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SOUTH DOWNS LOCAL PLAN EXAMINATION

Selborne Parish Council Position Statement (PS) in relation to an objection to Core Policy SD1 (4): Sustainable Development

1. The objection

Selborne Parish Council objected to Core Policy SD1 (4) on the grounds that the wording in the draft Local Plan 'Preferred Options' (2015) Core Policy SD1: Sustainable Development in the South Downs National Park, which had stated:

'1. When considering development proposals the Authority will take a positive approach that reflects the presumption in favour of sustainable development provided that they:

c) conserve and enhance the special qualities of the National Park'

has now been replaced in the Pre-Submission Local Plan document by new wording:

'4. Planning permission will be refused where development proposals fail to conserve the landscape, natural beauty, wildlife and cultural heritage of the National Park unless, exceptionally:

a) The benefits of the proposal demonstrably outweigh the great weight to be attached to those interests; and

b) *There is substantial compliance with the other relevant policies in the development plan.'*

2. Reasoning for the objection

At the two lengthy Public Inquiries held in Worthing into the Designation Order 2002, Natural England stated consistently and often that the primary reason for the designation of the South Downs National Park was so that National Park purposes might be achieved in an extensive tract of land proven to have met the natural beauty criteria for designation. That was the driving purpose behind the Order. National Park purposes are therefore paramount. One of the two principal ways of achieving them is via the planning system, the other being farming. The desirability of delivering National Park purposes via the planning system can only be achieved by having strong policies in a dedicated Local Plan. Part III of the 1995 Environment Act provides the statutory requirements, and the 2010 Government Circular and the NPPF provide the guidance as to how to deliver those requirements.

There is nothing in Part III of the 1995 Act, or in the 2010 Government Circular or in the NPPF that suggests any provision or justification for national park purposes sometimes to be outweighed by the demonstrable benefits of development proposals, which is specifically what the wording in Core Policy SD1(4) proposes, effectively weakening and diluting the statutory requirement.

The 2010 Circular, at Chapter 5.2 paragraph 136, makes it clear that the town and country planning system is a key instrument to the achievement of National Park purposes. NPPF paragraphs 115 and 116 emphasise that great weight should be given to conserving the landscape and scenic beauty of the National Parks which have the highest status of protection. Whilst paragraph 116 of the NPPF outlines that planning permission should be refused for **major development** in National Parks except in exceptional circumstances and where it can be demonstrated they are in the public interest, nowhere does the NPPF or any other guidance document outline that **national park purposes** can similarly be so treated.

The principles in the legislation, the 2010 Guidance and the NPPF formed the basis for the first of the South Downs National Park Authority's policy documents, the statutory SDNP Partnership Management Plan (PMP). The Management Plan, its policies and projected outcomes in turn formed the foundation stone for the South Downs National Park Local Plan. Outcome 1 of the PMP states:

"The landscape character of the National Park, its special qualities and local distinctiveness have been conserved and enhanced by effectively managing land and the negative impacts of development and cumulative change".

Thus PMP General Policy 1 is:

"Conserve and enhance the natural beauty and special qualities of the landscape and its setting in ways that allow it to continually evolve..... etc."

General Policies 3, 4, 5, 9 and 10, specifically, are designed to achieve national park purposes. Thus, the purposes are to be enshrined in policy in order that they shall be achieved within the national park.

Accordingly, paragraph 1.6 of the Pre-Submission Local Plan document specifically states that all parts of the development plan aim to fulfil the statutory purposes of the National Park. But Core Policy SD1 (4) negates this, and provides a loophole that would allow that aim in some circumstances to be obstructed or dispensed with altogether. The effect of introducing exceptional circumstances into Core Policy SD1 (4) could mean that some planning permissions may in practice lead to conflict with national park purposes. Policy SD1 (4) a) currently allows the purposes to be 'outweighed' by the 'benefits' of a development and this provides an opportunity for developers to exploit the policy, to the ultimate detriment of the natural beauty, wildlife and cultural heritage of the area.

In recent years, in Selborne alone, though no doubt there are other examples elsewhere in the National Park, the NPA has fought and won two planning appeals on the basis that national park purposes should be given great weight, and on the basis that development in National Parks should be restricted as per Footnote 9 to the NPPF which prevents the application of its paragraph 14 in National Parks.

Appeal Decision, Ref: APP/Y9507/A/13/2204544, dated 13 March 2014 dismissed an appeal at Burlands Field, Selborne. Paragraph 19 of the Inspector's Decision Letter states:

"Defra Circular 2010 confirms that National Park designation confers the highest status of protection in relation to landscape and scenic beauty (along with the Broads and AONBs). This is reinforced in paragraph 115 of the National Planning Policy Framework which also reiterates that the consideration of wildlife and cultural heritage are important considerations in these areas, and should be given great weight."

And paragraph 20:

“The Framework makes it clear that the presumption in favour sustainable development means proposals which accord with the development plan should be approved without delay, unless material considerations indicate otherwise... However, there are exceptions to this general approach in cases where specific policies in the Framework indicate that development should be restricted, such as for sites within National Parks, as here.”

Appeal Decision Ref: APP/Y9507/A/14/2220580, dated 17 March 2015, dismissing an appeal at Land at Under The Hill (aka Barnfield) in Selborne, includes the Inspector’s observation that *“Paragraph 115 of the Framework says that great weight should be given to conserving landscape and scenic beauty in National Parks... This does not, of course, preclude development but it is a material consideration of great weight.”*

So, although development should be restricted in National Parks, the NPPF does not rule it out altogether as a matter of principle. But it most clearly does not provide that exceptional circumstances can sometimes exist in which the great weight to be attached to national park purposes can sometimes be outweighed by the benefits of (development) proposals, such that Core Policy SD1 (4) proposes.

The bottom line is that if the statutory National Park purposes are in certain circumstances to be outweighed by other considerations, as Policy SD1 4a) and b) currently prescribes, the purposes cannot at the same time be fulfilled as specified in Paragraph 1.6 of the Pre-Submission Local Plan. Ergo, if SD1 4a) and b) are not altered, there can be no certainty that the delivery of the purposes can be achieved via the planning system to the benefit of the natural beauty of the landscape. The primary reason for the designation of the South Downs National Park, so that National Park purposes might be achieved in an extensive tract of land proven to have met the natural beauty criteria for designation, would be compromised.

3. Possible solutions

The 2010 Circular Chapter 5.2 and NPPF paragraph 115 indicate that deletion of SD1 (4) a) and b) would be appropriate. Selborne Parish Council suggests that Local Plan Core Policy SD1 (4) be amended to introduce a full stop after the words ‘National Park’ on the 2nd line. The policy would then read:

‘Planning permission will be refused where development proposals fail to conserve the landscape, natural beauty, wildlife and cultural heritage of the National Park.’

Alternatively, the policy could revert to the wording as published in Core Policy SD1 of the Local Plan Preferred Options 2015 document, as follows:

1. *When considering development proposals the Authority will take a positive approach that reflects the presumption in favour of sustainable development provided that they:*
 - a) *are consistent with the National Park purposes;*
 - b) *pay due regard to the duty in pursuit of the purposes;*
 - c) *conserve and enhance the special qualities of the National Park, and*
 - d) *comply with all the relevant policies within this Local Plan.*

2. *If there is conflict between the purposes, greater weight will be given to the first purpose.*

3. *The Authority will work with applicants to find solutions to ensure that development proposals that are in accordance with the policies in this Local Plan can be approved without delay, unless material considerations indicate otherwise.*

4. Conclusion

In summary, Selborne Parish Council believes that the Local Plan policy SD1 (4) as currently drafted is flawed, but that it would not be difficult to amend it so that it reflects the 1995 legislation, the Government Circular 2010 and the NPPF.

The primary reason for the designation of the South Downs National Park was in order that National Park purposes might be achieved in an extensive tract of land proven to have met the natural beauty criteria for designation, and so it is unsatisfactory to design a planning policy that allows for the delivery of those purposes sometimes to be compromised.