

John Slater Planning

Patching Neighbourhood Development Plan

Submission Version

A Report to South Downs National Park Authority on the Examination of the Patching Neighbourhood Development Plan

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Introduction

Neighbourhood planning is a process introduced by the Localism Act 2011 which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside, which currently is the Arun District Plan adopted in 2003 and in time by the South Downs National Park Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The neighbourhood plan making process has been led by Patching Parish Council. A Working Group was appointed to undertake the plan preparation made up of Parish Councillors and lay members. Patching Parish Council is a “qualifying body” under the Neighbourhood Planning legislation.

This report is the outcome of my examination of the Submission Version of the Patching Neighbourhood Development Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum then the Plan will be “made” by South Downs National Park Authority, which is the Local Planning Authority.

The Examiner’s Role

I was formally appointed by South Downs National Park Authority in July 2017, with the agreement of the Parish Council, to conduct this examination. My role is known as Independent Examiner.

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 39 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both South Downs National Park Authority and Patching Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

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- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
- That the plan should proceed to referendum if modified
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I am to conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the Patching Neighbourhood Development Plan area.

In examining the Plan, the Independent Examiner is expected to address the following questions

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land covering the area designated by South Downs National Park Authority for the Patching Neighbourhood Plan on 14th March 2013.

I can also confirm that it does specify the period over which the plan has effect namely the period up to 2032. It needs to have a start date so I will recommend that it starts in 2017.

I can confirm that the plan does not cover any “excluded development”.

There are no other neighbourhood plans covering the area covered by the Plan designation.

Patching Parish Council as a parish council is a qualifying body under the terms of the legislation.

Recommendation

Insert the date the plan has effect from 2017 - 2032

The Examination Process

The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I am satisfied that I am in a position to properly examine the plan without the need for a hearing. No parties have requested a hearing.

I carried out an unaccompanied visit to the area on 16th August 2017 to familiarise myself with the village and the surrounding countryside.

The Consultation Process

A Working Group was established at the start of the neighbourhood plan making process. Their first engagement session with the local community was via an “Open Evening” held on 3 April 2014 in the Village Hall, which was attended by 30 people. This was followed by questionnaire distributed to all residents, which was responded to by 66 households. This drew out the views of residents on a wide range of issues which were set out in an issues report.

A follow-up housing needs survey was taken in April 2015 and was again repeated in January 2017. The initial survey had 51 responses.

The second round of consultation took place in May and June 2015, around the plan’s objectives and draft policies. This included a consultation event over the 8th and 9th May 2015, which was attended by several 13 residents. The consultation period was extended to 19th June 2015. In addition, questionnaires were distributed to local businesses operating in the parish.

The review of the consultation responses was completed by February 2016. This led to the preparation of the Pre-submission consultation version of the plan. This was the subject to an 8-week consultation period, known as the Regulation 14 Consultation, which ran from 1 August 2016 to 26th September 2016. This included leaflets delivered to all residents and businesses, an event held at the local Church and as well as consultation with statutory and non-statutory consultees.

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Following that Regulation 14 Consultation, discussions took place between the National Park's planning officers and the steering group regarding Policy HBT 1 which led to proposed changes to that policy. Those persons who had previously expressed a view on that policy, were invited to discussions, known as The Surgery held on 28 January 2017. This event was advertised in the village on public notices. In total 25 responses were received to the Pre-Submission consultation. These responses were considered by the Parish Council on 23 February 2017 and they are set out in the Consultation Statement along with the council's responses.

I am satisfied that there has been full and proper consultation during the preparation of the Neighbourhood Plan and that all stakeholders have had an ample opportunity to comment and influence the Neighbourhood Plan.

Regulation 16 Consultation

I have had regard, in carrying out this examination, to the comments made during the period of final consultation which took place between 12th June 2017 and 24th July 2017. This consultation was organised by South Downs National Park Authority who had received the Submitted Plan, prior to it being passed to me for its examination. This stage is known as the Regulation 16 Consultation.

In total 7 responses were received. These were from the South Downs National Park Authority, Historic England, Southern Water, Highways England, Natural England and 2 local residents. I will refer to the results of the Regulation 16 consultation where relevant in the specific sections dealing with the Proposed Policies.

In addition, during the course of this examination, I received an unsolicited email from a local resident forwarding me email correspondence between himself and the Chairman of the Parish Council. I have not treated this as a duly made representation and I have not had regard to its contents in my consideration of the plan.

The Basic Conditions Test

The neighbourhood planning examination process is different to a Local Plan examination, in that the test is not one of "soundness". The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.

The 6 questions which constitute the basic conditions test seek to establish that the Neighbourhood Plan: -

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- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State and it is appropriate to make the Plan?
- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- The making of the Plan does not breach or is otherwise incompatible with EU obligations or human rights legislation?
- Whether prescribed conditions are met and prescribed matters have been complied with?
- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects?

Compliance with the Development Plan

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Arun Local Plan which is now somewhat out of date having been adopted in 2003. However, a number of the policies are saved in 2007. The other adopted plans which are not relevant, are the West Sussex Minerals and Waste Plans. These cover matters that cannot be considered by a neighbourhood plan.

In the adopted Arun Local Plan, Patching is not identified as a settlement having a settlement boundary and is therefore covered by the countryside policy GEN 3.

The neighbourhood plan has been prepared against the backdrop of the National Park Authority preparing its own local plan for the whole park, the South Downs Local Plan. At this stage, the latest version is the Preferred Options stage, which was the subject of public consultation in 2015. The South Downs Local Plan is an emerging local plan, which has not been subject to its public examination and may change between the current version of the plan and the iteration that is finally adopted, which will be in 2018 at the earliest. The emerging policy does not identify Patching as a village that will have a settlement boundary, with a housing allocation or target. Its policies cannot be given full weight in terms of the basic conditions, however I am aware that there has been close working between the NPA and the Parish Council to ensure that the neighbourhood plan is based on up to date information.

Compliance with European and Human Rights Legislation

The Parish Council requested on 8th January 2016 South Downs National Park Authority to screen whether the Patching Neighbourhood Development Plan should be the subject of a Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”.

The National Park Authority responded on 29th February 2016 to the effect that an SEA was not required.

Natural England have confirmed on 14th September 2017 their view that based on the Habitat Screening Statement and the contents of the Plan that a Habitat Regulation Assessment is not required under the Habitat Regulations. I have received no representations that there is any incompatibility with the European or Human Rights legislation and I am satisfied that this element of the Basic Conditions test is met.

The Neighbourhood Plan: An Overview

This neighbourhood plan has been produced against a background of a historic local plan that is now some 14 years old. Work is underway on the preparation of the South Downs Local Plan but this is still at a relatively early stage in its preparation. However, in the emerging plan, the National Park Authority has not identified Patching as a village where land is to be allocated for new housing. Patching does not appear in the list of settlements, identified in the Strategic Policy SD22 of the Preferred Option version of the Plan, which is to have a defined settlement boundary. The Plan area only has a small population, 259 residents at the time of the 2011 census, but it has two pubs as well as a church and a village hall (shared with Clapham). It does not have the basic infrastructure for being a chosen as a sustainable location, to accept housing growth.

I have noted that there has been a significant change in the housing Policy HBT1 between the Pre-Submission and Submission version of the plan in terms of the policy to allow housing development specifically to meet local need. The plan had been informed by housing need survey results that showed a small but significant number of households who had a housing need. Whilst a number of neighbourhood plans will have such a policy and have not been put off by the “administrative burden” it is not in my role as examiner to pass judgement on that change in stance. The submission version of the policy is in line with both existing and emerging local plan policy and national advice. It therefore passes basic conditions.

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The plan is a well-produced, concise and easily read document. I am particularly impressed with the clarity in the way it differentiates between the planning policies and Community Actions, an area that often cause problems at examination. All the planning policies are policies for the use and development of land.

In making my recommendations I have made specific proposals as to how the wording of the policy needs to be changed so as to meet the Basic Conditions. However, as a result of my changes to policies, some aspects of the narrative may require some additional editing where changes to the policy have been recommended. This will be a matter for the Parish Council and the National Park planners to work together on.

The Neighbourhood Development Plan Policies

Policy COMM 1 – Protection of Assets of Community Value

I am concerned but there is scope for confusion regarding the term “asset of community value” (ACV). There is special significance attached to such “assets” that have been registered by the District Council i.e. Arun District Council in terms of how these assets can be disposed of. Once designated, it is not unusual for their status as ACV to be reflected in planning policy. According to Community Action COMM 2 it is the intention that the Parish Council should seek the registration of the facilities named. However, it would not be appropriate for a neighbourhood plan policy to pre-empt that registration process. I propose rather than to refer to the two public houses, church and village hall as “assets of community value”, the plan should refer to them as “community facilities”. This will then remove any ambiguity as to their status. Beyond this change I have no other comments to make on the wording of the policy.

Recommendations

Retitle policy “Protection of Community Facilities” and Map 3(a) and in the first sentence insert “community” after “following” and delete “as assets of community value”

Retitle Map 3a as Community Facilities rather than Assets of Community Value

Policy COMM3 – Supporting independent living

I have no comments to make with regards this policy as to its compliance with basic conditions.

Policy COMM5 – Existing green space and new recreational facilities

I have no comments to make on this policy.

Policy PLACES 1- Historic buildings, other buildings and structures of merit and sites of archaeological interest

This policy introduces the concept of “other historic buildings and structures of merit”. This is a description that is not used in National Guidance and I would recommend that the plan should refer to such buildings and structures using the term used in the NPPF which is “non-designated heritage assets”. The National Park Authority in their representations have stated that the designation of these buildings may be premature if they are proposing inclusion on “the local list”. However, these properties shown on Map 4(b) are already designated by the Arun Buildings or Structures of Character SPD adopted in September 2005.

I note that the policy seeks to encompass the flint and brick walls which are a distinctive feature of this part of the South Downs. The maps entitled 4 (c) show these. However, when I carried out my site visit, I saw that some of the distinctive walls appear to be new constructions which would not necessarily qualify as “heritage assets”. I therefore propose to refer to the flint and brick walls as a separate element to the policy, which can offer protection to these those elements that contribute to the distinctive character of the area. There is an error pointed out by the residents of Glebe House in their Regulation 16 Consultation response, that the Map 4 (c) The Street No 1 and 2, erroneously shows the flint wall extending some metres to the south of the new garages which back on to The Street. I confirmed on site that there is no wall south of the garage and I assume this to be a drafting error (as previously acknowledged by the Qualifying Body at Regulation 14 stage), which I can recommend be corrected.

I am concerned that by having the policy to provide same level of protection to all these elements whether statutorily protected or not, is not the approach advocated by the Secretary of State in the NPPF. This is a point made by Historic England in their Regulation 16 representations.

The criteria for considering the impact of development on non-designated heritage assets is set out in paragraph 135 of the Framework. I propose to use the same test which is to take a balanced judgement that weighs the scale of harm or loss posed by a development proposal against the significance of the asset. Accordingly, I propose to split the policy, so as to differentiate between status of designated and non-designated assets and also to provide protection in their own right to the identified brick and flint walls.

Recommendations

Replace the second bullet point with “non-designated heritage assets shown on Map 4 (b)” and add a new bullet point “Brick and flint walls which add to the distinctiveness of Patching Parish as shown on Map 4 (c)”

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In the second paragraph, insert “statutorily protected, designated” before “historic assets”

Add at the end of the policy.

“Proposals affecting the non-designated heritage assets shown on Map 4(b) will be judged on the basis of the scale of harm or loss against the significance of the asset.

Development proposals which seek to remove or replace any of the brick and flint walls shown on Maps 4(c) will not be supported.

Applications affecting archaeological notification areas will be expected to be accompanied by an appropriate desk based assessment and where necessary a field evaluation”

Amend the maps on Map 4(c) No 1 and No2 The Street to remove the designation shown running to the south of the southernmost garage block to Glebe House.

Policy PLACES 2 - Patching conservation area

The policy follows the statutory definition for considering development in conservation areas. It is not necessary for the policy wording to refer to text in supporting paragraph. Similarly, the exploration of specific ways of enhancing the conservation area would be better placed as a Community Action as it is a proposal for the Parish Council, rather than being a planning policy used for the determination of a planning application.

Recommendations

Delete “as described in paragraph 4.14 below”.

Move the second paragraph to a Community Action.

Policy PLACES 4 – Design of new development

As the South Downs National Park Authority have stated, not all applications are required to submit a Design and Access Statement. I need to amend the policy so that refers to these statements being submitted “when required”. The requirement is set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015, and cannot be imposed on an applicant, in response to a planning policy.

Similarly, the intention of the parish council to prepare a Parish Design Statement is a proposed action to be carried out by the Parish Council, which should be expressed as a Community Action. That Statement would not have the status of being part of the development plan unless the Design Statement had been the subject of public

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consultation and have been adopted by the Planning Authority as a Supplementary Planning Document.

Recommendation

In the third paragraph replace “must” by “where required, should”.

Move the final paragraph to Community Actions.

Policy PLACES 5 – Conservation and enhancement of the natural environment

The National Park Authority in its HRA screening report is recommending the inclusion of an additional category of protected habitats to be covered by the plan namely international nature conservation designations- the nearest Special Area of Conservation is shown on Map 6(a).

I will accept that modification to ensure that the plan responds to its HRA screening report.

Recommendation

Add an additional bullet point - “the international nature conservation designated site as shown on Map 6(a)”

Policy PLACES 6 - Protection of higher quality farmland

This policy complies with national policy and meets basic conditions.

Policy PLACES 8 – Equine development

I witnessed the extensive horse-related development in certain parts of the plan area and I have no adverse comments to make on this policy.

Policy PLACES 9 – Protection of trees, woodlands and hedgerows

Again, my only concern is the element of policy which refers to the future intentions and actions of the Parish Council – This should be moved to a Community Action.

Recommendation

Move the second paragraph to become a Community Action.

Policy PLACES 11 - Lighting in new development

I have no comments which with regard to the intentions of this policy, which is in line with national guidance. Reference to an emerging local plan policy is not appropriate

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in a neighbourhood plan policy, as it could change as it goes through its examination stage.

Recommendation

Delete “and draft Policy SD9 of the South Downs Local Plan”.

Policy PLACES 13 - Renewable energy on domestic property

This policy needs not just to comply with proposals in the neighbourhood plan but should also refer to other policies in the development plan.

Recommendation

Replace “Neighbourhood” by “development”.

Policy HBT1 – New residential development

For this policy to comply with the paragraph 55 of the NPPF, rather than referring just to demonstrable agricultural or forestry need it should refer to “the essential needs of a rural worker to live permanently at or near the place of work in the countryside.”

Also in terms of the conversion of existing redundant agricultural buildings, it should be broadened to refer to the reuse of “rural” buildings. The policy should not refer to compliance with a draft policy in an emerging South Downs Local Plan which could change as it goes through its further consultation stages and examination.

Recommendations

Delete all text in the first paragraph after “Arun Local Plan (2003)”.

Delete all text in the first bullet after “meet” and insert “the essential need for a rural worker to live permanently at or near their place of work in the “countryside”.

Delete all text after “redundant” and insert “building and lead to an enhancement to the immediate setting”.

Policy HBT2 – Subdivision of residential gardens

This policy allows new dwellings in some cases, on part of an existing residential garden if it meets the requirements set out in the policy. It is not necessary to utilise the word *exceptionally* as the presumption should be there if the proposal meets the criteria, then it should be approved.

I do feel that the threshold of the last criterion, that there should be “no adverse impact”

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on neighbouring amenities is set at too low a threshold and it will be more appropriate to refer to not having “any *significant* adverse impact”.

Recommendations

Delete “exceptionally”

Insert “significant” before “adverse impact”

Policy HBT 3 - Replacement and extension of existing dwellings

I have no comments to make on this policy except to accept the representation of the National Park Authority to also require schemes to have regard to Policy HBT5 re parking.

Recommendation

And “and 5” after “HBT4”

Policy HBT 4 - Outdoor space

I have no comments to make on this policy

Policy HBT 5 - Off street parking

I have no comments to make with regard to this policy

Policy HBT 6 - New commercial development

My concern with the policy which seeks to favour commercial activities supporting rural economy. The policy differentiates these from “other commercial development proposals will be considered on their individual merits having regard to the benefits they bring to the parish and its residents”. Planning controls do not differentiate between uses falling within the same use class. For example, a workshop unit repairing tractors could equally be used for repairing motor cars, some of which may be cars of people who do not live in the parish. I consider that the sentence raises expectations that could not be delivered in practice and I propose to delete that particular sentence from the policy. Finally, with regards the presumption against the change of use of existing commercial premises to residential, this is a policy which is against the national policy set out in the Framework which is to accept the residential reuse of redundant buildings, if it leads to an enhancement to the immediate setting. I therefore have to recommend that that element of the policy be deleted.

Recommendation

Delete the second sentence of the second paragraph.

Delete the last paragraph.

Policy HBT7 – Improved connectivity

I have no comments to make on this policy

Policy HBT9 – Parking provision for visitors to the parish

I saw on my site visit, evidence of informal parking for walkers, that is already taking place within the village of Patching. The policy in the last criterion refers to the evidence “as demonstrated in a traffic impact assessment accompanying any planning application”. Transport assessments are required only from developments that generates “significant amount of movement”. I consider it highly unlikely that a rural car park for recreational walkers will meet that criterion and I will recommend that requirement to be deleted from the policy.

Recommendation

In the last criterion, delete everything after “Myrtle Grove.”

The Referendum Area

If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Neighbourhood Plan as designated by South Downs National Park Authority on 14th March 2013 is the appropriate area for the Referendum to be held and the area for the referendum does not need to be extended.

Summary

This is a locally distinctive plan that offers protection to the village and other settlements from inappropriate development in what is a stunning landscape within the South Downs National Park. I have not had to recommend the deletion of any policies in their entirety and my recommendations are only required to ensure that the plan meets the basic tests. The Parish Council and the Working Group are to be congratulated on the quality of the plan and the evident hard work that lies behind it.

Finally, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test.

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I am therefore delighted to recommend to South Downs National Park Authority that the Patching Neighbourhood Development Plan, as modified by my recommendations, should now proceed to referendum

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