

Report to	Planning Committee
Date	11 April 2019
By	Director of Planning
Title of Report	The South Downs National Park Authority's response to Submission (Reg 16) consultation on the Fittleworth Neighbourhood Development Plan (FNDP)
Purpose of Report	To agree the content of the South Downs National Park Authority's (SDNPA) representation to the Independent Examiner

Recommendation: The Committee is recommended to agree the table of comments as set out in Appendix 2 of the report which will form SDNPA's representation to the Independent Examiner of the FNDP.

1. Introduction and Summary

- 1.1 The SDNPA actively promotes and supports community led planning, particularly Neighbourhood Development Plans (NDP) 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 prepared by the SDNPA.
- 1.2 Fittleworth Parish Council (FPC) is the 'qualifying body' with responsibility for preparing the Fittleworth NDP (FNDP). FPC submitted the FNDP (**Appendix 1**) to the SDNPA for examination on 23 January 2019. A seven week publicity period commenced on 22 February 2019 and runs until the 12 April 2019, during which time local residents and other stakeholders are invited to submit representations to the Plan's Examiner.
- 1.3 The progression of the FNDP to submission stage is to be welcomed. It is the result of a considerable amount of hard work by the Parish Council and the wider community. The SDNPA commend the Parish Council and wider community on the production of the Submission version of the FNDP. The preparation of the FNDP has been particularly challenging given the proximity to the parish of the Mens Special Area for Conservation (SAC) and Ebernoe Common SAC.
- 1.4 The SDNPA's comments (**Appendix 2**) were prepared using input from SDNPA officers. They set out the proposed representation to be submitted to the examination of the FNDP.

2. Background

- 2.1 The FNDP covers the plan period 2018 to 2033 and has been prepared for the designated neighbourhood area, which follows the Fittleworth parish boundary. The area was designated by SDNPA in March 2015; the designation map is attached as **Appendix 3**.
- 2.2 Fittleworth Parish Council held a public meeting in November 2014 where the decision was taken to prepare a Neighbourhood Plan for the Parish. A small steering group was formed to lead the preparation of the FNDP with members of the Parish Council and the community on the steering group. An initial public consultation was held in October 2015. This event published the findings of a recently commissioned housing needs survey, presented a number of potential developments sites and asked the wider community to consider what policies the FNDP should contain. Building on the findings of the Housing Needs Survey and responses from the initial public consultation a draft version of the FNDP was published for comment in March 2016.
- 2.3 Following the publication of the draft FNDP, FPC requested a screening opinion for a Strategic Environmental Assessment (SEA) and a Habitats Regulation Assessment (HRA). The SDNPA concluded that a SEA and HRA would be required for the Fittleworth NDP and these documents would need to inform the preparation of the Pre-Submission Plan. FPC contracted a consultant to prepare the SEA and HRA and consider their findings in the preparation of the Pre-Submission FNDP. Given the sensitive nature of the parish and proximity of international designations this was a complex process which took a considerable amount of volunteer time and expense. This resulted in a delay in the publication of a Pre Submission FNDP.
- 2.4 A six week Pre-submission consultation was undertaken on the draft FNDP from 15 January 2018. The consultation was publicised on the village website, posters on local notice boards and through public events held in the Village Hall in January 2018. More details of the consultation process can be found in the Consultation Statement. The SDNPA response to the Pre-submission consultation was agreed by Planning Committee following a site visits, on 8 March 2018. The SDNPA response focused on:
 - A more detailed explanation for the inclusion of higher levels of housing within the FNDP than had been set by the emerging South Downs Local Plan;
 - Highlighting a number of policies which repeated South Downs Local Plan policy, with some causing potential conflict, in particular in relation to affordable housing;
 - Specific settlement policy boundary inaccuracies which needed to be rectified; and
 - Requesting the removal of some policy wording which would be more appropriate as supporting text.
- 2.5 The Submission version of the FNDP addresses all of the issues raised by the SDNPA at the Pre-Submission stage. The SDNPA formal representation to the FNDP submission consultation is relatively brief as officers have worked closely with the FNDP steering group over the last year to ensure the FNDP conforms to the emerging South Downs Local Plan and responds to the requirements of the HRA and SEA.
- 2.6 The SDNPA representation, together with any further changes agreed by the Planning Committee, will be submitted to the independent Examiner following approval at Planning Committee.

3. Submission and Examination

- 3.1 The SDNPA is required under the Town and Country Planning Act 1990 (as amended) to support communities in the preparation of Neighbourhood Development Plans, this includes taking the plan through the process of independent examination.
- 3.2 All representations made on the FNDP, including those of the SDNPA, are collated by the SDNPA and passed to an independent examiner to consider as part of the Examination of the FNDP. The independent Examiner for the Neighbourhood Plan is required to consider whether the FNDP meets the “Basic Conditions” set out in law under the Localism Act 2011. In order to meet the Basic Conditions, a Neighbourhood Plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area; and
- Be compatible with EU obligations and human rights requirements.

4. **Fittleworth Neighbourhood Development Plan – SDNPA Submission response**

4.1 The SDNPA submission representation can be found at **Appendix 2**. The following key points and overarching issues are raised in the representation:

- Some minor amendments are required to Policy FITT9 (Housing site allocation policy) to bring the policy in line with the emerging South Downs Local Plan. Specifically Policy FITT9a is to be amended to require affordable housing to be delivered on site rather than seeking a financial contribution. Policy FITT9b is to be amended to require 50% affordable housing on Land at the corner of Limbourne Lane / The Fleet.
- SDNPA are seeking clarification in relation to Policy FITT5 Design of New Development. The policy requires new development to demonstrate that it is compatible with local fibre or internet connectivity; it also requires new development to contribute to this connectivity. The SDNPA are suggesting that this policy clause is not relevant to design of development, and suggesting that the policy clause could be included elsewhere in the FNDP
- SDNPA are recommending the deletion of policy repetition in Policy FITT9a

5. **Planning Committee**

5.1 The SDNPA response to the Submission consultation of the FNDP is presented to Planning Committee as the NDP proposes a higher level of development than set out in the South Downs Local Plan. Policy SD26 of the Local Plan set a housing provision figure for Fittleworth for six new homes. The FNDP allocates sites to deliver 18 dwellings. This increased housing provision is in response to the findings of their Housing Need Survey and the wider community's aspiration to meet some of its identified local housing need.

6. **Next steps**

6.1 If agreed the SDNPA response to the Submission consultation will be collated with all other representations and submitted to an independent examiner to be considered as part of the Examination of the Fittleworth NDP.

Stage	Timescale & further details
Examiner appointment	The Examiner is in the process of being appointed to examine the FNDP
Examination	Examination is expected to take 6-8 weeks including preparation and issuing of the final report.
Examiner issues final report	<p>The Examiner will make one of the following recommendations:</p> <ul style="list-style-type: none"> • The Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements • The Neighbourhood Plan, as modified, should proceed to Referendum • The Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

Decision on a Plan Proposal	If time allows ¹ , Planning Committee will be asked to consider the Decision Statement which sets out the modifications to be made to the plan in response to the Examiner's report.
Referendum	<p>Subject to a successful examination and the approval of the Decision Statement, there will be a referendum when the community are asked:</p> <p><i>"Do you want the South Downs National Park Authority to use the neighbourhood development plan for Fittleworth to help it decide planning applications in the neighbourhood area?"</i></p> <p>If over 50% of those who vote say yes, the FNDDP will automatically become part of the Development Plan and the SDNPA is then under a duty to 'make' the neighbourhood plan within 8 weeks of the referendum.</p>

7. Other Implications

Implication	Yes/No
Will further decisions be required by another committee/full authority?	Yes – Agreement of the Decision Statement and agreement to 'Make' the FNDDP at a subsequent Planning Committee if a Referendum is successful.
Does the proposal raise any Resource implications?	Yes - The SDNPA has invested staff resources in supporting the development of the FNDDP by regularly attending steering group and other meetings. There has also been financial resource provided through the reallocation of the Government's New Burdens funding and the allocation of SDNPA funding amounting to £6,657.40. This funding has contributed to the cost of undertaking SEA, HRA and early preparatory work. The SDNPA has claimed £5,000 in new burdens funding from CLG to date and should be able to claim £20,000 to cover the cost of the Examination and Referendum.
Has due regard been taken of the SDNPA's equality duty as contained within the Equality Act 2010?	Due regard has been taken of the SDNPA's equality duty as contained within the Equalities Act 2010. Fittleworth Parish Council who has the responsibility for preparing the neighbourhood plan have prepared a Consultation Statement demonstrating how they have consulted the local community and statutory consultees and the SDNPA has prepared an Equalities Impact Assessment. One of the Basic Conditions which the FNDDP is required to meet is to 'Be compatible with EU obligations and human rights requirements' therefore the Examiner will be required to check that the plan does not breach this condition.
Are there any Human Rights implications arising from the proposal?	None

¹ Government regulations now require Decision Statements be published within 5 weeks of an Independent Examiner's report being issued. If there is insufficient time to take the Decision Statement to Planning Committee, it will be delegated to officers.

Implication	Yes/No
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>Fittleworth Parish Council as the qualifying body with responsibility for preparing the neighbourhood plan must demonstrate how its plan will contribute to the achievement of sustainable development. This is set out in the Basic Conditions Statement. 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>Fittleworth Parish Council has undertaken a SEA/SA in support of their NDP.</p> <p>Fittleworth Parish Council has undertaken a HRA in support of their NDP.</p>

8. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
The NDP does not meet the basic conditions	Low	Medium	SDNPA planning officers have been contributing to the preparation of the emerging FNDP and are comfortable that it meets basic conditions. This will be tested by the examination of the plan and should issues be identified there are a number of mechanisms available through which they can be addressed.
Not raising all areas of concern at this stage.	Low	Medium	Although the comments at this stage should relate only to the basic conditions, officers also take the opportunity to raise more detailed areas in order to add value to the plan or reduce any areas of conflict. It is up to the Examiner as to whether they consider them or not. However, it is hoped that this will produce a better quality plan.
Habitats Regulations Assessment (HRA)	Low	Medium	Recent case law has implications for HRA. However, it is considered that the risks raised by these are not sufficient to alter the decision to progress the FNDP to Examination.

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Appendices	<ol style="list-style-type: none">1. Fittleworth Neighbourhood Development Plan – Submission version2. SDNPA comments on the Submission version of the FNDP3. Fittleworth Designated Neighbourhood Area Map
SDNPA Consultees	Legal Services; Chief Finance Officer; Monitoring Officer; Director of Planning
External Consultees	The Submission version of the FNDP is open to anyone to comment on. The SDNPA has publicised it and circulated to all known interested parties. Officers will coordinate all the responses and forward them to the Examiner.
Background Documents	SDNPA Response to the FNDP Pre-submission consultation FNDP Basic Conditions Statement FNDP Consultation Statement FNDP Strategic Environmental Assessment FNDP Habitats Regulation Assessment