

Agenda Item 12
Report PC19/20-15

Report to	Planning Committee
Date	12 September 2019
By	Director of Planning
Title of Report	The South Downs National Park Authority's response to the Submission (Regulation 16) Consultation on the updated Findon Neighbourhood Development Plan
Purpose of Report	To agree the content of the South Downs National Park Authority's (SDNPA) response to the Submission consultation on the updated Findon Neighbourhood Development Plan

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

I. Introduction and Summary

- I.1 The South Downs National Park Authority (SDNPA) actively promotes and supports community led plans, particularly Neighbourhood Development Plans (NDPs) where growth needs to be accommodated and planning issues exist. On adoption, NDPs form part of the Development Plan for the neighbourhood area, alongside strategic planning policies in the South Downs Local Plan and Minerals & Waste Plans, which are prepared by the Local Planning Authority.
- I.2 The following report and appendices set out the SDNPA response to the Submission version of the updated Findon Neighbourhood Development Plan (FNDP). The SDNPA raises serious concerns with the proposed housing allocations in the FNDP as well as providing detailed comments on both new policies and retained policies from the original FNDP.
- I.3 Findon Parish Council is the first Qualifying Body wholly in the National Park to prepare an update to a 'made' Neighbourhood Plan. The original FNDP chose not to allocate sites to meet the housing provision figure set by the SDNPA in the emerging Local Plan. This was against the advice given by both officers and Members. At the examination of the FNDP, the examiner only let the original FNDP proceed to referendum on the understanding that the SDNPA would allocate sites for housing in the Local Plan. The SDNPA subsequently proposed housing allocations which now form part of the adopted South Downs Local Plan (SDLP). The Qualifying Body did not support the Local Plan allocations and began the process of updating the FNDP with alternative housing allocations. However, with the SDLP now adopted and the Local Plan allocations for Findon part of the Development Plan, any allocations put forward by the FNDP will be in addition to the Local Plan allocations.
- I.4 At the pre-submission consultation, the Authority highlighted the risks associated with progressing the updated FNDP. This report sets out the concerns of the Authority in

regard to the proposed allocations as well as detailed comments on policies contained within the updated FNDP.

- 1.5 The FNDP is being considered by Planning Committee at submission stage as it is the first NDP to be significantly modified. It allocates land for housing, and there are some conflicts with the adopted South Downs Local Plan.
- 1.6 The designated Neighbourhood Area forms **Appendix 1** of this report. The updated Submission FNDP can be found at **Appendix 2** and the SDNPA response to this consultation at **Appendix 3**. The Authority has sought legal advice on the matter, which is set out in full in **Appendix 4**; this was previously presented to Planning Committee in August 2018.

2. Background

- 2.1 Findon Parish Council (FPC) is the 'qualifying body' with responsibility for preparing the updated FNDP. The original FNDP was prepared between December 2012 and the final plan was 'made' at Planning Committee in December 2016.
- 2.2 As the original FNDP was being prepared, the emerging SDLP was also progressing. The Preferred Options Local Plan, published in September 2015, gave a housing figure to the settlement of Findon to be allocated either through the Local Plan or FNDP. The original FNDP chose not to allocate land to meet the housing provision figure set in the emerging SDLP. In response to the Pre-Submission and Submission consultations on the FNDP, the Authority expressed its concerns that the lack of allocations failed to demonstrate the plan's contribution to the achievement of sustainable development.
- 2.3 Following the submission of the original FNDP, the Qualifying Body indicated that they would like to propose housing site allocations at the post-submission stage. The Examiner felt this was inappropriate as it didn't allow the wider community to comment on those proposals. The Examiner explained in his report that the FNDP's policies relating to housing supply did not meet the basic conditions in that they fail to contribute to the delivery of sustainable development by not allocating sites to meet local housing need. However, the Examiner decided that many of the other policies in the plan warranted progressing past examination. Therefore the Examiner made modifications to the FNDP, removing all policies which related to allocations and settlement boundary, and recommended that the SDNPA should allocate the necessary housing sites in Findon in the Local Plan.
- 2.4 Following this decision the National Park Authority assessed a range of sites in Findon and proposed two housing allocations to meet the housing provision figure of 30 dwellings set by draft Policy SD26: Supply of Homes of the Pre-Submission Local Plan. Findon Parish Council responded to the proposed housing site allocations through the South Downs Local Plan Pre-Submission consultation. Findon Parish Council made it clear that they did not support the proposed Local Plan allocations, and their intention was to prepare an updated FNDP to include housing allocations to meet the housing provision figure set by the SDNPA. The SDNPA made it clear to the Parish Council that the Pre-Submission SDLP would proceed with proposed housing site allocations in Findon. It was also made clear that there were a number of risks associated with the Parish Council progressing an updated FNDP. These risks were set out in the Authority's response to the Pre-submission consultation on the updated FNDP.
- 2.5 During the Examination of the SDLP, the inspector considered the relationship of the SDLP with NDPs. In areas subject to emerging NDPs, such as Findon, the Inspector noted that the judgements of the SDNPA on the settlements and sites selected for development allocations are in some instances at odds with local views. The Inspector states such judgements are necessarily subjective and the mere fact that opinions differ is not itself any reason to find the SDLP unsound (paragraph 10 of the Examination Report).
- 2.6 The inspector also considered the proposed SDLP allocations in detail. For the allocation SD71 – Land at Elm Rise, the Inspector considered the issues of visual impact on the downland landscape and the Findon Conservation Area (CA) in relation to development character and density as well as the effect of traffic generation. The Inspector recommended a reduced density for the site allocation and found subject to this

modification, the allocation of SD71 to be justified, effective and sound. With regards to allocation SD72 – Soldiers Field House, the Inspector considered issues of visual impact on the landscape and public views as well as local cultural heritage, accessibility and viability in relation to its deliverability and contribution to affordable housing. The Inspector did not recommend any modifications to the allocation and found it to be justified, effective and sound. These allocations form part of the Development Plan for Findon as the SDLP was adopted on the 2 July 2019.

- 2.7 The updated FNDP proposes a number of changes and additions to the original FNDP, these include the allocation of five housing sites to deliver between 30 and 36 dwellings, modification to the existing Settlement Boundary and a number of minor changes to policy and supporting text.
- 2.8 This presents an unusual situation whereby the updated FNDP and the adopted SDLP are proposing different housing allocations to meet the housing provision figure set in Policy SD26 of the SDLP. The FNDP also proposes an alternative Settlement Policy Boundary to that in the SDLP. The updated FNDP asserts that the site allocations proposed by the FNDP are not in addition to those proposed by the SDNPA, but are presented as alternative housing allocations. Legal advice was sought on the matter and is set out in full in **Appendix 4**.
- 2.9 In summary, this legal advice states that, whichever plan is made or adopted last will supersede, where relevant, the other. However, that is only the case if the allocations are viewed to be in conflict and state explicitly the intention to supersede. If all the allocations can be viewed as suitable albeit different then they could all be granted planning permission. The SDLP allocations have been found to be sound and are adopted as part of the Development Plan. The proposed FNDP allocations are for different sites to those within the SDLP and are therefore not inconsistent or in conflict with the SDLP allocations. Therefore, should the FNDP allocations be found to be suitable, these will be in addition to the SDLP allocations, and all allocations could come forward for development.
- 2.10 The SDNPA in its response to the pre-submission consultation, highlighted the risks of progressing the FNDP including allocations. The Qualifying Body has chosen to progress with the FNDP and incorrectly states within the submission FNDP that the SDNPA can delete the housing allocations in Findon from the Local Plan. The SDNPA adopted the Local Plan on the 2nd July and cannot make any changes to the finalised document.
- 2.11 The SDNPA representation to the submission consultation, set out in **Appendix 3** and summarised below, 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
 - Not be likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

4. Findon Neighbourhood Development Plan Update – SDNPA response

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

- a) Given the legal advice sought on the matter, it is the view of the SDNPA that the allocations proposed in the updated FNDP do not conflict with the adopted SDLP allocations. Therefore both sets of sites could be relied upon by developers to come forward for development.
- b) This leads to the potential situation of a significantly higher level of development coming forward in Findon than set out in strategic policy SD26 of the SDLP. The SDNPA does not object in principle to a higher quantum of development in Findon than that set out in Policy SD26. Indeed criterion 4 of the Policy states that NDPs that accommodate higher levels of housing will be supported by the National Park Authority providing that they meet local housing need and are in general conformity with the strategic policies of the development plan.
- c) It is noted that neither a Sustainability Appraisal (SA) nor Habitats Regulations Assessment (HRA) has been carried out for the FNDP. The SDNPA screening opinion (which screened out SEA/HRA) pre-dates the adoption of the Local Plan and the allocation of sites in both the SDLP and NDP. It may be that a re-screening for SEA and HRA will be required as a result of the dual allocations, which together will deliver a significantly increased quantum of housing for the village.
- d) The submission FNDP is presented in three parts; Part 1: Introduction, Vision & Objectives, New and Amended Policies; Part 2: Background and Retained Policies from the original FNDP; Part 3: Retained Community Aspirations. Should the FNDP proceed to referendum it is strongly recommended that a single consolidated Plan is created. The current format is difficult to navigate with page numbering that does not run through all three parts and some sections of the plan repeated (e.g. vision and objectives).
- e) The SDNPA has a major in-principle concern regarding the landscape impact of the scale and location of development envisaged by the masterplan (Policy HD9), particularly in terms of the significant change to settlement form and extension of built form towards Worthing (Findon Valley) along the A24 corridor. The area is also on the opposite side of the A24 and is therefore largely detached from the settlement form, notwithstanding aspirations to mitigate the barrier effect of the A24. Indeed the Parish Council previously objected to the identification of these sites in the Strategic Housing Land Availability Assessment (SHLAA) as having potential for housing due to their disconnect with the village and the danger of crossing the busy road.
- f) Policies HD10a, 10b & 11 seek to allocate land south of the garden centre, land at Lister Yard and land north of the Quadrangle. Allocation HD10a has been revised since the pre-submission consultation and no longer takes in the paddock to the south. However these allocation sites are not considered suitable as they are removed from the existing settlement of Findon, development would not relate well to the existing settlement and development will not fit with the character of the settlement form as currently exists. A number of concerns regarding the effectiveness and deliverability of the allocations are also raised.
- g) Policy HD12 seeks to allocate land north of Nightingales and indicates that a successful development would rely on undergrounding of overhead power cables, new vehicle access and parking, proposals to mitigate the effects of traffic noise and a very high proportion of affordable housing. These represent potentially significant constraints to delivery. Given the small size of the site, it is considered unlikely that the issue of noise from the A24 can be successfully mitigated.
- h) Policy HD13, land at the former Fire Station is a site of 0.1 hectares within the settlement boundary, which is currently in use as an ambulance servicing station. No information is provided in the Plan on the re-location of the business and the loss of jobs. The potential loss of an existing employment use at this site is a concern. The site

is within the settlement boundary, hence any future residential development on this site would be acceptable in principle as a windfall site although it is considered that the small site area and existing constraints would make a proposal for 3-4 dwellings difficult to achieve.

5. Next steps

- 5.1 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 Updated Findon NDP. The consultation ends on Monday 16th September. The next stages for the updated FNDP are:

Stage	Timescale & further details
Examiner appointment	Mr Robert Bryan MRTPI has been appointed to undertake the independent examination.
Examination	Directly following the end of the consultation. Expected to take 4 weeks.
Examiner issues final report	The examiner makes one of the following recommendations (November): <ul style="list-style-type: none"> - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements; - that the Neighbourhood Plan, as modified, should proceed to Referendum; - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
Referendum	Subject to a successful examination, there will be a referendum when the community are asked: <p><i>“Do you want South Downs National Park Authority to use the neighbourhood plan for Findon to help it decide planning applications in the neighbourhood area?”</i></p> <p>If over 50% of those who vote say yes, the updated FNDP will be part of the Development Plan and ‘Made’ by the SDNPA.</p>

6. 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 FNDP at a subsequent Planning Committee if a Referendum is successful.
Does the proposal raise any Resource implications?	<p>Yes - The SDNPA has invested staff resources in supporting the development of the current FNDP by regularly attending steering group meetings and providing comprehensive feedback and comments on early drafts of the FNDP. Significant financial resource has been provided through the reallocation of the Governments New Burdens funding and the allocation of SDNPA funding amounting to £35,518.40. The SDNPA have claimed a total of £50,000 in New Burdens Funding and Front Runner Grant to support the cost of preparing the original FNDP.</p> <p>The SDNPA will receive additional funding to support the costs of supporting the preparation of the updated FNDP, as the update proposes significant modifications. Therefore the SDNPA will receive £20,000 following a successful examination.</p>

Implication	Yes/No
	However, it should be made clear that there is a risk associated with the progression of the updated FNDP, if the updated FNDP does not pass examination, the SDNPA will have to cover the cost of examination without the receipt of New Burdens funding which would be available following a successful examination.
Has due regard been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	Due regard will be taken of the South Downs National Park Authority's equality duty as contained within the Equalities Act 2010. Findon Parish Council, who have the responsibility for preparing the neighbourhood plan, have prepared a Consultation Statement to support the submission version of the updated FNDP setting out how all sections of the local community (people who live, work or carry out business in the neighbourhood area) including hard to reach groups, have been engaged in the plan's production.
Are there any Human Rights implications arising from the proposal?	None
Are there any Crime & Disorder implications arising from the proposal?	None
Are there any Health & Safety implications arising from the proposal?	None
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy:	<p>The qualifying body with responsibility for preparing the neighbourhood plan must demonstrate how its plan will contribute to the achievement of sustainable development. Please note that the sustainability objectives used by qualifying bodies may not be the same as used by the SDNPA, but they will follow similar themes.</p> <p>Strategic Environmental Assessment</p> <p>The SDNPA screening opinion (which screened out SEA/HRA) pre-dates the adoption of the Local Plan and the allocation of sites in both the SDLP and NDP. It is likely that a re-screening for SEA and HRA is required as a result of the dual allocations which will deliver a significantly increased quantum of housing for the village.</p>

7. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
The updated FNDP includes five site allocations to meet the housing provision figure set in the SDLP. These are different sites to those allocated in the SDLP. There is a risk that these allocations could be	High	Medium	The SDNPA highlight this concern to Findon Parish Council, to ensure they are able to take an informed decision as they progress the NDP. The SDNPA sought legal advice to determine how this matter may progress through the local plan and FNDP examinations. The matter has also be made to the FNDP

<p>allocated in addition to the SDLP allocation and in turn granted planning permission for development. This would result in a much higher level of development for the settlement of Findon than that proposed as appropriate in the SDLP.</p> <p>There is a reputational risk for the SDNPA associated with raising areas of concern about the FNDP. Communities are sometimes frustrated by the perception that their hard work and effort in producing such plans is not fully appreciated and taken into account. However, to not highlight the possible concerns of the Authority at this stage in the plan preparation would be failing in our duty to support such groups and potentially result in a plan that does not deliver outcomes that meet the needs of both the community and the SDNPA.</p>	Medium	Low	<p>Examiner in the SDNPA's Regulation 16 representation.</p> <p>SDNPA officers will work closely with the FNDP group and the Parish Council to ensure the wider community understand why the SDNPA are making these recommendations</p>
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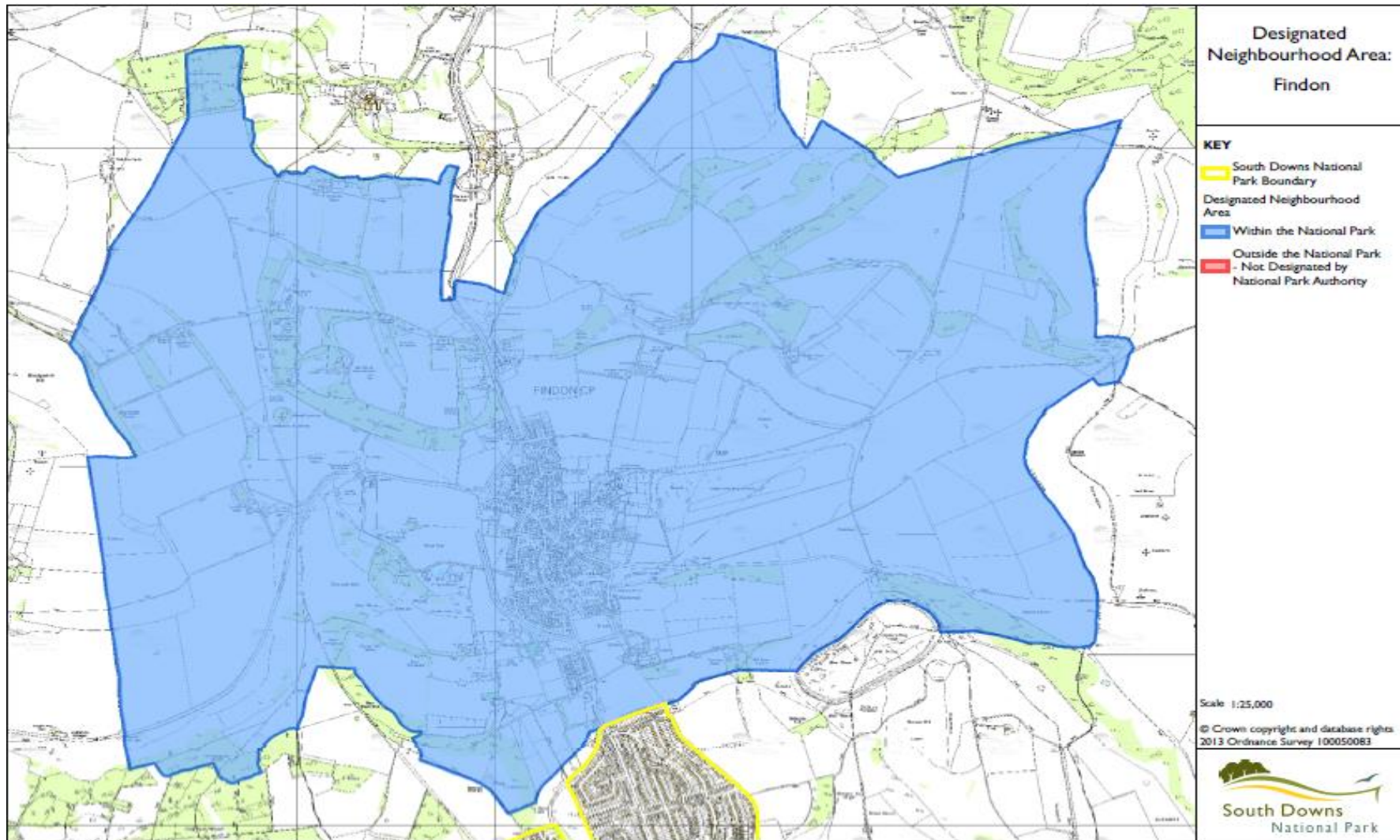
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Appendices	<ol style="list-style-type: none"> 1. Findon Designated Neighbourhood Area Map 2. Updated Findon Submission Neighbourhood Plan 2018-2035. 3. SDNPA Response to the Submission updated Findon Neighbourhood Plan 4. Legal Advice in the matter of the Findon Neighbourhood Plan
SDNPA Consultees	Planning Policy Manager, Legal Services, Monitoring Officer & Chief Finance Officer. Consultation with statutory bodies has been undertaken by Findon Parish Council.
Background Documents	SDNPA Pre Submission response to the updated Findon NDP Examiners report for the current Findon NDP Evidence base for updated Findon NDP

Agenda Item 12 Report PC19/20-15 Appendix I
Findon designated Neighbourhood Area



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