

Report to	Planning Committee
Date	9 August 2018
By	Director of Planning
Title of Report	The South Downs National Park Authority's response to the Pre-Submission (Regulation 14) Consultation on the updated Findon Neighbourhood Development Plan
Purpose of Report	To agree the content of the South Downs National Park Authority's (SDNPA) response to the pre-submission consultation on the updated Findon Neighbourhood Development Plan

Recommendation: The Committee is recommended to agree the Table of Comments as set out in Appendix 3 of the report which will form the SDNPA representation to the updated Findon Neighbourhood Development (FNDP) Plan pre-submission consultation.

I. Introduction and Summary

- I.1 The South Downs National Park Authority (SDNPA) actively promotes and supports community led plans, particularly Neighbourhood Development Plans (NDPs) where growth needs to be accommodated and planning issues exist. On adoption, NDPs form part of the Development Plan for the neighbourhood area, alongside strategic planning policies which are prepared by the Local Planning Authority.
- I.2 The following report and appendices set out the SDNPA response to the Pre-Submission version of the updated Findon Neighbourhood Development Plan (FNDP). The SDNPA comments relate to the potential risk of progressing the FNDP proposed housing allocations alongside allocations in the South Downs Local Plan (SDLP). The majority of the FNDP is unchanged from the previous 'made' version; modifications are clearly marked with underlining or strikethrough of the text.
- I.3 Findon Parish Council is the first Qualifying Body in the National Park to prepare an update to a 'made' Neighbourhood Plan. The original FNDP chose not to allocate sites to meet the housing provision figure set by the SDNPA. This was against the advice given by both officers and Members. At examination, the examiner only let the plan proceed to referendum on the understanding that the SDNPA would allocate sites for housing in the Local Plan. The SDNPA proposed housing allocations in the Pre-Submission SDLP. The Qualifying Body did not support the Local Plan allocations and began the process of updating the FNDP with alternative housing allocations.
- I.4 This report highlights the risks associated with progressing the updated FNDP. It also sets out the concerns of the Authority in regard to the proposed allocations. Following the Pre Submission consultation the Parish Council will need to consider how they progress their updated FNDP in light of the possible risks set out in this report.

- 1.5 The FNDP is being considered by Planning Committee at pre-submission stage as it is the first NDP to be significantly modified. It allocates land for housing, and there are some conflicts with the Pre-Submission South Downs Local Plan.
- 1.6 The designated Neighbourhood Area forms **Appendix 1** of this report. The updated Pre-Submission FNDP can be found at **Appendix 2** and the SDNPA response to this consultation at **Appendix 3**. The Authority has sought legal advice on the matter, which is set out in full in **Appendix 4**.

2. Background

- 2.1 Findon Parish Council (FPC) is the 'qualifying body' with responsibility for preparing the updated FNDP. The original FNDP was prepared between December 2012 and the final plan was 'made' at Planning Committee in December 2016.
- 2.2 The updated FNDP proposes a number of changes and additions to the original FNDP, these include the allocation of four housing sites to deliver around 31 dwellings, modification to the existing Settlement Boundary and a number of minor changes to policy and supporting text.
- 2.3 The 'made' FNDP chose not to allocate land to meet the housing provision figure set in the emerging South Downs Local Plan. In response to the Pre-Submission and Submission consultations on the FNDP, the Authority expressed its concerns that the lack of allocations failed to demonstrate the plan's contribution to the achievement of sustainable development. Following the submission of the original FNDP, the Qualifying Body indicated that they would like to propose housing site allocations at the post-submission stage. The Examiner felt this was inappropriate as it didn't allow the wider community to comment on those proposals. The Examiner explained in his report that the FNDP did not demonstrate conformity with the development plan as it did not allocate sites in line with strategic policies set in the emerging Local Plan. However, the Examiner decided that many of the other policies in the plan warranted progressing past examination. Therefore the Examiner made modifications to the FNDP, removing all policies which related to allocations and settlement boundary, and recommended that the SDNPA should allocate the necessary housing sites in Findon in the Local Plan.
- 2.4 Following this decision the National Park Authority assessed a range of sites in Findon and proposed two housing allocations to meet the housing provision figure of 30 dwellings set by draft Policy SD26: Supply of Homes of the Pre-Submission Local Plan. These housing allocations are:
- SD71 Land at Elm Rise, Findon to deliver 15 – 20 dwellings; and
 - SD72 Soldiers Field, Findon to deliver 10 – 12 dwellings
- 2.5 Findon Parish Council responded to the proposed housing site allocations through the South Downs Local Plan Pre-Submission consultation. At this time Findon Parish Council made it clear that they did not support the proposed Local Plan allocations, and their intention was to prepare an updated FNDP to include housing allocations to meet the housing provision figure set by the SDNPA. The SDNPA made it clear to the Parish Council that the Pre-Submission SDLP would proceed with proposed housing site allocations in Findon. It was also made clear that there were a number of risks associated with the Parish Council progressing an updated FNDP, these risks are set out in **Appendix 3** and summarised in section 4 of this report.
- 2.6 This presents an unusual situation whereby the updated Pre-Submission FNDP and the Submission SDLP are proposing different housing allocations to meet the housing provision figure set in Policy SD26 of the SDLP. The FNDP also proposes an alternative Settlement Policy Boundary to that in the SDLP. The updated FNDP states that the site allocations proposed by the FNDP are not in addition to those proposed by the SDNPA, but are presented as alternative housing allocations. This is a matter that the Local Plan Inspector may choose to raise in his Matters and Issues that are due shortly. It is also likely that it is a matter that will be raised by the FNDP Examiner if the Plan reaches examination. Legal advice has been sought on the matter and is set out in full in **Appendix 4**.

- 2.7 In summary, this legal advice states that, whichever plan is made or adopted last will supersede, where relevant, the other. However, that is only the case if the allocations are viewed to be in conflict and state explicitly the intention to supersede. If all the allocations can be viewed as suitable albeit different then they could all be granted planning permission. The question then is whether the development of all these sites would fail to conserve the landscape, wildlife and cultural heritage of the National Park and applications could then be refused.
- 2.8 It will be for the Local Plan Inspector to determine whether it is appropriate for the Local Plan proposed housing site allocations to be adopted in light of the proposals in the updated FNDP. Furthermore, it will be for the Examiner of the Neighbourhood Development Plan to decide whether the sites should be allocated in the FNDP in light of the Local Plan allocations.
- 2.9 If Findon Parish Council continue to progress the updated FNDP, with alternatives sites and settlement boundary policies, it should be aware that an Examiner may consider the plan not to be in general conformity with the emerging SDLP, and therefore cannot proceed to referendum. At this Pre Submission stage we cannot offer any certainty on how these matters will be resolved and can only highlight the risks. For that reason the SDNPA are recommending that the updated FNDP is not progressed to submission, and that the current FNDP remains the made Neighbourhood Plan for the Parish of Findon.

3. Pre-submission consultation

- 3.1 The Neighbourhood Planning Regulations require all qualifying bodies (Findon Parish Council in this instance) to carry out pre-submission consultation on a draft of the NDP prior to submission to the local planning authority. The consultation must be for a minimum of six weeks and includes consulting statutory bodies. The updated FNDP consultation draft was published on 23 June 2018 and the consultation runs for 6 weeks until 10 August 2018.
- 3.2 The Neighbourhood Planning Regulations state that a NDP must be in general conformity with the strategic policies contained in the Development Plan for the area. Therefore, it is a requirement that the FNDP is in general conformity with the saved policies of the Arun District Council Local Plan (2003) and the policies contained within the Submission SDLP.
- 3.3 While there appear to be no immediate issues relating to general conformity with the saved policies of the Arun District Local Plan 2003, there are issues relating to the FNDP conformity with the Submission SDLP. The updated FNDP proposes a number of alternative housing sites to meet the housing requirement for Findon, these sites are intended to be alternatives to those proposed in the Submission SDLP. However, the SDLP has now been submitted to the planning inspectorate and includes two proposed housing site allocations and modifications to the existing settlement policy boundary. The updated FNDP proposes alternative housing allocations and alternative modifications to the Settlement Policy Boundary. As currently presented the updated FNDP will not be in general conformity with the Submission version of the South Downs Local Plan.
- 3.4 The Submission version of the South Downs Local Plan is now with the planning inspector, who has been sent a copy of this Planning Committee report. At this stage the SDNPA recommend that the updated FNDP does not progress to submission due to the conflicts set out in our response at **Appendix 3**, and the potential risk in proposing alternative sites to those proposed in the Submission version of the South Downs Local Plan.
- 3.5 The updated FNDP has been assessed to determine whether a Strategic Environmental Assessment / Sustainability Appraisal (SEA/SA) is required. It has been determined that an SEA/SA is not required for the updated FNDP. The updated FNDP has also be assessed to determine whether a Habitats Regulation Assessment (HRA) is required, and it has been determined that a HRA is not required for the updated FNDP.

4. Findon Neighbourhood Development Plan – SDNPA response

- 4.1 The SDNPA formal representation to the FNDP pre submission consultation is set out in **Appendix 3**. The following key points and overarching issues are raised in the representation:

- a) There is a significant risk associated with progressing the updated FNDP. The updated FNDP includes four site allocations to meet the housing provision figure set in the SDLP. These are different sites to those allocated in the Submission SDLP. There is a risk that all proposed allocations could be allocated in the respective plans and in turn granted planning permission for development. This could result in twice the number of new homes being allocated in the combined plans. Although this would contribute to meeting housing need in the area, the key question is whether this level of development would fail to conserve the landscape, wildlife and cultural heritage of the National Park.
- b) The SDLP sets out a different Settlement Policy Boundary to that proposed in the FNDP. This presents a number of risks, for example, if the Settlement policy boundary as shown in the SDLP is agreed, this would result in the site allocations proposed in the FNDP falling outside of an established Settlement Policy Boundary. This could be resolved through the FNDP examination allowing further modifications to the boundary, or alternatively, the FNDP failing at Examination. The Authority is of the opinion that the principle of establishing a settlement boundary for the village is a strategic matter dealt with under strategic policy SD25: Development Strategy of the SDLP. The detail of where that boundary should go is a non-strategic matter that can be addressed in either the SDLP or NDP.
- c) During the preparation of the original FNDP, the SDNPA recommended that some policies should be removed from the main Neighbourhood Plan and placed in a supporting document which sets out community aspirations. These recommendations were agreed by the Examiner who removed a number of policies and placed them in a separate document for community aspirations. A number of these policies are now included in the main FNDP. The Authority recommends in line with the Examiner's original findings that that these policies are again removed from the main plan and placed in a separate community aspirations document.
- d) The SDNPA has a major in-principle concern regarding the landscape impact of the scale and location of development envisaged by the masterplan (Policy HD9), particularly in terms of the significant change to settlement form and extension of built form towards Worthing (Findon Valley) along the A24 corridor. The area is also on the opposite side of the A24 and is therefore largely detached from the settlement form, notwithstanding aspirations to mitigate the barrier effect of the A24.
- e) Policy HD10 seeks to allocate land on the Southern part of the Paddocks at the garden centre. However this allocation conflicts with Policy ESI of the updated FNDP, which seeks to protect that parcel of land as part of the gap between Findon, Findon Valley and Worthing. Even if Policy ESI is deleted the SDNPA feel this site is not considered suitable for allocation as it is removed from the existing settlement of Findon, development would not relate well to the existing settlement and development will not fit with the character of the settlement form as currently exists
- f) Policy HD12 indicates that a successful development would rely on undergrounding of overhead power cables, new vehicle access and parking, proposals to mitigate the effects of traffic noise and a very high proportion of affordable housing which represents a potentially significant constraint to delivery. Therefore it is considered that the sites proposed for allocation in the SDLP are more suitable. If the issues highlighted (and potentially others) can be mitigated, it is considered that the site may have scope to come forward as a rural exception site, given it is a greenfield site outside the existing settlement boundary.
- g) Policy HD13, land at the former Fire Station is a site of 0.1 hectares within the settlement boundary, which is currently in use as an ambulance station. It is considered likely to be too small a site to comfortably accommodate 5 or more dwellings, and therefore should not be considered for an allocation site. The site is within the settlement boundary, hence any future residential development on this site would be acceptable in principle and classed as windfall development. Furthermore, there are questions over deliverability as the site is currently in use as an ambulance station.

5. Planning Committee

- 5.1 This is the first occasion that the **updated** FNDP has been presented to Planning Committee. However, the original FNDP was presented to Planning Committee on three occasions; Submission, Decision Statement and Making of the Plan. The updated FNDP is being considered at this stage due to the potential conflict with the submission version of the South Downs Local Plan, the level of development being proposed and the allocation of land.

6. Next steps

- 6.1 If agreed the response will be sent to Findon Parish Council for them to consider alongside the other representations they receive. They will then need to consider how the progress their updated plan, and consider whether it is appropriate to amend the plan and submit it to the SDNPA for examination. An informal meeting with the parish council will also be strongly recommended to talk through the issues arising.

7. Other Implications

Implication	Yes/No
Will further decisions be required by another committee/full authority?	Yes – It is anticipated that Planning Committee will be asked to agree the SDNPA response to the FNDP at all significant stages if the plan progresses. The next occasion will be the SDNPA representation on the submitted plan.
Does the proposal raise any Resource implications?	<p>Yes - The SDNPA has invested staff resources in supporting the development of the current FNDP by regularly attending steering group meetings and providing comprehensive feedback and comments on early drafts of the FNDP. Significant financial resource has been provided through the reallocation of the Governments New Burdens funding and the allocation of SDNPA funding amounting to £35,518.40. The SDNPA have claimed a total of £50,000 in New Burdens Funding and Front Runner Grant to support the cost of preparing the original FNDP.</p> <p>The SDNPA will receive additional funding to support the costs of supporting the preparation of the updated FNDP, as the update proposes significant modifications. Therefore the SDNPA will receive £20,000 following a successful referendum.</p> <p>However, it should be made clear that there is a risk associated with the progression of the updated FNDP, if the updated FNDP does not pass examination, the SDNPA will have to cover the cost of examination without the receipt of New Burdens funding which would be available following a successful referendum.</p>
Has due regard been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	Due regard will be taken of the South Downs National Park Authority's equality duty as contained within the Equalities Act 2010. Findon Parish Council, who have the responsibility for preparing the neighbourhood plan, will be required to prepare a Consultation Statement to support the submission version of the updated FNDP setting out how all sections of the local community (people who live, work or carry out business in the neighbourhood area) including hard to reach groups, have been engaged in the plan's production.

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. 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 updated Findon Neighbourhood Plan will not be required therefore Findon Parish Council will be required to prepare a statement in support of the Submission version of the updated FNDP to set out how their plan contributes to the achievement of Sustainable Development.</p>

8. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
Findon Parish Council do not take account of the significant concerns raised by the SDNPA in relation to the progression of an updated FNDP. This could result in an updated FNDP progressing to Submission and Examination where there is a risk that the updated FNDP will fail examination as it is not in general conformity with the policies contained in the Submission version of the SDLP.	Medium	High	This report sets out clearly the risks associated with progressing the FNDP, and the Qualifying Body have been informed of the SDNPA concerns prior to this report. This report and the concerns raised will also form part of the Examination of the FNDP (should it proceed to submission) therefore the Examiner will also be in a position to consider this matter further.
The updated FNDP includes four site allocations to meet the housing provision figure set in the SDLP. These are different sites to those allocated in the Submission SDLP. There is a risk that all proposed allocations could be allocated in the respective plans and in turn granted planning permission for	Medium	High	The SDNPA highlight this concern to Findon Parish Council, to ensure they are able to take an informed decision as the progress to submission. The matter will also be highlighted to the Local Plan Inspector, the Inspector may choose to raise this in his Matters and Issues that are due shortly. The matter will also be made to the FNDP Examiner if the Plan

development. This would result in a much higher level of development for the settlement of Findon than that proposed as appropriate in the SDLP.			reaches examination. The SDNPA have sought legal advice to determine how this matter may progress through the local plan and FNDP examinations.
There is a reputational risk for the SDNPA associated with raising areas of concern about the FNDP. Communities are sometimes frustrated by the perception that their hard work and effort in producing such plans is not fully appreciated and taken into account. However, to not highlight the possible concerns of the Authority at this stage in the plan preparation would be failing in our duty to support such groups and potentially result in a plan that does not deliver outcomes that meet the needs of both the community and the SDNPA.	Medium	Low	SDNPA officers will work closely with the FNDP group and the Parish Council to ensure the wider community understand why the SDNPA are making these recommendations

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Appendices

1. Findon Designated Neighbourhood Area Map
2. Updated Findon Pre-submission Neighbourhood Plan 2018-2035 – STAND ALONE DOCUMENT
3. SDNPA Response to the Pre-submission Draft updated Findon Neighbourhood Plan
4. Legal Advice on Findon NDP

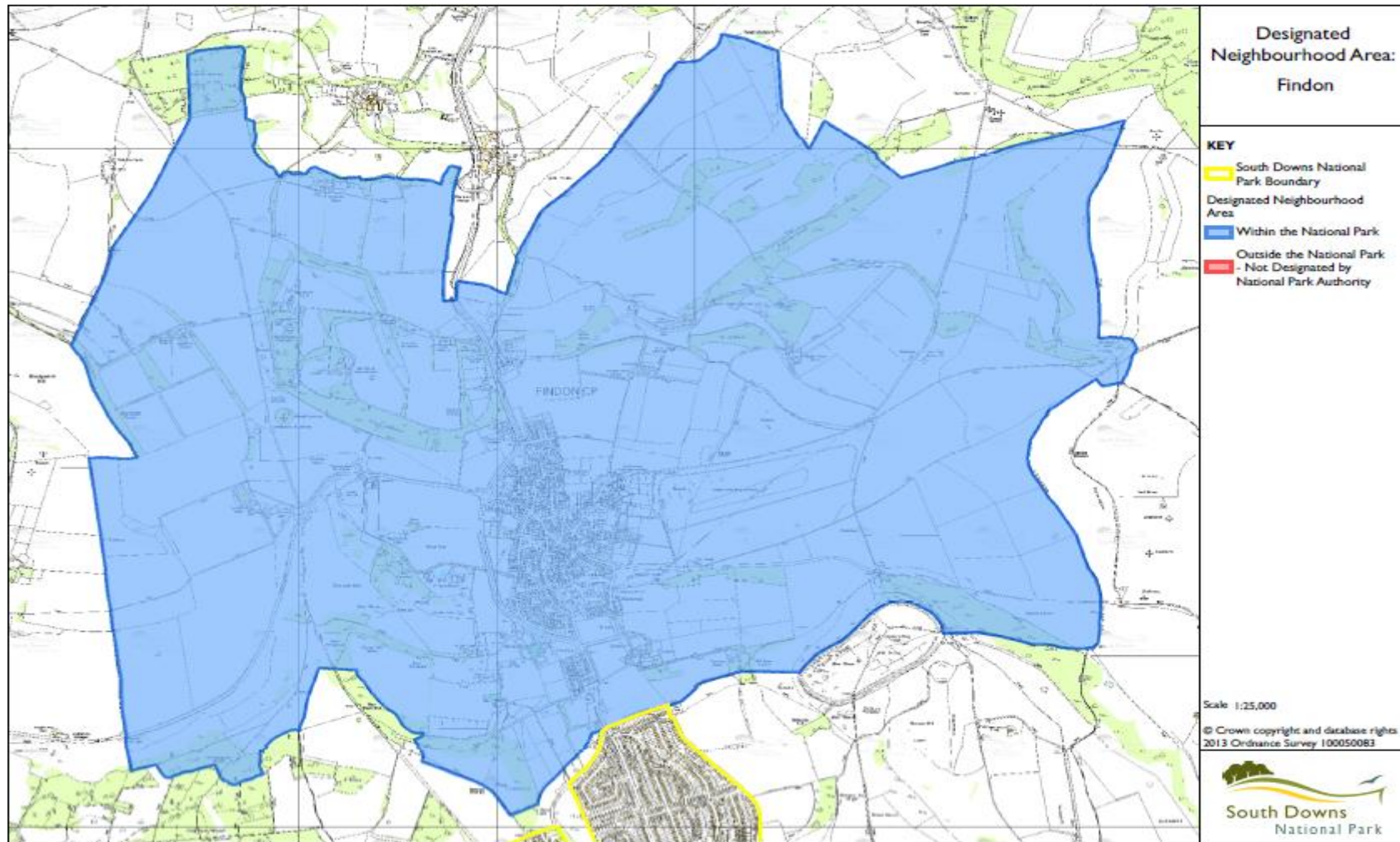
SDNPA Consultees

Planning Policy Manager, Legal Services, Monitoring Officer & Chief Finance Officer. Consultation with statutory bodies has been undertaken by Findon Parish Council.

Background Documents

[SDNPA Pre Submission response to the current Findon NDP](#)
[SDNPA Submission response to the current Findon NDP](#)
[Examiners report for the current Findon NDP](#)
[Evidence base for 2018 updated Findon NDP](#)

Findon Designated Neighbourhood Area



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