

Report to	<b>Planning Committee</b>
Date	<b>16 January 2020</b>
By	<b>Director of Planning</b>
Local Authority	<b>SDNPA (Arun District Council)</b>
Application Number	<b>SDNP/19/01876/FUL</b>
Applicant	<b>Rural Housing Trust Ltd</b>
Application	<b>Demolition of existing dwelling and construction of 12 dwellings, public open space, access, parking and landscaping and other associated works</b>
Address	<b>Soldiers Field House, Soldiers Field Lane, Findon, Worthing, BN14 0SH</b>

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**Recommendation: That planning permission be refused for the reasons set out in paragraph 10.1 of the report.**

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### **Executive Summary**

The application site is located within the settlement policy boundary of Findon and is allocated for 10-12 dwellings through the South Downs Local Plan (2014-33). The principle of residential development on the site is therefore acceptable.

The application proposes the erection of 12 dwellings of a mix which would deliver a good proportion of smaller dwellings and 50% affordable housing of a broadly policy compliant mix and tenure.

Following advice received from the SDNPA Design Review Panel and Landscape and Design officers, the applicant has sought to address initial concerns raised in regard to the design and make improvements to the proposals. The revised scheme incorporates elements of high quality, sustainable design. In pursuing a landscape-led approach, however, the applicant has focused on a wider evidence base rather than the immediate, settlement-edge character. As a result, the scheme is, overall, not well-related to the unique edge of settlement character of this part of Findon. It is therefore considered that, on balance, the scheme fails to conserve and enhance the landscape character of this particular part of the National Park.

The application is placed before Members as it involves development on an allocated site within the Local Plan and by virtue of the number of representations received.

#### **I. Site Description**

- I.1 The site is a 0.6ha existing residential plot located on the eastern edge of Findon occupied by a large, modern dwelling, tennis court and swimming pool, and enclosed on all sides by an architectural beech hedge. The existing dwelling and boundary are visually prominent from a number of public vantage points, including the public footpath network around Cissbury Ring and Nephcote Green to the south, and the Grade II listed Wattle House is visible from the application site. A large blue cedar tree located close to the eastern boundary is the subject of a Tree Preservation Order under SDNP/17/00001/TPO.
- I.2 The site is accessed from Soldiers Field Lane, which is a no through, single lane, shared surface in private shared ownership, which is used to access the adjacent Soldiers Field Stables, and a cluster of 8No detached dwellings to the north. A section of Public Right of Way (Footpath 2085) runs north-south along the lane.

## **2. Relevant Planning History**

2.1 The following planning history is relevant to the application site:

- FN/45/59 Outline application for detached houses or bungalows. Refused 18.09.1959
- FN/13/63 Outline application for bungalow for housing stable manager. Approved 10.05.1963
- FN/27/68 House and garages for owner of racing stables. Approved 06.09.1968
- FN/45/87 Continuance of use without complying with Condition 2 relating to agricultural occupancy - previous planning permission FN/27/68. Refused 02.11.1987
- FN/24/88 Continuance of use without complying with Condition 2 relating to agricultural occupancy - previous planning permission FN/27/68. Approved 10.04.1989
- SDNP/17/00001/TPO To confirm Tree Preservation Order SDNP/17/00001/TPO on 1 No Blue Atlas Cedar Tree. Confirmed 14.12.2017
- SDNP/18/02523/PRE Erection of 16 new residential dwellings (use class C3). Advice provided 21.06.2018

The advice stated that it was unlikely that more than 10-12 units would be acceptable on the site. Any proposal should also seek to meet the policy requirements for housing mix, including an appropriate provision of affordable units and incorporate the value of the natural environment to mitigate climate change and deliver biodiversity and wellbeing gains.

2.2 There is a long and complex planning history on the adjacent site Soldiers Field Stables, including an extant permission and current application as follows:

- SDNP/15/01361/FUL Regeneration of dilapidated stable yard and associated buildings comprising holiday cottage and one new dwelling together with replacement dwelling and ancillary stables and storage barn. (Departure from the Development Plan.) Approved 07.08.2015
- SDNP/19/02919/FUL Hybrid application comprising: (1) Full planning application for the replacement of an existing dwelling, haybarn, erection of new stable yard with ancillary groom's accommodation, a new unit of holiday accommodation and relocation and enlargement of existing manège (2) Outline planning application for the redevelopment of the existing stable yard with 2 no. dwellings and garages. Pending Consideration.)

## **3. Proposal**

3.1 The application seeks to provide 12 dwellings comprising of 5 No 2 bedroom, 6 No 3 bedroom and 1 No 4 bedroom units.

### Affordable Housing

3.2 The scheme initially proposed 100% affordable housing of a shared ownership tenure. During the course of the application the scheme was amended to provide 50% market and 50% affordable homes, 4 units of which (66%) would be social rented accommodation, and 2 (33%) would be of a shared ownership tenure to generally meet the requirements of SD28.

### Layout & Access

3.3 The development would be arranged as an informal cluster intended as equestrian/agricultural in character, with buildings designed and arranged to reflect a modern farmstead layout. The buildings would be separated and angled in relation to each other with intervening gaps around a central courtyard, to reduce the overall built mass and increase the perception of a low-density development and connectivity with the rural landscape beyond the settlement.

3.4 The existing access onto Soldiers Field Lane is proposed to be widened to 5.5m to allow two vehicles to pass. A footpath leading from the site to the junction with Convent Gardens would be provided to the east of Soldiers Field Lane.

### Design and Landscaping

3.5 The form and scale of the buildings is intended to reflect an agricultural typology, as well as a domestic character. The buildings would all be 2 storey and would be a mix of terraced and semi-detached dwellings. A mix of 'soft' natural materials is proposed to reduce visibility in

the wider landscape, including light buff multi bricks, grey stained vertical timber cladding, light grey/brown aluminium window frames and slate roof tiles.

- 3.6 The hard surfacing, including access and driveways would be natural buff coloured porous asphalt for the main road surface, and grey permeable block paving for parking bays, defined by granite sets. Rear gardens would be defined by post and rail fences and native hedgerow, with the boundary wall constructed from local brick and flint. An attenuation pond would be provided to the east of the site within an area of communal space, and an ecological buffer zone along the northern boundary to protect badgers.

#### **4. Consultations**

- 4.1 **Archaeology:** No objection, subject to conditions.

- 4.2 **Dark Night Skies Officer:** No objection, subject to conditions.

- 4.3 **Design:** Support. Comments:

- The iterative design process tested numerous built form scenarios including equestrian, modern agricultural and farmstead typologies.
- The farmstead typology was selected as it would meet the quantum of development set out in Policy SD70, national space standards and best practice as set out in National Guidance.
- Adopting typical building forms and scale associated with other typologies will reduce the amount of proposed development required by SD70.
- The scheme has a positive and coherent identity.
- The landscape planting; siting and orientation of buildings; ridgeline heights and roofscape design, will form a logical settlement edge to Findon, when viewed from the wider landscape.
- All private and shared external spaces are high-quality and will function well.
- The buildings are 'barn like', visually attractive and well designed.
- Incorporates passive design measures for light, warmth and ventilation, reducing the need for energy.
- A renewable energy source is provided, however, the proposed homes will need to meet energy efficiency and energy sourcing standards set out in Policy SD48.
- The width of the site access area detracts from the rural character of the lane.

- 4.4 **Drainage:** No objection, subject to conditions.

- 4.5 **Ecology:** No objection, subject to conditions.

- 4.6 **Environment Agency:** No objection.

- 4.7 **Findon Parish Council (FPC):** Objection. Comments:

- The site is outside the settlement boundary of the made Findon Neighbourhood Development Plan (FNDP) 2016-35.
- FPC has consistently objected to all development applications and allocations outside the settlement boundary.
- The site was ranked 7/8 in the local housing allocations sites consultation for the Updated Findon Neighbourhood Development Plan (UFNDP)
- The site is of high sensitivity to local character and high value to the local historic environment.
- The proposed design is of urban appearance with no use of local or visually sympathetic materials such as flint or recognition of the village heritage, and does not fit with SDNPA Purpose 1.
- The application expands development beyond the footprint of the existing dwelling into the adjacent paddock used for grazing sheep, resulting in loss of local amenity, heritage and culture.
- The removal of the native species mature beech hedge will have a severe impact on the downland landscape when viewed from the iconic Nepcote Green, Wattle House and

Cissbury Ring.

- No archaeological assessment has been carried out.
- The submitted Planning Statement refers to a critical local need for affordable shared ownership units which is not supported by evidence.
- The proposal is not compliant with SD28 which requires 75% of affordable homes to be social rent and includes 3 and 4 bedroom dwellings.
- If the affordable housing is too expensive for local residents it would be advertised nationally.
- The safety of access and egress from Soldiers Field Lane would be impacted by increased traffic.
- The parking only provides for 4 visitor spaces.
- Supports the arguments and objections raised by the UFNDP group.

Further comments following revised plans:

- In conflict with the core objectives of the made Findon Neighbourhood Development Plan (FNDP) (2016-35) to conserve, and enhance local character, historic environment and cultural heritage.
- Disregards long standing local resident and FPC resistance to development of the site, which is outside the settlement boundary.
- The proposed multi grey/buff/white brick for the dwellings along with timber cladding and slate roofs does not deliver FNDP policy HD7 as the dwellings would not be compatible with the physical qualities and characteristics of the village.
- The loss of trees, including a TPO tree, and 75% of the native species mature beech hedge conflicts with FNDP policy ES3 as the benefits of development do not outweigh the loss.
- The proposed multi grey/buff/white brick for the dwellings along with timber cladding and slate roofs does not deliver FNDP policy HD7 as the dwellings would not be compatible with the physical qualities and characteristics of the village;
- Fails to preserve the visual integrity, identity and scenic quality of the South Downs National Park by conserving and enhancing key views and views of key landmarks within the Park.
- The travel plan is aspirational and not backed up with evidence to suggest that the aspirations regarding the use of public transport, car sharing, cycling etc., particularly for commuting, are viable. Therefore the anticipated car journey numbers are questionable.
- Conflicts with South Downs Local Plan objectives 1, 2, 3 and 4, and policies: SD6, SD11, SD12 and SD19.
- Support for the arguments and objections to revised scheme raised by UFNDP working group.
- The notes from Design Review Panel meetings have not been published on the SDNPA Public Access system.

4.8 **Flood Risk:** No objection, subject to conditions.

4.9 **Highways:** No objection, subject to conditions.

4.10 **Historic Buildings Officer:** No objection.

4.11 **Housing Officer:** No objection.

4.12 **Landscape:** Objection. Comments

- Objection is on balance as the iterative design work has been extensive, however the existing landscape character and evidence has not been fully understood.
- The built form taken as inspiration for the scheme is not distinctive to this part of Findon, and the local equestrian and agricultural character of Findon's eastern settlement edge has not been carried through.

- The following elements undermine the design rationale:
  - The buildings are tall and likely to be visible from key landmarks.
  - The skewed, separated and odd-angled buildings do not reflect the multifunctional courtyard typology of equestrian yards and traditional farmsteads.
  - The amount of tree planting is uncharacteristic of farmsteads and accentuates the scheme.
- Concerns in regard to:
  - The amount of glazing;
  - The new footpath generates a suburban character atypical of the rural village edge;
  - The site access is wider than the lane and fails to generate hierarchy, impacting the character of Soldier's Field Lane and amenity of users of the public right of way.

4.13 **Public Rights of Way:** No objection (following reinstatement of footpath.) Comments:

- Footpath 2085 runs north to south, along the full width of Soldiers Field Lane, and its use is shared with vehicles accessing the existing adjacent properties.
- These public and private rights will continue to co-exist, and [without the footpath] the increase in vehicle movements as a result of development could have a detrimental impact on the safety and convenience of PROW users.
- Removal of the proposed footpath would require pedestrians to share space with vehicles which is not encouraged.
- The provision of physical speed management solutions such as bumps/humps/passing places is encouraged.

4.14 **Southern Water:** No objection.

4.15 **Tree Officer:** No objection. Comments:

- The cedar is not a native species or in keeping with the rural character of the village edge location, and its loss would not have a significant impact on the National Park's First Purpose.
- The proposed planting is more reflective of local landscape character and will make a greater contribution in terms of wildlife habitat.

## 5. Representations

5.1 29 letters of objection were received in response to the original proposals, including from the Updated Findon Neighbourhood Development Plan group and Findon Chase Management Company, raising the following concerns:

### Principle

- The number of houses is too great for the site and will bring at least 40 new residents.
- Will create a precedent for more houses along Soldiers Field Lane.
- The site is outside the settlement boundary.
- The house was provided to house racing yard staff and occupancy tied to the stables.
- The development should be limited to boundary of the current beech hedge.
- There are six other more appropriate sites available within the settlement boundary.
- In conflict with the Updated Findon NDP which seeks to deliver housing on different, less sensitive sites.
- Insufficient information in regard to archaeology, or the significance of heritage assets.
- Will detract from the proposed designation of Nephote Green, former sheep walk, gallops and current and former stables into a Conservation Area.

### Affordable Housing

- Will not deliver homes that are truly affordable, or meet local housing need identified.
- Unclear how existing village families would be prioritised.

- Would only provide homes for local people for the first three months that the properties are marketed.
- 50% of the development would be for larger 3 and 4 bedroom houses.
- Rural Trust Housing is not a charitable trust but a limited company and not subject to regulatory controls under the registered social landlord scheme.
- The developer could sell the retained shares or capitalise cash flow from rental income.
- Occupants would not be able to own 100% of the property.

#### Design

- The demolition of a single house of interest and character, and replacement with dwellings more suited to town locations is disingenuous.
- Does not positively enhance the site's contribution to the downland landscape or improve the current edge of settlement boundary.
- In conflict with the 2016 Neighbourhood Plan objective to conserve and enhance local landscape character, historic environment and cultural heritage.
- Does not offer a sympathetic or sensitive design response to the NDP's detailed landscape character assessments.
- The design is not aesthetically pleasing and the bar needs to be set high in such a sensitive location.
- The cramped, urban style of the houses is industrial/modern, lacking in local style and not in keeping with the existing village setting or locally distinctive building materials.
- The development should reflect the locality's equestrian heritage and local materials of brick and flint.
- Will have an intrusive, overbearing appearance on the setting of Nepcote Green, and views from Nepcote, Cissbury Ring and Monarch's Way.
- Not designed with future long term environmental considerations.
- Rooflights and use of security lights will increase light pollution on the edge of an unlit village.
- The beech hedge needs to be retained until alternative enhanced planting has reached maturity.
- Will increase noise and disturbance.

#### Drainage

- Will increase existing flooding along Nepcote Lane.
- 'Built' upon area will increase by 47% over the current buildings.
- Additional dwellings will impact sewage system which is subject to blockages.

#### Ecology

- Removal of the TPO blue cedar sets an unacceptable precedent and demeans the value of TPOs in general.
- Both the beech hedge and cedar tree provide wildlife habitat.
- The new tree planting will take decades to screen views from the Downs.
- Bats, badgers, owls and songbirds will be harmed by the development, and further surveys are required.

#### Traffic and Access

- The priority at the junction with Convent Gardens and Soldiers Field Lane is unclear.
- Nepcote Lane is narrow and visually restricted in both directions, and additional traffic will exacerbate the already limited pedestrian access.
- Soldiers Field Lane is a single lane track 2/3rds owned by Findon Chase Management Company (FCMC) on behalf of residents of Convent Gardens and the remainder is a public right of way.

- All traffic to and from Soldiers Field Lane has to pass over FCMC land.
- The track is unlit and used by 11 dwellings and the stables for large vehicles so any increase in traffic will be unsafe.
- Will be unsafe for pedestrians and horses.
- The track is disintegrating, and unclear who will be responsible for maintenance and liability.
- An application for 3 houses on Horsham Road was refused due to the access being a single track.
- Refuse and emergency vehicles will be able to turn round in the development but no passing places are provided for other traffic.
- The traffic survey is based on insufficient data (one weekday and a weekend) and underestimates the traffic increase by 50% as there will be at least 24 additional vehicle movements twice daily.
- Will generate a large increase in school run traffic.
- Encouraging cycling is naïve due to lack of local cycle paths and the steepness of Nepcote Lane, so the cycle storage is unlikely to reduce traffic.
- Inadequate parking provision.

5.2 One letter of support was received raising the following:

- Will provide much needed affordable housing in the village at a site which is clearly under-utilised and is extremely suitable for development.

5.3 Following submission of amended drawings revising the design and layout of development, a further 9 objections were received, including a 48 page submission from the Updated Findon Neighbourhood Plan Working Group (UFNPWG), raising the following additional concerns:

#### Principle

- Conflicts with the allocation policies democratically approved by the villagers of the updated NDP, which is at examination, and being ignored.
- The village lacks local facilities and transport and does not support housing growth.
- The site is not appropriate for new housing and existing landscape and heritage constraints mean that the allocation is undeliverable.
- Findon PC and UFNPWG were not included in discussions between the applicant, officers and the Design Review Panel (DRP).
- The DRP minutes are not published on Public Access.
- The SDNPA has failed to engage with the residents of Findon and the Parish Council in regard to objections raised.
- The dwelling was recently for sale and attracted a buyer, so is not redundant.
- Cumulative impact of development at this site and Soldiers Field Stables has not been considered.
- Will set a precedent for development of adjoining paddocks.
- The number of documents are confusing.

#### Design

- The farm typology is in conflict with local downland character, settlement pattern and history.
- Successful stable conversions exist at Nepcote Lodge Stables and Vale Stables.
- Conversion of the existing dwelling and outbuildings should be considered instead.
- The modern style is not in keeping with the rural setting, does not represent a farm typology and will not improve on the design of the existing dwelling.
- The buildings are all the same height and too high.
- Relies on the landscape buffer for screening.

- The flint boundary wall is suburban.
- Proposed materials are incompatible with the physical qualities and characteristics of the village.
- There is no need to include public open space

#### Access and Traffic

- Unsuitable from a safety and access point of view in terms of infrastructure and environmental impact.
- Widening of the lane at the site access and introduction of a new footpath will negatively impact character of Soldiers Field Lane.
- Will increase traffic by more than 10% on Nepcote and Nepcote Lane which are historic rural roads.
- On 13 November between 09:30 and 10:20 there were 14 traffic movements across the access between Soldiers Field Lane and Convent Gardens so the traffic assessment is unrealistic.
- The narrow lane should be adopted and expanded into two-lane access.
- Safety concerns based on locally witnessed incidents and near misses due to the doubling of traffic movements at the junction between Soldiers Field Lane and Convent Gardens.
- Lack of visitor parking provision.
- The landowners of 2/3rds of Soldiers Field Lane object to the proposal.
- 1930s plans of the road confirming 1/3 of the lane is a downland pathway have not been considered.

5.4 A further letter of support was received raising the following:

- The development will enable Findon families to continue living in their home village in the future without being priced out of the market.
- New developments such as Convent Gardens blend in eventually.

## **6. Planning Policy Context**

6.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The relevant statutory development plan is the South Downs Local Plan (2014-33). The relevant policies are set out in section 7 below.

#### National Park Purposes

6.2 The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social wellbeing of the local community in pursuit of these purposes.

#### National Planning Policy Framework and Circular 2010

6.3 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and the revised National Planning Policy Framework (NPPF) issued in July 2018 and further amended in February 2019. The Circular and NPPF confirm that National Parks have the highest status of protection, and the NPPF states at paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in national parks and that the conservation and enhancement of wildlife and cultural heritage are also important considerations and should be given great weight in National Parks.

#### The South Downs National Park Partnership Management Plan

6.4 The South Downs National Park Partnership Management Plan as amended for 2020-2025 is a material consideration in the determination of the application. The following policies are relevant:



- 1: Conserve and enhance natural beauty and special qualities of the landscape;
- 3: Protect and enhance tranquillity and dark night skies;
- 5: Conserve and enhance populations of priority species
- 50: Housing and other development.

## **7. Planning Policy**

### The South Downs National Park Local Plan

7.1 The relevant planning policies of the South Downs Local Plan (2014-33) are:

- SD1: Sustainable Development
- SD2: Ecosystems Services
- SD4: Landscape Character
- SD5: Design
- SD6: Safeguarding Views
- SD8: Dark Night Skies
- SD9: Biodiversity and Geodiversity
- SD10: International Sites
- SD11: Trees, Woodland and Hedgerows
- SD12: Historic Environment
- SD16: Archaeology
- SD17: Protection of the Water Environment
- SD19: Transport and Accessibility
- SD21: Public Realm, Highway Design and Public Art
- SD22: Parking Provision
- SD25: Development Strategy
- SD26: Supply of Homes
- SD27: Mix of Homes
- SD28: Affordable Homes
- SD44: Telecommunications and Utilities Infrastructure
- SD45: Green Infrastructure
- SD50: Sustainable Drainage Systems
- SD51: Renewable Energy
- SD70: Soldiers Field House, Findon

### The Findon Neighbourhood Development Plan

7.2 The Findon Neighbourhood Development Plan (NDP) (2016-35) was adopted by the SDNPA on 8 December 2016 and forms part of the Development Plan. Relevant policies include:

- BT9 Communications Infrastructure
- GA1 Sustainable Transport
- GA3 Parking and New Development
- CFW8 Dark Night Skies
- ES2 Surface Water Management
- ES3 Protection of Trees and Hedgerows
- ES4 Renewable Energy
- ES7 Flint Walls
- HD2 Local Connection
- HD7 Design of Development

- HD8 Outdoor Space.

7.3 The Neighbourhood Planning Group have sought to update the Findon NDP, which was submitted for examination in July 2019 and published for consultation between 22 July and 16 September 2019. The Examiner's report was published on 13 December 2019 and is appended at **Appendix 2**.

#### Statutory Requirements

7.4 The Planning (Listed Buildings and Conservation Areas) Act 1990 places a series of duties on planning authorities when determining applications for planning permission that may affect Conservation Areas or their setting.

7.5 Section 66 (1) states that 'in considering whether to grant planning permission for development which affects a listed building or its setting the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 relates to conservation areas specifically, and states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

### **8. Planning Assessment**

#### Principle of development

- 8.1 The first statutory purpose of the National Park is to conserve and enhance the natural beauty, wildlife and cultural heritage of the area, and development within it must accord with this purpose.
- 8.2 Policy SD26 requires a total of approximately 28 dwellings to be provided in Findon village to help deliver the level of housing provided for by the South Downs Local Plan (SDLP). Housing sites may be allocated through Neighbourhood Development Plans, however as the Findon NDP (2016) did not allocate any sites for housing, these were made through the SDLP under policies SD69 Land at Elm Rise for 4-18 dwellings and SD70 Soldiers Field House for 10-12 dwellings. The settlement policy boundary for Findon was amended under SD25 to accommodate the Soldiers Field House site. Policy SD26 makes it clear that the amount of housing to be provided in each settlement is *approximate*. This allows for a flexible approach with regard to the final/acceptable quantum of development on allocation sites, given that in-depth landscape analysis work is carried out at proposal stage to ensure compliance with strategic policies SD4 and SD5. This analysis is then used to determine individual sites' capacity to receive development, and the design, layout and quantum of units that may be provided, which may be more or less than the amount suggested by the allocation policy.
- 8.3 Concerns have been raised that the proposal conflicts with the emerging Updated Findon Neighbourhood Development Plan (UFNDP), which seeks to allocate alternative housing sites to those allocated through the SDLP and exclude Soldiers Field House from the settlement. However, the Inspector has found that the plan does not meet basic conditions, and has recommended that the allocation policies be deleted along with the proposed alterations to the settlement boundary. The SDNPA's Decision Statement is due to be considered at Item 15 on the agenda, with a recommendation that the UFNDP, as amended by the Inspector, be adopted as part of the development plan. The adoption of the UFNDP has no implications for policy SD70, or the application.
- 8.4 The principle of residential development on the site is therefore acceptable, subject to a number of site-specific development requirements set out in SD70, and considerations relating to design, layout and landscape impact, housing provision, ecology and trees, drainage, and access, which are considered in more detail below.

#### Design, Layout and Landscape Impact

8.5 The SDNPA Settlement Context Study (2017) identified the condition of the eastern edge of Findon as negatively impacted by the visual intrusion of uncharacteristic enclosures and structures along the settlement fringe, including the existing dwelling at Soldiers Field House. Paragraphs 9.94 and 9.95 of the supporting text of SD70 set out that existing development on the site currently has a negative impact on important public vantage points. Redevelopment of the site therefore provides an opportunity to deliver a mix of smaller dwellings and "improve

- the character of the area and enhance views of the site, through a design and layout that better responds to the traditional architectural styles seen in Findon.”
- 8.6 The SDLP Examiner (paragraph 153 of the Examiner’s Report) agreed that “replac[ing] the single large house with 10 or 12 more modest family homes would have little effect on the visual impact on the landscape overall. Moreover, the redevelopment of the site would afford opportunities for its appearance and character to be sensitively improved in relation to important viewpoints on the Downs and local heritage assets, in line with the express aim of criterion 1a.”
- 8.7 Proposals must also comply with policies SD4, SD5 and SD2, which require the design of development to adopt a landscape-led approach in order to conserve and enhance existing landscape character features; and have a positive impact on the ability of the natural environment to contribute goods and services. Policy HD7 of the Findon NDP (2016) also requires new development to follow the guidance set out in the Findon Village Design Statement which seeks to ‘ensure that the valued physical qualities and characteristics of the village and its surroundings are conserved, protected or improved.’
- 8.8 Officers raised initial concerns in regard to the layout and design of the original proposal, which was considered to be suburban in nature and out of character with the edge of settlement context. The applicant attended two informal sessions with the SDNPA Design Review Panel (DRP), an independent panel of qualified architects, landscape architects and other professionals, seeking objective advice as to how to improve the scheme. The scheme was subsequently amended, and the applicant has provided a ‘Landscape-Led Approach Statement’, explaining how the chosen farmstead typology allows the site to function as a transition development, reducing the scale and visual impact of the development from key views, and allowing visual connectivity from within the site. The addendum to the Landscape and Visual Impact Assessment states that the orientation of the buildings and proposed materials also seek to lessen impacts on Cissbury Ring in comparison with the existing dwelling being more linear and of a smaller scale. The form and arrangement of development reflects the formality found within a stable yard whilst retaining a residential character, with ‘green fingers’ enhancing connectivity with the rural landscape character. The chosen design approach is based on an assessment of the site’s surrounding landscape and the definition of a set of parameters that have informed and underpinned the design ethos for the site.
- 8.9 Officers agree that the scheme demonstrates a landscape-led approach and elements of high quality, sustainable design, however conclusions regarding the overall success of the design are more nuanced. The scheme is supported by the Design Officer, who sets out how the scheme has been carefully designed, iteratively testing built form scenarios including equestrian, modern agricultural and farmstead typologies. The farmstead typology was chosen as it facilitated integration of the scheme with the wider landscape and allowed delivery of the highest quantum of development required by Policy SD70. However, the Landscape Officer has objected to the scheme because the large scale agricultural building typology and domestic features, laid out at skewed angles around a permeable, courtyard space, ultimately creates a confused character that is neither agricultural nor residential, and would generate negative landscape impacts overall. This is because the scope of the landscape evidence and analysis work has not fully identified the sensitivities of the site and its immediate context, or what an enhancement of the settlement edge would fully entail.
- 8.10 The applicant originally drew inspiration from existing cul-de-sac developments within Findon settlement, and on the advice of officers and the DRP subsequently turned their focus to more rural forms of development. In particular, the applicant was encouraged to consider the unique layer of landscape character in the immediate locality along the eastern settlement boundary which is equestrian in nature, and highly valued by the community as part of the cultural heritage of Findon. The form of new development on the site should therefore be inspired by large, low buildings and regular yards which typify this local use and character. An agricultural or farmstead typology could also be acceptable, providing it reflected the ordered regularity of local traditional farmsteads (characteristically the Regular Courtyard type) found in the locality of the settlement. However, when the applicant tested the typical building forms and scale associated with equestrian and traditional farmstead typologies, the quantum of development achievable was reduced below that required by SD70.

- 8.11 The landscape evidence gathered included a number of relatively modern agricultural typologies from the wider local area, and it was this form of development that allowed the delivery of 12 dwellings of a policy compliant mix and tenure. Although the agricultural typology has been carried through in terms of scale and form, the building design, layout and landscaping is domestic in nature, with a large amount of glazing, provision of front gardens and domestic arrangement of buildings around car parking areas, none of which are traditional farmstead features. As a result, the scheme does not succeed in conveying a convincing agricultural/equestrian typology reflective of the unique landscape character of the locality and cultural history valued by the community. Furthermore, the height of the new dwellings would mean they are visible in the landscape. The scheme therefore fails to positively enhance the contribution of the site to the downland landscape, including views from public rights of way to the north and east, Nepcote Green and, to some extent, longer views from Cissbury Ring.
- 8.12 In summary, the scope of the landscape evidence gathered, and design decisions taken as a result, have resulted in a scheme that is not as well related to the highly unique, edge-of-settlement character of this part of Findon as it could be. As a result, it is considered that, on balance, the scheme does not succeed overall in integrating with, respecting and sympathetically complementing the landscape character and appearance of the area, and ultimately fails to positively enhance the contribution of the site to the downland landscape. The proposal is therefore contrary to the First Purpose of the National Park, policies SD4, SD5 and SD70 of the South Downs Local Plan (2014-33), policy HD7 of the Findon NDP (2016), and the NPPF.

#### Climate Change and Sustainable Construction

- 8.13 Policy SD48 encourages all new development to incorporate sustainable design features, as appropriate to the scale and type of development. The scheme reduces the need for energy through passive design measures to optimise light, warmth and ventilation, and a solar renewable energy source. The homes are also designed with water efficiency measures and reduced carbon emissions that meet the requirements of SD48, and will be constructed from sustainable materials including Forest Stewardship Council certified timber. Further technical details to ensure the proposal meets the requirements set out in the SDNPA's Sustainable Construction Technical Advice Note may be secured via condition.

#### Historic Environment

- 8.14 Criterion 1a) of SD70 requires development to positively enhance the contribution of the site to...the setting of the Wattle House (which is Grade II listed), particularly as viewed from public rights of way to the east and south and from Nepcote Green.
- 8.15 Concerns have been raised in regard to the impact of development on the historic environment, including the proposed designation of Nepcote Green, the former downland sheep walk, the gallops and current and former training stables into a Conservation Area.
- 8.16 The Historic Buildings officer has advised that a draft appraisal of a potential new Conservation Area is under development but the boundaries differ from that proposed in the Updated Findon Neighbourhood plan (which includes the gallops and training stables). The appraisal has not been publically consulted on or formally reported to Members, and as such carries very little weight. In regard to potential harm from development, he concludes that the submitted Heritage Statement accurately assesses the potential heritage impacts on the setting of three nearby listed buildings, including the Wattle House, and agrees that the main impact relates to the wider landscape rather than the historic environment.

#### Housing Provision

- 8.17 As part of the evidence base for the South Downs Local Plan, the SDNPA carried out a Housing and Economic Development Needs Assessment (HEDNA) in 2017 for the wider National Park Area. This outlines that the greatest need in terms of market housing is for 2 and 3 bedroom properties, as reflected in policy SD27. Policy SD28 requires sites with gross capacity to provide 11 or more homes to provide a minimum of 50% of affordable homes on-site. The adopted Findon NDP (2016-33) does not contain any housing policies, however the local housing needs assessment carried out in 2013 by Action in Rural Sussex (AiRS) identified a need for smaller, affordable rent and social rent homes, which reflects the wider need identified across the National Park.

	<b>2 Bed</b>	<b>3 Bed</b>	<b>4 Bed</b>	<b>Total</b>
<b>Market</b>	2 (33%)	3 (50%)	1 (17%)	6
<b>Affordable</b>	3 (50%)	3 (50%)	0	6
<b>TOTAL</b>	<b>5</b>	<b>6</b>	<b>1</b>	<b>12</b>

- 8.18 The proposed development would provide an acceptable number of smaller dwellings in line with the requirements of policy SD27. Of the affordable units, 4 (66%) would be social rented accommodation, and 2 units (33%) would be of a shared ownership tenure, which broadly complies with policy SD28. The affordable housing provision and ongoing management could be secured via a s106 legal agreement should Members be minded to support the application. Meanwhile, in the absence of an agreed s106, a technical reason for refusal is recommended to ensure the affordable housing provision is secured in the event of a successful appeal.

#### Drainage

- 8.19 Concerns have been raised in regard to the surface water drainage and the potential for the road network and neighbouring properties to be at risk from flooding. Concerns are also raised in regard to the capacity and management of the existing sewage network serving Convent Gardens.
- 8.20 The Flood Risk Authority has no objection to the proposal, which is considered to be at low risk from surface and groundwater flooding. The proposed permeable paving and soakaways to control surface water runoff are considered acceptable, subject to a condition securing winter groundwater monitoring, final details of sustainable surface water drainage (SuDS) designs and calculations, maintenance and management. The provision of further on-site sustainable drainage solutions such as porous surfaces, rainwater harvesting and rain gardens could also be sought through a landscaping condition, in accordance with SD2 and SD50.
- 8.21 Southern Water have advised that the applicant will need to make a formal application to Southern Water for sewer diversion. Network reinforcement of foul sewerage may be required to reduce the risk of flooding and the developer will need to work in conjunction with Southern Water to provide this.

#### Ecology and Trees

- 8.22 Criteria 1c) and 1d) of SD70 require development to enhance biodiversity; provide for local notable and protected species; and retain the existing beech hedge that follows the site boundary until improved and mature native species planting provides an enhanced boundary treatment. Criterion 2a) states that where trees are lost, at least the equivalent in new tree planting must be provided on site. Trees on the site boundary should be retained and new tree planting should be undertaken.
- 8.23 Concerns have been raised in regard to the loss of the TPO blue cedar tree, the replacement (over time) of the architectural beech hedge, and impact on protected species.
- 8.24 The TPO was confirmed at the request of Findon Parish Council in December 2017 under SDNP/17/00001/TPO. As the tree fell within a proposed Local Plan allocation site, the application to make the order was approved by the planning committee. The officer's report (appended at **Appendix 3**) made it clear that whilst a TPO is a statutory level of protection, the presence of a TPO is not necessarily a block to development. Where a TPO tree is proposed to be lost due to development, a condition is normally applied securing the planting of a suitable replacement.
- 8.25 A total of 5 trees are proposed for removal, including 2 birch trees, a cherry and pear tree, and the TPO'd blue cedar. The Tree officer has advised that the cedar tree is not a native species in keeping with the rural character of the village edge location, and its loss would not have a significant impact on National Park Purpose 1. The trees are proposed to be replaced with suitable native species both within the site and the landscape buffer along the southern and eastern boundaries, which is considered acceptable. To ensure that any tree planting would enhance characteristic landscape character, the final amount, type and location of tree planting may be secured via a landscaping condition.
- 8.26 The existing boundary hedge comprises a dense block of single native species, and as such is a feature that is of architectural merit rather than ecological value. The hedge is urban in appearance and visually very prominent, and criterion d) of policy SD70 seeks "improved and

mature native species planting” to provide “an enhanced boundary treatment” more in keeping with the edge of settlement location. Whilst the view of officers is that the hedge should be replaced over time, it is recognised that it is a feature that is clearly valued by the local community. Were Members minded to seek the retention of the hedge, there could be scope for it to form the boundary edge for private gardens, with softer planting beyond it to create a softer and more natural rural edge.

- 8.27 The County Ecologist has considered the submitted ecological information, which confirms the presence of a bat day roost, and outlier and main badger setts on/immediately adjacent to the site. The development will result in the loss of a roost used by a small number of non-breeding pipistrelle bats. A strategy is provided to ensure development will not disturb, kill or injure bats, and for new roosting opportunities within the new buildings. A confidential plan has been submitted, showing the location of the recorded badger setts and clarification provided in relation to the width of the buffer in the north and east to protect the setts and provide sufficient foraging habitat for badgers. The remainder of the site, which is of low ecological value, will be enhanced through the inclusion of new wildflower grassland areas, hedgerows, trees and bird/bat boxes.
- 8.28 In summary, the proposed mitigation planting, including native tree and scrub species, will be more reflective of local landscape character than the existing cedar tree and single species architectural hedge, and will provide a habitat net gain, in accordance with SD2, SD9, SD11 and SD70. Adherence to the mitigation measures set out in the submitted Ecological Assessment; a suitable lighting strategy; scheme of biodiversity enhancements; and Watercourse Buffer and Reptile Mitigation and Management Strategy could be secured via condition.

#### Access and Parking

- 8.29 Policies SD19 and SD21 seek the continued safe and efficient operation of the strategic and local road networks. Policy SD21 does not permit development that would reduce the biodiversity, landscape and amenity value and character of historic rural roads.
- 8.30 Concerns have been raised in regards to the adequacy of Soldiers Field Lane to accommodate additional traffic; impacts on users of the public right of way; and amenity impacts on historic rural roads Nepcote and Nepcote Lane, particularly given the concurrent application at Soldiers Field Stables for a replacement dwelling, groom accommodation, holiday let and two new dwellings. Concerns are also raised in regard to future maintenance of Soldiers Field Lane, which is in shared private ownership.
- 8.31 Matters relating to Highways safety and amenity as a result of development were considered at allocation stage, taking permission SDNP/15/01361/FUL at Soldiers Field Stables (for replacement dwelling, holiday cottage and one new dwelling) into account. The current application at Soldiers Field Stables proposes an additional dwelling, which is not considered to be a significant increase, and would therefore be unlikely to raise significant safety or amenity issues in terms of traffic.
- 8.32 The submitted Transport Statement concludes that the number of vehicles using Soldiers Field Lane in the morning and evening peak hours will remain low. WSCC Highway Authority have considered the submitted Transport Statement and advise there is no evidence to suggest that the junctions with Convent Gardens and Nepcote Lane are operating unsafely, or that the proposed development would detrimentally alter this. Soldiers Field Lane is a privately owned, lightly trafficked, no-through route that functions as an existing shared surface with passing places and sufficient width for vehicles to pass at the junction with Convent Gardens. The vehicular access from the site onto Soldiers Field Lane is proposed to be widened to a 5m width, providing an additional passing place for users of the lane, with an acceptable visibility splay and kerb radii to allow access for refuse collection and fire appliance. Provision for large vehicle turning and parking is adequate.
- 8.33 The updated WSCC Car Parking Demand Calculator predicts a demand for a total of 33 spaces to include 8x visitor spaces. The plans indicate 24x allocated and 4x visitor spaces, however the LHA does not consider this would form grounds to refuse the application. Furthermore, as set out in the supporting text of SD22, vehicle parking areas can negatively impact on landscape, the local environment, biodiversity and drainage, and in the National

Park. SD19 also requires proposals to minimise the need to travel and promote the use of sustainable modes of transport. The provision of cycle parking spaces and use of sustainable transport will be encouraged through the Travel Plan Statement, which may be secured via condition.

- 8.34 WSCC Public Rights of Way (PROW) have advised that vehicular access to the site must be managed to ensure there is no danger or inconvenience to users of the footpath. The original application included a footway from the site to the junction with Convent Gardens, which was removed following concerns raised by the Landscape officer that it would be uncharacteristic and urbanising. However, given the narrow width of the existing track, (4.2- 5.2m) and following an objection from WSCC Public Rights of Way on safety grounds, the footpath has been reinstated on the advice of officers in the interests of public safety. Maintenance of the footpath, which falls within land owned by the applicant, and speed limits within the site and private drive to restrict the speed of vehicles exiting the site, could be secured via a management plan condition for the site.
- 8.35 In response to concerns raised in regard to the maintenance of Soldiers Field Lane, this is in shared private ownership, and not land controlled by the applicant. As a result, a condition requiring how responsibility for management and repairs to the lane would be shared by all users would not meet National Guidance in terms of the required tests of reasonableness and enforceability. Therefore, should permission be granted, the applicant would be encouraged to negotiate a satisfactory, separate arrangement for maintenance of the lane with the relevant land owners.

#### Dark Night Skies

- 8.36 The site is located within the Dark Skies Transition Zone (E1b), which lies between dark zones and the urban environment. Whilst the skies in this zone are relatively brighter, it is still important to reduce light pollution as these areas have the potential to become dark zones in the future.
- 8.37 The Dark Night Skies officer has advised that whilst the light strategy sufficiently mitigates for the new dwellings by not including street lighting or roof lights, low transmission glazing and a scheme of external lighting that fully complies with dark sky requirements would also be required. These elements, and a condition removing permitted development rights (which include the ability to insert rooflights), may be secured via condition.

#### Impact on Surrounding Amenities

- 8.38 The development would be accessed directly from Convent Gardens and Soldiers Field Lane and there would be an increase in traffic as a result, however this is not considered to significantly impact neighbour amenity in terms of noise or disturbance.
- 8.39 The siting and orientation of the dwellings are unlikely to cause significant harm from overlooking towards neighbouring properties. No concerns have been raised in regard to noise or disturbance as a result of development.

#### Other Matters

- 8.40 Concerns have been raised in regard to the occupancy condition that was attached to the 1968 permission (attached) restricting occupation to persons employed or last employed in agriculture at the Downs Training Stables; and that the site therefore cannot be considered as Previously Developed Land (PDL) due to the agricultural occupancy condition.
- 8.41 The NPPF definition of PDL excludes land that “is or was last occupied by agricultural... buildings.” It is acknowledged that the 1968 permission for Soldiers Field House has an agricultural employment condition attached, and that although permission was granted (FN/24/88) in 1989 for continuance of use without complying with the condition, the condition remained. The occupancy condition is the only link to agriculture and the site is not occupied by agricultural buildings. The occupancy restriction was secured by planning condition, rather than a S.106 obligation (which binds the land as a land charge). Breaches of condition fall under the discretionary enforcement powers of the Local Planning Authority (LPA) and at the present time there are no grounds for the LPA to enforce a breach of occupancy condition. The starting point for consideration of the acceptability of development is the South Downs Local Plan (2014-33) which allocates the site for development of 10-12 dwellings. Therefore,

although the occupancy condition is part of the site's planning history, it does not frustrate future development of this allocated site.

## **9. Conclusion**

9.1 The principle of development is established by policy SD70 of the South Downs Local Plan (2014-33). The proposal would deliver a policy compliant mix and amount of market and affordable housing, of a high quality, sustainable design.

9.2 However, officers are of the view that, despite the revision of the scheme to provide a much better and sustainable design, on balance, the proposal overall fails in wider landscape terms to positively enhance the site's contribution to the downland landscape. This includes views from public rights of way to the east and south, from Nepcote Green and, to some extent, longer views from Cissbury Ring. The proposal therefore fails to take full opportunity to conserve and enhance the site and its setting, as specifically required by SD70, and more generally by SD4 and SD5, and is therefore contrary to the First Purpose of the National Park, development plan policies and the NPPF. In the absence of any overriding material considerations, and agreed s106 to secure affordable homes on the site, the application is therefore recommended for refusal.

## **10. Reason for Recommendation**

10.1 The application is recommended for refusal for the following reasons:

1. The scheme would fail overall to positively enhance the contribution of the site to the downland landscape, or views from public rights of way to the east and south, Nepcote Green and Cissbury Ring. The proposal is therefore contrary to the National Park's First Purpose, policies SD4, SD5, SD25 and SD70 of the South Downs Local Plan (2014-2033), policies HD4 and EN1 of the Findon NDP (2016) and the NPPF.
2. In the absence of a completed legal agreement, the proposals fail to secure provision of affordable housing on site. The proposals are therefore contrary to policy SD28 of the South Downs Local Plan (2014-33) and the NPPF (2019).

## **11. Crime and Disorder Implication**

11.1 It is considered that the proposal does not raise any crime and disorder implications.

## **12. Human Rights Implications**

12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

## **13. Equality Act 2010**

13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

## **14. Proactive Working**

14.1 In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF.

## **TIM SLANEY**

**Director of Planning**

**South Downs National Park Authority**

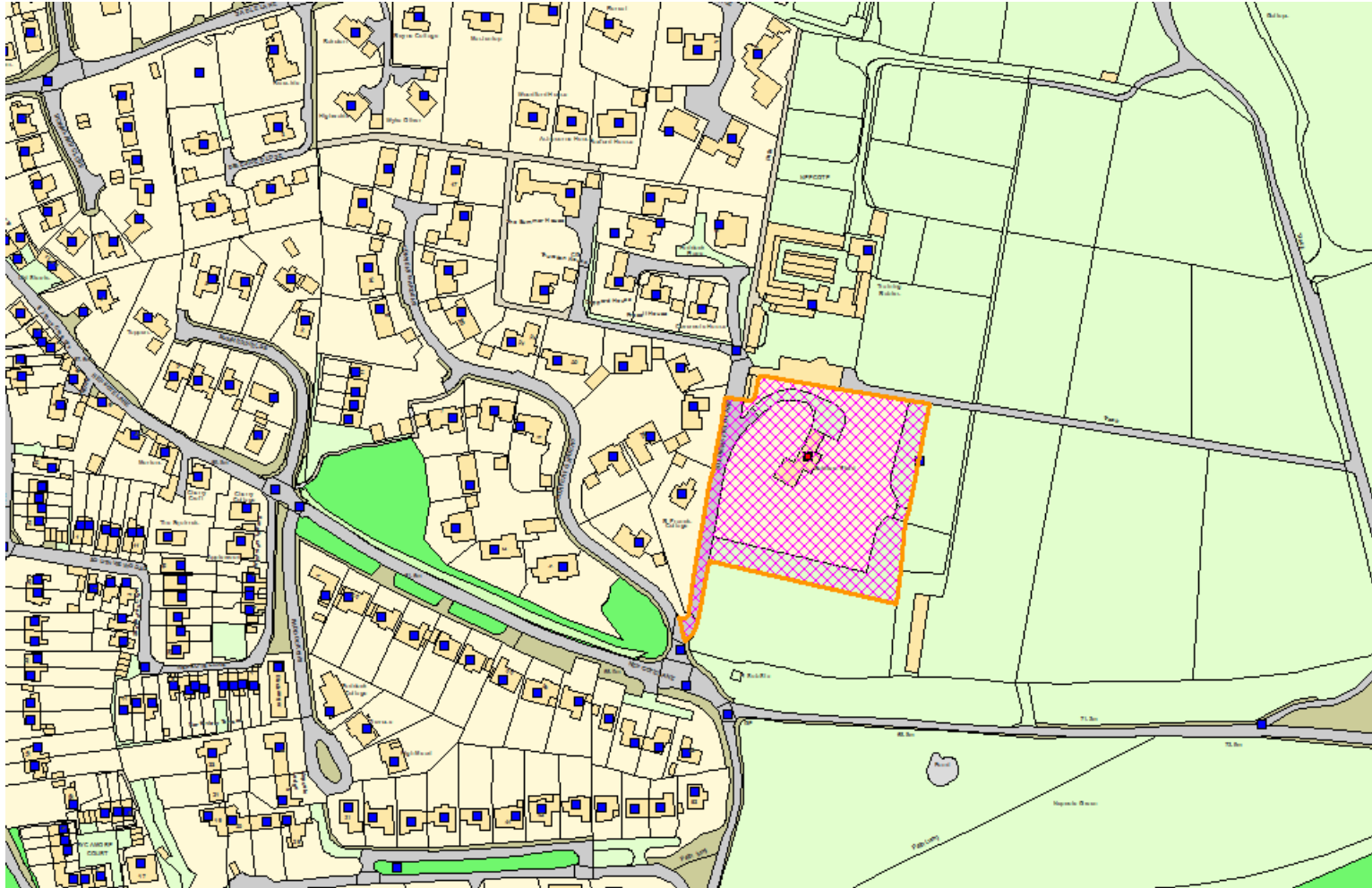
Contact Officer: Stella New  
Tel: 01730 819216  
email: [stella.new@southdowns.gov.uk](mailto:stella.new@southdowns.gov.uk)

Appendices  
1. Site Location Map  
2. Examiner's Report on the Updated Findon Neighbourhood Development Plan  
3. Committee Report for SDNP/17/0001/TPO

SDNPA Consultees Legal Services, Development Manager.  
Background Documents [All planning application plans, supporting documents, consultation and third party responses](#)



[DRP Notes](#)  
[Findon NDP \(2016\)](#)  
[Findon Updated NDP \(Submission Version\) 2019](#)  
[National Planning Policy Framework \(2019\)](#)  
[South Downs Integrated Landscape Character Assessment 2005 and 2011](#)  
[SDNPA Findon Settlement Context Analysis](#)  
[South Downs National Park Partnership Management Plan 2020-25](#)  
[South Downs Local Plan \(2014-33\)](#)  
[South Downs Local Plan Inspector's Report \(Jun 2018\)](#)  
[South Downs Sustainable Construction Technical Advice Note \(Nov 2019\)](#)



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## Examination

FINDON

NEIGHBOURHOOD DEVELOPMENT PLAN

UPDATE 1

2019-2035

July 2019

R J Bryan, BA Hons. MRTPI.  
Examiner.

## ABBREVIATIONS and ACRONYMS

The following are acronyms and abbreviations used in this examination:

HRA - Habitats Regulations Assessment.

NPPF - National Planning Policy Framework.

NPPG - National Planning Practice Guidance.

SDNPA–South Downs National Park Authority.

SDLP - South Downs Local Plan

SEA - Strategic Environmental Assessment.

The Plan - the Neighbourhood Development Plan under examination.

## INTRODUCTION

1. This is an independent examination of an update of the Neighbourhood Plan prepared by the Parish Council in consultation with the local community. The Localism Act 2011 provided local communities with the opportunity to have a stronger say in their future by preparing neighbourhood plans, which contain policies relating to the development and use of land.
2. The Plan forms part of the statutory development plan and is an important consideration in the determination of planning applications as these must be determined in accordance with development plan policies unless material considerations indicate otherwise.
3. I have been appointed by the South Downs National Park Authority (SDNPA) in consultation with the Parish Council to carry out this independent examination. I am a Chartered Town Planner with over 30 years experience working at a senior level in local government and as a private consultant. I am a member of the Royal Town Planning Institute.
4. I confirm that I am independent of the Parish Council and the South Downs National Park Authority (SDNPA) and have no interest in any land, which is affected by the Plan.
5. This report is the outcome of my examination of the submitted version of the update to the Plan.
6. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the SDNPA puts the plan forward to a referendum and it then receives the support of over 50% of those voting, then the Plan will be “made” by the SDNPA as the Local Planning Authority.

## BACKGROUND DOCUMENTS

7. I have considered the following documents as part of this examination:

### Documents submitted for the examination

The Findon Neighbourhood Development Plan, Update 1, 2019-2035, July 2019, Submission Version  
Basic Conditions Statement, June 2019,  
Consultation Statement, June 2019,  
Regulation 16 Consultation Responses,  
SDNPA Screening opinion regarding need for a Strategic Environmental Assessment and Habitats Regulation Assessment, contained in a letter to the Parish Council of 11/4/2018

### Local and National Policies and Guidance

Findon Neighbourhood Development Plan, 2016-2035, made 8/12/16,  
South Downs Local Plan 2019-2033, adopted 2/7/19,  
National Planning Policy Framework (NPPF),  
National Planning Practice Guidance (NPPG),

### Other Documents

Housing and Economic Development Needs Assessment (HEDNA), Final report, September 2017, GL Hearn,  
Legal opinion from Richard Turney, Landmark Chambers, 27/7/2018,  
Equalities Impact Assessment, July 2019, SDNPA,  
Inspector's report on the SDLP by B J Sims BSc (Hons) CEng, MICE, MRTPI, 18/6/19,  
SDNPA, SDLP Main Modifications Report, April 2019,  
Documents included as 'Evidence Base 2018' and "Evidence Base FNP Update 1 (2019) on the Findon Parish Council web site.

## THE EXAMINATION

8. The nature of the independent examination is set out in Section 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

9. The examiner has to make a recommendation as to whether the Plan should be submitted to a referendum, with or without modifications, and if the area for the referendum should extend beyond the plan area.

10. As a general rule the examination should be carried out on the basis of written representations unless a hearing is necessary to allow adequate consideration of an issue or to allow a person a fair chance to put a case.

## PROCEDURAL MATTERS

11. It is necessary to determine that the Plan complies with the following procedural matters<sup>1</sup>:

- The Plan has been prepared and submitted by a qualifying body
- The Plan has been prepared for an area that has been properly designated
- The Plan specifies the period to which it has effect, does not include provisions about excluded development and does not relate to more than one neighbourhood area
- The policies relate to the development and use of land for a designated neighbourhood area.

12. The Plan has been prepared and submitted by a qualifying body, Findon Parish Council. It relates to an area, which includes the whole parish that the SDNPA approved as the designated plan area during the preparation of the original Plan made in 2016.

13. In accordance with the regulations<sup>2</sup>, the Plan sets out policies in relation to the development and use of land and does not refer to “excluded” development. It specifies the period for which it has effect (2019-2035). It does not relate to more than one neighbourhood area.

## CONSULTATION

14. The Parish has submitted a Consultation Statement, which describes the process of consultation and summarises responses received up to the time of the submission of the Plan to the SDNPA.

15. The Plan working group consisting of two parish councillors and volunteers from the community was set up in April 2017 and in June 2017 recommended an update to the neighbourhood plan be prepared. This was primarily to focus on the selection and allocation of housing sites.

16. This process was in tandem with the work by SDNPA on the emerging Local Plan. A full assessment of alternative housing sites to that being advocated in the emerging local plan was carried out and the subject of a range of public consultation initiatives. These included consultation events advertised by leaflet drops to all households in the Plan area, stakeholder engagement housing site preference surveys and regular updates in local publications, social media and the parish council and village web sites. These engaged the local community, landowners and developers.

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<sup>1</sup> Paragraph 8(1) of Schedule 4 B of the Town and Country Planning Act 1990 (as amended)

<sup>2</sup> Neighbourhood Planning (General) Regulations 2012

17. The formal consultation under regulation 14<sup>3</sup> was carried out in June/July 2018 with adequate publicity involving notices on village notice boards, hard copies of the Plan at various public locations, website publicity and direct notification of interested landowners and other stakeholders. The Consultation Statement summarises the main issues and how the emerging Plan has taken responses into account.

18. I am satisfied that the “Consultation Statement”, demonstrates a good level of consultation, which has allowed community participation and involved technical consultees in the emerging Plan. I have read the Equalities Impact Assessment relating to the Plan and am satisfied that the consultation process and policy formulation has resulted in a Plan to the benefit of the community as a whole and meets the requirements of the Equalities Act 2010.

## BASIC CONDITIONS

19. It is necessary to decide whether the Plan meets the “basic conditions” specified in the Act.<sup>4</sup> This element of the examination relates to the contents of the Plan.

20. This Plan meets the basic conditions if:

- a) It has regard to national policies and advice contained in guidance issued by the Secretary of State,
- b) The making of the plan contributes to sustainable development,
- c) The making of the plan is in general conformity with the strategic policies contained in the development plan for the area,
- d) The making of the plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements,
- e). The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

21. The Parish has submitted a “Basic Conditions Statement”, to seek to demonstrate conformity. The analysis of conformity with the basic conditions is carried out below. Note this is not in the order specified above.

## SUSTAINABLE DEVELOPMENT

22. The Parish submits in the Basic Conditions Statement that the Plan complies with NPPF core policies, which ensure the Plan promotes sustainable development. The NPPF establishes that the three components of sustainability are economic, social and environmental and that these underpin all planning policy.

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<sup>3</sup> regulation 14 of the Neighbourhood Planning (General) Regulations 2012

<sup>4</sup> Contained Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

23. The Basic Conditions Statement explains that this is an update to a Plan, which was considered to promote sustainable development when it was examined in 2016. The alterations to the Plan essentially consist of new housing allocations and minor alterations to the local green space allocation. The Statement explains why it is considered the proposed alternative housing allocations are in sustainable locations in terms of minimizing environmental impact, protecting the historic areas, allowing travel by sustainable means, and proximity to broadband links. Furthermore, it is contended the proposed housing responds to local needs requirements in particular providing for more affordable homes.

24. Retained policies promote high standards of design, encourage healthy and safe communities and respond to climate change.

25. I agree that the Plan continues to promote sustainable development as required by basic conditions.

#### EU OBLIGATIONS, HUMAN RIGHTS REQUIREMENTS

26. A neighbourhood plan must be compatible with European Union Directives as incorporated into UK law, in order to be legally compliant. Key directives are the “Strategic Environmental Assessment Directive<sup>5</sup>” and the “Habitats and Wild Birds Directive<sup>6</sup>”. These require that consideration should be given to the need for a Strategic Environmental Assessment (SEA) to assess any significant environmental impacts and/or an appropriate Habitats Regulations Assessment (HRA) to assess any impact on a site/habitat recognised as protected under European legislation<sup>7</sup>. A neighbourhood plan should also take account of the requirements to consider human rights.

27. A screening assessment was carried out by SDNPA, in consultation with Historic England, the Environment Agency and Natural England to determine whether an SEA or HRA was required.

28. This concluded that the proposed allocation sites are not directly adjacent to any sensitive environmental areas. In relation to the HRA, it is noted no European designated habitats are affected by the update proposals. It is submitted that whilst the modified Update Plan was proposing to allocate different sites to that of the then emerging South Downs Local Plan (SDLP), the amount of development proposed was in line with the overall housing provision set out for Findon in the Pre-

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<sup>5</sup> Article 3(5) of Directive 2001/42/EC

<sup>6</sup> European Directives 92/43/EEC and 2007/147/EC transposed into the Conservation of Habitats and Species Regulations 2010.

<sup>7</sup> Often referred to as Natura 2000 sites and include Ramsar sites - wetlands of international importance, Special Areas of Protection (SPA) - providing protection to bird habitats and Special Areas of conservation (SAC) - protecting a variety of plants animals and habitats.



submission South Downs Local Plan which was itself subject to SEA, Sustainability Appraisal and HRA.

29. The SDNPA has expressed concern that the screening opinion was carried out prior to the adoption of the SDLP and does not take account of the possibility that the proposed housing allocations may be considered as extra rather than alternative provision. I agree if this were the case a further scoping study regarding SEA and HRA would be required. I also consider that the concerns of Historic England that the potential for impact on archaeological remains has not properly been taken into account.

30. I do not consider the Plan raises any issues under the European Convention and the Human Rights Act 1998. Article 6 of the Act is particularly relevant as it relates to the right to a "fair hearing". I consider the consultation process has been effective and proportionate in its efforts to reach out to different groups potentially affected. Consultation responses have been taken into account in a satisfactory manner during the processing of the plan.

## RECOMMENDATIONS IN RELATION TO BASIC CONDITIONS

### General Matters

31. I have taken into account all aspects of the representations received during the Plan process. These generally do not require specific reference or highlight of particular issues as they do not in my view effectively raise a concern that the Plan does not conform to basic conditions. I do however make specific references to the SDNPA representations.

32. I have explained my recommendations in accordance with the order and format of the Plan and expressed them in bold type at the end of the various sections.

## NEW and AMENDED POLICIES

33. The Plan proposes to allocate alternative housing sites to those designated in the South Downs Local Plan (SDLP) adopted on the 2/7/2019. This is predicated on the Parish Council view that these sites are preferable to the sites designated in the SDLP, as they are the less intrusive on the national park landscape and character, do not have an adverse impact on historical and cultural heritage traditions, provide better transport options and have more demonstrable support from the community.

34. The Parish contends that the housing allocation policies in the Plan should supersede allocation policies in the SDLP. The Parish maintains that the proposed housing sites are more in conformity with a number of other policies in the SDLP that seek to protect landscape character, the environment and the historic and cultural tradition of the national park.

35. The SDNPA respond that the proposed sites can only be seen as “alternatives” if it is considered they are in conflict with those proposed in the SDLP. If they are not considered to be in conflict they would be regarded to be extra sites to those in the SDLP. This would mean that the housing figure of 28 for Findon specified in SDLP policy SD 26 would be exceeded by the 30-36 homes, which are proposed in the Plan. This view takes into account the legal opinion from Landmark Chambers, submitted by SDNPA with its comments on the submitted Plan<sup>8</sup>.

36. The SDNPA has not objected in principle to the potential increase in the housing figure for Findon although it has objected to the locations of the specific sites particularly on the basis they relate poorly to the existing built form of the village.

37. The Parish Council is aware of the SDNPA view and the legal opinion, which it states, is “somewhat equivocal”. The Parish Council want the sites proposed in the Plan to be accepted and the SDNPA to withdraw the housing allocations in the SDLP. It is not the intention in the Plan to retain the SDLP allocations and the proposed Plan sites. The Plan proposal is for alternative sites to replace those in the SDLP. In paragraph 3.11 of the Plan it is stated that examination of the Plan will allow the community “to have a proper say on where new housing is located in their area, in an updated Neighbourhood Plan....”

38. Part of my role as examiner is to establish whether the Plan policies are in general conformity with the “strategic” policies in the development plan i.e. SDLP. This is one of the basic conditions. It is therefore crucial to determine whether the Plan and SDLP housing allocation policies are “strategic”. The National Planning Policy Framework (NPPF) states<sup>9</sup> that the allocation of sites can be regarded as non-strategic. The SDLP does not list the housing allocation policies as strategic. The Plan and the SDLP housing allocations are not strategic policies. The Plan housing allocations are alternative site proposals at a non-strategic level. The fact that they are different housing allocations does not mean that they are necessarily in conflict and the Plan is not in conformity with “strategic” policies in the SDLP and contrary to basic conditions.

39. There are, however, other strategic policies in the SDLP and government guidance to which the housing allocations must be in general conformity and take into account. I do not consider the extra (30-36) dwellings for Findon, beyond the 28 targeted for Findon, would be contrary to strategic policy. The NPPF allows for Neighbourhood Plans to allocate more housing than that specified in local plans and policy SD26 in the SDLP underpins this provided such housing is in general conformity with the development plan. Furthermore, given the housing need in the national park recognised in the SDLP<sup>10</sup> evidence as 447 homes per year I consider

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<sup>8</sup> Submitted under regulation 16 of the Neighbourhood Planning (General) Regulations 2012

<sup>9</sup> paragraph 28

<sup>10</sup> as presented in the “Housing and Economic Development Needs Assessment (HEDNA), Final report, September 2017”, GL Hearn

an extra 30-36 homes is a relatively small proportion and would be not be contrary to strategic policy in the SDLP. The SDNPA has not raised any strategic objections although it has objected to the Plans proposed sites on the basis that it contends there is a poor relationship to the built form of Findon.

40. The Parish Council states in the Plan that the Plan allocations are more aligned with the strategic policies in the SDLP relating to protection of the landscape and other factors. This is not a basis for the proposed Plan sites to override those in the SDLP. The SDLP has recently been determined as sound and the policies adopted. It was not considered there was an inherent conflict in the Plan between its strategic policies and its housing allocations.

41. The Inspector in his final report<sup>11</sup> on the SDLP, in June this year, considers the issues of concern to the Parish Council relating to the two allocated sites in terms of landscape impact, impact on cultural heritage and transport implications. He considers that in these respects there are no overriding reasons to resist these allocations. In paragraph 10 of his report in relation to the community objections on the allocations and preference for alternative sites, the Inspector states that *“Such judgements are necessarily subjective and the mere fact that opinions differ is not in itself any reason to find the SDLP unsound”*. In accordance with these findings I do not consider it possible to conclude that a comparative assessment of the Plan and the SDLP allocations is appropriate, as the SDLP allocations have survived a very recent rigorous analysis. During the examination of the SDLP the Inspector did not determine that the SDLP allocations should be deferred in the knowledge of the emerging (neighbourhood) Plan. I conclude there is no substantive evidence to demonstrate a need to “de-allocate” the SDLP sites. In these respects the plan does not conform to basic conditions and NPPG advice<sup>12</sup> that *“robust evidence should support the choices made”*.

42. I do not consider the different housing allocations in the Plan and the SDLP are in conflict and as referred to above they both can help to meet local housing targets. There is no basis to accept that the Plan’s housing allocations should replace those of the SDLP. If the Plans housing allocations were acceptable in principle then in the absence of a conflict with the SDLP allocations the two sets of allocations would be operative and available for development. This is not the intention of the Plan. The Parish Council wishes to gain acceptance of the Plan and then require the SDNPA to “withdraw” the SDLP allocations. This is not possible because there is no evidence to undermine the SDLP allocations and the two sets of allocations are not in conflict.

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<sup>11</sup> Report to SDNPA, B J Sims, BSc (Hons.) CEng, MICE, MRTPI, 18/6/19 paragraphs 143-157

<sup>12</sup> NPPG Paragraph: 040 Reference ID: 41-040-2016021

<sup>12</sup> NPPG Paragraph: 041 Reference ID: 41-041-20140306

43. The Plan is therefore fundamentally confusing, as its expressed intentions cannot be achieved. In this case it does not meet basic conditions as it does not take into account guidance in the National Planning Practice Guidance (NPPG)<sup>13</sup> which, requires policies to be drafted with clarity and precision that allow a decision maker to apply “consistently and with confidence”.

44. I consider this is a fatal flaw relating to all of the housing policies in the Plan i.e. HD1, HD9, HD10a, HD10b, HD11, HD12, HD13, HD14. On the basis that I consider these policies and supporting text do not conform to basic conditions in principle, I have not analysed their detail.

45. Policy ES1 establishes a “gap” between the southern end of Findon and the Findon Valley settlement. The boundary of the gap as drawn on maps 2A and 5 is clearly flawed as a result of the unacceptability of the housing allocations. I also consider that in principle this policy that, seeks to prevent coalescence of these settlements is unnecessary. The SDLP policy SD4 Landscape Character Development Strategy adequately deals with the control of development in these areas to prevent coalescence. To partially repeat the policy in the Plan is confusing and contrary to basic conditions.

## RECOMMENDATION 1

**The Plan’s housing policies HD1, HD9, HD10a, HD10b, HD11, HD12, HD13, HD14 and Gap policy ES1 cannot supersede the housing policies in the SDLP. The proposed housing allocations will effectively be in addition to those in the SDLP and therefore the intentions of the Plan cannot be achieved. The policies are therefore confusing and contrary to national guidance on neighbourhood plans that require clarity and precision.**

## APPENDIX 2 LOCAL GREEN SPACES

46. This proposes an addition to the list of “twittens” (historic rural paths, roads and lanes). This relates to the green landscape setting to historic rural road Nepcote Lane and the historic quiet lane to West view and North View Cottages. The SDNPA consider that designating the “twittens” as local green space is inappropriate taking into account government advice in the NPPG that “there is no need to designate linear corridors as Local Green Space simply to protect rights of way, which are already protected under other legislation.”<sup>14</sup>

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<sup>14</sup> Paragraph: 018 Reference ID: 37-018-20140306<sup>14</sup>

47.I note the community wishes to continue and amend these designations in the Plan. These areas have value as quiet green spaces with a substantial historic role in the village. They have an enhanced role and significance over a functional right of way.

48.I consider that inclusion of these further areas as local green space provides continuity and consistency with the existing Plan policy. This is in accordance with national guidance in the NPPG aimed at clarity<sup>15</sup>. I also consider that it has been demonstrated that these areas are of appropriate location, scale and value to the local community to justify designation in accordance with the NPPF criteria.

## **RECOMMENDATION 2**

**The Appendix 2 Local Green Spaces amendment could be incorporated into the updated Plan.**

### MODIFICATONS TO ACHIEVE GENERAL CONFORMITY WITH THE ADOPTED SDLP AND NATIONAL GUIDANCE

49.The SDNPA has suggested some further modifications to the current neighborhood plan to take account of the adopted SDLP and avoid confusion, to achieve the clarity recommended in national guidance. These should be considered.

50.Most of these relate to the issue that the current neighbourhood plan policies, (referred to in the Update 1) are now either repeated or slightly different in the SDLP. In these cases, it is correct that they should be omitted from the Update Plan if they are adding nothing or could be interpreted in any way as contradictory. Clearly any clear contradiction or incompatibility in policies would not be in accordance with basic conditions. There may be further issues relating to conformity with the SDLP than those highlighted at this stage by the SDNPA, which need to be considered in further Plan update work, as referred to below. For the purposes of this examination I have restricted my analysis to those matters raised in the specific representations by the SDNPA.

51.Where I have recommended a policy be removed there is value in cross-referring to the relevant policy in the SDLP in the interests of clarity. This is also valuable in cases of retained policies, which need to be considered alongside SDLP policies.

52.In this context, I make the following observations and recommendations.

#### Policy BT2 Retention of Employment land

53.This is effectively repeated by SDLP policy SD35: Employment Land and adds nothing further. It should be removed from the Plan

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<sup>15</sup> Paragraph: 041 Reference ID: 41-041-20140306

#### Policy BT4 Retention of Retail Frontages

54. There is now a discrepancy in the marketing/vacancy window whereby changes to non-retail uses may be acceptable. The Plan states 12 months whilst the SDLP policy SD37: Development in Town and Village Centres uses 24 months. The Plan policy should be deleted.

#### Policy BT9 Communications Infrastructure

55. SDLP policy SD44: Telecommunications and Utilities Infrastructure adds extra criteria to the consideration of communications infrastructure. The policy should be deleted.

#### Policy CFW5 Protection of assets of community value

56. The SDLP policy SD43: New and Existing Community Facilities adds new criteria in the consideration of these proposals. The policy should be deleted.

#### Policy ES3 Protection of trees and hedgerows

57. The SDLP policy SD11: Trees Woodland and Hedgerows effectively supersedes this policy. It contains more explicit criteria. Plan policy ES3 should be deleted.

#### Policy ES4 Renewable Energy

58. This policy and SDLP policy SD51: Renewable Energy complement each other apart from the reference to protection of agricultural land. There is merit in retaining the Plan policy as it adds to the SDLP policy SD51 and it should be modified to account for the reference to the need to avoid siting of infrastructure on grades 1, 2 and 3a agricultural land.

#### Policy ES7 Flint Walls

59. Regarding the SDNPA comment, I do not consider it is necessary to identify the flint walls on a map or extend the policy to enhance flint walls in order to comply with basic conditions.

#### Policy HD2 Local Connection

60. These criteria do not match those expressed in paragraph 7.61 of the SDLP. The policy should be deleted.

#### Policy HD3 Live/Work units

61. I do not accept fully the SDNPA concerns that it is not clear to which areas the policy applies provided there is cross-reference to SDLP policies.

### **RECOMMENDATION 3**

**The Plan is updated to include cross-references to SDLP policies where relevant.**

**Policies BT2, BT4, BT9, CFW5, ES3 and HD2 should be deleted.**

**Policy ES4 criterion (e) should be modified as follows. “energy generating infrastructure is not sited on agricultural land, grades 1, 2 and 3a.**

#### **PROCEEDING WITH THE PLAN UPDATE**

62.I do not consider that it is appropriate to proceed to a referendum on the basis of deletion of the housing policies and the minor modifications to account for the SDLP and the local green space policy as referred to above. This is significantly different to the submitted Plan and bears little relation to the Plan that was consulted upon. Furthermore, the NPPG<sup>16</sup> advises on different procedures in relation to more minor modifications as part of a Plan update.

63.It would be appropriate for the Plan to be updated to take account of policies in the recently adopted SDLP and to allow for the revision to the local green space in Appendix 2, proposed in this Plan. The SDLP supersedes the 2016 Neighbourhood Plan policies in the event of any conflict and it would establish greater clarity if the neighbourhood plan was updated.

64.The NPPG advises that minor (non-material) modifications to a neighbourhood plan are those, which would not materially affect the policies in the plan, do not require an examination or referendum. However, material modifications, which do not change the nature of the plan or order, would require examination but not a referendum.

65.It is the responsibility of the Parish Council and the SDNPA to establish whether it is considered these modifications are minor (non-material) or material. In this case on the basis of the current proposals without the housing policies, this would rest on a determination as to whether the alterations to the local green spaces and the modifications to accommodate the SDLP were non-material or material.

66.A local planning authority may make minor (non-material) updates at any time, but only with the consent of the Parish Council. Consultation, examination and referendum are not required.

67.In the event they are considered material there are certain procedural requirements in the NPPG<sup>17</sup> that need to be complied with.

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<sup>16</sup> Paragraph: 106 Reference ID: 41-106-20190509

<sup>17</sup> Paragraph: 085 Reference ID: 41-085-20180222

68. These are as follows;

- the qualifying body must (at the pre-submission publicity and consultation stage and when the modified plan is submitted to the local planning authority) state whether they believe that the modifications are so significant or substantial as to change the nature of the plan and give reasons
- the local planning authority must (when sending the modified plan to the independent examiner) state whether they believe that the modifications are so significant or substantial as to change the nature of the plan and give reasons.
- The local planning authority must submit a copy of the original plan to the independent examiner

69. In the absence of the proposed housing allocations it remains therefore for the Parish Council in consultation with the SDNPA to determine how to proceed with an update to the Plan.

#### SUMMARY

70. The Update to the neighbourhood plan does not meet basic conditions, as the housing allocations could not replace those in the SDLP. This would create an outcome contrary to the intentions of the Plan, which is confusing, and contrary to national guidance that planning policies should be clear, precise and able to be implemented consistently.

71. The Parish Council and SDNPA should consider the appropriate way forward to update the Plan.





**Agenda Item 10  
Report PC79/17**

Report to	<b>Planning Committee</b>
Date	<b>14 December 2017</b>
By	<b>Director of Planning</b>
Local Authority	<b>SDNPA (Arun)</b>
Application Number	<b>SDNP/I7/00001/TPO</b>
Applicant	<b>N/A</b>
Application	<b>To confirm Tree Preservation Order on 1 No Blue Atlas Cedar Tree</b>
Address	<b>Soldiers Field, Soldiers Field Lane, Findon, Worthing, BN14 0SH</b>

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**Recommendation:**

**That the provisional Tree Preservation Order SDNP/I7/00001/TPO made on 29 June 2017 be confirmed.**

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**Executive Summary**

Following a request from Findon Parish Council, a provisional Tree Preservation Order (TPO) was made on a Blue Atlas cedar tree in June 2017.

Given that the site has been allocated for housing under the South Downs Pre-submission Local Plan, which currently carries some weight, the decision to confirm the TPO has been brought before the SDNPA Planning Committee Members.

**1. Site Description**

- 1.1 Soldiers Field is a residential property located within the village of Findon. The site is located on the eastern edge of the village to the north of Nephcote Green. The land to the east of the site consist of open agricultural fields. The site is visible from several public rights of way including a public footpath which runs along the western boundary of the site, and public bridleways and a public byway to the east.
- 1.2 The site is allocated through policy SD72 of the South Downs Pre-submission Local Plan (SDPLP) (2017) for up to 10-12 dwellings.
- 1.3 The house and garden are enclosed on all sides by a mature beech hedge. The tree that is the subject of the TPO is a Blue Atlas cedar tree located in the south eastern corner of the garden.

**2. Relevant Planning History**

- 2.1 The SDNPA received a request from Findon Parish Council in March 2017 to place a TPO on both the cedar tree, and the perimeter beech hedge, due to these being considered by the Parish to be both prominent and iconic within the Findon/Nephcote landscape and adjacent to Nephcote Green for which they are seeking Conservation Area Status appraisal.
- 2.2 A delegated officer decision was taken to make a provisional TPO on the tree only. Whilst not a native species, the Tree Officer considered it to be a maturing specimen with potential to make a long-term contribution to the landscape amenity. The provisional TPO was

therefore served due to the tree's contribution to the landscape character of the area, given its prominence in the open landscape setting and visibility from public vantage points.

- 2.3 Whilst the beech hedge is considered good visual containment for the site and an attractive landscape feature in its own right, advice contained within the National Planning Policy Guidance (NPPG) states that local authorities may only use an Order to protect 'anything that may ordinarily be termed a tree.' A TPO was therefore not served on the beech hedge.
- 2.4 The relevant parties, including the landowner and occupier, were notified and given the statutory period of time (1 month) in which to challenge the TPO. No representations were received.

### **3. Proposal**

- 3.1 The decision must now be taken whether or not to confirm the provisional Tree Preservation Order, which expires on 29 December 2017.

### **4. Consultations**

- 4.1 **Tree Officer:** No objection.

### **5. Planning Policy Context**

- 5.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The relevant statutory Development Plan is the saved policies of the Arun District Local Plan 2003. The relevant policies are set out in section 7 below.

#### National Park Purposes

- 5.2 The two statutory purposes of the SDNP designation are:
- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
  - To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.
- 5.3 If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social wellbeing of the local community in pursuit of these purposes.

#### National Planning Policy Framework and Circular 2010

- 5.4 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF). The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the national parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks. In addition Paragraph 116 confirms that planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest.
- 5.5 National and Local Policy context and how it relates to this particular application is explored in more detail in Section 8 of the report.

#### The South Downs National Park Partnership Management Plan

- 5.6 The South Downs National Park Partnership Management Plan 2014 is a material consideration in the determination of the application. The following policies are relevant:
- General Policy 1 – Conserve and enhance the natural beauty and special qualities of the landscape and its setting.

### **6. Planning Policy**

- 6.1 The following saved policy in the Arun District Local Plan 2003 is relevant:
- GEN28 – Trees and Woodland

6.2 The following saved policy in the Findon Neighbourhood Development Plan is relevant:

- ES3 – Protection of trees and hedgerows

The South Downs National Park Partnership Management Plan

6.3 The South Downs Local Plan: Preferred Options underwent public consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations (2012) between 2 September to 28 October 2015. The responses have been considered by the Authority. Subsequently, the South Downs Local Plan: Pre-Submission Local Plan was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between 26 September to 21 November 2017. After this period, the next stage in the plan preparation will be the submission of the Local Plan for independent examination. Until this time, the Pre-Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 216 of the NPPF, which confirms that weight can be given to policies in emerging plans following publication. Based on the current stage of preparation, and given the relative age of the saved policies within the Arun District Local Plan (2003), the policies within the Pre-Submission Local Plan are currently afforded some weight. The relevant policies within the Pre-Submission Local Plan are:

- SD4: Landscape Character
- SD11: Trees, Woodland and Hedgerows
- SD72: Soldiers Field House, Findon

## 7. Planning Assessment

### Background

- 7.1 National Planning Policy Guidance (NPPG) states that local planning authorities are able to make a Tree Preservation Order if they consider this ‘expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.’
- 7.2 Authorities may either initiate this process themselves or in response to a request made by any other party. When deciding whether an Order is appropriate, authorities are advised to take into consideration what ‘amenity’ means in practice, what to take into account when assessing amenity value, what ‘expedient’ means in practice, what trees can be protected and how they can be identified.
- 7.3 ‘Amenity’ is not defined in law, however the NPPG advises that orders should be used if the removal of selected trees or woodland would have a significant negative impact on the local environment and its enjoyment by the public. When considering the amenity value of trees, authorities should take account of various factors including how visible the tree is to the public, its importance in terms of:
- size and form;
  - future potential as an amenity;
  - contribution to, and relationship with, the landscape; and
  - importance to nature conservation or response to climate change.
- 7.4 In terms of the expediency of serving an order, it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures. Authorities can also consider other sources of risks such as changes in property ownership. Intentions to fell trees are not always known in advance, and in some instances it is appropriate to proactively make Orders as a precaution.

### Amenity of the tree

- 7.5 In this instance, the tree is a Blue Atlas cedar (*Cedrus Atlantica Glauca* Group), and observed by the Tree Officer to have no structural defects or signs of disease, and to be relatively young with considerable potential for further growth so will become increasingly prominent in the landscape as it matures.

- 7.6 As non-native species, the tree offers relatively low biodiversity value, and could be considered incongruous within the context of the surrounding rural character of the landscape. However within the context of the settlement of Findon, and proposed housing allocation on the site, the tree is considered to provide positive benefit in terms of amenity, especially given its future potential when mature, and could provide a beneficial focal point for the development.

Expediency of serving an order

- 7.7 A Tree Preservation Order would help ensure that the tree is retained pending consideration of a development proposal and, subject to a satisfactory relationship between the tree and development layout being achieved, would help protect the tree from damage during construction operations and secure its long-term retention. It will be important to ensure a large enough area of open space is retained around the tree to allow it to develop to maturity without overhang of adjacent land uses.
- 7.8 The retention of the tree could affect the layout of any development proposal and may reduce the number of units that could be achieved on the site. However, whilst, a TPO is a statutory level of protection, the presence of a TPO is not necessarily a block to development. Saved Policy GEN28 of the Arun District Local Plan (2003) states that development that would damage or destroy a TPO protected tree will only be permitted where it may be demonstrated that the public benefits of the development outweigh the tree's amenity value. Policy ES3 of the Findon NDP (2016) states that development proposals should ideally retain trees of good arboricultural and amenity value, unless the need for, and benefits of, the development in that location clearly outweigh the loss. Policy SD11 of the SDPLP (2017) carries some weight, and states that the felling of protected trees will only be permitted in exceptional circumstances. Where a TPO tree is proposed to be lost due to development, a condition is normally applied securing the planting of a suitable replacement.
- 7.9 Given that the site is allocated for housing, and future development on the site is likely, confirming the provisional TPO is considered to be expedient. If the tree is not proposed to be retained, any development proposal would need to offset the amenity value of the tree through a carefully considered landscaping scheme that incorporates suitable replacement planting.

**8. Conclusion**

- 8.1 The proposal to confirm the TPO is considered expedient, given the tree's amenity value, and would not necessarily be a block to any future development. Permanent protection of the tree could secure a higher level of amenity and green infrastructure within a future housing scheme.

**9. Reason for Recommendation**

- 9.1 It is recommended that the Tree Preservation Order SDNP/17/00001/TPO made on 29 June 2017 is confirmed in order to protect the amenity value of the tree and its contribution to the landscape character of the area.

**10. Crime and Disorder Implication**

- 10.1 It is considered that the proposal does not raise any crime and disorder implications.

**11. Human Rights Implications**

- 11.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

**12. Equality Act 2010**

- 12.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

### **13. Proactive Working**

- 13.1 In reaching this decision the Local Planning Authority has worked with all relevant parties in a positive and proactive way, in line with the NPPF.

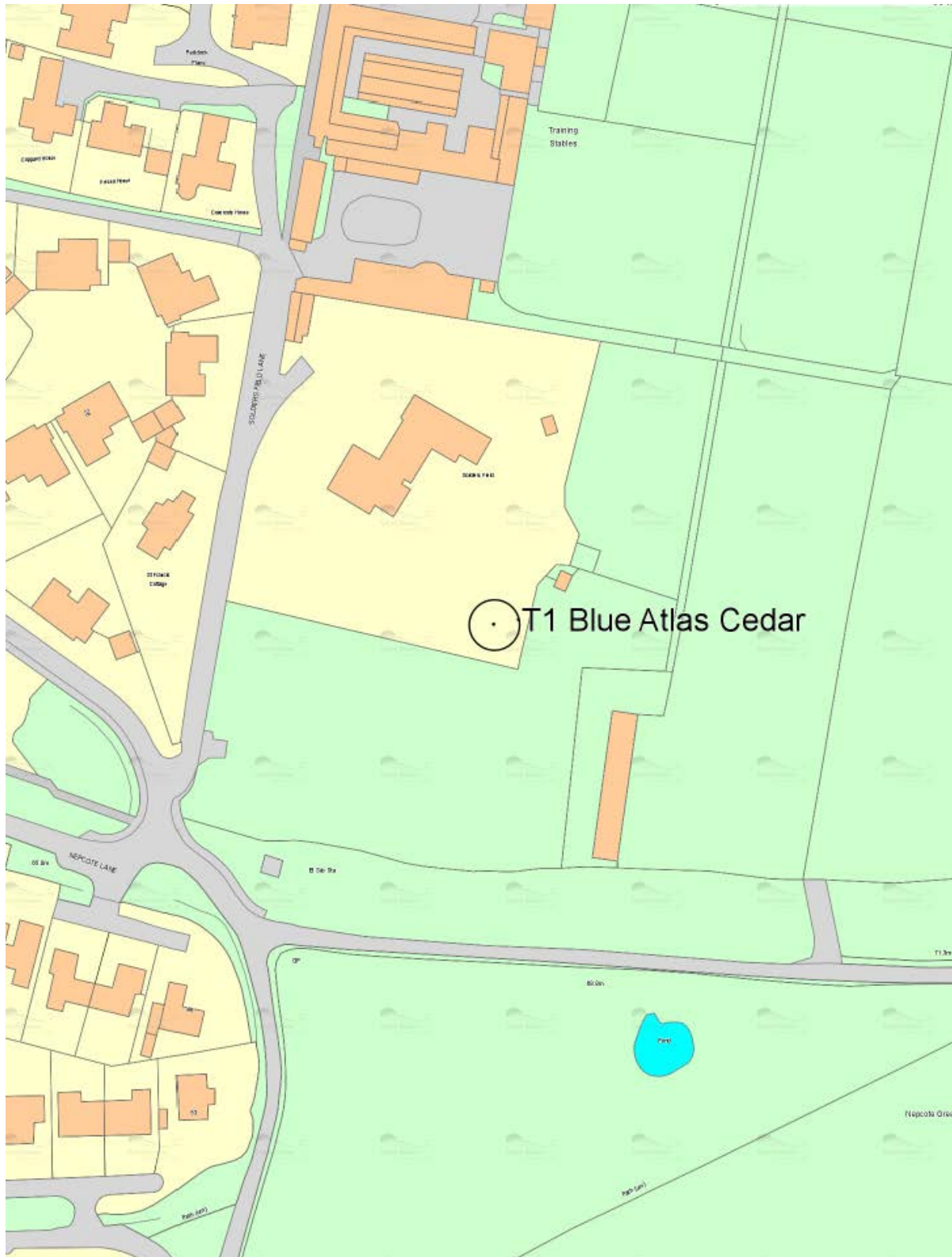
#### **TIM SLANEY**

#### **Director of Planning**

#### **South Downs National Park Authority**

Contact Officer:	Stella New
Tel:	01730 819216
email:	<a href="mailto:stella.new@southdowns.gov.uk">stella.new@southdowns.gov.uk</a>
Appendices	<ol style="list-style-type: none"><li>1. Site Location Map</li><li>2. Tree Officer Report</li><li>3. Copy of Tree Preservation Order</li></ol>
SDNPA Consultees	Development Manager, Legal Services
Background Documents	<a href="#">National Planning Policy Framework (2012)</a> <a href="#">National Planning Policy Guidance</a> <a href="#">Arun District Local Plan (2003)</a> <a href="#">Findon Neighbourhood Plan (2016)</a>

### Site Location Map



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**Tree Officer's Report****Arboriculturist's Report****Tree Preservation Order Confirmation - SDNP/17/00001/TPO**

**Name:** Mike Bird  
**Location:** Soldiers Field House, Soldiers Field Lane, Findon, Worthing, BN14 0SH  
**Date of Site Visit:** 8 November 2017

**Reason for Report**

To provide arboricultural advice following close inspection of tree subject to provisional tree preservation order to inform decision on whether to confirm the order.

**Assessment**

I visited the site on 8 November to make a more detailed assessment of the tree as I did not have access to the site prior to the making of the provisional order and was only able to view the tree from Soldiers Field Lane. Whilst this was sufficient to assess the landscape value of the tree, it is important to ensure that the tree is in reasonable health and structural condition if the order is to be confirmed.

The tree is a Blue Atlas cedar (*Cedrus Atlantica* Glauca Group). There were no structural defects evident from my inspection and the tree appeared to be in good health. It is still relatively young with considerable potential for further growth so will become increasingly prominent in the landscape as it matures. As an exotic species / type, it does might be considered somewhat incongruous within the context of the surrounding rural character of the landscape, but within the context of the settlement and potential future development site, the tree should make an impressive specimen when mature. However, as stated in my original report, it will be important to ensure that the tree is retained in a large enough area of public open space to allow it to develop to maturity without overhang of adjacent land uses (an eventual crown radius of 12m is quite likely without regular pruning to restrict size and such pruning would impact on the natural form thus limiting the beauty of the tree as well as increasing landscape management costs).

Nevertheless, a tree preservation order would help ensure that the tree is retained pending consideration of a development proposal and, subject to a satisfactory relationship between the tree and development layout being achieved, would help protect the tree from damage during construction operations and secure its long-term retention if the land it is on is not subsequently adopted by a public body.

**Recommendation**

In my opinion, there are no arboricultural reasons why the tree preservation order should not be confirmed.

