

Report to **Planning Committee**
Date **17 October 2018**
By **Director of Planning and Environment**
Local Authority **Chichester District Council**
Application No. **SDNP/17/03764/FUL**
Applicant **Dr David Jones**
Application **Construction of a new bridleway.**
Address **1 Barnetts Cottage
Fitzlea Wood Road
East Lavington
GU28 0QN**

Recommendation: That the application be Refused for the reasons set out in paragraph 10 of this report.

Executive Summary

Reason for Committee Referral: Red Card: Cllr Shaxson - Important information/opinion to raise in debate.

This application was deferred at the meeting on 19 September 2018 for a Site Visit.

The application seeks the construction of a new bridleway to replace an existing stretch of bridleway that it is proposed to extinguish. In relation to the impact of development on the landscape character of the National Park, the Local Planning Authority (LPA) is required to give great weight to conserving and enhancing its landscape and scenic beauty. The proposed works to form the bridleway together with the loss of vegetation which contributes to the rural character of the area are considered to have a harmful impact on the character and appearance of the landscape.

In relation to the impact of the development on the biodiversity of the site it is considered that insufficient information has been submitted in relation to the impact of the development, however, notwithstanding this, given the significant works which are to be undertaken it is likely that the proposal will result in the destruction of habitat and have a harmful impact on protected species.

It is acknowledged that there will be some highway safety benefits to the proposal and the bridleway will be more convenient to some users, however, these benefits together with the reason given by the applicant for the bridleway diversion, that they would like to divert the bridleway so they can plan the layout of their site and the proposed new house without the restrictions of the present path route, are not considered to outweigh the harm caused to the landscape of the National Park and the biodiversity of the site.

The application is therefore recommended for refusal.

1.0 Site Description

- 1.1 The application site is located to the west of 1 Barnetts Cottage and Fitzlea Wood Road, between woodland to the east (under the ownership of the applicant) and heathland to the west (under the ownership of the Sussex Wildlife Trust (SWT)). The wider area is designated as a Site of Nature Conservation Importance (SNCI) (including the application site) encapsulating land either side of the application site and up to the Fitzlea Wood Road. Whilst there is a distinct change from east to west this is gradual with interspersed mature trees, gorse and other understorey vegetation.. A post and wire stock proof fence divides the application site from the land within the ownership of the SWT to the west.
- 1.2 The site is noted to be particularly boggy in places, and this is particularly apparent towards the centre of the site where a number of water courses run through the land from west to east and discharge into drainage ditches that run alongside the adjacent road..
- 1.3 The existing bridleway 1004 runs east, north-east across an area of heathland and woodland known as Graffham Common, between Graffham Common Road to the west and Fitzlea Wood Road. It connects to a number of footpaths including footpath 2881 which runs eastwards from Graffham Common Road to meet the bridleway at Barnetts Cottage. The current bridleway has a solid surface which naturally drains with the slope of the land being about 2.0-3.0 metres in width.

2.0 Proposal

- 2.1 The application seeks planning permission for the construction of a new bridleway to replace an existing stretch of bridleway that it is proposed to extinguish. The proposed bridleway will measure 225 metres in length and 3.0 metres wide with regrading of the land either side to a total width of 7.0 metres. The extent of excavation to form the base of the bridleway varies in depth from 0.20 metres in dry areas to 0.25 metres in wet areas. The bridleway will be surfaced with compacted Fittleworth stone to a depth of 0.1 metres. The proposal includes the culverting of existing watercourses that cross the site including the ditch on the south side of Fitzlea Wood Road. The headwalls to each of the culverted sections of the watercourses will be constructed from concrete filled bags
- 2.2 It is intended that the resulting surface of the bridleway will provide a good all weather surface suitable for walkers and riders throughout the year and which will withstand the test of time without significant on-going maintenance liabilities. The tree report submitted with the application indicates that a minimum of 32 trees will need to be felled to accommodate the new bridleway and the width of the bridleway and regrading of the land either side will result in the clearance of a significant amount of understorey vegetation along its route.

3.0 Relevant Planning History

- 3.1 SDNP/14/00061/PRE - Demolition of 2 no. existing semi detached cottages. Replacement with new build 3 bedroom house and 1 no. bedroom annex. - Advice given.

4.0 Consultations

4.1 Lodsworth Parish Council

Objection

Lodsworth Parish Council has discussed this planning application. Having spoken to a number of users of the bridleway in the parish, particularly those who ride horses, the proposed diversion route of the bridleway is thought to be inappropriate as it would go through an area which is extremely boggy and unsafe for riders & their horses. The Parish Council has been informed that the current bridleway has been improved by a local resident to make it more useable.

Comments received 11th September 2018

Lodsworth Parish Council reviewed the planning application SDNP/17/03763/FUL at its meeting last night.

It was agreed that the Parish Council should withdraw its objection to the proposal of the new bridleway following the additional information it received in the email below. However if the application is permitted, it requests that a condition is included that the maintenance of the new trail will be the responsibility of the owners of the property. It would also like to request assurances that an on-going maintenance plan be put in place.

4.2 Natural England

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

For applications within the South Downs National Park we recommend you seek the advice of the South Downs National Park Authority

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature

Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk

4.3 Environment Agency

No comments received.

4.4 WSCC - Highways

I refer to your consultation in respect of the above planning application and would provide the following comments.

The proposal seeks the construction of a new bridleway at Barnetts Cottage, 1 Fitzlea Wood Road, East Lavington.

Upon review of the submitted WSCC Diversion Order Summary Report (Paragraph 15 iii) it is required that the works be supported by way of a Stage 1 Road Safety Audit. In the interests of proper planning this should be submitted in support of the planning application with an accompanying designer's response to any issues raised.

Please re-consult when this information is available.

Further comments received 03.09.2018

West Sussex County Council was consulted previously on Highway Matters for this application and provided a response dated 26/01/2018. Upon review of the submitted WSCC Diversion Order Summary Report (Paragraph 15 iii) it is required that the works be supported by way of a Stage 1 Road Safety Audit (RSA). It was requested the RSA be submitted with an accompanying designer's response to any issues raised.

The proposal seeks the construction of a new bridleway at Barnetts Cottage, 1 Fitzlea Wood Road, East Lavington.

Road Safety Audit

This RSA has subsequently been submitted, within which only one safety issue is raised.

In Summary:

Location A - Proposed development access road - Risk of Non-Motorised User/ vehicle conflict.

It has been identified that there is a small shrub that is beginning to take root in the visibility splay of the proposed path. If this shrub begins to establish it will impact on future inter-visibility of NMU's and vehicles within the carriageway and has the potential to become a safety risk.

It has been recommended to review the visibility splay when the works are carried out and clear any shrubs in vicinity of the new path where it emerges with the carriageway.

The applicant has submitted a designer's response which agrees with and accepts the Safety Auditors Recommendations. I would be minded to advise that such a solution to the problem identified should be secured via planning condition.

Public Rights of Way

I have consulted with WSCC Public Rights of Way and they have confirmed they are satisfied with the proposal.

Culverting

The proposed seeks to install culverting. These works are not considered to be on the adopted highway network; nevertheless these works will require ordinary watercourse land drainage consent.

Conclusion

In conclusion no overriding highway safety or capacity concerns would be raised to the proposed. If the Local Planning Authority is minded to grant planning consent the following conditions and informative note would be advised:

Conditions:

Retention of Right of Way

The existing public right of way (B.W.1004) across the site shall remain undisturbed unless and until legally stopped up or diverted prior to the commencement of any of the development hereby permitted. The alignment of any public right of way shall be protected by being clearly demarcated, signed and fenced, as may be approved by the Local Planning Authority, throughout the course of the development.

Reason: To safeguard the rights of the public.

Safety Audit Recommendations

No development shall commence until such time as revised plans and details incorporating the recommendations given in the Stage 1 Road Safety Audit and accepted in the Designers Response have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.
Reason: In the interests of road safety.

Informative:

Ordinary watercourse land drainage consent

The applicant is advised that in order to implement the proposal Ordinary watercourse land drainage consent will be required.

4.5 HCC - Landscape

Initial comments (Summary)

Inconsistencies in the submission as it stands mean I think it will be virtually impossible to assess accurately the potential impact on the various strands that make up 'landscape'- on views, on the existing vegetation, on the ground conditions/drainage, on the nature conservation interest and value.

The Ecology report shows a different route for the path to that on the proposals drwg.(160801/01C)

If the layout has been revised (to the 'wiggly' route) we don't know how much vegetation is to come out as there is no way of relating this to the survey drwg.

I am concerned the Ecology report is not comprehensive- the fact it doesn't appear to mention the SINC at all and doesn't give any info on the adjacent site managed by the SWT is an indicator of this.

Further comments received 31.08.2018 (Summary)

Our earlier comments dated 17.1.18 were issued in draft as at that time further information had been requested by the case officer and was outstanding. These comments have been updated to reflect the documents on the SDNPA website as at 31.8.18.

To summarise our main grounds for objecting to the scheme are:

i) The submission does not demonstrate a comprehensive understanding of the site in terms of landscape, ecology and history. Insufficient information appears to have been gathered to inform decision making about layout and design. The result is a scheme that is lacking in detail, poorly thought through and inappropriate in this setting.

ii) The main impacts on the landscape are:

- loss of existing vegetation together with the introduction of hard surfacing and drainage structures which will adversely impact views from public viewpoints

- damage to an area which is clearly of nature conservation value (designated SNCI) and whose ecology has a direct bearing on perception and enjoyment of the local, publicly accessible landscape
- diverting a historic path which has meaning and interest in terms of the local landscape and which is part of the setting of a heritage asset, without any assessment having been carried out.

4.6 CDC - Coastal and Drainage Engineer

We have no objection in principle to the proposed re-routing of the bridleway. However there are multiple crossings of Ordinary Watercourses which unless done correctly could result in increased flood risk, and or deterioration of water quality.

Each of these crossings will require Ordinary Watercourse Consent (OWC) before any works can commence on them. The applicant should contact landdrainage@chichester.gov.uk for the application form, guidance notes and further information.

If you're minded to permit the application, we would recommend the following condition is applied to ensure the development is adequately drained:

"The development shall not proceed until Ordinary Watercourse Consent has been approved by Chichester District Council for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on the site."

The applicant must be aware that planning permission will not prejudice OWC,

4.7 Sussex Wildlife Trust

Comments received 14.03.2018 (Summary)

This objection is sent on behalf of the Sussex Wildlife Trust in relation to the above application. The Sussex Wildlife Trust owns and manages Graffham Common directly adjacent to the applicants land. It is managed as a nature reserve and since purchasing the land in 2009/10, the Trust has been restoring it back to heath and heath pasture. The Graffham Common and Fir Toat Local Wildlife Site (LWS) designation covers both the Trust's land and the area where the new bridleway will be constructed and as such is a material consideration for this application.

As made clear in the Sussex Wildlife Trust's response to the bridleway diversion application, we do not object to the principle of moving the bridleway and are happy to work with the applicant's to achieve this end. However we did ask that the new path was designed in such a way as to ensure that the diversion has no impact on the designated site and the priority habitats it contains. We note that efforts have been made to consider impacts on the heathland, but unfortunately we do not believe these are currently sufficient and as such we must object to the proposal.

The Trust is particularly concerned about the drainage and ecological enhancements proposed and the potential impacts of these on our land and wider biodiversity.

The Sussex Wildlife Trust believes that the following further information is required before a decision can be made:

- Exact route of the new bridleway
- Detail of tree removals, including the exact positions of trees and the reasons for removals
- Detail of any proposed replanting scheme with preferably no additional planting on the heathland
- The exact drainage proposals including methods to ensure that water levels are maintained on Sussex Wildlife Trust land and no detrimental impacts on the wet heath on site
- Details of the sandbag headwalls to ensure no detrimental impact on the pH of the surrounding soil and water
- We also encourage the applicant to include proposals to restore the heathland on site such as rhododendron clearance and pine thinning. The Reserve Manager for Graffham Common would be happy to discuss the proposals with the applicant and any of their specialists.

Further comments received 13.06.2018 (Summary)

Since March, the Reserves Manager for Graffham Common has had a number of productive conversations with the applicants and we believe we have found a way forward. Therefore the Sussex Wildlife Trust is happy to withdraw its objection on the condition that the following agreed changes to the proposal are implemented:

- A straight route is agreed.
- The landscaping plan is amended to include thinning of the pines to establish a wet heath buffer.
- The Sussex Wildlife Trust recommends removing pines and holly around the old oaks, with a 70% thinning that graduates to the native oak buffer.
- Given that the site sits within the South Downs National Park Authority's Heathland Reunited project area, which aims to restore and join up the remnant heathland in West Sussex, we do not advocate any new tree planting. However, if it is felt that more screening is needed then native acid-tolerant trees along and behind the old trackway would be acceptable.
- Standing deadwood is left in situ where safe to do so.
- In order to keep the heath as wet as possible, the culvert pipes are set at a level that does not increase water flow off the heath during dry weather but allows enough flow to prevent flooding.
- The guidelines in the letter attached (appendix 1) are adhered to in terms of the sand bags used whilst shoring up the culverts.
- The Sussex Wildlife Trust hopes that these changes are acceptable to all the other consultees. If there are any objections to the amendments then we request to be consulted again as the withdrawal of our objection is conditional.

4.8 CDC - Environmental Strategy

Biodiversity

No protected species surveys have been undertaken on the site so we are unable to establish if protected species are present. Prior to determination we require that an extended phase one habitat survey is undertaken on the site to determine if there is potential for protected species. If there is potential for protected species then further surveys would be required. These surveys plus any mitigation strategies required will need to be submitted as part of the planning application prior to determination.

Further comments received 07.03.2018

Bats

The lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.

Reptiles

A precautionary approach should be taken within the site area with regards to reptiles as detailed within the phase 1 habitat survey. Site clearance should be conducted during the season reptiles are active and the reduction of grassy areas should be phased.

Nesting Birds

Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March ' 1st October. If works are required within this time an ecologist will need to check the site before any works take place (with 24 hours of any work).

Further comment received 11.04.2018

I have read through SWT comments and I do agree with their finding, there are the experts for this site. From a protected species/Biodiversity point of view the only real comment I have to add to the SWT comments refers to the dead trees being removed. I agree that these should be retained unless they are unsafe to remain in situ. They are of higher biodiversity value being left, than being cut up for log piles.

Further comments received 06.09.2018

From reviewing the updated Ecological Appraisal EcA Phase 1 (version 5 dated 23.08.2018) which was submitted on the 30/08/2018, we still have a number of concerns regarding the survey and the potential for protected species. In summary we are not satisfied that both European and UK protected species and sites have been fully considered within this application and the Ecological Appraisal has not provided us with enough suitable information for us to be satisfied that biodiversity and protected species would not be negatively impacted by the proposal. As present we would recommend that the application is refused or withdrawn until this information can be provided. Our main issues have been detailed below.

Biodiversity Gain

Throughout the report there is an argument that there will be a biodiversity gain from the proposal, however from the information submitted we would disagree with this, and the current proposals would be detrimental to the habitats onsite and protected species. One example of this can be seen for nesting birds where a number of trees will be removed and replaced with two nesting boxes. Unfortunately two nesting boxes does not provide a higher biodiversity value than the number of trees and scrub which are due to be removed so the claim that there will be a biodiversity gain for nesting birds is not accurate. Similar examples can be found throughout the report and need to be addressed.

Bats

It has been established that there is no bat potential on the site because 'no potential was identified within either the structure or trees onsite'. We are very concerned about this statement, as it is clear from the tree survey that there are a number of oak trees (T1, T2, T3 and T9) which have been identified that are going to be felled and the stumps removed. Oak trees can provide suitable features for bats and in particular the dead oak trees that have been identified have potential to provide good habitat for bats. Due to this we require that phase two emergence surveys are undertaken on the oak trees and dead trees which are due to be removed. Until these surveys are undertaken we are not satisfied that protected species have been fully considered.

Great Crested Newts

Within our previous comments due to the location of ponds to the site and the identified suitable terrestrial habitat onsite we have asked that further information is provided for Great Crested Newts in the form of a HSI assessment to determine the likely presence of GCN onsite and the requirement for further survey work. Unfortunately the HSI assessment has not been included and until this information has been submitted (including the scoring table) we are not satisfied that protected species have been fully considered.

Dormice

Due to the location of the site, its location to ancient woodland and the proposal to remove a wide area of scrub and woodland, we are not satisfied that the information provided for dormice is sufficient. We require that further survey work is undertaken including nut searches later in the year and potential dormouse boxes installed for a full season of survey work. Until these surveys are undertaken we are not satisfied that this species have been fully considered.

Water Voles and Otters

The ditch to the south of the site has been identified as water vole network and within the local area there are records of water voles and otters. Due to the presence of these species we require that they are considered within the application and an assessment of the ditch to the south of the site is made to determine if these species could be present onsite. Due to the wetland nature of the site and immediate vicinity we are not satisfied with the dismissal of these species within the report. Until further consideration for these two species has been given, we are not satisfied that protected species have been fully considered.

Badgers

The latest version of the report has detailed that there will be no impact upon badgers from the proposals due to the habitat being water logged making it unsuitable for badgers. This statement is concerning as within the GCN assessment it was stated that the area was dry so there appears to be inconsistencies within the report. Until these inconsistencies are resolved the information provided is not suitable.

Sussex Biodiversity Record Centre Report

As previously requested we require a copy of the SxBRC report which should have been undertaken as part of this report within the desk top survey. The ecologist has expressed concerns about the report being published. However this can remain confidential within the application, and until this report has been submitted we are not satisfied that a full desk top survey has been undertaken.

The above addresses our main concerns for the site and the justification that until further information is provided we are unable to assess the application further and would recommend refusal.

5.0 Representations

5.1 Three letters of support have been submitted commenting:

- The existing bridleway is well used, it maintains a firm surface and has never been gated
- The access is slightly impeded by the bend in the road
- The propose route will improve the access
- Provides better access to BW1008
- The relocation will provide greater privacy
- The 3m wide path appears fit for purpose

6.0 Planning Policy Context

6.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area is the Chichester District Local Plan First Review 1999 and the following additional plan(s):

- SDNPA Partnership Management Plan 2014
- South Downs National Park Local Plan - Submission 2018

6.2 Policies relevant to this application are set out in section 7, below.

National Park Purposes

6.3 The two statutory purposes of the SDNP designation are:

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

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

7.0 Planning Policy

Relevant Government Planning Policy and Guidance

- 7.1 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) which was issued and came into effect on 27 March 2012. 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 landscape and scenic beauty in the national parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks.

National Planning Policy Framework 2018 (NPPF)

- 7.2 The following National Planning Policy Framework sections and paragraphs have been considered in the assessment of this application:
- Section 15 – Conserving and enhancing the natural environment

Chichester District Local Plan 1999

- 7.3 The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with the NPPF.
- 7.4 The following policies of the Chichester District Local Plan 1999 are relevant to this application:
- RE1 - Development in the Rural Area Generally
 - RE8 – Nature Conservation – Non-Designated sites
 - BE11 – New Development
 - BE14 – Wildlife Habitat, Trees, Hedges and Other Landscape Features

Partnership Management Plan

- 7.5 The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a Vision and long term Outcomes for the National Park, as well as 5 year Policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan.

7.6 The following policies of the SDNPA Partnership Management Plan 2014 are relevant to this application:

- General Policies 1, 2, 3, 4, 5, 24, 28

The South Downs Submission Local Plan 2018

7.7 The South Downs Local Plan: Pre-Submission Local Plan was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for public consultation between 26th September to 21st November 2017, and the responses considered by the Authority. The Plan was submitted to the Secretary of State for independent examination in April 2018. The Submission version of the Local Plan consists of the Pre-Submission Plan and the Schedule of Proposed Changes. It is a material consideration in the assessment of this planning application in accordance with paragraph 48 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication. Based on the current stage of preparation, and given the relative age of the saved policies within the Chichester District Local Plan First Review (1999), the policies within the Submission South Downs Local Plan (2018) are currently afforded considerable weight, depending on the level of objection received on individual policies.

7.8 The following policies are of particular relevance to this case:

- Core Policy SD1 - Sustainable Development
- Core Policy SD2 – Ecosystems Services
- Strategic Policy SD4 - Landscape Character
- Strategic Policy SD7 - Relative Tranquillity
- Strategic Policy SD9 – Biodiversity and Geodiversity
- Development Management Policy SD11 – Trees, Woodland and Hedgerows
- Development Management Policy SD17 – Protection of the Water Environment
- Development Management Policy SD20 – Walking, Cycling and Equestrian Routes

8.0 Planning Assessment

8.1 The main issues arising from this proposal are:

- Whether the principle of the bridleway diversion is acceptable
- The impact of the development on the character and appearance of the area and on the wider South Downs National Park
- The impact of the development on the ecology/biodiversity of the site
- The highways safety benefits of the development

Whether the principle of the bridleway diversion is acceptable

8.2 Consent has been sought and granted in principle from WSCC for the diversion of part of bridleway 1004 and the extinguishment of a short length of footpath 2881. A local authority may make an order to divert a public path if it is satisfied that it is expedient that the line of the path or way, or part of it, should be diverted in the interests of the owner, lessee or occupier of land crossed by the way; or in the interest of the public; or both.

- 8.3 The application to divert the bridleway was made in the interests of the landowners and the reason given is that on its present route bisecting the applicant's proposed development site the path would restrict the design and layout of the proposed new house and its surroundings. The applicant's would like to divert the bridleway onto a more westerly route so they can plan the layout of their site and the proposed new house without the restrictions of the present path route. No planning permission exists for the redevelopment of this site.
- 8.4 In conclusion the WSCC PROW officer advised that the improved connection within the network offered by the diversion is considered to be more convenient for most walkers and riders but may be less convenient for the smaller number of people who wish to continue south on Fitzlea Wood Road and vice versa. On balance, and in the context of a recreational route, the diversion is not considered to be substantially less convenient. The legal tests for the confirmation of the diversion of the bridleway were considered to have been met by WSCC.
- 8.5 As part of the Diversion Order procedure a number of consultations were undertaken by WSCC including with the SDNPA. The SDNPA supported the PROW diversion order application in principle, subject to other matters including the impact on the landscape and ecology of the site being assessed if planning permission was required. They commented that the improvement to road crossings, connectivity of the bridleways and an improved route for the Serpent Trail are welcomed and that landscape and environmental impact assessments be carried out so any possible negative effects that the construction works may have on the landscape and ecology could be assessed. It was also noted by the SDNPA that the applicant will be obliged, prior to confirmation of the Diversion Order, to determine whether planning consent will be required for the construction of the track and to provide any information, such as impact assessments, that may be requested as part of the planning application process at that time. The WSCC Diversion Order report makes it clear that the applicant will be responsible for obtaining any necessary consents, licences or planning consents associated with any works. The granting of consent to divert the bridleway does not prejudice the consideration of an application for planning permission for the works for the construction of the bridleway.
- 8.6 The Diversion Order procedure does not give consideration to matters that are more appropriately considered under the planning process such as the impact of a new route on landscape character or on the biodiversity of a site and highway safety. It has been determined by the Council that the construction of the new bridleway will require planning permission as it is considered to be an engineering operation and it is therefore appropriate to consider the planning merits of the scheme including its impact on landscape character, wildlife habitats, trees etc. under this planning application.
- 8.7 Whether the development is considered to be acceptable in principle will be dependent on whether the benefits of the development including the applicant's reasons for seeking to divert the bridleway are of sufficient merit to outweigh any harm to the landscape character of the area and to the biodiversity of the site

The impact of the development on landscape character

- 8.8 The proposed route of the diverted bridleway is distinctly rural and forms the boundary between land within the applicant's ownership and that managed by the Sussex Wildlife Trust (SWT). The site and immediate surroundings are designated as a Site of Nature Conservation Importance (SNCI). The Graffham Common and Fir Toat Wildlife Site (LWS) was purchased by the SWT in 2009/10 and since this time much work has gone into its restoration back to heath and heath pasture managing carefully the priority habitats it contains. Much of the route of the proposed bridleway crosses areas of deep peaty swamp which tend to lie wet even during the summer months.
- 8.10 The extent of the works required to construct the bridleway have been described at paragraph 2.1 above and it is apparent that the bridleway will represent a significant engineered feature in this natural landscape resulting in the clearance of vegetation including the loss of a large number of trees. Furthermore, it is considered the application lacks detail in respect of the clearance of vegetation and the extent of some of the works required to construct the bridleway, to enable an accurate assessment of the extent of harm caused by the proposal. For example the topography of the route of the bridleway varies along its length and where watercourses are to be culverted the extent of the engineering works such as the headwalls to the culverts the extent of which are not necessarily reflected in the submitted plans, is not clear. Notwithstanding this it is apparent that the bridleway will have a harmful impact on the character and appearance of the area both from the impact of the surfacing of the bridleway which will appear as an unnatural feature in the landscape but also as a result of the culverting of the various watercourses which cross the site and which will have a harsh man-made appearance.
- 8.11 In conclusion on this issue the proposed bridleway is considered to cause harm to the character and appearance of what is a remote and tranquil location. The width and length of the bridleway together with the engineered headwalls where existing watercourses will require culverting will represent harsh man-made features in what is a natural landscape.

The impact on biodiversity/ecology

- 8.12 The site lies within a designated SNCI and the adjacent land forms part of the Graffham Common and Fir Toat Wildlife Site managed by the SWT. An ecological appraisal has been submitted during the course of the application which has identified a number of potential impacts on protected species. This has been updated on a number of occasions during the assessment of the application in response to concerns raised by the Council's ecologist in relation to the need to justify its conclusions that no phase 2 surveys are required.
- 8.13 The appraisal concludes that the development will potentially cause loss to habitats and species which are protected by law, unless either avoidance is employed, or appropriate mitigation strategies are appropriately actioned by the applicant. The appraisal however does not recommend that any further surveys should be carried out.
- 8.14 In terms of enhancing the biodiversity of the site, the applicant is proposing to provide two bat boxes and two bird nesting boxes and, has suggested that the land will be managed in a similar way to the adjacent SWT land. However, no management plan or suggestion as to how this might be secured has been submitted. The ecological appraisal concludes that the mitigation proposed by the applicant will result in an overall biodiversity gain for the site. The Council's

ecologist has raised concerns in relation to this conclusion and is of the opinion the mitigation proposed is not sufficient to outweigh the harm caused through the potential impact on protected species.

- 8.15 Natural England standing advice explains that in a number of instances further surveys would be appropriate. This is supported by the Council's ecologist who advises that the site is a potential habitat for a number of protected species including bats, great crested newts and dormice amongst others and in respect of these species further surveys should be sought. Phase 2 habitat surveys have been requested in respect of a number of species however the applicant's ecologist is of the opinion that these are unnecessary and that there will be no harm to these protected species.
- 8.16 Without these further surveys it is difficult for the LPA to fully understand the impact of the development on the biodiversity of the site however, notwithstanding this, given the significant works which are to be undertaken it is likely that the proposal will result in the destruction of habitat and have a harmful impact on protected species.

The highways safety benefits of the development

- 8.17 It has been highlighted in the application that the point at which the existing bridleway emerges onto Fitzlea Wood Road is on a bend and visibility is poor especially to the south. Furthermore, the point where the bridleway continues on the opposite side of the road is approximately 105 metres to the north which means users have to traverse the road to reach this point. It is acknowledged that the proposed road crossing point appears to offer road safety benefits in terms of the point at which the bridleway meets the road and the avoidance of more than 100 metres of road use presently needed to connect between the two bridleways.
- 8.18 Whilst this is a benefit of the proposed route, the bridleway is longer at 225 metres as opposed to 170 metres. Riders wishing to travel south would have an additional 105 metres of road to traverse however, travelling north the diversion would allow a direct connection with the bridleway on the opposite side of Fitzlea Wood Road. WSCC considers this is the most likely route that would be taken by most riders.
- 8.19 In terms of the visibility of the existing access onto Fitzlea Wood Road, whilst the visibility to the south is poor this is mitigated to a degree by the fact that the location is extremely tranquil and any users of the bridleway/road junction can hear traffic coming from some distance away. In addition the road does not appear to be particularly busy with significant periods of time when no vehicles are present.
- 8.20 In terms of the benefits of the new route of the bridleway it is considered that overall there are some benefits in highways safety terms to the proposal.

9.0 Conclusion

- 9.1 In relation to the impact of a development on the landscape character of the National Park, the LPA is required to give great weight to conserving and enhancing its landscape and scenic beauty. The proposed works to form the bridleway together with the loss of vegetation which contributes to the rural character of the area are considered to have a harmful impact on the character and appearance of the landscape.

- 9.2 In relation to the impact of the development on the biodiversity of the site it is considered that insufficient information has been submitted in relation to the impact of the development, however, notwithstanding this, given the significant works which are to be undertaken it is likely that the proposal will result in the destruction of habitat and have a harmful impact on protected species.
- 9.3 It is acknowledged that there will be some highway safety benefits to the proposal and the bridleway will be more convenient to some users, however, these benefits together with the reason given by the applicant for the bridleway diversion, that they would like to divert the bridleway so they can plan the layout of their site and the proposed new house without the restrictions of the present path route, are not considered to outweigh the harm caused to the landscape of the National Park and the biodiversity of the site.
- 9.4 The proposal is therefore considered to be contrary to policies RE1, RE8, BE11 and BE14 of the CDLP 1999, policies SD1, SD2, SD4, SD7, SD9, SD11, SD17 and SD20 of the Submission South Downs Local Plan (2018), Sections 2 and 15 of the NPPF and the purposes of designation of the SDNP. The application is therefore recommended for refusal.

10.0 Reason for Recommendation and Conditions

10.1 It is recommended that the application be Refused for the reasons set out below.

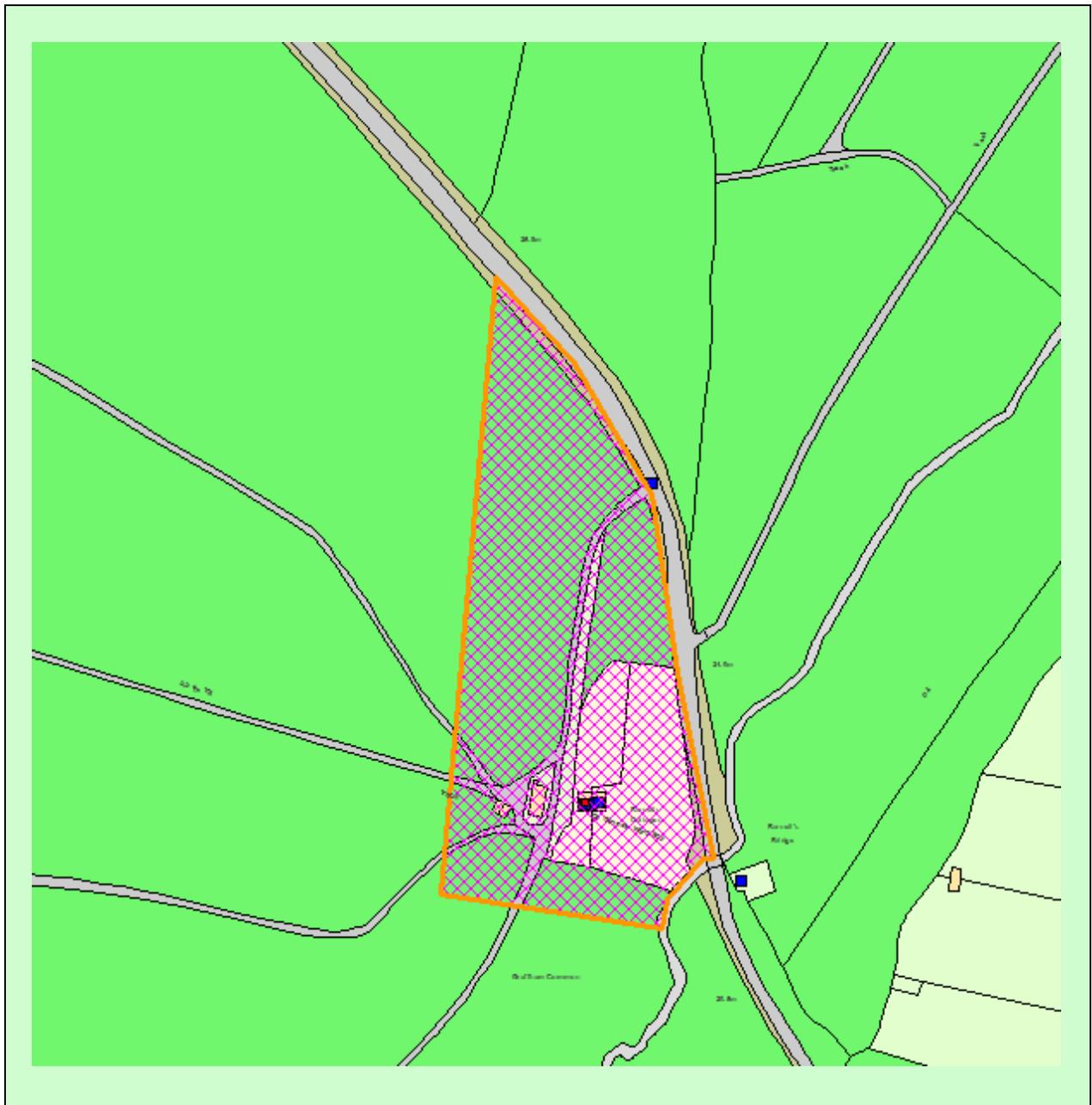
1. The application has been assessed and determined on the basis of the plans noted below.

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The construction of the proposed bridleway will require significant engineering works including the clearance of the site, its regrading and culverting of watercourses which are considered to represent a significant engineered feature in what is a distinctly rural and tranquil location within a designated SNCI and the SDNP where the conservation and enhancement of the landscape and wildlife should be given great weight. Notwithstanding the fact that the information submitted is insufficient to assess the full impact of the development on protected species and habitat, the proposal is considered to be harmful to wildlife habitats within the SNCI and protected heathland. Furthermore the extent of site clearance, excavation, regrading and culverting is likely to result in an overly engineered feature and at odds in this highly sensitive rural environment, leading to harm to the landscape character and relative tranquillity for those using the bridleway and common users. The SDNPA has had regard to the particular circumstances put forward to support the relocation of the existing bridleway and concludes that, on balance, the benefits of the scheme do not outweigh the harm caused by the development. The proposal is therefore considered to be contrary to policies RE1, RE8, BE11 and BE14 of the Chichester District Local Plan First Review 1999, policies SD1, SD2, SD4, SD7, SD9, SD11, SD17 and SD20 of the Submission South Downs Local Plan (2018), Sections 2 and 15 of the NPPF and the purposes of designation of the SDNP.

Appendix 1

Site Location Map



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Appendix 2 – Plans Referred to in Consideration of this Application

The application has been assessed and recommendation is made on the basis of the following plans and documents submitted:

| Plan Type | Reference | Version | Date on Plan | Status |
|---|-----------|---------|--------------|--------------|
| Plans - Proposed bridle path diversion plan | 160801/01 | C | 24.07.2017 | Superseded |
| Plans - Site location plan | 13-02-100 | | 24.08.2017 | Superseded |
| Plans - Site Location Plan | 160801/03 | | 19.04.2018 | Not Approved |
| Plans - Level Survey | 160801/02 | | 19.04.2018 | Not Approved |
| Plans - Proposed bridle path diversion plan | 160801/01 | F | 19.04.2018 | Not Approved |

Reasons: For the avoidance of doubt and in the interests of proper planning.