

Public Document Pack

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A meeting of **Planning Committee** will be held in Committee Rooms - East Pallant House on **Wednesday 17 October 2018 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, Mrs P Tull and Mr D Wakeham

AGENDA

1 **Chairman's Announcements**

Any apologies for absence which have been received will be noted at this stage.

The Planning Committee will be informed at this point in the meeting of any planning applications which have been deferred or withdrawn and so will not be discussed and determined at this meeting.

2 **Approval of Minutes** (Pages 1 - 6)

The minutes relate to the meeting of the Planning Committee on 19 September 2018.

3 **Urgent Items**

The Chairman will announce any urgent items that due to special circumstances will be dealt with under agenda item 11 (b).

4 **Declarations of Interests** (Pages 7 - 8)

Details of members' personal interests arising from their membership of parish councils or West Sussex County Council or from their being Chichester District Council or West Sussex County Council appointees to outside organisations or members of outside bodies or from being employees of such organisations or bodies.

Such interests are hereby disclosed by each member in respect of agenda items in the schedule of planning applications where the Council or outside body concerned has been consulted in respect of that particular item or application.

Declarations of disclosable pecuniary interests, personal interests and prejudicial interests are to be made by members of the Planning Committee in respect of matters on the agenda or this meeting.

PLANNING APPLICATIONS - AGENDA ITEMS 5 TO 8 INCLUSIVE
Section 5 of the Notes at the end of the agenda front sheets has a table
showing how planning applications are referenced.

- 5 **CH/18/00810/FUL - The Nest, 13 The Avenue, Hambrook, Chichester, West Sussex, PO18 8TZ** (Pages 9 - 28)
Erection of 4 no. dwellings and associated works.
- 6 **BO/17/02114/FUL - Hove To Smugglers Lane, Bosham, PO18 8QP** (Pages 29 - 44)
Demolition of existing dwelling, ancillary accommodation and outbuildings.
Erection of a single dwelling, and ancillary accommodation with associated hard and soft landscaping.
- 7 **BI/18/02049/ADV - Birdham Pool, The Causeway, Birdham, Chichester, West Sussex, PO20 7BG** (Pages 45 - 52)
1 no. non-illuminated freestanding entrance sign.
- 8 **SDNP/17/03764/FUL - 1 Barnetts Cottage, Fitzlea Wood Road, East Lavington, GU28 0QN** (Pages 53 - 72)
Construction of a new bridleway.
- 9 **Schedule of Planning Appeals, Court and Policy Matters** (Pages 73 - 85)
The Planning Committee will consider the monthly schedule updating the position with regard to planning appeals, litigation and recent planning policy publications or pronouncements.
- 10 **Schedule of Outstanding Contraventions** (Pages 87 - 112)
The Planning Committee is asked to consider the quarterly schedule for the period up to 30 September 2018 which updates the position with regard to planning enforcement matters.
- 11 **Consideration of any late items as follows:**
The Planning Committee will consider any late items announced by the Chairman at the start of this meeting as follows:
 - a) Items added to the agenda papers and made available for public inspection
 - b) Items which the chairman has agreed should be taken as matters of urgency by reason of special circumstances to be reported at the meeting
- 12 **Planning Enforcement Report - Crouchland Farm, Rickman's Lane, Kirdford, Billingshurst, West Sussex, RH14 0LE** (Pages 113 - 151)
The Planning Committee will receive a planning enforcement report relating to Crouchland Farm, Rickman's Lane, Kirdford, Billingshurst, West Sussex, RH14 0LE.
- 13 **Exclusion of the Press and Public**
The Planning Committee is asked to consider in respect of the following item(s) whether the public interest including the press should be excluded from the

meeting on the grounds of exemption under Parts 1 to 7 of Schedule 12A of the Local Government Act 1972, as indicated against the item and because, in all the circumstances of the case, the public interest in maintaining the exemption of that information outweighs the public interest in disclosing the information. **The report dealt with under this part of the agenda is attached for members of the Planning Committee and senior officers only (salmon paper).**

14 **Planning Enforcement Report 2 (Pages 153 - 161)**

The Planning Committee will receive a Planning Enforcement report.

NOTES

1. The press and public may be excluded from the meeting during any item of business whenever it is likely that there would be disclosure of exempt information as defined in section 100I of and Schedule 12A to the Local Government Act 1972
2. The press and public may view the agenda papers on Chichester District Council's website at [Chichester District Council - Minutes, agendas and reports](#) unless these are exempt items.
3. This meeting will be audio recorded and the recording will be retained in accordance with the council's information and data policies. If a member of the public makes a representation to the meeting they will be deemed to have consented to being audio recorded. By entering the committee room they are also consenting to being audio recorded. If members of the public have any queries regarding the audio recording of this meeting please liaise with the contact for this meeting detailed on the front of this agenda.
4. Subject to the provisions allowing the exclusion of the press and public, the photographing, filming or recording of this meeting from the public seating area is permitted. To assist with the management of the meeting, anyone wishing to do this is asked to inform the chairman of the meeting of his or her intentions before the meeting starts. The use of mobile devices for access to social media is permitted but these should be switched to silent for the duration of the meeting. Those undertaking such activities must do so discreetly and not disrupt the meeting, for example by oral commentary, excessive noise, distracting movement or flash photography. Filming of children, vulnerable adults or members of the audience who object should be avoided. [Standing Order 11.3 in the Constitution of Chichester District Council]
5. How applications are referenced:
 - a) First 2 Digits = Parish
 - b) Next 2 Digits = Year
 - c) Next 5 Digits = Application Number
 - d) Final Letters = Application Type

Application Type

ADV Advert Application
AGR Agricultural Application (following PNO)
CMA County Matter Application (eg Minerals)
CAC Conservation Area Consent
COU Change of Use
CPO Consultation with County Planning (REG3)
DEM Demolition Application
DOM Domestic Application (Householder)
ELD Existing Lawful Development
FUL Full Application
GVT Government Department Application

**Committee report changes appear in bold text.
Application Status**

ALLOW Appeal Allowed
APP Appeal in Progress
APPRET Invalid Application Returned
APPWDN Appeal Withdrawn
BCO Building Work Complete
BST Building Work Started
CLOSED Case Closed
CRTACT Court Action Agreed
CRTDEC Hearing Decision Made
CSS Called in by Secretary of State

HSC Hazardous Substance Consent
LBC Listed Building Consent
OHL Overhead Electricity Line
OUT Outline Application
PLD Proposed Lawful Development
PNO Prior Notification (Agr, Dem, Tel)
REG3 District Application – Reg 3
REG4 District Application – Reg 4
REM Approval of Reserved Matters
REN Renewal (of Temporary Permission)
TCA Tree in Conservation Area
TEL Telecommunication Application (After PNO)
TPA Works to tree subject of a TPO
CONACC Accesses
CONADV Adverts
CONAGR Agricultural
CONBC Breach of Conditions
CONCD Coastal
CONCMA County matters
CONCOM Commercial/Industrial/Business
CONDWE Unauthorised dwellings
CONENG Engineering operations
CONHDG Hedgerows
CONHH Householders
CONLB Listed Buildings
CONMHC Mobile homes / caravans
CONREC Recreation / sports
CONSH Stables / horses
CONT Trees
CONTEM Temporary uses – markets/shooting/motorbikes
CONTRV Travellers
CONWST Wasteland

DEC Decided
DECDET Decline to determine
DEFCH Defer – Chairman
DISMIS Appeal Dismissed
HOLD Application Clock Stopped
INV Application Invalid on Receipt
LEG Defer – Legal Agreement
LIC Licence Issued
NFA No Further Action
NODEC No Decision
NONDET Never to be determined
NOOBJ No Objection
NOTICE Notice Issued
NOTPRO Not to Prepare a Tree Preservation Order
OBJ Objection
PCNENF PCN Served, Enforcement Pending
PCO Pending Consideration
PD Permitted Development
PDE Pending Decision
PER Application Permitted
PLNREC DC Application Submitted
PPNR Planning Permission Required S64
PPNREQ Planning Permission Not Required
REC Application Received
REF Application Refused
REVOKE Permission Revoked
S32 Section 32 Notice
SPLIT Split Decision
STPSRV Stop Notice Served
STPWTH Stop Notice Withdrawn
VAL Valid Application Received
WDN Application Withdrawn
YESTPO Prepare a Tree Preservation Order

Public Document Pack Agenda Item 2



Minutes of the meeting of the **Planning Committee** held in Committee Rooms - East Pallant House on Wednesday 19 September 2018 at 9.30 am

Members Present: Mr R Hayes (Chairman), Mrs C Purnell (Vice-Chairman), Mr G Barrett, Mrs J Duncton, Mr M Hall, Mr L Hixson, Mrs J Kilby, Mr G McAra, Mr S Oakley, Mr R Plowman and Mr D Wakeham

Members not present: Mr M Dunn, Mr J F Elliott, Mrs J Tassell and Mrs P Tull

In attendance by invitation:

Officers present: Mr J Bushell (Principal Planning Officer), Miss K Davis (Member Services Officer), Mrs N Langford (Senior Planning Officer), Mr J Saunders (Development Manager (National Park)), Mrs F Stevens (Development Manager (Applications)) and Mr T Whitty (Divisional Manager for Development Management)

207 **Chairman's Announcements**

The Chairman welcomed everyone to the meeting and drew attention to the emergency evacuation procedure.

Apologies were received from Mr Dunn, Mr Elliott, Mrs Tassell and Mrs Tull.

Item 5 (EWB/18/00753/OUT – South Downs Holiday Village, Bracklesham Lane, Bracklesham Bay) had been withdrawn from the agenda.

208 **Approval of Minutes**

RESOLVED

That the minutes of the meeting held on 15 August 2018 be approved and signed by the Chairman as a correct record.

209 **Urgent Items**

The Chairman announced that an urgent item would be considered under item 11(b) to discuss the decision of the High Court to dismiss the Council's application in respect of Breach Avenue, Southbourne.

210 **Declarations of Interests**

Mrs Duncton declared a personal interest in respect of planning applications WH/18/01024/REM, CH/18/00810/FUL, FU/17/02187/FUL and SDNP/17/03764 as a member of West Sussex County Council.

Mrs Duncton declared a personal interest in respect of planning application SDNP/17/03764 as a West Sussex County Council member of South Downs National Park Authority.

Mr Hayes declared a personal interest in respect of item 11(b) (Breach Avenue, Southbourne) as a member of Southbourne Parish Council's Neighbourhood Plan Steering Group.

Mr Oakley declared a personal interest in respect of planning applications WH/18/01024/REM, CH/18/00810/FUL, FU/17/02187/FUL and SDNP/17/03764 as a member of West Sussex County Council.

Mr Plowman declared a personal interest in respect of planning application WH/18/01024/REM as a member of the Goodwood Motor Circuit Consultative Committee.

Mr Hall declared a personal interest in respect of planning application WH/18/01024/REM as a member of the Goodwood Airfield Consultative Committee.

Mrs Purnell declared a personal interest in respect of planning applications WH/18/01024/REM, CH/18/00810/FUL, FU/17/02187/FUL and SDNP/17/03764 as a member of West Sussex County Council.

Planning Applications

The Committee considered the planning applications together with an agenda update sheet at the meeting detailing the observations and amendments that had arisen subsequent to the dispatch of the Agenda.

During the presentations by officers of the applications, members viewed photographs, plans, drawings, computerised images and artist impressions that were displayed on the screens.

RESOLVED

That the Planning Committee makes the following decisions subject to the observations and amendments below:

211 **EWB/18/00753/OUT - South Downs Holiday Village, Bracklesham Lane, Bracklesham Bay, Chichester, West Sussex, PO20 8JE**

This item was withdrawn from the agenda.

212 **WH/18/01024/REM - Land North Of Stane Street, Madgwick Lane, Westhampnett, West Sussex**

Additional information was reported on the agenda update sheet relating to an amendment to the applicant's name, additional comments received from Westhampnett Parish Council, Southern Water, West Sussex County Council Highways, Chichester District Council Environmental Health (Contaminated Land and Air Quality), one further third party objection, officer comments, amended conditions 2 (plans), 7 (bins and recycling), 8 (electric car charging) and 15 (contamination), deletion of condition 6 (travel plan) to avoid duplication of a S106 obligation, and 3 additional conditions for the pedestrian link to the bridleway, delivery of the allotments and restricting tanker access overnight.

Attention was also drawn verbally to an additional late third party comment received from Goodwood.

The following members of the public addressed the Committee:

- Mr S Barnes – Objector;
- Mr I Smith (Chichester District Cycle Forum) – Making comment;
- Mr S Goodwill - Applicant

During the discussion Mrs Langford and Mr Whitty replied to members' questions as follows:

- Impact on Goodwood – approximately 20 properties would be located within the 400m buffer zone – technical solutions in place to bring noise levels down to an acceptable level as set out in both national and local planning policy. Informative proposed advise applicant of the need make prospective buyers aware of the proximity of the Goodwood Airfield and Motor Circuit.
- The dwellings would be located in Flood Zone 1 and were set back some distance from the primary SUDS pond located in Flood Zone 2.
- The majority of the roads on the site would be adopted and all were proposed to be suitable for use by refuse vehicles.
- Sewerage tankering – first occupation is predicted to be Spring 2019 and it was expected that 60-90 properties would be occupied by 2020, requiring 2-3 tanker visits each day.
- Noise mitigation included double glazing and alternative ventilation when windows were closed. The dwellings themselves formed a buffer to other parts of the site.
- It was likely that Westhampnett Parish Council would take on the responsibility for the allotments. The additional condition proposed on the agenda update sheet dealt with this matter and that included the requirement for a phasing plan.
- A range of materials would be used so as to result in enough variety and consistency across the site and officers would ensure that any flintwork was of good quality.
- The WSCC Highways Officer considers that the proposed pedestrian crossing, visibility splays and access to the sports and green infrastructure

site opposite is acceptable in planning terms. Technical consents will additionally apply. With regard to the issue of the pedestrian crossing and the concern raised by one of the public speakers concerning traffic and sharp bend along Madgwick Lane, This had been further reviewed with WSCC who now considered that there was a solution to achieve a safe pedestrian crossing to the playing fields.

- Further discussions had taken place concerning access to the Stocks Lane bridleway. Condition 5 dealt with the requirement for the submission of full details to ensure pedestrians could cross safely. It was agreed that with reference to the 'David Wilson Homes' element of the development condition 5 should be amended to be more generic in case when the time came David Wilson homes were no longer the developer.
- Officers were of the view that it was unlikely that rat running through the site would take place on Goodwood event days, as only a short strength of Madgwick Lane would be avoided and traffic may have difficulty re-joining the northbound queue of traffic.
- The speed limits within the site would be subject to agreement with WSCC when the roads are proposed for adoption. With regard to the provision of street lighting etc, the applicant would be asked to have regard to the dark night skies status of the South Downs when proposing streetlighting.
- Details were provided of the tree planting proposed and it was agreed that Condition 5 should be amended to ensure the provision of a variety and mix of trees (including those of a more substantial and long lived nature) along the Madgwick Lane frontage.
- With regard to the garage sizes, an informative was agreed to ensure the implementation of 6x3m size garages.

Defer for a **Section 106 agreement** then **Permit** with conditions as per recommendation as amended by the update sheet, with additional amendments to condition 5 (landscaping) and one additional informative (garage size) agreed.

213 **CH/18/00810/FUL - The Nest, 13 The Avenue, Hambrook, Chichester, West Sussex, PO18 8TZ**

The following information was reported on the agenda update sheet relating to an amendment to condition 2 and the receipt of the financial contribution for mitigation.

The following member of public addressed the Committee:

- Mr P Barry - Agent

Mrs Stevens advised that with regard to the comments of the District Council's Waste Services regarding refuse vehicle access, an informative could be added recommending the removal of the telegraph pole. The informative could also recommend hatching or no parking signs in the turning area. A condition could require the access road surface to be constructed to take the weight of refuse vehicles. The District Council's Drainage Engineer was satisfied that maintenance of the watercourse as possible and this requirement was dealt with as part of Condition 8.

The Committee favoured a site visit in order to obtain a better perspective of the proposed development and its impact in light of the amended scheme, following the refusal of the previous scheme for six dwellings, which proposed a reduction in the number of dwellings.

Defer for a Site Visit

214 **FU/17/02187/FUL - Land South Of Osiers, Clay Lane, Funtington, West Sussex**

The following information was reported on the agenda update sheet relating to an amendment to the application description.

The following member of public addressed the Committee:

- Mrs Ward - Applicant

Mrs Stevens advised that requirement for a Section 106 agreement was due to the need to mitigate the impact of the proposed permanent stationing of the dwelling on the Chichester and Langstone Harbour Special Protection Area.

Defer for a Section 106 agreement then Permit

215 **SDNP/17/03764/FUL - 1 Barnetts Cottage, Fitzlea Wood Road, East Lavington, GU28 0QN**

The following information as reported on the agenda update sheet relating to the receipt of further comments from Lodsworth Parish Council.

The following members of the public addressed the Committee:

- Mr P Sherratt – Supporter
- Mr D Jones/Mr J Fox – Applicant/On applicant's behalf

In response to members' questions, Mr Saunders provided details of where the proposed new bridleway would link to the highway, hard surface areas, drainage, screening and visibility of the access. Stock fencing would be located on the west side of the bridleway.

Mr Day addressed the ecology concerns of the Council's Environmental Strategy in respect of the impact on protected species, healthland, SNCI and tree removal proposals. He reported that the evidence produced by the applicant for the surveys was lacking and although further surveys had been requested they had not been received.

The Committee favoured a site visit to enable them to fully understand the proposals and see the current and proposed bridleway access onto the highway in terms of safety, visibility splays and current vegetation.

Defer for a Site Visit

216 **Schedule of Planning Appeals, Court and Policy Matters**

The Committee considered and noted the schedule of outstanding planning appeals, court and policy matters that had been circulated with the agenda.

217 **Exclusion of the Press and Public**

RESOLVED

That in accordance with Section 100A of the Local Government Act 1972 the public and the press be excluded from the meeting during consideration of the following items on the Agenda for the reason that it was likely in view of the nature of the business to be transacted that there would be disclosure to the public of "exempt information" being information of the nature described in Paragraph 5 (Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings) of Part I of Schedule 12A to the Act and the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

218 **Land at Breach Avenue, Southbourne**

The Committee was asked to consider as a late item following the ruling of the High Court to dismiss the Council's challenge following the Planning Inspector's decision to allow the appeal in respect of Breach Avenue, Southbourne and to decide if the Council should apply for permission to be heard at the Court of Appeal and if successful to defend the Council's case.

RESOLVED

That permission to apply to be heard at the Court of Appeal and if successful to defend the Council's case agreed.

The meeting ended at 12.30 pm

CHAIRMAN

Date:

Chichester District Council

Planning Committee

Wednesday 17 October 2018

Declarations of Interests

Details of members' personal interests arising from their membership of parish councils or West Sussex County Council or from their being Chichester District Council or West Sussex County Council appointees to outside organisations or members of outside bodies or from being employees of such organisations or bodies are set out in the attached agenda report.

The interests therein are disclosed by each member in respect of planning applications or other items in the agenda which require a decision where the council or outside body concerned has been consulted in respect of that particular planning application or item.

Declarations of disclosable pecuniary interests, personal interests, prejudicial interests or predetermination or bias are to be made by members of the Planning Committee or other members who are present in respect of matters on the agenda or this meeting.

Personal Interests - Membership of Parish Councils

The following members of the Planning Committee declare a personal interest by way of their membership of the parish councils stated below in respect of the items on the schedule of planning applications where their respective parish councils have been consulted:

- Mr J F Elliott – Singleton Parish Council (SE)
- Mr R J Hayes - Southbourne Parish Council (SB)
- Mr L R Hixson – Chichester City Council (CC)
- Mrs J L Kilby – Chichester City Council (CC)
- Mr G V McAra - Midhurst Town Council (MI)
- Mr S J Oakley – Tangmere Parish Council (TG)
- Mr R E Plowman – Chichester City Council (CC)
- Mrs L C Purnell – Selsey Town Council (SY)

Personal Interests - Membership of West Sussex County Council

The following members of the Planning Committee declare a personal interest by way of their membership of West Sussex County Council in respect of the items on the schedule of planning applications where that local authority has been consulted:

- Mrs J E Duncton - West Sussex County Council Member for the Petworth Division
- Mr S J Oakley - West Sussex County Council Member for the Chichester East Division
- Mrs L C Purnell – West Sussex County Council Member for the Selsey Division

Personal Interests - Chichester District Council Representatives on Outside Organisations and Membership of Public Bodies

The following members of the Planning Committee declare a personal interest as Chichester District Council appointees to the outside organisations or as members of the public bodies below in respect of those items on the schedule of planning applications where such organisations or bodies have been consulted:

- Mr G A F Barrett - Chichester Harbour Conservancy
- Mr T M E Dunn – South Downs National Park Authority
- Mr R Plowman – Chichester Conservation Area Advisory Committee

Personal Interests – Chichester City Council Representatives on Outside Organisations and Membership of Public Bodies

The following member of the Planning Committee declares a personal interest as a Chichester City Council appointee to the outside organisations stated below in respect of those items on the schedule of planning applications where that organisation has been consulted:

NONE

Personal Interests – West Sussex County Council Representatives on Outside Organisations and Membership of Public Bodies

The following member of the Planning Committee declares a personal interest as a West Sussex County Council appointee to the outside organisation stated below in respect of those items on the schedule of planning applications where that organisation has been consulted:

- Mrs J E Duncton – South Downs National Park Authority

Personal Interests – Other Membership of Public Bodies

The following member of the Planning Committee declares a personal interest as a member of the outside organisation stated below in respect of those items on the schedule of planning applications where that organisation has been consulted:

- Mrs L C Purnell – Manhood Peninsula Partnership (Chairman)

Parish: Chidham & Hambrook	Ward: Bosham
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CH/18/00810/FUL

Proposal Erection of 4 no. dwellings and associated works.

Site The Nest 13 The Avenue Hambrook Chichester West Sussex PO18 8TZ

Map Ref (E) 478901 (N) 106493

Applicant Mr Stuart Wilson

RECOMMENDATION TO DEFER FOR S106 THEN PERMIT



	NOT TO SCALE	Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803
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1.0 Reason for Committee Referral

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

Parish Objection - Officer recommends Permit

2.0 The Site and Surroundings

2.1 The application site lies on the northern side of The Avenue, a residential street within the village of Hambrook/Nutbourne. The site lies in a backland position to the north of The Avenue, and is surrounded by residential development which comprises a mix of 1 and 2 storey dwellings. The site forms an area of approximately 0.32ha and currently comprises the gardens of 5 properties.

3.0 The Proposal

3.1 Full planning permission is sought for the construction of 4 dwellings. The originally submitted proposals were for four detached houses, all of which were 4 bedroom properties. Amended plans have been received to amend the housing mix, the access arrangements for refuse vehicles, and to reduce the scale and built form of two of the proposed properties. The proposed housing mix as amended proposes 2 x 3 bedroom and 2 x 4 bedroom properties.

3.2 Each of the dwellings has been individually designed and therefore the sizes of the dwellings would vary. The proposed detached dwellings would measure between 8.1m and 8.4m in height, between 7.5m and 13m in width, and between 11.5m and 13m in depth.

3.3 Each of the properties would have front and rear gardens with 2 properties having garages. All properties would be provided with forecourt parking giving a total of 11 spaces for the dwellings. Additionally 1 visitor space is proposed adjacent to the access road. Access would be via an existing roadway that serves number 21a The Avenue.

4.0 History

05/02412/FUL	PER	Erect detached house and car port.
06/02373/FUL	REF	Erect 2 no. three bedroom houses.
06/04801/FUL	REF	Demolish existing garage and two storey side extension, erect 2 no. three bedroom houses.
06/05551/OUT	REF	Erection of 4 no. dwellings with access between 13 and 15 The Avenue

5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	NO
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	
- Flood Zone 2	NO
- Flood Zone 3	NO

6.0 Representations and Consultations**6.1 Chidham and Hambrook Parish Council**

The Parish Council objects as The Avenue cannot take any more traffic, the refuse cannot be collected from the proposed site and there is no option for communal refuse storage at the entrance due to the lack of space. There is insufficient parking on the site plans and there is no alternative parking available in The Avenue.

The Parish Council have reviewed the plans and also objects on the grounds that this is an over development of the site which ruins the appearance of the area. It was also noted during the meeting that there are no local amenities for residents apart from a local store some distance away and no bus routes within 1 mile.

Further comments of Chidham and Hambrook Parish Council

Chidham and Hambrook Parish Council **STRONGLY OBJECTS** to the above application. The following comments are made further to the comments submitted on 22 May 2018.

- The proposal is contrary to the current Local and Neighbourhood Plans and would have an adverse impact on the appearance and character of the surrounding area;
- The Parish has no need of unneighbourly, intrusive, backland development. Chidham and Hambrook has a high number of 4 and 4+ bedroom houses and does not need more dwellings of this type;
- The proposed access to the site is unsuitable, impractical and unneighbourly. The Avenue is a narrow highway with a high level of on road parking;
- The Parish is seriously lacking in infrastructure;
- The local drainage infrastructure in this area is inefficient. Heavy rainfall regularly results in flooded gardens in The Avenue and Scant Road West;
- Wildlife habitat needs to be protected.

Local Plans:

The proposal is contrary to the current Local and Neighbourhood Plans.

The proposed development will by reason of its backland situation and the activity, noise and disturbance caused by traffic using the extremely long access drive have an adverse impact on the appearance and character of the surrounding area i.e. The Avenue and Scant Road West. It would, therefore, be contrary to Policies 1, 33 and 40 of the Local Plan: Key Policies 2014-2029 and paragraphs 17, 56, 58 and 61 of the National Planning Policy Framework.

Housing/Design:

The Parish has no need for more unneighbourly, intrusive backland development. It has already met far above the indicated number of dwellings set in the current Local Plan. **Compared to many other area of Chichester District, Chidham and Hambrook Parish has a high number of 4 and 4+ bedroom houses.** The Parish does need more dwellings of this type. The need is for more special properties and affordable 1, 2 and 3 bed dwellings for local first time buyers and older people wishing to downsize and remain in the area. The layout of the proposed development is lacking in character. The plots of the proposed 4 houses are smaller than those of all of surrounding properties. The site is remote in that it will not be seen from The Avenue or Scant Road but will be very visible from the windows of houses in those roads. It will not relate to wither road. The proposed allocation of visitor parking spaces in insufficient for 4 x 4 bed houses. The is no room for overflow parking in The Avenue.

Access:

The proposal is unsuitable, impractical and unneighbourly.

The proposed access off The Avenue, a narrow highway in need of attention, is via an existing very long gravel driveway. The driveway runs the full length of the Western boundary of 23 The Avenue and will result in extra noise, pollution and disturbance for the residents of 23 and also 21 The Avenue. The visibility splay for traffic exiting the site will be poor due to high hedges and vehicles parked regularly on the North side of the highway. The driveway is unsuitable for waste/recycling, emergency services (fire) vehicles and also delivery vans. These vehicles will inevitably need to mount the grass verge on the South side of The Avenue when exiting the site.

Infrastructure:

The Parish is seriously lacking in infrastructure. There is just one small shop/PO in the whole of the Parish. Bosham and Southbourne offer the nearest convenience stored, medical and dental practices. Employment opportunities in the Parish are extremely limited. The nearest bus service is approximately a mile away on the A259 hence residents rely on motor transport leading to more traffic on highways.

Drainage:

The local drainage infrastructure is inefficient. Surface water drainage is a long standing problem in the Hambrook area. A main drainage ditch forms a boundary

between properties in Scant Road West and The Avenue but is frequently unable to cope with the amount of surface water following prolonged periods of rain. This results in flooded gardens. The proposed development of 4 houses in the back gardens of 13, 15, 17 and 19 The Avenue will seriously exacerbate these drainage problems.

Ecology:

The Ecological Report in no way reflects the true wealth of wildlife present in these gardens. The habitat for the great variety of creatures mentioned by residents in their responses to this application needs to be protected from destruction by development.

History of the site:

Application 18/00810/FUL follows a string of applications for housing development in these same back gardens. Previous applications have been refused by CDC and the Planning Inspectorate and the reasons for refusal are still relevant today.

The Parish Council recommends REFUSAL of this application.

The following comments are summarised:

6.2 Natural England

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. As your authority has measures in place to manage these potential impacts through the agreed strategic solution, subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential effects of the development on the site(s) and that the proposal should not result in a likely significant effect.

6.3 WSCC Highways

No objection. The proposed access would serve 6 properties, including 21 and 21a The Avenue. It will be widened to 4.8 metres for most of its length, with two speed reduction build outs and would be a shared surface. The Highway Authority is satisfied that the site is accessible by a larger service vehicle and compliant with emergency access guide. The use of the existing dropped crossing to provide access to 6 dwellings would be acceptable. Visibility from the access is also acceptable and the splays could be secured by planning condition. The on-site parking is appropriate with an overprovision on one space and the garages are large enough to provide cycle storage for plots 1, 3 and 4. Recommend conditions relating to parking and cycle provision.

6.4 CDC Waste Services

Satisfied with the revised layout, however would ask that the telegraph pole is moved if possible.

Further comments from CDC Waste Services

Comments on original layout. Raise concerns about manoeuvrability of the refuse vehicle, width of the access, position of the telegraph pole and position of trees and hedges adjacent to turning head. A communal collection point adjacent to the access, would overcome this issue.

6.5 CDC Environmental Strategy Unit

The lighting scheme for the site will need to take into consideration the presence of bats. A precautionary approach should be taken within the site with regards to reptiles. Any works to trees and hedgerows needs to consider the possible presence of breeding birds. Site enhancements should be included within the proposals.

This proposal will have an in-combination effect on the Special Protection Area in combination with all other residential developments within the 5.6km zone of influence. Mitigation will therefore be required.

6.6 Drainage Engineer

No objection. The site is in Flood Zone 1, but are aware of garden flooding adjacent to the watercourse. Some works will be required to the existing watercourse which abuts the northern edge of the development. The necessary drainage works can be secured by planning condition.

6.7 Third Party Representations

11 letters of objection have been received relating to;

- a) Hambrook has had a number of large developments and it is detrimental to allow more and 4+ bedroom properties are not needed;
- b) No material changes in circumstance since last refusal;
- c) Out of character with the semi-rural environment, crammed in back gardens;
- d) Will increase the amount of traffic in a narrow road to the detriment of highway safety;
- e) Impact of construction traffic on damaged road;
- f) Lack of parking for development which will result in additional on street parking;
- g) The Avenue is a poorly maintained narrow highway and is well used serving 97 properties in this and surrounding roads;
- h) Drivers emerging from the access will not have clear views of traffic, or cyclists approaching from either direction;
- i) Lack of access for refuse vehicles and emergency vehicles;
- j) Refuse vehicles are in the Avenue at the same time as school children and it would be dangerous for a heavy freighter to be crossing the pavement at this time;
- k) Loss of privacy;
- l) Removal of vegetation and trees will change character;
- m) Will set a precedent for similar applications in The Avenue and in Scant Road West;
- n) Will create greater surface water run-off;
- o) Lack of local infrastructure (shops, schools, public transport) to serve the development;

- p) Security of properties will be jeopardised with new access to the rear and will result in more noise and disturbance;
- q) Contrary to Policy 52 as makes no contribution to the health and wellbeing of the wider local community;
- r) Ecology report does not address the existence of slow worms, hedgehogs, Stag beetle and various birds locally;
- s) Lack of sewerage provision;

6.8 Applicant/Agent's Supporting Information

To accompany the revised tracking plan, the applicant provided responses to the initial comments of the CDC Waste Services setting out how their previous concerns had been addressed.

7.0 Planning Policy

The Development Plan

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans. The Chidham and Hambrook Neighbourhood Plan was made on the 20 September 2016 and forms part of the Development Plan against which applications must be considered.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 33: New Residential Development

Policy 39: Transport, Accessibility and Parking

Policy 42: Flood Risk and Water Management

Policy 48: Natural Environment

Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours Special Protection Areas

7.3 Chidham and Hambrook Neighbourhood Plan:

Policy LP1

Policy EM1

Policy EM2

Policy CDP1

Policy H2

Policy DS1

Policy DS2

Policy DS3

National Policy and Guidance

7.4 Government planning policy now comprises the National Planning Policy Framework (NPPF), paragraph 11 of which states:

At the heart of the NPPF is a presumption in favour of sustainable development,

*For **decision-taking** this means:*

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.5 Consideration should also be given to Sections 4 (Decision-Making), 5 (Delivering a sufficient supply of homes), 9 (Promoting Sustainable Transport), 11 (Making effective use of land), 12 (Achieving well-designed places), 14 (Meeting the challenge of climate change, flooding and coastal change), 15 (Conserving and enhancing the natural environment) generally.

7.6 The government's New Homes Bonus (NHB) which was set up in response to historically low levels of housebuilding, aims to reward local authorities who grant planning permissions for new housing. Through the NHB the government will match the additional council tax raised by each council for each new house built for each of the six years after that house is built. As a result, councils will receive an automatic, six-year, 100 per cent increase in the amount of revenue derived from each new house built in their area. It follows that by allowing more homes to be built in their area local councils will receive more money to pay for the increased services that will be required, to hold down council tax. The NHB is intended to be an incentive for local government and local people, to encourage rather than resist, new housing of types and in places that are sensitive to local concerns and with which local communities are, therefore, content. Section 143 of the Localism Act which amends S.70 of the Town and Country Planning Act makes certain financial considerations such as the NHB, material considerations in the determination of planning applications for new housing. The amount of weight to be attached to the NHB will be at the discretion of the decision taker when carrying out the final balancing exercise along with the other material considerations relevant to that application.

Other Local Policy and Guidance

7.7 The following Supplementary Planning Documents are material to the determination of this planning application:

Planning Obligations and Affordable Housing SPD

The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 The main issues arising from this proposal are:

- i) Principle of development and sustainability
- ii) Design and impact upon character of the surrounding area
- iii) Impact upon amenities of neighbouring properties
- iv) Drainage
- v) Highway safety
- vi) Arboricultural implications
- vii) Ecological considerations

Assessment

i) Principle of development and sustainability

8.2 The site is located within the Settlement Boundary of Hambrook/Nutbourne which is identified as a Service Village; a sustainable location for small scale development outside of Chichester City and the Settlement Hubs where, in accordance with Policy 1 and Policy 2 of the Local Plan there is a presumption in favour of sustainable development. This is consistent with Paragraph 11 of the NPPF which establishes a presumption in favour of sustainable development in such a location unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

8.3 The Chidham and Hambrook Neighbourhood Plan (NP) acknowledges the need to allocate sites for 25 dwellings in line with the identified need in the CLP, it confirms that 86 dwellings have been permitted in the Parish since 2014. However the identified need within the CLP does not constitute a maximum number of dwellings, and whilst concerns have been expressed regarding local infrastructure, further development within settlement boundaries should be considered in light of the presumption in favour of sustainable development and other relevant policies within the Development Plan. Identifying and delivering windfall sites is also an important element of ensuring that the Council meets its identified housing needs. This is consistent with Policy LP1 of the Neighbourhood Plan which states that "development of 10 units or fewer on windfall sites will be supported".

8.4 It is acknowledged that previous applications for development on parts of the site have been refused by the Local Planning Authority in the past. These include those listed in section 4 above. This proposal relates to a further reduction in the number of dwellings which seeks to overcome the previous concerns, dealt with in more detail below.

8.5 In conclusion, the application site lies within a settlement which is identified as being an appropriate and sustainable location for small scale development. The proposal represents a small scale windfall scheme. It is therefore considered that the principle of the development would be acceptable, subject to all other material planning considerations being satisfied.

ii) Design and impact upon character of the surrounding area

8.6 Section 12 of the NPPF requires good design that improves the overall quality of the area and paragraph 124 states that 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve'. Paragraph 127 also sets out a set of criteria to ensure developments, '*are visually attractive as a result of good architecture, layout and appropriate and effective landscaping*'. Policy 33 of the Local Plan requires new development to meet the highest standards of design and to be appropriate in terms of the proportion, form, massing, siting, scale and detailed design to ensure that proposals respect and where possible enhance the character of the surrounding area and the site.

8.7 The proposed development would be served by an existing access serving 21a The Avenue, a 2 storey detached dwelling situated in a backland position to the north of The Avenue. The proposal seeks to continue the residential development to the rear of properties fronting this road, resulting in development within a backland position. Other forms of similar development within the vicinity afford the area a similar character, notably 21a and the properties to the rear of Broad Road (Lethmore Orchard and The Thickett), which are within the same perimeter block as the application site.

8.8 The rear gardens of the existing properties forming the application site are substantial; being approximately 60m to 75m in depth and 11m to 14m in width, albeit the plot belonging to 21 The Avenue (at the eastern end of the site) has already been subdivided. These gardens would be reduced in size, however good sized gardens with depths of 20m would still remain. Whilst there are a number of properties with similar sized plots, there are also a significant number of properties within the residential block formed by The Avenue, Scant Road (West) and Broad Road that are afforded with rear gardens approximately 8m to 15m in depth, and a smaller number of properties with even smaller rear gardens, approximately 5m in depth. As such, there is a presence of smaller plots within close proximity of the application site, which would not be dissimilar to the size of gardens provided within the proposed development and which directly informs the local character.

8.9 There is an eclectic mix of housing sizes, styles and forms ranging from large detached dwellings to semi-detached and terraced properties including 2 storey, single storey and chalet bungalows in close proximity of the site. There are several examples of other backland developments close to the site, including 2 developments providing 4 dwellings to the west of Broad Road and 4 further developments off The Avenue ranging in size from group of 2 properties to 23 properties to the east of the site. As such, the presence of backland developments and small cul-de-sacs to the rear of the properties fronting The Avenue exists in the area and forms part of the context of the site.

8.10 The proposed development would extend westwards from the existing dwelling (21a) and as a result the view along the access drive would remain largely unchanged, with the provision of a boundary treatment with landscaping to the front and a garden beyond. Only glimpses through gaps in the existing dwellings fronting on to The Avenue and Scant Road West would be possible, and the proposed dwellings would be largely screened by the existing residential development. As such, it is considered that whilst the proposal would result in a backland form of development, this would not be contrary to the varied form of development within the surrounding area and would not be harmful to the character and appearance of the locality.

8.11 The dwellings have been individually designed to ensure that the development would have a varied and more organic appearance that would incorporate appropriate architectural detailing and materials including bay windows, headers above the windows, chimneys, timber windows, clay roof tiles, plus a mix of brick and hanging tiles to the elevations. The proposal would provide a high quality development that would reflect the local vernacular and would make use of local materials to ensure that it would integrate into this varied character of the locality. The scale of the proposed dwellings has been reduced through the course of the application, to form more spacing between the properties and be more reflective of the character of the area. The housing mix proposed has been amended to include two 3 bedroom properties and two 4 bedroom properties. This was amended during the course of the application to be reflective of an appropriate housing mix in accordance with Policy 33.

8.12 The planning history is of relevance to the application's determination, notably application 15/02332/FUL which was refused in 2015 and later dismissed at appeal. One of the reasons for refusal related to the backland position of the development and concerns about the noise and activity generated by the use of the access which would have an adverse impact upon the character of the area. In dismissing the appeal, the Inspector concluded that:

"Whilst backland development is evident in the area, including 21a and houses off Broad Road which lies to the west of The Avenue the scale of this development is such that it would alter the characteristic long gardens of Nos 13,15,17 and 19 as well as introducing further dwellings to the rear of 21a. This amount of backland development proposed would alter the character of the area not only by the physical presence of the six dwellings but also the activity associated with them, utilising this narrow access road."

8.13 The Inspector in the 2015 appeal did not conclude that development would be unacceptable per se, but made specific reference to the scale of the previous development, comprising six houses and the amount of development which would alter the character. It is considered that having regard to the reduction in the number of dwellings from six to four thereby reducing the amount of activity using the access track combined with the reduction in size and amendments to the design to reduce the scale of the properties, an amended layout comprising a more linear form and the omission of dwellings in the north east corner of the site which would have been visible from The Avenue, that the proposal would address the concerns raised by the Inspector in relation to the amount and scale of development and its impact on the character of the area.

8.14 Overall, it is considered for the reasons set out above that the proposed development, by reason of its scale and form, would not be harmful to the character and appearance of the surrounding area, particularly given the eclectic mix of development in the locality, including back land development, and the quality of the proposed design and appearance of the buildings.

iii) Impact upon amenities of neighbouring properties

8.15 Issues of loss of light, outlook and privacy were considered under application 15/02332/FUL and did not form reasons for refusal. The proposed layout of the site would ensure sufficient distance between the proposed and existing properties is maintained to ensure that the proposal would not result in an unacceptable degree of overlooking. The rear gardens of the proposed dwellings would exceed 15m in depth and the fenestration of the buildings would be sensitively located to ensure that only landing/bathroom windows are located on the side elevations of the properties.

8.16 Due to the distance between the proposed dwellings and neighbouring properties the proposal would also not give rise to a loss of light and would not have an overbearing impact upon the neighbouring properties. Concerns have been raised regarding noise and disturbance from the increased activity; however this would not be detrimental given the separation between properties. It is considered that the plots would be of a sufficient size to ensure that the occupation of the dwellings would not be unneighbourly, within the residential context of the area. A change to the surfacing materials from the existing gravel would reduce the noise implications of vehicles entering and exiting the site along the access drive, and whilst not identified on the landscape strategy could be secured by condition. The proposal would therefore accord with policy in respect of its impact upon the amenities of neighbouring properties.

iv) Drainage

8.17 A number of third party objections have been received expressing concern with regard to drainage and flooding in the local area. The application site lies in Flood Zone 1, the area least at risk of flooding, and therefore flood risk would not normally be a constraint to development. However, it is acknowledged that there are known surface water flooding issues within the gardens.

8.18 This formed the second reason for refusal relating to application 15/02332/FUL and was considered by the Inspector when considering the appeal against that refusal. The Inspector concluded that this matter could be dealt with by planning condition and would not have been a reason to dismiss the appeal. Additionally, the Council's Drainage Engineer has been consulted on the application and has also acknowledged that this matter could be dealt with by a planning condition. Subject to the proposed conditions, the proposal would accord with policy 42 in respect of flood risk and water management.

8.19 Concerns have been raised regarding foul drainage in the area, however this was considered under the previous application and the Inspector during the appeal and was considered acceptable. A condition is recommended requiring details of the proposed foul drainage to be submitted in order to ensure that the foul drainage system would be appropriate for the development.

v) Highway Safety

8.20 The issue of highway safety was considered in the determination of application 15/02332/FUL and did not form a reason for refusal. The number of dwellings that is proposed to utilise the same access and driveway, as previously proposed, has reduced by two. The Local Highway Authority has advised that the information submitted demonstrates adequate access and visibility can be provided. The revised swept path analysis demonstrates that large service vehicles would be able to negotiate the access and the site, ensuring that it would be compliant with Manual for Street Section 6.7 in respect of emergency access guidance and servicing by large vehicles.

8.21 The Highway Authority has confirmed that the proposals demonstrate that there would be sufficient space to provide the required parking spaces, with an overprovision of one space. The garages would meet the County Council's standards and allow for cycle storage within them. The proposal would therefore meet the parking requirements for the development and would not result in pressure to park within the development or on The Avenue.

8.22 The applicant has provided a plan showing the tracking of the Council's refuse vehicle demonstrating that the vehicle can enter and exit the site in a forward gear with suitable turning being provided within the development. It is recommended that a condition be imposed requiring the turning area to be kept free for that purpose in perpetuity.

8.23 Having regard to the considerations outlined above and subject to conditions, the proposed development would provide suitable access, parking and turning arrangements and appropriate visibility to ensure that the proposal would not have an adverse impact upon the safety or function of the highway network, and appropriate access would be provided for emergency vehicles and refuse management vehicles. The proposal is therefore acceptable in respect of these matters.

vii) Arboricultural implications

8.24 There are several trees and hedgerows within the site and the application is accompanied by an Arboricultural Assessment and a Landscape Strategy Plan. The proposed development would not result in the loss of any mature trees around the edge of the site, instead the removal of vegetation would relate primarily to the removal of smaller or poor quality trees and hedgerows within the gardens. Whilst the report has not been updated to reflect the current layout, it does provide sufficient information to consider the impact of the development. Similarly Tree Protection information has been provided, which includes the use of protective fencing, no change to land levels within root protection areas, no storage of materials within 20m of any tree to be retained and no fires within 5m of any trees or hedgerow. These

issues were not reasons for refusal on the previous decision and conditions are proposed to secure their implementation during the works.

- 8.25 The Landscape Strategy Plan demonstrates that the existing mature trees would be supplemented with the planting of native trees and hedgerows along the front of each plot with an area of greenspace being seeded with a wildflower species rich grass and a feature native tree. The proposed landscape would be appropriate for the location, although a condition is recommended to ensure that the proposed trees would be suitable and of an appropriate size when planted.
- 8.26 The trees around the edge of the site are of high importance and their retention would need to be controlled though conditions outlined above. However the loss of the trees within the site would not be harmful to the amenity of the area, and in in time the proposed planting within the site would develop to provide growth of a similar size that would benefit the area.
- 8.27 It is considered that subject to the development being carried out in accordance with the assessment submitted, and information secured by planning condition, the proposal would not have an adverse impact upon trees and the indicative planting strategy would be appropriate for the proposed development and the amenity of the surrounding area.

vii) Ecological considerations

- 8.28 The application site lies within the 5.6km zone of influence for the Chichester and Langstone Harbours Special Protection Area (SPA) and therefore the proposal is likely to have a significant impact upon the SPA as a result of recreational disturbance. The applicant is aware of the need to mitigate this impact by paying a financial contribution towards the joint mitigation strategy in accordance with policy 50 of the Local Plan.
- 8.29 In respect of the impact of the development upon ecology within the site consideration has been given to a Preliminary Ecological Assessment and a Preliminary Bat Roost Assessment submitted with the application. The survey found no evidence of protected species on the site, and although the trees and hedgerows within the site provide suitable foraging and commuting habitat for bats there is higher quality habitat located within the surrounding area, and therefore the partial loss of this habitat would not have a significant impact upon bats. It was also found that the site provided a suitable habitat for hedgehogs and therefore suitable protection measures should be carried out during the construction phase of the development, along with the measures identified within the Landscape Strategy.
- 8.30 The Council's Environment Officer has advised that there is no objection to the proposed development in respect of the impact upon protected species and biodiversity. It is recommended that a condition be imposed ensuring that the proposed development is carried out in accordance with the recommendations of the surveys submitted and also that any lighting scheme minimises the impact upon bats using the trees and hedgerows and also that trees or vegetation clearance should be undertaken outside of the bird breeding season only. A condition relating to the submission of enhancement measures is also proposed.

Conclusion

8.31 Based on the above assessment of the material planning considerations it is considered the proposal complies with development plan policies 1, 2, 5, 33, 39, 42, 49 and 50, and Neighbourhood Plan Policies LP1, EM1, EM2, H2, DS1, DS2 and DS3 therefore the application is recommended for approval.

Human Rights

8.32 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to permit is justified and proportionate.

RECOMMENDATION

DEFER FOR S106 THEN PERMIT subject to the following conditions and informatives:-

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall not be carried out other than in accordance with the approved plans: 1710-01D; 1710-02A; 1710-03; 1710-04B; 1710-05B; 1710-06A; 1710-07A; 17-08A; 1710-09; 1710-10; 1710-13A; 1710-14A; 1710-16A; 1710-L01A; 1715-101 Rev B; W.083/20;

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

3) Notwithstanding any details submitted **no development/works shall commence** until a full schedule of all materials and finishes and samples (where requested) of such materials and finishes to be used for external walls and roofs of the building(s) and surfacing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule of materials and finishes unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of amenity and to ensure a development of visual quality. It is considered necessary for this to be a pre-commencement condition as such details need to be taken into account in the construction of the development and thus go to the heart of the planning permission.

4) **No development shall commence** until details of the proposed overall site-wide surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal as set out in Approved Document H of the Building Regulations and the SUDS Manual produced by CIRIA. Winter ground water monitoring to establish highest annual ground water levels and Percolation

testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage.

The surface water drainage scheme shall be implemented as approved unless any variation is agreed in writing by the Local Planning Authority. No building shall be occupied until the complete surface water drainage system serving that property has been implemented in accordance with the approved surface water drainage scheme.

Reason: The details are required pre-commencement to ensure that the proposed development is satisfactorily drained with all necessary infrastructure installed during the groundworks phase.

5) Notwithstanding any details submitted, **no development shall commence** until details of a system of foul drainage of the site have been submitted to, and approved in writing by the Local Planning Authority. Any variance in the approved details must be agreed in writing with the Local Planning Authority prior to the commencement of any development in relation to the foul drainage of the site. Thereafter all development shall be undertaken in accordance with the approved details and no occupation of any of the development shall take place until the approved works have been completed. The foul drainage system shall be retained as approved thereafter.

Reason: To ensure adequate provision for drainage. It is considered necessary for this to be a pre-commencement condition as such details need to be taken into account in the construction of the development and thus go to the heart of the planning permission.

6) **No development shall commence** until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (i) the parking of vehicles of site operatives and visitors;
- (ii) loading and unloading of plant and materials;
- (iii) storage of plant and materials used in constructing the development;
- (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (v) wheel washing facilities;
- (vi) measures to control the emission of dust and dirt during construction;
- (vii) turning on site of vehicles;
- (viii) the location of any site huts/cabins/offices.

Reason: To ensure safe and neighbourly construction.

7) **No development shall commence on site, including demolition**, until protective fencing has been erected around all trees, shrubs and other natural features not scheduled for removal in accordance with the recommendations of BS5837:2012. Thereafter the protective fencing shall be retained for the duration of the works, unless otherwise agreed in writing by the Local Planning Authority. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area; soil levels within the root protection area of the trees/hedgerows to be retained shall not be raised or lowered, and there

shall be no burning of materials where it could cause damage to any tree or tree group to be retained on the site or on land adjoining at any time.

Reason: To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability. It is considered necessary for this to be a pre-commencement condition as these details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

8) **No development shall commence** until full details of the maintenance and management of the SUDs system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. Upon completed construction of the SUDs System, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual."

Reason: To ensure the efficient maintenance and ongoing operation for the SUDs system and to ensure best practice in line with guidance set out in the SUDs Manual CIRIA publication ref: C687 Chapter 22. The details are required pre-commencement to ensure the SUDs are designed appropriately and properly maintained and managed as soon as they are installed

9) **No development shall commence** until a strategy outlining details of the sustainable design and construction for all new buildings, including water use, building for life standards, sustainable building techniques and technology, energy consumption maximising renewable resources, and how a reduction in the impacts associated with traffic or pollution will be achieved including but not limited to charging electric vehicles, has been submitted to and approved in writing by the Local Planning Authority. The strategy shall demonstrate a water efficiency standard of 110 litres or less per person per day. The approved strategy shall be implemented as approved prior to first occupation unless any variation is agreed in writing by the Local Planning Authority.

Reason: To minimise the impact of the development upon climate change. These details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

10) **No part of the development hereby permitted shall be first occupied** until the vehicle parking (including garages and car ports) and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development.

11) **No part of the development shall be first occupied** until visibility splays of 2.4 x 59 metres have been provided at the site vehicular access onto The Avenue in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety.

12) **No part of the development shall be first occupied** until the access road, including the turning area, has been laid out, constructed and drained in accordance with plans and details which shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the turning area shall be kept free of any obstructions and available for its stated purpose at all time and in perpetuity.

Reason: In the interests of ensuring emergency access and highway safety.

13) **No part of the development shall be occupied** until screen walls and/or fences have been erected in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Once erected they should be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity.

14) **No part of the development hereby permitted shall be first occupied** until biodiversity enhancement measures have been provided in accordance with plans and details that shall first be submitted to and approved by the Local Planning Authority. Thereafter the biodiversity measures shall be retained in perpetuity.

Reason: To ensure that biodiversity enhancements are provided as part of the development.

15) **No part of the development hereby permitted shall be first occupied** until covered and secure cycle parking spaces have been provided in accordance with plans and details that shall first have been submitted to and approved by the Local Planning Authority. Thereafter the cycle parking shall be retained for that purpose in perpetuity.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

16) **The development hereby permitted shall not be first brought into use** until a fully detailed landscape and planting scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities, and for large scale developments shall include a program for the provision of the landscaping. In addition all existing trees and hedgerows on the land shall be indicated including details of any to be retained, together with measures for their protection in the course of development. The scheme shall make particular provision for the conservation and enhancement of biodiversity on the application site. The works shall be carried out in accordance with the approved details and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice.

The approved scheme **shall be carried out in the first** planting season after practical completion or first occupation of the development, whichever is earlier, unless otherwise first agreed in writing by the Local Planning Authority.

Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the locality and to enable proper consideration to be given to the impact of the proposed development on existing trees.

17) The development hereby permitted shall not be carried out other than in accordance with the recommendations contained within section 7 of the submitted Preliminary Ecological Assessment produced by Middlemarch Environmental reference RT-MME-127263-01 dated March 2018 and section 6 of the submitted Preliminary Bat Roost Assessment referenced RT-MME-127263-02 dated March 2018.

Reason: In the interests of protecting biodiversity.

18) The development hereby permitted shall not be carried out other than in accordance with the recommendations contained within section 5 and Appendix 3 of the submitted Arboricultural Implications Assessment and Method Statement produced by ecourban Ltd Ref 14624-AIA dated 20th July 2015.

Reason: In the interests of protecting the trees to be retained in the interests of amenity.

19) An easement 1.5m in width shall be maintained on the southern side of the drainage ditch that runs along the northern edge of the application site and the easement shall kept free of any buildings or structures at all times to ensure access to the watercourse.

Reason: In the interests of managing surface water and prevention of flooding.

20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) the garage hereby approved shall only be used for the purpose of parking private motor vehicles in connection with the residential use of the property.

Reason: To ensure the adequate provision of onsite parking for the purpose of highway safety.

21) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no building, structure or other alteration permitted by Class A, B, C or E of Part 1 Schedule 2 shall be erected or made on the application site without a grant of planning permission.

Reason: In the interests of protecting the amenity of neighbours and the surrounding area.

INFORMATIVES

1) S106

This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990.

2) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

For further information on this application please contact Caitlin Boddy on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PD6OXKERI9K00>

Parish: Bosham	Ward: Bosham
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BO/17/02114/FUL

Proposal Demolition of existing dwelling, ancillary accommodation and outbuildings. Erection of a single dwelling, and ancillary accommodation with associated hard and soft landscaping.

Site Hove To Smugglers Lane Bosham PO18 8QP

Map Ref (E) 481218 (N) 101955

Applicant Mr Simon Morse

RECOMMENDATION TO PERMIT



	<p>NOT TO SCALE</p>	<p>Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803</p>
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1.0 Reason for Committee Referral

Parish Council objection - Officer recommends permit

2.0 The Site and Surroundings

- 2.1 The application site lies on the southern side of Smugglers Lane adjacent to Chichester Harbour. The site is located outside of any built up area boundary, with the nearest being Bosham which is 2km to the north of the application site. The application site forms part of a row of residential properties along the southern side of Smugglers Lane, with a further two dwellings on the northern side opposite the application site. Further to the north is flat, open agricultural land. The dwellings along Smugglers Lane vary in style and design, the majority of which are detached, within large plots. Along the northern boundary of the site there are a number of protected trees. The southern part of the site is located within Flood Zone 3, however the existing dwelling is not.
- 2.2 The existing dwelling was built in 1998 and is a two storey H-shaped dwelling. The main roof features half-hipped ends to east and west with four hipped roofs on projections at a lower ridge height to the north and south elevations. The ground floor is finished with a white painted render, red brick banding and dark varnished window-frames. The existing dwelling is similar in scale to neighbouring dwellings.

3.0 The Proposal

- 3.1 The application seeks planning permission to demolish the existing dwelling and ancillary accommodation and to erect a single dwelling and ancillary accommodation. There would be two elements of the proposal, the main dwelling which would be two storeys and a single storey, flat roof element which is proposed for ancillary accommodation, which would be linked to the main dwelling.
- 3.2 The main dwelling would measure approximately 10 metres in width, 25 metres in depth with a ridge height of 8.2 and an eaves height of approximately 3.5 metres. The single storey annex building would measure approximately 6.6 metres in width, 22 metres in depth with a height of 3 metres, while the link extension would measure approximately 6 metres in width, 2.3 metres in depth with a height of 3 metres.
- 3.3 The main dwelling would comprise of four bedrooms at first floor level with a living room plus open plan kitchen, dining and living room at ground floor level. The ancillary accommodation would be formed of two bedrooms and an open plan kitchen, living and dining area. The ancillary accommodation would be linked by a single storey flat roof, glazed and flint element.

4.0 History

00/02610/DOM	PER	Replacing solid timber door to rear wall of outbuilding with timber frame double bi-folding glazing door. Installing circular window above.
00/02611/DOM	PER	Remove plastic sheeted pitched roof to conservatory and form extension to the existing bedroom balcony. Extend timber and glass railings.
02/00602/TPO	PER	Felling of 16 no. Elm trees.
81/000120/BO	PER	Dwelling with garage.
81/00090/BO	REF	Dwelling, garage and boathouse
79/00078/BO	ALLOW	Renewal - dwelling
74/00075/BO	PER	Renewal - dwelling
75/00056/BO	PER	Re-instatement after fire
87/00168/BO	ALLOW	Alterations to convert garage to living accommodation
97/02804/FUL	PER	Demolition of existing property and construction of new replacement dwelling.
99/00487/DOM	PER	Erection of dwelling-unit for occupation incidental to main dwelling.
06/04709/DOM	PER	Retention of timber summer/pool chalet.
09/03878/DOM	PER	Erection of children's timber climbing frame.
10/01667/TPA	PER	Crown reduce by 25% 1 no. Oak tree (marked on plan as T1), crown reduce by 25% and remove lowest branch at 2m on south sector at 2m on 1 no. Oak tree (marked on plan as T2). Cut back to previous pruning points and crown raise to clear highway (north sector) on 5 no. Oak trees (marked on plan as T3 - T7). All 7 no. trees are within Area, A4 subject to BO/81/00058/TPO.
11/00765/DOM	REF	Removal of existing roof from chalet style bungalow, construction of first floor and replacement roof above. Extension to swimming pool to be retained within existing decked area.

11/02471/DOM	REF	Removal of existing roof from chalet style bungalow, construction of first floor and replacement roof above. Extension to swimming pool to be retained within existing decked area.
12/03567/DOM	REF	Construction of infill extensions at ground floor level to form sun room and entrance hall, construction of porch and construction of first floor extension together with roof alterations.
13/00272/DOM	PER	Alterations to existing dwelling.
13/03282/DOM	PER	Alterations to plans and elevations permitted under application 13/00272/DOM.
16/02940/PRE	PRE	Demolition of dwelling and outbuildings and erection of 2 no. dwellings.
11/00103/REF	ALLDIS	Removal of existing roof from chalet style bungalow, construction of first floor and replacement roof above. Extension to swimming pool to be retained within existing decked area.

5.0 **Constraints**

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	YES
Strategic Gap	NO
Tree Preservation Order	YES
EA Flood Zone	NO
- Flood Zone 2	YES
- Flood Zone 3	YES
Historic Parks and Gardens	NO

6.0 **Representations and Consultations**

6.1 **Parish Council**

27/09/2018

Object: Whilst we welcome the reduction in the height of the ancillary dwelling; our previous objection regarding the potential to form two dwellings still remains and therefore Bosham Parish Council objects to this application.

27/08/2017

Object: Bosham Parish Council feels that the ancillary building has all the merits of a second dwelling and is not sensitively cited in respect of the street scene and its ancillary nature. Should the ancillary dwelling be cited to the north and closer to the main dwelling the scheme would appear more cohesive and less intrusive to the neighbour to the west.

6.2 WSCC Highways

Summary

The proposal is for the demolition of the existing dwelling and ancillary dwelling and outbuildings and the erection of a single dwelling and ancillary dwelling. The proposal is sited on Smugglers Lane; a D classified, single lane rural residential road subject to 30mph speed restrictions. At the point of access onto Smugglers Lane from the existing accesses there have been no highways accidents or personal injury claims to flag an existing highways safety concern in this location.

Access

The two accesses proposed for use within this development are an existing arrangement on Smugglers Lane. The Eastern access provides a direct access to Hove To where ample parking and turning space exists. The second access is currently in use by neighbouring property Little Dolphin. The Local Planning Authority may wish to ensure that ownership rights are ascertained prior to any planning consent being granted at this location regarding the second access proposed to serve the ancillary dwelling.

The established accesses however do appear to be functioning with no highways safety concerns. Visibility appears sufficient for the likely road speeds in this location and as the proposal is not anticipated to generate a material change in the frequency of vehicular trips made, would also appear suitable for the proposed use.

Parking

There are no initial concerns with the indicative layout. This is considered suitable as this will be a low speed, low traffic environment. The parking allocation is in accordance with the demand from the WSCC PDC (Parking Demand Calculator). From checking this and based on the proposed mix and tenure of the dwellings, the car parking provision is anticipated to satisfy the likely demands.

The vehicular parking spaces should be 2.4m x 4.8m in order to suitably cater for an average size vehicle. Garage spaces are to have internal measurements of 3m x 6m for an average sized vehicle to be stored and cycle parking to be included. The LHA advises that a cycle storage condition is sealed on any approval of this application for both dwellings.

Capacity

There will be no material increase in traffic movements over the existing use. In addition there are no known capacity and congestion issues within the immediate vicinity of the site. From a capacity perspective we are satisfied the proposal for an additional two dwellings will not have a severe residual impact.

Conclusion

The LHA does not consider that the proposal would have a 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (para 32), and that there are no transport grounds to resist the proposal. Should the LPA be minded to approve this proposal, the following should be sealed via condition.

6.3 Natural England

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

6.4 Chichester Harbour Conservancy

Original Proposals

Object:

The increase in footprint and silhouette are within the Joint CHAONB tolerances and could comfortably be accommodated on this large plot.

What is troubling though is the agent's use of the term 'ancillary dwelling' throughout the design and access statement and on the submitted plans. I have written to the agent (copied to the council) asking that documentation and plans be re-issued changing this phrase to 'residential annexe'. This would be to avoid any confusion going forward that only ONE replacement dwelling is being considered by the local planning authority.

The applicant commissioned two bat surveys in May 2017. These did not reveal the presence of roosting bats within any of the onsite buildings. Bat foraging comprised mainly common pipistrelle and recommendations for sensitive lighting and replacement roosting features in the new property have been proposed.

A tree report has been submitted. The applicant intends to retain front boundary trees which are covered by a Tree Preservation Order (81/00058/TPO). One weeping willow tree (see below) to the Harbourside is to be removed. This is said to be in poor structural condition but fair physiological condition.

Another weeping willow (see below) in front of the existing dwelling is also to be removed. Whereas the latter would seem necessary to accommodate the new building footprint, the former would only seem to be being removed to open up visibility of the creek. Paragraph 7.4 of the agent's design and access statement glosses over this loss to the landscape and does not propose replacement planting, which does not fit with the need to conserve and enhance the AONB.

No issue is taken with the materials palette - (Flintwork, stone and natural timber shingles for the roof) - and architectural styling per se, given the variety of architectural styles in the street. The size of built form has decreased since the pre-application enquiry, only one chimney feature remains and the 'linked wing' is definitely subordinate to the ridge height of the main wing.

What remains troubling though is the potential to form two dwellings where only one has existed and the loss of the harbourside weeping willow, for no particular sound arboricultural reason and no replacement planting being offered either.

I consider the Conservancy should maintain an objection until these two issues are bottomed out.

6.4 Third Party Representations

One Third Party letter of objection was received relating to the original proposal concerning:

- The ancillary accommodation could become a second dwelling.

7.0 Planning Policy

The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans. There is no made neighbourhood plan for Chichester at this time.
- 7.2 The principal planning policies relevant to the consideration of this application are as follows:

Chichester Local Plan: Key Policies 2014-2029

Policy 1: Presumption in Favour of Sustainable Development
Policy 2: Development Strategy and Settlement Hierarchy
Policy 8: Transport and Accessibility
Policy 33: New Residential Development
Policy 39: Transport, Accessibility and Parking
Policy 40: Sustainable Design and Construction
Policy 42: Flood Risk and Water Management
Policy 43: Chichester Harbour Area of Outstanding Natural Beauty (AONB)
Policy 47: Heritage and design
Policy 48: Natural Environment
Policy 49: Biodiversity
Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours
Special Protection Areas

National Policy and Guidance

- 7.3 Government planning policy now comprises the National Planning Policy Framework (NPPF), paragraph 11 of which states:

At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking:

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or
d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.4 Consideration should also be given to sections 12 (Achieving well-designed places), 14 (Meeting the challenge of climate change, flooding and coastal change), and 15 (Conserving and enhancing the natural environment) which are also relevant to this case.

Other Local Policy and Guidance

7.6 The following documents material to the determination of this planning application:

- Planning Obligations and Affordable Housing SPD
- CDC PGN3: Design Guidelines for Alterations to Dwellings and Extensions
- CDC Waste Storage and Collection Guidance
- Joint Chichester Harbour AONB SPD 2017

The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 The main issues arising from this proposal are:

- i. Principle of the development
- ii. Impacts on visual amenities and character of the AONB
- iii. Impacts on the amenities of neighbouring properties
- iv. Highway safety and parking
- v. Ecological considerations
- vi. Surface/foul water and flooding
- vii. Trees

i) Principle of the development

8.2 The site is located outside of any designated Settlement Boundary and therefore within the countryside where new residential development is strictly controlled. The application proposes to demolish the existing dwelling and ancillary accommodation and the construction of a replacement dwelling with linked ancillary accommodation. A replacement dwelling within the countryside is acceptable in principle, and the application has been amended since its submission resulting in a reduction to the

size and scale of the ancillary accommodation. The applicant's agent has advised a condition restricting the accommodation to be ancillary to the main dwelling would be acceptable.

8.3 The proposed ancillary accommodation would be physically linked and in close proximity to the main part of the dwelling. The plans have been amended during the course of the application so that the additional accommodation is described as an annex; in accordance with the suggestion of the Chichester Harbour Conservancy. The proposal would therefore not result in a second dwelling on the site, which would be a concern in this rural location. Rather, the application proposes a replacement dwelling on a 1 for 1 basis with an annex to replace the existing annex accommodation. Therefore the principle of the proposed development is considered acceptable.

ii) Impacts on visual amenities and character of the AONB

8.4 Policy 33 of the CLP refers to new residential development and sets out that proposals must meet the highest standards of design and a high quality living environment in keeping with the character to the surrounding area and its setting in the landscape; In addition that its scale, form, massing and siting, height and design respects and enhances the character of the surrounding area and site. In addition policy 43 sets out clear parameters about the extent of development likely to be acceptable, including limits on any increase to footprint or silhouette when replacement dwellings are proposed within the Chichester Harbour AONB.

8.5 The application has been amended since its original submission, reducing the scale, both in terms of accommodation and built form of the proposed ancillary accommodation. The existing dwelling has a ridge height of 7 metres, eaves of 3.5 metres with a width of 15 metres and is of an 'H' shape. The main roof features half-hipped ends to east and west with four hipped roofs on projections at a lower ridge height to the north and south elevations. The proposed main dwelling would have a ridge height of 8.2 metres, which is higher than the existing, however when viewed from Smugglers Lane, the width of the two storey massing of the building would appear reduced in comparison to the existing dwelling as a result of the orientation and roof pitch of the proposed dwelling. The link element would be a continuation of the front elevation of the main dwelling, and whilst glazed to the south elevation, when viewed from Smugglers Lane it would read as a flint wall linking the dwelling to the annex. The ancillary accommodation would project forward of the main dwelling and link, however its massing would be minimised by the flat roof design incorporating a sedum roof. It is considered that the resultant development would reflect the overall character of Smugglers Lane which has a variety of large dwellings, some with annexes, set within large plots.

8.5 The main dwelling which would be two storeys with a dual pitched roof and low eaves, resulting in a narrower building facing Smugglers Lane than the existing dwelling. From Smugglers Lane, the ancillary accommodation would be read as the garage for the main dwelling. The reduction in massing of the ancillary accommodation to a flat roof single storey building together with the link wall, results in the two elements being read as the same development albeit that the two storey element is the main part of the dwelling. The Harbour Conservancy has confirmed

that the proposed dwelling in respect of its footprint and silhouette would meet the requirements of the Chichester Harbour Design SPD.

- 8.6 The pattern of development on the southern side of Smugglers Lane is of large dwellings set back from the road with gaps between the dwelling of no set distance and broadly in line. The proposed dwelling would reinforce this pattern, being set in from the boundaries of the site and in line with the surrounding pattern of development.
- 8.7 Smugglers Lane has a mixture of styles and design of dwellings using a range of materials including, render, brick, timber and slate. The application proposes a contemporary design, using flint, metal sheeting, timber and a green sedum roof. The proposed design is considered to be of a high standard particularly in comparison to the existing dwelling. Given the spectrum of design and materials along Smugglers Lane, the proposal is considered acceptable in this regard, and the Harbour Conservancy has also confirmed that the pallet of materials would be appropriate for the location.
- 8.8 It is considered that the proposals would respect the visual character and appearance of the locality and would not result in harm to the street scene or the scenic beauty of the Chichester Harbour AONB. Therefore, it is considered that the development would comply with NPPF section 12 and 15, Chichester Local Plan policies 2, 33, 43 and 47.

iii) Impacts on neighbouring amenities

- 8.9 Policy 33 of the Chichester Local Plan seeks to ensure a good quality of amenity for all existing and future occupiers of land and buildings. The nearest properties in this case are Little Dolphin to the west of the application site, and West Dean to the east.
- 8.10 The application has been amended since its submission, reducing the scale of the ancillary accommodation, removing side dormers and re-siting the development further away from the boundaries of the site.
- 8.11 The ancillary accommodation would be 12 metres from Little Dolphin to the west. Given the ancillary accommodation would be single storey with a flat roof. It is considered the proposal would not have a significant detrimental impact on the amenity of Little Dolphin by either overbearing or from overlooking.
- 8.12 The main part of the dwelling would, at its closest point, 5 metres from the neighbouring dwelling of West Dean. At this closest point, the window at first floor level is a bathroom, with a chimney breast link to this part of the building with glazing. No other windows are proposed at this corner of the building. The two other windows on this elevation serve a staircase and an en-suite. This, subject to condition would be secured to be obscurely glazed. It is therefore considered the proposal would not result in overlooking. The eaves of the dwelling would be 3.5 metres in height. Given the set back from the boundary and the siting of the dwelling, it is considered the proposal would not result in an overbearing impact to the West Dean.
- 8.13 For the reasons outlined above it is considered that the development complies with the requirements of the NPPF and policy 33 of the current CLP.

iv) Highway safety and parking

8.14 WSCC Highways were consulted on the application, and subject to conditions relating to car parking spaces and cycle parking to be provided prior to occupation no objection was raised. The application proposes a replacement dwelling on a 1 for 1 basis; therefore there would not be a material increase in the car parking space or traffic flow. The area to the front of the dwelling is considered sufficient to accommodate the level of parking required given the size of the dwelling, and therefore the proposal would accord with policy 39 of the CLP.

v) Ecological considerations

8.15 Policy 50 of the Chichester Local Plan states that it is Natural England advise that all net increase in residential development within the 5.6km 'Zone of Influence' are likely to have a significant effect on the Chichester and Langstone Harbours SPA either alone or in combination with other developments and will need to be subject to the provisions of Regulation 61 of the Conservation of Habitats and Species Regulations 2010. The Case Officer has carried out a Habitats Regulations Assessment Screening Opinion and as the proposal does not result in an net increase of residential development the development would not result in a significant effect on the SPA.

8.16 A Preliminary Ecological Assessment has been carried out and submitted with the application. The assessment demonstrates that there are no protected species that would be impacted upon by the proposal. However, measures should be taken during construction to minimise the impact upon wintering birds, the creek adjacent to the site and also breeding birds, plus any external lighting should be designed to minimise the impact upon foraging/commuting bats and replacement roosting features should be provided within the new property. Conditions are recommended to ensure that the proposed measures are implemented to safeguard protected species and biodiversity. It is therefore considered that the proposal would accord with policy 48 of the CLP in this respect.

vi) Surface/foul water and flooding

8.17 The application site is located within Flood Zone 3, however the replacement dwelling would be located within Flood Zone 1. Paragraph 6.3 of the submitted Drainage Statement states that ground floor levels will be set no lower than 4.65 m AOD in order to offer security against internal flooding during a severe 1 in 200 year storm surge. It is recommended to secure this by condition.

8.18 With regard to water management the application seeks to replace an existing dwelling, which is connected to the main sewage system for foul and a soakaway for surface. It is proposed to continue this for the new dwelling, and this is considered to be acceptable. The proposal would therefore accord with policy 42 of the CLP.

vii) Trees

8.19 A group TPO is located towards the north of the site and as such a Tree Report and Impact assessment has been submitted. This report makes a number of

recommendations to ensure the trees are not damaged during the construction of the new dwelling. It is recommended a condition is imposed securing the protection measures of in place during the construction of the dwelling. Concerns have been raised with regards to the loss of a willow tree that is located to the south of the existing dwelling on the site, and therefore it is visible from harbour. The tree is not currently protected, and the tree has been inspected by the Council's tree officer and it has been confirmed that the tree is not worthy of a preservation order. As such, the tree could be removed without the need for consent from the Local Planning Authority whether the proposed development takes place or not. Therefore it is considered that it would not be reasonable to resist the application based on the loss of the willow tree. It is however recommended that a condition be imposed requiring the removal of any vegetation to be carried out outside of the bird nesting season.

Conclusion

8.20 It is considered that the proposal would respect the character and quality of the site and surroundings and the scenic beauty of the AONB, and it would not be detrimental to the amenity of neighbouring properties and private gardens. Furthermore the proposal would not The proposal accords with national and local planning policies and therefore, this application is recommended for approval.

Human Rights

8.21 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to refuse/permit is justified and proportionate.

RECOMMENDATION

PERMIT subject to the following conditions and informatives:-

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall not be carried out other than in accordance with the approved plans:

JA12_P_AL_004, JA12_E_W_002, JA12_E_S_002, JA12_E_N_002,
JA12_E_E_002, JA12_P_00_002, JC20_P_AL_001, G200_E_E_001 REV A,
G200_E_N_001 REV A, G200_E_S_001 REV A, G200_E_W_001 REV A,
G200_P_00_001 REV C, G200_P_01_001 REV B, G200_P_RF_001 REV B

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

3) No development shall commence on site, including demolition, until protective fencing has been erected around all trees, shrubs and other natural features not scheduled for removal in accordance with the submitted Tree Survey Arboricultural Impact Assessment & Method Statement and recommendations of BS5837:2012. Thereafter the protective fencing shall be retained for the duration of the works, unless otherwise agreed in writing by the Local Planning Authority. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area; soil levels within the root protection area of the trees/hedgerows to be retained shall not be raised or lowered, and there shall be no burning of materials where it could cause damage to any tree or tree group to be retained on the site or on land adjoining at any time.

Reason: To ensure that trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability. It is considered necessary for this to be a pre-commencement condition as these details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

4) Notwithstanding any details submitted **no development/works shall commence** until a full schedule of all materials and finishes and samples of such materials and finishes to be used for external walls and roofs of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule of materials and finishes unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of amenity and to ensure a development of visual quality. It is considered necessary for this to be a pre-commencement condition as such details need to be taken into account in the construction of the development and thus go to the heart of the planning permission.

5) Nothing in this permission shall authorise the felling, lopping, topping or uplifting of any tree on the site protected by a Tree Preservation Order **other than** as specified on the submitted application documents.

Reason: To clarify the extent of this permission.

6) No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use

7) No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

8) The development hereby permitted shall be carried out in strict accordance with the approved Site Specific Drainage Statement with Flood Risk Assessment produced by Archibald Shaw and the measures outside within paragraph 5 of the report following mitigation measures detailed within the report. **The mitigation measures shall be fully implemented prior to occupation** and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Local Planning Authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

9) **No development shall commence until** a strategy outlining details of the sustainable design and construction for all new buildings, including water use, building for life standards, sustainable building techniques and technology, energy consumption maximising renewable resources, and how a reduction in the impacts associated with traffic or pollution will be achieved including but not limited to charging electric vehicles, has been submitted to and approved in writing by the Local Planning Authority. The strategy shall demonstrate a water efficiency standard of 110 litres or less per person per day. The approved strategy shall be implemented as approved prior to first occupation unless any variation is agreed in writing by the Local Planning Authority.

Reason: To minimise the impact of the development upon climate change. These details need to be agreed prior to the construction of the development and thus go to the heart of the planning permission.

10) The implementation of this planning permission shall be carried out strictly in accordance with the method of works and mitigation measures detailed in the recommendations section of the submitted Ecological Assessment dated 1st June 2017 produced by ECOSA Ltd.

Reason: To ensure that the protection of ecology and/or biodiversity is fully taken into account during the construction process in order to ensure the development will not be detrimental to the maintenance of the species.

11) The development hereby permitted shall be carried out in strict accordance with the approved Tree Survey and Arboricultural Impact Assessment and Method Statement dated December 2016 produced by Arbortech (Consultancy).

Reason: To ensure that the trees on and around the site are adequately protected from damage to their health and /or amenity value.

12) Notwithstanding the details hereby approved, prior to the installation of any external lighting, a scheme with details of their location, direction of light and level of illumination shall be submitted and approved in writing by the Local Planning

Authority. The scheme shall include measure to avoid light spillage and to mitigate the impact upon foraging and commuting bats. The scheme approved by the Local Planning Authority shall be implemented in accordance with the approved details and thereafter maintained as approved in perpetuity.

Reason: To protect the appearance of the area, the environment and local residents from light pollution and in the interests of preserving the nature conservation interests of the area.

13) The development hereby permitted shall not be first brought into use until a fully detailed landscape and planting scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities, and for large scale developments shall include a program for the provision of the landscaping. In addition all existing trees and hedgerows on the land shall be indicated including details of any to be retained, together with measures for their protection in the course of development. The scheme shall make particular provision for the conservation and enhancement of biodiversity on the application site. The works shall be carried out in accordance with the approved details and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. The approved scheme shall be carried out in the first planting season after practical completion or first occupation of the development, whichever is earlier, unless otherwise first agreed in writing by the Local Planning Authority. Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the locality and to enable proper consideration to be given to the impact of the proposed development on existing trees.

INFORMATIVES

1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2) The developer's attention is drawn to the provisions of the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994, and to other wildlife legislation (for example Protection of Badgers Act 1992, Wild Mammals Protection Act 1996). These make it an offence to kill or injure any wild bird intentionally, damage or destroy the nest of any wild bird intentionally (when the nest is being built or is in use), disturb, damage or destroy and place which certain wild animals use for shelter (including badgers and all bats and certain moths, otters, water voles and dormice), kill or injure certain reptiles and amphibians (including

adders, grass snakes, common lizards, slow-worms, Great Crested newts, Natterjack toads, smooth snakes and sand lizards), and kill, injure or disturb a bat or damage their shelter or breeding site. Leaflets on these and other protected species are available free of charge from Natural England.

The onus is therefore on you to ascertain whether any such species are present on site, before works commence. If such species are found or you suspected, you must contact Natural England (at: Natural England, Sussex and Surrey Team, Phoenix House, 32-33 North Street, Lewes, East Sussex, BN7 2PH, 01273 476595, sussex.surrey@english-nature.org.uk) for advice. For nesting birds, you should delay works until after the nesting season (1 March to 31 August).

For further information on this application please contact Daniel Power on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OT8COHERIK000>

Parish: Birdham	Ward: West Wittering
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BI/18/02049/ADV

Proposal 1 no. non-illuminated freestanding entrance sign.

Site Birdham Pool The Causeway Birdham Chichester West Sussex PO20 7BG

Map Ref (E) 482420 (N) 100963

Applicant Birdham Pool Ltd

RECOMMENDATION TO PERMIT



	<p>NOT TO SCALE</p>	<p>Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803</p>
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1.0 Reason for Committee Referral

1.1 Parish Council Objection – Officer recommends Permit.

2.0 The Site and Surroundings

2.1 The application site is a small, triangular shaped area of grass at the entrance to the marina and boatyard at Birdham Pool; accessed from Court Barn Lane. The site is within the Chichester Harbour Area of Outstanding Natural Beauty (AONB) and outside the settlement boundary for Birdham, which lies approximately 0.4km to the south. The site is also located within an area of Advertisement Control. There are a number of buildings, boat yard businesses, and a small number of dwellings in and around the marina. Court Barn Lane is a private road, however it is also a public footpath which intersects with a second footpath at the entrance to the marina.

3.0 Proposal

3.1 The application seeks retrospective consent to erect a single freestanding, non-illuminated sign at the entrance to the marina on a grass verge. The sign comprises an aluminium face with a timber back, frame and stakes. Dimensions are as follows:
2.2m wide x 1.5m high x 0.15m deep x 0.3m above ground.

4.0 History

13/00316/FUL	REF	Conversion of building to 4 no. dwellings, replacement workshop building, re-arrangement of existing boatyard. Installation of replacement modern crane. Re-arrangement of existing marina layout. Relocation of marina office.
15/01747/NMA	PER	Non-material amendment to planning permission BI/13/00316/FUL (APPEAL REF: APP/L3815/A/14/2226737). Existing eaves lifted by 500mm by making small change to roof pitch, internal layout change and minor alterations to positioning of doors and windows primarily on north (inward facing) elevation.
15/03462/DOC	DISCHA	Discharge of Conditions 15 and 16 of planning permission BI/13/00136/FUL - Site Investigation and Lighting.
15/03463/DOC	DISCHA	Discharge of Condition 3 of planning permission BI/13/00316/FUL - Schedule of Materials and Finishes.
15/03464/DOC	REF	Discharge of Condition 4 of planning permission BI/13/00316/FUL - Windows and doors details.

15/03465/DOC	DISCHA	Discharge of Condition 5 of planning permission BI/13/00316/FUL - Gates, screen, walls and gates.
15/03916/DOC	DISCHA	Discharge of condition 10 from planning permission BI/13/00316/FUL.
15/04114/FUL	PER	Erection of a replacement crane in connection with the operation of the existing marina.
15/04213/DOC	DOCDEC	Discharge of conditions 20 and 21 of permission BI/13/00136/FUL (Appeal APP/L3815/A/14/2226737).
16/00742/DOC	DISCHA	Discharge of conditions relating to BI/13/00136/FUL, condition 11.
16/00906/DOC	DISCHA	Discharge of condition 12 from planning permission BI/13/00316/FUL.
16/02034/FUL	PER	Refurbishment to building 5 and alterations to parking layout.
16/02637/FUL	PER	Variation of conditions 2 and 5 of permission BI/13/00316/FUL - remove 2 no. gates.
16/02743/FUL	PER	Engineering operation including dredging of high spots of silt within the new marina basin extension area (granted under 13/00316/FUL and Appeal APP/L3815/A/14/2226737) and deposit dredged silt behind new revetment, levelled to just above water level to create new wetland area.
17/02939/FUL	PER	Retrospective log cabin (retrospective).
14/00054/REF	ALLOW	Conversion of building to 4 no. dwellings, replacement workshop building, re-arrangement of existing boatyard. Installation of replacement modern crane. Re-arrangement of existing marina layout. Relocation of marina office.

5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	YES
Historic Parks and Gardens	NO

6.0 Representations and Consultations

6.1 Parish Council

The Parish Council objects to this application as it considers the introduction of yet another sign within the AONB as a further intrusion into the visual amenity of the area.

6.2 Chichester Harbour Conservancy

Chichester Harbour Conservancy Recommendation - No Objection

Thank you for consulting The Conservancy concerning the above planning submission. In its role in managing the Chichester Harbour Area of Outstanding Natural beauty (AONB), The Conservancy has considered the submitted proposal against the Conservancy's planning guidance and principles (including The Chichester Harbour Management Plan (2014-2019), and the Chichester Harbour Planning Principles (version 1.1 July 2017).

Under the Chichester Harbour Conservancy fully delegated officer decision process, the Local Planning Authority (LPA) is hereby advised that the Conservancy has no objection to the above application. Should the LPA be mindful to grant advertisement consent planning permission, the Conservancy suggests that the following stipulations are applied:
- No illumination from other sources is applied to the signage (e.g. up-lighters etc.)

6.3 Third Party Representations

Two third party letters of objection have been received concerning the following;

- a) Out of keeping with area / visual amenity;
- b) Detrimental impact on AONB;
- c) Design, appearance and materials are inappropriate;
- d) Too large and prominent;
- e) Not necessary for directional purposes;
- f) Application is retrospective; and
- g) No site notice / publication.

7.0 Planning Policy

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans. The Neighbourhood Plan for Birdham was made on the 19 July 2016.

Chichester Local Plan: Key Policies 2014-2029

7.2 The principal planning policies relevant to the consideration of this application are as follows:

- Policy 1: Presumption in Favour of Sustainable Development
- Policy 43: Chichester Harbour AONB
- Policy 45: Development in the Countryside
- Policy 47: Heritage and Design

Birdham Parish Neighbourhood Plan

7.3 The following policies are relevant:

- Policy 1 – Heritage Assets & Their Setting
- Policy 15 – Rural Area Policy

National Policy and Guidance

7.4 Government planning policy now comprises the National Planning Policy Framework (NPPF) 2018. Paragraphs 10 and 11 state:

So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development...

...For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

7.5 Consideration should also be given to sections 6 (economy), 12 (achieving well designed places) and 15 (Conserving and enhancing the natural environment) of the NPPF.

Other Local Policy and Guidance

7.6 The following documents are also relevant:

- Joint Chichester Harbour AONB SPD 2017
- Chichester Harbour AONB Management Plan 2014-2019

7.7 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 Advertisement applications must be considered in accordance with The Town and Country Planning (Control of Advertisements) (England) Regulations 2007. These regulations allow the LPA to consider amenity and public safety; taking into account the development plan, so far as they are material, and any other relevant factors. Factors relevant to

amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. Factors relevant to public safety include the safety of persons using any highway, whether the display of the advertisement in question is likely to obscure, or hinder the ready interpretation of any traffic sign, and whether the display of the advertisement in question is likely to hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

8.2 The main considerations are as follows:

- i) Design and impact on amenity
- ii) Impact on public safety
- iii) Other matters and material considerations

i) Design and Amenity

8.3 The sign is required for directional purposes and is sited at the entrance to the site, within a grass verge and in front of a tree. The siting is considered to be appropriate for the sign. With regards to the scale and design, the overall size is not excessive given the context of the surrounding area and the nature of the sign in terms of being read by incoming vehicles. The sign comprising an aluminium panel with applied lettering surrounded by timber housing and border with timber supporting posts is deemed to be appropriate in terms of the materials proposed within the countryside and the AONB.

8.4 As this application is retrospective, it is possible to see the full impact the sign has in situ, and there are not considered to be any material detrimental impacts on the surrounding AONB or countryside. The sign is not illuminated and would not impact on the amenity of neighbouring residents or uses. It should be noted that entrances to other marinas in the district have similar signage.

8.5 The proposal is therefore deemed to be of an appropriate scale and design in terms of visual and public amenity, and by reason of its siting at the entrance to the marina it would conserve the scenic beauty and character of the AONB and surrounding countryside. The proposal therefore accords with Policies 43, 45 and 47 of the Local Plan and policies 4 and 15 of the Birdham Neighbourhood Plan.

ii) Public Safety

8.6 In this case, the factors relevant to public safety include the safety of persons using any highway. In this regard, the signage would be positioned on a grass verge at the entrance to the site, and as such would not cause harm to those users of the highway including the pavement; rather the sign provides directional aide to highway users. Furthermore, the signage would not be likely to obscure or hinder the interpretation of any traffic sign, or hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle. The proposal is therefore considered to be appropriate with regards to highway and public safety. The proposal therefore accords with policy 39 of the Local Plan.

iii) Other matters and material considerations

- 8.7 A total of two public comments were received, objecting to the proposals, in addition to an objection comment from the Parish Council. Many of the issues raised within these objection comments relate to the scale, design, prominence, appearance, and necessity of the sign, and its impact on the AONB. These considerations have been addressed above, and the signage is deemed to be acceptable in these regards.
- 8.8 Additionally, comments referred to the application being retrospective, and a lack of publication or site notice being displayed. The retrospective nature of the application is not relevant to the consideration of the merits of the proposals. With regards to publication, neighbouring properties were notified via letter, details have been published online, and the Parish Council was consulted. There is no statutory requirement to display a site notice for Advertisement Consent Applications generally, nor is there a statutory requirement to display a site notice in addition to neighbour notifications. Therefore, the level of publication is judged to be adequate and in accordance with national and local requirements.

Conclusion

- 8.10 The proposal is considered to be in accordance with the Advertisement Regulations, in addition to local and national development plans and guidance; and is therefore acceptable.

Human rights

- 8.11 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to permit is justified and proportionate

RECOMMENDATION

PERMIT subject to the following conditions and informatives:-

1) The works associated with the display of the advertisement(s) hereby permitted shall not be carried out other than in accordance with the approved plans: BRS.5534-19 Rev 1, BRS.5534-18 Rev 1, BRS.5534-17 Rev 1, and BRS.5534-14 Rev 1.

Reason: For clarity and in the interest of proper planning.

2) The signage hereby permitted shall retain the materials as existing, and as specified within the application form and plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that a harmonious visual relationship is achieved between the new and the existing developments.

INFORMATIVES

1) The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2) This application does not consent any method of illumination or lighting scheme for the approved signage. Any methods of illumination would require a separate advertisement consent application.

For further information on this application please contact James Gellini on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PD6OXKERI9K00>

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 at 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

- 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 provides 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.

11.0 Crime and Disorder Implications

11.1 It is considered that the proposal does not raise any crime and disorder implications.

12.0 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.

13.0 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.

14.0 Proactive Working

14.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

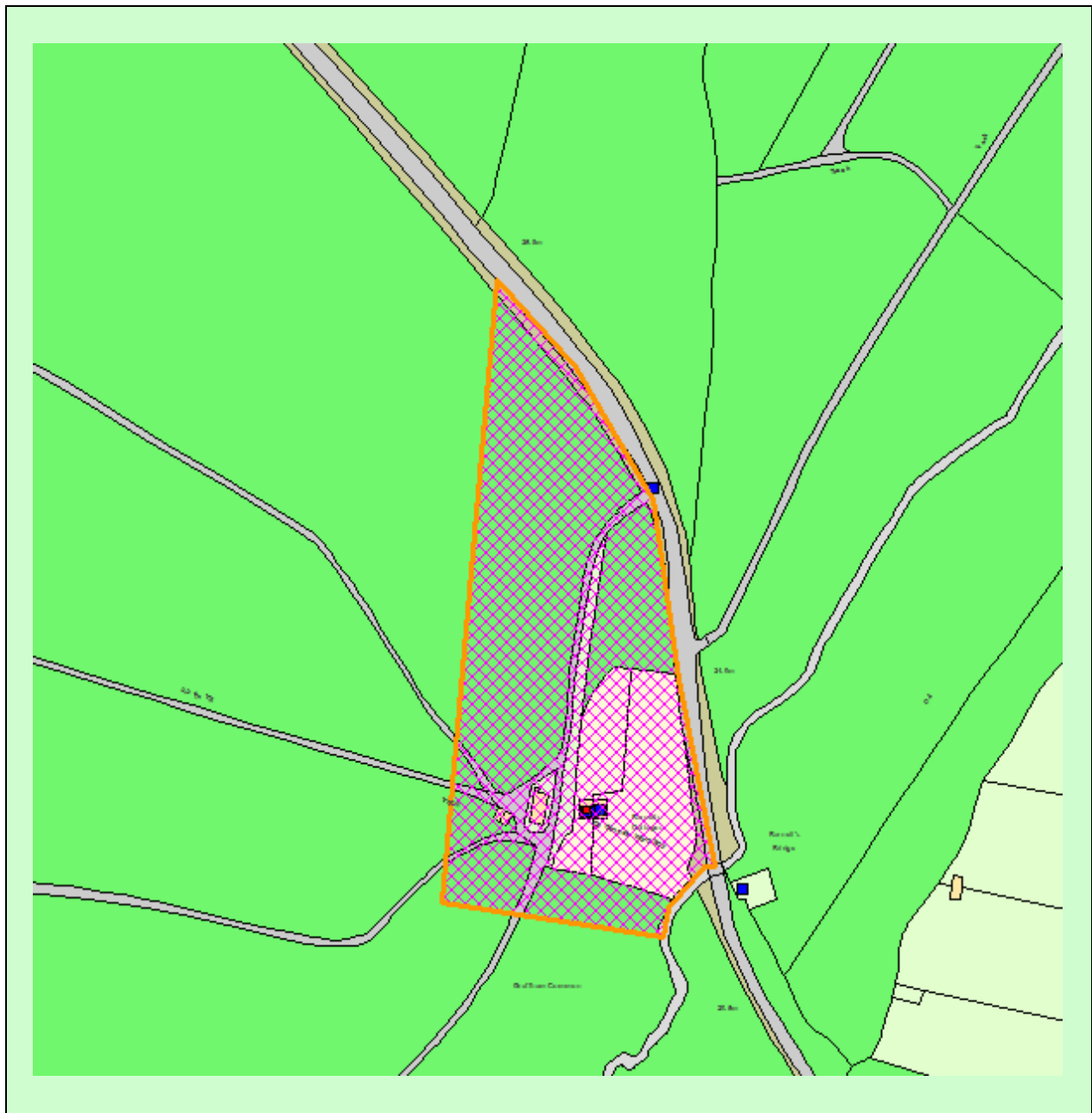
Tim Slaney
Director of Planning
South Downs National Park Authority

Contact Officer: John Saunders
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Appendices Appendix 1 - Site Location Map
 Appendix 2 – Plans Referred to in Consideration of this Application

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.

Chichester District Council

Planning Committee

Tuesday 17 October 2018

Report of the Director Of Planning and Environment Services

Schedule of Planning Appeals, Court and Policy Matters

This report updates Planning Committee members on current appeals and other matters. It would be of assistance if specific questions on individual cases could be directed to officers in advance of the meeting.

Note for public viewing via Chichester District Council web site To read each file in detail, including the full appeal decision when it is issued, click on the reference number (NB certain enforcement cases are not open for public inspection, but you will be able to see the key papers via the automatic link to the Planning Inspectorate).

* - Committee level decision.

1. NEW APPEALS

Reference/Procedure	Proposal
16/00229/CONCOU Birdham Parish Case Officer: Steven Pattie Informal Hearing	Kellys Farm Bell Lane Birdham Chichester West Sussex PO20 7HY - Appeal against change of use of the land to mixed use as a horticultural nursery and operation of a car wash business.
17/01382/FUL Birdham Parish Case Officer: Shona Archer Informal Hearing	Plot 12 Land To The Rear Of Premier Business Park Main Road Appledram West Sussex - Retrospective application for single pitch for gypsy occupation comprising touring caravan, hardstanding and provision of static mobile home.
18/00525/ADV Chichester Parish Case Officer: Vicki Baker Written Representation	Unit 1 Portfield Way Chichester PO19 7YH - 2 no. double sided internally illuminated post signs.

Reference/Procedure	Proposal
<p data-bbox="197 230 416 264">17/02563/DOM</p> <p data-bbox="197 271 437 304">Fernhurst Parish</p> <p data-bbox="197 367 587 400">Case Officer: James Gellini</p> <p data-bbox="197 434 552 468">Written Representation</p>	<p data-bbox="638 230 1406 304">Stedlands Farm Bell Vale Lane Fernhurst GU27 3DJ - Proposed two storey rear extension.</p>
<p data-bbox="197 526 507 560">SDNP/17/02666/OUT</p> <p data-bbox="197 566 564 600">Fittleworth Parish Council</p> <p data-bbox="197 622 576 656">Case Officer: Jenna Shore</p> <p data-bbox="197 689 552 723">Written Representation</p>	<p data-bbox="638 526 1477 633">Amen Wood Yard Fitzleroi Lane Fittleworth RH20 1JN - Demolition of existing woodyard buildings and replacement with 1 no. dwelling house.</p>
<p data-bbox="197 788 403 822">18/00244/FUL</p> <p data-bbox="197 828 411 862">Kirdford Parish</p> <p data-bbox="197 925 587 958">Case Officer: Daniel Power</p> <p data-bbox="197 992 552 1025">Written Representation</p>	<p data-bbox="638 788 1414 896">Land South East Of Sewage Works Glasshouse Lane Kirdford West Sussex - Demolition of old buildings and erection of new workshop for storage and carpentry.</p>

2. DECISIONS MADE

Reference/Procedure	Proposal
<p>* 17/00898/REM Boxgrove Parish</p> <p>Case Officer: Rhiannon Jones</p> <p>Informal Hearing</p>	<p>Land West Of Abbots Close Priors Acre Boxgrove West Sussex - Application for approval of reserved matters in respect of appearance, layout, scale and landscaping for the erection of up to 22 no. residential units, public open space, landscaping, access and car parking following outline planning permission 14/03827/OUT.</p>
Appeal Decision: APPEAL WITHDRAWN	
Appeal Withdrawn	
<p>17/02708/ADV Chichester Parish</p> <p>Case Officer: Fjola Stevens</p> <p>Householder Appeal</p>	<p>3 West Street Chichester PO19 1QD - 1 no. non-illuminated fascia sign and 1 no. non-illuminated hanging sign.</p>
Appeal Decision: APPEAL ALLOWED	
<p>"The fascia sign is of a size scale and dimensions that respects the small pane wooden window frame of the shop front. Its depth and dimensions and plain background are appropriate in the nature of the shopfront. The lettering of the sign is of a similar restrained size and dimension and although the material and style of lettering is more modern in form this does not significantly detract from the general appearance scale or form of the shop front. The sign sits comfortably on the property and is not excessively dominant or strident in the street such that detracts from the building or its surroundings, including the important historical assets and their significance. ... There are other examples of a variety of materials used in the application of lettering in the centre and given the small scale form of the lettering and manner in which it is applied and sits on this property there is no material harm to the character or appearance of the area, including the conservation area and surrounding listed buildings. There is therefore no material injury to amenity. ... The hanging sign is located above the fascia level with the bottom of the sign in line with the bottom of the first floor window. The advert has a similar restrained, if modern colour palette, and is of a size and scale that is in keeping with traditional hanging signs. There are not many hanging signs in the immediate locality but there are a couple and this sign is of no greater size or prominence than those. The sign is in a strong commercial area, does not appear excessively dominant, overly large or inappropriately sited at too high a level. ... I have taken into account policies 1, 2 and 47 of the Chichester Local Plan which seek to protect amenity and so are material in this case. Given I have concluded that the proposal would not harm amenity; the proposal does not conflict with these policies."</p>	

Reference/Procedure	Proposal
<p data-bbox="197 228 418 259">17/02881/DOM</p> <p data-bbox="197 266 485 336">East Wittering And Bracklesham Parish</p> <p data-bbox="197 362 600 394">Case Officer: Luke Simpson</p> <p data-bbox="197 430 512 461">Householder Appeal</p>	<p data-bbox="638 228 1469 331">Shore House East Bracklesham Drive Bracklesham PO20 8JW - Demolition of small garage and erection of front and rear extensions.</p>
<p data-bbox="552 488 1139 519">Appeal Decision: APPEAL DISMISSED</p>	
<p data-bbox="181 528 1485 1644">“...in terms of the front area, the appeal proposals would lead to a very extensive percentage of the garden area being used for substantial height single storey development. At the scale proposed the extension work would not be suitably subservient to the main property, would detract from its simple but striking appearance, and would represent excessive and sprawling coverage of the curtilage. The planned work would appear alien and out of character both with the existing dwelling and its surrounds. The visual impression given would be one of marked and incongruous overdevelopment of the plot unsympathetic to the immediate and wider context. To the rear, whilst much more modest in ground coverage than the road-side works, there would be a cumulative issue and more particularly the ungainly block-like addition would also detract from the distinctive aesthetic qualities of the host property. The steep gable end would become unfortunately screened in part and the architectural pedigree blurred. Views from the beach are of a very diverse range of elevations and property types but nevertheless this scheme would stand out as a graceless and awkward arrangement of built form with a lesser degree of clarity of design and elevational simplicity than is presently the case. This adds to my concerns in respect of the rear area. ... it would be a reasonable aim to seek to protect neighbours adjacent to the appeal site from impositions on their amenity resulting from over-development. In this instance the planned front extension works would simply be too extensive in height and length and uncompromising in block form, and in this instance would be overly proximate to the boundaries with these gardens. This would not be about modest non-critical loss of sunlight or daylight, but rather the sheer sense of being hemmed-in by building mass. The appeal scheme would be overbearing and oppressive to degrees which would be unreasonable. I am satisfied that because of relative siting and comparative heights the extension planned to the rear would not unduly impact upon the property to the east. However it would be overly imposing due to the degree of forward projection, proximity and height of the side elevation in relation to the seaward elevation and immediate outdoor amenity area of the property to the west. This adds to my concerns about the principal residential amenity impacts from the appeal scheme on the front landward side. ... For the reasons given above I conclude that the appeal proposal would have unacceptable adverse effects on the character and appearance of the host property and the locality as well as on living conditions for neighbours. Accordingly the appeal is dismissed.”□</p>	

Reference/Procedure	Proposal
<p data-bbox="197 230 560 300"><u>17/00055/CONCOU</u> Plaistow And Ifold Parish</p> <p data-bbox="197 365 560 398">Case Officer: Reg Hawks</p> <p data-bbox="197 461 549 495">Written Representation</p>	<p data-bbox="638 230 1457 300">Nell Ball Farm Dunsfold Road Plaistow Billingshurst West Sussex RH14 0BF - Appeal against enforcement notice</p>
<p data-bbox="408 526 1286 560">Appeal Decision: APPEAL DISMISSED - NOTICE UPHeld</p>	
<p data-bbox="178 562 1497 1025">“The basis of the appellant’s case is that he would like more time to comply with the requirements of the notice to allow for an appeal against the refusal of planning permission on 29 June 2018, for the retention of the building, to be determined. I appreciate the appellant’s agent’s concern to avoid a scenario where the building is demolished only for planning permission for its retention to be granted on appeal shortly afterwards. However, there is currently no record of such an appeal having been made. Therefore, whether one will be submitted can only be considered as a matter of speculation at this stage. I cannot justify extending the compliance period in such circumstances. In any event, I certainly cannot justify extending the period to 2 years, which is tantamount to a temporary planning permission. This is not something that is within my powers to do under an appeal on ground (g). I am also mindful that some 10 months have elapsed since the appeal was submitted with enforcement action effectively suspended. Therefore, as the compliance period will begin again from the date of this decision, the appellant will effectively have had some 16 months in which to comply with the requirements of the notice. In these circumstances, I see no good reason to extend the compliance period further. ... The appeal is dismissed and the enforcement notice is upheld without variation.”</p>	
<p data-bbox="197 1090 520 1160"><u>SDNP/17/02779/FUL</u> Rogate Parish Council</p> <p data-bbox="197 1225 480 1294">Case Officer: Claire Coles</p> <p data-bbox="197 1337 549 1370">Written Representation</p>	<p data-bbox="638 1090 1457 1160">Nell Ball Farm Dunsfold Road Plaistow Billingshurst West Sussex RH14 0BF - Appeal against enforcement notice</p>
<p data-bbox="555 1386 1126 1420">Appeal Decision: APPEAL ALLOWED</p>	
<p data-bbox="178 1422 1457 1899">“The proposed location of the stables and the use of the site would not have an impact on amenity of neighbours due to the change in topography and distance between the site and neighbouring properties. I am content through considering the evidence that as the use is solely for the occupants of Hambledon Cottage it would be of a domestic scale and there would be no adverse impact on the road network. I find that the proposal would conserve the scenic beauty of the SDNP. It would be situated in a well screened location, with additional hedgerow reinforcing the landscape qualities. The design and scale of the structure would be sympathetic to the adjacent built form and would sit comfortably within its surroundings. I am satisfied that the construction would preserve the health of the nearby trees. The proposal would therefore comply with Policies R6 and BE11 which seek to protect the character of the area. It would also comply with the National Planning Policy Framework (the Framework) provides that great weight should be given to conserving landscape and scenic beauty in National Parks. ...”</p>	

Reference/Procedure	Proposal
<p>COSTS DECISION</p> <p>“The decision notice referred to the wrong policy, this was acknowledged by the council. The council officer report specifically considered the application in accordance with Policy R6 of the Local Plan, nowhere is there any reference in the report to Policy RE6. Policy RE6 applies to sites within the strategic gap, and is not relevant to the appeal site. Whilst it is clearly an administrative error, the council was quick to admit the mistake, and confirm that policy RE6 was not applicable. The reason for refusal, when read in accordance with Policy R6, is complete, precise and specific to the relevant application. The reasons were substantiated in the officer report, with an explanation as to how the council considered that the proposal would result in harm to the character of the area. ... The council did not refuse to engage with the applicant in respect of the Landscape Visual Impact Assessment. It is clear that the proposal was considered by the County Landscape officer, and the council contacted the appellant to inform them that the proposal would be recommended for refusal. The officer was clear that the two landscape consultants had concluded differently with regards to the impact on the landscape. They confirmed that it would be possible to have further discussions, but that these would not necessarily change the recommendation, I therefore do not consider that a lack of co-operation has been demonstrated. It was the council’s role to consider all of the evidence submitted with the Application, along with the responses from the consultees, and reach a conclusion. The Council did that, and was not unreasonable in the way it conducted that process. ...”</p>	
<p><u>16/00359/CONTRV</u> Sidlesham Parish</p> <p>Case Officer: Emma Kierans</p> <p>Informal Hearing</p>	<p>Land Adj To Ham Road Sidlesham West Sussex - Appeal against Enforcement Notice SI/69</p> <p>Linked to <u>16/03383/FUL</u></p>
<p>Appeal Decision: APPEAL DISMISSED - NOTICE MODIFIED</p>	
<p>“Without planning permission, material change of use of the land to a mixed use for agriculture and keeping/ breeding horses and use as a residential caravan/ mobile home site. ... Enforcement notice be varied by the deletion of the words “Six months” as the time period for compliance at section 6 and the substitution of the following words “Twelve months”. ... The fragmentation caused by the proposed landscaping would have the opposite effect, being harmful of itself whilst failing to adequately mitigate against the harmful visual impact of the caravans. The harm to the character and appearance of the area, as described, is contrary to the aims of policy 48 of the Local Plan, particularly sub-sections 2 and 3 and the second limb of sub-section 1 of that policy and the aims of paragraph 26(b) of the PPTS. ... The fragmentation caused by the proposed landscaping would have the opposite effect, being harmful of itself whilst failing to adequately mitigate against the harmful visual impact of the caravans. 26. The harm to the character and appearance of the area, as described, is contrary to the aims of policy 48 of the Local Plan, particularly sub-sections 2 and 3 and the second limb of sub-section 1 of that policy and the aims of paragraph 26(b) of the PPTS. ... My concerns with regard to flood risk weigh extremely heavily against the grant of planning permission in relation to both appeals. ... My concerns relating to flood risk would not be tempered by any notable degree if considered in the context of a temporary permission. ... Based upon the information before me the development is clearly contrary to local and national planning policy and I attach the</p>	

Reference/Procedure	Proposal
<p>upmost weight to those matters, having regard to the potential consequences. ... Thus, in environmental terms, the site is poorly located and likely to facilitate unsustainable trip generation, contrary to the policies identified above. ... There has been no new provision of permanent public pitches, contrary to the recommendation in the 2013 GTAA, even though the waiting lists in relation to the existing sites continue to grow ...</p> <p>Consequently, I find that the Council is unable to demonstrate a robust calculation of need or demonstrate that it can identify a five-year supply of sites to meet that need. ... Transit sites and bricks and mortar accommodation would be unlikely to offer associated land for the keeping/ breeding of horses and no sites that would provide such capability have been put forward. ... Thus, I conclude that there is unmet need and that the Council is unable to demonstrate a five-year supply of sites to meet the likely level of need. ... even when those personal factors are taken into account I am unconvinced that continued occupation of the site is in the best interests of the family and the children. ... I have concluded that the development has caused harm to the landscape character and the appearance of the area and that harm could not be satisfactorily mitigated through the use of conditions. ... I attach the upmost importance and weight to my concerns relating to the potential for the site to flood and find that the location of the site is unsuitable for residential development ... As for Appeal A, the development would be contrary to the relevant policies of the development plan. ... Factors are put together the outcome of the overall balance remains the same. Thus, the development, either in relation to Appeal A or Appeal B is not acceptable for a time limited period. ... Accordingly, to dismiss Appeal on ground (a) and uphold the enforcement notice and to dismiss Appeal B would not result in a violation of their rights under Article 8. ... Thus, the ground (g) appeal succeeds to that extent and I shall vary the terms of the notice accordingly. ... For the reasons given above I conclude that the development is unacceptable and that the appeal should not succeed. Accordingly I shall dismiss the appeal, refuse to grant planning permission on the deemed application and uphold the enforcement notice. For the reasons given above I conclude that the appeal should be dismissed.” □</p>	
<p>16/03383/FUL Sidlesham Parish</p> <p>Case Officer: James Cross</p> <p>Informal Hearing</p>	<p>Land Adjacent To Ham Road Sidlesham West Sussex - Use of land as a travellers caravan site consisting of 2 no. touring caravans, 1 no. amenity structure and associated development.</p> <p>Linked to 16/00359/CONTRV</p>
<p>Appeal Decision: APPEAL DISMISSED</p>	
<p>As Above</p>	

Reference/Procedure	Proposal - Continued
<p data-bbox="197 230 485 300">18/00747/DOM Southbourne Parish</p> <p data-bbox="197 365 600 398">Case Officer: Luke Simpson</p> <p data-bbox="197 461 512 495">Householder Appeal</p>	<p data-bbox="635 230 1505 338">4 Park Road Southbourne PO10 8NZ - Change of use of loft space into habitable accommodation with front and rear dormers plus cable build ups.</p>
<p data-bbox="552 510 1139 544">Appeal Decision: APPEAL DISMISSED</p>	
<p data-bbox="181 548 1493 875">“No 4 Park Road is one half of a two-storey, semi-detached pair, with similar properties to either side. ... Notwithstanding, it would occupy a prominent position on the front roof slope of No 4 and would noticeably unbalance the roof profile of the building as a whole. It would show little correlation with the window positions below, at first floor level, and would appear overall as an obvious and unsympathetic addition that would fail to harmonise with the simple form of the original building. Its incongruous form would be further heightened by its solitary presence amongst buildings of similar design and appearance within the street scene and wider area. ... However, whilst the buildings within the estate influence the street scene, they do not obviate the fact that No 4 is residential in character, form and setting.”□</p>	

3. CURRENT APPEALS

Reference/Procedure	Proposal
<p>16/00933/OUT Birdham Parish</p> <p>Case Officer: Jeremy Bushell</p> <p>Public Inquiry 02/10/2018 at 10am The Vicars Hall Cathedral Cloisters Chichester PO19 1PX</p>	<p>Koolbergen, Kelly's Nurseries And Bellfield Nurseries Bell Lane Birdham Chichester West Sussex PO20 7HY - Erection of 77 houses B1 floorspace, retail and open space with retention of 1 dwelling.</p>
<p>17/01382/FUL Birdham Parish</p> <p>Case Officer: Shona Archer</p> <p>Informal Hearing 15/01/2019 at 10am The Old Court Room, The Council House, North Street, Chichester, West Sussex, PO19 1LQ</p>	<p>Plot 12 Land To The Rear Of Premier Business Park Main Road Appledram West Sussex - Retrospective application for single pitch for gypsy occupation comprising touring caravan, hardstanding and provision of static mobile home.</p>
<p>SDNP/17/03475/HOUS Bury Parish Council</p> <p>Case Officer: Carol Garfield</p> <p>Householder Appeal</p>	<p>The Farmhouse The Street Bury RH20 1PA - Proposed part demolition and refurbishment of dwelling, to include extensions and alterations.</p>
<p>15/00064/CONLB Chichester Parish</p> <p>Case Officer: Sue Payne</p> <p>Public Inquiry 30/10/2018 Edes House West Street Chichester West Sussex PO19 1RQ</p>	<p>13 Parchment Street Chichester West Sussex PO19 3DA - Appeal against removal of x 3 wooden casements and fitting of x 3 UPVC casements in Grade II listed building in Conservation Area.</p>

Reference/Procedure	Proposal
<p>17/01073/FUL Chichester Parish</p> <p>Case Officer: Caitlin Boddy</p> <p>Written Representation</p>	<p>22A Lavant Road Chichester West Sussex PO19 5RG - Demolition of existing dwelling and erection of 2 no. 4 bed detached properties with shared garage, 3 no. 3 bed link detached properties with integral garages, parking and new access drive.</p>
<p>18/00525/ADV Chichester Parish</p> <p>Case Officer: Vicki Baker</p> <p>Written Representation</p>	<p>Unit 1 Portfield Way Chichester PO19 7YH - 2 no. double sided internally illuminated post signs.</p>
<p>* 17/01259/FUL East Wittering And Bracklesham Parish</p> <p>Case Officer: Caitlin Boddy</p> <p>Written Representation</p>	<p>Billy's On The Beach Kiosk Bracklesham Lane Bracklesham Bay Chichester West Sussex PO20 8JH - Proposed decking with ramp and retractable canopy.</p>
<p>17/02433/FUL East Wittering And Bracklesham Parish</p> <p>Case Officer: Maria Tomlinson</p> <p>Written Representation</p>	<p>Bon Ami Peerley Road East Wittering PO20 8DW - Erection of 1 no. bungalow - resubmission of EW/17/00240/FUL.</p>
<p>17/02563/DOM Fernhurst Parish</p> <p>Case Officer: James Gellini</p> <p>Written Representation</p>	<p>Stedlands Farm Bell Vale Lane Fernhurst GU27 3DJ - Proposed two storey rear extension.</p>
<p>SDNP/18/00384/HOUS Fernhurst Parish Council Parish</p> <p>Case Officer: Charlotte Cranmer</p> <p>Householder Appeal</p>	<p>Little Woodfold Woodfold Fernhurst Haslemere West Sussex GU27 3ET - Demolition of glasshouse, two storey side extension, replacement of roof to create further first floor living space and new timber boundary fence.</p>

Reference/Procedure	Proposal
<p>SDNP/17/01554/FUL Fittleworth Parish Council Parish</p> <p>Case Officer: Carol Garfield</p> <p>Written Representation</p>	<p>Land at Withies Cottage School Lane Fittleworth West Sussex - Erection of 1 no. detached dwelling and associated parking.</p>
<p>SDNP/16/00496/OPDEV Funtington Parish</p> <p>Case Officer: Shona Archer</p> <p>Informal Hearing</p>	<p>Land South of Braefoot Southbrook Road West Ashling West Sussex - Insertion of a cesspit and engineering works.</p>
<p>17/00929/FUL Funtington Parish</p> <p>Case Officer: Luke Simpson</p> <p>Written Representation</p>	<p>Brick Bat Farm Moutheys Lane Funtington Chichester West Sussex PO18 8AA - Demolition of barn, removal of mobile home and erection of 1 no. dwelling.</p>
<p>SDNP/17/00949/FUL Funtington Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p>Informal Hearing</p>	<p>Land South of Braefoot Southbrook Road West Ashling West Sussex - Retention and continued use of mobile home for gypsy family occupation including existing timber shed and refuse enclosure.</p>
<p>SDNP/17/06292/FUL Lavant Parish Council Parish</p> <p>Case Officer: Jenna Shore</p> <p>Written Representation</p>	<p>Down Haven A286 Oldwick Meadows To Sheepwash Lane Lavant PO18 0BQ - New 2 storey replacement dwelling.</p>
<p>SDNP/18/00704/HOUS Lynchmere Parish Council Parish</p> <p>Case Officer: Rafael Grosso Macpherson</p> <p>Householder Appeal</p>	<p>Marley House Coach House Marley Common Lynchmere West Sussex GU27 3PT - Addition of 7 no. dormer windows and chimney, replacement of existing garage doors with new fenestration and internal alterations.</p>

Reference/Procedure	Proposal
<p>18/00244/FUL Kirdford Parish</p> <p>Case Officer: Daniel Power</p> <p>Written Representation</p>	<p>Land South East Of Sewage Works Glasshouse Lane Kirdford West Sussex - Demolition of old buildings and erection of new workshop for storage and carpentry.</p>
<p>15/00202/CONAGR Oving Parish</p> <p>Case Officer: Reg Hawks</p> <p>Written Representation</p>	<p>Ham Farm Church Lane Oving West Sussex PO20 2BT - Appeal against new agricultural building, earth bund and access track.</p>
<p>16/00359/CONTRV Sidlesham Parish</p> <p>Case Officer: Emma Kierans</p> <p>Informal Hearing</p>	<p>Land Adj To Ham Road Sidlesham West Sussex - Appeal against the Stationing of a mobile home</p>
<p>SDNP/16/00069/COU Upwaltham Parish Council Parish</p> <p>Case Officer: Shona Archer</p> <p>Public Inquiry</p>	<p>The Mill Eartham Lane Eartham Chichester West Sussex PO18 0NA - Use of workshop as residential.</p>
<p>17/00448/FUL West Itchenor Parish</p> <p>Case Officer: Caitlin Boddy</p> <p>Informal Hearing 22 November 2018 at 10am – Chichester District Council</p>	<p>Old Haven The Street Itchenor PO20 7AN - Demolition of existing building and construction of 6 bedroom replacement dwelling, garage and associated works.</p>

4. VARIATIONS TO SECTION 106 AGREEMENTS

None

5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage

6. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage

Court Hearings		
Site	Matter	Stage

Prosecutions		
Site	Breach	Stage
Field West of Five Oaks	Breach of Enforcement Notice	Guilty plea at Worthing Magistrates' Court on 3 August. Court adjourned for sentence to 18 Jan. 2019 in view of the Defendant's appeal of the new planning application refused in July 2018.
Land North of White Barn, Elm Lane	Breach of Enforcement Notice	Guilty plea at Worthing Magistrates' Court on 3 August. Sentence: Fine of £505 and all of our costs claimed of £751.85. Our costs were promptly paid to us at the beginning of September.

7. POLICY MATTERS

None

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**PLANNING COMMITTEE
(Wednesday 17th October 2018)
SCHEDULE OF OUTSTANDING CONTRAVENTIONS**

1. This report presents the Schedule of Outstanding Planning Enforcement Contraventions. The report provides an update on the position of contraventions included in the previous schedule and includes cases that have since been authorised.

2. Statistics as at 30th September 2018

Case Numbers:	CDC	SDNP cases remaining on CDC system until closed	SDNP cases	Total
On hand as at last report:	266	5	124	390
Cases received since last report:	90		38	128
Cases closed since last report:	95	3	36	131
Current number of cases on hand:	261	2	126	387
“On hand” includes cases awaiting compliance with an EN or the decision of an appeal/application	57		25	

3. Performance Indicators are for CDC area only as this information is not available for cases within the South Downs National Park:

a. Time taken to initial visit from date of complaint:

Low within 20 days (132 Cases)	95%
Medium within 10 days (38 Cases)	97%
High with 2 days (10 Cases)	100%

b. Time taken to notify complainants of action decided from date of complaint:

Low within 35 days (131 Cases)	98%
Medium within 20 days (42 Cases)	88%
High within 9 days (1042 Cases)	90%

NOTE: A system error resulted in incorrect target dates being issued to officers. This matter has now been corrected and this is reflected in the increased performance figures.

4. Notices Served.

Notices Served:	1 Jul – 30 Sep		Total in FY 2018/19	
	CDC	SDNP	CDC	SDNP
Enforcement Notices	17	4	8	4
Breach of Condition Notices	4		1	1
Stop Notices				
Temporary Stop Notices	1			
Section 215 Notices			1	
Section 225A Notices				
High Hedge Remedial Notices				
Tree Replacement Notice				
Total	22	4	32	9

If Members have any specific questions on individual cases, these should be directed to the contact officer:

Shona Archer, Enforcement Manager (01243 534547)

OUTSTANDING CONTRAVENTIONS – SOUTH DOWNS NATIONAL PARK

CON NO. (Case Officer)	ADDRESS	DETAILS OF BREACH	Date of Notice	COMMENTS EN = Enforcement Notice/BCN = Breach of Condition Notice HHRN = High Hedge Notice/TSN = Temporary Stop Notice SN = Stop Notice/HRN = Hedge Replacement Notice
BURY/SDNP/ 17/00096/ SEC215 (Sue Payne)	Sydenham Cottage West Burton Road West Burton Pulborough	Untidy land	19.03.18	S215 Notice S215/29/BY/24 issued Compliance date 30.07.18 04.10.18 – compliance site visit. No compliance with notice, letter before prosecution to be sent.
BURY/SDNP/ 17/00585/ GENER (Sue Payne)	Flint Acre Farm Bignor Park Road Bury RH20 1EZ	Without planning permission, change of use of the Building to use as a single dwelling	13.06.18	EN BY/25 issued Compliance date 25.01.19 Appeal lodged – awaiting start letter
BURY/SDNP/ 16/00691/COU (Shona Archer)	Foxbury Farm West Burton Lane West Burton	Without planning permission construction of a concrete hardstanding	02.07.18	EN BY/26 issued Compliance date 14.11.18 Appeal lodged – awaiting start letter
BURY/SDNP/ 17/00491/ BRECON (Sue Payne)	Land at Timberley Farm Bury Common Bury	Breach of condition – removal of hardstanding and reinstate hedging	13.08.18	BCN BY/27 issued Compliance date 15.10.18
COMP/SDNP/ 15/00210/COU (Shona Archer)	Cowdown Farm Cowdown Lane Compton	Without planning permission, change of use of the building for the stationing of a caravan for the purposes of human habitation	27.06.18	EN CP/7 issued Compliance date 08.02.19 Appeal lodged – awaiting start letter

CON NO. (Case Officer)	ADDRESS	DETAILS OF BREACH	Date of Notice	COMMENTS EN = Enforcement Notice/BCN = Breach of Condition Notice HHRN = High Hedge Notice/TSN = Temporary Stop Notice SN = Stop Notice/HRN = Hedge Replacement Notice
COMP/SDNP /15/00209/COU (Shona Archer)	Cowdown Farm Cowdown Lane Compton	Without planning permission, the construction of a gable end wall in the west elevation of the building	04.07.18	EN CP/9 issued Compliance date 15.11.18 Appeal lodged – awaiting start letter
FIT/SDNP/17/ 00147/COU (Sue Payne)	Land north west of Little Cottage 28 Coates Lane Fittleworth	Change of use of the land to garden land	18.07.18	EN FT/9 issued Compliance date 29.11.18
FU/08/00230/ EWSTNP (Shona Archer)	The Old Post Office Southbrook Road West Ashling Chichester West Sussex PO18 8DN	Untidy building and land	04.02.11	S215 Notice issued 09.10.13 – Prosecution for failure to carry out the works 23.04.15 - Officers carried out a property assessment 08.07.15 – The SDNPA authorises Direct Action 01.10.15 – Decision with SDNP - basic works to make good the property not full repair works 16.1.16 – works of compliance commenced on site 24.1.17 – works completed, land secured with new fence 4.4.17 – contractor to undertake phase two of the works 14.6.17 – Entry to property by officers to assess its condition. Contractor completed all works. 29.9.17 – The costs to date have been recorded on the Local Land Charge; consideration to be given to applying to the Court for a charge to be put on the Land Registry. 22.01.2018 – The Historic Buildings Advisor for the SDNPA considers that further action by the LPA should be taken.. 03.04.2018 – This matter is being managed by the SDNPA

CON NO. (Case Officer)	ADDRESS	DETAILS OF BREACH	Date of Notice	COMMENTS EN = Enforcement Notice/BCN = Breach of Condition Notice HHRN = High Hedge Notice/TSN = Temporary Stop Notice SN = Stop Notice/HRN = Hedge Replacement Notice
FUNT/SDNP/ 16/00496/ OPDEV (Shona Archer)	Land south of Braefoot Southbrook Road West Ashling	Without planning permission, change of use of the land to use as a residential caravan site	14.06.17	EN FU/46 issued Compliance date 26.01.18 Appeal ongoing awaiting Hearing date 10.07.18 0- awaiting decision
FUNT/SDNP/ 16/00676/COU (Shona Archer)	New Barn Farm Common Road Funtington	Without Planning permission change of us of the land to B8 commercial storage	04.01.18	EN FU/66 issued Compliance date 15.06.18 Appeal lodged – Written Representations
LURG/SDNP/ 17/00447/ GENER (Shona Archer)	Jays Farm Jays Lane Lurgashall	Without planning permission the creation of an access track and hardstanding	26.09.18	EN LG/15 issued Compliance date 07.02.19
MID/SDNP/16/ 00204/OPDEV (Shona Archer)	Flat 2 Thomond House North Street Midhurst	Without planning permission the formation of a door opening and installation of a steel balustrade	21.12.16	EN MI/16 issued Appeal dismissed. New compliance date 12.12.17 11.12.17 – notice not complied with. Application to be submitted to overcome the harm. 25.01.18 – pending application now withdrawn 03.04.2018 – application made to insert a glazing panel in place of the door. In other respects compliance has been achieved. 30.05.18 – planning application approved. New compliance date of 30.08.18 26.09.18 – notice complied with. Remove from next list

CON NO. (Case Officer)	ADDRESS	DETAILS OF BREACH	Date of Notice	COMMENTS EN = Enforcement Notice/BCN = Breach of Condition Notice HHRN = High Hedge Notice/TSN = Temporary Stop Notice SN = Stop Notice/HRN = Hedge Replacement Notice
ML/SDNP/ 16/00110/COU (Steven Pattie)	Land West of the Junction to Dangstein Road	Without planning permission change of use to mixed use of camping, education and training courses and manufacture of wood products	19.06.18	EN ML/25 issued Compliance date 31.10.18 Appeal lodged awaiting start letter
ROG/SDNP/15/ 00492/COU (Steven Pattie)	Land northwest of Laundry Cottage Dangstein Woods, Rogate	Without planning permission, change of use of the land to a mixed use for leisure, education and training purposes and for the production of timber products	26.02.18	EN RG/36 issued Compliance date 09.07.18 Appeal lodged awaiting start letter
SN/SDNP/15/ 00301/ BRECON (Shona Archer)	1 Sutton Hollow The Street Sutton	Without planning permission the erection of a dwellinghouse	18.08.16	EN SN/3 issued Appeal ongoing – Written Representations Exchanged statements and awaiting date for PINS site visit SDNP/17/00294/FUL – refused and appeal lodged SDNP/17/00295/LB – refused and appeal lodged 20.09.17 – s174 appeal conjoined with s78 appeal 28.02.18 – Appeal dismissed, enforcement notice upheld. 11.09.18 – Meeting on site. Owners have until 28.10.18 to comply/confirm their intentions

CON NO. (Case Officer)	ADDRESS	DETAILS OF BREACH	Date of Notice	COMMENTS EN = Enforcement Notice/BCN = Breach of Condition Notice HHRN = High Hedge Notice/TSN = Temporary Stop Notice SN = Stop Notice/HRN = Hedge Replacement Notice
STED/SDNP 15/00109/ OPDEV (Emma Kierans)	Land south of The Old Stables, Mill Lane, Stedham, Midhurst, GU29 0PR	Without planning permission, formation of a hardsurfaced access track	02.03.17	EN SJ/25 issued Appeal ongoing – Written Representation 16.02.18 – Appeal dismissed New compliance date 16.05.18 29.05.18 – site visit identified non-compliance with the notice 11.06.18 – commencement of works delayed and due to commence on mid-June. 02.10.18 – notice complied with. Remove from next list
TL/SDNP/14/00 462/BRECON (Shona Archer)	River Farm Brookfield Lane Tillington Petworth	Stationing of mobile homes and caravans for seasonal workers	15.11.16	BCNEN TL/2 issued Appeal received– Written Representation; 14.07.17 – date for exchanging statements; 12.09.17 – Appeal dismissed. New compliance date of 12.12.17 28.11.17 – High Court hearing - the court granted permission for the matter to proceed on one of the five grounds pleaded:- that the Inspector did not consider, or did not give adequate reasons for not considering, the Appellants mitigation measures (landscaping) when deciding whether planning permission should be granted for the development. 26.06.18 – High Court date set for 18.07.18 17.08.18 – High Court appeal dismissed. New compliance date 17.11.18 08.10.18 – meeting with agents scheduled to discuss compliance
WO/SDNP/16/ 00458/ BRECON (Emma Kierans)	3 Claypit Cottages	Breach of condition – windows	19.06.18	BCN WO/2 issued Compliance date 19.12.18

Chichester District Cases:

CON NO. (Case Officer)	ADDRESS	DETAILS OF BREACH	Date of Notice	COMMENTS EN = Enforcement Notice/BCN = Breach of Condition Notice HHRN = High Hedge Notice/TSN = Temporary Stop Notice SN = Stop Notice/HRN = Hedge Replacement Notice
BI/15/00194/ CONTRV (Shona Archer)	Land North West of Birdham Farm, Birdham Road, Chichester	Without planning permission the stationing of a mobile home for the purposes of human habitation	06.05.15	EN BI/23 issued The Appeal decision was published on 2 August 2017. The appeals are dismissed and the enforcement notice(s) are upheld with corrections and variations. Compliance date: 2 August 2018 04.10.18 – letter issued stating Councils intention to seek Mandatory Court Order.
BI/15/00194/ CONTRV (Shona Archer)	Land North West of Birdham Farm, Birdham Road, Chichester	Without planning permission the stationing of a mobile home for the purposes of human habitation	06.05.15	EN BI/24 issued The Appeal decision on the above matters was published on 2 August 2017. The appeals are dismissed and the enforcement notice(s) are upheld with corrections and variations. Compliance date: 2 August 2018 04.10.18 – letter issued stating Councils intention to seek Mandatory Court Order.
BI/15/00139/ CONSH (Shona Archer)	Land North West of Premier Business Park Birdham Road Chichester	Without planning permission erection of a stable building	10.08.15	EN BI/29 issued with compliance date of 21.12.15 Following the outcome of the Inquiry, compliance to remove the stables is considered to be 2 August 2018. 04.10.18 – compliance to be sought as part of court proceedings
BI/15/00139/ CONSH (Shona Archer)	Access track and hardstanding -land North West of Premier Business Park, Birdham Rd	Without planning permission excavation, deposit of hardcore and erection of gates and fences	21.09.15	EN BI/30 issued The Appeal decision on the above matters was published on 2 August 2017. The appeals are dismissed and the enforcement notice(s) are upheld with corrections and variations. Compliance date: 2 November 2018

CON NO. (Case Officer)	ADDRESS	DETAILS OF BREACH	Date of Notice	COMMENTS EN = Enforcement Notice/BCN = Breach of Condition Notice HHRN = High Hedge Notice/TSN = Temporary Stop Notice SN = Stop Notice/HRN = Hedge Replacement Notice
BI/15/00139/ CONSH (Shona Archer)	Land North West of Premier Business Park Birdham Road	Without planning permission, change of use of the land to a mixed use as a residential caravan site, for the storage of caravans and the keeping of horses	03.03.16	EN BI/31 issued The Appeal decision on the above matters was published on 2 August 2017. The appeals are dismissed and the enforcement notice(s) are upheld with corrections and variations. Compliance date: 2 August 2018 04.10.18 – letter issued stating Councils intention to seek Mandatory Court Order.
BI/17/00356/ CONMHC (Shona Archer)	Plot 12 Land North West of Premier Business Park	Without planning permission, change of use of the land to the storage of a caravan and vehicle	24.07.18	EN BI/35 issued Compliance date 04.03.19 Appeal lodged – awaiting start letter 04.10.18 – notice withdrawn to be reissued stating breach as residential use of caravan. This action is to avoid wasted appeal time.
BI/17/00361/ CONMHC (Shona Archer)	Plot 13 Land North West of Premier Business Park Birdham Road Birdham	Without planning permission, change of use of the land to the storage of a caravan and a diesel fuel oil tank	24.07.18	EN BI/36 issued Compliance date 03.12.18 Appeal lodged – awaiting start letter 04.10.18 – notice withdrawn to be reissued stating breach as residential use of caravan This action is to avoid wasted appeal time.
BI/17/00362/ CONMHC (Shona Archer)	Plot 14 Land North West of Premier Business Park Birdham Road Birdham	Without planning permission, change of use of the land to use for the storage of caravans and cars	24.07.18	EN BI/37 issued Compliance date 03.12.18 Appeal lodged – awaiting start letter 04.10.18 – notice withdrawn to be reissued stating breach as residential use of caravan This action is to avoid wasted appeal time.

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BI/16/00229/ CONCOU (Steven Pattie)	Kellys Farm Bell Lane Birdham	Without planning permission, change of use of land to a mixed use as a horticultural nursery and operation of a car wash business	13.12.17	EN BI/34 issued Appeal lodged 13.09.18 Start letter received Written Reps
BI/18/00028/ CONBC (Shona Archer)	Kellys Farm Bell Lane Birdham	Without planning permission, the erection of a building	11.07.18	EN/38 issued Compliance date 22.11.18
BI/17/00061/ CONENG (Emma Kierans)	Little Oak Farm Land North of Cowdry Nursery Sidlesham Lane Birdham	Without planning permission the erection of a building	13.08.18	EN BI/40 issued Compliance date 24.12.18 Appeal lodged – awaiting start letter
CC/17/00165/ CONLB (Sue Payne)	Flames 10-11 St Pancras Chichester	Without consent works to a Listed Building	26.09.17	EN CC/137 issued 26.03.18 - Two planning applications submitted to remedy the LBEN. 26.06.18 - planning permission granted 29.05.18. 27.06.18 – partial compliance. Owners undertaking remainder of steps following vacation by tenants. 02.07.18 – notice complied with. Remove from next list
CC/115/00064/ CONLB (Sue Payne)	13 Parchment Street Chichester	Without Listed Building Consent the installation and fitting of 3 no. upvc double glazed windows	18.10.17	LBEN CC/138 issued Appeal lodged – Public Inquiry on 30.10.18 at City Council

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CC/17/00089/ CONWST (Sue Payne)	87 Bognor Road Chichester	Untidy Land	19.03.18	S215 Notice S215/30/CC/140 issued Compliance date 30.07.18 03.08.18 - compliance check. Land had been tidied but still evidence of rubble. Communication sent to owner extending compliance date to 31 st August 2018. 01.10.18 – Compliance check. No change in the condition of the land. Communication with owner to establish what remediation is planned and to request copies of any quotes from contractors in relation to this matter to show their desire to comply
CC/17/00358/ CONLB (Steven Pattie)	28 East Street Chichester	Without Listed Building Consent the display of an acrylic shop sign, red vinyl adverts and the painting of the shopfront and an internal beam red	16.04.18	LBEN CC/141 issued Compliance date 28.07.18 03.10.18 – Painting matters addressed, Main fascia sign removed along with some vinyl adverts, a couple of minor issues with remaining signage. New case to be raised regarding illuminated sign.
CC/15/00018/ CONBC (Shona Archer)	Wildwood 30 Southgate Chichester	Breach of condition – use of rear of premises	16.08.18	BCNEN CC/143 issued Compliance date 27.01.19 Appeal lodged – awaiting start letter

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CH/14/00181/ CONMHC (Shona Archer)	Field West of Five Oaks Newells Lane Chichester West Sussex	Without planning permission the laying of hardcore and the stationing of a mobile home for the purpose of human habitation	09.12.14	<p>EN CH/49 issued Appeal lodged – Hearing date 10.12.15. Appeal dismissed. New compliance date of 15.09.16 11.10.16 - Site inspection 07.11.16 – prosecution papers to Legal Services 22.11.16 – authority given to proceed with prosecution 20.9.17 – Owners remain in occupation of the Site. A meeting with owner is to be held on 26.9.17 to consider personal circumstances before deciding whether a prosecution should proceed. 10.11.17 – prosecution advice requested 04.01.18 – following legal advice letter before prosecution action sent to owner. 19.1.2018 – phone conversation with occupier confirmed that occupation of the land continues. No change in circumstances. Papers are now being prepared to instruct legal to commence a prosecution. 01.03.18 – prosecution papers forwarded to Legal Services 25.05.18 – Adjourment requested by contravener. The court granted an adjourment to 03.08.18 10.05.18 – planning application 18/01191/FUL made for use of land as a gypsy site. The outcome of this application will now be awaited before any further action is taken in respect of this site. 16.07.18 – application 18/01191/FUL refused. 03.08.18 – the court granted an adjourment until 18.01.19 as an appeal had been made against the refused application. 01.10.18 – Appeal lodged.</p>

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CH/14/00399/ CONMHC (Shona Archer)	Cockleberry Farm Main Road Bosham West Sussex PO18 8PN	Without planning permission, change of use to a mixed use comprising commercial uses, equine and the stationing of 4 no. mobile homes for the purposes of human habitation	04.08.16	EN CH/54 issued Appeal lodged –linked to s78 appeal against refusal of 16/01902/PA3P 06.06.17 – Hearing held at Assembly Rooms, Chichester 28.07.17 – Appeal dismissed and the notice upheld with variations. New compliance date 28.01.18 03.04.18 – communication rec from agent that the landowner is intending to apply for planning permission to redevelop the site. Await outcome of the planning process. 29.06.18 – application 18/01449/FUL pending consideration for 2 self-build dwellings in place of the static caravans. 01.10.18 – the application remains pending consideration.
CH/14/00181/ CONMHC (Shona Archer)	Field West of Five Oaks Newells Lane Chichester West Sussex	Use of the land for the stationing of a mobile home for human habitation	09.12.14	Stop Notice CH/50 issued with EN CH/49 See above
CH/14/00292/ CONBC (Shona Archer)	Paddock View Drift Lane Chidham	Without planning permission the construction of a concrete hard standing, a paved area, brick steps and a brick wall	28.02.18	EN CH/55 issued Compliance date 11.12.18 Appeal lodged – awaiting start letter

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CH/18/00010/ CONMHC (Shona Archer)	Land East of Hambrook Meadows Broad Road Hambrook Chidham	Without planning permission, change of use of the land to a mixed use for equestrian purposes and for the storage of a caravan, shipping container, flat-bed pick-up truck, dumper truck, cement mixer, fence panels, ladder, vintage tractor, SUV vehicle, flat bed metal-sided trailer, fairground ride equipment and a box trailer.	13.08.18	EN CH/56 issued Compliance date 24.12.18
D/17/00374/ CONCOM (Shona Archer)	Southend Farm Selsey Road Donnington	Without planning permission, change of use of the land to a mixed use for agriculture and the storage of modular buildings, portable structures and metal storage containers	26.09.18	EN D/8 issued Compliance date 07.02.19

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E/16/00216/ CONCOU (Shona Archer)	Earnley Grange Almodington Lane Almodington Earnley	Without planning permission the change of use of the land and associated building to A3 café	11.10.17	EN E/29 issued Compliance date 22.05.18 01.06.18 – New owner made aware of notices. 26.06.18 – Compliance achieved on 5 out of 8 steps. Remaining steps held in abeyance whilst application submitted to regularise the remaining use of buildings. 07.08.18 – application 18/02025/FUL submitted
E/17/00391/ CONDWE (Emma Kierans)	Dragon Nursery Third Avenue Batchmere	Without planning permission, the construction of outer walls of a building	14.06.18	EN E/31 issued Compliance date 26.01.19 Appeal lodged – awaiting start letter
EWB/18/00020/ CONBC (Emma Kierans)	Land South of Clappers Lane Earnley	Breach of condition – hours of operation	11.05.18	BCN EW/43 issued Compliance date 08.06.18 29.06.18 – site continues to be monitored. 01.10.18 – development still in progress, site continues to be monitored
EWB/16/00366/ CONWST (Emma Kierans)	12 Kestrel Close East Wittering	Untidy Land	19.06.18	S215 Notice EW/42 issued Compliance date 18.10.18
EWB/18/00027/ CONBC (Emma Kierans)	42 Middleton Close Bracklesham Chichester	Without planning permission, the use of the Land as domestic garden land in connection with the dwelling	10.07.18	EN EW/44 issued Compliance date 21.11.18

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FB/16/00023/ CONBC (Steven Pattie)	139 Salthill Road Fishbourne Chichester	Breach of condition – fence height	02.07.19	BCN issue FB/13 Compliance date: 03.09.18 04.10.18 – compliance not achieved. Letter of warning to be sent to owners.
FU/17/00310/ CONCOU (Shona Archer)	Cutmill Depot Newells Lane West Ashling	Without planning permission, change of use of the land to use as a residential caravan site	27.09.18	EN FU/67 issued Compliance date 08.05.18
KD/17/00192/ CONWST (Sue Payne)	Broad Leaf Barn Village Road Kirdford	Untidy Land	12.03.18	S215 Notice S215/31/KD/25 issued Compliance date 10.07.18 25.09.18 – Notice complied with. Remove from next List
HN/17/00121/ CONBC (Emma Kierans)	Brook Lea Selsey Road Hunston	Breach of condition – visibility splay		BCN HN/27 issued Compliance date 01.08.17 03.10.18 To be advised by WSCC Highways regarding compliance
NM/16/00325/ CONCOM (Shona Archer)	Land at Stoney Lodge School Lane North Mudham Chichester	Without planning permission storage of metal containers and other items	20.12.17	EN NM/27 issued Compliance date 30.04.18 5.7.17 –change in ownership of the land 04.10.18 – case review required.

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O/17/00074/ CONENF (Shona Archer)	Land North West of Decoy Farm House Decoy Lane Oving	Without planning permission the change of use of land to general storage use	14.06.17	EN O/27 issued Appeal dismissed New compliance date 01.10.18 02.10.18 – site visit showed site continues to be used for storage. Letter sent requiring full access to site in order to assess
O/17/00074/ CONENF (Shona Archer)	Land North West of Decoy Farm House Decoy Lane Oving	Without planning permission the erection of a wooden building on raised concrete blocks	14.06.17	EN O/28 issued Appeal dismissed New compliance date 01.10.18 02.10.18 – site visit showed building remains in situ. Letter sent requiring full access to site in order to assess
O/15/00202/ CONAGR (Shona Archer)	Oakham Farm Church Lane Oving	Without planning permission the erection of a building, hardstanding and an earth bund	03.02.17	EN O/25 issued Appeal dismissed – new compliance date 05.04.18. 09.02.18 – application rec for change of use of barn from storage of vehicles to storage and maintenance of agricultural machinery and vehicles under 18/00354/FUL. 01.10.18 - enforcement action held in abeyance as application pending consideration
O/15/00202/ CONAGR (Shona Archer)	Oakham Farm Church Lane Oving	Without planning permission change of us of the land to a mixed use for agriculture and the storage of caravans, motorhomes/ caravanettes, motor vehicles and shipping containers.	03.02.17	EN O/26 issued Appeal dismissed – new compliance date 05.04.18 06.04.18 – partial compliance achieved as storage use continues to be reduced. Further site visit to be carried out 16.07.18 – partial compliance – further site visit 01.10.18 02.10.18 – site remains non-compliant. Letter before action sent

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O/17/00274/ CONBC (Emma Kierans)	Land at Colworth Manor Farm Colworth Lane Colworth	Non-compliance with condition – details of passing places	19.02.18	BCN 0/29 issued Compliance date 19.03.18 03.04.18 – detail of passing places not received. Discussions ongoing with WSCC s.278 team on details 29.06.18 – notice not complied with. Letter before prosecution action sent 17.07.18 – details submitted of construction to WSCC. Details submitted to WSCC awaiting confirmation that S278 has been granted
PS/13/00015/ CONAGR (Shona Archer)	Crouchland Farm, Rickmans Lane, Plaistow	Without planning permission, change of use of the land from agriculture to a commercial biogas plant	15.07.15	EN PS/54 issued Appeal lodged – Public Inquiry originally scheduled for 24.09.16-04.10.16. The full extent of the planning issues to be considered at the Inquiry will depend on the outcome of current CLU appeal under ref: WSCC/036/15/PS 12.05.16 - HEARING in connection with unrestricted use of the biogas plant and equipment. 22.06.16 – appeal decision letter published re CLU appeal - APP/P3800/15/3137735. Appeal part allowed/part dismissed. s78 & s174 appeals held on 25-28.04.17 – 03-04.05.17 31.07.17 - the last scheduled day for the Inquiry 18.08.17 – Inquiry closed 21.11.17 – Appeal dismissed. Enforcement Notice upheld, subject to corrections and variations. New compliance date of 21.12.17 for Step (i) - “cease use including the cessation of importation and processing of feedstock”. Compliance date of 23.05.19 for all other steps; 04.12.17 – EA confirmed compliance with Step (i); 20.05.18 – Ongoing discussions with Administrators who are working towards compliance. 26.06.18 – as above 05.10.18 – site visit arranged.

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PS/13/00015/ CONAGR (Shona Archer)	Crouchland Farm Rickmans Lane Plaistow	Without planning permission, the installation, construction, engineering operations and deposit of earth in connection with a commercial biogas plant	15.07.15	EN PS/55 issued As Above
PS/18/00088/ CONAGR (Shona Archer)	Crouchland Farm Rickmans Lane Plaistow	Without planning permission, the erection of a steel framed lean-to building	01.08.18	EN PS/62 issued Compliance date 12.12.18 04.09.18 – compliance extended to 21.05.19 Appeal lodged
PS/18/00088/ CONAGR (Shona Archer)	Crouchland Farm Rickmans Lane Plaistow	Without planning permission, the erection of a separator tower building	01.08.18	EN PS/63 issued Compliance date 12.12.18 04.09.18 – compliance extended to 21.05.19 Appeal lodged
PS/18/00088/ CONAGR (Shona Archer)	Crouchland Farm Rickmans Lane Plaistow	Without planning permission, the construction of a slurry lagoon, earth bund and fencing	01.08.18	EN PS/64 issued Compliance date 12.12.18 04.09.18 – compliance extended to 21.05.19 Appeal lodged
PS/17/00055/ CONCOU (Shona Archer)	Nell Ball Farm Dunsfold Road Plaistow	Without planning permission, the erection of a building	18.10.17	EN PS/58 issued Appeal lodged – Written Representation 25.09.18 – appeal dismissed. New compliance date of 25.03.19

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SB/16/00176/ CONCOU (Emma Kierans)	Land East of Inlands Road, Inlands Road, Nutbourne	Without planning permission, the use of three metal shipping container buildings	15.12.16	EN SB/114 issued Written Representation Appeal dismissed 05.05.18 - new compliance date Site visit reveal non-compliance with the notice. Next stage issue letter before action 29.06.18 Application received, prosecution proceedings put on hold
SB/17/00031/ CONMHC (Shona Archer)	Land to the north of Marina Farm Thorney Road Southbourne	Without planning permission the change of use of land to a mixed or dual use for the grazing of horses and the stationing of a mobile home	11.10.17	EN SB/116 issued Compliance date 22.05.18 Appeal Lodged 26.07.18 – Hearing – Assembly Rooms 21.08.18 – Appeal dismissed, enforcement notice upheld New compliance date 21.02.19
SI/16/00359/ CONTRV (Emma Kierans)	Land adj to Ham Road Sidlesham	Without planning permission the stationing of a mobile home for the purposes of human habitation	26.06.17	EN SI/69 issued Appeal lodged – Hearing 04.07.18 – awaiting decision 20.09.18 – appeal dismissed with a variation of compliance period to 12 months. New compliance date 20.09.19
SI/18/00219/ CONENG	Land north of Keynor Lane Sidlesham	Engineering operations consisting of the excavation of the land to form trenches in connection with the laying of services	02.08.18	TSN/55 issued This notice ceased to have an effect on 31.08.18 Remove from next list

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SY/15/00177/ CONHH (Steven Pattie)	Portsoy 16 Bonnar Road Selsey Chichester PO20 9AT	Without planning permission the erection of an extension	14.12.15	EN SY/63 issued Compliance date 25.07.16 27.9.16 – Letter to owner to be sent advising that prosecution proceedings will now be instigated. Notice held in abeyance until determination of application 16/03696/DOM 30.03.17 – application remains pending consideration 16.08.17 – application refused and appeal lodged awaiting start letter. 10.11.17 – appeal against 16/03696/DOM dismissed New compliance date 30.04.18 29.06.18 – prosecution papers prepared. 11.07.18 – prosecution papers forwarded to Legal Services 01.10.18 – awaiting legal advice
WE/15/00135/ CONWST (Shona Archer)	Land west of The Bridle Lane Hambrook	Without planning permission, the excavation of top soil, deposit of hardcore to form a track	15.10.15	EN WE/33 issued – Appeal dismissed - 13.12.16 compliance 16.01.17 – letter before action sent 13.03.17 – no change following site visit. 19.04.17 – prosecution paperwork forwarded to Legal but held in abeyance pending site visit; 30.05.17 – further SV observed that the hardsurface access track had not been removed – proceed with prosecution. 25.09.17 – prosecution held in abeyance awaiting outcome of application 17/02579/FUL 18.01.18 – consult Legal on prosecution case 09.03.18 – fresh application to be submitted taking account of the issues highlighted by the Council. NFA at this stage. 03.04.18 – application 17/02244/FUL pending consideration 29.06.18 – as above 24.08.18 – application permitted. Remove from next list

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WE/15/00322/ CONENG (Shona Archer)	Land west of Jubilee Wood Hambrook Hill North Hambrook	Without planning permission the construction of a storage compound	20.01.16	EN WE/34 issued Compliance date 02.06.16 14.09.16 - application refused under WE/16/00565/FUL 27.09.16 – letter before action sent for compliance. 10.11.16 – site visit revealed storage compound demolished. Partial compliance achieved – defer removal of the materials from the land pending outcome of s78 appeal 19.05.17 – appeal dismissed. 03.07.17 – letter sent seeking removal of debris/materials 07.08.17 –Await the outcome of this application (17/02244/FUL) before taking further action. 13.03.18 – application pending consideration 24.08.18 – application permitted. Remove from next list
WE/13/00163/ CONWST (Shona Archer)	The Old Army Camp Cemetery Lane Woodmancote Westbourne	Without planning permission, change of use of the land to use as a civil engineering contractor’s yard	10.04.18	EN WE/40 issued Compliance date 22.09.18 Appeal lodged – awaiting start letter
WE/13/00163/ CONWST (Shona Archer)	The Old Army Camp Cemetery Lane Woodmancote Westbourne	Without planning permission, change of use of the land to use for the storage of portable site office cabins, container cabins, portable toilet blocks and commercial vehicles	10.04.18	EN WE/41 issued Compliance date 22.09.18 Appeal lodged – awaiting start letter

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WE/13/00163/ CONWST (Shona Archer)	The Old Army Camp Cemetery Lane Woodmancote Westbourne	Without planning permission, change of use of the land to use for the storage of metal skips, building materials, scaffolding equipment, lifting platforms, storage racks, engine parts, commercial vehicles, HGV's, redundant vehicles and truck bodies	10.04.18	EN WE/42 issued Compliance date 22.09.18 Appeal lodged – awaiting start letter
WE/13/00163/ CONWST (Shona Archer)	The Old Army Camp Cemetery Lane Woodmancote Westbourne	Without planning permission, change of use of the land to a mix use of a civil engineering contractor's yard, for the storage and use of the building for vehicle repair and servicing	10.04.18	EN WE/43 issued Compliance date 22.09.18 Appeal lodged – awaiting start letter

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WE/16/00191/ CONCOU (Shona Archer)	Unit 2 Land north of Cemetery Lane Woodmancote	Without planning permission material change of use of the land to a mixed for open storage of vehicles and use as a HGV Operating Centre	24.07.17	EN WE/39 issued Appeal ongoing – Written Representation 19.06.18 – PINs sit visit 02.07.18 - Appeal dismissed with variation in the date for compliance to 18 months New compliance date 02.01.2020
WE/17/00333/ CONMHC (Shona Archer)	Land at Home Paddock Stables Hambrook Hill North Hambrook	Without planning permission, change of use of the land to a mixed us comprising equine and the stationing of a shepherd's hut	27.06.18	WE/44 issued Compliance date 08.02.19 Appeal lodged – awaiting start letter
WE/17/00403/ CONENG (Shona Archer)	Land South West of Racton View Marlpit Lane Hambrook	Without planning permission, the erection of fencing and entrance gates, wing walls and piers and raised gravel banks containing wooden sleepers	06.08.18	EN WE/46 issued Compliance date 17.12.18 Appeal lodged

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WI/14/00365/ CONCOU (Steven Pattie)	Northshore Yacht Limited The Street Itchenor	Without planning permission change of use of the land for the storage of boat moulds	08.04.16	<p>EN WI/21 issued Compliance date 20.11.16 12.1.17 – site visit showed partial compliance achieved. Operator confirmed that works would continue once ground has dried out. 07.04.17 - Continue monitoring to check full compliance. 04.07.17 – Site visit to be carried out in July 13.07.17 – Site visit carried out, letter sent regarding storage of boat moulds and paraphernalia in northern field 20.09.17 – letter before action sent 26.01.18 - Site visit - discussed need to clear the land with the occupiers of the southern field. 12.03.18 – owner to be advised that storage of moulds etc on the northern field is at risk of a further Enforcement Notice being issued. 08.08.18 – Site meeting to discuss the condition and use of the land. Owner proposes to submit an application for boat and trailer storage with landscape screening. 04.10.18 – One boat on a trailer remains on land controlled by EN/WI/21. As PP for whole site allows boats to be stored on the land it is not considered expedient to take any further action in respect of this parcel of land. File to be closed but application to be pursued for use of adjoining land as above. Remove from next list.</p>

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WI/18/00100/ CONCOU (Steven Pattie)	Land at Itchenor Park Itchenor Chichester	Without planning permission, change of use of the land to the storage of boats, boat hulls, moulds, frames, boat trailers, wooden pallets, metal cages, boxes magazines and packaging.	19.06.18	EN WI/14 issued Compliance date 31.01.19 16.07.18 - notice withdrawn. Remove from next list
WR/17/00321/ CONCOU (Sue Payne)	Land and building south of 2 Newfields Newpound Wisborough Green	Without planning permission, change of use of the land for storage and repair of motor vehicles	23.07.18	EN WR/25 issued Compliance date 03.12.18
WW/16/00257 CONACC (Emma Kierans)	Land north of Elms Lane West Wittering	Without planning permission formation of an access onto a highway	16.08.17	EN WW/44 issued Compliance date 27.12.17 04.01.18 - Notice not complied with. Discussions with Highways WSCC on joint action to prosecute. 02.04.18 – discussions with WSCC in progress 10.05.18 – prosecution paperwork sent to Legal Services 26.06.18 – authorisation given to commence prosecution proceedings. Court date of 03.08.18 03.08.18 – Court hearing outcome - Sentence: Band C Fine of £505 and victim surcharge of £50 – CDC awarded costs of £751.85. Case is being monitored regarding compliance with notice

Chichester District Council

Planning Committee

Planning Enforcement Report

**Crouchland Farm, Rickman's Lane, Kirdford, Billingshurst,
West Sussex, RH14 0LE**

1. Contacts

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2. Recommendation

- 1) That the Council use its planning powers under Section 173A of the Town and Country Planning Act 1990 to extend the period specified in Enforcement Notices PS/54 and PS/55 from 21 May 2019 to 21 May 2021; and**
- 2) To extend the period of compliance specified in Enforcement Notices PS/62 , PS/63 and PS/64 from 12 December 2018 to 21 May 2021**

3. The site and recent history

- 3.1 Crouchland Farm covers some 500 acres and is located on the west side of Rickman's Lane approx. 1.2km south east of the village of Plaistow and 2.8km north of the village of Kirdford. The area is rural in character and the site is surrounded by open and wooded countryside.
- 3.2 Following an extensive Public Inquiry to hear evidence relating to the development and use of Crouchlands Farm as a biogas plant, the appeal decision (originally issued on 10 October 2017; corrected and re-issued on 21 November 2017) upheld the decision of West Sussex County Council to refuse planning permission. The appeal decision also upheld two Enforcement Notices issued by Chichester District Council requiring the use to cease, the plant to be dismantled and, following the removal of digestate from the land, the removal of the lagoons [See Appendix A].

3.3 In reaching this decision, the Planning Inspector extended the period for compliance with the requirements of the Enforcement Notices to 18 months i.e. on or before 21 May 2019. The requirements are set out in Annex 2 and Annex 3 of the Appeal Decision.

4. Background and proposals

4.1 On 7 August 2017 administrators were appointed to Crouchland Biogas Limited (CBL) under Law of Property Act Receivership with the purpose of evaluating the financial situation of the Company, on behalf of Privilege Project Finance Limited (PPFL) – the creditors. Advisors were also appointed as receivers under the Law of Property Act and following the outcome of the Planning Inquiry the joint administrators to the Company decided to comply with the Notices. Work then commenced relating to the decommissioning of the anaerobic digestion plant to bring about compliance, including marketing of the assets of the Company for sale.

4.2 On 1 November 2017 officers of the District Council, West Sussex County Council and the Environment Agency attended a meeting with the appointed Advisors to the Administrators who advised that they had been authorised to shut down the plant. This resulted in the cessation of the importation of feedstock and waste onto the land for use in the anaerobic digestion plant before the due compliance date of 10 November 2017. During the meeting the problems with the site were highlighted including the poor quality of the plant and equipment and the scale of the decommissioning project. For safety reasons, it was acknowledged that it was in everyone's interest to complete decommissioning as safely as possible and as quickly as possible. The Advisors emphasised that the site was being closely monitored and tested on a daily basis but that the operation was complex and time consuming having regard to the level of waste on the site and due to the environmental and hazardous risks involved.

4.3 On 1 August 2018 three further enforcement notices were issued to control development not considered at Inquiry:

PS/62 - the erection of a steel framed lean-to building;

PS/63 - the erection of a separator tower building;

PS/64 - the construction of a slurry lagoon, earth bund and fencing

4.4 The issue of these notices gave rise to significant concern expressed by the Administrators and the Environment Agency (EA) in that the decommissioning of Lagoon 4 and the site relies upon this associated infrastructure. In addition, the development the subject of these notices forms part of the operator's contingency plans in the event of a failure of lagoon 3. This has been highlighted by the EA that notes that due to an exceptionally high level of solid waste, the digestate on site needs to go through a process of screening and testing before it can be sent for recovery/ disposal. Consequently, an early removal of these developments would, it is contended, prevent 'on site' management of the waste.

4.5 The EA fully support the enforcement action taken, and recognise that the decommissioning of parts of the site rely upon the existing equipment

controlled by ENs PS/62, 63 & 64 (above). Taking these matters into consideration the period for compliance with these recent notices has now been amended to align with the 2015 notices i.e. by 21 May 2019 so that the site can be restored to its agricultural use without a risk to the environment.

- 4.6 A further meeting was held with CDC officers on 18 September 2018 with the representative of the Administrators accompanied by their Advisor and a legal representative. The meeting was also attended by officers from the Environment Agency and WSCC. The meeting amplified the need to decommission the site in a phased manner to ensure full and safe compliance having regard to the environmental implications of not doing so.
- 4.7 At this meeting the Administrators also set out their legal obligations to decommission the site in a manner that would not create the risk of an environmental pollution event and advised that they would not be in a position to continue in their position as administrators if there was risk of criminal liability through either an unsafe decommissioning of the site, or by virtue of being unable to complete the requirements of the enforcement notices by 21 May 2019. They therefore made officers aware of their intention to formally request that the period of compliance be extended by a further 2 years to allow for the decommissioning and clear up of the site to take place in a safe manner.
- 4.8 Under Section 173A (1) (b) of the Town and Country Planning Act 1990 [the Act] a local planning authority may waive or relax any requirement of an Enforcement Notice. In particular, it may extend any period specified in the notice in accordance with section 173(9) as follows:

173A Variation and withdrawal of enforcement notices

(1) The local planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

- 4.9 This request was made on 1 October 2018 by a letter dated the same day [Appendix B]. The letter requests that the time for compliance, in relation to all the Crouchlands Enforcement Notices, be extended by two years. This is to

provide those responsible for the decommissioning works with sufficient time to complete all works safely. The works may be completed in less than two years but the requested extension of time would remove the likelihood of an offence arising under the Act for a failure to comply with the requirements of the Notices, which would prevent the administrators remaining in office.

5.0 Current Position

5.1 Since November 2017 the administrators of Crouchland Biogas have ceased biogas production at the site and have been in the process of decommissioning the associated plant, equipment and lagoons. A recent site visit conducted by officers on 5 October observed that:

- The biogas production enterprise has ceased
- The Anaerobic Digesters (AD1 and AD2) have been emptied. The engineers report on these tanks has found them to have structural faults and so it is likely that these will be dismantled and removed;
- The CHP engines have been sold and will be removed from the land;
- The unauthorised Harsnips Barn has been removed from the land;
- The dairy slurry lagoon has been drained; it is proposed to create a Duck Pond in this area west of Lagoon 3;
- Lagoon 2 is in the process of being emptied but work will stop next week in accordance with the Permit;
- Water drained from the lagoons is run over ground via a network of 'umbilical' pipes;
- Bagged compost waste continues to be taken off the land from the field to the west of the access drive;
- The farm is operating as an agricultural enterprise; Hay has been cut and stacked in the open barn; fields have been mown and sheep have been introduced for grazing the land.
- At the time of the site visit work was continuing to scoop out slurry and connect pipes to AD3 to complete its decommissioning following the removal of gases from it.

5.2 It is therefore considered that at this time the requirements of (ii) set out in Enforcement Notice PS/54 has been partially complied with and the requirements set out in (iii) of Enforcement Notice PS/54 have been achieved (see Appendix 1, Annex 2 of Appeal A). Principally, Lagoon 3 will be the development which will remain extant as of May 2019 together with completing tasks which are currently suspended in response to the limitations of the environmental operators permit.

Lagoon 3

5.3 This represents the most significant risk on site in terms of its physical structure, size, location, the gases present within it [which requires monitoring of the Lagoon three times every day] and the need to remove excess surface water from the rubberised plastic cover to prevent its weight displacing the hazardous waste contained within the lagoon.

- 5.4 Lagoon 3 covers an area of two professional football pitches and has been constructed in an elevated position to the main farm yard complex and surrounding properties. The matter is contained within by several 'above ground' bunds, of which there is concern in relation to their long term stability. There is no record of what waste is contained within it, but the Lagoon continues to produce gas that cannot be removed or collected as the gas pipework was not completed underneath the rubberised plastic cover. Moreover, as the waste within the Lagoon is considered to be chemically unstable, it would represent a significant hazard if there was a leak caused by any error in the method of its removal or a failure of the structure itself.
- 5.5 The enforcement notices currently require the removal, prior to 21 May 2019, of a significant amount of infrastructure including the removal of lagoon 3 and AD3, with the 1.3km of pipework between the two, soil bunding, debris etc, (together with Lagoon 3). Additional funds have been lent by PPFL to assist compliance with the notices but Lagoon 3 represents a significant logistical, practical and expensive task to undertake, especially given the enforcement notices' deadline of 21 May 2019. It is also noted that the Environmental Permit requires works of pumping and disposing of the waste to be discontinued from Monday 8 October until the end of March. This presents a significant break and delays what progress can be made.
- 5.5 The Administrators advise that the environmental hazards associated with Lagoon 3 are such that any person in control of the land or taking part in its management, at the point of any leak, could be held responsible for the resulting 'harm', and as such they could be prosecuted. So far they advise that no contractors have been prepared to engage with an operation with such a high level of risk and there is certainly no prospect of a safe methodology being developed before May 2019 to remove Lagoon 3 or any likelihood that a contractor can be found which is prepared to undertake the task by that time.
- 5.6 Having regard to this identified risk the administrators request that the Council use its powers under the Town and Country Planning Act to extend the time for compliance. During this period, there would be an opportunity for further funding to be sourced and an appropriate programme of works to be devised.
- 5.7 As set out in the letter of 1 October 2018, the administrator has alerted the Council that it is considering whether to bring the administration to an end, the current unachievable compliance date within the enforcement notices being the primary concern. The resultant outcome of such action would be to transfer the remainder of the land (other than lagoon 3) to West Sussex Agri Ltd (WSA) – a subsidiary of PPFL. Lagoon 3 would remain within the ownership of Mr Lutman-Johnson and the company CBL will go into compulsory liquidation. Mr Lutman-Johnson and the official receiver will then become responsible for complying with the enforcement notices. The District Council may then seek to prosecute Mr Lutman-Johnson for failure to comply with the enforcement notices, however, it is considered that this is unlikely to result in the clear up of lagoon 3 and the restoration of the land.
- 5.8 The Council as local planning authority would then need to consider whether it was expedient to take further action, including possible direct action to achieve the decontamination and restoration of lagoon 3. Additionally, the

Environment Agency may also need to consider action in the event the lagoon became unstable and therefore represented an imminent environmental risk. The cost of safe decontamination of the Lagoon and restoration of the land has been evaluated by the administrators as being up to £5 million, however if lagoon 3 becomes disassociated with the remainder of the previous biogas operation, decommissioning without the third anaerobic digester [AD3], or other lagoons to capture the material in the event of a failure in its structure, would become much more difficult and likely to be more expensive.

- 5.9 The site is regulated under the Environmental Permitting Regulations and the Environment Agency has reported its satisfaction with the operations being conducted on site to decommission the site and to safeguard against pollutants escaping into the environment. They are also very aware of the costs being incurred in this matter and the investment that is still required to bring about a completion of the works. There is no public contingency to carry out this work if the project fails at this point and the Environment Agency have advised that in their view an extended period of compliance for a further 2 years is not unreasonable given the conditions on site and the need to ensure that any decontamination works are undertaken in a safe manner that does not represent a risk to the wider environment and public health. A further letter from the Environment Agency setting out their position is expected imminently, and will be reported to the Planning Committee.

6. Conclusion

- 6.1 Officers are satisfied that extensive works of compliance have been undertaken and that these have now reached an advanced stage. However, further progress is hampered by the need to stop the spreading of cleaned waste on the land (in accordance with the environment permit) and the circumstances surrounding the handling of Lagoon 3.
- 6.2 It is also apparent that at the time of the Public Inquiry that no party, other than the operator of the biogas plant at that time, had any knowledge of the full extent of the use or the conditions on site. Full disclosure was not advanced relating to the structural stability of the operational development, its lack of supporting infrastructure or the nature of the waste and the processing of it.
- 6.3 It is likely that if this had been evidenced at appeal it may have led to the Planning Inspector requesting the submission of a detailed Environmental Management Plan to inform the decommissioning of the site and the timescales required to achieve the works required. As an example, at the point of deciding to shut down the plant, no works could commence on site for five months until the gas had reduced to safe working levels. Had this information and the constraints on spreading cleaned waste been available to the Inquiry it is likely that the period of compliance would have been over a much longer period of time.
- 6.4 The repercussions of the Council not agreeing a variation of the enforcement notice as now requested to allow for an extended period of compliance would be that lagoon 3 would likely remain in situ for a substantially longer period of time whilst parties responsible for its decontamination and removal are identified, and a plan and funding for those operations is sought.

7 Legal Implications

Crime and Disorder Act Implications

- 7.1 There are no implications.

Equality Act Implications

- 7.2 As part of the decision-making process, under the Equality Act, public bodies must have due regard to the need to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it.
- 7.3 In reviewing the planning issues set out in this report, it is concluded that a decision to increase the period of compliance would not adversely affect those with 'protected characteristics'.

Human Rights Implications:

- 7.4 The Human Rights Act requires the District Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary on a democratic society in the interest of (inter alia) public safety and the economic wellbeing of the country. Article 1 of the protocol provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 7.5 Any interference with these rights needs to be proportionate to the aims sought to be realised. The extension of the time to comply with the requirements of the Enforcement Notices will assist the removal of development that is considered to be in breach of planning control. The effect of the development, in this case has been found to have greater environmental consequences than first identified and so any adverse harm arising from it is considered to invoke the rights under Article 1 of the 1st protocol - Protection of property. Article 8 of the Convention (Right to respect for private and family life) for private landowners and occupiers of nearby properties.
- 7.6 In assessing the implications of the identified articles on the proposed enforcement action, it is noted that the Human Rights Act 1998 does not impair the right of the state or local authorities to enforce laws as it deems necessary in the public interest. It is therefore considered that the proposed extension of the time for compliance with the extant Enforcement Notice/s and their objective of securing compliance with planning control by removing the unauthorised plant and equipment and ceasing the use, would uphold adopted national and local planning policies and protect the amenities of local residents and the amenity of the area. This cannot be achieved by any lesser measures

and therefore the action to be taken is considered proportionate to the circumstances found on site. There is no interference with the rights of others, as the Council deems an extension of time to be necessary to safely control the discontinuance of the use and to remove the development in accordance with the public interest.

8.0 Recommendation:

- 8.1 The recommendation is to extend the period of compliance of the relevant enforcement notices to 21 May 2021 based on the reasoning set out above. It is considered that the recommendation is a proportionate response to the circumstances of this case which has a long and complex planning and enforcement history.

9. Background Papers

- 9.1 Enforcement files PS/13/00015/CONCOU & PS/14/00104/CONENG;
- 9.2 Planning history

10. Appendices

- 10.1 Appendix A – Appeal Decision dated
- 10.2 Appendix B – Letter dated 1 October 2018
- 10.3 Appendix C – Site Plan

Appeal Decisions

Inquiry held on 25 - 28 April, 3-4, 12, 24 - 25 May & 31 July 2017

Site visit made on 11 May 2017

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2017

3 Appeals at Crouchland Farm, Plaistow Road, Kirdford, Billingshurst, West Sussex RH14 0LE

Appeal A: APP/L3815/C/15/3133236

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Crouchland Biogas Limited against an enforcement notice issued by Chichester District Council.
 - The enforcement notice, numbered PS/13/00015/CONCOU, was issued on 15 July 2015.
 - The breach of planning control as alleged in the notice is as set out in Annex 1 to this Decision.
 - The requirements of the notice are as set out in Annex 2 to this Decision.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (e) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal B: APP/L3815/C/15/3133237

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Crouchland Biogas Limited against an enforcement notice issued by Chichester District Council.
 - The enforcement notice, numbered PS/13/00015/CONCOU, was issued on 15 July 2015
 - The breach of planning control as alleged in the notice is a material change of use of the land to a mixed use for agriculture and for the purposes of a commercial biogas plant, including the importation of feedstock and waste from outside the farm unit.
 - The requirements of the notice are as set out in Annex 3 to this Decision.
 - The period for compliance with the requirements is one month for step (i) and six months for steps (ii) – (vi).
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (e) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal C: APP/P3800/W/15/3134445

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Crouchland Biogas Limited against the decision of West Sussex County Council.
 - The application Ref: WSCC/042/14/PS, dated 24 June 2014, was refused by notice dated 07 July 2015.
 - The development proposed is the upgrade of an existing anaerobic digester facility to enable the export of biomethane to the national gas grid, installation of a new digestion tank, two new CHP engines, digestate lagoon and associated infrastructure.
-

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 10 October 2017.

Decisions

Appeal A: APP/L3815/C/15/3133236

1. It is directed that the enforcement notice be corrected by the deletion of the words '*and the pump house*' and the addition of the words '*the following equipment unless sited within the authorised containers:*' after '*remove from the land*' in the allegations and requirements of the notice and varied by the substitution of 18 months as the time for compliance. Subject to these corrections and variations the appeal is dismissed and the enforcement notice is upheld.

Appeal B: APP/L3815/C/15/3133237

2. It is directed that the enforcement notice be corrected by the deletion of the words '*and the pump house*' and '*and the production of biomethane for export from the land*' and the addition of the words '*the following equipment unless sited within the authorised containers:*' after '*remove from the land*' in the requirements of the notice and varied by the substitution of 18 months as the time for compliance for all except item (i) of the requirements. Subject to these corrections and variations the appeal is dismissed and the enforcement notice is upheld.

Appeal C: APP/P3800/W/15/3134445

3. The appeal is dismissed.

Main Issues

4. I consider that the main issues in Appeal C and on ground (a) for Appeals A and B and are the effects of the development on:

- (i) highway safety
- (ii) the living conditions of nearby residents
- (iii) the rural character of the area and

how the location relates to adopted planning policy on the need for and siting of waste facilities.

Procedural matters

5. At the Inquiry it was confirmed that the appellants are not pursuing the appeals on grounds (d) and (e). The Council has also agreed that the enforcement notices should be amended to reflect their acceptance that the reference to a 'pump house' is an error and should be deleted from the notice. This was the only matter raised under the appeal on ground (b) and, to that extent, the appeal succeeds on this ground and the enforcement notices will be corrected to reflect this.

6. Following the previous Decision¹ that granted a Lawful Development Certificate (LDC) for the export of biogas, it was also agreed that the requirement to cease this activity should be deleted from the change of use enforcement notice. It was also agreed that some of the equipment that is referred to in the notices has now been found to be authorised. This is the gas conditioning equipment sited within the authorised CHP containers. I shall vary the notices accordingly to make clear that this equipment is not included in the notices.

Ruling

7. At the Inquiry I was asked by the parties to give a ruling on a suggestion by the appellants that the enforcement notice plans should be amended by extending the 'red line' area to follow the planning unit boundary of Crouchland Farm rather than the smaller area enclosing the area where the operational development that is the subject of Appeal A is sited.
8. I decided that the area should remain unchanged because to do so would result in the ground (a) appeal also applying to that area of land and would confirm a mixed use across the whole farm, not just the areas containing the operational development of the AD facility. I considered that the Councils would be prejudiced if they were not able to consider the consequences of this before presenting their evidence.
9. The appellants had not previously claimed that the whole of the planning unit of the farm was in a mixed use and I considered that it was too late to introduce any such argument at that stage in the appeal process. Therefore, to allow the appeal to continue on ground (a) on the basis of what has been alleged by the Council would not be prejudicial to the case they have already made and neither would retaining the boundary as drawn would not prejudice the appellants' position.
10. Success on ground (a) might result in the creation of a separate planning unit, enclosed by the remainder of the agricultural land of the farm. However, this would not change the extent of the 'farm unit' as identified in the Lawful Development Certificate'. If necessary, an additional plan could be attached to the enforcement notice identifying what is meant by 'farm unit' in the notice.

Site and surroundings

11. The appeal site lies within a dairy farm covering some 460 acres in countryside outside the hamlet of Kirdford. In terms of built development, the site includes several large cowsheds and a barn, 2 circular containers for biogas production, a 30m diameter biogas tank, 4 containers, a separator unit and flare and various other equipment associated with the use of part of the site as an anaerobic digester (AD) facility and biogas plant, processing slurry and other feedstock into methane gas.
12. This equipment is sited close to cowsheds in the main farmyard complex but there are, in addition, 3 lagoons situated some distance away which are used for digestate and dirty water storage and are connected to the AD facility by a pipeline. The largest of the lagoons, known as lagoon 3, is included within the enforcement notice area for Appeals A and B and consequently the application site for the deemed planning application under ground (a).

¹ Ref: APP/P3800/X/15/3137735

13. Appeal C also seeks planning permission for the additional equipment. Although it also refers to the export of biogas, the LDC Decision has already confirmed that this is lawful and the Council has accepted that the enforcement notice subject of Appeal B should be corrected to reflect this.

Reasons

Ground (a)

The baseline position

14. Much of the appellants' case on ground (a) is predicated on the submission that there are authorised uses of the site that the appellants would employ if planning permission is refused. It is submitted that these would have a greater impact on many of the matters of concern to the Councils and local residents than would occur if planning permission, regulated by conditions, were to be granted and implemented. The appellants say that, in the event that the appeals fail, they would increase the number of cows on the farm to 850, use all the remaining land on the farm to grow crops for feedstock for the AD unit and import all the food for the livestock. The AD unit would then continue to operate at a level that was restricted only by the amount of feedstock that could be produced on the farm and made available from the increased on-site activities.
15. They maintain that there are no planning restrictions that would prevent this scenario and, because they claim it would then be more financially viable to distribute the digestate produced on the farm by tractor and attached tankers, rather than the heavy goods vehicles (HGVs) used at present, this would increase the total number of vehicle movements on local roads.
16. They also claim that a grant of planning permission would be more beneficial to local residents, as attached conditions and the implementation of an agreement under s106 of the Town and Country Planning Act 1990 as amended (TCPA) made between the appellants and the County Council could ensure that their living conditions would be protected. The agreement and conditions would be able to limit noise from the process and restrict the numbers, routing and hours of operation of the deliveries to and from the site.
17. The starting points for the determination of the ground (a) appeals and the consequent deemed planning applications must be the policies included within the Development Plan, unless material considerations indicate otherwise. A fall-back position that is realistic and achievable can be such a material consideration and the weight to be given to any such fall-back would be proportionate to the likelihood of it meeting the above criteria.
18. However, the parties have addressed the matter of the fall-back or baseline position at the outset of their closing submissions and because my findings on this issue will inform how the remainder of my reasoning will follow, I will therefore do the same in this Decision.
19. It will be necessary firstly to determine whether the 'baseline' position in the appellants' vocabulary and the 'fall-back position' in that of the Councils can be achieved without the need for further consents then, secondly, to consider whether there is a realistic prospect that they would be implemented if planning permission is refused. If the baseline proposals pass these tests, weight can be attributed to them commensurate with the likelihood that they

- will be implemented. A comparison would then be made between the impacts of the development for which planning permission is sought and the realistic situation likely to occur if the appeals are dismissed.
20. A previous appeal Decision² issued a lawful development certificate (LDC) for some of the buildings, equipment and uses that are now authorised on the site and this stands alongside that previously issued by West Sussex County Council (WSCC) on 9 October 2015. It is against this background, and the appellants' stated intentions and their feasibility, that the likely effects of the proposals should be evaluated.
 21. It has been suggested by WSCC and Chichester District Council (CDC) that the AD facility, if operating as proposed under the appellants' baseline scenario, would create a separate planning unit and this indicates that a material change of use would occur.
 22. The term 'planning unit' is not one that is defined in the TCPA but it is conveniently used when considering whether a material change of use has occurred on a particular site. The leading legal authority on the matter is the case of *Burdle and Williams v SSE and New Forest DC [1972]* which established that whether such a change has occurred is likely to be a matter of fact and degree. Relevant considerations to apply when making such a judgement include the unit of occupation, the degree of physical and functional separation between different uses, the relationship between those different uses and whether one is ancillary or incidental to another.
 23. In this case, the AD plant is operated by a company that is separate from that running the agricultural operations on the farm and I consider that this could indicate a functional separation even though in the baseline scenario the AD company would be purchasing feedstock only from the farming enterprise. However, there is nothing that physically separates the areas occupied by the AD operation from the remainder of the farm. It follows that there would be no separate planning unit created.
 24. However, the question of the overall use of the planning unit that covers the whole farm site is another matter. A planning unit can be in a mixed or composite use if a former ancillary use has increased to the extent that it becomes a primary use in its own right.
 25. The appellants submit that in the baseline situation the AD unit would remain an ancillary use, as its operation is parasitic on the agricultural farming activities. Whilst I accept that the AD unit would have to stop operating were the agricultural use on the farm to cease, this does not mean that the character of the baseline scenario is the same as that of the authorised use.
 26. The LDC Decision confirms that the use of the AD facility is ancillary to that of the agricultural use of the land shown on the plans attached to the certificate and that it is only authorised to process feedstock deriving from the farm unit. Ancillary or incidental uses may change, expand or decrease without constituting a material change, so long as they remain subsidiary to the primary purpose of the planning unit as a whole. Intensification of an ancillary use does not necessarily result in a material change that needs a grant of

² APP/P3800/X/15/3137735

planning permission to authorise it but there can be situations where the level of the use has changed to such a degree that its character has also changed. I consider in the following paragraphs whether that would be the case were the baseline scenario to be implemented.

27. If the baseline scenario were in operation, the overall way the site was used would change the relationship between the two uses so that, rather than the AD unit serving the needs of the agricultural use, a significant part of the agricultural operation on the site would be geared to supporting the AD plant. The existing dairy herd would be more than doubled, with the stated intention of increasing the volume of slurry available for the AD, and the grass pasture used to feed the cows at present would be given over to crops with a higher energy density, all of which would be used to feed the AD.
28. Clearly the production of the crops and the keeping of dairy cows are agricultural operations. However, the original purpose of the AD plant was to provide a sustainable means of dealing with the waste products of the dairy farm and in my opinion, this indicates why the authorised use is ancillary.
29. It is submitted that it is likely that the dairy herd would be increased in any event as this is the most profitable way of running the farm, but this has not, as yet, occurred. If a herd of 850 cows was really the most profitable scenario for the farm business it begs the question why this has not already happened rather than wait for the need to implement the fall-back situation.
30. The appellants point out that the AD unit represents a considerable investment that will be utilised to its maximum in any event and the original planning permissions were sought as part of a farm diversification project in order to provide additional income. However, with reference to the purposes behind the development, my findings on the LDC application noted the following: *'The new and replacement silos were said to be needed to allow the farm to comply with new NVZ (Nitrate Vulnerable Zone) regulations that were to be introduced and which would require increased capacity for the storage of slurry produced on the farm'* and *'the AD facility and biogas plant were constructed to deal with the disposal of waste arising from the land surrounding the Crouchland Farm premises.....'*. This does not support the proposition now put forward that the justification for the proposals was always intended to be primarily to be farm diversification.
31. Nevertheless, it is clear that the unit provides significant income for the farm and I accept that the major capital investment in the parts of the plant which benefit from planning permission means that it is highly unlikely to be abandoned if the appeals fail.
32. However, even if the AD unit only accepts feedstock from the farm, this does not indicate that it necessarily remains the ancillary use taking place on the unit. In the baseline scenario, it seems that providing feedstock for the AD would be the primary purpose for which the agricultural activities on the farm were taking place. The majority of the dairy herd (the additional 500 cows) would be introduced to support the running of the AD unit and all the crops grown on the farm would be utilised in the same way to produce biogas from it. This is the opposite situation from the authorised position where the AD unit serves to meet the need to manage the slurry output from the farm whilst also providing an additional form of income.

33. In my view, the interdependence between, and the increased reliance of the agricultural output on, the operational needs of the AD unit in the baseline scenario would be so different to that in authorised situation, where an AD was permitted to meet the NVZ needs of the dairy herd that, as a matter of fact and degree, these factors would result in a material change of use for which planning permission would be required. If I am correct in this judgement, then the baseline scenario would not be a fall-back position and would carry no weight.
34. Even if this were not to be the case and the proposed method of working could be implemented without the need for a further planning permission for a change of use there is still a question of whether additional operational development would be needed to allow the AD unit to operate lawfully under the baseline scenario.
35. Although the LDCs make clear which equipment and activities are now authorised, there is still a dispute between the parties as to which operations can practically be carried out on the site without the need for further planning consents. In particular, it is claimed by the objectors that it would not be possible for a complete functioning AD facility to operate using only the authorised equipment, as it does not meet the criteria required for the issue of a permit from the Environment Agency (EA).
36. It is a safety requirement for the plant to have a flare for burning off excess gas in an emergency and without this facility, an EA permit for the AD plant would not be issued. The existing flare does not benefit from planning permission and to overcome this in the baseline scenario, the appellants have submitted that they would use 2 mobile flares and that these would be approved by the EA. However, such a solution has not, apparently, be proposed or tested before and, at the time of the Inquiry, had not been formally accepted by the EA. The Parish Council's expert witness on AD facilities was concerned about the safety of such a proposal and expressed serious doubts about its suitability, despite the appellants' assertions to the contrary.
37. There was much discussion at the Inquiry on the technical feasibility of such mobile flares and their ability to meet the EA's safety requirements and submissions from all parties on the likelihood of the EA accepting them as suitable. The experts in the subject have expressed contradicting views on these matters and the EA did not appear at the Inquiry to give its view on the likelihood of the grant of a permit for them. Despite the appellants' conviction that it will do so, it is ultimately for the EA to take this decision and, until it does, there can be no certainty that such a scheme would be approved.
38. Similarly, to operate as an authorised AD facility, the gas conditioning equipment would need to be relocated within the authorised containers that already have planning permission. The appellants maintain that this is possible but, once again, the current equipment remains without planning permission and there is no certainty that the proposed scheme is viable. The manufacturers of the equipment have produced 'preliminary' engineering drawings for a proposed scheme but it has yet to be conclusively demonstrated this would be practical or that it would meet the EA's requirements for the issue of a permit.

39. The situation at present is therefore that, for the baseline scenario to be operable, further site works and investment in capital equipment and livestock would be needed. Even if an EA permit were to be forthcoming in the future, the fact is that it had not been issued at the time of the Inquiry. Consequently, even if the appellants' baseline scenario were not a material change of use, it could not be implemented at present and whether it could be put into place in the future is still dependent on a number of variables.
40. The relationship between the 2 operating companies, Crouchland Biogas or Crouchland Farms Ltd, is also somewhat unclear and this casts some doubt on whether the appellants would have sufficient control over how the farming operation would operate on land which is outside the appellants' leasehold. The appellants submitted at the Inquiry that a subsidiary company, Farm Fuels Ltd who provide the HGVs for the current operation, are run as in independent operating concern and there is no guarantee that the relationship between the farm business and the appellants would necessarily be any different.
41. Finally, since the last sitting day of the Inquiry, it has emerged that the appellant company and the separate company running the farm business have both gone into administration and are seeking new investment or ownership. The administrators have stated that the business operated by Crouchland Biogas Ltd. will continue to trade as a going concern and that there are sufficient funds available to operate (my emphasis) under both the baseline scenario and the scheme for which planning permission is sought.
42. However, the letter from the administrators does not address the likelihood of funds being available for the further investment that would be needed for the baseline scenario to be viable, such as the purchase of the mobile flares and additional tractors and tankers and the repositioning of the gas conditioning equipment. In addition, there is no word on whether the farm business, which as noted above is also in administration, would be able or willing to invest in an additional 500 cows in order to provide the additional slurry required to bring the AD plant up to the envisaged output.
43. It may be that one or more buyers might be found for the businesses and they would be prepared to undertake this funding, but once again this is a theoretical proposition and there is no certainty that it would materialise.
44. The objectors have raised a number of other reasons why they consider that the baseline position could not be a reality. They relate to the detailed operation of the existing on-site equipment including whether it would be able to process the amount and type of feedstock proposed, the availability of sufficient storage for both the digestate and the NVZ requirements of the farm and the ability of the farm to house the additional number of cows proposed. They also question the likelihood of the appellants using tractors and tankers to transport the digestate, based on doubts about the economic viability of this method of transport.
45. There were detailed discussions at the Inquiry about the volume of straw that has been assumed would be available for the baseline scenario. However, I accept that the amount of straw that would be purchased by the farm would rise because the cows would be housed all year round, which they are not at present. I am therefore not persuaded that the volume of straw suggested by the appellants would be so inaccurate as to suggest that the output figures are unachievable.

46. The objectors also questioned whether the Peecon feeder could process the straw at the rate needed to run the AD at the predicted level. Although it was submitted that the unit would be likely to block up and be regularly stopped from operating efficiently by stones, the appellants confirmed that the straw was chopped to a manageable length and there was a 'stone catcher' on the equipment that would prevent these problems.
47. Although the 2 expert witnesses had differing views on the practicality of using the feeder, this is essentially a matter for the site operator and, whilst there might be some problems with the equipment that could have financial implications, there was little evidence to suggest that it would have any serious implications for the baseline scenario.
48. In addition to the concerns set out above, the Parish Councils have questioned whether the existing farm yard could cope with the potential increase in herd size without further operational development. They cite the fact that the appellants have submitted a planning application for improved facilities to allow an increase in the dairy herd to 550 cows. The report³ by consultants, who were not called to give evidence at this Inquiry but which was submitted to support the application by the same agents employed for these appeals, states '*the existing buildings severely restrict the size of the herd that Crouchland can run and prevent significant expansion*' and that new building is necessary to meet the operational and welfare needs of a larger herd. If this is correct, the objectors submit that this indicates that it is difficult to understand how a herd of 850 cows could be accommodated within the existing buildings.
49. However, the farm has previously housed more cattle than proposed in the baseline scenario and the appellants have explained that the application for planning permission was to enable an automatic milking system to be installed for a dairy herd of 550 cows, which would need a new building and more space per cow. This would not be the case in the baseline scenario. It is also proposed in the planning application to house a further 830 other cows on the farm in addition to those producing milk but it is not stated whether these cows would be permanently housed in the farmyard or would be outside during part of the year.
50. Nevertheless, the Red Tractor animal welfare standards⁴ require 9m² for bedding, feeding and loafing for each cow of the weight of those kept at Crouchland Farm. Having heard the proposals for accommodating the increased number of cows, and taking into account the size of the farmyard at about 8,800m² it seems likely that the proposed 850 cows could be satisfactorily accommodated in the existing farmyard and buildings which could be adapted to do this without the need for any further planning consents.
51. The LDC appeal decision also specifically excluded the separator from the authorised operational development. The separator is said to help reduce the liquid storage facilities necessary for the plant and the Parish Councils submit that without it, in the baseline scenario, there would need to be modifications to lagoon 2 to allow it to be suitable for digestate storage.
52. Although there would appear to be sufficient capacity for the for the required liquid storage in the 2 authorised lagoons, the Parish Councils consider that lagoon 2 would need to be lined, as unauthorised lagoon 3 is, before the EA would permit its use for digitate storage and that this would require planning

³ CD vol 8 P6

⁴ ID 3

- permission. They point to a report⁵ on the existing permit conditions which asks the appellants to empty lagoon 2 and cease to store digestate within it. The reasons given for this request are, however, that the lagoon was outside the permit area and did not have a cover; there is no mention of it needing a liner. The lagoon now has a clay ball cover. I therefore find that there would be no problems relating to the ability to store digestate.
53. The appellants state that in the baseline scenario, tractors and tankers would be used to transport the digestate between the site and the farms to which it would be delivered to use as agricultural fertilizer. The reasons for this are said to be both economic and practical. To support their case, the appellants have produced detailed costings which, they say, show that although more vehicle movement movements would be needed if tractors were used rather than HGVs, it would nonetheless be a more cost effective solution and therefore the preferred course of action. I am told that HGVs are only used at present because the appellants were asked to reduce the number of vehicle movements by the WSCC but there are no planning conditions that presently limit this aspect of the operation.
54. The Councils however, dispute the financial evidence, pointing out that Farm Fuels Ltd, who currently transport the output from the AD, is a subsidiary company of Crouchland Biogas Ltd and therefore part of the same overall operation. Farm Fuels Ltd already owns a number of HGVs and to operate with tractors and tankers would require the appellants to purchase additional equipment. It is therefore questionable whether this would be an actually be an economically viable proposition for the appellants.
55. In addition, WSCC has questioned whether the average speed at which the tractors would need to travel to cope with the proposed output from the AD is feasible. An average speed of 20mph would be needed but part of the access road is restricted to 5mph. The tractors would also be sharing the road with the HGVs transporting the biogas off the site. The HGVs have a lower average top speed than 20mph, so this would restrict the tractor speed if travelling behind one of these lorries, or indeed other traffic driving with caution on these country roads. It therefore seems that it would be unlikely that the tractors could maintain an average speed of 20mph and consequently could not operate at the rate suggested to service the AD facility.
56. Nevertheless, whilst there may well be some doubts about the financial aspect of the use of tractors, the evidence put forward by the appellants is robust enough to suggest that there is a strong likelihood that they would use this mode of delivery and that there would consequently be an increase in the number of movements on local roads under the proposed baseline scenario.
57. Whether there was sufficient evidence to support the premise that the appellants would actually implement this scenario was also questioned. However, I have taken into account the considerable volume of evidence produced to demonstrate that, if it were considered to be authorised, the proposed baseline could operate the AD plant as predicted and I have previously acknowledged that the equipment already authorised is likely to be utilised as fully as possible. I therefore conclude that, if able to make the required investment in the additional plant, the appellants would do so.

⁵ ID25

58. In conclusion, it seems to me, for the reasons set out above, that whilst some of the queries raised do not indicate that the baseline scenario would be impractical or unrealistic, there are nonetheless other concerns that have not been satisfactorily overcome by the appellants' arguments. These indicate that, even if the baseline scenario was authorised and more than a theoretical possibility and, despite the stated intention to do so, the likelihood of it being able to be implemented is, at best, uncertain and the weight that I will attach to this possibility when considering the planning applications is consequently limited.

Planning considerations

59. As noted above, the appellants cite a number of benefits that they submit would occur if planning permission were to be granted for the development enforced against in the enforcement notices and conditions were to be imposed to limit the scope of the operations. These are, of course, based on the assumption that the baseline scenario would be put into operation and in the preceding paragraphs I have indicated that I give this potential fall-back position, at best, little weight. With that in mind I will now consider the merits of the development enforced against and for which planning permission is sought under the appeals on ground (a) and the application that is the subject of Appeal C.

Highway safety

60. There has been no dispute from the Highway Authority that the roads over which the traffic from Crouchland Farm would travel if the AD facility were to be permitted in its entirety have the capacity to carrying the projected vehicle numbers. However, the Councils consider that these numbers would prove dangerous for other road users due to the nature of the lanes and the type of usage they currently experience.
61. The roads around the farm are relatively narrow and local residents gave persuasive evidence that there are regular incidents of vehicles having to manoeuvre to pass each other, often having to reverse at junctions. This causes concern for other road users, who also have to move to avoid the vehicles, with pedestrians and riders of bicycles and horses feeling particularly unsafe.
62. At present, the plant is operating at a level that would be close to that sought through the planning applications and consequently the impact of HGV movements from the site on the surrounding area can already be experienced. The grant of planning permission could limit the hours and numbers of these vehicles and the route that they take and the appellants have offered to fund the widening of Foxbridge Lane at 3 points between the site and the junction with Plaistow Road. They do not, however, believe that this would be necessary to make the scheme acceptable. There are, nevertheless, objections to this proposal as it would mean the loss of areas of ancient woodland that border the road.
63. The Councils consider that without the improvements, the impact of the additional traffic on the highway network would be severe and it seems that the current situation is proving difficult for all road users. I agree that the use of the lanes for the number of HGVs proposed would create a situation where local residents felt unsafe and mitigation measures are necessary. However,

- from what I saw on my site visit and from a study of the proposed widening measures, I conclude that the suggested changes would not result in any significant improvement to the free flow of traffic in Foxbridge Lane or contribute to the safety of pedestrians and riders to any meaningful degree.
64. It would be easier for 2 HGVs to pass at the widened areas and damage to the verges would reduce at these points but if there were to be more than one HGV in either direction, the second would block the path of oncoming traffic if the passing place were taken by the first. Thus a queue could form causing the same difficulties in manoeuvring that are experienced at present. In such circumstances, the build-up of traffic would still prove to be, at best, frustrating and, at worst, unsafe, particularly for those on foot, bicycles or horses.
65. I accept that conditions could attempt to control the flow of HGVs into and out of the appeal site but I am not persuaded that they could be sufficiently effective. If it is possible to contact drivers before they enter Foxbridge Lane and Rickman's Lane in order to prevent conflict with each other, it begs the question of why this procedure has not been implemented already, to prevent the kind of incidents that local residents have recorded and shown to the Inquiry.
66. I am also of the opinion that the improvements would cause a degree of harm to the rural character of this country lane through the loss of the roadside trees and the additional areas of hard surfacing and, whilst this would not be severe, it would nonetheless have a detrimental impact that would need to be set against any, albeit minimal, benefits to the free flow of traffic. However I realise that, if planning permission is refused, there would be nothing to prevent the use of the road by any number of vehicles connected to the authorised uses on Crouchland Farm and I will take this into account when carrying out the planning balance exercise.
67. As noted above, the actual number of vehicles that are likely to use the route is in dispute between the parties. If planning permission is granted the appellants say that there would be 11,212 vehicle trips per annum compared to the 13,998 that they say would be generated through their claimed baseline position using tractors and tankers to distribute the digestate. They anticipate that there would be a daily figure of about between 14 and 46 HGV movements if planning permission is granted for the AD facility and that this could be secured through condition had planning permission.
68. The appellants give no assessment of the number of trips that would occur if their baseline position was found not to be viable or lawful and the unit were to operate in accordance with the scenario set out in the LDC without an increase in the herd size or an increase in the amount of imported cattle feed. WSCC estimates that, in that scenario, the total number of movements per annum would be 4,759.
69. There are no measured traffic surveys for the situation that existed before the AD unit started production and the numbers of HGVs using the affected roads that are not associated with the Crouchland enterprise can only be estimated. Similarly, it is difficult to distinguish between the HGV movements connected with the current authorised use and those that result from the use of the unauthorised equipment and the import of feedstock.
70. Nevertheless, if it is considered that the appellants' projected baseline position is unauthorised and unlikely to be implemented, as I have concluded above, it is clear that the operation of the unit at the capacity proposed would lead to a

significant increase in traffic on local roads. The site is some 13 miles from the closest Strategic Lorry Route and 5 miles from the nearest Local Lorry Route. Policy W18 from the West Sussex Waste Local Plan (WLP) 2014 seeks to direct traffic to the Lorry Route Network but the appeal proposal would therefore necessarily have to rely heavily on the use of local roads and in this respect there would be some conflict with this policy.

71. The roads around Crouchland Farm are narrow country lanes where traffic is likely to be restricted to use by residents, the farm enterprise and occasional delivery vehicles and persuasive evidence was given by local residents on the fear to safety caused through meeting a large lorry when walking on a road with no pavement or when riding a horse or bicycle on the carriageway.
72. Even if the baseline position were to be accepted and tankers and trailers were brought into use, this might not be as unacceptable as suggested by the appellants. Whilst the use of HGVs would result in fewer trips, local residents have described how intimidating they find the larger lorries and gas tankers that are currently in use and it may be that the use of tractors would be more in keeping with the local road conditions. I note that it was, apparently, WSCC that asked for HGVs to be used in preference to tractors, but the evidence from local residents suggests that they have found this to be very disruptive.
73. On roads where HGV movements are the norm and other levels of traffic are relatively high, an increase similar to the numbers proposed here might not be significant or readily discernible. However, that is not the case on these country lanes where one would not usually expect to encounter any significant numbers of large vehicles.
74. I consider therefore that the proposed AD use would bring about a noticeable and detrimental change from the situation authorised by the LDC. This would create a conflict with policy 39 (2) of the Chichester District Local Plan Key Policies 2014 – 2029 (CDLP) which, amongst other things, requires development to be located to minimise additional traffic generation and not to create or add to problems of safety, congestion or damage to the environment.

Living conditions

75. The appellants have produced evidence on noise matters that seeks to demonstrate that the levels produced by the AD plant and from associated traffic would not reach levels that would have a significant impact on the amenity of local residents.
76. Nevertheless, I heard other evidence noting that the plant emits a high pitched whining noise that has disturbed the sleep of neighbouring occupants and that the HGVs pass very close to some properties, causing noise and vibration that can be experienced within the houses. Whilst theoretic calculations can be useful in situations where a proposal has not already taken place, in these circumstances I give the first hand testimony of those directly affected considerable weight.
77. The application for planning permission includes proposals to attenuate the noise emitted from the AD plant itself and I have no reason to doubt that the expected levels could be achieved. Even if they were not, conditions could require the cessation of the use of the plant in such circumstances.
78. However, with respect to the noise and disturbance from passing traffic, the Parish Councils make the good point that, in this rural situation, impacts on tranquillity, increased levels of intimidation and reduced residential amenity are

experienced each time a HGV passes. The noise levels created might not, when averaged out, amount to a significant overall increase, but when disturbance is caused even 2 or 3 times an hour each time an HGV passes a property it can soon prove annoying and eventually debilitating to those experiencing it.

79. The authorised export of biogas already results in an increase in large vehicle movements over and above that which would normally be expected from a dairy farm of this size and, whether it is tractors and tankers or HGVs that are used to move the digestate, there would be an impact on the tranquillity of the surroundings and the amenity of local road users.
80. I consider that, although the local residents are bound to be subject to a certain amount of HGV traffic noise and disturbance from the operation if the problem of the unauthorised flare is overcome, any increase in the number of HGV trips would prove detrimental to their living conditions. Again, this is a factor that conflicts with WLP policy 19 which includes the requirement that proposals for waste development should control the impacts from traffic, such that there would be no unacceptable impact on public amenity and this adds to the weight against the proposal.

Landscape character and impact

81. The Councils all criticise the impact that the AD facility is having on the landscape quality of the surrounding countryside and the character of the rural area. The advocates for CDC and the Parish Councils have also criticised the landscape and visual impact assessment (LVIA) produced by the appellants' consultant, considering that he did not follow the guidelines set by the Landscape Institute's Guidelines for LVIA (GLVIA). WSCC refers only to the impact of the traffic generated by the development on landscape and visual amenity and does not raise an objection to the operational development.
82. However, the assessment produced by the appellants' witness is the only systematic evidence on landscape impact put before the Inquiry. There may be some divergence from the recognised GLVIA methodology but this does not necessarily invalidate the approach taken. Both CDC and the Parish Councils put forward a witness who commented on the landscape aspects of the development but who, as noted above, had not carried out a LVIA of their own.
83. The appellants' evidence demonstrates that the impacts of the development are restricted to a relatively small local area, much of which is within the farm complex. The most evident items of operational development are the biogas tank and lagoon 3 both of which are situated outside the LDC area. The tank is to the east of the main complex, has a diameter of 32m and rises to a height of about 14.5m, although it is partly surrounded by an earth bund, which is proposed to be raised so that only the top 8m or so of the tank would be seen from certain viewpoints. The Purac plant located in the main complex consists of 3 stainless steel towers, the highest of which is 13m tall.
84. A public footpath runs past the main farm complex and the unauthorised equipment is readily visible from it. The combination of the gas tank, the towers and the other unauthorised operational development such as the office portacabins, flare and separator, when combined with the equipment already authorised, has turned the appearance of the complex of farm buildings from something that is to be expected from agricultural operations in the countryside into a large scale industrial plant.

85. The lagoon is located away from the AD plant and cattle sheds, adjacent to 2 other such storage facilities and is 192m long by 75m at its widest point. It is surrounded by an earth bank and has a cover. It is a large structure that appears as a somewhat alien man-made intrusion in the otherwise largely undeveloped area. Although the 2 authorised lagoons have been mostly assimilated into the landscape by virtue of being surrounded by woodland, I am not persuaded that the proposed commercial, rather than agricultural, use of lagoon 3 justifies the construction of an engineered structure of such a scale in this rural location.
86. It has also been stated that the proposed throughput of the AD plant would need storage for about 20,500m³ of digestate and, in the baseline scenario, it is claimed that lagoons 1 and 2 between them have sufficient storage capacity to allow the AD plant to operate within the terms of the EA licence. Therefore there is spare capacity already and consequently little justification for the construction of additional lagoon storage to serve the plant.
87. The site lies within an area described in the CDLP as being primarily rural in character with a number of dispersed settlements, some of which are relatively isolated and served by narrow lanes. The West Sussex Landscape Character Assessment of 2003 notes that the area has a remote and tranquil character. I consider that the combination of all the development noted above is detrimental to the identified rural character of the surroundings and, whilst some of the harm is limited to an area around the existing development, it nonetheless conflicts with policy 45 of the CDLP which seeks to ensure that development in the countryside has no more than a minimal impact on the landscape and rural character of the area.
88. Policy 25 of the CDLP also notes that development proposals that conserve and enhance the rural character of the North of the Plan Area (in which the site is located) will be supported but, in this case, I consider that the impact of the unauthorised development is more than minimal and this policy conflict adds additional weight to the arguments against the grant of planning permission.
89. On the subject of whether planning permission should be granted for the flare, it seems to me that, because CDC and WSCC granted permissions for the remainder of the authorised equipment, they clearly did not intend there to be no AD or biogas production at Crouchland Farm and a flare would be needed for this. However, they did not apparently anticipate that the gas was intended for export off the site. The previous LDC decision found that this was, in fact, authorised and has resulted in the additional traffic movements discussed in previous paragraphs.
90. The existing flare contributes to the harm noted above, although it is sited within the compound and is seen in the context of other authorised equipment. It is possible that that a smaller version having less impact would be able to serve the authorised development and it is also possible that the EA might grant a licence for a moveable flare, removing the need for a planning permission. I accept that it might be considered perverse to prevent an ancillary AD and biogas production use, which is otherwise authorised, through refusal of planning permission for this flare.
91. However, in my opinion, an application for a permanent flare on the site should not be judged as an isolated item here, but rather be the subject of a separate application when full consideration of how the site would operate following the outcome of these decisions can be made. This would allow appropriate

consultation and the submission of more definitive information on matters such as whether the gas conditioning equipment could be located within the authorised containers.

Need for/siting of the facility

92. The National Planning Policy Framework (the Framework), in paragraph 28, encourages agricultural and land-based rural enterprises which support a strong rural economy. The appeal proposal has the advantages of providing rural jobs and financial support for the Crouchland Farm agricultural activity.
93. The digestate would be distributed locally but the larger the facility, the greater the number of HGVs on the local roads, as noted above. Similarly, the crops to feed the AD plant would be drawn from local farms but the same comments on the use of the roads again apply. As previously noted, the site is also some distance from the closest local and strategic lorry routes. The tankers taking biogas to their destination in Portsmouth will therefore also be travelling for some distance on local narrow roads, even if the route is controlled through conditions.
94. The appellants maintain that the AD process amounts to non-inert waste recovery rather than recycling, as advocated by the County Council. The DEFRA Waste Management Plan for England 2013 includes AD as '*other recovery*' and '*recovery*' is defined in the EU Waste Framework Directive as '*any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy. It also states that 'recycling' means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations*'.
95. Annex ii to the EU Waste Framework Directive gives a non-exhaustive list of recovery operations which include '*use principally as a fuel or other means to generate energy*', '*recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes*' and '*land treatment resulting in benefit to agriculture or ecological improvement*'.
96. The WLP 2014 also defines AD as '*recovery*' in its Glossary but includes it under '*Recycling and Composting*' in paragraph 2.7.3. There is clearly a disparity between these two definitions and this has led WSCC to submit that the facility should be classed as '*recycling*' for which there is no identified local need in the WLP. Although there appears to be an inconsistency in these sections of the WLP, I consider that the definitions generally used in the wider waste planning context are those that should be used here and that the proposal is, in fact, for recovery. The facility would therefore have the advantage of providing additional waste recovery capacity for which there is an identified need in the WLP.
97. Whether or not the AD facility is defined as recovery or recycling, it would nevertheless be covered by policy W3 of the WLP which notes, amongst other things, that built waste management facilities on unallocated sites will be permitted provided that, if outside the Area of Search (as is the case here) they would be small scale and serve a local need. If these criteria are met, any

- proposal for a facility on a greenfield site must demonstrate that no suitable alternative sites are available and should be well related to the Lorry Route Network.
98. Small scale facilities are generally defined as having a capacity of no more than 50,000 tonnes per annum (tpa) but it is also noted that in rural parts of the County it is likely that only much smaller facilities (c.10 – 20,000tpa) are likely to be acceptable. The applications seek permission for a throughput of 34,755tpa which, although less than 50,000tpa, falls above the range that is envisaged as being more suitable for rural areas.
99. It has also been pointed out that the actual capacity of the facility is believed to be closer to 75,000tpa. The appellants have sought a permit from the EA to operate the plant at up to this amount and the Statutory Declaration of one of the company directors states that the capacity of the 2 existing authorised digesters (A & B) is 60,000tpa. These figures indicate that the proposed additions to the plant would take it over the size considered to be '*small scale*' even if not operating at full capacity. For the above reasons, I consider that the proposal is not supported by parts (a) or (b) of WLP policy W3.
100. Even if the proposal were to be considered to be a '*small scale*' facility and whilst it is accepted that there are no other local facilities that could currently operate in the same way as the plant on Crouchland Farm, the site is, as previously noted, some distance from the lorry route network, particularly the Strategic Lorry Route. Once again, this indicates that the requirements in parts (a) and (b) of W3 are not met.
101. It has also been suggested by the appellants that the proposal should be considered as a new facility within the boundaries of an existing waste management site and that consequently it would comply with criterion (c) of policy W3. However, whilst some of the equipment is located within the main AD part of the farm complex, certain items such as lagoon 3 and the new digester tank are outside it. I have already concluded that the wider site is not in a mixed use and that the authorised AD facility has not created a separate planning unit. Therefore, whilst the AD plant is dealing with waste recovery, this is in the context of the authorised agricultural use of the site; there is no existing permission for a stand-alone waste management facility and I therefore conclude that part (c) of policy W3 is not applicable to this scheme.
102. In addition, whilst there are clear advantages in having an AD plant which is processing local waste, the proposed development would be taking purpose grown crops as part of its feedstock and this, to me, indicates that it would be more than a means of dealing with waste arisings that would otherwise need treatment or disposal elsewhere.
103. The Government has already indicated, in documents⁶ relating to its response to consultations on reforming the Renewable Heat Incentive scheme and tariff schemes for AD plants, that it does not expect an AD facility to have a high dependency on crops grown specifically for the purpose and that the primary purpose of agricultural land should be for growing food. As the proposed scheme would rely on importing about 16,000tpa (over 45% of the feedstock) of purpose grown crops, this indication of the Government's direction of travel is a factor that, in my view, limits the benefits in favour of the scheme.

⁶ ID7 & ID8

104. Overall, I conclude that whilst there are advantages in respect of providing an additional waste management facility to meet an identified need, this particular proposal does not meet the requirements of policy W3 and is consequently not supported by the Development Plan in this respect.

Other matters

Heritage assets

105. The site is in proximity to the designated heritage asset at Crouchland Farmhouse and the lorry route passes close to Foxbridge Farmhouse. Both of these are Grade II listed buildings and S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of listed buildings when considering applications for planning permission. I raised the question of the possible impact of the proposals on the settings of these buildings at the Inquiry.

106. Despite this and whilst also being aware of the views of WSCC on the matter, the appellants have produced no assessment of the significance of these buildings against which the proposal can be judged. Such an assessment is required by paragraph 128 of the Framework and, without it, a proper conclusion on the matter cannot be reached.

107. The appellants have stated that the objectors have failed to identify any harm to the heritage assets and that it for them to show that this would occur if it is to be given any weight. However, it is for the applicant for planning permission to produce the assessment of significance as noted above and to then demonstrate that there would be no harm caused. Therefore, whilst it is possible that there is no harm, as asserted by the appellants, I am not able to conclude that this would be the case without an assessment of significance for the heritage assets. Any decision to allow the proposal in these circumstances could therefore be considered as flawed.

Other environmental issues

108. The Parish Councils have raised additional objections to the development based on possible damage to the ecology of the surroundings and the areas of Ancient Woodland in Hardnips Copse and Ravensnest Copse through concerns that include a deterioration in air quality and the impact of the proposed road widening.

109. The air quality issue was not pursued by the WSCC or CDC but there may be some force in the arguments that the development could have a detrimental impact that could affect parts of the Ancient Woodland. It was confirmed in the analysis carried out by the appellants' air quality consultant that permission for the applications would result in extension of the area where nitrous oxide and nutrient nitrogen deposition would exceed the objective levels. In addition, the additional nitrous oxide emissions resulting from the increased use of the CHP units is judged to be significantly offset by the reduction in traffic levels that is said to represent the baseline situation. If the baseline scenario is not authorised or implemented, however, this would clearly not be the case.

110. Whilst the worst case scenario has been used to estimate these levels and the conclusion drawn is that the projected increase would not be significant, it is nevertheless conceded that the development would contribute to a worsening of the current situation in respect of the above factors. Although the

objectors have not produced evidence of their own to demonstrate what the impacts might be, and, on its own this might not be sufficient reason to refuse permission, in my view these concerns nonetheless add to the weight against the proposal.

111. The road widening proposals would, as previously noted, result in the loss of sections of ancient woodland, which paragraph 118 of the Framework seeks, amongst other things, to protect. Although the areas lost would be small, I am not persuaded, for the reasons set out above, that the benefits of widening the road would be significant enough to justify even this relatively minor change.

Alternative approach

112. The appellants have also suggested that, if it is decided that the appeal subject of the change of use enforcement notice should fail, planning permission should nevertheless be granted for the operational development that is the subject of Appeal A. However, this is based on the premise that the equipment is having no unacceptable impact on landscape quality and would make no difference to the baseline position, and that there would be no change to the traffic generated in that scenario.
113. I have already found that the baseline position is extremely tenuous, if not completely unauthorised and that there is some harm caused to the character of the landscape by the development. Granting permission for the operational development would therefore have the result of increasing the traffic movements and perpetuating the landscape harm.

Ground (g)

114. The District Council has agreed in part to the appellants request put forward under the appeal on ground (g), to extend the time for compliance for the removal of the unauthorised equipment to 18 months. I agree that the time taken to de-commission and remove the unauthorised equipment will be likely to be more than the 6 months allowed in the enforcement notices, and I will therefore vary this accordingly.
115. In respect of the time needed to cease the unauthorised change of use, I see no reason to extend the time from the 1 month allowed in the notice which would only prolong the unacceptable impacts of the development and the ground (g) appeal in respect of requirement (i) of Appeal B fails.

Conclusions

116. I have set out in previous paragraphs the reasons why I consider that the appellants' baseline position is not authorised, as it would represent a material change of use of the farm. In that scenario, it can be accorded no weight when considering the planning merits of the proposals. Even when considering the prospect that it might be authorised, I have concluded that there are serious concerns over whether it could, or would, be implemented. In those circumstances therefore, the baseline would, at best, attract very limited weight and I have considered the proposals in this light.
117. I note the undeniable benefits that the proposal would bring in terms of additional waste management facilities in the county, farm diversification and employment provision but I have also found that the proposal conflicts with the policies that control the siting of such development. The rural location of the AD facility is appropriate for dealing with waste arisings from Crouchland Farm and I accept that the location would also be convenient for accepting feedstock

from other farms and for distributing the digestate. However, the scale of the operation is such that it would amount to an industrial process to which the original farming enterprise would then be subservient. The Development Plan policies discussed above resist the location of such industrial development in the countryside.

118. I have also found that the vehicle movements would prove dangerous to other road users and disturbing to local residents. The noise and vibrations from the traffic would be unacceptable in this rural location and detrimental to the character of the area, thereby conflicting with Development Plan policies.
119. Whilst any harm to rural character caused by the operational development would be restricted to a localised area around the farm, there would nevertheless be a greater impact along the local roads if the widening measures were implemented. Although I am not persuaded that these would be enough to fully mitigate the problem of large vehicles passing on the narrow roads, without them the situation would be even worse.
120. I have considered whether the conditions put forward by all the parties and the agreement under section 106 of the TCPA between the appellants and the County Council would be sufficient to overcome the identified harm but, given the very limited, if any, weight that can be accorded to the baseline position, I find that they would not. Even with the restrictions on the throughput of feedstock into the digester and traffic management measures imposed, the harm caused by the sheer volume of traffic would persist, as would the conflict with the policies relating to the location of waste management facilities. I conclude that the conditions would not serve to make the development acceptable.
121. Therefore, for the reasons given above I conclude that, in the scenario where the baseline position is not authorised and no weight can be accorded to it, the adverse impacts of the proposal are not outweighed by the benefits of the development. Similarly, even if some very limited weight is given to the baseline scenario, commensurate with the likelihood that it could be implemented, the identified harm would still indicate that planning permission should not be granted and the appeals should not succeed. I shall uphold the enforcement notices, with corrections and variations, and refuse to grant planning permission on the deemed applications in Appeals A and B and the application that is the subject of Appeal C.

Katie Peerless

Inspector

APPEARANCES

FOR WEST SUSSEX COUNTY COUNCIL:

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Peter Danks BA (Hons) MIAE FBIAC MIEMA	Reading Agricultural Consultants Ltd.
Peter Hayward BEng (Hons) CEng MICE MCIHT DMS	Island Highway & Transport Consultants Ltd.
Jane Moseley BA MSc MRTPI	County Planning Team Manager WSCC

FOR CHICHESTER DISTRICT COUNCIL:

Gwion Lewis	Of Counsel
He called	
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FOR IFIELD AND PLAISTOW AND KIRDFORD PARISH COUNCILS:

Victoria Hutton	Of Counsel
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FOR THE APPELLANT:

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He called	
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INTERESTED PERSONS:

Paul Reynolds
Rebecca Middleton
Margaret Hibbard
Tom Micklem

Cllr. Joseph Ransley
Robin Hobson
Dave Jordan
Roger Wood
Ashley Ward

DOCUMENTS

- 1 Notification letter and circulation list
- 2 Note on cull cow sales
- 3 Red Tractor Dairy Standards
- 4 Albar estimates for supply of straw
- 5 Spreadsheet on transport costs
- 6 Yard area calculations
- 7 Renewable Energy Heat Incentive: A Reformed Scheme Dec 2016
- 8 Review of Support for Anaerobic Digestion and micro-Combined Heat and Power under the Feed-in Tariffs Scheme May 2016
- 9 Transport Statement 2014 from appellants' consultants
- 10 Crouchland Biogas Bespoke Permit Application to the EA Nov 2016
- 11 Letter dated 24/4/2017 from EA
- 12 Bundle of case law from District Council
- 13 Notes of Mr Lewis' opening statement
- 14 Notes of Mr Banner's opening submissions
- 15 Notes of Ms Hutton's opening submissions
- 16 Notes of Mr Taylor's opening submissions and bundle of relevant authorities
- 17 Statement of Common Ground - WSCC
- 18 Statement of Common Ground - CDC
- 19 Addendum to Appellants' LVIA
- 20 Addendum to Appellants' LVIA at Foxbridge Lane
- 21 Preliminary Ecological Appraisal submitted by Appellants, including Extended Phase 1 Habitat Survey and Ecological impact Assessment
- 22 Extension to Foxbridge Lane Tree Survey submitted by Appellants
- 23 Photos of macerators at Crouchland Farm submitted by Parish Councils
- 24 Letter to EA from Parish Councils dated 20 April 2017
- 25 EA Compliance form
- 26 Comparative baseline positions – Parish Councils v Appellants
- 27 Revisions to WSCC traffic calculations to allow for water addition to feedstock
- 28 EA Standard Rules SR2012 No10
- 29 Notes of Mr Reynolds statement
- 30 Notes of Mrs Middleton's statement
- 31 Notes of Mr Micklem's statement
- 32 Notes of Cllr. Ransley's statement
- 33 Notes of Mr Jordan's statement on behalf of PORE
- 34 Notes on WSWLP policy W1
- 35 Legal authority: *De Souza v SSCLG & Test Valley BC*
- 36 Further analysis of traffic impacts by SYSTA
- 37 Notes of Ms Hibbard's statement
- 38 EA Audit Report for Crouchland Biogas Ltd.
- 39 CDC Landscape Capacity Study extension

- 40 Crouchland Biogas Ltd. Environmental Permit Non-Technical Summary
- 41 Farm Fuel Ltd licence details
- 42 Design and Access Statement for application for new dairy unit
- 43 Letter from Freedom Dairy Systems Ltd. dated 17 March 2016
- 44 Email confirming Mr Haward's appointment by WSCC
- 45 Plans for Landscape Study Area
- 46 Reprint of Crouchland Farm landscape plan
- 47 Extract from Sainsbury's website
- 48 List of Parish Council's suggested conditions
- 49 Mr Powell's appointment instructions
- 50 Confirmation that Mr Hayward's Proof of Evidence was approved by the County Highway Authority
- 51 Tree survey location plan
- 52 Marked up version of suggested conditions
- 53 Bundle of documents submitted during Inquiry adjournment
- 54 WSCC's submissions on Mr Luttmann-Johnson's statutory declaration
- 55 Costs Application from Parish Councils
- 56 Appellants' response to Costs Application
- 57 S106 Agreement
- 58 Closing submissions from the Parish Councils
- 59 Closing submissions from CDC
- 60 Closing submissions from WSCC
- 61 Closing submissions from Crouchland Biogas Ltd.

Annex 1

Appeal A: The alleged breach of planning control

- (i) The installation of a biogas digestion tank, control room building, peecon feeder base, anaerobic digestion offtake point and Armco barrier in the approximate location shown hatched yellow on the plan attached to the enforcement notice.
- (ii) The installation of Desulphurisation gas conditioning equipment and cooling fans, Purac gas capture plant and purac coolers, CNG compressors, CNG coolers, Encal kiosk, gas drying system, biomethane loading stanchions and the associated pipe work, 2 no. CHP engines, heat exchanger unit, dual fuel backup boiler and hot water pump system, flare, oil tank and two storey portacabins in the approximate location shown hatched orange on the plan attached to the enforcement notice.
- (iii) The construction of a digestate lagoon to the anaerobic digestion plant in the approximate location shown coloured brown the plan attached to the enforcement notice.
- (iv) Engineering operations in the laying and installation of pipework connecting the digestate lagoon to the anaerobic digestion plant in the approximate location shown coloured purple the plan attached to the enforcement notice.
- (v) The deposit of earth to form an earth bund surrounding the digestate tank in the approximate location shown coloured green on the plan attached to the enforcement notice.

Annex 2

Appeal A: The requirements of the enforcement notice

- (i) Disconnect, dismantle and remove from the land the biogas digestion tank, control room building, peecon feeder base, anaerobic digestion offtake point and the Armco barrier approximate location shown hatched yellow on the plan attached to the enforcement notice.
- (ii) Disconnect, and remove from the land Desulphurisation gas conditioning equipment and cooling fans, Purac gas capture plant and purac coolers, CNG compressors, CNG coolers, Encal kiosk, gas drying system, biomethane loading stanchions and the associated pipe work, 2 no. CHP engines, heat exchanger unit, dual fuel backup boiler and hot water pump system, flare, oil tank and two storey portacabins in the approximate location shown hatched orange on the plan attached to the enforcement notice.
- (iii) Demolish and remove from the land the digestate lagoon the surrounding fencing, the earth bund and the pump house in the approximate location shown coloured brown on the plan attached to the enforcement notice.
- (iv) Disconnect and remove from the land the associated pipework connecting the digestate lagoon to the anaerobic digestion plant in the approximate location shown coloured purple the plan attached to the enforcement notice.
- (v) Remove the earth forming the earth bund in the approximate location shown coloured green on the plan attached to the enforcement notice.
- (vi) Remove the resulting debris from the land.

Annex 3

Appeal B: The requirements of the enforcement notice

- (i) Cease the use of the land as a commercial biogas plant, including the cessation importation and processing of feedstock and waste for use in the anaerobic digestion plant and the production of biomethane for export from the land.
- (ii) Disconnect, dismantle and remove from the land the biogas digestion tank, control room building, peecon feeder base, anaerobic digestion offtake point and the Armco barrier approximate location shown hatched yellow on the plan attached to the enforcement notice.
- (iii) Disconnect, and remove from the land Desulphurisation gas conditioning equipment and cooling fans, Purac gas capture plant and purac coolers, CNG compressors, CNG coolers, Encal kiosk, gas drying system, biomethane loading stanchions and the associated pipe work, 2 no. CHP engines, heat exchanger unit, dual fuel backup boiler and hot water pump system, flare, oil tank and two storey portacabins in the approximate location shown hatched orange on the plan attached to the enforcement notice.
- (iv) Demolish and remove from the land the digestate lagoon the surrounding fencing, the earth bund and the pump house in the approximate location shown coloured brown on the plan attached to the enforcement notice.
- (v) Disconnect and remove from the land the associated pipework connecting the digestate lagoon to the anaerobic digestion plant in the approximate location shown coloured purple the plan attached to the enforcement notice.
- (vi) Remove the earth forming the earth bund in the approximate location shown coloured green on the plan attached to the enforcement notice.
- (vii) Remove the resulting debris from the land.

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Mr. A. Frost
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Chichester District Council
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PO19 1TY

Your ref:
Our ref: C1992LON/AO0107b/SRB
Please Contact: Stephen Beattie
Telephone Number: 0203 005 4293
Email Address: Stephen.Beattie@frpadvisory.com
Date: 1 October 2018

Dear Mr Frost

**CROUCHLAND BIOGAS LIMITED (IN ADMINISTRATION) AND
CROUCHLAND FARM (IN LPA RECEIVERSHIP)
Land at Crouchland Farm, Plaistow
Title Numbers: WSX325994 and WSX325853 (the Land)
Proprietor: William Michel Luttmann-Johnson**

As you are aware on 7 August 2017:

- (a) Jason Daniel Baker and Alastair Massey, both of FRP Advisory LLP, were appointed LPA Receivers over the freehold Land owned by Mr Luttmann-Johnson pursuant to a legal mortgage dated 27 June 2013 (the WLJ Mortgage)) over titles WSX325994 and WSX325853 in favour of Privilege Project Finance Limited (PPFL) formerly known as Eastern Counties Finance Limited (ECF).
- (b) Jason Baker and Alastair Massey, both of FRP Advisory LLP, were appointed Administrators of Crouchland Biogas Limited (CBL) by PPFL (formerly ECF) pursuant to a debenture dated 23 March 2013 (the Debenture) in favour of PPFL which created fixed and floating charges over the property and assets of CBL including the leasehold land comprised in title numbers WSX349023 and WSX349174 carved out of the Land. CBL also executed a legal mortgage dated 23 March 2013 (the CBL Mortgage) over the leasehold title number WSX349023 in favour of PPFL.

It may be helpful to provide a brief description of the roles of a LPA Receiver and administrator.

The power to appoint a receiver is found in section 101, Law of Property Act 1925, which permits a creditor that holds a mortgage over the assets of a debtor, to appoint a receiver to the assets secured by the mortgage. The receiver will take custody of the mortgaged assets, manage those assets and receive the income from them. Usually, a receiver will also have the power to sell those assets and apply the proceeds of sale in satisfaction of the debt secured by the mortgage. The specific powers of the receiver are clarified and specified in the mortgage document itself. A receiver is an agent of the mortgagor/debtor, not an agent of the mortgagee.

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An administrator is appointed over a limited company pursuant to the Insolvency Act 1986, Schedule B1. The appointment can be made by the court, the directors or a creditor who holds a floating charge over the assets of the company. An administrator is an agent of the company.

An administrator must perform his functions with the objective of:

- (a) rescuing the company as a going concern, or
- (b) achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration), or
- (c) realising property in order to make a distribution to one or more secured or preferential creditors.

An administrator must make an application to bring an administration to an end if he thinks the purpose of the administration cannot be achieved in relation to the company.

As stated in the Administrators' Statement of Affairs for CBL dated 4 September 2017, the amount of secured lending by PPFL to CBL was over £38 million (thirty-eight million pounds sterling). Mr Luttmann-Johnson provided a personal guarantee (the Guarantee) for the £38 million loaned by PPFL to CBL. Mr Luttmann-Johnson also personally borrowed sums from PPFL. Mr Luttmann-Johnson's total liability under the Guarantee and his personal borrowing is approximately £52 million (fifty-two million pounds sterling). That sum is secured over the Land by the WLJ Mortgage which contains an 'all monies' clause. You will appreciate that the amount owed to PPFL by Mr Luttmann-Johnson far exceeds the open-market value of the Land and, therefore, any sum that could be obtained for the Land if it was sold by the LPA Receivers to a third party.

On 29 December 2017, the debt owed by Mr Luttmann-Johnson to PPFL and the WLJ Mortgage were assigned to West Sussex Agri Limited (WSA). On the same date the debt owed by CBL to PPFL, the Debenture and the CBL Mortgage were also assigned to WSA. WSA is a wholly-owned subsidiary of Prestige Lux Holding 2 Sarl (Prestige).

On the 10 October 2017 the Inspector, Ms. Peerless, rejected three appeals by CBL against the two enforcement notices issued by Chichester District Council (CDC) (PS/13/00015/CONCOU and PS/13/00015/CONCOU issued on 15 July 2015) and the refusal to grant planning permission by West Sussex County Council (WSCC) (application ref WSCC/042/14/PS, dated 24 June 2014) (Appeal Decision). Following a few minor corrections in the record of the Appeal Decision, the effective date of the Decision was made on 21 November 2017 (Corrected Appeal Decision).

The enforcement notices require the removal, prior to 21 May 2019, of a significant amount of infrastructure including the removal of lagoon 3 and AD3, with the 1.3km of pipework between the two, soil bunding, debris etc, (together Lagoon 3). As you are aware, CBL does not have the funds, to comply with the enforcement notices. To date, although they have had no legal obligation to do so, PPFL and Prestige have provided further lending to CBL, acting by its Administrators, to assist CBL to comply with the enforcement notices.

Lagoon 3 represents a significant logistical, practical and expensive task to undertake, especially given the enforcement notices' deadline of 21 May 2019.

Lagoon 3 is contained within Mr Luttmann-Johnson's freehold title which is mortgaged to PPFL (now WSA) under the WLJ Mortgage. Lagoon 3 is not within the leasehold land leased by CBL from Mr Luttmann-Johnson. However, the enforcement notices describe CBL as one of the owners and therefore, the Administrators as agents of CBL, do not feel able to ignore them.

As LPA Receivers of the freehold Land we have held discussions with PPF/Prestige as to whether they would be willing to fund the clean-up of Lagoon 3. We understand from PPF/Prestige that they would, in principle, be willing to do so. However, we have been advised that the time required to resolve the

issues associated with Lagoon 3 needs to be extended considerably beyond the current deadline of 21 May 2019 in order for a clean-up to be completed safely.

We have received advice (in respect of which privilege is not waived) that if we remain in office as LPA Receivers and Administrators beyond the deadline of 21 May 2019 (in order to effect a clean-up of Lagoon 3 funded by PPFL/Prestige) a risk of prosecution by CDC of ourselves as LPA Receivers and Administrators, cannot be discounted. We hasten to add that we have also been advised that there would be strong grounds to defend any such prosecution but, as professionals and licensed insolvency practitioners, we are unwilling to risk any criminal proceedings, however misguided or misconceived they might be. We have been advised that CDC could offer an assurance under s.172A of the Town and Country Planning Act 1990 (TCPA) that they would not prosecute while we remained in office to clean up Lagoon 3 beyond the 21 May 2019 deadline. Further and alternatively, CDC could extend the time for compliance under s.173A TCPA. Without such an assurance or extension, we cannot, as professional licenced insolvency practitioners, remain in office with this risk hanging over us.

However, as LPA Receivers, we remain under a duty to act in the best interests of WSA (as the current secured lender of Mr Luttmann-Johnson). As the other requirements of the enforcement notices which apply to Mr Luttmann-Johnson's land (without Lagoon 3) have been complied with it would appear that the only option open to us now (unless the risk of criminal prosecution is lifted) is to transfer Mr Luttmann-Johnson's Land to WSA (without Lagoon 3) before the 21 May 2019 deadline. The value of the Land transferred will partially discharge the very large sum owed by Mr Luttmann-Johnson to WSA. Transferring security to a secured lender in partial or full discharge of the amount owed is known as selling by way of "credit bid" and is often used where the secured lender is owed far more than the secured asset is worth. After completion of the credit bid we would resign as LPA Receivers.

In our capacities as Administrators of CBL we would also credit bid the CBL Lease to WSA in partial discharge of the amount owed by CBL to WSA under the Debenture and CBL Mortgage. Although Lagoon 3 is not comprised in the CBL Lease, as stated above, the enforcement notices describe CBL as one of the owners of land which includes Lagoon 3.

The effect of a credit bid of the freehold Land (without Lagoon 3) and the resignation of the LPA Receivers is that Lagoon 3 will remain in the ownership of Mr Luttmann-Johnson subject to the WLJ Mortgage for the remaining sum outstanding to WSA. WSA will not go into possession and therefore will not be at risk of prosecution in relation to Lagoon 3, anymore than it is now.

After the credit bid of the CBL Lease, we will also bring the administration of CBL to an end and vacate office. CBL will go into compulsory liquidation and the official receiver will become the liquidator. In so far as CBL has any obligation to comply with the enforcement notices as regards Lagoon 3, the responsibility will then rest with the official receiver, a government official.

We have been forced to take this step and make arrangements for disposing of the Land (without Lagoon 3) and the CBL Lease because we cannot run the risk of prosecution after 21 May 2019. Given this is the only reason for us not being prepared to remain in office as LPA Receivers and Administrators beyond 21 May 2019 we are formally writing to CDC to request an extension to the deadline under Section 173A TCPA for an additional period of two years (i.e. 21 May 2021) in relation to Lagoon 3. If an extension is granted PPFL/Prestige would, we believe, be prepared to fund the clean-up of Lagoon 3 which must be in the interests of all stakeholders including local residents.

CDC is aware that the Environment Agency supports the request for an extension of time.

Without an extension the clean-up of Lagoon 3 will not be addressed and ultimately the problem and the cost will fall on the shoulders of CDC and the Environment Agency.

In the event that CDC does not agree to the extension of time required to permit the safe decommissioning of Lagoon 3, we will be left with no option in our capacities as LPA Receivers and Administrators of CBL to apply to Court for directions permitting us to

- a) transfer the freehold land excluding Lagoon 3 and the CBL Lease to WSA by way of credit bid. As explained above Lagoon 3 will continued to be owned by Mr Luttmann-Johnson, subject to the WLJ Mortgage;
- b) bring the administration of CBL to an end and place it into compulsory liquidation with the official receiver becoming the liquidator.

In both cases all opportunity of funding the clean up of Lagoon 3 will be lost, because there will be no one left in office to direct the clean-up and no-one with the funds to do it.

We are aware that as Head of Planning Services, you have delegated powers to enable you to grant an extension and give assurances not to prosecute. You have already used your power to extend the deadline for the enforcement notices issued on the 1 August 2018.

As LPA Receivers and Administrators we consider the position to be urgent and as such, if we do not receive a positive response from CDC granting the extension and/or assurances by Monday 8 October 2018 we will make an urgent application to Court to enable the transfer of the Land to WSA without Lagoon 3.

We look forward to hearing from you as soon as possible. If we do not hear from you by Monday 8 October 2018 we will assume that CDC is not prepared to extend the deadline beyond 21 May 2019.

Yours sincerely
For and on behalf of
Crouchland Biogas Limited &
Crouchland Farm



Jason Daniel Baker
Joint Administrator & LPA Receiver

Licensed in the United Kingdom by the Institute of Chartered Accountants in England & Wales and bound by the Insolvency Code of Ethics

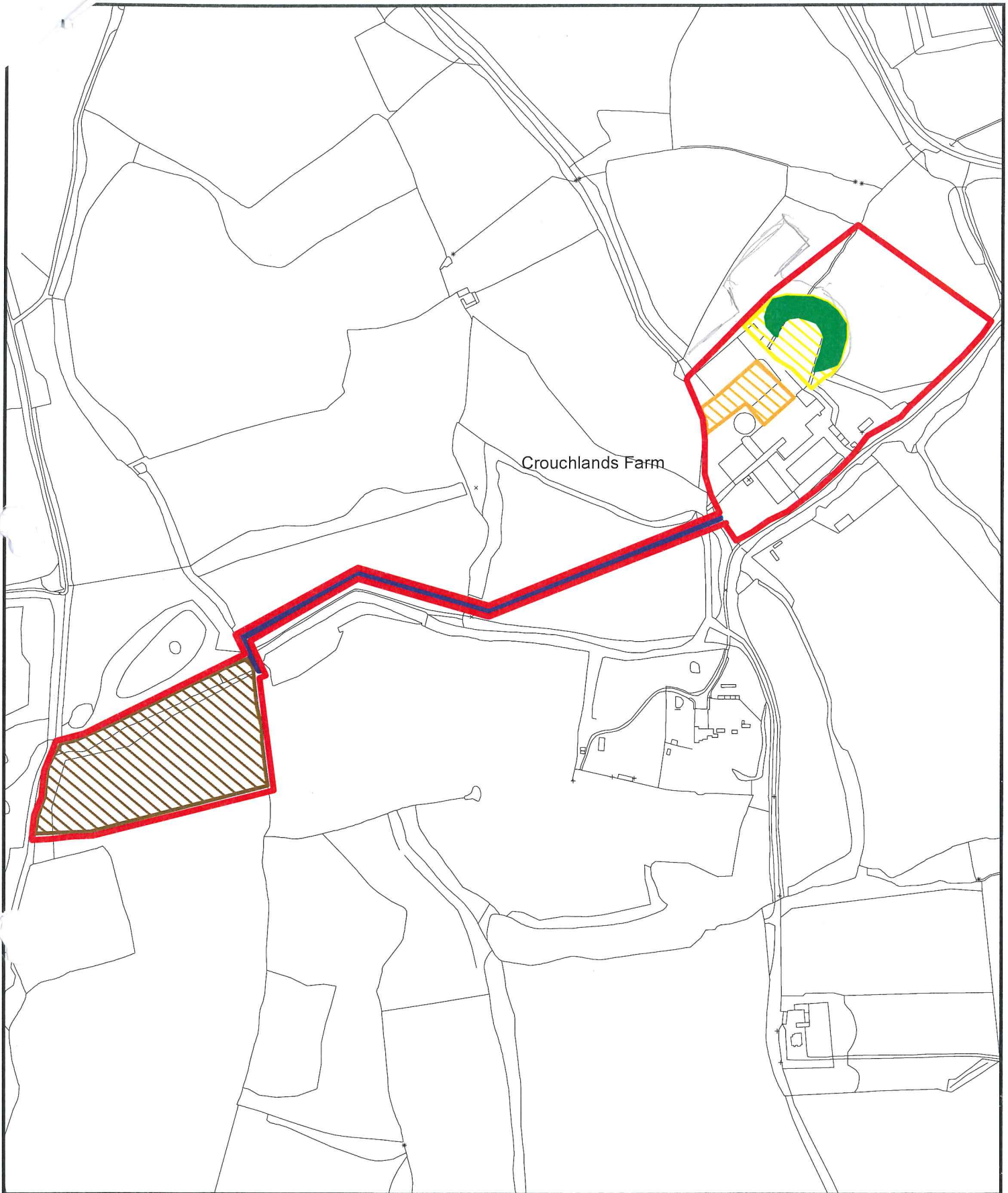
The Joint Administrators act as agents of the Company and without personal liability.

The affairs, business and property of Crouchland Biogas Limited are being managed by Alastair Rex Massey and Jason Daniel Baker who were appointed Joint Administrators on 7 August 2017.

The LPA Receiver acts as agents without personal liability.

The office holder(s) will be the data controller in respect of the personal data collected for the purpose of administering this matter. Further information in relation to how we may use, store and share the information is set out in our privacy notice at <https://www.frapadvisory.com/privacy/>.

C.C. Environment Agency



CHICHESTER DISTRICT COUNCIL

S. R. CARVELL, DIP TP, MRTPI.
DIRECTOR OF NVIRONMENT



Subject: Enforcement Notice Plan PS/54

LOCATION: Crouchlands Farm, Rickmans Lane, Plaistow, West Sussex

File Reference:
PS/13/00015/CONCOU

Scale: 1:5000

O.S. Plan Reference: TQ012 Printed on GIS by NW



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