

Pre-Submission South Downs Local Plan

Matter 10 - Draft Policy SD25: Kingston Settlement Boundary

and

Matter 11 - Draft Policy SD77: Castelmer Fruit Farm, Kingston

**Position Statement
on behalf of
Mr & Mrs Grieves**

SDNPA Representation Reference No. R30
Town and Country Planning Solutions Ref No: TCPS 734
Hearing Session 2.00pm on Tuesday 11th December 2018
Amex Community Stadium, Falmer, Brighton
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Appendices

1. Representations submitted by Bircham Dyson Bell dated 6th November 2017.
2. Planning permission no. LW/90/0747 for the storage of 20 caravans.
3. SDNPA correspondence dated 22nd February 2017.
4. Email trail with SDNPA between 16th May 2018 and 11th June 2018.

1. Introduction

- 1.1 Mr & Mrs Grieves are the owners of approximately 4.5 hectares of land at Audiburn Farm (also known as Audiburn) which is located on the north eastern side of Ashcombe Lane within the village of Kingston near Lewes in East Sussex. They also own 5 hectares of land on the southern side of Wellgreen Lane, Kingston at 'Jake's Acres' (the subject of the Strategic Housing Land Availability Assessment site no. LE007).
- 1.2 Representations on behalf of Mr & Mrs Grieves were submitted in response to the pre-submission draft of the South Downs Local Plan by Bircham Dyson Bell on 6th November 2017. For convenience, a copy of these representations are contained in Appendix 1. The representations have been given the reference number R30.
- 1.3 The representations mainly concerned two inter-related Matters;
 - i) Matter 10; The proposed revision to the Settlement Boundary at Kingston the subject of Draft Policy SD25 (Development Strategy) and the Kingston Policies Map Inset.
 - ii) Matter 11; Draft Policy SD26 (Supply of Homes) and draft housing allocation Policy SD77: Castelmer Fruit Farm at Kingston.

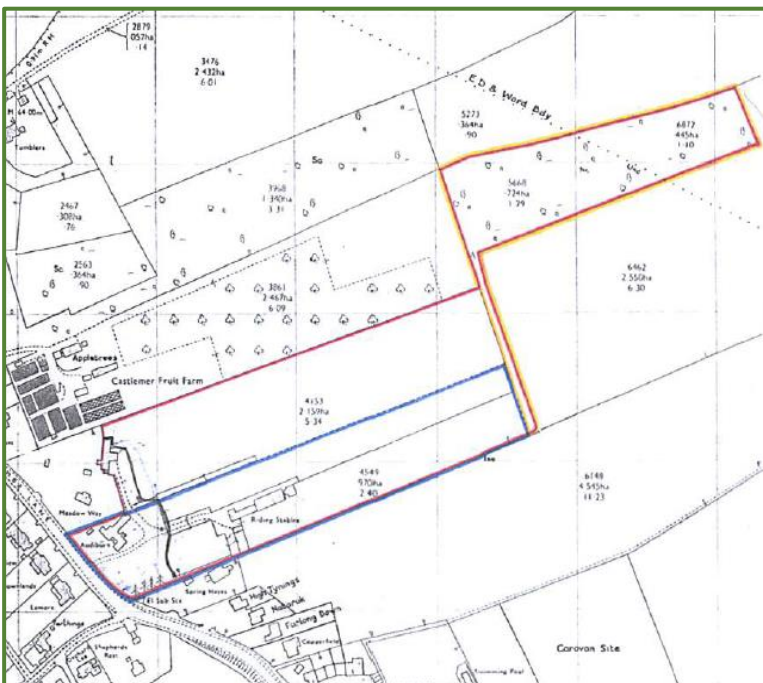
2. Matter 10: Draft Policy SD25 (Development Strategy) and the Settlement Boundary at Kingston

2.1 Mr & Mrs Grieves own a detached bungalow known as Audiburn that occupies a substantial 0.38 hectare residential plot of land, which has vehicular access from Ashcombe Lane in Kingston. Part of this land has extant planning permission to store 20 caravans (planning permission no. LW/90/0747 – see Appendix 2) and a stored caravan remains on the rear part of the land.

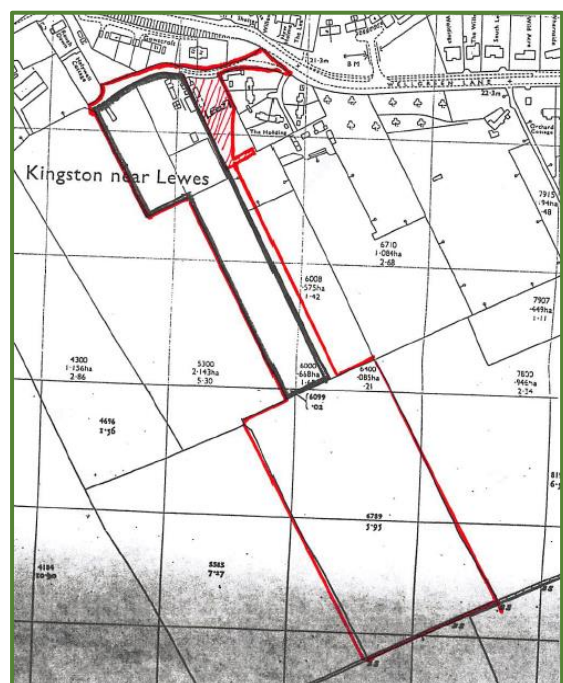
2.2 The access also serves other adjacent land in their ownership located immediately to the north east, which is occupied by now disused commercial riding school buildings that includes stable blocks (with a total of 11 loose boxes), groom's accommodation with two bedrooms, staff facilities, a sand-school with flood lighting as well as adjoining paddock land. The extent of the land owned by Mr & Mrs Grieves is shown by the Land Registry extract below. Audiburn and the disused riding stable development and associated land has been owned by Mr & Mrs Grieves since the end of 2015.

Extracts from Land Registry plans;

1. Land at Audiburn

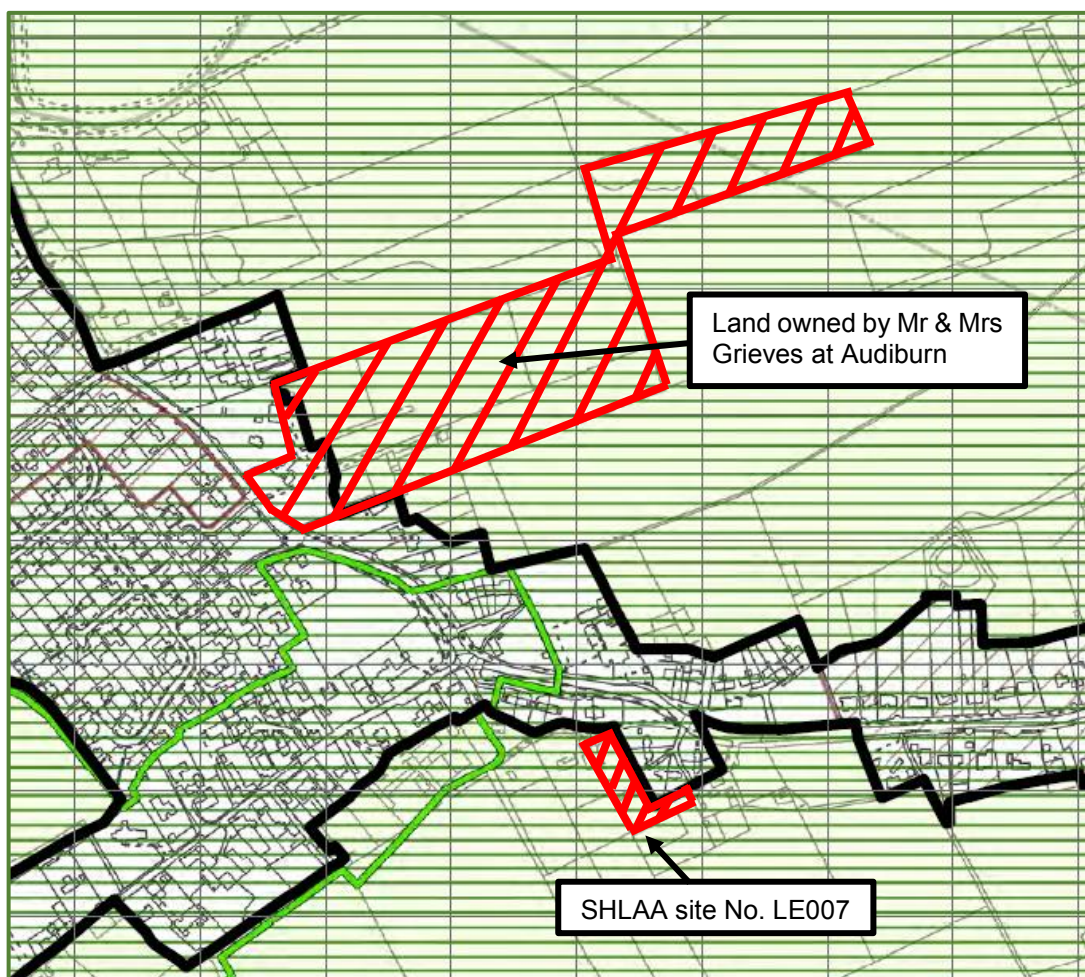


2. Land at Jake's Acres



- 2.3 The residential plot occupied by Audiburn is contained within the 'Planning Boundary' for Kingston as shown on Inset Map 14 (Kingston) of the Proposals Map of the Lewes District Local Plan adopted in March 2003 that was subsequently incorporated as part of the Lewes Core Strategy: Local Plan, Part 1 adopted in May 2016. The former riding school stables and associated land is located on adjoining, but outside the Planning Boundary.

Extract from Inset Map 14 of the Lewes Core Strategy



Key	
	Planning Boundary (See Policy CT1)
	Countryside Policies (See Policies RES8, RES10, RES14, E14, E17, CT1, CT5)
	National Park (See Policy CP11)
	Conservation Areas (See Policies CP11, H4, H5, H7, ST25, ST29)
	Area of Established Character (See Policy H12)
	Parish Boundaries
	Inset Map Boundaries

- 2.4 It is significant that at the time the Local Plan was adopted in 2003, the whole of Kingston was washed over by the Sussex Downs Area of Outstanding Natural Beauty (SDAONB) designation (subsequently replaced by National Park designation in April 2013). The primary purpose of the former SDAONB designation was to conserve natural beauty and was therefore, similar to the purpose of the National Park designation to 'conserved and enhance the natural beauty, wildlife and cultural heritage of the area' (Section 62 of the Environment Act 1995).
- 2.5 Thus, in drawing up the Planning Boundary around this part of Kingston as part of the 2003 adopted Local Plan, the Planning Authority (Lewes District Council) considered that it was appropriate to include Audiburn within the built up limits of the settlement whilst still meeting the objectives of the SDAONB designation. By including Audiburn within the Planning Boundary, it was clearly the Planning Authority's considered view that this property and its curtilage formed an established part of the built up confines of the settlement and that as such any development or redevelopment of the land would be acceptable in principle.
- 2.6 Following the designation of the National Park and as part of the production of a new South Downs Local Plan to cover the National Park area (which includes Kingston), the South Downs National Park Authority (SDNPA) produced a 'Settlement Boundary Review: Methodology Paper' (TSF03) in 2015 as part of the background evidence for the South Downs Local Plan: Preferred Options Document published in September 2015 (LP03), and in particular, the then Strategic Draft Policy SD22.
- 2.7 This background document explains the use of 'Settlement Boundaries' (i.e. Planning Boundaries) as a policy tool to provide for the presumption in favour of development whilst restricting development outside such boundaries (paragraph 2). The document also explains the need to ensure a consistent basis for drawing up Settlement Boundaries given that previously in

producing Local Plans, Planning Authorities across the National Park area had taken different approaches to drawing Development/Settlement Boundaries as *“Not all authorities use a set methodology”* (paragraph 7).

2.8 The rest of this background document explains the nature of the Settlement Boundary review and the methodology adopted. Of significance to the case made by Mr & Mrs Grieves;

- i) The review took a ‘landscape-led approach’ based on a range of published studies including the ‘South Downs Integrated Landscape Character Assessment’ (paragraphs 13 and 14).
- ii) It excluded *“Houses in the middle of large plots”* and *“large rear or side gardens (of houses clearly in the settlement) – Boundaries should run 10m from the rear of side elevations of house”* (paragraph 16).
- iii) It excluded ‘equestrian developments’ *“where they lie adjacent to the boundary”* (paragraph 23).
- iv) Residential caravan sites at the edge of settlements to be assessed on a site by site basis (paragraph 24).

2.9 Paragraphs 26 – 28 of the document state the following;

“26. Gardens are an important part of the setting and attractiveness of settlements in the National Park, softening the transition at the settlement edge, marking the edge of settlements in what is generally an attractive way, softening the appearance of built up areas from the countryside and containing vegetation which shields new development. This role is especially important on the sloping terrain common in the National Park, where the edge of a curtilage can often be noticeably higher or lower than existing buildings within that curtilage. The NPPF states that allowances for windfall

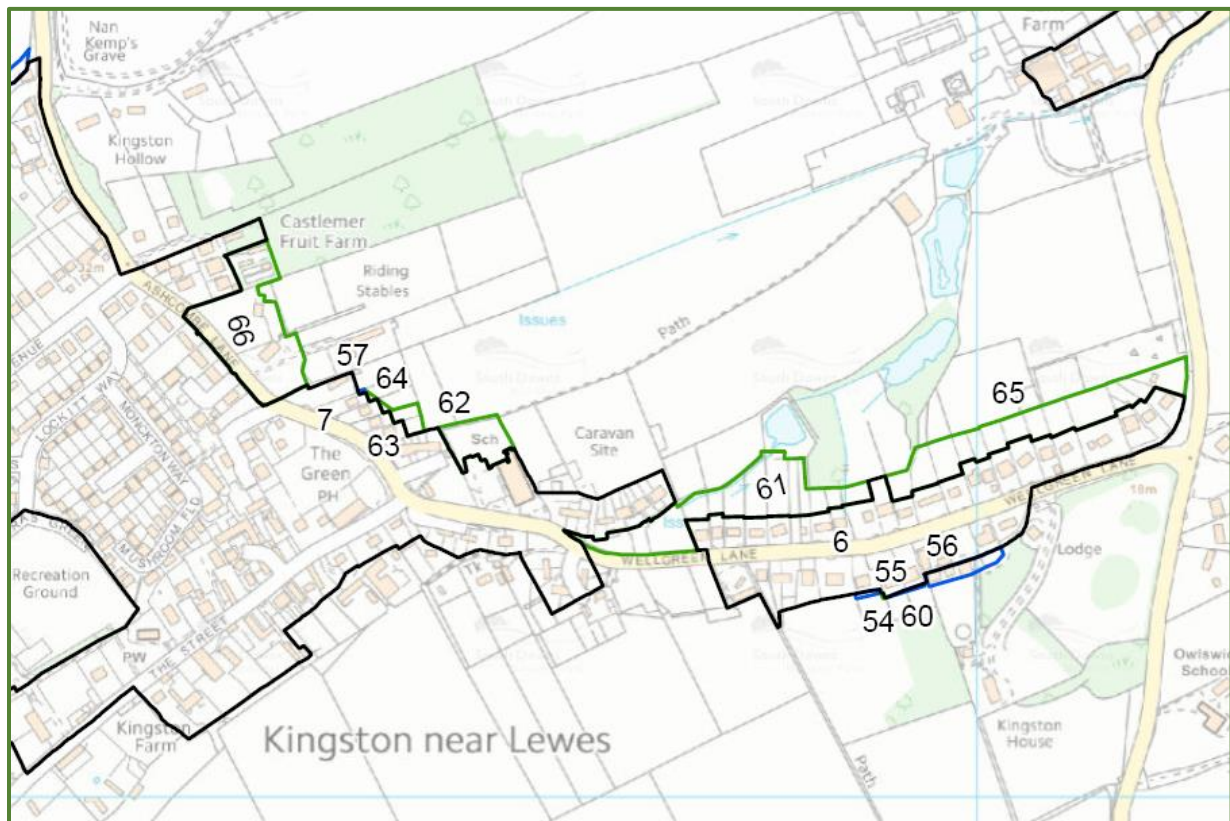
development as part of a five-year housing land supply should not include residential gardens, so the inclusion of garden land in settlement boundaries would not affect the windfall allowance in the NPA's housing land supply. Large and long gardens, including landscaped areas ancillary to commercial sites, at the edge of settlements will therefore be excluded from settlement boundaries. This will not affect permitted development rights or the planning status held by gardens as land ancillary to residential use.

27. Houses in large plots, set back from the road, have been excluded from settlement boundaries where they occur at the edge of a settlement. This will protect vegetation in the garden which is likely to dominate views into the plot from the public domain.

28. Where houses themselves recognisably form part of the settlement pattern, but they have a large or long rear or side garden which stretches away from the rest of the settlement, the settlement boundary will run 10m behind the relevant rear or side wall of the main dwelling house, to prevent backland development and protect any vegetation which shields or may in future shield the settlement in views from the countryside. To avoid making petty deviations from physical boundary features, this criterion will only be applied where the furthest point of the curtilage is 20m or more from the closest wall of the main dwelling house to the boundary. Where boundary features on the ground run within 5m of the proposed resulting line, then they have been followed instead. This principle will not be applied where it would result in minor, isolated bites being taken out of otherwise strong and straight settlement edges. A blanket approach will ensure consistency across the National Park".

- 2.10 Appendix 1 of the document (TSF-04) contains an assessment schedule together with a map extract for each relevant settlement showing potential contractions or extensions or no change to settlement boundaries.

Extract from Appendix 1 of the Settlement Boundary Review 2015



- 2.11 The schedule for Kingston identifies Site Reference 66 (as shown on the map extract above) and this relates to “*Meadow Way, Audiburn, lawn in front of riding stables*” and “**Castelmer Fruit Farm**” [bold emphasis added] for proposed removal from the existing Development Boundary. The reason given for producing the Settlement Boundary in this location was stated as follows;

“Exclude houses in large plots, set back from road, from boundary. Exclude lawn ancillary to building lying outside boundary. Exclude agricultural buildings”.

- 2.12 As a direct consequence, this land was then excluded from the proposed Settlement Boundary for Kingston as shown on page 320 of the South Downs Local Plan Preferred Options document published in September 2015 (LP03).

- 2.13 The SDNPA's approach to its settlement boundary review, which has resulted in the dwelling at Audiburn being excluded from the proposed settlement boundary, is wholly unsound because not only was the site assessment itself flawed and of a cursory nature, but also paragraph 12 of the document confirms that this review was carried out *"in parallel with but separately from the identification of site allocations for development, and therefore the maps prepared do not take account of any proposed site allocations. Once the list of proposed allocations is finalised for the pre-submission draft of the local plan, the settlement boundary maps will be redrawn"*. Paragraph 15 adds; *"Sites allocated in the Local Plan for development will also ultimately be included in the final settlement boundary, although they have not been included at this stage"*.
- 2.14 Thus, the potential for accommodating housing development on the residential land at Audiburn that is already **within** the existing Planning Boundary was not considered as part of the settlement boundary review. The Preferred Options document (LP03) identified scope for the allocation of 11 dwellings in Kingston but no actual site was allocated at that stage. Having assessed the potential of Kingston as a sustainable settlement able to accommodate an allocation for 11 additional dwellings, then clearly, it should have been an important consideration to first assess the potential of residential land within the existing Development Boundary (such as at Audiburn) to the extent that it might help meet housing requirements either as a potential housing allocation for 5 units or more, or as a potential windfall site to meet housing requirement **prior** to forming a view as to whether or not the land should remain within the Development Boundary.
- 2.15 The substantial housing plot at Audiburn **includes** the garden land within the existing development boundary that lies on the southern side of the private access driveway that serves the property and continues to the former riding school development on land to the rear. The SDNPA boundary review

assessment that this part of the garden land comprised 'lawn ancillary to building lying outside boundary' was clearly inaccurate and an error.

- 2.16 This residential plot at Audiburn is underutilised and the existing bungalow which has a sprawling footprint, is in poor physical condition and is in need of extensive modernisation and repair or replacement. The existing residential density is the equivalent of just 2.63 dwellings per hectare, representing an inefficient and ineffective use of the residential land available. The illustrative drawing below indicates how the plot could potentially accommodate 5 detached family sized dwellings (providing a net increase of four units), although there is also a possibility of accommodating a greater number of smaller units.

Illustrative layout to show how 5 dwellings could be accommodated inside the existing Development Boundary at Audiburn.



- 2.17 There are views towards the property from Ashcombe Lane, but these are filtered and screened by boundary trees and vegetation. From the public highway, there are no long views beyond the property's rear garden boundary and the garden area has full householder permitted development rights that would include sheds, garden structures, fences and other domestic paraphernalia which could potentially change the current outlook from Ashcombe Lane. The land also has extant consent for the storage of 20 caravans.

Views looking towards Audiburn from Ashcombe Lane





Views of the disused commercial riding school buildings and ménage at Audiburn.



- 2.18 Given that the Preferred Options document identified the provision of 11 additional dwellings at Kingston, it was also illogical and unsound to exclude any consideration of the expansion of the settlement boundary to include the adjoining disused riding school stable buildings and associated development (see photographs) to provide a housing allocation to include Audiburn. Again, the SDNPA's settlement boundary review reasoning to '*Exclude agricultural buildings*' was incorrect as previously, the commercial riding school had been very active for over 40 years before the use before having ceased more recently.
- 2.19 Indeed, although the map extract in Appendix 1 of the document (i.e. TSF-04) made reference to the former riding school and stables development at 'Site 57', no mention of this is made in the accompanying schedule listing the various sites. A more recent email exchange with the SDNPA has confirmed that although the former riding school development was given a specific site reference number, no assessment was made as to whether it might be appropriate to extend the Development Boundary to include this disused, previously developed land. To include a site reference number but then to exclude it from any associated assessment indicates another clear flaw in the soundness of the SDNPA's approach to the settlement boundary review in 2015.
- 2.20 This initial settlement boundary review in 2015 and the proposed changes to the settlement boundary for Kingston was then reflected in the subsequent Preferred Options document (LP03) as shown on page 320.
- 2.21 To assist in identifying potential housing land at Kingston (and elsewhere) a Strategic Housing Land Availability Assessment (SHLAA) review was published in December 2016 (TSF10). This included 11 sites, of which 3 were rejected as being unsuitable and 7 were excluded as being too small to be able to accommodate the minimum housing allocation of 5 dwellings or more. This included site number LE007 ('Jake's Acres') in relation to land also in

the ownership of Mr and Mrs Grieves located on the southern side of Wellgreen Lane and referred to in the development plan representations submitted on their behalf by Bircham Dyson Bell on 6th November 2017 (paragraph 3, page 6). Mr & Mrs Grieves have also acquired additional adjoining land that together would be capable of accommodating 5 dwellings, but only one potential housing site was identified in the SHLAA (site no. LEO17) also located on the southern side of Wellgreen Lane.

2.22 The SHLAA review confirmed however, *“the omission of sites from the study does not preclude the possibility of planning permission for residential development on them being granted. It acknowledges that sites will come forward that may be suitable for residential development that have not been identified in the SHLAA”* (fourth bullet point on page 5).

2.23 Mr & Mrs Grieves subsequently received a letter from Mr R. Thain of the SDNPA dated 22nd February 2017, stating that *“as yet we have not found a suitable site in Kingston which is demonstrably available for further development”* (see correspondence contained in Appendix 3). Mr Thain added;

“We note that you appear to own a sizeable area of land which fronts onto Ashcombe Lane and includes open fields or paddocks immediately to the east. Essentially, we would like to discuss with you both the possibility of bringing forward a small residential development of up to 15 new dwellings through a Local Plan housing allocation. Only a modest proportion of your land would be needed for housing and we would seek to retain any existing uses of the remainder wherever possible”.

2.24 Mr Grieves subsequently contacted Mr Thain by email on 20th August 2017 to explain that his letter of 22nd February 2018 had been misplaced by the tenant of the property and that he had only just seen it, but confirmed that the land was available and provided Mr Thain with his contact details. Shortly

after this email was sent, Mr Grieves phoned Mr Thain who informed him that during the intervening period, a different site had been chosen, but he did not give any indication that the dwelling at Audiburn would be removed from the Kingston Settlement Boundary. He explained that the consultation process was just beginning and that the 'soundness' of the Plan could be addressed during the Submission Plan period which was due to end in November 2017. He also mentioned that the draft Plan was very 'fluid' and it was likely that changes would be made following the Plan's consultation period.

- 2.25 This led Mr Grieves to believe that provided representations were made during the consultation period, the potential allocation for housing development at Audiburn would be considered as part of this process. Other than a standard response to confirm that the representations made by Bircham Dyson Bell on 6th November 2017 had been received, Mr and Mrs Grieves received no further contact from Mr Thain or anyone else at the SDNPA. This prompted Mrs Grieves to contact the SDNPA in May 2018 to request a copy of the file and notes as well as the process and methodology that resulted in Castelmere Fruit Farm being allocated in favour of the land at Audiburn, but she was advised that no such file notes or other information existed. Further enquiries prompted an email response from Mr Bates of the SDNPA which in short, explains that as the SDNPA had not received an immediate response to Mr Thain's letter of 22nd of February 2017, it had been assumed that Audiburn was not available and that by the time it was known to be available, the SDNPA did not consider it convenient to assess the land as a potential allocation within the draft Submission Plan publication timetable.
- 2.26 In addition, in June 2018, Mrs Grieves also asked the SDNPA to provide a copy of Mr Thain's file notes on his proposal together with a request for a map extract or drawing showing the area of land that Mr Thain had in mind for an additional 15 dwellings at Audiburn. The SDNPA's response again advised that no such file note or drawing/plan existed and it is understood

that Mr Thain has subsequently left the SDNPA's employment. The full email trail relating to this matter is contained in Appendix 4.

- 2.27 Although the SDNPA had published a 'Settlement Boundary Review 2017 update' as a background paper in September 2017 (TSF.05), this largely reflected the same methodology of the 2015 document (i.e. TSF – 03) but also incorporated proposed housing allocations. This approach remained seriously flawed and unsound as background evidence however, as it did not review the potential for accommodating additional housing on **existing sites within the current Development Boundary** (including the land at Audiburn) or any disused brownfield land immediately adjoining Audiburn **before** considering the allocation of a new land allocation at Castelmer Fruit Farm (which previously had been specifically excluded in the schedule contained in Appendix 1 of the 2015 Settlement Boundary Review document).
- 2.28 Mr & Mrs Grieves case is therefore, that the Settlement Boundary at Kingston should be reinstated to include the dwelling at Audiburn as shown on the currently adopted Development Boundary for Kingston as per Inset Map 14 of the Lewes District Local Plan Core Strategy (as also supported by Kingston Parish Council). This would then allow potential for the site's redevelopment or infill development to contribute to the Plan's anticipated provision of housing development on 'windfall' sites. The potential for meeting the housing requirement on the adjoining redundant, previously developed land previously used as a riding school, should also be considered as an extension to the Settlement Boundary. In this respect, it is noted that INSP.3 states "*in the event that the Plan were to be found unsound with the sites it allocates, the NPA would be asked to consider proposed additional or alternative sites as MMs [Main Modifications] to the Plan for further consideration (paragraph 26).*"

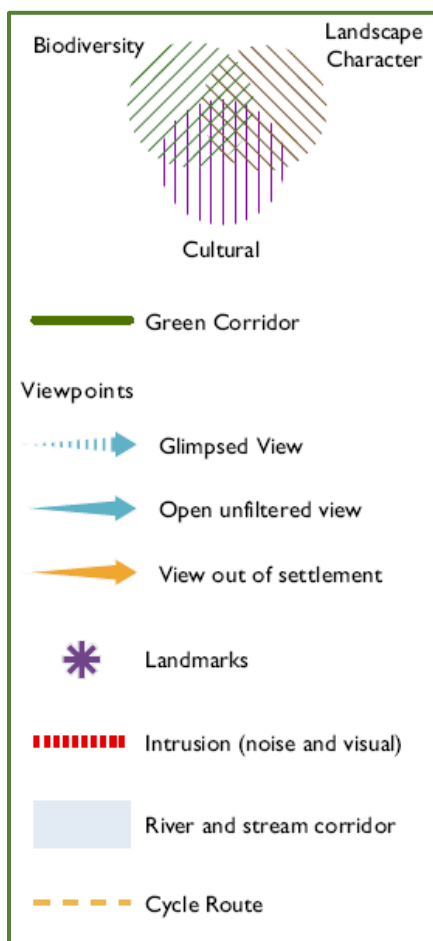
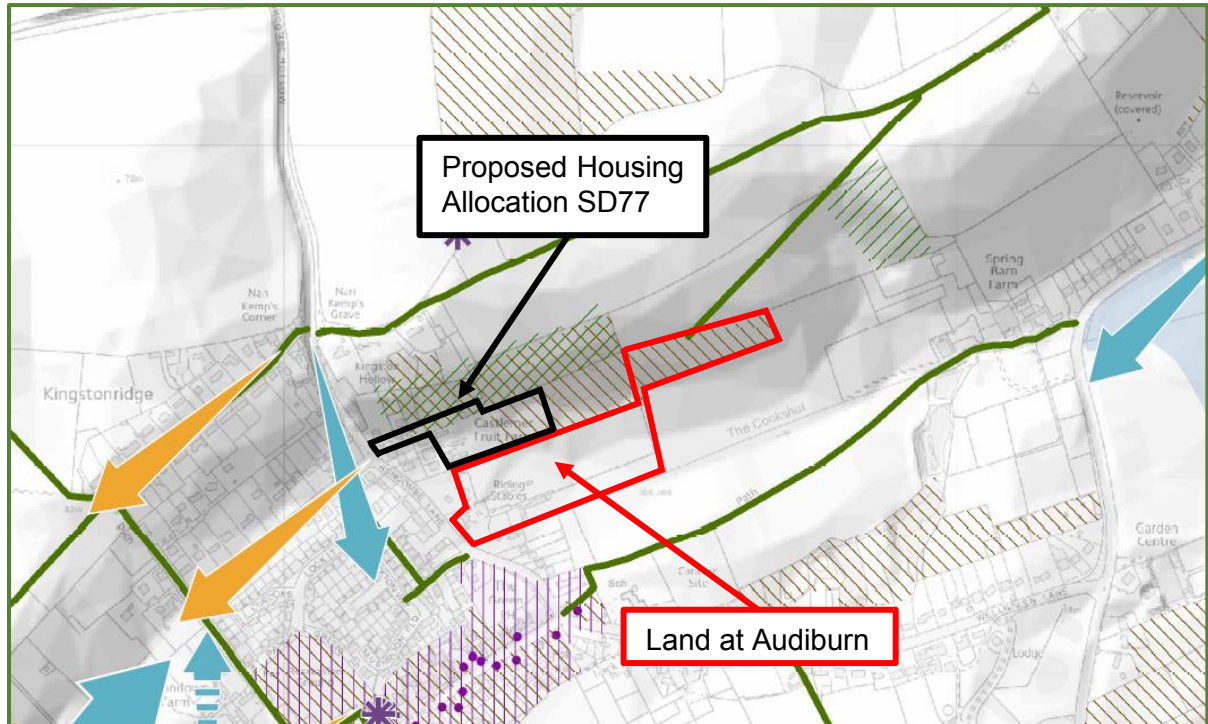
3. Matter 11: Draft Policy SD25 Castelmer Fruit Farm

- 3.1 Although part of the Castelmer Fruit Farm site is also within the existing development boundary for Kingston as shown on Inset Map 14 of the adopted Lewes District Local Plan, draft Policy SD77 includes an extension to the Settlement Boundary that incorporates orchard land, land to the north of the existing residential property known as Appletrees and the access road and adjoining land leading east from Ashcombe Lane.
- 3.2 This proposed housing site has emerged only at a very late stage in the plan making process and was not considered as part of the Preferred Options document published in September 2015 (LP03) and indeed at that time, it was proposed to exclude the existing developed land from the Development Boundary following the 2015 review (TSF03). Furthermore, it was not identified as part of the December 2016 SHLAA review (TSF10) and was not the subject of any background evidence published as part of the submission draft version of the Plan when the site appeared for the first time as draft Policy SD77 as an allocation for *10 to 12 dwellings*” (i.e. a net increase of 9 – 11 dwellings if the existing dwelling within the allocated area were to be discounted).
- 3.3 Mr & Mrs Grieves have made separate inquiries to the SDNPA to ask for the file notes etc. that led to the allocation of this land (together with an assessment of alternative sites) given that this new site must have been identified sometime between Mr Thain’s letter to Mr & Mrs Grieves on 22nd February 2017 (Appendix 3) and the publication of the proposed Submission draft Plan in September 2017. Mr and Mrs Grieves have been advised however, that no such file note existed at that time (see email thread in Appendix 4).
- 3.4 It is only very recently (at the time the Plan was submitted for formal examination in April 2018) that the SDNPA has belatedly published a ‘Site

and Settlement: Route Map for Housing Allocations (SS – 02) that provides the SDNPA’S background evidence in relation to this site and their consideration of alternative sites at Kingston. This is itself, seriously flawed, as not only has it failed to review other suitable alternatives such as the land at Audiburn, but also it failed to review and assess Mr & Mrs Grieves other land at Jake’s Acres on the southern side of Wellgreen Lane (i.e. SHLAA site no. LE007) both the subject of the representations submitted in November 2017.

- 3.5 It is not clear why such a significant background, evidentially based document was not available for public consultation at the time the submission document was published in September 2017. As mentioned in the representations submitted by Bircham Dyson Bell on behalf of Mr & Mrs Grieves, case law (R v North and East Devon Health Authority, ex parte Coughlan [2001] 2 QB 213) confirms that consultation must include sufficient reasons for particular proposals to allow those consulted to be able to give intelligent consideration and an intelligent response. Paragraph 4.13.2 of this document confirms that land at Castelmer Fruit Farm was submitted to the SDNPA after publication of the latest version of the SHLAA in December 2016. This part of the report also claims that the site was subject to a landscape assessment in early 2017 (which considered that the site had “*medium sensitivity due to likely visual impact in the wider landscape*”).
- 3.6 This part of Kingston was assessed in the SDNPA’s ‘Settlement Context Study’ published in 2017 (TLL – 03). This included a map extract showing a ‘Settlement Context Study Sensitivity Analysis: Kingston’ (for convenience, an enlarged extract showing the Castelmer Fruit Farm site and the land at Audiburn is shown below).

Extract from Settlement Context Study Sensitivity Analysis: Kingston



- 3.7 It is striking that not only has the SDNPA failed to carried out any landscape assessment of the Audiburn land prior to deciding to exclude it from the existing development boundary, but also the SDNPA's own Sensitivity Analysis Plan does not show any remarkable landscape or other features affecting the main part of the Audiburn land, including that occupied by the disused riding school development. This is in sharp contrast to the Casteltermer Fruit Farm site, which was assessed as having notable wider biodiversity and landscape character sensitivity.
- 3.8 While Appendix 2 of the Site and Settlements; Route Map for Housing Allocations published in April 2018 (SS – 02) contains a 'Site Allocations Landscape Assessment' for the land at Casteltermer Fruit Farm, this confirms that; the site is potentially exposed in views from the public rights of way to the south and south east (which increases further from Ashcombe Lane as the site extends into open countryside); the site lies immediately adjacent to (and would appear to be partly within) the boundary of an adjacent designated wildlife site of 'Nature Conversation Importance' (a 'Priority Habitat' of Lowland Calcareous Grassland) and it has a 'medium sensitivity' to the landscape impact of new housing development. There are no photographs or other illustrative material to back the SDNPA's rather limited Landscape Impact Assessment and this is in itself, insufficient to justify the allocation of the site set against suitable alternatives such as the allocation of land at Audiburn perhaps in combination with the redundant riding school land, to achieve a site allocation the type envisaged by Mr Thain in his letter to Mr & Mrs Grieves in February 2017 (Appendix 3).
- 3.9 Paragraph 4.13.3 of the 'Route Map for Housing Allocations' makes reference to the site containing an MOT garage in current use. Not only was this existing development proposed to be excluded from the current development boundary in the SDNPA's 2015 Settlement Boundary Review (TSF-03) in forming part of Site 66, but also, this is referred to in paragraph 9.132 of the submission draft version of the Local Plan. As an existing

business use however, it is protected by Policy CP4 (Encouraging Economic Development and Regeneration) of the Lewes District Core Strategy (May 2016), which seeks to resist the loss of land and premises in business and industrial use and would similarly be in conflict with draft Policy SD35 (4) of the Submission Draft Plan. No evidence has been provided to explain why this loss is justified contrary to the requirements of these policies.

- 3.10 In addition, the allocated site includes orchard land contrary to the SDNPA's Settlement Boundary Review 2015 (TSF – 03) at paragraph 16 and in the 2017 Review (TSF – 05) at paragraph 6.4. Clearly, the orchard land makes a positive contribution to the landscape character and setting of the area (see photographs below) and its loss would cause not only visual harm, but also harm to the biodiversity of this site which immediately adjoins (and is partly covered by) the 'Local Nature Conservation' designation the subject of draft Submission Policy SD9 and as shown on the draft proposals Inset Map for Kingston. The 2005 Settlement Boundaries Review: Methodology Paper (TSF-03) states that *"designated wildlife sites and buffers around them should be excluded"* (paragraph 16) and the SDNPA has provided no explanation why the orchard land should now been included as part of a housing allocation.

Photographs of the allocated orchard land in views from Audiburn





- 3.11 Paragraph 9.132 of the Submission draft Plan also states that *“residential development will be sited only in the south western portion of the Castelmer Fruit Farm site, in the area currently occupied by the existing dwelling, in MOT garage, glass houses and a small part of the orchard”*. If the proposed allocation is to be limited in this way, it is difficult to envisage how a net increase of 9 – 11 dwellings could possibly be provided on the site. No illustrative layout plan or development brief has been produced to demonstrate that this site could actually deliver the quantum of development proposed by the site allocation policy.
- 3.12 In addition, the site has other constraints. Paragraph 9.133 of the draft Plan confirms that part of the site is within a flood risk area and as such, any attenuation measures required could further limit the space available for housing development together with *“the southern quarter of the site”* being *“retained as a publically accessible open space”* (paragraph 9.135) as well as potential to provide publically accessible routes through the site (paragraph 9.137) as well as a turning head for service and emergency vehicles.

- 3.13 While the recent Statement of Common Ground agreed between the SDNPA and Devine Homes PLC (SS 11) makes reference to the provision of a footpath link as a public benefit, this already appears to be a public right of way as shown on the extract contained on page 4 of the DMH Stallard representations (in Appendix 1). No proposal has been put forward in relation to the other public right of way shown, which ends abruptly at the northern edge of the Audiburn Farm land.
- 3.14 Also, it would appear that to serve the proposed housing, the existing access route would need to be widened along its length and its junction with Ashcombe Lane improved to secure satisfactory levels of visibility and highway safety. Such changes to the driveway (which is also a public right of way) is likely to result in the loss of a number of mature trees and alterations needed at the existing junction could impact upon the rural character of this part of Kingston, resulting in visual and landscape harm. Unlike the land at Audiburn, the site is also some distance away from existing village facilities such as the school, public house and recreation ground.
- 3.15 This all points to the conclusion that the allocation of this land has not been properly considered or assessed against all suitable alternatives, including the land available within and adjoining the Development Boundary at Audiburn. The Plan should therefore, proceed on the basis of a Main Modification that deletes draft Policy SD77 as an ill-conceived proposal and reinstates the Settlement Boundary around this part of Kingston as currently provided for by the adopted Lewes District Local Plan and shown on Inset Map 14.

4. Summary and Conclusions

- 4.1 In order to be found sound, the submission draft of the South Downs Local Plan needs to have been positively prepared, justified, effective and consistent with national policy (paragraph 182 of the NPPF). Having identified that Kingston is a sustainable settlement that can accommodate 11 (net) additional dwellings during the Plan period, the SDNPA has not properly considered all suitable alternatives for meeting this requirement and the selected proposal to allocate land at Castelmere Fruit Farm, for a net increase of 9 – 11 dwellings is deeply flawed and ill conceived.
- 4.2 The initial Settlement Boundary Review in 2015 (TSF – 03) did not consider the need to accommodate 11 additional dwellings in assessing the existing Development Boundary limits as shown on Inset Map 14 of the currently adopted Local Plan. Based upon no substantial evidence and a flawed site assessment and no consideration of the land's planning history (which includes extant consent for the storage of 20 caravans), the decision to remove the existing large residential plot of land at Audiburn from the Development Boundary rules out any potential for housing development to help meet the housing requirement identified.
- 4.3 Indeed, the potential for this land accommodating additional housing together with the adjoining disused riding school development has simply not been considered or assessed, even in a more recent Settlement Boundary review published in September 2017 (TSF – 05). While the SDNPA has made a late attempt to seek to justify the Castelmere Fruit Farm allocations in the 'Site and Settlement: Route Map for Housing Allocations' published only recently in April 2018 (SS – 02), the assessment of potentially suitable alternatives did not include any review of the land that the SDNPA proposed to remove from the Development/Settlement Boundary in its 2015 boundary review, nor did it include any omission site at Audiburn the subject of the representations submitted in November 2017. This flawed process has clearly **not** 'left any

stone unturned’ as claimed in paragraph 2.4 of the December 2016 SHLAA (TSF – 10).

- 4.4 The proposed allocation at Castelmer Fruit Farm includes part of (and has potential consequences for) a designated ‘Local Nature Conservation Site’, and would result in the loss of employment use contrary to both existing and proposed employment policies and, in addition to potential visual impact and access concerns, there is no evidence that a net increase of 9 – 11 dwellings can actually be achieved on the site given its physical constraints and the draft policy requirements.
- 4.5 The SDNPA procedure for identifying this site is also flawed in that no evidence about the background to its allocation was published at the time the Submission draft version of the Plan was the subject of public consultation between September and November 2017. This assessment has only been belatedly published in April 2018 and even then, this is flawed by not also considering all potentially suitable alternative sites. A proposal that contains assertions of fact not supported by evidence is unsound.
- 4.6 The SDNPA’s late (April 2018) Site and Settlement: Route Map for Housing (SS 02) had an opportunity to review the potential of the Audiburn land given the previous approach made to the landowners by the SDNPA in February 2017 and following the submission of their formal representations in November 2017 (that also referred to the availability of SHLAA site LE007 at Jake’s Acre), but the SDPA failed to do so.
- 4.7 In order for the Plan to be found sound, the proposed housing allocation at Castelmer Fruit Farm (draft Policy SD77) should therefore, be deleted and the Development Boundary reinstated to include Audiburn as shown on Inset Map 14 of the adopted Local Plan. As also supported by Kingston Parish Council, this would then provide the potential for Audiburn to be redeveloped to deliver additional housing in a sustainable and more central location than

the land at Castelmer Fruit Farm and in an area that was previously judged as being within the established limits of the village, at the time it was washed over by the former SDAONB designation.

- 4.8 Indeed, it is clear from the approach made by the SDNPA to the owners of the land in February 2017, that the land at Audiburn was considered as being potentially suitable for 15 dwellings, but was not subsequently progressed by the Authority (or assessed as a suitable alternative to the Castelmer Fruit Farm site) simply because of the Local Plan timescale consideration. It has also emerged that the Authority has no record of any notes or drawing showing such a potential allocation, which further casts doubt over the soundness of the procedure adopted for the identification and assessment of alternative housing sites in Kingston.
- 4.9 If additional housing land is still needed to make up any shortfall in the housing requirement, then the redundant riding school development adjoining the existing development boundary at Audiburn (and within the same ownership) provides a suitable new use of a disused brownfield site. This could also be achieved as a Main Modification to the Development Boundary. SHLAA site LE007 in the ownership of Mr & Mrs Grieves should also be reviewed as to its potential to accommodate housing development.
- 4.10 For these reasons, the housing and settlement boundary review proposals at Kingston have not been positively prepared and are unjustified and ineffective. As a consequence, the proposals are not in accordance with national policy. In order to be found sound, draft Policy SD77 should be deleted and the Settlement Boundary around Audiburn should be reinstated with a possible extension to include the adjoining previously developed (and now redundant) commercial riding stable land.

South Downs National Park Authority
South Downs Centre
North Street
Midhurst
West Sussex
GU29 9DH

Your Ref

Our Ref
MXC/165278.0003
Date
6 November 2017

By Email planningpolicy@southdowns.gov.uk

Dear Sirs

Pre-submission South Downs Local Plan: Strategic Policies SD25 and SD26 and Allocation Policy SD77

These comments are submitted in response to the consultation on the Pre-Submission Local Plan launched by the South Downs National Park Authority (the **Authority**) in September 2017.

We act for Mr and Mrs Grieves, the registered proprietors of land at Audiburn Farm, Ashcombe Lane, Kingston near Lewes, East Sussex BN7 3JZ, shown edged red on Plan 1 enclosed ('the **Property**'). The Property comprises a farmhouse, agricultural land and associated buildings. For a number of years, the Property was run as riding stables and was also the site of a caravan touring park and caravan storage facility. Part of the Property is currently let to tenants and run as riding stables. The commercial use of the Property is therefore well established.

The Property is located within the South Downs National Park (the '**SDNP**') and is affected by proposals in the Authority's Pre-Submission Local Plan. The Pre-Submission Local Plan follows the Preferred Options Report, which was published in September 2015.

Our clients' comments relate primarily to Strategic Policy SD25: Development Strategy, Strategic Policy SD26: Supply of Homes and Allocation Policy SD77: Castelmere Fruit Farm, Kingston near Lewes of the Pre-Submission Local Plan, and more specifically to settlement boundary changes made by the Authority to accommodate Allocation Policy SD77.

The core of our clients' comments is that the pre-submission Local Plan, in so far as it relates to Allocation Policy SD77, is unjustified in that does not represent the most appropriate strategy against all reasonable alternatives, is ineffective because it amounts to an undeliverable policy and also fails to meet relevant procedural requirements.

Strategic Policy SD25: Development Strategy and Strategic Policy SD26: Supply of Homes

As you will know, proposed Strategic Policy SD25 is a key strategic policy providing the framework for guiding development across the SDNP. It states that the principle of development on land located within settlement boundaries designated in the Local Plan will be supported by the Authority provided that

certain conditions are met. One of the settlements designated by the Authority in the Pre-Submission Local Plan is Kingston near Lewes.

Proposed Strategic Policy SD26 sets out the housing provision required for each settlement designated by Strategic Policy SD25 in order to meet housing need throughout the SDNP. Of the 4,750 net additional homes sought over the 19 year period between 2014 and 2033, 11 are proposed to be located within the settlement of Kingston near Lewes.

Lewes District Local Plan 2003

Part of the Property is currently located within the settlement boundary designated by the Lewes District Local Plan 2003, illustrated by a staggered green line on Plan 2 (the '**existing settlement boundary**'). However, the effect of changes proposed by the Authority, first in the Preferred Options Report published in September 2015 and now in the Pre-Submission Local Plan, is to implement changes to the alignment of the existing settlement boundary. One of these changes is to exclude the whole of the Property from the new settlement boundary for Kingston near Lewes.

Settlement boundaries

In parallel with the development of its Local Plan, we note that the Authority undertook a review of settlement boundaries with the aim of developing a consistent methodology for the designation of settlement boundaries across the whole of the SDNP. We have considered the results of this review as contained within the Settlement Boundary Review: Methodology Paper (the '**Methodology Paper**'), which accompanied the 2015 submissions.

Changes to the proposed location of the new settlement boundary for Kingston near Lewes have taken place in two phases. The Authority put forward its initial proposals to revise the existing settlement boundary in the Preferred Options Report (Phase 1), which were the subject of further revision in the Pre-Submission Local Plan (Phase 2). The proposed location of the settlement boundary at the Preferred Options Report stage is shown on Plan 2 and at the Pre-Submission Local Plan stage is shown on Plan 3. In particular, the changes to the proposed settlement boundary from Phase 1 to Phase 2 have significant implications for our clients.

Phase 1 - South Down's Local Plan: Preferred Options report (September 2015)

As well as excluding the whole of the Property from the new settlement boundary, the Preferred Options Report proposed further changes to the existing settlement boundary in the vicinity of the Property. The full extent of the changes are shown on the enclosed Plan 4, which accompanied the Methodology Paper as part of the September 2015 submissions. The part of the Property and neighbouring land to the north-west of the Property excluded from the new settlement boundary are numbered sixty-six on Plan 4. Our clients, who purchased the Property at the end of 2015, did not have the opportunity to make representations to the Authority at this time.

The Authority's rationale for redrawing existing settlement boundaries is set out at Appendix 1 of the Methodology Paper. The relevant entry reads as follows:

Kingston-near-Lewes

<i>Nature of proposed change</i>	<i>Reference no.</i>	<i>Location</i>	<i>Reason</i>
Reduce	66	Meadow Way, Audiburn, lawn in front of riding stables, Castlemer Fruit Farm	Exclude houses in large plots, set back from the road, from boundary. Exclude lawn ancillary to building lying outside boundary. Exclude agricultural buildings.

The reasoning for the Authority's proposed changes to the existing settlement boundary follow from the principles stated in paragraphs 15 to 31 of the Methodology Paper.

For example, the exclusion of houses in large plots, which includes the farmhouse located on the Property, is guided by paragraph 27, which states that where houses in large plots occur at the edge of a settlement, their exclusion will protect vegetation in the garden which is likely to dominate views into the plot from the public domain. This reasoning is misguided. The exclusion of the farmhouse from the settlement boundary will not protect views into a garden at all. The area of land surrounding the farmhouse was for many years prior to its purchase by our clients, the site of a caravan park. The land is no longer used for this purpose but is covered with concrete hardstanding and cannot reasonably be considered as a garden that provides visual amenity to the village.

Even if there was visual amenity to protect in this location, this does not explain why the Authority sought to approach our clients in early 2017 with a view to allocating the land for affordable housing if it considered that there were views worthy of protection. Nor does it explain why the land at Castlemer Fruit Farm, which was also deemed to be a view to protect in 2015, was then considered a suitable site for housing allocation in the preparation of the Pre-Submission Local Plan. For those reasons, the Local Plan falls short of providing a consistent and reasoned methodology and is therefore procedurally flawed.

Though not expressly mentioned in the Methodology Paper, the Authority's proposal also excluded a group of trees from the proposed settlement boundary, situated to the north and north-west of the farmhouse on the adjoining Castlemer Fruit Farm (shown on Plan 4). These trees are currently located within the existing settlement boundary. Crucially, these trees serve to screen views into the Property from the principal residential areas to the north and west of the Property but not from the north east, which is in any event largely comprised of woodland and open countryside and which afford very pleasing views from the Property.

Pre-Submission Local Plan and Allocation Policy SD77 (September 2017)

The Pre-Submission Local Plan proposes further changes to the new settlement boundary for Kingston near Lewes to that proposed in the Preferred Options Report. These include changes to the settlement

boundary immediately to the north-west of the Property, which appear to have been made in order to accommodate 'Allocation Policy SD77: Castelmer Fruit Farm, Kingston near Lewes' within the Local Plan.

Allocation Policy SD77 did not appear in the Preferred Options Report. It is a new policy introduced by the Pre-Submission Local Plan and comprises an area of approximately 0.72ha shown edged red on the enclosed Plan 5 (the 'Site'). The Site is allocated in the Pre-Submission Local Plan for the development of 10 to 12 residential dwellings (class C3 use). The Policy summarises the specific requirements that the Site must meet, including the provision of safe vehicular and pedestrian access and egress and an internal road layout suitable for larger vehicles including refuse vehicles.

Allocation Policy SD77 constitutes a significant departure from the Preferred Options Report. Its inclusion means that the settlement boundary is extended so that the Property now shares a common boundary approximately 100 metres in length with neighbouring land to the north west allocated for what is, in the context of the current use of the land, a substantial residential development.

If implemented, Allocation Policy SD77 will have a significant detrimental impact upon the peaceful and visual amenity currently enjoyed by the Property. The development would dominate views to the north and north east of the property, obstructing those enjoyed at present over nearby woodland and the countryside beyond. This is the first time that our clients, or indeed any local stakeholders, have had the opportunity to comment upon the suitability of Allocation Policy SD77. To include such a significant policy so late in the process, following so little engagement, is clearly unsatisfactory.

It is our view, for the reasons explained below, that the Authority's proposals are entirely inappropriate in planning terms.

Our clients' comments on the pre-submission Local Plan

The inclusion of Allocation Policy SD77 within the Pre-Submission Local Plan raises a number of issues.

First, the changes to the proposed settlement boundary made to accommodate Allocation Policy SD77 plainly run contrary to the principles stated in the Methodology Paper, which requires decisions relating to settlement boundaries to "*be made consistently based upon this methodology and on all the available evidence.*" The agricultural buildings located on neighbouring land to the north west of the Property, which currently stand on the edge of the existing settlement boundary, were excluded from the new settlement boundary in the Preferred Options Report on the grounds that they "*relate more to the rural context*". This was consistent with the methodology and correct. These buildings are now included in the new settlement boundary together with a swathe of additional land previously excluded from the settlement boundary, which plainly undermines the rationale for their exclusion in the first place, namely to protect visual and rural amenity.

We note that, at the Preferred Options Report stage, the maps prepared as part of the settlement boundary review did not take into account any proposed site allocations. However, we consider that the Authority is now so advanced in the process of adopting the Local Plan that it would be inappropriate to depart from the agreed methodology at this stage. The stated purpose of preparing the methodology was to provide certainty to those living in and in the vicinity of settlements as to the location of the new

settlement boundary and whether their properties would be included or not. By departing from the methodology now, that objective is undermined.

In addition, at the time of preparing the Preferred Options Report, the Authority knew that a suitable location for 11 new properties would need to be identified within the Kingston near Lewes settlement. It should therefore have been clear to the Authority that by excluding land from the new settlement boundary, and thereby reducing the scope of the existing settlement boundary, that it was limiting its options to identify land for housing allocation. In fact, of the nine changes to the existing settlement boundary for Kingston near Lewes made at the Preferred Options Stage, only two of these had the effect of expanding the existing settlement boundary in any given location.

The correct approach would have been to identify land for new development within the existing settlement boundary and only then, once all potential avenues were exhausted, undertake a wider review of settlement boundaries. This would have reflected more closely the reality, which is that the Authority is required to identify suitable sites for housing allocation first and foremost and will revise settlement boundaries if it needs to in order to accommodate new housing allocation.

By proceeding on this basis, the Authority would have seen at a much earlier stage that there is in principle sufficient land within the limits of the existing settlement boundary to accommodate the amount of development envisaged for Allocation Policy SD77, comprising the part of the Property and the neighbouring land to the north West of the Property numbered 66 on Plan 4. As noted above, great emphasis was placed on protecting visual amenity in this location, when in fact much of the land which was excluded from the proposed settlement boundary is or has previously been put to commercial use and so there were little, if any, views to protect at all.

Extending the settlement boundary eastwards has served only to push land of scant visual amenity further into the National Park, whilst bringing into the settlement land which is in reality of far greater visual amenity to the village. Again, this clearly shows that the Local Plan fails to apply a consistent and reasoned methodology, and demonstrates that there were procedural flaws in identifying a suitable site. Reverting to the existing settlement boundary would also have provided greater certainty to those implicated by the earlier changes that the boundary would not be revised further. Instead, the location selected results in a more sprawling settlement, by expanding the existing settlement boundary out to the east of the settlement.

For those reasons, our clients wish to discuss alternatives to the proposed location of Allocation Policy SD77 with the Authority, principally (but not, as noted below, solely) the option to revert to the existing settlement boundary, an option which in our view is far more appropriate in planning terms.

These comments feed into a second closely related issue, namely the alternatives (if any) which were explored to Allocation Policy SD77 in its present location. A number of sites were considered for Kingston near Lewes within the Strategic Housing Land Availability Assessment undertaken in 2016 (the '**Availability Assessment**'). Of these, a site was identified with potential for development, namely location LE014 shown edged green on Plan 6 enclosed. However, there is no mention of this site in the pre-submission Local Plan, nor is any explanation provided as to why it was not taken forward. Instead, the only policy brought forward for Kingston near Lewes is Allocation Policy SD77, which did not itself form part of the Availability Assessment.

It is not clear therefore what considerations informed the decision to bring forward Allocation Policy SD77 in its current location when it was not considered to be suitable at the time of undertaking the Availability Assessment. Nor is it clear whether any further alternatives to Allocation Policy SD77 were considered over and above those considered in the Availability Assessment. Consultation must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response (*R v North and East Devon Health Authority, ex parte Coughlan* [2001] 2 QB 213). By failing to explain why Allocation Policy SD77 is the preferred option against any reasonable alternatives, if any alternatives were considered at all, the consultation falls short of this standard.

An analysis of reasonable alternatives is all the more relevant in the context of development within a National Park. Section 7B, Paragraph 7.18 of the pre-submission Local Plan expressly acknowledges that “... *the provision of housing should not be at the expense of a nationally protected landscape. The [National Planning Policy Framework] cites national parks as areas where development should be restricted and objectively assessed need not met.*” There is an acknowledgment, therefore, that development should not proceed at all costs. In practice, this means that the decision to expand the existing settlement boundary to accommodate Allocation Policy SD77 should be supported by robust evidence, including the reasons why Allocation Policy SD77 could not be accommodated within the limits of the existing settlement boundary, either in the vicinity of the Property or elsewhere within the Kingston near Lewes settlement.

The Authority should also have revisited those sites that were identified but rejected in the Availability Assessment, as part of the process of identifying land for housing allocation in 2017. Over a two year period, it is entirely possible that proposals which were once rejected might subsequently be perfectly viable. For example, Site LE007 (shown edged red on Plan 6), was rejected in the Availability Assessment because it was not considered suitable to yield 5 or more additional homes. However, in the intervening period, our clients have purchased the land comprised in Site LE007, which itself forms part of a much larger holding. This, together with the additional land within the holding, now has the potential to comfortably accommodate 10 to 12 additional homes. Part of this land is already used for commercial purposes and so extending the existing settlement boundary to accommodate additional housing would not give rise to an unacceptable extension of the existing settlement boundary in planning terms. Our clients would be happy to discuss the viability of this site for development in addition to the Property, as noted above.

Our view is that the decision to select the location proposed for Allocation Policy SD77 was therefore entirely arbitrary. Our clients are in fact aware that Kingston Parish Council, who we understand are to comment separately as part of the consultation, have serious reservations about the proposed location of Allocation Policy SD77 and in fact only became aware of the proposal upon publication of the pre-submission Local Plan. The Council has noted in particular that the proposed site entrance meets a busy and dangerous junction and will therefore present a significant risk to road users, an issue which could itself present an insurmountable barrier to the scheme once detailed proposals are put forward. In this respect, the Authority has put forward a policy which is both ineffective, as there must be very serious doubts as to whether it is deliverable at all, and unjustified, because it fails to demonstrate that it is the most appropriate strategy against all reasonable alternatives.

Finally, it is not clear that the Methodology Paper gives any weight to the impact of settlement boundary changes upon neighbouring landowners. It certainly does not form part of the Sustainability Assessment. We believe that it should do so. It will or ought to have been apparent to the Authority

that Allocation Policy SD77 would have a significant detrimental effect upon the quiet and visual amenity of the Property and indeed neighbouring property in the vicinity. It is also our view that a change of this nature, which was not referenced either in the Preferred Options Report or the Availability Assessment, should only have been implemented following targeted consultation with affected landowners, including our clients.

Whilst the Authority sought to approach our clients in early 2017 with a view to allocating some of their land for housing, there was no further contact relating specifically to the site which was ultimately chosen or as to any alternatives explored. Moreover, our clients specifically informed the Authority that it had only received notification of the Authority's approach in September of this year and so was not aware that it had the opportunity to put its proposals to the Authority before a decision to take Allocation Policy SD77 forward in its present location was made. This amounts to a significant procedural defect.

Conclusions

Our clients therefore consider that:

- (1) by accommodating Allocation Policy SD 77 in the location proposed, the Authority has failed to give effect to its methodology for the designation of settlement boundaries within the SDNP and so the policy is procedurally flawed;
- (2) the Pre-Submission Local Plan fails to explain what, if any, alternatives to Allocation Policy SD77 were explored over and above those which were not taken forward from the Availability Assessment undertaken in 2016 and so the policy is unjustified on the basis that no case is established that it is the most appropriate strategy against all reasonable alternatives;
- (3) the Pre-Submission Local Plan fails to explain why Allocation Policy SD77 was not explored as a viable opportunity as part of the Availability Assessment undertaken in 2016 but has now been brought forward in the Pre-Submission Local Plan. Our clients consider that there are significant barriers to delivering the policy, not least because of the concerns it raises in relation to highway safety, and so the policy is very likely to be ineffective;
- (4) the Pre-Submission Local Plan fails to explain why adopting the existing settlement boundary was not considered an alternative to accommodate Allocation Policy SD77, particularly as the latter involves an unsatisfactory protrusion of the settlement boundary to the east of the settlement, nor as to why alternatives previously rejected were not reconsidered in the light of any new evidence. This was a procedural flaw which led to the identification of an inappropriate strategy against reasonable alternatives; and
- (5) the Sustainability Assessment undertaken in relation to Allocation Policy SD77 fails to take account of the impact of the policy on or views of neighbouring landowners.

In addition to receipt of the Authority's responses to all of the above points, our clients now wish to discuss alternatives to the proposed location of Allocation Policy SD77 with the Authority as soon as possible.

Please may we hear from you as a matter of urgency to discuss these issues and please in any event acknowledge receipt of this letter by return. An email will suffice. Please also note that this letter amounts to our clients' formal representations pursuant to the consultation process and so should be considered accordingly. However, irrespective, our clients wish to meet with you as a matter of priority.

Yours faithfully



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E markchallis@bdb-law.co.uk

enc

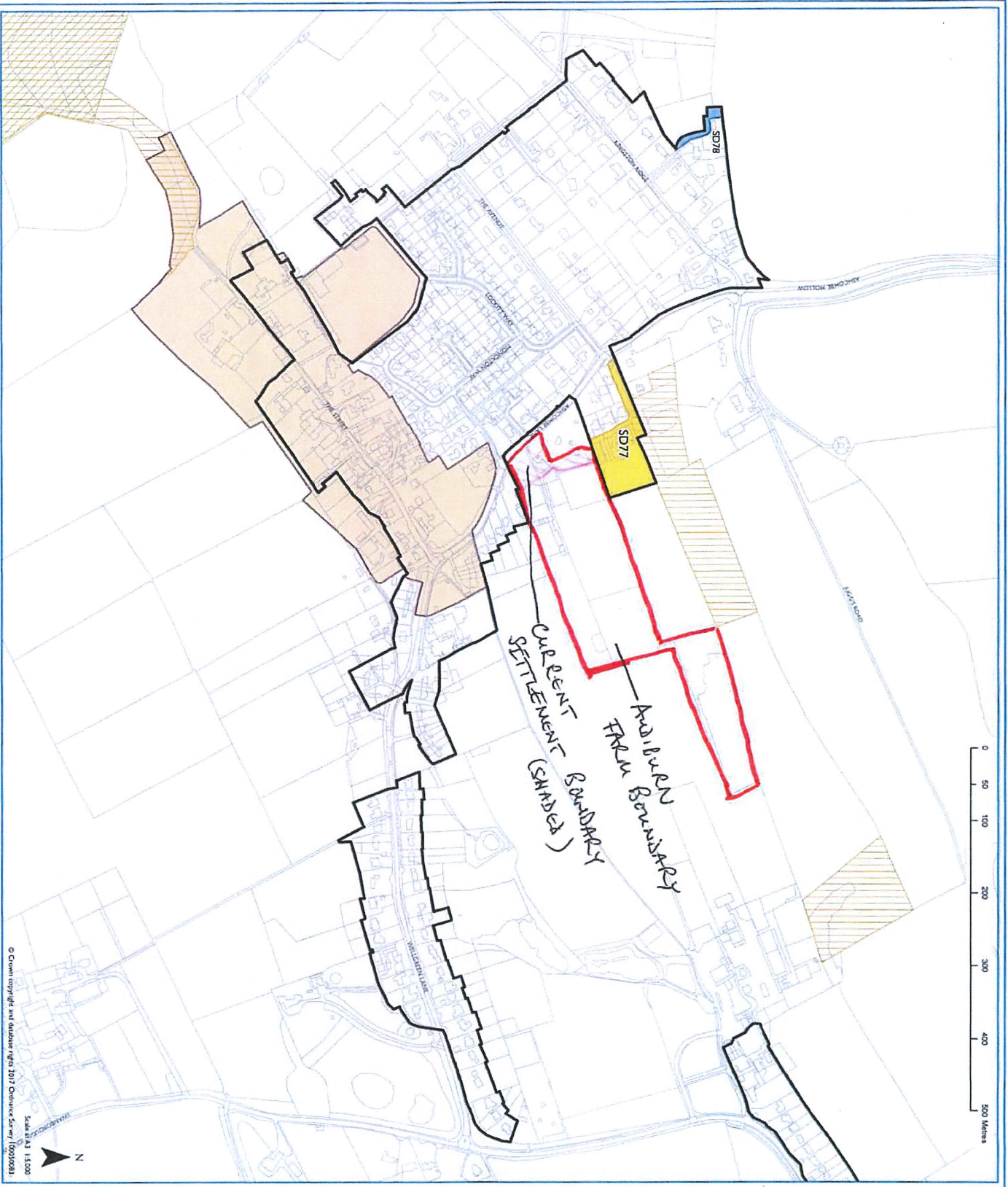


South Downs Pre-submission
Local Plan:
Kingston near Lewes

- Settlement Boundary SD25
- Housing Allocation
- Gypsy & Traveller Site Allocation
- Conservation Area SD15
- International Nature Conservation Designation SD9 (where present)
- National Nature Conservation Designation SD9 (where present)
- Local Nature Conservation Designation SD9 (where present)

Map Notes:

Scale 1:25,000
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Plan 2

Kingston Near Lewes



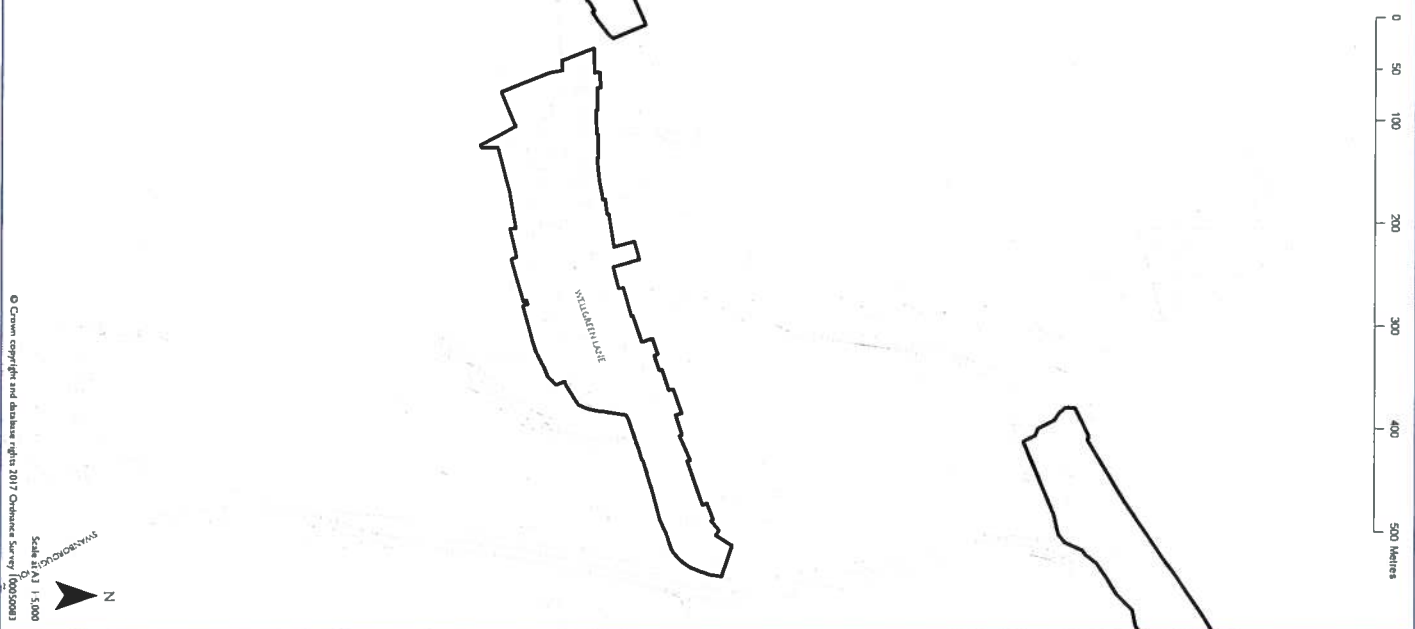


**South Downs Pre-submission
Local Plan:**
Kingston near Lewes

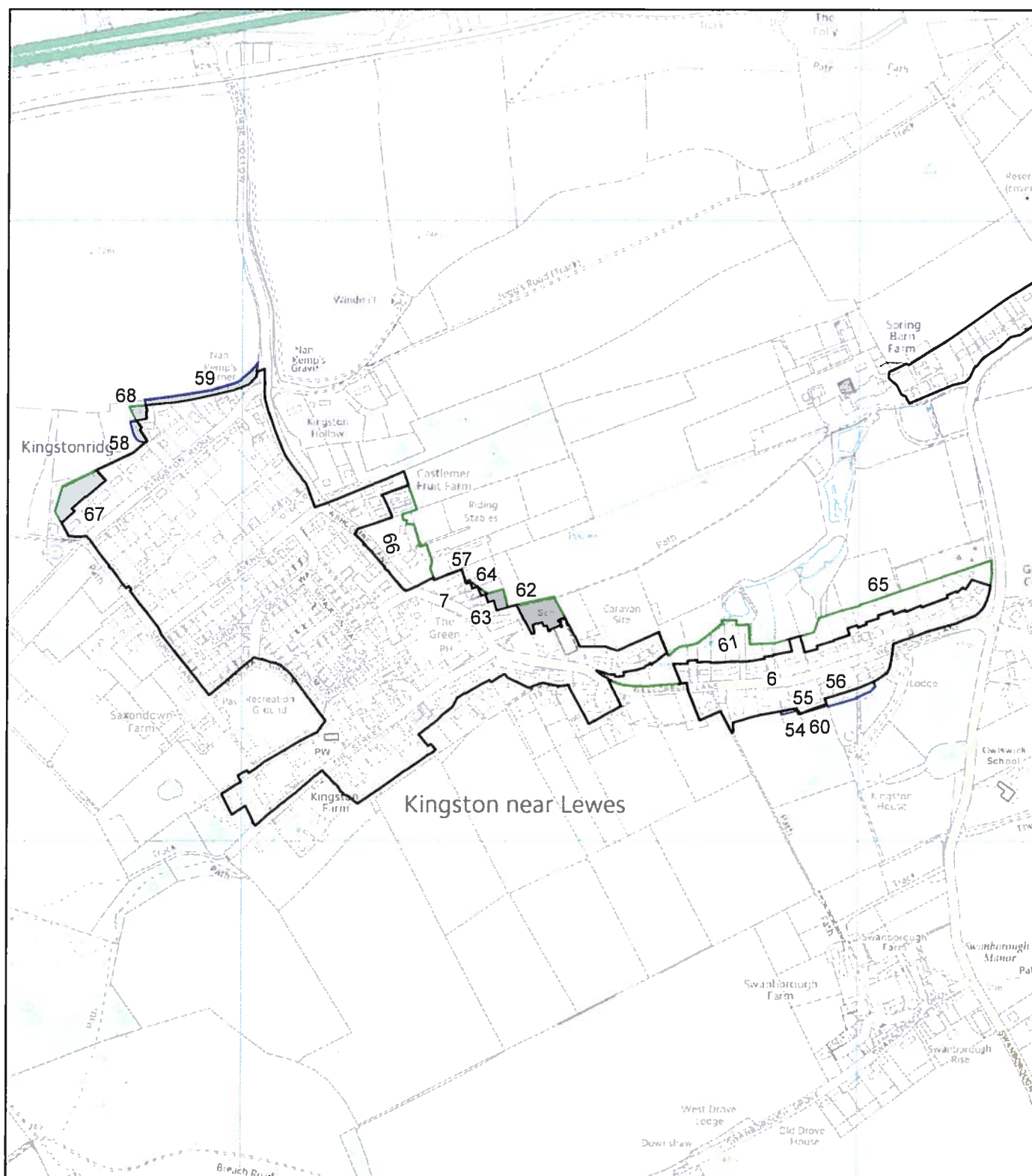
- Settlement Boundary SD25
- Housing Allocation
- Gypsy & Traveller Site Allocation
- Conservation Area SD15
- International Nature Conservation Designation SD9 (where present)
- National Nature Conservation Designation SD9 (where present)
- Local Nature Conservation Designation SD9 (where present)

Map Notes:

**SOUTH DOWNS
NATIONAL PARK**



Kingston Near Lewes



- No Change
- Potential Contraction
- Potential Extension

Scale @ A4 1:8,770

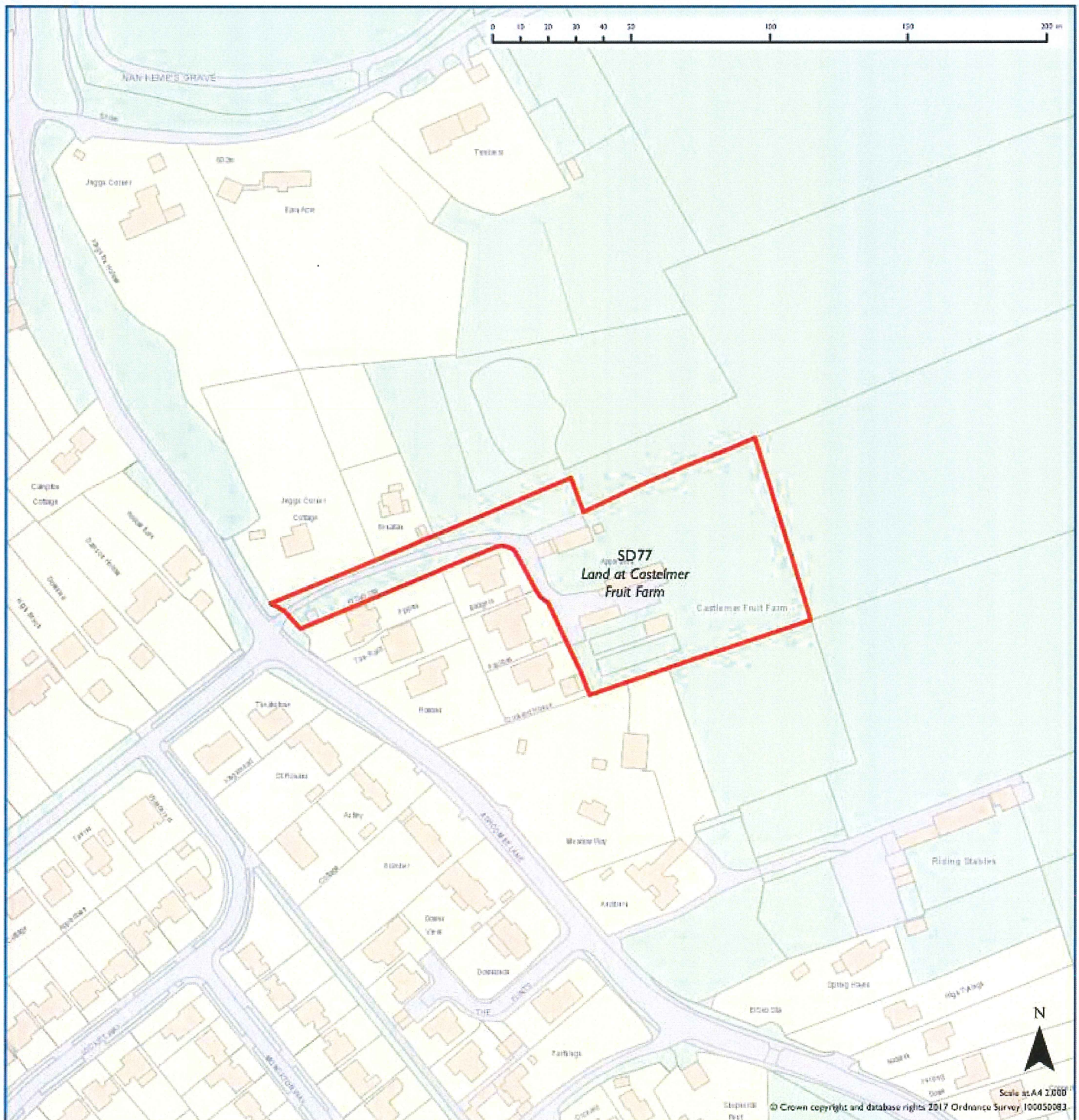
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Site Ref: SD77

**Land at Castelmer Fruit Farm
Kingston near Lewes**



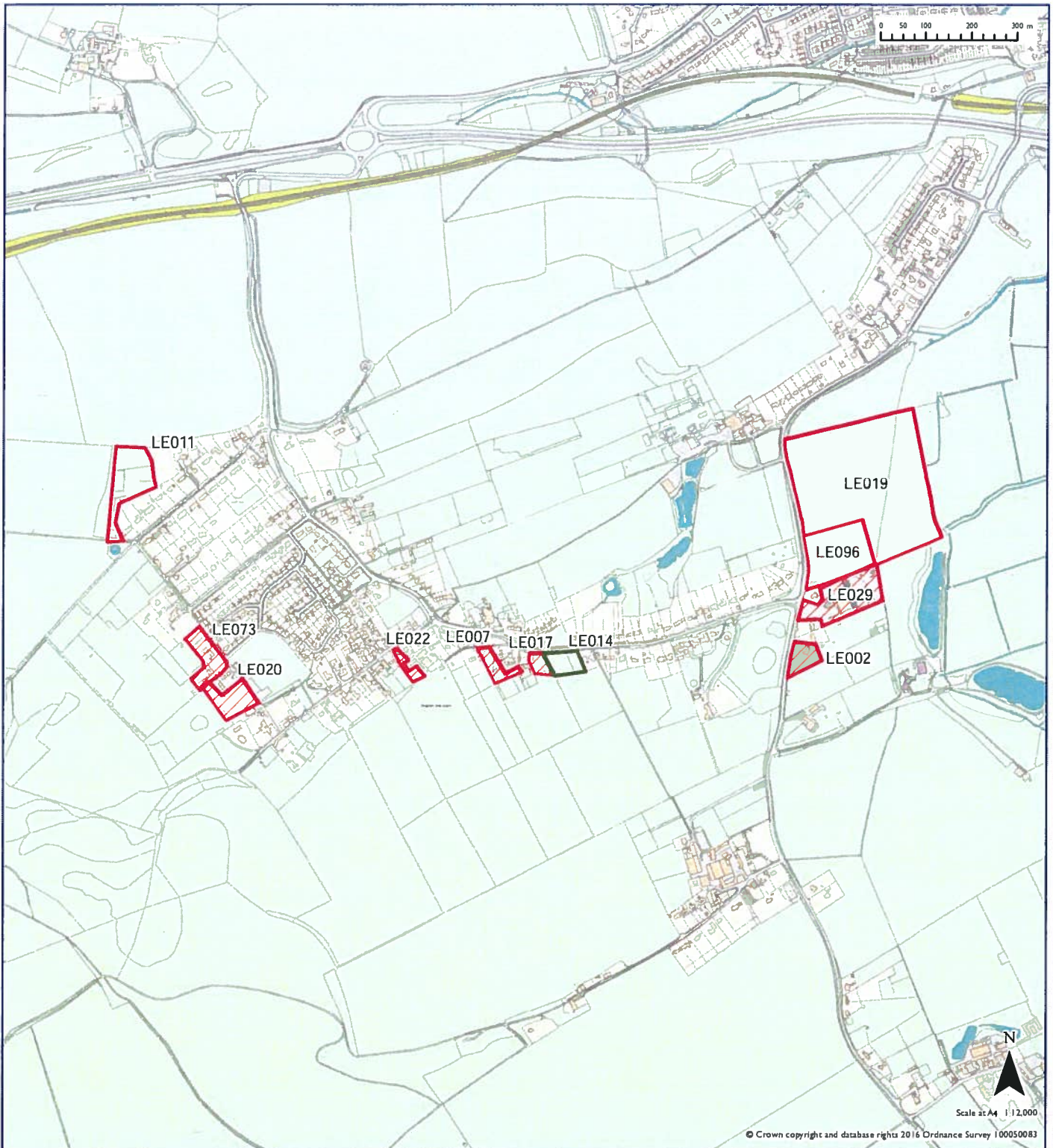
 SDNPA Pre-submission Housing Allocation



Strategic Housing Land Availability Assessment
Settlement: Kingston near Lewes

2016 Recommendation

-  Has Potential
-  Excluded
-  Rejected



Lewes District Council

TOWN AND COUNTRY PLANNING ACT 1990 TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER 1988

NOTICE OF PLANNING PERMISSION

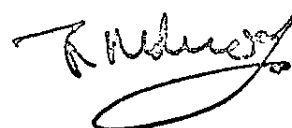
<i>Decision Class</i>	<i>Parish</i>	<i>Application No.</i>
	KINGSTON	LW/93/0906F
<i>Site Location</i> Audiburn Farm		
<i>Proposal</i> Renewal of temporary permission LW/90/747 for the continued use of land and the use of additional land for the storage of 20 caravans on a permanent basis		
<i>Applicant</i> Mrs J H Halse Audiburn Farm Kingston Nr Lewes East Sussex BN7 3JZ		

With reference to the proposals for the development of land set out in the above numbered application and shown on the plans submitted therewith, the Lewes District Council, in exercise of its powers under the Town and Country Planning Act 1990 and the Town and Country Planning General Development Order 1988, hereby **GRANT PERMISSION FOR THE DEVELOPMENT IN ACCORDANCE WITH THE SAID PROPOSALS, (SUBJECT TO DUE COMPLIANCE WITH THE CONDITIONS ATTACHED, IMPOSED FOR THE REASONS STATED THEREUNDER).**

By virtue of Section 91 of the Town and Country Planning Act 1990, the development to which this permission relates shall be begun not later than the expiration of **FIVE YEARS** beginning with the date on which this permission is granted.

Permission is granted subject to due compliance with The Building Regulations and general statutory provisions in force in the area and nothing herein shall be regarded as dispensing with such compliance and shall not be taken as granting any licence or approval for any other purpose whatsoever.

Copies of the application and plan(s) are returned herewith.



Director of Planning
and Technical Services

Date

- 8 OCT 1993

JAMES REDWOOD, BSc., M.Sc., DipTP., MRTPI.,
Director of Planning and
Technical Services
Lewes House
32 High Street
Lewes BN7 2LX
Tel: Lewes (0273) 471600

Please read the notes attached

SCHEDULE OF CONDITIONS AND REASONS RELATING TO

Application No. LW/93/0906F

1. At no time shall any more than 20 caravans be stored on the site.

Reason - A more intensive use of the site would adversely affect the character and appearance of the Area of Outstanding Natural Beauty.

2. This permission shall enure for the storage of unoccupied caravans only and at no time shall any of the caravans stored on the site be occupied.

Reason - A more intensive use of the site would be detrimental to the amenity and character of the area.

3. A landscaping scheme for the eastern boundary of the site shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the date of planning permission being granted. Such approved scheme to be carried out and completed within 6 months of planning permission being granted or such longer period as may be agreed in writing by the Local Planning Authority.

Reason - To ensure a landscaping scheme is implemented in order to protect and enhance the appearance and character of the site and to screen the development from the adjoining countryside.

4. The landscaping scheme submitted in compliance with the requirements of Condition 3 above shall comprise a contoured plan to a minimum scale of 1:500 showing the existing features to be retained, new features proposed and the treatment thereof. The features to be shown shall include:-

- i) All trees, shrubs, hedges or other planting, including grassed areas.
- ii) In relation to all trees, the position of trunks or stems, and the spread is to be shown to scale and the species indicated.
- iii) The measures to be taken to protect existing trees, shrubs and hedges on the site.

5. In the event of the death or destruction of any tree, shrub or hedge to which Condition 4 above relates, within 5 years, due to felling, cutting down, uprooting or in any other manner, then unless the Local Planning Authority have dispensed in writing with this requirement there shall be replanted in its place, within such period and of such size and species as shall have been approved by the Local Planning Authority, another tree, shrub or hedge.

Reason - To enhance the general appearance of the development.

22 February 2017

Mr T Grieves and Mrs C Grieves
Audiburn Farm
Ashcombe Lane
Kingston near Lewes
East Sussex
BN7 3JZ

Dear Mr & Mrs Grieves

South Downs Local Plan

As you may be aware the South Downs National Park Authority (SDNPA) are working towards adopting a new Local Plan which will guide the development of the South Downs for the next fifteen years. The SDNPA currently anticipate adopting the Local Plan in 2018.

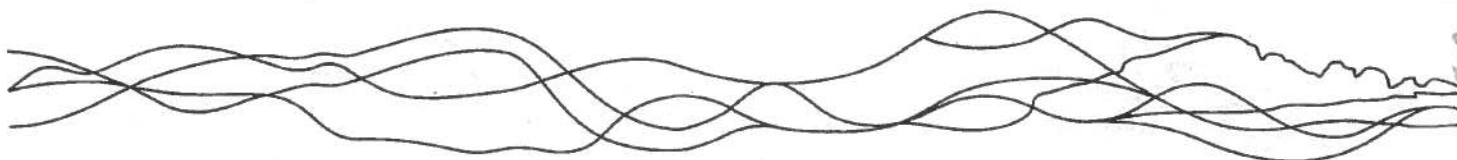
The Local Plan will include a number of sites where the SDNPA considers new housing development is acceptable in principle. These prospective Local Plan housing sites will be in both towns and villages.

As such, in order to ensure that the South Downs has sufficient housing sites the SDNPA is actively looking for sites suitable for housing in larger villages including Kingston near Lewes. However, as yet we have not found a suitable site in Kingston which is demonstrably available for future development. Our initial view is that development opportunities in Kingston would appear to be limited.

We note that you appear to own a sizeable area of land which fronts onto Ashcombe Lane and includes open fields or paddocks immediately to the east. Essentially, we would like to discuss with you both the possibility of bringing forward a small residential development of up to 15 new dwellings through a Local Plan housing allocation. Only a modest proportion of your land would be needed for housing and we would seek to retain any existing uses of the remainder wherever possible.

I would be very grateful if you could confirm via email or letter whether or not this is something that may interest you.

If this it does interest you we would be very willing to meet with you in Kingston or another suitable location in East Sussex to discuss our work further and how the site could be bought forward for future housing development. We would not expect you to undertake any work or research before meeting.



If you would like to discuss further before meeting please feel free to contact me. Email would be best in the first instance as I am often away from my desk.

Yours faithfully

Robert Thain

Robert Thain
Planning Policy Lead
Rob.thain@southdowns.gov.uk
01730 819263

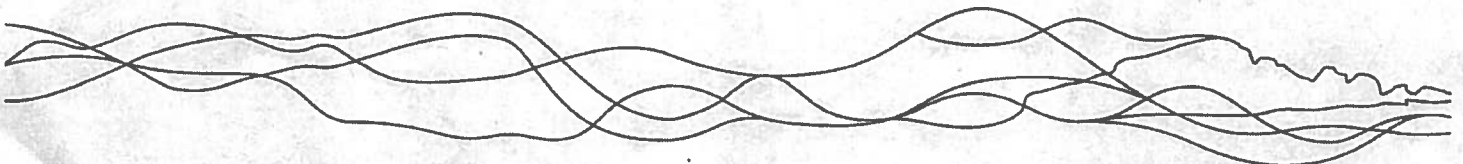
01730 819 263

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Chief Executive: Trevor Beattie



Cc: "bankssolutionsuk@gmail.com" <bankssolutionsuk@gmail.com>, Matthew Bates
<Matthew.Bates@southdowns.gov.uk>

Dear Ceetah,

My colleague Matt Bates has asked me to send you any substantive information we have on the Castlemer Fruit Farm site (Local Plan Policy SD77) for you to review.

I have provided links to documents on our webpage that are relevant to the Castlemer Site allocation and have also attached other documents which may be of interest.

- [The Sites and Settlements: Route Map for Housing Allocations Background Paper](#) sets out how potential housing allocation sites were considered during the preparation of the emerging South Downs Local Plan (SDLP). It explains the process we have undertaken in assessing sites for housing and progressing the most suitable through to their allocation as set out in the South Downs Local Plan Pre-Submission (Regulation 19) September 2017;
- [Sites and Settlement Background Paper](#) outlines the basis upon which Allocation Sites Policies SD58 to SD96 of the Pre-Submission South Downs Local Plan have been formulated;
- [Site Allocations Highways Assessment by Hampshire Services](#)– This provides highways advice for a number of the site allocations including SD77, Castlemer Fruit Farm
- [Site Allocations Highways Assessment update](#)

You may also be interested in the representations that we have received during the Pre-submission consultation in relation to SD77. These can be found [here](#).

I have also attached a summary document which summarises the main issues arising from these representation on SD77, together with the landscape assessment of the site provided by our Landscape Officer and also the initial Desktop constraints form.

Finally, in you in your email you say it would be very useful to understand the area of land that the SDNPA considered when first contacting you and whether we could indicate this on a map. I have spoken to colleagues and it is their understanding that in the early stages of engagement, SDNPA officers looked at the general suitability of the site from the road and were not guided by any boundaries on a map or specific site area at that time.

I hope the above information and attached documents are of some help in understanding the process and methodology that brought the SDNP to their decision to allocate Castlemer Fruit Farm.

Kind regards,

Alma

Alma Howell

Neighbourhood and Planning Policy Officer

South Downs National Park Authority

Tel: 01730 819309/ Mobile: 07866 961455

South Downs Centre, North Street, Midhurst, West Sussex, GU29 9DH

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From: Matthew Bates <Matthew.Bates@southdowns.gov.uk>
Subject: RE: Audiburn Farm
Date: 4 June 2018 at 15:57:05 BST
To: 'Ceetah Grieves' <[REDACTED]>
Cc: Alma Howell <Alma.Howell@southdowns.gov.uk>, "bankssolutionsuk@gmail.com" <bankssolutionsuk@gmail.com>

Dear Ceetah

Thank you for your call and further email, the contents of which are noted.

My colleague Alma Howell will get back to you by email, and include as attachments any documents that we find with any substantive information, which you may wish to review.

Kind regards

Matt Bates

Local Plan Lead

South Downs National Park Authority

Tel: 01730 819290

South Downs Centre, North Street, Midhurst, West Sussex, GU29 9DH

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From: Ceetah Grieves <[REDACTED]>
Sent: 01 June 2018 12:45
To: Matthew Bates <Matthew.Bates@southdowns.gov.uk>
Cc: bankssolutionsuk@gmail.com
Subject: Re: Audiburn Farm

Dear Matt,

Thank you for talking to me on the phone today, apologies if I sounded frustrated and upset. I hope you can appreciate this situation is such for me.

From our conversation and your email below, I understand that your reason that the SDNPA would not consider our land was process related. We didn't respond in time to your deadlines therefore the SDNPA could no longer consider our site as available. I hope that is a correct comment? For clarity, we replied to Rob Thain during the pre-submission consultation period explaining our land was available and we were engaged with the process. Is this noted anywhere by the SDNPA?

You have told me that the SDNPA considered our lawyers' representations sent during consultation stage but that no changes/modifications were considered by the SDNPA as you felt that Castlemer was the correct site for your purposes. You noted that there was no notes/correspondence to reflect this in the file (as you explained no file exists for either Castlemer or Audiburn). Also for the record, we never received any reply to these comments just an acknowledgement of receipt.

I did ask you if I could come and visit and see the file for Audiburn and for Castlemer. As you have told me there is no file this maybe a wasted journey (!), you said it is just rough officer workings. It does sound troublesome that the lead officer has left during this process

and without any files for us/ you to consider. However, you have agreed to try and find any relevant emails on your system and to forward them to me. Thank you, that would be very helpful as I want to try and compile a clear picture of the process.

You acknowledged in your email that Rob Thain/ SDNPA gave serious consideration to our site for potential allocation. It would be very useful to understand the area of land that the SDNPA was considering, please could you send me the details of the area of the land they proposed allocating for 15 houses. If no such map is now in your offices (I appreciate you have said that Rob Thain's departure has left things in a less than perfect state) can you please indicate on the map (my lawyers sent one attached to their letter in November) what the area is that the SDNPA had considered suitable for a housing development of 15 houses at Audiburn Farm.

I understand Chris is back from holiday next week and I will update him and let him know the information points we have agreed. I would be very appreciate of you supplying the marked map and any related material at your earliest convenience. I really appreciate you are short staffed but as you have said we are all governed by the strict deadlines of this process now.

You have now directed me to comment to the Planning Inspectorate, so once I have received the information referenced above from you, I will do so. It is disappointing that we cannot have a constructive discussion about our land with the SDNPA, especially as the appointed Planning Inspector has written to say he is delayed by many months. I don't understand that approach but I am at a loss to find any alternative way forward.

Yours sincerely,

Ceetah Grieves

On 31 May 2018, at 17:52, Matthew Bates
<Matthew.Bates@southdowns.gov.uk> wrote:

Dear Ceetah

I understand that as the owners of Audiburn Farm, a site that was initially investigated for potential allocation in the early part of 2017 (letter from Rob Thain dated 22 February 2017), you have concerns regarding the process undertaken, as detailed in the email thread below. I understand you are unhappy that the site eventually selected by the SDNPA to be allocated was the neighbouring Castelmor Farm site. I have reviewed the letter of representation sent on your behalf by Bircham Dyson Bell dated 6 November 2017.

I have investigated this matter further, and it is evident from the letter from Rob Thain that there was serious consideration of the site for potential allocation at that time. However it is also clear that a response to this letter was not forthcoming, and it was therefore necessary to conclude that the Audiburn Farm site was simply not available (i.e. no evidence that the landowner had any desire to bring it forward from development). It is clear from Planning Practice Guidance that it is not appropriate to allocate sites in the Local Plan unless there is clear and reliable evidence that the site is available (e.g. paragraph 020 RefID: 3-020-20140306).

I appreciate that you contacted the SDNPA later in 2017 to indicate that the site was after all potentially available. However it has been necessary to adhere to a tight process and timetable, and it is therefore not practically possible to consider sites submitted very late in the plan-making process. The Local Plan was already well-progressed towards pre-submission stage at the time Rob Thain was approached, and the late consideration of this site against alternatives would have delayed consultation on the whole Local Plan (due to the need to gain approval of the Plan from Members, additional technical work such as sustainability appraisal, etc.)

I would further note that there is no record of the SDNPA having been contacted by the landowner with regard to this site at any time before we approached you in Feb 2017. This despite the SDNPA having conducted a comprehensive call for sites in Autumn 2015.

However, can I assure you that the Inspector will consider all representations made, including those made on your behalf. Notwithstanding that we are confident that the approach we have taken to Kingston-near-Lewes is correct and sound, we nevertheless welcome that you will potentially have opportunity to submit evidence to the examination in relation to the issues raised, and the Inspector will make his final recommendation accordingly.

You will I hope understand that with the Local Plan having been submitted, we cannot engage in discussions about the merits of the sites in Kingston-near-Lewes that you have referred to, outside the public examination. However I would encourage you to contact Chris Banks further if you require any information about the examination process. I would be happy to meet you at our offices in Midhurst to discuss the process we have undertaken in putting forward the housing allocation sites (not the merits or otherwise of the specific sites), and will in any case contact you shortly to discuss the matter informally.

Kind regards

Matt Bates

Local Plan Lead

South Downs National Park Authority

Tel: 01730 819290

South Downs Centre, North Street, Midhurst, West Sussex, GU29 9DH

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From: Ceetah Grieves [REDACTED]

Sent: 30 May 2018 14:30

To: Dan Ashe <Dan.Ashe@southdowns.gov.uk>

Cc: Tom Grieves <[\[REDACTED\]@bankssolutionsuk@gmail.com](mailto:[REDACTED]@bankssolutionsuk@gmail.com)>; bankssolutionsuk@gmail.com

Subject: Re: South Downs Local Plan examination

Dear Dan,

We have just spoken on the phone and you have told me today that your colleague Matt Bates is dealing with this matter and should respond tomorrow to Chris Banks (and hopefully myself!). Can you pass my number to Matt so we can discuss this and as I requested to look through the files prior to the public enquiry stage. My number is 07855 387331.

Many thanks,

Ceetah Grieves

On 25 May 2018, at 17:45, Ceetah Grieves <[REDACTED]> wrote:

Dear Dan,

I understand Chris Banks has asked you to respond to him/us with some background information as to why the SDNP did not respond to our communications during consultation. As you will recall from my previous emails we are represented by Bircham Dyson Bell who wrote on our behalf and we had prior to this tried to have a follow up conversation with Robert Thain after he wrote to us asking to discuss a housing allocation on our property. Our lawyers will be writing to the Planning Inspector very shortly and it would be useful to include any further background you can give on this from the SDNP.

Also can you let me know what information is accessible to the public/me regarding this matter and my property and Castlemer Fruit Farm. For instance, can I view the file on the Castlemer Fruit Farm development and the process and methodology that brought the SDNP to their decision and their recommendations to the Planning Inspectorate.

I understand from the Kingston Parish Council this process now follows a strict timeline so I would really appreciate a quick response (or even an acknowledgement that you cannot give me one).

Many thanks,

Ceetah Grieves
Audiburn Farm
Ashcombe Lane
Kingston
BN7 3JZ

On 16 May 2018, at 13:03, Dan Ashe <Dan.Ashe@southdowns.gov.uk> wrote:

Dear Ceetah

Thank you for your reply, I am copying in colleagues for their information. As I said though, since the Local Plan is now at examination, you should direct enquiries about further action to the independent examination programme officer (Chris Banks).

Best regards

Dan

Dan Ashe
Planning Policy Officer
South Downs National Park Authority

Tel: 01730 819283

Ext: 283

South Downs Centre, North Street, Midhurst, West Sussex, GU29 9DH

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From: Ceetah Grieves [REDACTED]
Sent: 16 May 2018 12:54
To: Dan Ashe <Dan.Ashe@southdowns.gov.uk>
Cc: CHALLIS Mark <MarkCHALLIS@bdb-law.co.uk>; Tom Grieves
<[REDACTED]>
Subject: Re: South Downs Local Plan examination

Dear Dan,

Thank you very much for the quick response. As I mentioned we are very unsatisfied with how the SDNP has dealt with our property and will be writing to the Planning Inspectorate via our lawyers to give him further details. I attach the letter Robert Thain wrote to us in February 2017. I simply do not understand how or why the SDNP identified our property for as suitable for a housing allocation and then refused to respond to any phone calls or letters from us/our lawyers. We feel very let down by the whole process and dare I say it sounds completely unfair as there has not been any opportunity for the public to respond to the Castlemer proposals as these were dealt with in confidence with the Kingston Parish Council. How can this be a fair public process?

Please let me know every avenue you can suggest for me to make public representations as I want to make sure this is very closely examined and debated. I am very happy to come into the office and talk to you. I understand Robert Thain is no longer a member of staff.

Many thanks,

Ceetah

<SDNPA local plan letter.pdf>

On 16 May 2018, at 12:26, Dan Ashe
<Dan.Ashe@southdowns.gov.uk> wrote:

Dear Mrs Grieves

Further to our recent telephone conversation we recommend that you contact Chris Banks, the programme officer for the examination, to make a request for attendance at the examination hearings and any other matters you may wish to discuss.

His contact details are as follows

Chris Banks
Programme Officer
C/O Banks Solutions
64 Lavinia Way
East Preston
West Sussex
BN16 1EF
Tel: 01903 783722
Mob: 07817 322750
[email: bankssolutionsuk@gmail.com](mailto:bankssolutionsuk@gmail.com)

Yours sincerely

Dan Ashe
Planning Policy Officer
South Downs National Park Authority

Tel: 01730 819283

Ext: 283

South Downs Centre, North Street, Midhurst, West Sussex, GU29 9DH

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