

Report to	Planning Committee
Date	12 March 2020
By	Director of Planning
Local Authority	East Hampshire District Council
Application Number	SDNP/19/04275/CND
Applicant	Mr J Cullen
Application	Variation of condition 2 of planning permission SDNP/16/03835/FUL for the repositioning and revised design of the farm shop/café and cycle store.
Address	Broadview Farm, Blacknest Road, Binsted, Alton, GU34 4PX.

Recommendation:

- 1) That planning permission be granted subject to the completion of a Deed of Variation, the final form of which is delegated to the Director of Planning, to secure the previous S106 requirements in relation to the original planning permission SDNP/16/03835/FUL, which are:
 - Not to sever the legal ownership of the barn and tourist accommodation or any parts thereof from the remainder of the land (Broadview Farm).
 - Not to create any legal interest in the barn and tourist accommodation or any parts therefor separate from the remainder of the land (Broadview Farm).
 - 2) That authority be delegated to the Director of Planning to refuse the application with appropriate reasons if the legal agreement is not completed or sufficient progress has been made within 6 months of the Planning Committee meeting of 12 March 2020.
 - 3) The conditions as set out in paragraph 11.1 of this report.
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Executive Summary

The Planning Committee considered the application at a previous meeting on 16th January 2020 where Members resolved to defer the application for not more than four months to allow the Applicant the opportunity to work with officers to re-site the building and formally re-submit plans to reposition the barn away from the footpath and for the Authority to undertake a subsequent public consultation.

Officers have met with the Applicant and their agent and revised plans have been received which have undergone public consultation. This report outlines the amendments as well as updated consultee responses, public representations and officer views following receipt of amended plans. This report should be considered as an update to the report in **Appendix 2** (the report reference PC19/20-34 considered by Planning Committee on 16th January 2020) and they should be read together.

The revised Site Plan shows that the barn has moved 3m to the south east, closer to the adjacent industrial estate. Additionally, its width has been reduced by 1m. Apart from the reduction in the size of the barn, its overall character, appearance and height would remain unchanged.

The previous report (**Appendix 2**) recommended refusal of the application for the reasons outlined and acknowledged that this was a finely balanced recommendation having considered all of the

relevant planning considerations, including the Inspector's decision. The re-siting and reduced scale of the barn creates a greater separation from the footpath and opening up the views of Home Hangar. Previous key concerns related to the physical encroachment of the barn onto the definitive route of footpath Binsted 55 (FP55) and the impacts upon the amenity of FP55 and the enjoyment of the special qualities of the National Park. The revised proposals have, on balance, made sufficient improvements in these regards to justify a recommendation to approve the application.

A S106 Agreement accompanied the original planning permission. In light of the recommendation, a Deed of Variation would be required in order to secure the original requirements if permission is granted. The original S106 required the development not to be severed from the Farm.

This application is placed before the Committee given the earlier consideration and resolution to defer a decision at the 16th January 2020 meeting.

1. Introduction

- 1.1 This report follows the planning committee's decision to defer a decision on the application at the meeting on 16th January 2020. The previous report and update sheet are included at **Appendix 2**.
- 1.2 The decision to defer the application was made to allow the Applicant the opportunity to work with SDNPA officers to re-site the barn and formally re-submit revised plans for consideration. Amended plans have been received and a re-consultation exercise has subsequently been undertaken.
- 1.3 A Deed of Variation has been prepared between the Applicant, their agent and the SDNPA to satisfactorily link the proposed development to Broadview Farm, as previously secured in the original planning permission.

2. Site description

- 2.1 This is detailed in **Appendix 2** (pages 149-150).

3. Relevant Planning History

- 3.1 This is detailed in **Appendix 2** (pages 150-151).

4. Proposal

- 4.1 The application proposes a minor material amendment to re-position and re-design the previously approved barn and the description of the development has not needed to be changed following receipt of amended plans.
- 4.2 The application, as before, does not propose to amend the approved access, layout of the car park and tourist lodges previously approved and a small existing building would be retained. The details pursuant to other planning conditions on the 2017 planning permission are not proposed to be amended and their details would remain relevant. Where appropriate, where these conditions have already been discharged they are not included in the recommendation, in accordance with national planning guidance.
- 4.3 Following the deferral by Planning Committee on 16th January 2020, the proposed barn has been re-sited 1m to the south east where would still be situated in front of the car park and face onto it. The width of the barn has also been reduced by 1m on its western side. This has meant a minor re-configuration of its fenestration. It would still have a pitched roof, with a 5m ridge height. It would still have an open plan layout with a kitchen area.
- 4.4 At the closest points, the building would be 4m from the neighbouring existing farm outbuilding (whereas previously this distance was 1.9m) and 3m from the boundary with the industrial estate. It would also be 7m from the nearest tourist lodge. In this location, it would be 1m from the route of FP55 (using 1.8m for FP55's width).

5. Consultations

- 5.1 Original consultee responses on the application are summarised in **Appendix 2** and remain relevant. The responses below have been received in response to the amended plans.
- 5.2 **Arboriculture:** No objection, subject to conditions.

- 5.3 **Archaeology:** No objection.
- 5.4 **Binsted Parish Council:** No objection.
- 5.5 **Drainage (EHDC):** Objection, pending further details of the drainage scheme.
- 5.6 **Ecology:** Awaiting comments.
- 5.7 **Environmental Health (pollution and contaminated land):** No objection.
- 5.8 **Hampshire County Council (Public Rights of Way):** Comments.
- Satisfied that the layout has been revised to avoid obstruction of FP55 and raise no objection on this issue.
 - Concerned that the chestnut fencing and hedging approved in the approved landscape scheme alongside the car parking area would obstruct the width of the footpath. Advise that the layout of the car park is revised by removing the hedgerow and the line of the fencing be re-positioned.
 - Request the landscape scheme is amended before approval of the application or require approval of a revised landscape scheme via a pre-commencement condition.
 - Must be no surface alterations to the footpath without prior permission of the County Council, to avoid an offence under the Highways Act, which may involve a Highways Agreement.
 - PROW shall not be obstructed or hindered during construction.
 - It is an offence under the Road Traffic Act (1988) to drive or cycle over a public right of way without lawful authority.
 - Any damage caused to the surface of the footpath by construction traffic shall be repaired.
 - If approved, request a condition requiring signage to warn drivers of walkers and a require them to give way.
- 5.9 **Highways Authority:** No objection.
- 5.10 **Landscape:** No objection.
- 5.11 **Natural England:** No objection.
- 5.12 **Refuse & Recycling (EHDC):** Response received, no comments.
- 6. Representations**
- 6.1 The responses received prior to the 16th January 2020 meeting are included in the report and update sheet in **Appendix 2**. Following a re-consultation of the amended plans, no new representations have been received.
- 7. Planning Policy Context**
- 7.1 All as stated in **Appendix 2** (page 154-155).
- 8. Planning Policy**
- 8.1 All as stated in **Appendix 2** (pages 155-156).
- 9. Planning Assessment**
- 9.1 Considerations which do not relate to the reason for deferral are outlined in **Appendix 2** (pages 156-158). These should be considered alongside the assessment below. The focus of the following assessment are the matters of concern previously raised by Members.
- 9.2 The revised proposals are still considered to be a minor material amendment to the approved scheme as they would not result in a substantially different development when considering the scheme as a whole. Indeed, the size the building has been reduced. An application to vary the approved plans is therefore an acceptable approach for the consideration of the proposals.

- 9.3 The previous officer recommendation raised concern about how the development would impact upon the amenity of the footpath (FP55) and, consequently, negatively affect the enjoyment of the special qualities of the National Park. It was previously considered that due to the siting of the barn views from along FP55, when travelling south west, would be harmed (although officers made it clear that this was a balanced judgement).
- 9.4 Officers have met with the Applicant and their agent to discuss potential amendments to re-site the barn away from FP55, as advised by Members and typical in such situations, so as not to obstruct it, and to improve the amenity of the footpath. Officers had considered that the barn encroached upon FP55 by approximately 1m, on the basis of using a 1.8m width for its definitive route. The 1.8m width has been determined as this is the only width cited in the definitive statement elsewhere on the footpath, in the absence of any further official documented evidence and an analysis of plotting the definitive route onto Ordnance Survey plans and consultation with the County Council. The width can also be defined as to what has habitually been used, where this can be satisfactorily demonstrated, but where it is undefined case law indicates that the width should be of a reasonable width. This could comprise a width wide enough for two people to pass and a 1.8m width would allow for this.
- 9.5 In response, the barn has been re-positioned. Additionally, the Applicant has sought to create a larger distance from FP55 by reducing the width of the building by 1m. Consequently, FP55 would no longer be obstructed. The County Council's Public Rights of Way Team have also advised that the building would not obstruct FP55.
- 9.6 Furthermore, given the building would be 4m away from the existing outbuilding opposite it would not enclose FP55 whereby HCC's guidance on providing a 2.5m width where a footpath is enclosed (see comments in the update sheet – **Appendix 2**) is not relevant. Therefore, taking the above into account, as well as the representations received regarding this issue and the route of FP55, it is concluded that the proposed barn would not physically encroach upon FP55.
- 9.7 Regarding the amenity of FP55, the re-positioned and re-sized building would create relatively better views of the landscape beyond the site in comparison to the previous proposals. The building would still be seen in foreground views when walking FP55 but its re-siting would widen the view towards Home Hangar. The building would also be closer to boundary trees within the site of the industrial estate where its ridge would be seen below the height of these trees along FP55 which already partially obscure a wider view towards Home Hangar.
- 9.8 The Inspector previously commented that the views are of value particularly in the context of the enjoyment of the special qualities of the National Park. These conclusions are not disputed. It is not, however, uncommon for footpaths to travel through farmyards where a temporary loss of views is experienced by walkers. The previously proposed siting of the barn would have involved users travelling for a distance of 4m between the barn and an existing outbuilding, with a 1.9m width between the two buildings, albeit it was considered that the barn obstructed FP55. In contrast, the proposed re-siting of the barn would no longer significantly enclose FP55 and allow for better views to the south west. It is noteworthy also that there was a building adjacent to the main existing barn which used to enclose the footpath and would have restricted views. Following its demolition, arguably the views of Home Hangar from FP55 were improved.
- 9.9 Nonetheless, consideration has been given to the impact upon the amenity of FP55 and views along it as they currently exist. With a relatively wider view of Home Hangar now retained and the footpath no longer being enclosed between the proposed and an existing building to the same extent, as well as a smaller building being proposed, the impact upon the amenity of FP55 is sufficiently reduced that, on balance, the scheme is acceptable.

Planning conditions

- 9.10 In the event planning permission is granted, a new standalone permission would be issued, whereby the original permission would remain intact and un-amended. A new permission

should however re-state and/or update conditions from the original permission which are still relevant. This approach is adopted in the recommendation below.

- 9.11 Conditions originally applied which required the submission of further details were satisfactorily discharged in December 2017 (application SDNP/17/03166/DCOND). As per the recommendation below, where those details are satisfactory the previous conditions have been re-worded to refer to the approved details, rather than require this information to be re-submitted in this current application or re-used to discharge the same conditions at a later stage. Specifically, however, condition no.7 which relates to an external lighting scheme is required to be discharged because the previously approved details involved lighting attached to the originally approved building.
- 9.12 It is noteworthy that the drainage officer has requested planning conditions relating to surface and foul water drainage to be imposed. However, they have not taken into consideration the details which have already been approved. An amended layout of the drainage scheme has been submitted to reflect the re-siting of the building, which does not involve significant changes. Proposed condition no.6 requires the development to be undertaken in accordance with the previously approved details insofar as they are not superseded by the updated drainage layout plan, which is also referred to in the condition.
- 9.13 The Tree Officer has raised concern regarding the Arboricultural Impact Assessment (AIA) referring to the previous scheme and whether the protection measures have been adhered to. The latter is not relevant in the consideration of this application. Regarding the AIA, this is the same document as submitted with the original planning application and details a survey of trees and recommended protection measures; it does not specifically refer to the development. The details within the subsequent discharge of condition application show the original permitted layout, however, those details highlight that the existing boundary fencing of the industrial estate can suitably act as the protection measure for the trees along this boundary and the Tree Officer at the time raised no objection. Whilst the proposed building would be closer to these trees than previously proposed, it would not encroach beyond the boundary fence and as such tree protection matters are not considered to be an issue and a condition referring to the previously approved details is recommended.
- 9.14 The County Council Public Rights of Way team contend that fencing and hedging alongside the car parking area, which was included in the previously approved landscape details for the whole scheme, could obstruct FP55. The current application specifically relates to the repositioning and redesign of the farm shop/café and this matter is outside of the scope of this current application and condition no.4 below outlines that the development be undertaken in accordance with the approved landscape scheme. This matter would need to be considered further by the Applicant in consultation with the County Council in the first instance.

S106 Legal Agreement

- 9.15 The original planning permission for the whole development is subject to a S106 Agreement which requires its ownership to not be severed from Broadview Farm. An approval of this current application would involve a new permission being issued and, therefore, in order to secure the requirements of the S106 a Deed of Variation is required. This, in effect, would update the original S106 to include the new permission. A Deed of Variation between the Applicant and SDNPA has not yet been completed.

10. Conclusion

- 10.1 The revised proposals submitted by the Applicant have sought to address Member's and officer's concerns. The previous assessment was finely balanced having considered the impact upon the amenity of FP55 and enjoyment of the special qualities of the National Park as well as the Inspector's views. Having similarly assessed the revised proposals, the planning balance is now more positive in light of the above considerations.
- 10.2 The application is recommended for approval subject to a Deed of Variation being completed and the conditions in paragraph 11.1 below.

II. Reason for Recommendation and Conditions

II.1 Planning permission is recommended to be granted subject to:

- 1) That planning permission be granted subject to the completion of a Deed of Variation, the final form of which is delegated to the Director of Planning, to secure the previous S106 requirements in relation to the original planning permission SDNP/16/03835/FUL, which are:
 - Not to sever the legal ownership of the barn and tourist accommodation or any parts thereof from the remainder of the land (Broadview Farm).
 - Not to create any legal interest in the barn and tourist accommodation or any parts therefor separate from the remainder of the land (Broadview Farm).
- 2) That authority be delegated to the Director of Planning to refuse the application with appropriate reasons if the legal agreement is not completed or sufficient progress has been made within 6 months of the Planning Committee meeting of 12 March 2020.

And subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the 31st March 2017.
Reason: To comply with the provisions of Section 91(1) of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out strictly in accordance with the approved plans unless otherwise agreed in writing by the Local Planning Authority.
Reason: For the avoidance of doubt and in the interests of proper planning.
3. The development shall be constructed in accordance with the materials and finishes as approved in application SDNP/17/03166/DCOND (Decision Notice dated 07.12.2017).
Reason: In the interests of the quality of the design and amenity.
4. The development shall be undertaken in accordance with the soft and hard landscape details as approved in application SDNP/17/03166/DCOND (Decision Notice 07.12.2017). The scheme of soft and hard landscaping works shall be implemented in accordance with the approved timetable. Any plant which dies, becomes diseased or is removed within the first five years of planting, shall be replaced with another of similar type and size, unless otherwise agreed in writing by the Local Planning Authority.
Reason: To achieve an appropriate landscaping scheme to integrate the development into the landscape and mitigate any impact upon the amenities of neighbouring properties. Include policies.
5. The development shall be undertaken in accordance with the Arboricultural Method Statement and Tree Protection Plan details as approved in application SDNP/17/03166/DCOND (Decision Notice dated 07.12.2017) and shall be strictly accorded with until the development is completed.
Reason: In order to protect trees which contribute the character of the area.
6. The development shall be undertaken in accordance with the surface water and foul drainage details as approved in application SDNP/17/03166/DCOND, insofar as they are not superseded by the updated Site Plan (drawing reference 34038) received on 28.02.2020, and be retained and maintained thereafter.
Reason: To ensure adequate provision for drainage.
7. Prior to the development being brought into use, details of external lighting to be installed at the site shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed, maintained and operated in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect the amenity of future residents, create an appropriate public realm, and conserve dark night skies.

8. The development shall be undertaken in accordance with the site levels details as approved in application SDNP/17/03166/DCOND (Decision Notice dated 07.12.2017).

Reason: To ensure a satisfactory development which responds to the characteristics of the site.

9. The tourist cabins hereby approved shall not be used at any time for any other purpose whatsoever other than as holiday accommodation. They shall not be used for any other purposes in Class C3 (dwellinghouses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (As Amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: This development in the countryside, outside of any identified settlement, is only acceptable as holiday accommodation for use by short term visitors to the area and other forms of residential development would constitute an unsustainable form of development.

10. The holiday accommodation hereby approved shall not be occupied by any person, group or their dependants, for a period of more than 28 days in any twelve month period. A register of the occupancy of the cabins shall be maintained and kept up-to-date by the operator of the units, that shall be made available to the Local Planning Authority upon request (within 14 days of a written request being made). It shall record the names and addresses of all visitors and their arrival and departures dates.

Reason: To ensure that practical and permanent management measures are in place to control the short term visitor accommodation for use by short term visitors to the area.

11. Prior to the development being brought into use, the access, including the verge crossing shall be constructed and lines of sight of 2.4m by 120m provided in accordance with the details as approved in application SDNP/16/03835/FUL (approved plan 136a/05/03F). The lines of sight splays shown on the approved plans shall be kept free of any obstruction exceeding 1m in height above the adjacent carriageway and shall be subsequently maintained so thereafter.

Reason: To ensure highway safety.

12. Any gates provided shall be set back a distance of 6m from the edge of the carriageway of the adjoining highway.

Reason: To ensure highway safety.

13. Before the development is brought into use, provision for parking, turning, loading and unloading of vehicles shall have been made within the site in accordance with the approved Site Layout Plan (drawing reference 010) and shall be retained and managed appropriately thereafter.

Reason: To ensure on-site car parking provision and highway safety.

14. The proposed hard surface/s shall either be made of porous materials or provision shall be made to direct run-off water from the hard surface/s to a permeable or porous surface within the site. The development works shall be carried out in accordance with the approved details before any part of the development is occupied and shall be retained thereafter.

Reason: To ensure adequate provision for surface water drainage.

15. The development shall be undertaken in accordance with the submitted Farm Management Plan as approved in application SDNP/17/03166/DCOND (Decision Notice dated 07.12.2017). It shall thereafter be implemented and accorded with unless otherwise agreed in writing by the Local Planning Authority.

Reason: To achieve the conservation and enhancement of the National Park landscape.

16. The development shall be managed in accordance with the Travel Plan as approved in application SDNP/17/03166/DCOND (Decision Notice dated 07.12.2017).

Reason: To enable visitors to visit the site via sustainable modes of transport to reduce the reliance on the private car.

17. The farm shop shall only be stocked with: a maximum of 40% of goods are own produce plus local foods (within 5 mile radius), a maximum of 40% of goods which are regional and a maximum of 20% of goods from elsewhere. For the avoidance of doubt, the farm shop is not an un-restricted A1 use class in the Use Classes Order 1987 (as amended).

Reason: To ensure the farm shop does not result in an un-restricted retail use which is not related to the farm enterprise and local economy.

18. No air handling equipment shall be used at the barn and no cowl or vent shall be fitted to the building unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the amenities of the area are not detrimentally affected by noise or odour.

19. The farm shop and café shall only operate between the hours of 08:00 to 21:00 on any calendar day.

Reason: To control the development in the interests of amenity.

20. All development shall be stopped immediately in the event that contamination not previously identified is found to be present on the development site and details of the contamination shall be reported immediately in writing to the Planning Authority. Development shall not re-start on site until the following details have been submitted to and approved in writing by the Planning Authority:-

a. a scheme outlining a site investigation and risk assessments designed to assess the nature and extent of any contamination on the site.

b. a written report of the findings which includes, a description of the extent, scale and nature of contamination, an assessment of all potential risks to known receptors, an update of the conceptual site model (devised in the desktop study), identification of all pollutant linkages and unless otherwise agreed in writing by the Planning Authority and identified as unnecessary in the written report, an appraisal of remediation options and proposal of the preferred option(s) identified as appropriate for the type of contamination found on site.

and (unless otherwise first agreed in writing by the Planning Authority)

c. a detailed remediation scheme designed to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme should include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and a verification plan outlining details of the data to be collected in order to demonstrate the completion of the remediation works and any arrangements for the continued monitoring of identified pollutant linkages;

and before any part of the development is occupied or used (unless otherwise first agreed in writing by the Planning Authority) a verification report demonstrating the effectiveness of the remediation works carried out and a completion certificate confirming that the approved remediation scheme has been implemented in full shall both have been submitted to and approved in writing by the Planning Authority.

Reason: In the interests of the safety and amenity of the future occupants.

12. Crime and Disorder Implication

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

13. Human Rights Implications

13.1 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.

14. Equality Act 2010

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

15. Proactive Working

15.1 In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF. This has included the provision of pre-application advice from a SDNPA Development Management Officer and meetings to discuss the proposals.

TIM SLANEY

Director of Planning

South Downs National Park Authority

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Appendices

1. Site Location Map
2. Previous Planning Committee Report PC19/20-34 and Update Sheet from 16th January 2020 planning committee meeting.

SDNPA
Consultees

Legal Services, Development Manager.

Background
Documents

All planning application plans, supporting documents, consultation and third party responses

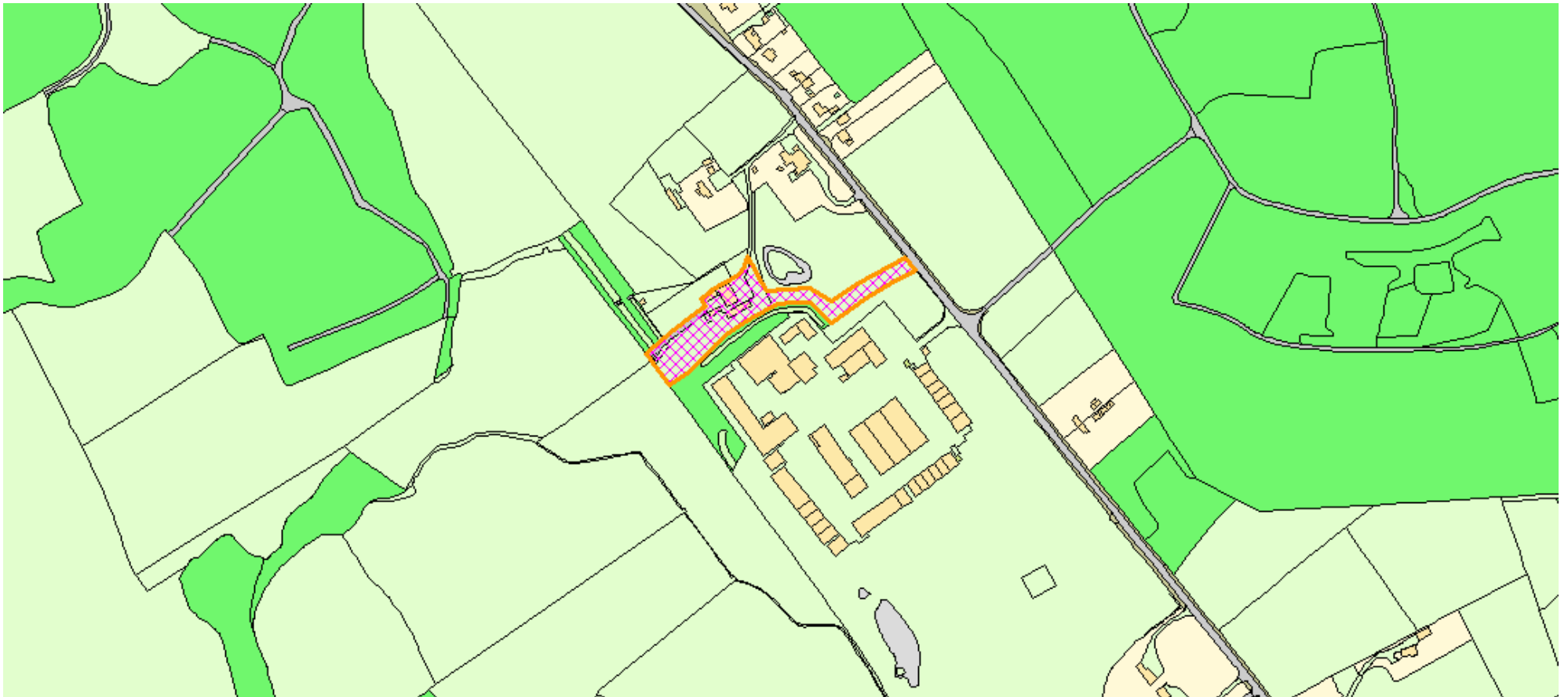
<http://planningpublicaccess.southdowns.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OB0GQKTUJLL00>

National Planning Policy Framework (2019)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60772/116950.pdf

South Downs National Park Partnership Management Plan 2019
<https://www.southdowns.gov.uk/national-park-authority/our-work/key-documents/partnership-management-plan/>

South Downs Integrated Landscape Character Assessment 2005 and 2011
<https://www.southdowns.gov.uk/planning/planning-advice/landscape/>

Site Location Map



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