

Report to	<b>Planning Committee</b>
Date	<b>12 September 2019</b>
By	<b>Director of Planning</b>
Local Authority	<b>Chichester District Council and East Hampshire District Council</b>
Application Number	<b>SDNP/18/01060/FUL</b>
Applicant	<b>Mr J Oates</b>
Application	<b>Road improvements to existing track, including resurfacing, passing places, landscaping and wildlife enhancements</b>
Address	<b>Old Ditcham Farm, Ditcham Lane, Buriton Petersfield GU31 5RQ</b>

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**Recommendation: That permission be refused, for the reasons set out at paragraph 10.1 of this report**

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### **Executive Summary**

The application seeks permission for works to upgrade a 19<sup>th</sup> Century track to adoptable standards as a road. The works would include surfacing and introduction of passing places, prior to the submission of a Section 38 application to the Highway Authority to formally adopt the track. The applicant states that the upgraded track would replace an existing section of highway to the north and north west, which is intended to be downgraded to a public bridleway with private vehicular access only to Old Ditcham Farm and associated business uses, and Ditcham Farm Cottages.

There is considerable planning history associated with the track and proposals to upgrade it over many years with a similar application being approved under permission SDNP/14/01365/FUL by the SDNPA Planning Committee in November 2014. This previous permission expired without pre-commencement conditions having been discharged, thus development was not commenced within the 3 year requirement.

Since the previous permission, the development plan for the National Park has evolved, and a number of supporting documents and policies protecting the character of historic rural roads have now been prepared and adopted, which have raised the prominence and importance of rural lanes and their conservation and enhancement in policy terms.

Whilst officers acknowledge the landscape impact in relation to the proposals would be similar to the scheme approved in 2014, the policy landscape has changed and the bar has been raised in relation to what might be acceptable in terms of development such as this in a rural location within the National Park. In addition, it has become clear that there is no planning mechanism to secure the perceived benefits in terms of the downgrading of the existing track which passes Old Ditcham Farm as part of the current application (as originally thought on the previous application).

Therefore, whilst having regard to the previous committee decision in 2014, Officers consider that there are sound reasons for reaching a balanced recommendation to refuse the proposals now,

given the adverse landscape impact on this rural track and the uncertainties in relation to the ability to secure the downgrading and associated enhancements of the existing section of highway within the planning process.

The application is therefore recommended for refusal.

The application is placed before Members due to the Committee's consideration of the previous application in 2014.

## **I. Site Description**

- 1.1 The site is located between Petersfield and South Harting to the west of the B2146, and falls across the parishes of Harting to the east and Buriton to the west.
- 1.2 The proposals concern two lengths of single track road on relatively flat land near to Old Ditcham, to the west of Buriton and south of Nursted, which together form a triangular layout. The South Downs Landscape Character Assessment 2011 characterises the site as being within the East Meon to Bury Greensand Terrace character area which is characterised by narrow sunken lanes cut through the landscape. The route of the South Downs Way passes to the south of the site beyond Leith Copse. Bridleway 23 runs from Old Ditcham Farm northwards towards Nursted. Public Footpath FP24 begins just to the north of the southwestern junction of the track with Old Ditcham Lane, and continues westwards. Byway Buriton 47 begins some 250m south of the southwestern junction and continues southwards to Sunwood Farm.
- 1.3 The existing narrow tarmac road is adopted highway, lined with trees and hedges, and runs from the B2146 to Ditcham, through a right angle at Old Ditcham Farm. The road is largely owned by the applicant, with approximately half the length of the road which falls within WSCC being owned to the centre line by another third party. The existing track proposed for upgrading is a 550m length of straight compacted flint track, that runs from the junction with the B2146 and the tarmac road, approximately 250m south of Old Ditcham Farm. The track is a private right of way (owned by the applicant) originally created in the 19<sup>th</sup> Century to serve Ditcham Park House, which is now a private school. It is indicated on the second edition of the Ordnance Survey (1891-1914), and has not undergone significant widening or straightening in the intervening period; and therefore falls within the SDNPA's 'Roads in the South Downs' (2015) definition of a 'historic rural road.'
- 1.4 The track is lined with hedges and clumps of trees towards either end. Both routes are single track roads open to vehicular use, although the flint track being privately owned carries no public right of way.

## **2. Relevant Planning History**

2.1 The most recent planning history relating to the site is as follows:

- 01/03080/PNO Repair and resurfacing of existing road. Withdrawn 09.01.2001
- 02/01901/FUL Laying of permanent, all weather, low maintenance tarmacadam surface on existing farm access road. Refused 11.10.2002  
Reason for refusal given: The proposed works, by reason of the surfacing materials to be used together with the introduction of passing places along its length would cumulatively result in the loss of the informal rural character of the track/way to the detriment of the sensitive rural character and appearance of the is part of the Sussex Downs Area of Outstanding Natural Beauty. The proposal is therefore considered to be contrary to the aims and objectives of Policies G1, G5, C1 and C2 of the West Sussex Structure Plan 1993 and Policies Re1, RE4, and BE11 of the Chichester District Local Plan First Review 1999. The District Planning Authority have considered the reasons why it is considered necessary to carry out these works but they are not of sufficient weight to override the harm the proposal would have on the landscape.
- 03/00455/PLD The carrying out of works to improve the surface of the existing farm access road (private way). Withdrawn 05.09.2003

- 03/03423/PLDNP Carrying out of works to improve the surface of private way. Refused 17.10.2012 (due to insufficient detail in regard to surfacing materials).
- 09/04421/FUL Installation of new sub-base and resurfacing or track to match existing appearance. Approved 15.01.2009  
Subject to the following pre-commencement condition “No development shall be carried out unless and until a schedule of materials and finishes and, where so required by the Local Planning Authority, samples of such materials and finishes to be used for the various layers and surfacing materials have been submitted to and approved by the Local Planning Authority. For the avoidance of doubt, the surfacing material shall not comprise tarmacadam in any form.”
- 12/00736/FULNP Upgrade of existing track at Old Ditcham Farm following approval of 09/04421/FUL Withdrawn.
- SDNP/13/01599/PRE Diversion of Old Ditcham Lane (upgrading of existing track). Advice provided 24.05.2013  
The advice recommended that whilst the plans had been devised in collaboration with WSCC Highways, further clarification should be provided in regard to the need for signage and landscaping; the downgrading and surface treatment of the existing route; the loss and replacement of hedgerow; and whether a badger sett was in existence.
- SDNP/14/01365/FUL Road improvements to existing track, including resurfacing, passing places, landscape and wildlife enhancements. Approved (Committee Resolution) 18.11.2014  
Subject to conditions including: “Prior to the commencement of development details of the engineering works of the road including finishes are to be submitted to and approved in writing by the SDNPA (in consultation with the County Highway Authority). The agreed details shall be informed and in accordance with the relevant chapters on rural roads of Manual for Street 2 - wider application of the principles 2010. Reason: To ensure the road is constructed to an adoptable standard and in the interests of conserving the rural character of the area to accord with the NPPF.”
- SDNP/14/06655/DCOND Discharge of condition 4 on SDNP/14/01365/FUL relating to full ecology survey (bat, badger and dormice). Approved 16.02.2015
- SDNP/17/05708/DCOND Discharge of conditions 3, 5, 6 and 7 on SDNP/14/01365/FUL. Withdrawn 08.01.2018

The application was withdrawn due to permission SDNP/14/01365/FUL having expired.

- 2.2 By way of further history, the track has also been the subject of a Definitive Map Modification Order (DDMO) in 2008, applied for by the applicant to establish that the track was an existing right of way, which was determined on 18 December 2009 following a Public Inquiry. The Order was not confirmed by the Inspector, as private use of the track was not a reason for it to be designated as a public right of way.
- 2.3 The Inspector’s report also confirms that following the conveyance of Ditcham Park Estate, the owners and occupiers of named former estate properties (including Woodlands, Old Ditcham Farm, Coulters Dean and Sunwood Farm) have a private right of access to the track.
- 3. Proposal**
- 3.1 The current application seeks planning permission to upgrade the track to an adoptable standard as a road prior to the submission of a s38 application, and includes design details relating to surfacing materials, landscaping and signage. The new surface for the track and passing places is proposed to be of a minimum 450mm construction, comprising a 250mm granular sub base, with bituminous mix layers. To the south of the track an impermeable shallow ditch will be provided to carry surface water to catchpits and soakaways provided at either end of the track.
- 3.2 Following concerns raised in regard to the landscape impact that would result from the proposals, the number of passing places was reduced from 5No to 4No, and their length

curtailed from 10-25m to 6m. The new track would be widened to 3m along its entire length (up from approximately 2.5m at its narrowest point), with a 4.7m width being provided at the passing places. The track would be widened approaching both junctions to a maximum approximate width of 4.6 at the eastern end (up from approximately 3.5m), and 4.7m at the western end (up from approximately 3m).

- 3.3 The scheme differs slightly from that approved in 2014 by way of a new section of highway that is proposed to provide a new junction between Old Ditcham Lane and the south western end of the track, through an existing tree group, which is an amendment to the previously approved plans. A new short section of hedgerow is also proposed to block off the existing junction and encourage through traffic to use the new road arrangement.
- 3.4 The proposal also includes the indicative treatment of a 200m section of the existing highway from the western junction with the track northwards to Old Ditcham Cottages, where the tarmac would be removed and a grassed central strip provided. However these works are dependent on a separate legal process to secure the downgrading of the existing public highway to a public bridleway.
- 3.5 In terms of mitigation, additional hedgerow planting is proposed in the location of the passing places, and a section of the downgraded highway. The full length of downgraded highway will have sections of tarmac at the centre of the carriageway removed allowing grass and wildflowers to establish.

#### **4. Consultations**

4.1 **Archaeology:** No objection.

4.2 **Buriton Parish Council:** Comments:

- Clarification required in regard to the legal rights of existing users of the private track.
- Concerns whether the junctions of the existing track, and limited visibility due to topography and vegetation, would be safe given the volume of vehicles using it, including Ditcham Park School traffic and farm vehicles.
- The character of the existing lanes is tranquil and attractive. The Buriton Village Design Statement records these particular lanes as “attractive rural lanes with special beauty.”
- Buriton Parish Council would not wish any roads to be widened, nor hedgerows removed as this could spoil the rural environment for relatively small numbers of vehicles.
- The parish have worked to remove road clutter in the parish, and the provision of new road signs or road markings would be a retrograde step and out-of-character.
- Local farmers have raised concerns about large agricultural machines meeting oncoming traffic in narrow lanes, and should not be disadvantaged by these proposals.
- Assurance should be provided that all sections of tracks and highway will be maintained to the proper standards by the relevant Highway Authority.

##### Further comments following revised plans:

- ‘Manual for Streets’ and ‘HS2 Rural Road Design’ pre-date the SDNP designation and national standards do not always apply to minor rural lanes in a National Park.
- More relevant, ‘location-specific’ design principles are provided by the SDNPA’s own guidance document for rural roads which was prepared in conjunction with the relevant Highway Authorities, and the Buriton Village Design Statement (particularly Design Guidelines P1 to P6), and should be given more weight.

4.3 **Drainage:** No objection, subject to conditions.

4.4 **Ecology:** No objection, subject to conditions.

4.5 **Flood Risk:** No objection, subject to condition.

4.6 **Harting Parish Council:** No objection.

4.7 **Hampshire Highways:** No objection.

- West Sussex County Council would take the lead on this scheme as the majority of the proposal falls under their authority. WSCC will enter into a Section 8 Agreement with Hampshire County Council to approve the Section 38 work on their behalf.
- This section of Ditcham Lane is subject to the national speed limit, for single carriageway roads, of 60mph, however most traffic will be travelling at closer to 40mph. At present, visibility at the junction is below the standard we would expect in this location and it would be beneficial for the applicant to improve this.

4.8 **Historic Buildings Officer:** Comments:

- As the track proposed for improvement was not in existence prior to 1840, it cannot be regarded as a non-designated heritage asset.
- Reduction of (occasional) traffic would constitute an enhancement of the setting of the Grade II listed building, though not a fundamental one.

4.9 **Landscape Officer:** Objection. Comments:

- Roads, tracks and paths are important elements in the landscape, and contribute significantly to character, cultural heritage and land use through history. They are also the locations from where many people experience the landscape of the National Park.
- The proposed tarmac surfacing and drainage interventions generate a number of negative urbanising effects and restricts any ability to ensure the conservation and enhancement of the National Park.
- The reduction in the size and number of passing places from 5 to 4 is a small improvement, however they will be tarmac surfaced.
- The additional 4m wide route through the trees at the western end of the track generates a harmful negative impact.
- New hedgerow planting around the passing bays fails to 'join up' hedgerows and may struggle to establish along the tree line.
- The proposed section of new hedge across the existing road to 'stop-off' the current route is contrived, and prevents the readability of the landscape at this location and the existing through route.
- The scheme gives no consideration to route hierarchy. All routes meeting the eastern junction are 4m+, which generates a suburban character.
- The scheme has been designed for motorists and fails to reflect the rural road as a shared space.
- If both routes remain open to vehicular traffic, this would prevent the opportunity to generate mitigation for loss of the track, let alone enhancements.

4.10 **SDNPA Access and Rights of Way:** Objection. Comments:

- Concerns over the visual landscape impact of upgrading the existing farm track to public Highway standard.
- The formalization, surfacing and widening of the junction with the current farm track, proposed to be upgraded would dramatically alter the experience of this area.
- The downgrading of the existing road is dependent on an entirely separate legal process and there is no guarantee it would be successful.
- Having both routes as sealed roads open to traffic would greatly diminish the enjoyment of the area for all non-motorised users.
- If downgrading of the current lane could be secured prior to development the proposal could be acceptable from a public access perspective.

4.11 **Tree Officer:** No objection, subject to conditions.

4.12 **WSCC Highways:** No objection. Comments:

- Forward visibility along the existing route is constrained by the road alignment, although there is no evidence to imply this route is unsafe.
- The acceptability of the proposed highway construction; potential adoption of the new route by highways; and the downgrading of Old Ditcham Lane to a new bridleway are all subject to further statutory processes independent to the current planning application.
- The number of passing places (excluding the widening at each end of the lane) has been reduced from 5 to 4. The length of the passing places has also been reduced to 6m per bay and would accommodate a single car, which is considered appropriate in light of the lightly trafficked nature of the road.
- Spacing between the bays is largely as previously shown for the current application and approved through SDNP/14/1365/FUL.
- Forward visibility is good and achieved entirely within the proposed lane, however lies outside of the lane at the eastern and western ends of the lane and extends across hedgerow. If visibility issues are identified at adoption stage this may prevent future adoption.

Further comments following revised plans and concerns raised in regard to Highway Safety

- The revised scheme achieves good forward visibility over much of the track length, and cars could use the passing place and allow a longer vehicle to pass.
- There would be an issue if two longer vehicles met, however this is a potential issue on the existing road which also has relatively few passing places, and it is unclear whether this is an existing issue that would be exacerbated by the proposed scheme.
- No plans have been provided of any physical works to downgrade Old Ditcham Lane, however this would be subject to further legal processes outside planning that would require public consultation. It is possible that Old Ditcham Lane would be retained as public highway alongside the new upgraded track, effectively providing a choice of route.
- Should any downgrading application be successful, private access to existing properties would still be permitted.

4.13 **WSCC PROW:** No objection.

**5. Representations**

5.1 5 objections were received in regard to the original proposals raising the following issues:

- Old Ditcham Lane is a historic road, and should not have been placed in private hands.
- The track proposed for adoption is an old ornamental carriage drive shown on the OS map of 1898.
- The present road system has worked well for the last 40 years; the application is not necessary, and will not improve road safety.
- No accidents have occurred since the previous permission in 2014 so it is not necessary to improve road safety.
- The development will endanger wildlife and cause flooding due to resurfacing with tarmac; flooding at the south entrance of Ditcham Park previously caused road closure.
- There is a new badger sett at the northern end of the lane.
- Retaining the diverted section of U216 would give the applicant two points of access and a one way access system for their business.
- Unclear how cattle will be moved from one side to the other, or how long the highway could be blocked for.
- The traffic survey is not sufficiently thorough, and there is traffic from 7am to late at night including farm vehicles.

- The width of the track is unlikely to be able to accommodate two verges, a ditch, a passing place and a road.
- A 'light-touch' approach to hedgerow maintenance will obscure the sight lines indicated on the submitted plans.
- A substantial number of dwellings including The Lodge, Woodlands, Old Ditcham Farm, Coulters Dean and Sunwood Farm have a private right of way over the application track. In the event that highway rights are to be extinguished, all persons who have a private interest must give permission.

5.2 Following the submission of revised plans, a further 7 objections were received, including from the National Farmers Union and Ditcham Park School (who have not previously made any representations), and an independent highways appraisal on behalf of Sunwood Farm, raising the following concerns:

- The new route does not meet the standards outlined within Manual for Streets and HS2 Rural Road Design and would not be able to accommodate the existing level and type of traffic associated with the land uses within the vicinity.
- The proposals conflict with the new Local Plan policies.
- The proposal reduces the amount of traffic passing the applicant's residence and business at the Tithe Barn, at the expense of impacting road disruption and safety of those accessing Ditcham Park School and other users of the public highway.
- The nature of the land uses at the Tithe Barn 'complex' would result in a significant number of vehicles using the proposed bridleway route and potential for conflict with pedestrians and cyclists.
- The existing route and highway arrangement of Old Ditcham Lane are adequate to safely accommodate the existing flow of traffic associated with Sunwood Farm, Ditcham Park School and the Tithe Barn / Old Ditcham Farm, and there have been no recorded accidents.
- The proposals would negatively impact existing users of Old Ditcham Lane by restricting access for a large number of vehicles which are required to support the operation of both Ditcham Park School and Sunwood Farm.
- The resurfaced track would not be adequate for the volume of two-way car, coach and minibus trips accessing and leaving Ditchling School during peak hours.
- The School promotes a one-way traffic movement at school drop off and pick up times, however has no control other vehicles on the public highway that may be travelling in the opposite direction.
- The School's travel plan uses nine 17-seater minibuses and one 72-seater coach which is 12m long, such that the new route would prevent coach access to the school from the north.
- The variable between the north and south access routes to the school is a difference of some 15-20 miles. On occasion one or other route is closed, such that all school traffic must revert to one or other access.
- Sunwood Farm generates a high proportion of HGV and agricultural traffic including combine harvesters during seasonal peaks, which requires carriageway widths in excess of 3.1m.
- No assessment has been made of the width of vehicles using the lane. Wider vehicles coming the other way (such as coaches from Ditcham School) may be too wide to pass a tractor. The average width of a combine harvester is approximately 3.5m, so the road would have to be temporarily closed during harvest to allow the harvester to use the lane.
- Does not meet the standards outlined within Manual for Streets (recommends a carriageway width of 4.8m for a HGV and a car to pass) and HS2 Rural Road Design (the normal width of single track roads should be 3.5m.)

- Would not be able to accommodate the existing level and type of traffic associated with the land uses within the vicinity.
- The proposals would create access restrictions for the school and farm by limiting the number and type of vehicles which could safely operate on the upgraded section of track.
- There is insufficient evidence of any highway safety issue with the ‘dangerous’ bend adjacent to Old Ditcham Farm.
- The reduction in the number of passing places has been reduced from 5 to 4, which poses a safety risk.
- Old Ditcham Lane has 10 passing places and is bordered by wider verges and vegetation is set further back.
- The new track does not permit sufficient visibility as the verges are narrower and vegetation closer; at least 8 passing places should be provided to avoid obliteration of the grass verges.
- The restricted width of the proposed route could lead to an increase in the number of vehicles reversing on the public highway.
- Traffic priority at the junction with the B2146 is unclear, and the narrowing of the junction off the B2146, used as a drop-off/pick-up point for schoolchildren, will pose a safety issue.
- There will be additional roadside clutter, including 3 road signs at the southern entrance and 5 signs at the B2146 junction and sleeping policemen.
- Technical details were not considered at the time the 2014 scheme was granted planning permission.

5.3 One neutral representation was received raising the following:

- If the new track is not adopted as a public highway, or inadequate passing places provided, the occupants’ enjoyment of Coulters Dean Farm would be damaged and access to their home restricted.

## 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 upon the Local Planning Authority 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 February 2019. Both 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.

6.4 The National Planning Policy Framework (2019) is also a material consideration, and the following sections are of particular relevance:



- Section 2: Achieving sustainable development;
- Section 9: Promoting sustainable transport;
- Section 12: Achieving well-designed places;
- Section 15: Conserving and enhancing the natural environment;
- Section 16: Conserving and enhancing the historic environment.

#### Major Development

- 6.5 Officers are of the view that the proposal does not constitute major development for the purposes of paragraph 172 of the NPPF. Accompanying footnote 55, advises that ‘major development’ in designated landscapes is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined..

#### The South Downs National Park Partnership Management Plan 2014-19

- 6.6 The South Downs National Park Partnership Management Plan (SDPMP) (2014-19) is a material consideration in the determination of planning applications, as outlined in national planning practice guidance, and has some weight. It outlines a vision and long term outcomes for the National Park. Policy I of the SDPMP seeks to conserve and enhance natural beauty and special qualities of the landscape.

### **7. Planning Policy**

- 7.1 The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with it.

#### The South Downs National Park Local Plan (2014-33)

- 7.2 The following policies of the South Downs Local Plan are relevant:

- SD1 – Sustainable Development
- SD2 – Ecosystems Services
- SD4 – Landscape Character
- SD5 – Design
- SD6 – Safeguarding Views
- SD7 – Relative Tranquillity
- SD8 – Dark Night Skies
- SD9 – Biodiversity and Geodiversity
- SD11 – Trees, Woodland and Hedgerows
- SD13 – Listed Buildings
- SD19 – Transport and Accessibility
- SD21 – Public Realm, Highway Design and Public Art
- SD45 – Green Infrastructure
- SD48 – Climate Change and Sustainable Use of Resources
- SD50 – Sustainable Drainage Systems

#### Other Policy Documents

- 7.3 The Buriton Village Design Statement (VDS) was adopted by the SDNPA in August 2017, and was saved and carried forward as a Supplementary Planning Document to the South Downs Local Plan on 11 July 2019. Relevant Design Guidelines include LS10, P2 and P5.
- 7.4 Roads in the South Downs (2015) sets out guidelines for Enhancing the Safety and Quality of Roads and Places in the National Park, and provides a resource and reference point for emerging best practice in rural and urban highway design drawing on experience gained in other UK National Parks.

### Statutory Requirements

- 7.5 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.
- 7.6 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**

8.1 The main considerations to be determined as part of this application are:

- Principle of development;
- Design and Landscape Impact;
- Highways;
- Impact on trees and ecology;
- Drainage and the water environment.

### Principle of development

- 8.2 The previous permission SDNP/14/01365/FUL expired on 18 November 2017 and, is a material consideration in the determination of this application as it establishes the in-principle acceptability of the proposal at the time the decision was made. The officer’s report and minutes from the committee meeting are appended at **Appendices 2 and 3** respectively. The proposal was recommended for approval, being considered “on balance... [to] not have such a significant impact on the rural character of the surrounding landscape.” Concerns were raised by Members during the meeting in regard to the potential for landscape impact, and following debate the application was approved by a narrow vote.
- 8.3 Since this decision was taken the policy position has changed. Development plan policies, relating generally to landscape and specifically the treatment of rural roads in the National Park area, have progressed considerably, culminating in the adoption of the South Downs Local Plan on 2 July 2019, and there are now a number of supporting documents and adopted policies that specifically seek to protect the historic character of rural roads.
- 8.4 Policy SD1 states that permission will be refused where development proposals fail to conserve the landscape, natural beauty, wildlife and cultural heritage of the National Park unless, exceptionally, the benefits of the proposals demonstrably outweigh the great weight to be attached to those interests. Policy SD21 states that development proposals will be permitted provided that they protect and enhance highway safety and follow the principles set out in the document Roads in the South Downs, or any future replacement.
- 8.5 Roads in the South Downs (2015) sets out guidelines for Enhancing the Safety and Quality of Roads and Places in the National Park, and provides a resource and reference point for emerging best practice in rural and urban highway design drawing on experience gained in other UK National Parks.
- 8.6 The Buriton Village Design Statement (VDS) was adopted by the SDNPA in August 2017, and was saved and carried forward as a Supplementary Planning Document to the South Downs Local Plan on 11 July 2019, with a number of design guidelines seeking to conserve and enhance the public realm, stating that “any changes to highways in the Parish need to draw upon best practice for rural road design and management” and that “advice in the ‘Roads in the South Downs’ guide, produced for the National Park and Highway Authorities, should be followed closely.”
- 8.7 Part 15 of the NPPF draws attention to the duty to protect the natural environment and to the opportunities for its enhancement.

- 8.8 The applicant has highlighted that there was a policy framework in place at the time of the 2014 decision that would have allowed the SDNP to refuse the application if the impact on local landscape character was considered to be unacceptable. However, it is important to consider the nature of the policy context at the time the decision was taken, which was prior to the publication of any draft South Downs Local Plan policies. It is acknowledged that there were a number of policies within the Chichester Local Plan (1999) and East Hampshire Local Plan (2006) and the East Hampshire Joint Core Strategy (2014) that sought to protect landscape character including CP20 which required new development to “protect and enhance natural and historic features....such as ancient tracks.”
- 8.9 The submitted information, which includes a rebuttal to the Landscape Officer’s objection (Albion Planning, 16 August 2019) states that the proposals will provide sustainable social and environmental benefits by reducing the travelling distance to Ditcham Park School along the diverted section by 30%; reducing vehicle emissions; and diverting traffic away from a recognised hazardous bend. The reduction in through traffic would allow safer access of the Tithe Barn (permission was granted to the applicant for its use as a wedding venue in 1998); other businesses based at Old Ditcham Farm; and emergency vehicles. The intention of the applicant is that the existing highway (Old Ditcham Lane) between Old Ditcham Farm and the south western junction with the track would be downgraded to form a new bridleway and facilitate access to existing public bridleway BR23. Hedge planting, and verge planting along the section of highway to be downgraded would enhance biodiversity. Public benefit would also be provided through enhancement of the setting of the Grade II listed Tithe Barn, thereby enhancing the enjoyment of visitors, and by allowing public use of and access to the rural track, which is currently in private ownership. The applicant contends that these benefits would outweigh the great weight to be attached to conserving the landscape interest of the National Park.
- 8.10 There are no specific development plan policies that support the realignment of highway routes, or the upgrading of rural tracks for motorised use. Whilst the above elements of the scheme would accord with the National Park’s second Purpose to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public, and/or duty to seek to foster the economic and social well-being of local communities, the benefits derived would be modest. For example, the existing road arrangement has not been identified as dangerous by the Highway Authority; the reduction of (occasional) traffic would constitute an enhancement of the setting of the Grade II listed building although, in the view of the Historic Buildings Officer, not a fundamental one; and the decrease in travelling distance would be approximately 275m. Furthermore, the benefits are dependent on the ability to downgrade the existing highway through different legislative processes, which cannot be secured as part of the application process (see also paragraphs 8.26-8.27, and 8.39-8.41 below).
- 8.11 In any case, social and economic benefits will rarely outweigh environmental or landscape harm in a National Park because the first Purpose of the National Park, has greater weight where there is a conflict.
- 8.12 The acceptability of the scheme therefore hinges on considerations of the impact of the proposal on the biodiversity, landscape and amenity value and character of the historic rural road. These matters are considered in more detail below.

#### Landscape Impact

- 8.13 Policy I of the South Downs Partnership Management Plan 2014 requires development to conserve and enhance the natural beauty and special qualities of the landscape and its setting.
- 8.14 The relevant development plan policies relating to landscape include policies SD2: Ecosystem Services, SD4: Landscape Character, SD5: Design, and SD21: Public Realm, Highway Design and Public Art.
- 8.15 Policy SD2 supports proposals that have an overall positive impact on the ability of the natural environment to contribute goods and services, achieved through the use of high quality design. Policy SD4 supports development that is informed by landscape character and

safeguards the experiential and amenity qualities of the landscape. Policy SD5 supports development that demonstrates a landscape-led approach and respects the local character. Proposals should both integrate with, respect and sympathetically complement the landscape character.

- 8.16 Policy SD21 states that development will not be permitted where it would reduce the biodiversity, landscape and amenity value and character of historic rural roads. Particular attention will be given to new access points and other physical alterations to roads, and to the impacts of additional traffic. Street design and management proposals must be context-sensitive, responding to the specific character, activities, heritage, built form and layout, materials and street furniture of the location. The layout of development must also be designed to protect the safety and amenity of all road users, and give priority to the needs of pedestrians... cyclists and equestrians.
- 8.17 The supporting text of SD21 states that development will be expected to contribute to the adaptation of existing highways so that standardised road infrastructure can be minimised in a way consistent with highway safety. Development proposals involving physical alterations to historic rural roads and their immediate setting should demonstrate that the historical significance, ecological, landscape and recreational value and character of those roads are conserved and enhanced. The integrity of banks, hedges, walls and roadside trees must also be maintained.
- 8.18 Roads in the South Downs (2015) states that highway management should be context-specific, and in the case of rural lanes should minimise the amount of road markings, road side signs and clutter and protect soft verges. Narrow lanes and soft verges suffer as vehicles become wider and traffic volumes increase, and new techniques for reinforcing grass verges are particularly relevant for highways in National Parks.
- 8.19 The Buriton Village Design Statement (VDS) (2017) states that “any changes to highways in the parish need to...conserve, enhance and reinforce the distinctive identity of the built and natural environment by closely integrating the design and treatment of roads with their context.” Design guideline LS10 states that “the natural, rural, informal, ‘country lane’ characteristics of all the roads in the parish need to be retained.” Design Guideline P2 states that “roads and lanes provide the front door and foreground for our special built and natural environment. Changes and repairs to roads, lanes and footpaths should maintain the rural nature of the parish and avoid standardisation and urbanisation resulting from installation of inappropriate surfaces...or street furniture.” Design Guideline P5 states that “lanes bounded by hedges or verges...can form delightful and historic ‘green tunnel’ landscape and ecological features which are very susceptible to damage. The pattern and character of these lanes should not be spoilt.”
- 8.20 Paragraph 127 of the NPPF (2019) states that development should be sympathetic to local character and history, including the landscape setting.
- 8.21 The submitted information states that the scheme to upgrade the track has attempted to address competing landscape and safety issues and has sought to ensure its rural nature is retained, whilst providing modern standards of safety and usability. The new surface would not be widely visible in the landscape, and screened by hedges. No kerbs are proposed, or white lines other than those at the junction of the lane with the B2146 (eastern end of the track). No lighting is proposed, and the level of signage at either end of the track is the minimum acceptable to the Highway Authority. The hedgerow planting would infill existing gaps and strengthen ecological corridors. Furthermore the track has no historic value, and as such the consideration of the character of historic rural roads is not relevant [*officer’s note: refer to paragraph 1.2 for historic rural road definition and the SDNPA’s view of the status of the track.*]
- 8.22 The Landscape Officer has objected to the scheme due to the level of interventions proposed in order to bring the track to an adoptable standard, which will negatively impact the character of the lane and fail to conserve or enhance the National Park’s special qualities. The existing, low key, informal track currently contributes to the highly rural, sensitive landscape setting, and relates to the history of settlement in the area. The level of

works required to meet adoptable standards, including tarmac surfacing; new passing spaces (4No along a 500m stretch); drainage interventions; signage (8No in total); and new 4m wide section of route through a group of trees; are urbanising solutions that will result in over-engineering of the track and harmful to the quality of the landscape character in this location, and how it is experienced and understood. Softer landscape solutions, such as 'grasscrete' surfacing of the passing places would not meet adoptable standards and are not acceptable to either West Sussex or Hampshire Highways departments. The new section of highway also caters for vehicular traffic at the expense of other road users.

- 8.23 The mitigation provided by the downgrading of a section of Old Ditcham Lane to a bridleway potentially offers some opportunity to conserve landscape character; however such intervention would also affect the readability of this rural road, in particular the incongruous new length of hedgerow across the existing highway to discourage through traffic. The applicant has offered to consider alternatives such a tree or ha-ha (hidden ditch) to deter traffic, however these interventions would also be incongruous.
- 8.24 The application does not include details of the proposed downgrading of Old Ditcham Lane, although the submitted information states that its appearance would be that of a farm track with grassed central strip and wildflower planting, which would both enhance the new bridleway and discourage traffic. The applicant also states that the upgrading of the track would not be implemented without a s248 agreement to downgrade the existing highway in place, and has suggested this could be secured by means of a legal agreement or appropriately worded planning condition.
- 8.25 It is acknowledged that downgrading of the longer section of highway could mitigate for the loss of the existing rural track in landscape terms and provide a level of public amenity and access benefits by creating a traffic free connection between footpath Buriton 24 and bridleway Buriton 23. However, the downgrading of the existing highway is dependent on separate legal processes. As such, there is a risk that both routes could end up as sealed roads open to traffic, which would diminish enjoyment for all non-motorised users and achieve none of the benefits aspired to by the applicant.
- 8.26 In summary, whilst the applicant has a clear intention to downgrade the existing highway, if these works cannot be secured through any grant of planning permission, this benefit cannot be given weight in the planning balance. This reduces the scope of considerations to the impacts of works to upgrade the track, against the negligible benefits of an additional section of highway, such that the landscape harm gathers weight in the planning balance. It is therefore considered that the proposed works would have a negative impact on the landscape and amenity value and character of the historic rural road, and fail to conserve and enhance the landscape character in this part of the National Park, especially given the lack of opportunity to secure the downgrading of the existing highway. The proposals are therefore contrary to policies SD2, SD4, SD5, and SD21 of the South Downs Local Plan (2014-33), the first Purpose of the National Park and the NPPF (2019).

#### Impact on Trees and Ecology

- 8.27 Policy SD9 supports proposals that conserve and enhance biodiversity, giving particular regard to ecological networks and areas with high potential for priority habitat restoration or creation, and should retain, protect and enhance features of biodiversity and supporting habitat and ensure appropriate and long-term management of those features. Proposals should also contribute to the restoration and enhancement of existing habitats. Policy SD11 supports development that will conserve and enhance trees, hedgerows and woodlands, and the felling of protected trees, groups of trees or woodland will only be permitted in exceptional circumstances and in accordance with the relevant legislation, policy and good practice recommendations.
- 8.28 The Tree Officer is satisfied the impact on trees would be minimal and has no objection to the proposals subject to conditions securing the protection measures set out in the Arboricultural Impact Assessment (Arbotech, February 2014), and a long term maintenance and management plan for the new planting to maintain the setting of the road.

- 8.29 The County Ecologist has reviewed the ecology information which includes an updated ecology survey and mitigation measures. The proposal to improve the track will result in some impacts to ecological features, however the proposed mitigation, compensation and enhancement strategy is considered to be acceptable, and may be secured by condition. The ecology report includes the re-instatement of 200m section of the existing highway to a grass track as a “significant positive” benefit, however this is not attributed to being ecological mitigation for the works to the track.
- 8.30 In summary, the impacts of the proposals on the biodiversity value of the historic rural road and adjacent habitats and species could be adequately mitigated for. However it is less clear how the proposals would provide biodiversity net gain overall, especially given the lack of certainty in regard to the downgrading of the existing highway.

#### Highways and Public Rights of Way

- 8.31 Policy SD19 states that Development proposals must demonstrate the continued safe and efficient operation of the strategic and local road networks. Policy SD21 states that Development proposals will be permitted provided that they protect and enhance highway safety.
- 8.32 The supporting text of SD21 states that in cases where the expected traffic flows arising from the development lead to a traffic increase of 10% above existing hourly vehicular traffic, proposals must demonstrate that the changes to traffic levels and patterns arising from the development would conserve or and enhance the ecological, landscape and recreational value of those roads.
- 8.33 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.34 A Highways Protocol agreed in December 2013 between the SDNPA and the relevant Highway Agencies (Hampshire, West Sussex, East Sussex, Brighton & Hove and Highways England) sets out the basis for rural and strategic highways activity, which includes retention of local distinctiveness and character by minimising highway management interventions. An agreed joint action is to “promote standards of highway management and maintenance that respect the purposes and duties of the SDNP designation.”
- 8.35 The submitted information states that the proposals will result in a significant improvement in highway safety by directing traffic away from a section of highway with a dangerous bend and lack of passing places, and avoid conflict between vehicular traffic and walkers/riders using the footpath running along Old Ditcham Lane. The proposed development would not of itself increase traffic in the local area, however traffic levels would be moved from the existing Old Ditcham Lane to the upgraded track. The upgraded track is proposed to be offered for adoption, which would be subject to a separate agreement process under Section 38 of the Highways Act (1980), which has been agreed in principle with the WSCC Highway Authority. Ordinarily construction specification is considered as part of the s38 adoption agreement, which is covered under separate legislation, and in the event that WSCC are not satisfied with the construction specification, the road would not be adopted. Ditcham Park School currently operate a time restricted ‘up only system’ to ensure traffic moves in a single direction during peak hours, which could continue to be operated.
- 8.36 The WSCC Public Rights of Way (PROW) team have no objection to the proposal as the application does not propose any alteration to any existing public rights of way. The SDNPA Access and Rights of Way officer has objected to the impact that the formalisation, surfacing and widening of the junctions with the existing track would have on users of the existing public rights of way.
- 8.37 The WSCC Highway Authority are satisfied with the proposed works to the track, which meet adoptable standards, and the number, length and location of the passing places. However, in the absence of any evidence of recorded accidents, there are no highway safety concerns in regard to the existing route along Old Ditcham Lane, such that the bend referred to as dangerous is not a recognised hazard.

- 8.38 The downgrading of Old Ditcham Lane could only be achieved through different legislative provisions and cannot therefore be guaranteed at this point in time. It must also be borne in mind that even if the public rights are downgraded from vehicular to bridleway rights that the route would continue to be used by vehicular traffic with private rights. It is not therefore clear whether the proposed highway would provide an alternative or an additional public vehicular highway.
- 8.39 In summary, whilst there are no public access or highway safety concerns with the proposals, there is uncertainty in regard to the practical ability to downgrade the existing highway, and whether the aspirations of the applicant to divert through traffic away from Old Ditcham Farm are achievable, such that the highways benefits are also negligible.

#### Drainage and the water environment

- 8.40 Policy SD50 supports proposals that ensure against increase of surface water run-off, taking account of climate change. Sustainable drainage solutions include porous surfaces, rain gardens/balancing ditches and tree planting where feasible, and provide public amenity as well as biodiversity benefits.
- 8.41 The submitted information states that a drainage ditch will be provided along the southern/eastern of the new route. Rubble field soakaways at each end will support the ditch at times of heavy rainfall. As the new road will be constructed above the existing track surface, the formation of the ditch will not result in excavations that could impact tree roots.
- 8.42 The Landscape officer has raised concerns in regard to the use of soakaways rather than vegetative Sustainable Drainage Systems (SuDS) and ditches; however this form of drainage solution is required to achieve adoptable highway standards. Vegetative SuDS require ongoing maintenance and fencing to provide separation from livestock, and are therefore not acceptable to either West Sussex or Hampshire Highways departments. Whilst the applicant has indicated that passing bays could be surfaced with cellular paving, this treatment would similarly not meet adoptable highway standards.
- 8.43 West Sussex County Council (WSSCC) Flood Risk Management have no objection to the scheme with regards to surface water flood risk. East Hampshire Drainage have no objections subject to work being carried out in accordance with any s38 Agreement with WSSCC, and conditions securing detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles, and a maintenance management plan.

#### Other matters

- 8.44 Concerns have been raised that the development would interfere with a private right of way over the track for the occupants of a number of properties including North Lodge and Sunwood Farm. A claim for or determination of a private right of way over the track is a private matter between the owner of the track and those asserting the right and therefore not a planning consideration.
- 8.45 Although the upgrading of the track to an adopted highway is unlikely to substantially prevent use of the track by individuals with existing private access rights, the new road has not been designed as a shared space, and it is unclear how it would cater for walkers, riders and cyclists.

## **9. Conclusion**

- 9.1 It is acknowledged that the scheme is capable of providing a number of modest benefits that would align with the second Purpose of the National Park to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public. The scheme may also be capable of providing economic and social benefits in line with the National Park's duty but that would be dependent on the ability to downgrade the existing section of highway, upon which there is not sufficient information and clarity to place reliance upon. Given the level of intervention required to achieve adoptable highway standards and the resultant negative impact on the landscape and amenity value and character of the historic rural road, it is considered that the proposal would not conserve or

enhance the landscape, scenic beauty and cultural heritage of this part of the National Park, and would therefore fail to accord with the National Park's first (and priority) Purpose. The application is therefore, on balance, recommended for refusal.

- 9.2 Given the above it is considered that the proposal is not in accordance with the Development Plan, The Buriton Village Design Statement SPD and the Roads in the South Downs Document and there are no overriding material considerations to otherwise indicate that permission should be granted. It is therefore recommended that planning permission be refused.

## **10. Reason for Recommendation**

- 10.1 The application is recommended for refusal for the following reason:

- I. The proposal, by reason of the design, nature and extent of the proposed works to achieve adoptable highway standards (and in the absence of any mechanism to secure the downgrading, and subsequent landscape benefits to Ditcham Farm Lane), would have a negative impact on the landscape, amenity value and character of a historic rural road, and fail to conserve and enhance the landscape character in this part of the National Park. The proposals are therefore contrary to policies SD2, SD4, SD5, and SD21 of the South Downs Local Plan (2014-33) The Buriton Village Design Statement SPD, The Roads in the South Downs Document, the first Purpose of the National Park Authority 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**

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Appendices	<ol style="list-style-type: none"><li>1. Site Location Map</li><li>2. Committee Report for SDNP/14/01365/FUL</li><li>3. Minutes of 13 November 2014 Planning Committee Meeting</li></ol>
SDNPA Consultees	Legal Services, Development Manager.
Background Documents	<a href="#">All planning application plans, supporting documents, consultation and third party responses</a> <a href="#">National Planning Policy Framework (2019)</a> <a href="#">South Downs Local Plan (2014-33)</a> <a href="#">South Downs National Park Partnership Management Plan 2013-19</a> <a href="#">Roads in the South Downs (2015)</a> <a href="#">Buriton Village Design Statement (2017)</a> <a href="#">South Downs Integrated Landscape Character Assessment 2005 and 2011</a>





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