

# Public Document Pack

## **JOHN WARD**

Director of Corporate Services

Contact: Sharon Hurr on 01243 534614

Email: [shurr@chichester.gov.uk](mailto:shurr@chichester.gov.uk)

East Pallant House

1 East Pallant

Chichester

West Sussex

PO19 1TY

Tel: 01243 785166

[www.chichester.gov.uk](http://www.chichester.gov.uk)



A meeting of **Planning Committee** will be held in The Assembly Room - The Council House (Chichester City Council), North Street, Chichester on **Wednesday 24 April 2019** at **9.30 am**

MEMBERS: Mr R Hayes (Chairman), Mrs C Purnell (Vice-Chairman), Mr G Barrett, Mrs J Duncton, Mr M Dunn, Mr J F Elliott, Mr M Hall, Mr L Hixson, Mrs J Kilby, Mr G McAra, Mr S Oakley, Mr R Plowman, Mrs J Tassell and Mrs P Tull

## SUPPLEMENT TO AGENDA

18 **Agenda Update Sheet** (Pages 1 - 8)

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## Agenda Update Sheet

Planning Committee  
Wednesday 24 April 2019

**ITEM: 5**

**APPLICATION NO:** WW/18/02708/DOM

**COMMENT:**

The application is withdrawn from the agenda.

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**ITEM: 8**

**APPLICATION NO:** PS/18/02939/FUL

**COMMENT:**

Amendment to condition 2 (to include an additional plan; SK306 showing proposed gates).  
Condition to now read:

The development hereby permitted shall not be carried out other than in accordance with the approved plans: SK300 Rev D, SK301 Rev E, SK302 Rev D, SK303 Rev G, SK304 Rev D, SK306 & SK307 Rev A.

Reason: To ensure the development complies with the planning permission.

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**ITEM: 9**

**APPLICATION NO:** FB/18/03033/DOM

**COMMENT:**

Amendment to condition 2 and 3 to state:

Within 1 month of the date of this permission the fence along the southern boundary of the site shall be lowered or replaced with a fence to the height shown on approved plans. The fence permitted shall not be constructed other than in accordance with the materials specified within the application form and plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of protecting the character and appearance of the heritage assets.

Within 2 months of the date of this permission to shed within the site hereby permitted shall be reduced in width and stained with Cuprinol Old English Green in accordance with the approved plans.

Reason: In the interests of protecting the character and appearance of the heritage assets.

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**ITEM: 10**

**APPLICATION NO:** SDNP/18/05093/LDE

**COMMENT:**

Letter received from the applicant on 22<sup>nd</sup> April 2019

- 1) At this meeting you are considering this application to remove an agricultural tie restriction put on the residency of Buryfield Cottage in 1984. The wording is detailed at para 2.1 of the agenda report. What you must conclude is whether there is 'sufficient' evidence, on a *balance of probability*, to lift it. If there is, the planning authority must issue a Certificate of Lawful Development. The officer's recommendation is to refuse, on the grounds that insufficient evidence has been provided (as stated at para 9.1).
- 2) At issue is what employed means. The opinion of the Council's solicitor is that 'employment' is paid work (remuneration) and does not accept that a person can be employed by undertaking unpaid work. In consequence, the solicitor does not understand that for 20 years I have employed myself on behalf of the Council, community and other people and not sat at home retired and inactive. I therefore strongly disagree with the officer's recommendation for reasons expanded on below.
- 3) Having retired from farming in 1995, I became a District Councillor 4 years later without realising that the agricultural tie should have precluded me from doing so whilst remaining in occupation of Buryfield Cottage. This application has been submitted to regularise the situation.

- 4) As already stated, this is a legal matter rather than a planning application, consequently I am writing in order to adequately and clearly explain ALL the relevant facts that should and must be considered, as doing so will take much more time than the three minutes allocated for me to do so at the meeting this Wednesday.
- 5) The application was validated on 2<sup>nd</sup> October 2018, nearly 8 months ago. As you will have seen from looking at the website a great deal of relevant information was provided at the time, and some further supporting evidence in March. For some reason, some of the information provided at the beginning of October last year isn't even referred to in the report let alone assessed, and other information has been incorrectly evaluated.
- 6) As you are aware, I have been a member of CDC for 20 years, and as stated in my submitted evidence a member of Elsted and Treyford Parish Council (and latterly Harting Parish Council) throughout that period. I have also carried out further work allied to Local Government, not least as a member of the Sussex Downs Conservation Board / South Downs Joint Committee / South Downs National Park Authority. Indicative lists have been provided of meetings I have attended. They provide an illustration of the formal work undertaken, but on top of that is of course the often more time-demanding 'at home' work the Local Government work I have undertaken entails. Being the sort of person I am I compiled a day-by-day list of the meetings I attended on behalf of the SDNPA. It was put on the website on 17<sup>th</sup> March. It runs to 17 pages, and is a graphic illustration of the workload we can be obliged to fulfil as a Councillor.
- 7) I retired from farming in 1995, though the company I owned retained ownership of the land which since that time has been farmed by a tenant.
- 8) Noting para 8.12 of the agenda report, it is indeed the case that the land owned by Raymed Ltd is used to grow the crops listed in the Companies House return. As set out in my sworn deposition the necessary farming work has been undertaken by a farming tenant. My Statutory Declaration indicates that I have had no input, be it hands-on work or in a legal sense, in the arrangement since well before 2006 when the current Farm Business Tenancy commenced. As you can see from the documentation, this tenancy involves Raymed Ltd as the landlord and Rough House Farms Ltd as the tenant.
- 9) To deal further with the fact that the officer's report indicates there is a case to be made that I am still farming, it is necessary to read para 11 of my 'statutory declaration'. [Note - There is no reference to this relevant evidence in the agenda report.] It refers to the fact that the HMRC, aware that for tax purposes I am no longer personally involved in farming and am benefitting from the occupation of a company house, charge me an 'Annual Tax on Enveloped

Dwellings' (ATED). This significant detail should have been brought to your attention and addressed.

- 10) The condition that I am in breach of states that 'The occupation of the dwelling shall be limited to a person solely or mainly employed or, having ceased employment, last employed in the locality in agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971, or in forestry including any dependents of such a person residing with him or a widow or widower of such a person.' There is no requirement for the work to be remunerated. Concerning 'last employed' for the reason stated in 6 to 8 above, I trust that it is now quite clear that there is more than a 'balance of probability' that I legally ceased farming in 1995, 4 years before coming a District Councillor.
- 11) Paras 8.4 – 8.8 of the agenda report lists and evaluates some of the relevant information submitted in my statutory declaration, date 26<sup>th</sup> October 2018.
- 12) Paras 8.9 – 8.11 sum up that information, stating that 'the KEY issue with this application is whether sufficient evidence has been submitted which on the balance of probabilities proves that the dwelling has been occupied in breach of the restrictive covenant'.
- 13) Aware that the need to provide '*Sufficient evidence*' is the key issue you will note that the officer's case is made on understanding that the work I have undertaken for CDC and those I represent from 1999 to this day does not constitute 'employment'.
- 14) I will therefore turn to the matter of what constitutes 'employment'. The contention in the agenda report is that because I 'volunteered' (para 8.14, line 4) to stand for office, the work a Councillor involved in Local Government subsequently carries out does not constitute 'employment'. Consequently, they recommend this application for refusal.
- 15) The definition of 'employment' is pivotal. In para 8.14 the agenda states that the '*work of a Councillor does not meet the definition of being 'employed' as such positions are voluntary*'. CDC officers provide no legal evidence for your consideration to back up the statement that 'it does not meet the definition', whereas I have provided two pieces of legal evidence last October to help make the case that it does, noting that it has to be '*on the balance of probability*'. I have provided Exhibit 2 in my Statutory Declaration, which is a Court of Appeal judgement - Parker v Yeo; and Exhibit 3, providing evidence that an East Hants District Councillor was working at EHDC, and thus employed by that District Council. Whilst these two cases are alluded to in para 8.15, they are not addressed. To provide a thorough knowledge of the relevant facts, they along with other detailed information should be read within my statutory declaration.

The East Hants letter refers to that District being a Councillor's 'principal or only place of work'.

- 16) CDC as the legal employer of District Councillors is obliged to cover us for insurance purposes when we are carrying out our Council duties and other business and ensure that relevant health and safety requirements are covered. In that capacity CDC remove tax from our income by PAYE for which we have a dedicated payroll number. CDC subsequently issue us with a P60 tax form each year. Mine arrived last week, and I shall shortly be receiving a P45. Chichester councillors are not paid an allowance based on the meetings they attend; for all the time I have been a Councillor they have received a flat rate sum, effectively a monthly salary, regardless of the meetings they attend.
- 17) Having explained the relevance of paras 14 to 16 above to 'employment', whilst it might be usual for employment to be rewarded by a more substantial wage or salary, it is not a legal obligation for that to be the case. The origin of the word employ is from the Latin '*implicari*', which means 'be involved'. As indicated I have been *involved* in what I have performed as a District Councillor for almost 20 years.
- 18) In conclusion having given up active farming in 1995 I have since 1999 spent many hours a week on most days of the year 'being involved' in many aspects of Council work, on behalf of my electorate, CDC and other areas of Local Government. This constitutes the definition of employment, noting the wording of the condition.
- 19) Para 9.1 concludes that there is in this case 'insufficient evidence being provided' to provide a Certificate of Lawful Development. For reasons I have outlined above, rather than there being insufficient evidence the report has taken no account of some of the evidence provided and has incorrectly evaluated some other facts which provide positive evidence. As a result the agenda report has not taken proper account of all the evidence provided, and the issues raised, to come to a judgment on the 'balance of probability'.
- 20) If you have studied all the background paperwork, you might already be aware of the issues I have raised. If you haven't done so, you will not be aware of the omissions, and the areas where incorrect emphasis has placed on what has been referred to. If that evidence had been reasonably analysed in the agenda report, as presented to the committee, it would have provided sufficient evidence.

**ITEM: 11**

**APPLICATION NO:** SDNP/18/05965/FUL

**COMMENT:**

**Additional condition**

No development shall be begun to the stables and hardstanding hereby permitted until the works to the access and culvert shown in drawing no. 102 and WSCC drawing no. S278/38/23A have been carried out in accordance with this approved drawing and to the satisfaction of the SDNPA.

Reason: To ensure the satisfactory construction of the site access and in the interests of highway safety.

Amended conditions

Condition 9:

Winter groundwater monitoring, to establish the highest annual ground water levels, and Percolation testing to BRE 365, or a similar approved method, will be required to support the design of any infiltration drainage. No building shall be occupied **or brought into use** until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details.

Reason: To comply with the requirements of approved Document H of the Building Regulations and the SuDS Manual.

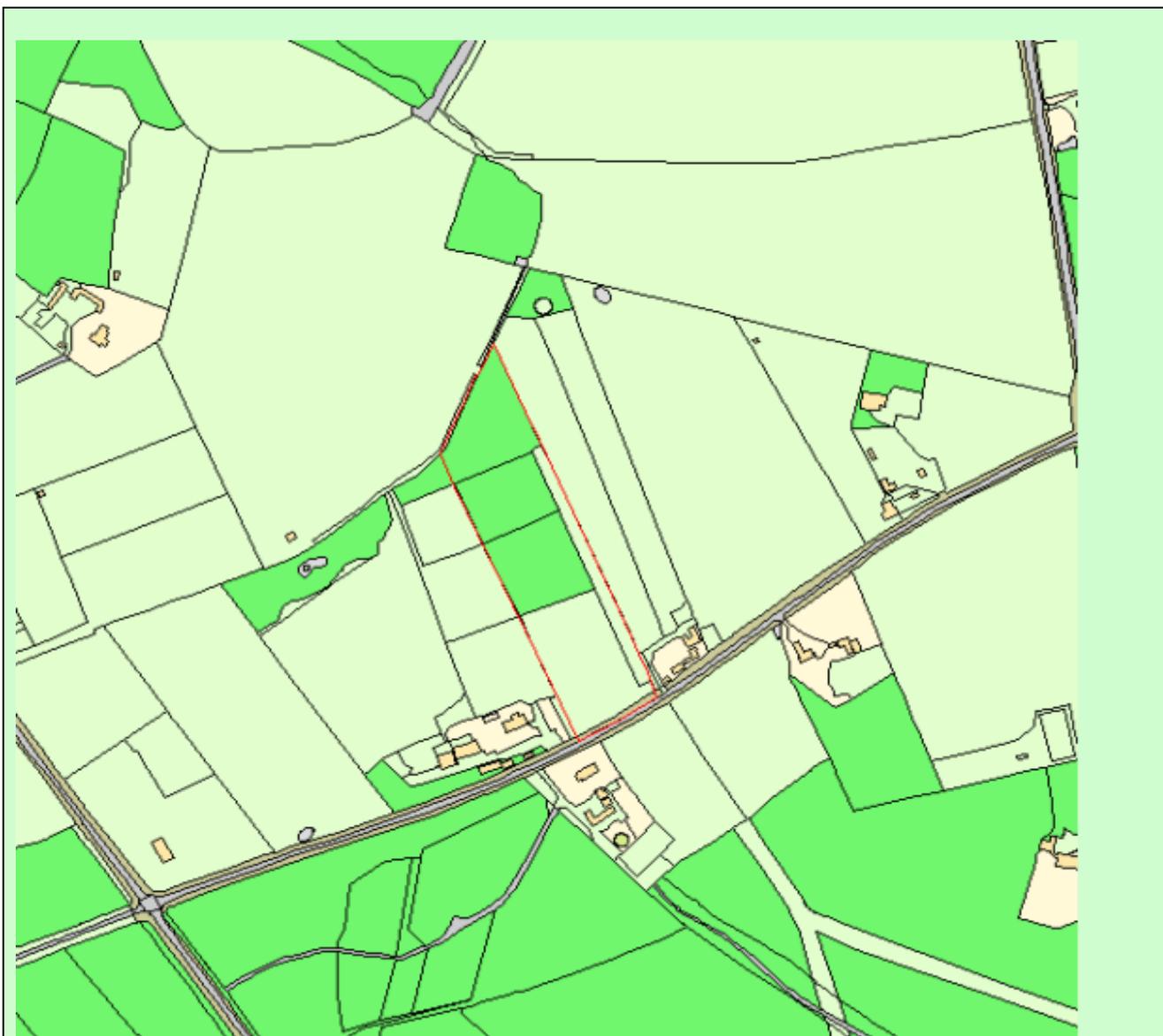
Condition 10:

The development shall not **take place** until formal consent has been approved in writing from the Lead Local Flood Authority (WSCC) or its agent (CDC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on the site.

Reason: To ensure any discharge to a watercourse will not be at a rate greater than the pre-development run off values.

**Amended site plan**

Site Local Map (Appendix 1, Page 104) is superseded with the plan shown below.



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ITEM: 14, Schedule of Planning Appeals, Court and Policy Matters

6.COURT AND OTHER MATTERS (page 166)

Court Matters:

Breach Avenue, Southbourne. The Council's challenge of the Inspectors decision letter is due to be heard in the Court of Appeal on Tuesday 23<sup>rd</sup> July 2019.

Chaswood, Main Road, Bosham. High court challenge of Inspector's decision letter dated 25<sup>th</sup> February 2019. Application for permission to proceed with claim lodged on 8<sup>th</sup> April 2019.

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**ITEM:15, Schedule of Planning Appeals, Court and Policy Matters (SDNP)**

6. COURT AND OTHER MATTERS (page 175)

Court Matters:.

Laundry Cottage, Dangstein Road, Rogate. Judicial Review of Council's decision to grant a Lawful Development Certificate. Application for permission to proceed with claim lodged on 8<sup>th</sup> April 2019.