessary to ensure the PNDP meets the basic conditions. Officers have reviewed the Examiner's report in consultation with the PNDP steering group. The following key modifications are highlighted for Members;
- The housing policy should refer to 'at least' 150 homes to allow for flexibility and the most appropriate layout on sites to be considered.
 - Site PW19 (to be called 'H8: Land south of Rothermead) should be allocated for approximately 10 homes and the settlement boundary adjusted accordingly. The site selection analysis has recognised that it meets various sustainable development criteria and the landscape impact will be minimal. The level of housing within the NDP should be based on the development of acceptable sites, rather than being constrained to an overarching figure. The development will make a small contribution towards meeting objectively assessed needs, including affordable homes.
 - Site specific policies relating to Rotherlea and the Square Field include reference to 'at least' number of homes rather than 'approximate' number of homes.
- 3.3 Details of each modification is contained in the Decision Statement (**Appendix 2**). In addition, minor changes to reflect the modifications will be made to the supporting text. These are not detailed in the decision statement.

4. Decision Statement (Appendix 2)

- 4.1 The Regulation 14 and 16 stages of the neighbourhood plan making process offers those parties affected by the NDP the opportunity to make representations on the plan. That is not just the right to object but also to support proposals in the plan or make comments. This is followed by an examination and the issuing of a report (by an independent Examiner) containing a series of recommendations. The Neighbourhood Planning (General) Regulations 2012 state that a Local Planning Authority must then publish what actions will be taken in response to the recommendations of the Examiner. This is known as the 'Decision Statement'.
- 4.2 The Neighbourhood Plan Regulations impose no obligations for the examiner or the LPA to have to consult on the changes to the Plan which they are minded to accept. Those that do not endorse the plan have the chance to vote to reject it at referendum.
- 4.3 However, if the authority propose to make a decision which differs from that recommended by the examiner, it must notify relevant people and invite representations. Any representations must be submitted within 6 weeks of the local planning authority inviting representations. The local planning authority may, if it considers it appropriate to do so, refer the issue to further independent examination. Once the period for representations is over, the local planning authority must issue its final decision within 5 weeks. The submission version of the PNDP would then be revised and a Referendum would take place.
- 4.4 Through the examination of the PNDP the Examiner recommended that a new site, site H8: Land South of Rothermead, be allocated for housing. Site H8 (also referred to as PW18 in the Petworth NDP Site Assessment work and CH092 in the SDNPA SHLAA) has been assessed on a number occasions and considered suitable for development.
- 4.5 The Petworth NDP took a structured approach to site selection and grouped collections of sites together for consideration. This approach was supported by the SDNPA and considered to be logical. These groupings were then consulted on informally before the Regulation 14 Pre-Submission Plan consultation. The option, which included site H8, was rejected at the informal early stages of the formulation of the plan and therefore this small site was excluded from any formal consideration either at Reg 14 or Reg 16.
- 4.6 There is no legal requirement to consult on the proposed Decision Statement, which the Examiner advises should include Site H8. However, this is considered to be an exceptional case. Although Officers are of the opinion that the allocation of this site is acceptable in planning policy terms, its inclusion has not been part of any formal consultation process and therefore the opportunity to comment was limited. This is a Neighbourhood Plan and it is important that issues of local concern are considered, insofar as is possible, at a local level and in the spirit of localism. This is made even more important by the allocation being within a National Park where the involvement and backing of communities is key to the delivery of neighbourhood plans.
- 4.7 Inviting representations on this allocation alone will allow residents to identify any key issues. It is proposed to invite such representations from 8 February to 22 March 2018 for a 6 week period. This will be complemented by the issuing of, and consultation on, a revised Sustainability Appraisal /Strategic Environment Assessment and an update to the Habitats Regulation Assessment screening opinion. Following the consideration of any representations received, it is then proposed to delegate to the Director of Planning with the Chair of the Planning Committee the approval of the final decision as attached at **Appendix 2**, subject to any amendments that might be required.

5. Planning Committee

- 5.1 The PNDP is being considered by Planning Committee as it:

- is one of the largest housing allocations set out in the South Downs Local Plan;
- allocates significant land for development, including a new site; and,
- is an important market town set in the heart of the National Park.

6. Next steps

- 6.1 Following the publication of the proposed Decision Statement including the consideration of any representations on Policy H8, the PNPD can proceed to referendum which will be organised by Chichester District Council. The referendum will be held in early Summer 2018 subject to the outcome of the consultation period. If over 50% of those voting, vote in favour of the NDP, then the Plan can be 'made' (adopted) by the SDNPA and will form part of the statutory Development Plan for the Parish of Petworth.

7. Other Implications

Implication	Yes/No
Will further decisions be required by another committee/full authority?	Yes – Agreement to Make the PNPD at a subsequent Planning Committee if a referendum is successful.
Does the proposal raise any Resource implications?	<p>Yes - The SDNPA have claimed £5,000 in new burdens funding from Housing and Communities Local Government (HCLG) to date. SDNPA have provided a series of grants to PTC to support the cost of preparing the PNPD and SDNPA have paid £6,200 for the cost of the NDP Examination. To date the plan has cost £21,200 which is £16,200 more than the grants received. However, the SDNPA will be able to claim £20,000 shortly to cover the cost of the Examination and Referendum.</p> <p>The cost of Neighbourhood Planning to the SDNPA is currently covered by the grants received from HCLG. However these grants are starting to be reduced as Neighbourhood Planning increasingly becomes part of the mainstream. Currently within the National Park the cost of producing a plan ranges from around £8,100 (including the Examination and referendum) to £50,000.</p> <p>Once a NDP is made, a Parish Council is entitled to 25% of Community Infrastructure Levy (CIL) collected from development within the neighbourhood area, as opposed to the capped 15% share where there is no NDP. The Parish Council can choose how it wishes to spend these funds on a wide range of things which support the development of the area.</p>
Has due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equalities Act 2010. Petworth Parish Council who have the responsibility for preparing the neighbourhood plan have also prepared a Consultation Statement demonstrating how they have consulted the local community and statutory consultees. The Examiner was satisfied that the consultation and publicity undertaken meets regulatory requirements.

Implication	Yes/No
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
<p>Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy:</p> <ol style="list-style-type: none"> 1. Living within environmental limits 2. Ensuring a strong healthy and just society 3. Achieving a sustainable economy 4. Promoting good governance 5. Using sound science responsibly 	<p>The qualifying body with responsibility for preparing the neighbourhood plan must demonstrate how its plan will contribute to the achievement of sustainable development. This is set out in the Basic Conditions Statement. The examiner who assessed the plan considered that it met the requirements if a number of modifications were made. Please note that the sustainability objectives used by qualifying bodies may not be the same as used by the SDNPA, but they will follow similar themes.</p> <p>Strategic Environmental Assessment</p> <p>It was concluded that an environmental assessment of the Petworth Neighbourhood Plan was required as the scale of development may have a significant effect.</p> <p>The modifications made as a result of the Examiner's report, outlined in Appendix 2, have been considered in terms of any resultant changes to the Strategic Environmental Assessment. None of the changes are considered to have a significant effect on the overall appraisals but the SEA has been updated to reflect the inclusion of the small site south of Rothermead. The updated SEA is available to accompany the final plan.</p> <p>Habitats Regulations Assessment (HRA)</p> <p>The PNDP was screened out as requiring a Habitats Regulations Assessment, this screening has been updated to incorporate the site south of Rothermead.</p>

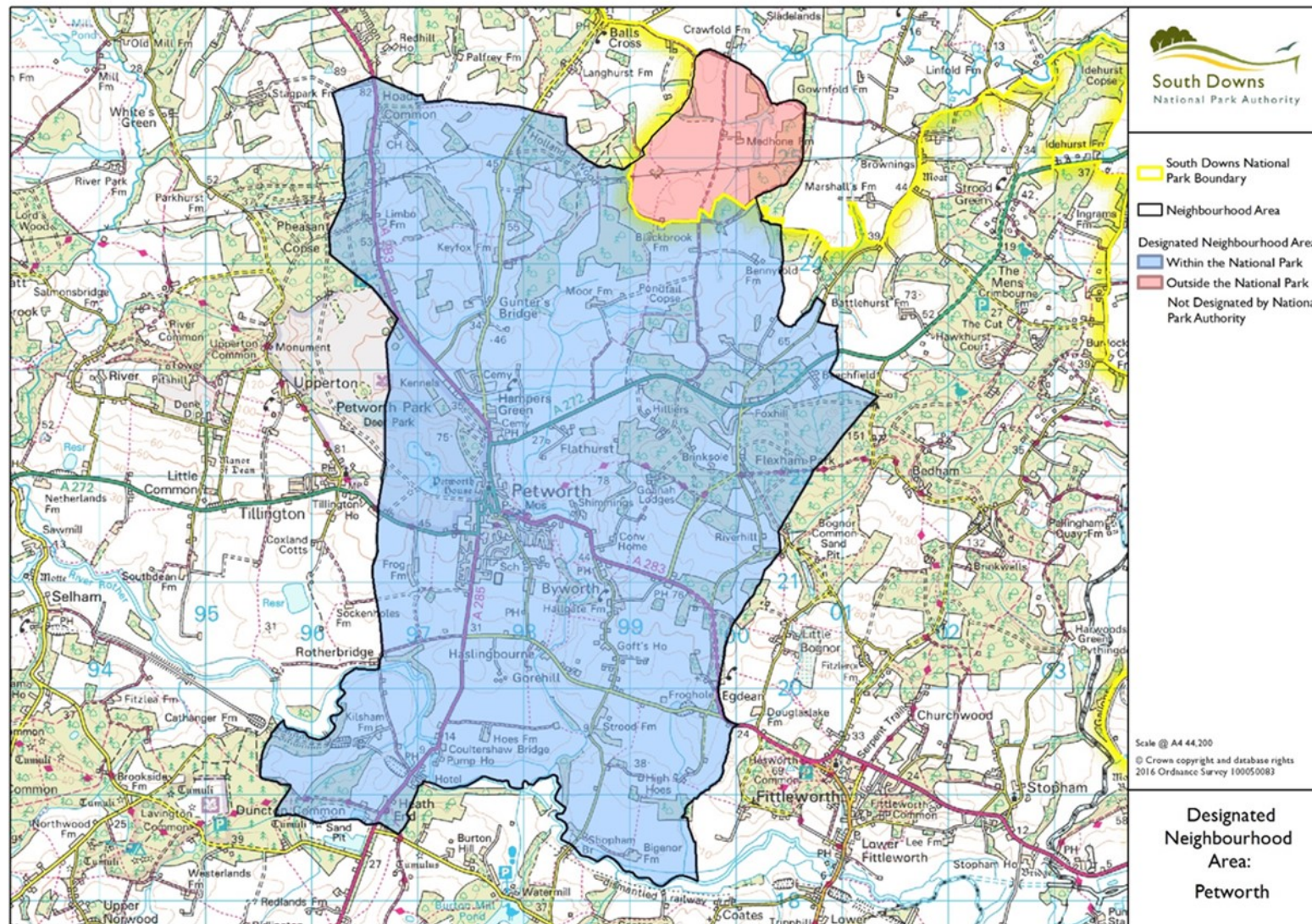
8. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
The Examiner has recommended modifications to ensure the PNDP meets the Basic Conditions. If these modifications are not implemented the PNDP would be at risk of legal challenge on the basis it does not meet the legal requirements for NDPs.	Low	Medium	The Examiners recommended modifications are agreed in full, subject to consultation on Site H8, Land South of Rothermead.

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Appendices	<ol style="list-style-type: none">1. Petworth Neighbourhood Area2. Decision Statement
SDNPA Consultees	Legal Services; Chief Finance Officer; Monitoring Officer; Director of Planning
External Consultees	None
Background	Petworth Neighbourhood Plan: Submission Version
Documents	Petworth Neighbourhood Plan: Final Examiners Report

Petworth Neighbourhood Area



Proposed Petworth Neighbourhood Development Plan Decision Statement: February 2018

1. Introduction

- 1.1 Under the Town and Country Planning Act 1990 (as amended), the South Downs National Park Authority has a statutory duty to assist communities in the preparation of neighbourhood development plans and orders and to take plans through a process of examination and referendum. The Localism Act 2011 (Part 6 chapter 3) sets out the Local Planning Authority's responsibilities under Neighbourhood Planning.
- 1.2 This statement confirms that the modifications proposed by the examiner's report have been accepted, the draft Petworth Neighbourhood Development Plan has been altered as a result of it; and that this plan may now proceed to referendum.

2. Background

- 2.1 The Petworth Neighbourhood Development Plan relates to the area that was designated by the South Downs National Park Authority and Chichester District Council as a neighbourhood area on 16 January 2014. This area corresponds with the Petworth Town Council.
- 2.2 Following the submission of the Petworth Neighbourhood Development Plan to the National Park Authority, the plan was publicised and representations were invited. The publicity period ended on 16 October 2017.
- 2.3 John Slater MRTPI was appointed by the South Downs National Park Authority with the consent of Petworth Town Council, to undertake the examination of the Petworth Neighbourhood Development Plan and to prepare a report of the independent examination.
- 2.4 The examiner's report concludes that subject to making the modifications recommended by the examiner, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.

3. Decision

- 3.1 The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action to take in response to the recommendations of an examiner made in a report under paragraph 10 of Schedule 4A to the 1990 Act (as applied by Section 38A of the 2004 Act) in relation to a neighbourhood development plan.
- 3.2 Having considered each of the recommendations made by the examiner's report, and the reasons for them, South Downs National Park Authority in consultation with Petworth Town Council has decided to accept the majority of the modifications to the draft plan. However there is concern that the SDNPA is unable to accept the recommendation in relation to Policy H8: Land to the south of Rothermead without the benefit of public consultation. Table 1 below outlines the alterations made to the draft plan under paragraph 12(6) of Schedule 4B to the 1990 Act (as applied by Section 38A of 2004 Act) in response to each of the Examiner's recommendations. The reasons set out have in some cases been paraphrased from the Examiners report for conciseness. This statement should be read alongside the [Examiners report](#). In addition, minor changes to reflect the modifications will be made to the supporting text. These are not detailed in the decision statement.
- 3.3 If the Authority is satisfied that, subject to the modifications being made, the Neighbourhood Plan meets the legal requirements and basic conditions then it can proceed to referendum.

Table I

Recommended Modification to the PNDP	Justification	Decision
Cover Page		
That the period 2015 – 2033 should be inserted onto the cover page of the PNDP	For clarity. It was omitted	Accept modification
Policy PP2: Core Planning Principles		
Delete 1 st sentence of policy	Impractical for applicants to take account of any cumulative impacts taken with other known commitments within the PNDP area. Unrealistic and unreasonable to apply to all development.	Accept modification
Delete criteria (iii)	It is only relevant to proposals in the town centre or which affect its setting and cannot apply to all applications.	Accept modification
Delete criteria (iv)	It is impractical and cannot apply to anything within the surrounding countryside.	Accept modification
Policy H1: Allocate land for approximately 150 new homes		
In title replace 'approximately' with 'at least'	No changes are required to the policy, apart from naming the site which is coded A3, so as to be consistent	Accept modification
In Table 5.1 add a further row 'H8 – Land south of Rothermead – 10 dwellings' and change the total at the bottom of the table to '163 dwellings'	See conclusions recommendations on Policy H5, H6 and H8.	Accept modification subject to representations on Policy H8.

Recommended Modification to the PNDP	Justification	Decision
Policy H2: Integrate Windfall Sites		
Delete 'small'	The plan does not identify what is considered to be a small site and the scale of development is dependent on the size of the site available	Accept modification
Delete 'this Plan and'	Not necessary to differentiate policies in the plan from those in the 'development plan'. Once made the NDP forms part of the development plan.	Accept modification
Policy H3: Housing Type and Mix		
Delete 'to the satisfaction of Petworth Town Council	The Town Council is a consultee on any planning application. Applications and supporting evidence must satisfy the Local Planning Authority as enshrined in planning legislation.	Accept modification
Policy H4: Affordable Housing Provision		
At end of policy inset 'unless the affordable housing requirement threshold is changed as a result of the future adoption of the South Downs Local Plan.	Determining levels of affordable housing is generally a strategic matter unless specific housing requirements have been established locally. The 40% affordable housing is therefore an appropriate level until the Local Plan has been adopted.	Accept modification
Policy H5: Rotherlea		
Replace "approximately" with "at least".	Not appropriate to be restricting number of units as a matter of policy, it depends on the nature of the site, housing mix and layout.	Accept modification
Reduce the extent of the allocation H5 on the Housing Site Allocation to omit that part of the site proposed to be allocated as Local Green Space, under Policy ESD4.	The allocation includes land allocated as a Local Green Space.	Accept modification

Recommended Modification to the PNDP	Justification	Decision
Delete criteria (i), (ii), and (viii)	The requirement to follow the masterplan is not necessary or desirable. It does not reflect the site characteristics or character of the surrounding area. Not convinced that Rotherlea and The Square field could not be properly developed independently. The masterplan is only described as illustrative. The development should respond to the immediate setting, rather than to the 'traditional character of Petworth'.	Accept modification
In para 5.28 remove reference to phasing restricting occupation until after the new school access is provided.	The Highway Authority indicated that they are content with the access arrangements, in respect of the current planning application on Rotherlea and that the requirement for a new road to be built first is not justified on highway grounds.	Accept modification
Policy H6: Square Field		
Replace “approximately” with “at least”.	Justification is same as for Policy H5.	Accept modification
Delete criteria (i), (ii), and (vii) and (x).	Justification is same as for Policy H5.	Accept modification

Recommended Modification to the PNDP	Justification	Decision
Proposed new Policy H8: Land South of Rothermead		
<p>Insert the following policy after appropriate supporting text:</p> <p>“The Land south of Rothermead site, as defined on the Housing Site Allocation Plan, is allocated for approximately 10 dwellings.</p> <p>Development proposals on the site should be landscape led and should:</p> <ul style="list-style-type: none"> (i) Provide for vehicular access either across the adjacent Grain dryer site to Station Road or from the cul de sac from Rothermead through the site of 11 Rothermead. (ii) Deliver a planting and landscape strategy to minimise landscape impact along the southern and western boundary. <p>Development proposals must be accompanied by a Landscape and Visual Impact Assessment.</p> <p>The proposal should demonstrate how an assessment of views has been taken account of in the design of the development. Any visual impact should be minimised through the site layout, building and planting and screening strategy.”</p>	<p>The site (identified as PW18) is adjacent to the former grain dryer. The South Downs SHLAA had identified the site as having a capacity of 11 units (a net gain of 10). If allocated, it could achieve a modest additional contribution to meeting OAN.</p> <p>The site selection analysis has recognised that it meets various sustainable development criteria. I consider that its landscape impact will be minimal, particularly when considered against the incursion of the Petworth South allocation. With appropriate landscaping this could offer a softer urban edge to the town.</p> <p>The site was discounted from the public’s expressed preference, as it was included in Option Two. Option Two included some patently unacceptable sites which would not have led residents to vote for that option. The issue raised by the objectors, is that the site was not rejected on the grounds of its own suitability, but because of its collective inclusion with other unacceptable sites.</p> <p>The level of housing should be based on the development of acceptable development sites, rather than being constrained to an arbitrary figure, which was already based on an assessment of deliverable sites.</p> <p>The site should be allocated for a relatively small number of homes.</p>	<p>Accept modification subject to representations.</p>
Policy ESD1: Character and Design		
<p>In the second sentence replace “most successful parts of the town” with “vernacular architecture of Petworth”.</p>	<p>What constitutes the ‘most successful parts of the town’ is a personal viewpoint.</p>	<p>Accept modification</p>

Recommended Modification to the PNDP	Justification	Decision
Delete the second sentence in the second paragraph.	Requiring external boundary treatments to be organic in form could lead to unintended outcomes. What is the definition of organic?	Accept modification
In the final paragraph replace everything after: “local materials” and insert “found in the locality”.	The design guidance in the Conservation Area Character Appraisal and Management Plan is not necessarily appropriate for the new housing allocations.	Accept modification
Policy ESD3: Requirements for a Design and Access Statement		
Replace “the following topics should be covered” and replace with “a proposal should demonstrate how its design and layout has had regard to the following:”	The requirements for what constitutes a Design and Access Statement, are set out in legislation. The content of a planning application is a matter that is established by the planning authority in its Local Validation Checklist. The policy can be amended so as to require applicants to have to demonstrate in their Design and Access Statement how they have considered the scheme against its context.	Accept modification
Omit – “Dwelling area and room sizes to comply with Government standards”.	The requirement to comply with minimum room sizes can only be introduced by an adopted Local Plan policy.	
Add after “Energy efficiency” the following text “in respect of non-residential development”.	Energy efficiency is not a matter that can be covered by a neighbourhood plan policy for residential schemes.	
Policy ESD4: Preserving Local Green Space		
Replace “will be protected in accordance with national planning policy” with “new development will not be allowed except in very special circumstances.”	Clarity	Accept modification

Recommended Modification to the PNDP	Justification	Decision
Policy ESD5: Public Open Spaces		
Delete second paragraph	Windfall sites should not be expected to provide onsite open-space and certainly not make financial contribution. The provision of offsite open space and play areas is covered by the Community Infrastructure Levy being included in the South Down National Park's Regulation 123 list.	Accept modification
Policy ESD6: Landscape and Visual Impact		
In the second paragraph, delete "master planning and" move the final paragraph of the policy to the supporting text.	To provide clarity. Some development too small for master planning, but it is appropriate to the allocations. Requirements of final paragraph not relevant to determining planning applications. They are information and guidance.	Accept modification
ESD7: Biodiversity and Trees		
In the second paragraph delete "and /or designated natural environment features" and insert at the end of the sentence, "if the harm cannot be avoided, mitigated or compensated for. There will be a presumption against development that adversely impacts any nationally or internationally designated sites and on locally designated wildlife sites, there will be a presumption against development unless the need for or the benefits from the development outweigh the loss".	<p>Not clear what the <i>designated natural environmental features</i> refer to. This area is important in terms of a habitat for bats.</p> <p>The requirements for a tree survey is already a requirement of the National Park's Local Validation Checklist and does not need to be included within a plan policy.</p>	Accept modification

Recommended Modification to the PNDP	Justification	Decision
Policy WS1: Petworth Town Centre		
Delete paragraph 3.	Do not consider it reasonable for development outside the town centre to require a retail impact assessment. The Local Plan includes a threshold for such studies of 750 m ² which would apply to Petworth.	Accept modification
In paragraph 4 after "permitted" insert "outside the town centre boundary".	To make it clear that a retail proposals will not be permitted if it would have an impact on the viability and vitality of the centre.	Accept modification
At the end of paragraph 5 after "hotels" add "guest houses or bed and breakfast establishments"	These uses also cater for visitors.	Accept modification
Policy WS2: Visitor Economy		
In paragraph 1 replace "hotel development" with "visitor accommodation".	To encompass hotels, boarding and guesthouse accommodation in the policy.	Accept modification
Policy WS3: Hampers Common Industrial Estate		
Delete criterion (iii)	The need to enhance other properties is an unreasonable imposition for an employment use.	Accept modification
Policy WS4: Land east of Hampers Common Industrial Estate		
Amend the boundary of the proposed employment area so that it abuts the existing employment area.	Cartographical error	Accept modification

Recommended Modification to the PNDP	Justification	Decision
Policy GA3: To Protect and Increase Car Parking Capacity at Pound Street Car Park		
Delete policy	The works to provide additional car parking capacity would not ordinarily require planning permission e.g. changing circulation routes, altering parking layouts. The only development that will provide additional car parking capacity in this car park would be for the building of additional deck, which the policy as written would support. Such a solution would be unlikely to be appropriate.	Accept modifications
Policy LW1: Community and Leisure Facilities		
In the first sentence of the second paragraph after “protected” insert “and their loss will be resisted unless alternative accommodation is provided with in the town”.	The additional text would allow the relocation of some of the facilities should that be required over the lifetime of the plan.	Accept modifications
Policy LW3: Assets of Community Value		
Delete policy	The designation of buildings as Assets of Community Value, is a process that is separate from the granting of planning permission and confers certain rights relating to the disposal of these buildings and assets providing for a moratorium, to allow the community to prepare a bid to buy the building. That is not a planning policy and should be moved to the supporting text as a community aspiration.	Accept modifications