

# Public Document Pack

## JOHN WARD

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A meeting of **Planning Committee** will be held in Committee Rooms - East Pallant House on **Wednesday 13 February 2019 at 9.30 am**

MEMBERS: Mr R Hayes (Chairman), Mrs C Purnell (Vice-Chairman), Mr G Barrett, Mrs J Duncton, Mr M Dunn, Mr J F Elliott, Mr M Hall, Mr L Hixson, Mrs J Kilby, Mr G McAra, Mr S Oakley, Mr R Plowman, Mrs J Tassell and Mrs P Tull (1 vacancy)

## 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Committee will be informed at this point in the meeting of any planning applications which have been deferred or withdrawn and so will not be discussed and determined at this meeting.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 16 January 2019.

### 3 **Urgent Items**

The chairman will announce any urgent items that due to special circumstances will be dealt with under agenda item 14 (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.

### 5 **Variations to Section 106 Agreements - 18-02026-OBG: Rowan Nursery and Pippins, Bell Lane, Birdham** (Page 9)

Variation of affordable housing tenure mix from 7no affordable rented properties to 4no affordable rented and 3no shared ownership properties, with the same mix and location as approved. Amendment to the definition of chargee to reflect the

standardised wording from the National Housing Federation.

PLANNING APPLICATIONS - AGENDA ITEMS 6 TO 10 INCLUSIVE  
Section 5 of the Notes at the end of the agenda front sheets has a table showing how planning applications are referenced.

- 6 **WW/18/02708/DOM - Dolphins Rookwood Lane West Wittering Chichester West Sussex PO20 8QH** (Pages 11 - 28)  
Proposed steps down through garden to a 1.5 metre long tunnel beneath public footpath rising through to another set of steps to the foreshore garden.
- 7 **SY/18/00951/FUL and SY/18/00952/LBC - 99-101 High Street Selsey Chichester West Sussex PO20 0QL** (Pages 29 - 47)  
Erection of 8 dwellings, including demolition of existing buildings, provision of parking and new paved access, together with a new pedestrian route from East Street public car park to the Pavilion Theatre and High Street.
- 8 **SI/18/00768/FUL - 83 Fletchers Lane Sidlesham PO20 7QG** (Pages 49 - 56)  
Erection of chicken shed.
- 9 **FB/18/01931/LBC - Little Dolphins Main Road Fishbourne Chichester West Sussex PO18 8BD** (Pages 57 - 64)  
Internal alterations including replacement staircase, removal of downstairs bathroom, new bathroom at first floor, lining of walls, replacement window sills and covering of floor to living room.
- 10 **SDNP/18/05672/HOUS - 2 Grooms Yard, A286 The Grove To Cobblers Row, Singleton, PO18 0SB** (Pages 65 - 73)  
Removal of existing shed and erection of 1 no. summer house.
- 11 **Chichester District Council - Schedule of Planning Appeals, Court and Policy Matters Between 18-Dec-2018 and 29-Jan-2019** (Pages 75 - 90)  
The Planning Committee will consider the monthly schedule updating the position with regards to CDC planning appeals, litigation and recent planning policy publications or pronouncements.
- 12 **South Downs National Park - Schedule of Planning Appeals, Court and Policy Matters Between 18-Dec-2018 and 29-Jan-2019** (Pages 91 - 103)  
The Planning Committee will consider the monthly schedule updating the position with regards to SDNPA planning appeals, litigation and recent planning policy publications or pronouncements.
- 13 **Consultation on Protecting and Enhancing England's Trees and Woodlands** (Pages 105 - 112)  
Planning Committee are asked to note the contents of Defra's consultation on proposed measures to enhance England's trees and woodlands, and to endorse the proposed response.
- 14 **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
- 15 **Exclusion of the Press and Public**  
There are no restricted items for consideration.

## 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  
**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

### **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  
**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

**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

**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



Minutes of the meeting of the **Planning Committee** held in Committee Rooms - East Pallant House on Wednesday 16 January 2019 at 9.30 am

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

**Members not present:** Mr G Barrett, Mr M Dunn and Mrs J Tassell

**In attendance by invitation:**

**Officers present:** Mrs S Archer (Enforcement Manager), Mr A Frost (Director of Planning and Environment), Miss N Golding (Principal Solicitor), Miss K Davis (Democratic Services Officer), Mr J Saunders (Development Manager (National Park)), Mrs F Stevens (Development Manager (Applications)) and Mr T Whitty (Divisional Manager for Development Management)

**263 Chairman's Announcements**

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

Apologies were received from Mr Barrett, Mr Dunn and Mrs Tassell.

**264 Approval of Minutes**

**RESOLVED**

That the minutes of the meeting held on 19 December 2018 be approved and signed by the Chairman as a correct record.

**265 Urgent Items**

There were no urgent items.

**266 Declarations of Interests**

Mrs Duncton declared a personal interest in planning applications CC/18/02818/FUL, WI/18/02187/FUL, SDNP/18/02930/FUL and SDNP/18/03743/FUL as a member of West Sussex County Council.

Mr Hixson declared a personal interest in planning application CC/18/02818/FUL as a member of Chichester City Council.

Mrs Kilby declared a personal interest in planning applications CC/18/02818/FUL as a member of Chichester City Council.

Mr Oakley declared a personal interest in planning applications CC/18/02818/FUL, WI/18/02187/FUL, SDNP/18/02930/FUL and SDNP/18/03743/FUL as a member of West Sussex County Council.

Mr Plowman declared a personal interest in planning application CC/18/02818/FUL as a member of Chichester City Council.

Mrs Purnell declared a personal interest in planning applications CC/18/02818/FUL, WI/18/02187/FUL, SDNP/18/02930/FUL and SDNP/18/03743/FUL as a member of West Sussex County Council.

Mrs Taylor, observing the meeting, declared a prejudicial interest in planning application WI/18/02187/FUL as a Trustee of Itchenor Memorial Hall.

### **Planning Applications**

The Committee considered the planning applications together with an agenda update sheet and supplementary 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:

#### **267 CC-18-02818-FUL - 22 Peacock Close, Chichester**

Additional information was reported on the agenda update sheet relating to additional consultation comments received from Natural England, WSCC Parking Manager, Chichester District Council Housing Service, and two additional third party comments and officer comment advising that the recommendation remained permit.

The following members of the public addressed the Committee:

- Mr H Marshall – Objector
- Mr T Tavinor – Objector
- Mrs K Day – Applicant

During the discussion members noted the general concern raised by the objectors who had commented on parking issues in the area. However, they noted the

consultee response from the WSCC Parking Manager that whilst he was aware of parking issues in the surrounding area he was not aware of any particular parking issues in this residential street and proposals were currently being designed for a parking scheme to cover this area.

Officers responded to members' questions and comments. Mrs Stevens advised that it would be possible to add an additional condition to restrict the number of people that could reside at the dwelling to a maximum of seven.

With regard to the concerns Mrs Stevens advised the proposal would not result in a change to the character of the area, the dwelling had already changed to a House in Multiple Occupation (HMO) and the occupation of one additional room would not change that. The proposal did not intend to change the landscaping to the frontage.

Mr Whitty advised that officers had observed parking in the street during the evening when spaces were observed. In a city location 3 parking spaces were acceptable. The applicant had advised that under their current parking arrangements four cars could be accommodated on the driveway.

A vote on the officer recommendation to permit the application was not carried.

A proposal to refuse the application on the grounds that the proposed change of use to a 7 bedroom house in multiple occupation would have an adverse impact on the character of the area through intensification of the use of the building was carried.

**Refuse** for the following reason:

The proposed change of use to a 7 bedroom HMO would result in the unacceptable intensification of the use of the site and the introduction of a sui generis HMO property into a residential street, which would adversely impact on the character of the property, the street scene and the locality/surrounding area. This is contrary to Local Plan Policy 33 of the Chichester Local Plan: Key Policies 2014-2029, and the principles of the NPPF; specifically paragraph 127, section 12.

(Note: this decision was contrary to the officer recommendation)

**268 WI/18/02187/FUL - Itchenor Memorial Hall, Itchenor Road, Itchenor**

Mr Hixson left the meeting at this point and did not return.

The following members of the public addressed the Committee:

- Mr A Spencer – Parish representative
- Mr P Mcdanell – Objector
- Mrs S Bailey – Objector
- Mr P Green – Supporter
- Captain J Talbot – Supporter
- Reverend Swindells - Supporter
- Mr P Montyn – WSCC member

During the discussion members indicated their support for the proposed extension to the existing Memorial Hall but expressed differing views in respect of the proposal to

change for change of use of the adjoining land and alterations to form new car park to the northwest of the hall, which would result in the loss of grade 2 agricultural land. However, the majority of members considered that the proposal to relocate the proposed car park to a countryside location adjoining the Memorial Hall site was acceptable as they felt that the area of agricultural land to be lost was not a significant part of the overall field.

Mr Whitty responded to members' questions and comments. He advised that with regard to the officer recommendation to refuse permission and the principle of intrusion into the open countryside and the loss of agricultural land the proposal would result in an adverse landscape impact. With regard to need for a new car park, he advised that officers considered that the current car park could be redesigned on the existing site and managed in a safe manner to meet the applicant's needs.

Mr Frost advised the Committee of the importance of all members taking into account all relevant local and national planning policies and the significance of the Committee making a decision to permit the proposal in an Area of Outstanding Natural Beauty.

A vote following a proposal to permit the application was carried.

**Permit** with appropriate conditions to include time limits, approved plans, development to be carried out in accordance with submitted ecological survey, drainage scheme to be agreed, extent of culverting to be agreed, materials, landscaping, boundary treatments, porous surfaces, provision and retention of high vehicle barrier, provision of cycle parking, public right of way, external lighting scheme, plus informatives concerning the use of the hall and grounds as a community hall only and the other consents required in respect of works to watercourses and the public right of way.

(Note: this decision was contrary to the officer recommendation)

Mr Elliott and Mr Oakley left the meeting at this point and did not return.

269 **WW/18/01686/DOM - The Old Nursery Chapel Lane West Wittering**

The following members of public addressed the Committee:

- Mr K Martin – Parish Representative
- Mr W Ellsworth-Jones – Objector
- Mrs K Simmons - Agent

Recommendation to **Permit** agreed.

270 **SDNP/18/02930/FUL - Lucking Bros Limited North Street Petworth**

Additional information was reported on the agenda update sheet relating to amended applicant details and amendment to condition 3.

The following members of public addressed the Committee:



- Mrs P Thorman – Objector
- Mr G Rose – Objector
- Mr D Thompson – Supporter
- Mr M Scutt – Supporter
- Mrs L Jackson - Agent

The majority of members were satisfied with the proposal having heard the view of Mr Downham that provided the required noise mitigation measures were implemented, this would result in acceptable noise levels being achieved.

Recommendation to **Permit** with amended condition 3 agreed.

#### 271 **SDNP/18/03743/FUL - March House Oaklands Lane West Lavington**

Additional information was reported on the agenda update sheet relating to amended description and amended conditions 1-5.

The following members of public addressed the Committee:

- Mr A Jones – Parish Representative
- Mrs L Ormerod - Applicant

Mr Whitty reported further proposed amendments to conditions as follows: Condition 1 would clarify that it was the use of the building that was being permitted and not the building itself. Condition 1 would be amended to reflect that the building could also be used incidental to the dwelling the, as currently use class D2 sought to restrict the use as a pilates studio only. Condition 5 would be amended to include a requirement for the provision of visibility splays to the West within three months following the approval of planning permission.

Recommendation to **Permit** with amended conditions 1-5 agreed.

#### 272 **Schedule of Outstanding Contraventions**

The Committee considered and noted the schedule of outstanding contraventions circulated with the agenda, which was presented by Mrs Archer.

Mrs Archer updated members on the latest position and referred to the additional information reported on the agenda update sheet relating to the statistics, performance indicators and notices served as at 31 December 2018.

With regard to the Enforcement Team's staffing levels, the vacant Principal Planning Officer post had been filled by Tara Lang.

#### 273 **Schedule of Planning Appeals, Court and Policy Matters (CDC)**

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

Additional information was reported on the agenda update sheet relating to an update in respect of the appeal decision for 17/00929/FUL Brick Bat Farm, Moutheys Lane, Funtington.

**274 Schedule of Planning Appeals, Court and Policy Matters (SDNPA)**

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

The meeting ended at 4.15pm

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CHAIRMAN

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Date:

## **Chichester District Council**

### **Planning Committee**

**Wednesday 13 February 2019**

#### **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)

## **4. VARIATIONS TO SECTION 106 AGREEMENTS**

18/02026/OBG: Rowan Nursery and Pippins, Bell Lane, Birdham

Variation of affordable housing tenure mix from 7no affordable rented properties to 4no affordable rented and 3no shared ownership properties, with the same mix and location as approved. Amendment to the definition of chargee to reflect the standardised wording from the National Housing Federation.

Proposed amendments discussed in advance of the application between the applicant and the CDC Housing Delivery Manager, with advice taken and therefore no objections raised.

S106 deed of variation completed 19 December 2018.

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Parish: West Wittering	Ward: West Wittering
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**WW/18/02708/DOM**

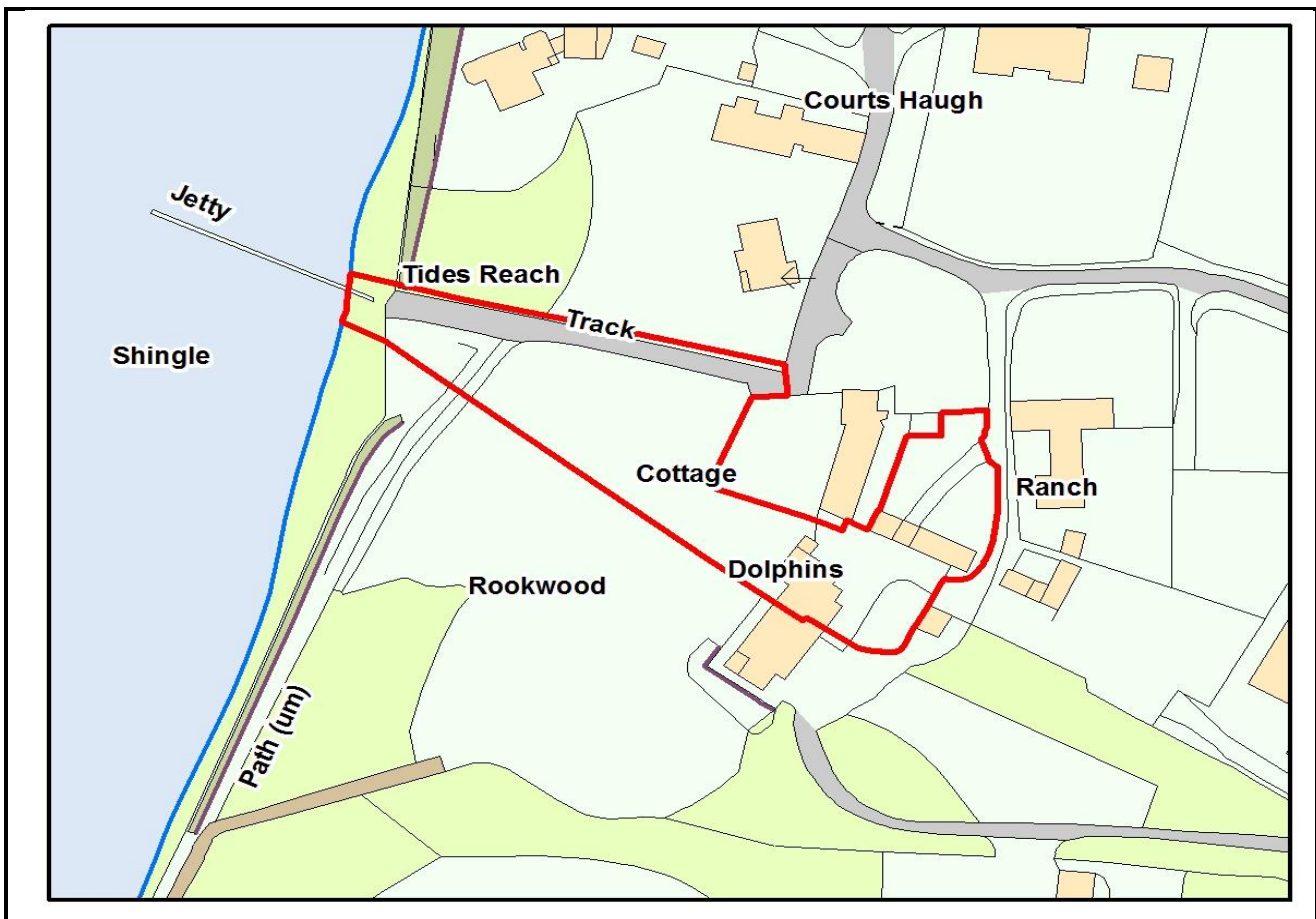
**Proposal** Proposed steps down through garden to a 1.5 metre long tunnel beneath public footpath rising through to another set of steps to the foreshore garden.

**Site** Dolphins Rookwood Lane West Wittering Chichester West Sussex PO20 8QH

**Map Ref** (E) 478221 (N) 99764

**Applicant** Mr George Chapman

**RECOMMENDATION TO PERMIT**



	<p><b>NOT TO SCALE</b></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

Red Card: Cllr Barrett - exceptional level of public interest

## 2.0 The Site and Surroundings

2.1 The application site is located to the northwest of a residential property known as Dolphins. The rear garden of Dolphins extends to the northwest and is intercepted by a raised ground which forms a public right of way (PROW) across the site. Beyond the PROW to the northwest is a further area of land covered in grass and vegetation to the boundary with the footpath. This land is open to the foreshore, to the northwest side, and there is an existing timber outbuilding located on this section of land.

## 3.0 The Proposal

3.1 This application proposes a 1m wide pedestrian tunnel connecting the garden to the foreshore land and underneath the PROW. The tunnel would provide a direct pathway for the occupants of Dolphins to have access from their garden to the land adjoining the foreshore (also within the applicant's ownership) which is in residential use, in connection with Dolphins.

## 4.0 History

04/00612/DOM	PER	Demolition of existing conservatory. Construction of new conservatory to side of house, conversion of existing outbuilding with covered link to new conservatory.
18/00623/DINPP	PPREQ	Steps down through garden to 1.5m long tunnel beneath footpath, then rising through another set of steps to the foreshore section of the garden.
18/00624/PREHH	PRE	Steps down through garden to 1.5m long tunnel beneath footpath, then rising through another set of steps to the foreshore garden.

## 5.0 Constraints

Listed Building	No
Conservation Area	No
Countryside	Yes
AONB	Yes
Tree Preservation Order	No
EA Flood Zone	
- Flood Zone 2	Adjacent



- Flood Zone 3	Adjacent
Historic Parks and Gardens	No
Special Protection Area	Adjacent
SSSI	Adjacent
Ramsar	Adjacent
Coastal Footpath	Yes

## **6.0 Representations and Consultations**

### **6.1 Parish Council**

22/01/2019

Further to my email of 22/1/19 the Council would like to add that paras 174 and 175 of the NPPF together with CDC's own Local Plan policies (both adopted and emerging) - all protect these sites and are material when looking at the application. This material evidence should be added to the Parish Councils objection statements and provide your reasons for refusal.

22/01/2019

Following the Parish Council objection to the proposed tunnel onto the foreshore from the garden of Dolphins in Rookwood Lane, we understand that the District Council has now accepted that the foreshore is either part of the SPA (as the citation for the designation would suggest) or in any event is within the zone of influence for the European designated site. The Parish Council therefore wishes to make additional representation regarding this application and to ask you to reconsider the enforcement case regarding the recreational use of the foreshore.

We understand that as a result the applicant has been asked to prepare an Appropriate Assessment which is required by the Habitats Regulations if any plan or project is being considered which may have a significant effect on the flora or fauna of the European designated site. In some areas of the country, including, the Thames Basin Heaths, areas of Dorset and Ashdown Forest all now recognise a zone of influence of five or more kilometres around these protected areas so that the Habitats regulations are engaged despite the development being a considerable distance away. This is, in part, because of the risk from recreational disturbance, predation and disturbance by domestic dogs and cats on the ground nesting birds. Whilst the ecology of these heathland sites are different from the foreshore, the rules protecting them are the same and must be adhered to.

Whilst the strict tests in the Habitats Regulations have not to date been adhered to by Councils whose statutory duty is to protect the European designated sites in Chichester Harbour and the rest of the south coast, the rules are just as applicable as they are to other areas with the same designations. As these areas are also all SSSIs they are subject to similar protection under the Wildlife and Countryside Act 1981. These areas should be subject to management plans to ensure they are managed in a manner that protects their conservation objectives.

The Habitats Regulations adopt a precautionary approach to the granting of consents, before a Council can grant planning permission it has to be satisfied that the proposal, either on its own or in combination with other plans or projects, will not "have an adverse effect" either the habitat or the birds that feed, roost or breed there. This is a very high bar as experience has shown that the "in combination" part of the test is almost impossible to prove. The effect is that any proposal that could cause any harm will not be permitted. The relevant tests which have to be applied by the Council or Inspector on appeal are set out in Regulation 63 which is set out below:

#### Assessment of implications for European sites and European offshore marine sites

63.—(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and  
(b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.

(2) A person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable it to determine whether an appropriate assessment is required.

(3) The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.

(4) It must also, if it considers it appropriate, take the opinion of the general public, and if it does so, it must take such steps for that purpose as it considers appropriate.

(5) In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

(6) In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.

There are some exceptions to this rule, but they apply to project of Overriding Public Interest (Reg 64).

You will see that the "in combination rule" is set out in Regulation 63(1)(a). The Parish Council is advised that in applying the precautionary principle to a development which will undoubtedly cause recreational disturbance and a risk of increase use by domestic animals using the tunnel, the test is failed. To grant planning permission would be ultra vires and challengeable in the courts.

The Parish Council does not understand how a proposal such as the tunnel could be granted planning permission by the District Council or an Inspector without that decision being ultra vires.

The Parish Council is also advised that the District Council has recently closed the Enforcement case regarding the land on the foreshore being used for a domestic garden - the grass is mown and there is a beach chalet which has changed the use of the land. The recreational use including mowing the grass to form a lawn is deemed to cause disturbance and the Parish Council respectfully requests that this is looked at again in light of the evidence above.

08/12/2018

The Parish Council objects to this application.

The Inset Map 37 for West Wittering shows the boundary of the SSSI, SPA and SAC going right up to the coastal path covering the foreshore. Please can the CDC officers confirm that the foreshore in front of Dolphins, which is a continuation of the same foreshore edging the coastal path is also covered by these designations? This is an important point as, if this is (as the Parish Council believes) the case then the Habitats Regulations are engaged as are the adopted planning policies protecting these important habitats and birds. If the foreshore is so protected then a Habitats Appropriate Assessment is required, whereby it needs to be shown that the proposal would not have a significant effect on the habitat or the birds. The Parish Council does not believe that this project is one which falls within the type that could be acceptable under the terms of the Habitats Regulations and therefore must be refused.

Further, if the foreshore is covered by these designations then it does not attract PD rights or immunity from enforcement and the dumping of imported soil to create grass and change the use of the foreshore to garden would require licence and planning permission. The fact that it is within the ownership of Dolphins does not create "garden" as suggested by the application. As you know recent changes to this site were the subject of Enforcement action. The Parish Council argument regarding the definition of curtilage was important here and still relevant and requests that Ms Nicola Golding of CDC is also consulted regarding the legal requirement for an HA.

The ecologist for the owner has conceded that there will be some temporary harm to the birds but that mitigation will reduce the harm. Since the European Court case of People over the Wind it is not acceptable to screen out the need for an appropriate assessment with the potential effects of mitigation. The harm to the birds must be assessed on its own.

The ecologist has not considered any long term impacts of the tunnel which will provide a new thoroughfare for domestic pets, dogs cats and rodents to gain easy access to the foreshore which is not possible at present. There is therefore potential for an increase in predation and disturbance. These impacts need to be assessed and any harm to the birds and habitat also included in a Habitats Assessment.

Whether the Proposal falls within the designated land or not it is in very close proximity. Very recent case law (7th November 2018) relating to an Irish matter, Holohan, Guilfoyle and others v An Bord Pleanala from the European Courts has confirmed that proposals on

these adjacent sites are of such potential harm to the habitats and birds that they should also be subject to a full Habitats Assessment.

The introduction of this tunnel onto the foreshore should be assessed not as a link from one part of a residential garden to another, but a new link from residential land to foreshore and all the risks to the birds should be fully assessed.

Further, the site is in the AONB.

The Parish Council would be happy to meet with you to explain its objections further with Cllr Barrett.

### Natural England

23/01/2019

No objection – subject to appropriate mitigation being secured. In our previous letter dated 9 January 2019, Natural England stated that the proposal would result in a small area of loss of Chichester Harbour SSSI (and overlapping internationally designated sites). Following this, the applicant supplied further information, and I understand that you have been able to check the measurements on a map. Based on this, Natural England is satisfied that the proposal would not, in fact, lead to the direct loss of any designated nature conservation sites. For the avoidance of doubt, Natural England's other comments on this proposal remain, ie that mitigation measures are necessary to avoid impacts on the adjacent designated sites during construction. Therefore, a Construction Environmental Management Plan, including measures to minimise dust, noise and visual disturbance, silt and water quality impact, should be secured.

Natural England does not wish to provide detailed comment on impacts on the Chichester Harbour AONB, however, this should not be taken as implying that there are no impacts. We recommend taking the advice of the Chichester Harbour Conservancy as they will have more detailed knowledge of the site and its wider setting.

09/01/2019

Apologies for taking longer than I'd intended to respond to this one - the issue of the designated site boundary took longer to sort out as I needed to check with colleagues. The MAGIC map has the correct boundary, so there will be a small loss. But as stated in the attached letter, we don't think this will lead to an adverse impact. However, this will still have to go through an Appropriate Assessment - due to the loss, and the fact that mitigation measures are proposed to avoid construction impacts.

### 6.2 CDC Environment Officer

30/10/2019

Due to the location to Chichester and Langstone Harbour SPA as detailed within the Preliminary Ecological Appraisal Survey (Sept 2018) considerations for dust, fencing, noise, lighting, and chemical and fuel storage. We are satisfied that the recommendations made within table 7 of the Preliminary Ecological Appraisal Survey (Sept 2018) for each of these issues is suitable and a condition should be used to ensure these take place.

### Overwintering birds

Due to the risk of disturbance to overwintering birds, construction works must avoid the winter months (October - Feb) to ensure they are not disturbed by any increase in noise and dust.

### Nesting Birds

Due to requirement to avoid the winter months because of the over wintering birds, there may be a need to undertake vegetation clearance during the bird nesting season (1st March - 1st October). If works are required during this time an ecologist will need to check to ensure there are no nesting birds present on the site before any works take place (max 24 hours prior to any works commencing).

### 6.3 Chichester Harbour Conservancy

Objection: would allow passage of wildlife onto the beach which has SPA designation and thus have potential to disturb birds nesting on the ground.

Members also resolved that were the council minded to grant planning permission, this should be subject to

- (1) Any pump being fitted to drain the tunnel of surface water run-off to be silent to preserve the tranquillity of the area; and,
- (2) That the structural integrity of the public footpath is not compromised, that the public footpath remains open during the works. The method statement and recommendations of the ecological report shall be fully observed. And also that the applicant enters into a planning legal agreement to assume liability for any substantial defect resulting to the public footpath from failure of the structural support to the proposed tunnel, including a regular (at least annual) inspection regime, the results of which to be reported to the Chichester District Council and West Sussex County Council, with any identified defect to be repaired within an agreed timescale.

### 6.4 Environment Agency

07/11/2018

We have no objection to the proposed development as submitted.

#### Advice to Applicant

We recommend that the owner/occupants sign up to the Environment Agency Flood Warning Service and have a flood evacuation plan.

Please note that it is not our role to assess any details on flood evacuation or emergency plans, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/ users covered by our flood warning network.

07/11/2018

Thank you for the your clarifying advice below. In light of this and after talking to our flooding specialists we have no comments to make, and in fact we do not require an FRA. We recommend that you check with the Lead Local Flood Authority (West Sussex County Council) as groundwater flooding is within their remit. The only advice we would offer the applicant is to sign up to our flood warning system.

05/11/2018

Thank you for consulting the Environment Agency on the above application. We are unable to see a Flood Risk Assessment (FRA) in the documents available online. If one has been submitted, please can you make it available to us within 7 days. Please note that if the FRA is not made available to us within one week we will object due to lack of FRA. Please re-consult us once it is available.

#### 6.5 CDC Land and Coastal Drainage Officer

Thank you for consulting us. We have the following observations and advisory comments:

- The proposed tunnel base is located approximately 1m below ground water levels, it is likely the tunnel will fill with groundwater, especially during winter months.
- Rain water will also get within the tunnel.
- It appears unlikely from the flood map for planning that coastal inundation will occur.
- Consideration should be given to either keeping the tunnel water tight or provision of some form of positive drainage, i.e. french drains and pumps.

#### 6.6 WSSC Public Right of Way

19/12/2018

The applicant has been in contact as requested with our Engineers and PROW is now in a position to remove its holding objection. The removal of our holding objection is subject to the applicant meeting the following requirements.

Subject to the planning application being given consent, Technical Approval is required from the County Council as the Highway Authority, as the works directly affect a public right of way/highway. The applicant must ensure a detailed design is submitted to our Highway Structures Engineers for their approval before any works take place. Meetings with our Engineers and the applicants' contractor and/or designer to discuss the design may be required.

In order to protect the right of way and the County Councils maintenance liability into the future, we require a legal agreement with the current landowner which is also tied to any future property successors covering liability. Work will start on the legal agreement once the applicant's technical specification has satisfied our Engineers.

28/11/2018

Thank you for the opportunity to comment on the above application which affects a public right of way (PROW). Firstly we would like to clarify that this PROW has the public status of being a definitive public footpath for pedestrians only and is known as FP1.

Having considered the information available, PROW West Sussex County Council will submit a holding objection as we require further clarification from the applicant.

On plan Proposed Site Cross Section View and Concrete Culvert Profiles (paper 3) there appears to be height difference between the profile section A and B levels which seems considerable, can the applicant clarify?

If planning consent is granted by the District we would need to see and approve a specification for the block culvert and for the reinstatement of the surface of the right of way. If planning consent is granted by the District and the application proceeds, the public right of way would, in the interests of public safety need to be temporarily closed during works by way of a TTRO.

In order to protect the right of way and the County Councils maintenance liability into the future, we require an agreement with the current landowner which is also tied to any future property successors covering liability in the unfortunate event of either a failure or collapse of the block culvert under the right of way.

#### 6.7 Third Party Representations

14 x Third Party letters of objection have been received (from 12 households) concerning:

- a) Foreshore becoming extension of the garden,
- b) Sets a precedent,
- c) Visually incongruous,
- d) Harmful to wildlife,
- e) Increased flood risk,
- f) Weakens sea defences in the area.

#### 6.8 Applicant/Agent's Supporting Information

The plans show the tunnel and the steps up and down to the underpass are all located below garden level, including the embankments and therefore should not be visible from outside the subject site.

The proposed underpass beneath the footpath would be very discrete and not visible from: the Harbour; Footpath or anyone walking, as they have a right to do, along the mean high water mark.

Leachate and rainwater run-off from within the tunnel will be controlled by 2 submersible pumps discharging water into an adjacent and existing land drain. The dB rating of the pumps is so small the manufacturers don't even bother to publish it for it amounts to a very quiet hum and nothing more.

The applicant will enter into a legal agreement [with WSCC], on a continuing basis, regarding tunnel maintenance and preservation of the safety of the PROW.

Various concerns expressed regarding Wildlife, Vermin and Household Pets accessing the beach/foreshore can be resolved by a gate within the tunnel.

The ecologist who has conducted a detailed survey of the site believes " it will be no less or more accessible to cats/dogs/rats as it ever has been and there is virtually free access along the coastline anyway" this seems a more accurate interpretation of the facts as they relate to this specific site.

There is no intention to change the foreshore habitats as the land is already turfed and used as garden, therefore there will be no direct impact on or loss of the foreshore habitats associated with the designated sites. For small scale projects such as this, simple mitigation measures in consultation with Natural England and the Planning Department can/have been, agreed to ensure no short or long term impact.

Submersible pump/s used within the tunnel to control water ingress will be silent to the outside to preserve the tranquillity of the area and the PROW.

Any of the above points can be included as conditions of planning approval, if you think this would be appropriate.

## **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 West Wittering 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 3: The Economy and Employment Provision

Policy 6: Neighbourhood Development Plans

Policy 8: Transport and Accessibility

Policy 39: Transport, Accessibility and Parking

Policy 43: Chichester Harbour Area of Outstanding Natural Beauty (AONB)

Policy 40: Sustainable Design and Construction

Policy 42: Flood Risk and Water Management

Policy 45: Development in the Countryside

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 2018 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-date<sup>7</sup>, 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<sup>6</sup>; 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 4 (Decision-Making), 9 (Promoting Sustainable Transport), 12 (Achieving well-designed places), 14 (Meeting the challenge of climate change, flooding and coastal change), 15 (Conserving and enhancing the natural environment) generally.

## Other Local Policy and Guidance

7.5 The following documents are material to the determination of this planning application:  
West Wittering Village Design Statement  
The Chichester Harbour Management Plan (2014-2019)

## Other Local Policy and Guidance

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

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**

### Assessment

The main considerations are:

- i. Principle of the development
- ii. Impact on visual amenity, character of site and surroundings and AONB
- iii. Impact on Special Protection Area
- iv. Flood risk

- v. Impact on neighbouring amenities
- vi. Impact on Public Right of Way (PROW)
  
- i. Principle of the development

8.1 The application site is located within the designed countryside as defined within the Chichester Local Plan (CLP) policy 2. Development in the countryside is limited to that which is sustainable, essential for agriculture, requires a countryside location, where there is demonstrated need/demand and is small scale, structurally sound, of traditional or architectural merit and connected to existing buildings and whilst supporting the local rural economy.

8.2 The principle of the provision of a tunnel does not contravene principles or policies Development Plan, subject to assessment against other detailed policies within the plan and those other considerations material to the case. The land adjoining the foreshore has been used for residential use associated with the residential property Dolphins for many years and the eastern side of the tunnel would be within the garden of Dolphins. The proposed tunnel would facilitate this existing arrangement and therefore is acceptable in principle subject to consideration of other policies within the Development Plan.

- ii. Impact on visual amenity, character of site and surroundings and AONB

8.3 The proposed tunnel would be positioned within an area located close to the foreshore which has a rural character. The tunnel, once completed, would be landscaped in a manner that would result in majority of the tunnel being below ground level and soil backfilled to ensure the visual appearance of the tunnel would blend into the natural landscape. The PROW is vegetated on both sides of the path and users of the PROW would largely be unaware of the visual presence of tunnel beneath the PROW.

8.4 It is proposed to retain the existing hedges along the footpath which will ensure physical features, such as the steps to the tunnel would not be prominently visible. It is proposed to take soil from the excavation which would be spread onto the tops of the box culvert profiles covered in vegetation and blended into the adjacent embankments. A condition securing a landscaping scheme would ensure this approach is implemented and the disturbance caused to the ground during construction made good.

8.5 Concerns have been raised regarding the impact of the tunnel on the visual amenities of the locality. In this case the tunnel, its steps and timber balustrade would be located primarily below ground level, the impact on the visual amenities of the area, particularly from the elevated PROW would be minimal and the proposed landscaping scheme would help to soften the impact of the proposed development on the character and appearance of the rural area. On this basis it is considered that there would be limited impact on the natural beauty of the countryside and the protected qualities of the AONB would be conserved. Materials for the steps and balustrade could be secured through a suitably worded planning condition. Subject to compliance with these conditions the proposals would comply with Policies 33, 45 and 48 of the Local Plan.

- iii) Impact on Special Protection Area

8.6 The tunnel would be located approximately 1m to the northeast of the designated boundary of the Special Protection Area, RAMSAR site and SSSI. During the application

process there have been a number of queries with regard to the position of the tunnel in relation to the boundary of these areas. A further site plan has been submitted by the applicant to clarify the position of the proposed tunnel. The proposals have been checked against this plan and it is considered to be located outside these designated areas.

8.7 Due to the proximity to Chichester and Langstone Harbour SPA as detailed within the Preliminary Ecological Appraisal Survey (Sept 2018) considerations for dust, fencing, noise, lighting, and chemical and fuel storage are necessary. The Environmental Protection Team is satisfied that the recommendations made within table 7 of the Preliminary Ecological Appraisal Survey (Sept 2018) for each of these issues is suitable and a condition is recommended to ensure these take place.

8.8 Due to the risk of disturbance to overwintering birds, construction works must avoid the winter months (October - Feb) to ensure they are not disturbed by any increase in noise and dust. However, due to this requirement there is likely to be a need to undertake vegetation clearance during the bird nesting season (1st March - 1st October). If works are required during this time an ecologist will need to check to ensure there are no nesting birds present on the site before any works take place (max 24 hours prior to any works commencing).

8.9 Natural England have been consulted during the application process and have advised that; 'Natural England is satisfied that the proposal would not, in fact, lead to the direct loss of any designated nature conservation sites. For the avoidance of doubt, Natural England's other comments on this proposal remain, ie that mitigation measures are necessary to avoid impacts on the adjacent designated sites during construction. Therefore, a Construction Environmental Management Plan, including measures to minimise dust, noise and visual disturbance, silt and water quality impacts, should be secured'.

8.10 Objections have been raised regarding the link that the tunnel would provide for pets to access the foreshore at any time. The applicant has advised that a pedestrian gate could be included within the tunnel to ensure pets cannot escape without supervision. Such a condition is included within this recommendation.

8.11 Furthermore, the Local Planning Authority (LPA), as the responsible authority, have carried out an Appropriate Assessment which has concluded that the likely impacts could be mitigated appropriately via suitable conditions (securing amongst others the mitigation proposed within the Preliminary Ecological Appraisal Survey - Sept 2018) and therefore the size scale and location of the development and impact on the SPA would not be considered harmful. Additionally, timings of works are required to be condition given the sensitive location of the site and to ensure minimal impact on overwintering birds and their habitats.

8.12 Given above assessment, subject to appropriate mitigation and conditions securing such) it is considered that the impact on these designated areas would not be significant, either on its own or cumulatively, and therefore officers consider that the proposed development would not be harmful to these designated areas.

iv) Flood risk

8.13 The site is within Flood Risk Zone 1 as identified on the Flood Risk Zone of the Environment Agencies mapping, it lies above the Mean High Water Mark, close to Flood Risk Zones 2 & 3. A Flood Risk Assessment is not required for this development and the EA have been consulted and have not raised an objection. That said the tunnel would include a pump at its base so that rain water can be extracted.

8.14 Sea Defences; the CDC Land and Coastal Drainage Officer have been consulted and no objection has been raised. It has been stated that; The proposed tunnel base is located approximately 1m below ground water levels, it is likely the tunnel will fill with groundwater, especially during winter months and rain water will also get within the tunnel. However, it appears unlikely from the flood map for planning that coastal inundation will occur. Consideration has been given to using waterproofing paint and provision of a positive drainage, i.e. french drains and pumps.

8.15 There are no sea defences to this section of the foreshore. Sea level rise is a concern for coastal properties and gardens and the EA have recommended that the applicant would be well advised to join the EA's flood warning scheme. On this basis the proposals are considered to be acceptable within regards to avoiding and mitigating flood risk and therefore the proposals comply with Policy 42 of the Local Plan.

v) Impact on neighbouring amenities

8.16 The NPPF states in paragraph 127 that planning should ensure a good quality of amenity for existing and future users (of places). The tunnel would be significantly distanced from neighbouring properties and gardens, would be below ground and would have limited impact on neighbouring amenities in terms of their living conditions and privacy.

8.17 The tunnel would include a pump to extract ground water. The applicant has advised that the pump would be at the base of the tunnel which is 2m below ground in a French drain style. The pump would be used to pump out rain water. To ensure the noise from the pump does not cause disturbance for residence and wildlife appropriate noise levels and timings of use would need to be achieved. A condition regarding details of the pump and its noise levels would be necessary.

8.18 Therefore, on balance of the details of this case, it is considered that the development would comply with paragraph 127 of the 2018 NPPF.

vi) Impact on PROW

8.19 The PROW would not be diverted as a result of this development. WSCC PROW have been consulted and has advised that a licence would be required for the proposed works. Guidance for the applicant has also been provided. The applicant has stated their intention to enter a legal liability agreement with WSCC to safeguard the structure and public use of the PROW. This would be required as part of a license required from the County Council, outside of the planning process.

8.20 There would be a disturbance to the footpath during construction which will need to be managed by the contractors to ensure pedestrians are given a safe right of way. In this

regard the application details confirm that work will not commence until the ground and water table conditions are favourable and soil will not be removed from within close proximity to the footpath if there is any possibility of trench collapse due to sodden soil or heavy rains. Boarding to protect the continuing use of the footpath whilst excavation is carried out will be provided to ensure public safety and suitable warning signage would inform users of the footpath to proceed with care.

### Other Matters

8.21 Concerns have been raised regarding the lawful use of the land and development that has been built in the past - on the land to the most north western triangular section of land within the site, abutting the foreshore. To this regard CDC Planning Enforcement have investigated the use of the land for residential purposes and have concluded that the land has a lawful use as residential garden, although it does not form part of the curtilage to the dwelling.

### Conclusion

8.22 Based on the above it is considered that the proposal complies with the Development Plan and therefore the application is recommended for approval.

### Human Rights

8.23 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: 10, 11, 8, 7, 4 and 3.

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

3) The development shall only be carried out in accordance with the recommendations within the Preliminary Ecological Appraisal Survey (Sept 2018). Unless otherwise agreed in writing by the Local Planning Authority.

Reason; to ensure appropriate mitigation concerning wildlife and their habitats.

4) Construction works must not be carried out in winter months i.e. from October to and including February.

Reason; to ensure the development does not disturb overwintering birds given the location of the site next to the SPA.

5) **No development shall commence**, including any works of demolition, until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the Local Planning Authority. The CEMP shall provide details of the following:

- (a) the anticipated number, frequency and types of vehicles used during construction,
- (b) the provision made for the parking of vehicles by contractors, site operatives and visitors,
- (c) the loading and unloading of plant, materials and waste,
- (d) the storage of plant and materials used in construction of the development,
- (e) the erection and maintenance of security hoarding,
- (f) waste management including prohibiting burning.

Reason: These details are necessary pre-commencement to ensure the development proceeds in the interests of highway safety and in the interests of protecting nearby residents from nuisance during all stages of development and to ensure the use of the site does not have a harmful environmental effect.

6) Prior to commencement of any works full details/specifications of the proposed pump including its noise levels shall be submitted to and agreed in writing by the local planning authority. The pump shall only be implemented in accordance with the agreed details and retained and maintain as agreed in perpetuity.

Reason: To ensure the development does not cause a unacceptable level of noise disturbance to neighbouring amenities and the tranquillity of the countryside. As the pump would be located underground this needs to be agreed prior to commencement.

7) The development hereby permitted shall not be first brought into use until; full details of the hard and soft landscaping have been submitted to and agreed in writing by the Local Planning Authority.

The details shall include;

a scaled site plan indicating the planting scheme for the site showing the; schedule of plants and positions, species, plant sizes (at time of planting) and proposed numbers/densities. In addition, the scheme shall include details of all existing trees and hedgerows on the land including details of any to be retained, together with measures for their protection during the course of the development. The scheme shall make particular provision for the conservation and enhancement of biodiversity on the application site.

The landscaping scheme shall also include full details of any proposed hard landscaping showing any external hardsurfaces and their positions, materials and finishes.

The works shall be carried out in full 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 and to conserve and enhance biodiversity.

8) Prior to first use of the tunnel or completion of the works whichever is the sooner full details of a gate or barrier within the tunnel shall be submitted to and agreed in writing by the Local Planning Authority. The agreed gate shall be implemented prior to first use of the tunnel and only in accordance with the agreed details and retained/maintained as agreed in perpetuity.

Reason; in the interest of wildlife protection to ensure pets are contained within the garden of the host property.

## INFORMATIVES

1) Please be aware of the following advice from WSCC PROW;

Subject to the planning application being given consent, Technical Approval is required from the County Council as the Highway Authority, as the works directly affect a public right of way/highway. The applicant must ensure a detailed design is submitted to the Highway Structures Engineers for their approval before any works take place. Meetings with our Engineers and the applicants' contractor and/or designer to discuss the design may be required.

In order to protect the right of way and the County Councils maintenance liability into the future, WSCC require a legal agreement with the current landowner which is also tied to any future property successors covering liability. Work will start on the legal agreement once the applicant's technical specification has satisfied our Engineers.

2) Due to requirement to avoid the winter months because of the over wintering birds, there may be a need to undertake vegetation clearance during the bird nesting season (1st March - 1st October). If works are required during this time an ecologist will need to check to ensure there are no nesting birds present on the site before any works take place (max 24 hours prior to any works commencing).

3) Advice from the EA;

We recommend that the owner/occupants sign up to the Environment Agency Flood Warning Service and have a flood evacuation plan.

Please note that it is not our role to assess any details on flood evacuation or emergency plans, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/ users covered by our flood warning network.

For further information on this application please contact Maria Tomlinson on 01243 534734

To view the application use the following link -

<https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PGQMHUERKTG00>



Parish: Selsey	Ward: Selsey South
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**SY/18/00951/FUL and SY/18/00952/LBC**

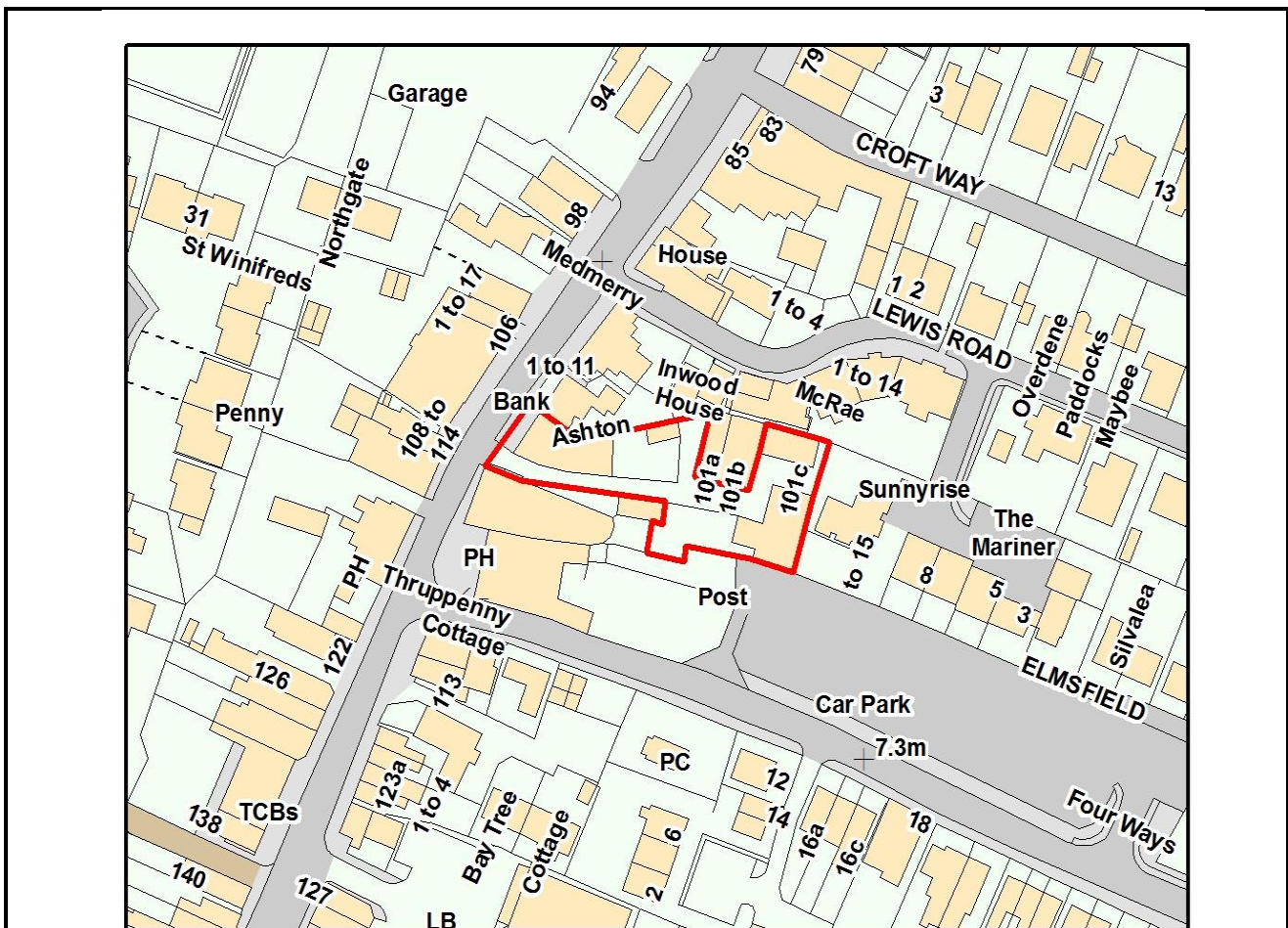
**Proposal** Erection of 8 dwellings, including demolition of existing buildings, provision of parking and new paved access, together with a new pedestrian route from East Street public car park to the Pavilion Theatre and High Street.


**Site** 99 - 101 High Street Selsey Chichester West Sussex PO20 0QL

**Map Ref** (E) 485377 (N) 93277

**Applicant** Jalan Properties Limited - The Alan Noi Trust

**SY/18/00951/FUL: RECOMMENDATION TO REFUSE**  
**SY/18/00952/LBC: RECOMMENDATION TO REFUSE**



	<p><b>NOT TO SCALE</b></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 Red Card: Cllr Purnell - Exceptional level of public interest

## **2.0 The Site and Surroundings**

- 2.1 The site is located to the east of the High Street in the settlement of Selsey. The site comprises a number of single storey buildings to the rear of 99-101 and 103 High Street, Selsey (also known as the Pavilion Theatre). Vehicular access is available between 99-101 and 103 High Street. The front half of the site falls within the Selsey Conservation Area and 99-101 High Street is a Grade II Listed building. 103 High Street is recognised as a positive building within the Selsey Conservation Area Character Appraisal and considered as a non-designated heritage asset.
- 2.2 A single storey building located along the eastern boundary of the site is used for storage purposes related to an existing business within the High Street and the remainder of the land within the site is used for storage and parking. Contained within the land to the rear of 99-101 High Street is an MOT garage; however this is excluded from the application site.
- 2.3 The surrounding area is characterised by a mixture of commercial and residential development. The Pavilion Theatre is located to the west of the site at 103 High Street, the East Street public car park is located to the south, and residential development is located along the northern and eastern boundaries.

## **3.0 The Proposal**

- 3.1 The application seeks full planning permission and listed building consent for the erection of 8 dwellings, including demolition of existing buildings, provision of parking and new paved access, together with a new pedestrian route from the East Street public car park to the south of the site. It is proposed that the pedestrian access would link the car park to the Pavilion Theatre and the High Street.
- 3.2 The proposals would utilise the existing access from the High Street and provide four two and half storey buildings containing a total of 8 residential units. The proposed buildings would incorporate gabled ends and dormer windows in the roof slope. The development would incorporate amenity areas for each unit (balcony or garden), parking areas, individual bin and cycle stores, landscaping and a blocked paved pedestrian route from the southern boundary of the site through to the East Street car park.
- 3.3 The development would provide 4 x three bedroom units (first and second floors) and 4 x two bedroom units (at ground floor level). The development would be served by a total of 9 parking spaces and would result in a density of 90 dwellings per hectare.

## **4.0 History**

None relevant to the application.

## 5.0 Constraints

Listed Building	YES
Conservation Area	YES
Rural Area	NO
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	NO

## 6.0 Representations and Consultations

### 6.1 Parish Council

There being no grounds for objection Selsey Town Council supports this application.

### 6.2 WSSC- Highways (summarised)

No objection, subject to conditions. The impact of the proposal on the area will see overall benefits from a highways perspective. The development will generate some additional traffic movements to the site however these will be minimal, and existing un-safe reversing movements in relation to the open builders yard will cease.

Provision for cars to enter the site, park, turn and exit in forward gear should be provided with a swept path analysis diagram; to be submitted to the LPA. The car parking spaces are accessible and in line with current guidance of 2.4m x 4.8m. These would be fitted with EVC points, in line with recent government guidance within the NPPF to encourage sustainable transport options. Safe and secure cycle parking should also be provided for each dwelling.

The proposed pedestrian link would provide a direct route from the existing car park to the High Street, however as the road is not maintained by WSSC it would not be considered a public right of way and therefore any access created would be permissive and the responsibility of the landowner. Providing a link will introduce new patterns of movement to the space which is shared by the existing MOT garage. Manual for streets guidance 11.4 recommends 'streets should not just be designed to accommodate motor vehicles. It is important that designers place a high priority on meeting the needs of pedestrians and cyclists'.

### 6.3 CDC Waste and Recycling

Amended Plans - 21/09/18

I have reviewed the amended plans, I would like to request that all bins are presented on collection days just inside their property boundaries at the closest point to the public highway. I can see from the plans the bins are screened from the road, and in some set back from the road. In these instances it would be the responsibility of the resident to move the bin out on collection day. We always try to discourage the need to reverse and this stance is still the case. I note the developers point that collections from some business is already being carried out by a freighter which reverses in to the site. Therefore I would like noted that if we should experience

difficulties in reversing into this site in the future the council reserves the right to adjust the collection point for the bins.

#### Original Comments

- Our freighter should not have to reverse over excessive distances and all turning areas should be sufficient enough to cater for our large refuse freighters. If there is insufficient room for a turning area to be incorporated into a mews/dead end road we would require a communal collection point for bins at the entrance to the road.
- No turning head within Theatre lane and a bin holding area has been made available approximately half way down the lane on the right hand side. However the distance from the High Street to this holding area is excessive and is required to be shortened to within 25 metres of the High Street to be acceptable.
- All road surfaces should be constructed in a material suitably strong enough to take the weight of a 26 tonne vehicle. Concrete block paving should be discouraged.
- To prevent access issues please may I insist that either parking restrictions are put in place, or adequate visitor parking is provided to prevent visitors from parking at the side of the road.

#### 6.4 CDC - Environmental Health

Comments on Amended Plans and Acoustic Report:

Objection - Our department does not object to the principle of residential development at the application site, however cannot support the proposed current design and positioning of dwellings and would recommend refusal until such a time as appropriate alterations are made.

In particular, it is considered that the design and positioning of units 7 and 8 are contrary to the "agents of change" principles introduced in paragraph 182 of the National Planning Policy Framework (NPPF, July 2018) where existing businesses, such as pubs, should not have unreasonable restrictions placed on them as a result of development permitted after they are established. There are concerns with the orientation of habitable rooms from units 1 and 2 also with this regard.

Further comments are provided to offer clarity to our department's position and also to offer context.

- From August 2017 to August 2018 our department has received numerous complaints with regard to music noise and patron noise from the Crown Pub, High Street, Selsey which is next to the application site to the south. Complaints were from six different neighbouring households.
- Our department conducted noise monitoring next to the pub's rear beer garden from 1am to 2am Sunday 5<sup>th</sup> August 2018 during a music event at the pub. Excessively loud bass music was evident and there was a continued babble of raised voices from the beer garden. This was accompanied by shouts, screams, swearing and football song chanting from the beer garden until 2am. Music noise and patron noise had the potential to cause a public nuisance and the pub was notified.

- The pub introduced a number of noise control measures. At expense, a lobby door was fitted to the rear, filters were fitted to the bass speakers and the rear beer garden was closed to patrons from 11pm.
- Subsequent noise monitoring took place on Sunday 28<sup>th</sup> October 2018 from 00.40am to 01.20am at the same monitoring location which happened to be on the application site. The music bass levels had reduced up to 22dB and the rear beer garden was closed. Music noise from the pub was still audible but not at such a level as to give rise to public nuisance at neighbouring dwellings. Patron activity was evident from the front of the pub.
- The Crown Pub has music events up to 1am, most weekends, in accordance with their premises licence. They hold temporary events under (TENS) up until 2am and can hold up to 14 of these in a year. The pub attracts a younger clientele in the evening and night, hosting DJs playing dance music. These events are well frequented.
- The beer garden is currently utilised up until 11pm with a rowdy crowd in the summer months.
- The pub has worked hard to control noise from the establishment and complaints have stopped, to date, from neighbouring residents.
- The applicant's attached Noise Assessment details that an "adverse impact" is predicted to the north façade of units 7 and 8 from noise from the MOT garage. For this reason, it has been proposed to largely place non-habitable rooms to the north façade and have the main living spaces and bedrooms to the rear south facades. In addition, unit 8 is to have a first floor roof terrace garden to the south, directly overlooking the Crown's beer garden. The sensitive living areas and outdoor amenity area shall be facing the pub and located only meters away from the beer garden.
- To reiterate the pub's beer garden is not a sedate outdoor drinking area, it accommodates rowdy behaviour at times. This is not deemed an appropriate mix for very nearby residential living. The pub hosts a number of all-day charitable music events during the year and the beer garden is full at these times.
- The Noise Assessment has relied on historic data from a pub beer garden in Brighton and not in-situ measurements. Specific measurements have not been taken during a music event at the Crown Pub that accounts for low level bass frequencies that are more likely to cause disturbance.
- Regardless, it is less to do with absolute noise levels from the pub and more to do with the amenity that shall be provided to the proposed dwellings, in particular units 7 and 8.
- The Noise Assessment proposes enhanced acoustic glazing and ventilation to the habitable rooms facing the pub. The ventilation proposed is acoustic trickle vents or MVHR, neither mode of ventilation offers thermal cooling. In the warmer summer months, when the beer garden is at the busiest, it is

inevitable south facing windows of units 7 and 8 will be open for ventilation to cool rooms. An adverse noise impact is likely under these circumstances.

- There is also concern for noise disturbance from the pub, during events, at the habitable rooms facing south from units 1 and 2. Noise mitigation to these units should also be reviewed.
- Reference is made once again to paragraph 182 of NPPF (2018), where it is stated that “where the operation of existing business could have significant adverse effect on new development, the applicant (or agent of change) should be required to provide suitable mitigation”. It is not considered the applicant has demonstrated suitable noise mitigation in this instance.
- It is considered the Crown Pub’s music events and pub garden activities will have an adverse noise impact on future residents, particularly at units 7 and 8. It is feared the pub’s current activities would give rise to nuisance at an element of proposed dwellings and to avoid such nuisance would place unreasonable burden on the pub and jeopardise the current business model. This directly conflicts with national planning policy.

As previously indicated, contaminated land considerations shall have to be accounted for at site.

Our department would be happy to discuss the above comments, should clarity be required. We would be happy to liaise with the applicant or commissioned consultants, to explore more favourable site designs and mitigation options.

#### Original Comments

Objection – Noise Impact Assessment is required prior to determination.

It is considered that in this instance, where it is proposed to redevelop commercial land and buildings and introduce 8 flats, and whilst considering neighbouring noise sources, that a noise assessment shall be required to ensure the provision of residential amenity in accordance with recognised British Standards.

The extent of any noise control will not be known until a thorough noise impact assessment has been completed, which considers all potential noise sources. Whilst visiting site it is evident that there are a number of noise sources, namely the High Street and neighbouring existing commercial businesses.

Paragraph 123 of the National Planning Policy Framework (2012) states existing business wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. A robust, noise impact assessment taking in to account the surrounding activities will safeguard this requirement.

## 6.5 CDC – Estates

We are in discussions with the adjoining land owner regarding the grant of a licence permitting the land owner to remove a section of the wall to create the pedestrian access referred to. The licence, if granted, can be terminated by the Council on terms to be agreed so this access must not be relied upon in connection with the proposed development. Alternative access must be available to the development.

It is recommended that, in the event that planning permission is granted, a condition is included to ensure that the applicant obtains landowners consent prior to taking any access over the Council's adjoining land.

### 6.6 2 no. Third party letters of objection have been received concerning;

- a) Access to the existing MOT would be affected by the proposed increase in cars and pedestrian movements. The movement of MOT vehicles would conflict with pedestrians using the new footpath
- b) Access to the site would be severely narrowed by the new footpath.
- c) The safest route through to East Street is via the Zebra crossing.
- d) Development would block light and views to and from neighbouring windows, especially at Grant Close.
- e) Security lighting would be consistently activated by pedestrians using the footpath

### 6.7 15 no. Third party letters of support have been received relating to;

- a) This development would assist with delivering the Pavillion Theatre. Without development of the site the theatre could not be redeveloped.
- b) The development would bring forward new access routes from the car park which would improve pedestrian safety and ease of access for wheelchair users.
- c) The proposal is excellent and complimentary to the area and theatre.
- d) New houses would revitalise the area and contributes towards the 'Selsey Vision.'
- e) Development would generate revenue and reform an empty area as well as provide a community asset with the pavilion and help to revitalise the high street.

### 6.8 Applicant/Agent's supporting information

The applicant's agent has provided the following response to Officer's request for further marketing information/justification:

- The proposals accord with the principles of making effective of land described in para 118D and E of the revised NPP to promote and support the development of under-utilised land and buildings, (for example building on or above service yards) and support opportunities to use the airspace above existing residential and commercial premises for new homes...consistent with the prevailing height and form of neighbouring properties.'
- The vitality of Selsey town centre is re-enforced by the proposals for the Theatre and effective use of land that provides the community service of a flexible theatre would accord with sustainable development policy.
- The proposals make use of the air space above existing commercial land and properties.

- This proposal for 253m<sup>2</sup> of commercial floor space and un-neighbourly uses to be replaced by 720m<sup>2</sup> of good quality carefully designed residential floor space to be supported.

Within correspondence dated 08/10/18 it is stated that the existing commercial building for carpet storage and associated HGV movements are harmful whereby:

- The carpet business is aware of the proposals and is prepared to relocate their storage when necessary.
- The applicant is aware that suitable storage space regularly becomes available in several locations close to Selsey.
- The existing warehouse is not well suited to its use because HGVs have to reverse turns across the High Street footway and through the site.
- The building does not provide any direct employment of staff; the site is used for the storage of new carpets and old carpets, the latter are collected by HGVs
- The development of the Theatre is dependent on the creation of a safe pedestrian route which involves the demolition of the carpet storage building.

Following a meeting with the applicant and applicant's agent, the current occupier of the existing storage warehouse within the site, Flawless Finish submitted a representation (via the agent) confirming that:

'I can confirm that delivery access by HGVs to the warehouse is not ideal, and causes issues for delivery drivers and other users of the road, whilst deliveries are taking place. As and when appropriate I will be relocating my warehousing requirements to more suitable premises. This will not affect the way my shop on the High Street operates, nor will it create loss of jobs. This is because the warehouse is purely for storage and provides no direct employment from within.'

## **7.0 Planning Policy**

### **Chichester Local Plan 2014-2029:**

Policy 1 Presumption in Favour of Sustainable Dev

Policy 2 Dev Strategy and Settlement Hierarchy

Policy 8 Transport and Accessibility

Policy 33 New Residential Development

Policy 39 Transport, Accessibility and Parking

Policy 42 Flood Risk

Policy 48 Natural Environment

Policy 49 Biodiversity

Policy 51 Development and Disturbance of Birds in Pagham Harbour Special Protection Area

### **Selsey Neighbourhood Plan 2017**

Subject to the incorporation of the recommendations made in the Examiners Report dated 02/10/18, the following policies are relevant:

Policy 001 – Design and Heritage

Policy 002 – Historic Environment (recommended for amendment)



Policy 003 – Settlement Boundary  
Policy 004 – Temporary Agricultural Workers  
Policy 005 – Society  
Policy 006 – Selsey Town Hall  
Policy 007 – Infrastructure  
Policy 008 – Transport (recommended for deletion)  
Policy 009 – Transport (recommended for deletion)  
Policy 010 – Selsey Town Hall  
Policy 011 – Economy  
Policy 012 – Economy  
Policy 013 – Economy

National Policy and Guidance

Section 12 and 16 of the National Planning Policy Framework  
Other Local Policy and Guidance

Consideration has also been given to:

- Surface Water and Foul Drainage SPD
- CDC Waste Storage and Collection Guidance
- Selsey Conservation Area Appraisal
- Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

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:

- Support communities to meet their own housing needs
- Support and promote initiatives that encourage alternative forms of transport and encourage the use of online services
- Promote and increase sustainable, environmentally friendly initiatives in the district
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

## **8.0 Planning Comments**

The main considerations are:

- i) Principle of residential development and loss of employment use
- ii) Layout, design and impact on the character and appearance of the area
- iii) Impact on the Historic Environment
- v) Impact on amenity of neighbouring properties
- vi) Highway Safety
- vii) Waste Storage / Collection
- viii) Noise
- ix) Contamination / Drainage
- x) Biodiversity
- xi) Other Matters

i) Principle of residential development and loss of employment use

- 8.1 The application site is located within the settlement boundary of Selsey which is identified as a Settlement Hub within the Chichester Local Plan (CLP). It is therefore within a location where new development to reinforce the role of the settlement as a centre providing a range of homes, workplaces and social and community facilities is supported by policy 2 of the CLP, subject to compliance with other policies of the Development Plan. The provision of new dwellings in a town centre location would be acceptable in principle; However, the existing site contains a business unit used for carpet storage associated with an existing business located on the High Street, Selsey. The proposal would involve the loss of this B8 storage unit and therefore Policy 26 of the CLP is relevant to the determination of the application.
- 8.2 Policy 26 of the CLP seeks to protect existing employment sites and indicates that planning permission will be granted for alternative uses on land or floorspace currently or previously in employment generating uses where "it has been demonstrated (in terms of the evidence requirements accompanying this policy) that the site is no longer required and is unlikely to be re-used or redeveloped for employment uses". No such marketing evidence has been provided with the application, nor has any information regarding the relocation of this business been documented.
- 8.3 The applicant and their agent have relied on the general encouragement of national policy (the NPPF) in making effective use of land and the representation made by the current tenant of the site that relocation would be possible to suggest that the current proposals are acceptable. Notwithstanding the agent's submissions and representations made by the occupier of the existing storage unit on the site, the unit is in existing use and clearly serves a purpose for an existing business along the High Street. Even if the unit is surplus to the current occupier's business, the policy seeks to safeguard the provision of employment land rather than individual businesses and the details submitted do not demonstrate that there is no longer a demand for this employment site.
- 8.4 The appropriate method of establishing whether there is still a business demand for such a unit in this location would be to market it for freehold sale or rent. The NPPF is a material consideration and does not change the starting point for determining planning applications in accordance the Development Plan, which includes the Local Plan policies. In this instance Policy 26 of the Local Plan is relevant, and it has not been satisfied; the proposals would result in the loss of a business unit, which has not been justified on any sound basis, including the requirement for an appropriate level of marketing. The proposals would therefore conflict with the aims of this policy and therefore the loss of employment floorspace is unacceptable in this regard.

8.5 Whilst the proposal would result in the provision of additional housing units in a sustainable location, the Council is presently able to demonstrate a 5 year housing land supply, and therefore the dwellings are not required to meet an identified need. The development would not therefore constitute a benefit that would outweigh the loss of the existing employment site. In addition, part of the applicant's justification for the proposed development is the provision of the pedestrian link between the East Street Public Car Park and the High Street. Whilst the potential benefits of this link are recognised; it would provide a direct link without the need to cross main roads, this would not outweigh the fundamental concerns about the loss of employment, particularly in conjunction with the concerns about the design of the scheme and the limited improvement for the users of the proposed link as set out in the report below. Therefore, in conclusion the proposed development would conflict with policy 26 of the CLP as a result of the unjustified loss of an employment use, and there are no overriding benefits that would outweigh this identified harm.

iii) Layout, design and impact on the character and appearance of the area

8.6 Policy 33 seeks to ensure that proposals respect and enhance the character of the surrounding area and site, its setting in terms of its proportion, form, massing, siting, layout, density, height, size, scale, neighbouring and public amenity and detailed design.

8.7 The site is surrounded by residential and commercial development including the Theatre and shops located along the High Street. To the north lies Lewis Close which comprises three storey residential development. To the east lies Grant Close which comprises two storey flatted development. To the south lies the parking area to the rear of the theatre and the East Street Car Park. Lewis Close and Grant Close are both areas of high density residential properties, and therefore whilst a high density development may be appropriate in the local context, the policy also requires a high quality design. In addition, new development should respond to the positive attributes of an area, which include the characteristics and features of the Conservation Area and the setting of 99-101 High Street which is a Grade II Listed Building.

8.8 It is considered that the proposed layout would be congested and represents an overdevelopment of the site. Given the narrow and constrained nature of the application site, which excludes the existing MOT station, all of the development would line the perimeter of the site, whereby units 1 and 2 would be located between 1.5-2.4m from the northern boundary, units 3-4 would be located between 3.4m – 3.5m from the northern boundary, units 5-6 would extend up to the southern boundary and units 7-8 would be provided with an awkward ground floor extension that would wrap the southern boundary and leave a small gap of only 1.1m between the southern boundary and the other parts of the building. Between gaps in the built form parking spaces would be provided as well as bin and cycle stores, leaving minimal space for amenity land, gardens or meaningful landscaping.

- 8.9 There would also be limited space to manoeuvre a vehicle in and out of the proposed parking spaces as demonstrated on the proposed 'Access, Turning and Boundary Treatment' plan. In particular the reversing in and out of the parking spaces adjacent to Unit 1 and 2 would be constrained by the width of the access road and positioning of bollards along this part of the southern boundary of the site. Furthermore parking spaces would be constrained by the positioning of the MOT station and its parking area adjacent to parking spaces allocated for units 2 and 7, whereby their turning areas would overlap this neighbouring land. Turning areas would therefore be limited and tight and this further indicates that the development would be cramped and congested in this respect, albeit it is recognised that the Local Highway Authority does not raise an objection on this basis nor on the safety of the highway network, but rather that the scheme provides poor amenity for future users.
- 8.10 For the reasons set out above the proposals represent an overdevelopment of a constrained site in terms of its size and shape, whereby the combination of the volume of built form together with the areas of hard surfacing dominates the site. There would be little space remaining for garden or soft landscape areas, resulting in a cramped and congested layout, which would be detrimental to the character and appearance of the area, contrary to Policy 33 of the Local Plan.
- 8.11 The proposals have been amended during the course of the application in order to seek to address Officers concerns and to take account of the Acoustic Report and the noise mitigation recommended. Units 1 and 2 would contain characterful features such as brick and flint elevations, quoining detail and flat roof dormers in order to provide a focal point of the site. However, the combination of the two and a half storey scale of the building, coupled with the multiple and contrasting features and materials such as glass balustrading, quoining and zinc dormer roofs is considered to be overcomplicated and inappropriate for the context of the site. In order to relate more sympathetically with its context, Officers are the view that the detail on the proposed buildings should be simple, two storey, which should not compete with neighbouring buildings and should achieve an appropriate hierarchy with the taller and more dominant buildings along the High Street. On this basis the proposed scale and design of Unit 1 and 2 would be dominant and harmful to the character and appearance of the area and would represent a poor design solution for the site.
- 8.12 Plots 3-6 comprise 2 x two storey buildings, which incorporate a shallow pitched slate roof and brick elevations. In contrast to Units 1 and 2 these dwellings would contain limited additional features which result in bland frontages and minimal windows facing internally within the site as a result of incorporating the recommendations of the Acoustic Report. Paragraph 130 of the National Planning Policy Framework encourages development to take the opportunity available to improve the character and quality of the area. It is not considered that the appearance of Units 3-6 takes the opportunity to improve the character and quality of the site. Units 7 and 8 are proposed within a two and a half storey building facing over the East Street Car Park. The northern elevation facing into the site contains limited windows in order to mitigate against the noise impacts from the MOT garage to the north and the Theatre to the west. The lack of architectural detailing on these units, which would be highly visible from the public realm is also not considered to represent a high quality design solution for the site and would not take the opportunity to improve the character and quality of the area.

8.13 It is considered that the proposals represent poor quality and incongruous design that fails to take the opportunity available to improve the character and quality of the area (as required by paragraph 130 of the NPPF) and would not respect or enhance the character of the surrounding area and the site which would be contrary to Policy 33 of the Local Plan. Whilst it is recognised that the site is constrained by the shape and size of the plot and by existing and neighbouring development, the amount of development proposed is considered to be excessive and as a result the proposed layout would be contrived and congested which together with their design, would not deliver a high quality form of development. On this basis the proposals would be contrary to Policy 33 of the Local Plan and would Section 12 (Achieving well-designed places) of the NPPF.

iv) Impact on the Historic Environment

8.14 Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority (LPA) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses whilst Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. In addition, the NPPF stresses the importance of protecting heritage assets, stating that LPA's should take account of the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities and to the desirability of new development making a positive contribution to local character of a place. Furthermore, policy 47 of the Local Plan requires new development to recognise, respect and enhance local distinctiveness, the character of the area and heritage assets.

8.15 No. 99-101 High Street is a Grade II Listed Building, which fronts the High Street. The building is a two storey brick built building with a long single storey rear extension that projects into the site. Given their close proximity there would be a clear physical relationship between the Listed Building and the application site. Whilst it is considered that two storey buildings on the site would be unlikely to result in harm to the setting of the Listed Building, the amount of development proposed coupled with the congested layout, and concerns about the quality of the design would result in harm to the setting of the Listed Buildings. The harm to the setting of the Listed Building is considered to amount to less than substantial harm when interpreting paragraph 196 of the NPPF. However this harm is not outweighed by the public benefits of the proposal for all the reasons set out within this section of the report. The proposals would not conserve the historic character of the listed buildings and their settings, and would fail meet the requirements of Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 and would conflict with Policy 47 of the Local Plan.

8.16 The site partly lies within the Selsey Conservation Area which incorporates a number of Listed Buildings along the High Street, as well as the Pavilion Theatre; a building identified as a positive building, and considered to be a non-designated heritage asset. The proposed dwellings would be located outside of the Conservation Area, however they would impact on its setting. This part of Conservation Area is identified

as being character area 2 with the ten Listed Buildings identified as its 'special interest' within the Conservation Area Appraisal.

8.17 The proposed design of the scheme, including the layout and the appearance of the dwellings is not considered to be acceptable. As a result it is considered that the proposals would result in harm to the setting of the Conservation Area and would fail to comply with Policy 47 of the Local Plan.

iv) Impact on amenity of neighbouring properties

8.18 The site is bounded to the north and east by residential development. These are flatted developments that fall within the immediate vicinity of the site. The Council's 'Design Guidelines for Alterations to Dwellings & Extensions' states that a distance of 21 metres minimum is normally required between the first floor habitable rooms of houses in a back to back situation, or 30 metres where a full three storey development is proposed. In the case of two storey developments with dormer windows in the roof a distance of 25 metres is recommended. In this instance the proposals are for two storey buildings with dormer windows in the roof, which requires a back to back distance of 25m.

8.19 The distance between Units 1/2 and the rear of 'Bromley' located along Lewis Road to the north is 9.3m. Whilst the northern elevation of these units facing Bromley would only contain windows serving bathrooms and the stairwell, and could contain obscure glazed windows, there would still be a perception of overlooking and loss of amenity to neighbouring properties to the north, which is further indicative of a congested and over developed form of proposal. The provision of a balcony up to the northern boundary, would also result in loss of privacy for the future residents of Units 1 and 2 as the residents occupying the second floors of Bromley would directly overlook the balcony.

8.20 The building containing Units 3/4 would be located 5.0m from the neighbouring building to north. There are habitable windows located within the neighbouring building that would fall in close proximity to the proposed development. Whilst no windows are located in the northern elevation of units 3/4, the close proximity of the two buildings, coupled with the use of a balcony would result in inter-looking between the occupiers of both developments. In addition such close proximity between the two buildings and use of balcony, would have an overbearing and visually oppressive relationship which would be detrimental to the amenities of the occupiers of both properties. In particular the balcony and proposed amenity yard serving unit 3 would be significantly overlooked by the development to the north, which would be detrimental to the amenities of the occupiers of Unit 3. Furthermore the side elevations of Units 3 and 4 would be located 3.8m from the side elevation of Grant Close. The neighbouring property has provided photographs of the views from the first floor bedroom window, which would look directly at this side elevation. Due to the close proximity between the two buildings and scale of the proposed development, it is considered that the proposed development would reduce a significant amount of light and outlook to the neighbouring property, which would be detrimental to the amenities of this property.

8.21 Units 5/6 would be located in the south east corner of the site and within 1.0m of the eastern boundary. The rear elevation of 1-14 Grant Close is located approximately 4.6m from the side elevation of units 5/6, and at an oblique angle. Whilst the proposed building would be sited in close proximity to the eastern boundary, its siting to the south west of the neighbouring property coupled with there being no windows proposed in this elevation would ensure that there would be no direct overlooking to the first and ground floor of the neighbouring building. Units 7/8 would be sufficiently distanced from the surrounding properties and oriented such that they would not result in any loss of amenity to these neighbouring properties.

8.22 The proposals provide very little useable amenity space for the proposed units. The site lies in close proximity to the town centre and local parks and therefore the provision of limited amenity space is not a reason for refusal in itself. However given the close proximity of habitable spaces and areas to the neighbouring boundaries, including the public house to the west, MOT garage and neighbouring properties, the proposed development would not provide a high quality living environment for future occupiers.

8.23 Due to the siting of the proposed development along the site boundaries and its two storey scale, the proposals are considered to result in a visually oppressive and overbearing impact to neighbouring properties which would be detrimental to the occupiers of the neighbouring development and the proposed development. In addition, the proposal would not result in a high quality living environment for future occupiers. On this basis the proposals would be contrary to Policy 33 of the Local Plan, the Council's Design Guidance for Alterations to Dwellings and Extensions and paragraph 117 of the NPPF.

v) Impact on Highway Safety

8.24 Policy 39 of the Local Plan seeks to ensure that new development has acceptable parking provision, and safe access and egress to the highway. The proposed development would utilise the existing accesses from High Street. The site would provide a total of 9 parking spaces. WSCC Parking Standards requires the provision of two spaces per unit. However WSCC Highways has confirmed that 9 spaces is an acceptable level of parking provision for the proposed use in this sustainable location. Furthermore the applicant has submitted tracking diagrams to demonstrate that vehicles can turn and exit the site in the forward gear. Notwithstanding that the vehicle tracking indicates that cars would reverse over third party land, this is more indicative that the site is cramped and overdeveloped than indicating a severe highway safety issue because vehicles could make more manoeuvres to turn if necessary. Therefore the size and number of parking spaces for this development is considered to be acceptable.

8.25 WSCC Highways has raised no objection to the application regarding the impact of the additional residential development on the local highway network. In particular WSCC Highways note that there will be overall benefits from a highways perspective, alleviating existing un-safe reversing movements in relation to the commercial use of the site. The advice from WSCC Highways recommends conditions securing an appropriate parking layout, as well as details of bicycle parking. Subject to compliance with the requested conditions it is not considered that the proposed use

would result in a severe highway impact or inappropriate parking behaviour. On this basis the proposals would comply with Policy 39 of the Local Plan.

vi) Waste Storage and Collection

8.26 The proposed development would generate an additional waste container storage and collection requirement of 16 no. 2 wheeled 240 litre bins. These bins are to be stored within the curtilage of each Unit. No central collection point within the site is proposed. The applicant's agent has confirmed that the existing arrangement for a refuse lorry to reverse into the site to collect the bins would be continued, as is the case for the existing commercial uses of the site. Generally, the reversing of waste collection vehicles should be avoided, and such vehicles should not reverse further than 12m in accordance with BS5906 2005. The distance from the High Street to Units 3-6 at the eastern end of the site is 70m, which is well in excess of the 12m recommended. If a refuse vehicle were to reverse 12m this would mean the distance required to collect bins from Unit 3-6 would be approximately 60m, which would be in excess of the 25m drag distance limit for collection crews. However the Council's Waste Team have confirmed that provided residents are provided with refuse and recycling storage and bins are wheeled to the highway and wheeled back on collection days then no objection will be raised to the proposals. On this basis it is considered that it would not be reasonable to resist the proposal on this basis given that there are potential solutions and no objection from the Council's waste team.

viii) Noise Impacts

8.27 The site is adjacent to a number of residential properties, however it also lies in close proximity to commercial noise sources such as the MOT garage and noise sources along the High Street, including the Theatre itself which will host events. The Environmental Health Officer considered that a Noise Impact Assessment was required in order to assess the impact of the extent of any noise control measures.

8.28 An Acoustic Report was submitted with the revised proposals to the layout and design of the scheme received on 14/01/19. The Environmental Health Officer (EHO) has objected to the application on the basis of inadequate noise mitigation relating to Units 1/2 and 7/8. The Acoustic Report recommends that all habitable rooms are located to the south and minimal windows in the northern elevation for Units 7 and 8 in order to avoid adverse noise impacts from the MOT garage. However a balcony is proposed on the western elevation of unit 7/8 which would be located in close proximity to the beer garden for The Crown pub, which hosts late night events and has a history of noise complaints. Furthermore the Acoustic Report recommends triple glazing and acoustic trickle vents which do not offer thermal cooling, meaning that in the summer months the south facing windows are likely to be open and vulnerable to adverse noise impacts from the beer garden.

8.29 Habitable rooms are also located in the southern elevation of Units 1 and 2 which face towards the beer garden and would therefore be vulnerable to adverse noise impacts. It is on this basis that the EHO considers that music events and activities from the beer garden from the Crown Pub would have an adverse noise impact on future residents, particularly at units 7 and 8.



8.30 The proposed development would therefore fail to provide adequate noise mitigation for units 1/2 and 7/8 by reason of their close proximity to neighbouring noise sources, their orientation and design. Due to the nature of the concerns it would not be possible to overcome these issues by imposing a condition requiring alternative measures; the scheme would need to be re-designed to 'design out' the noise impacts. The proposal therefore would not provide a high quality living environment for future occupiers of these units. On this basis the proposals are considered to be contrary to paragraph 182 of the National Planning Policy Framework and Policy 33 of the Chichester Local Plan 2014-2029.

ix) Contamination

8.31 Given the previous uses of the site for commercial/industrial uses including a builder's yard there is considered to be potential for land contamination at the site. The Environmental Protection Team considers that these sources of contamination can be mitigated through a suitably worded condition. In addition given that the former uses were commercial/industrial, it is considered unlikely the development would have a significant impact on local air quality. In the event the proposal was recommended for approval a construction management plan would be recommended to manage covers dust control and noise from construction.

x) Ecology

8.32 The site is located within 3.4km buffer zone of the Pagham Harbour Special Protection Area, where any net increase in new dwellings would be subject to a s106 agreement and contribution to offset any harm to protected bird species as a result of new dwellings. An appropriate assessment relating to the impacts of the development has been carried out and it is considered that the entering into of a legal agreement to secure a financial contribution to offset the impact provides adequate mitigation. However due to officer concerns relating to other planning issues arising from the application, this payment has not been sought during the course of the application. In the event permission is refused and the application proceeds to appeal, this can be secured at that stage. The proposal would however be contrary to policy 51 within the CLP.

xi) Other Matters

8.33 The applicant has stated within their submission that 'Planning permission for the mews development will enable the Pavilion Theatre/cinema to move forward and turn a dream in reality.' Furthermore the applications for residential development and the works to the theatre are stated as being 'linked.' However the application for the Pavilion Theatre development was determined positively on its own merits. It is not considered that the successful function and public access to the Theatre is dependent alone on the proposed development for the 8 dwellings. Neither does it justify approving development that otherwise fails to comply with the Development Plan. Furthermore, the Council's Estates Team have not confirmed whether or not they would support the proposed pedestrian link through to the Council owned car park. The proposals are considered unacceptable in terms of its cramped layout, inappropriate design and adverse impacts on neighbour amenity. These issues outweigh the moderate benefits of the proposals.

## Conclusion

8.34 Based on the above assessment, it is considered the proposals would result in the inappropriate and unjustified loss of a business use on the site. In addition the amount of development proposed is considered to be excessive for the constraints of the and as a result the proposed layout would be contrived and congested which together with their design, would not deliver a high quality form of development and would result in harm to the setting of nearby Listed Buildings and the Conservation. Furthermore the proposals would On this basis the proposals would be contrary to Policy 33 of the Local Plan and would Section 12 (Achieving well-designed places) of the NPPF. Furthermore the proposals would result in an overbearing form of development and an unacceptable perception of overlooking and loss of privacy to both the neighbouring properties and would not provide a high quality living environment for future occupiers including noise pollution. A financial contribution to offset the impact on Pagham Harbour Special Protection Area has also not been provided. On this basis the proposals fail to comply with the policies of the Development Plan and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. There are no material considerations, including the provision of public footpath through the site which would outweigh the conflict with these Development Plan policies and therefore the application recommended for refusal.

## Human Rights

8.35 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 is justified and proportionate

## RECOMMENDATION

REFUSE for the following reasons:-

1. The proposed development would result in the unacceptable loss of an existing employment unit which has not been justified through a marketing and viability assessment that demonstrates the employment unit is no longer required. The proposal is, therefore, contrary to Policy 26 of the Chichester Local Plan 2014-2029, and there are no benefits that would outweigh the loss of the employment use.
2. The proposed development, by way of its contrived and congested layout, inappropriate scale and poor architectural detailing, and lack of appropriate landscaping would fail to meet the highest standard of design and would not respect or enhance the character of the surrounding area, including the setting of nearby Listed Buildings and the adjacent Conservation Area. The proposals would not take the opportunity to improve the character and quality of the area. The cramped and poor quality design would result in an incongruous development that would cause harm to the character and appearance of the area and setting of the adjacent heritage assets, which would be contrary to Policies 33 and 47 of the Chichester Local Plan 2014-2029, paragraphs 130 and 196 of the NPPF and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. The proposed development by reason of its close proximity to neighbouring dwellings combined with the proposed scale and height of units 1-4 and incorporation of balconies would result in an overbearing form of development and an unacceptable perception of overlooking and loss of privacy to both the neighbouring properties and the future occupiers of the development from neighbouring development. The proposal is therefore contrary to Policy 33 of the Chichester Local Plan 2014-2029 and paragraph 117 of the NPPF.
4. The proposed development fails to provide adequate noise mitigation for the siting and design of units 1/2 and 7/8 whereby their close proximity to neighbouring noise sources would not provide a high quality living environment for future occupiers of these units. On this basis the proposals are considered to be contrary to paragraph 182 of the National Planning Policy Framework and Policy 33 of the Chichester Local Plan 2014-2029.
5. The site is located within 3.4km buffer zone of the Pagham Harbour Special Protection Area where it has been identified that the net increase in residential development results in significant harm to those areas of nature conservation due to increased recreational disturbance. The applicant has failed to make sufficient mitigation against such an impact and therefore the proposal is contrary to Policy 51 of the Chichester Local Plan Key Policies 2014-2029. The development would therefore contravene the Conservation of Habitats and Species Regulations 2017 and the advice in the National Planning Policy Framework.

#### Informatives

The applicant is advised, in the event of an appeal against this refusal of planning permission, that on receipt of a Unilateral Undertaking under S.106 of the Town and Country Planning Act 1990 (as amended) and the payment of the contribution towards the mitigation strategy required for the Pagham Harbour Special Protection Area. Reason for refusal 5; would be withdrawn by the Local Planning Authority. Full details of the Unilateral Undertaking and the contribution requirements are available upon request.

For further information on this application please contact Robert Sims on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P74QRAER0XW00>

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Parish: Sidlesham	Ward: Sidlesham
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**SI/18/00768/FUL**

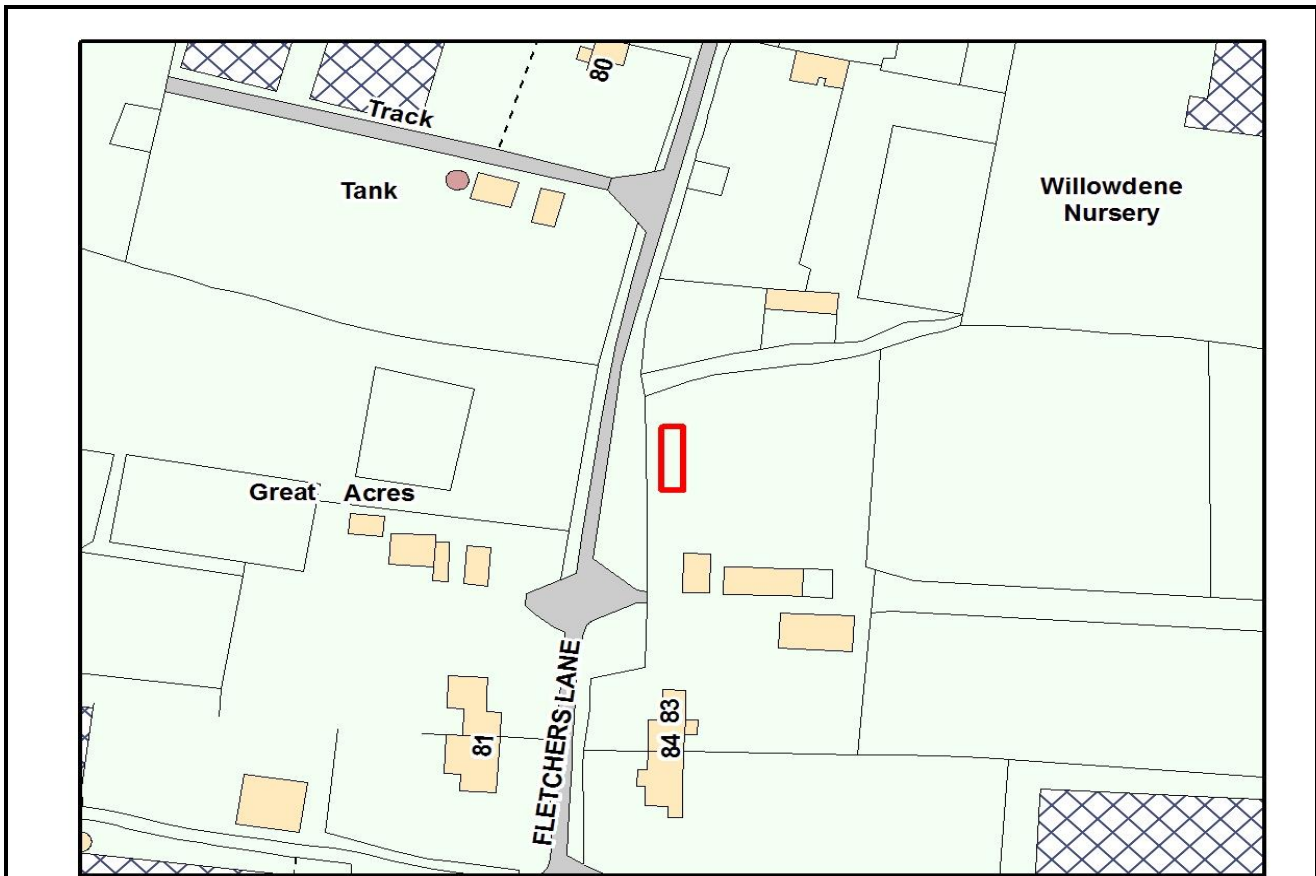
**Proposal** Erection of chicken shed.

**Site** 83 Fletchers Lane Sidlesham PO20 7QG

**Map Ref** (E) 484610 (N) 99238

**Applicant** Mr S Heath

**RECOMMENDATION TO PERMIT**



	<b>NOT TO SCALE</b>	<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 Objection - Officer recommends Permit

## **2.0 The Site and Surroundings**

- 2.1 The site is located to the eastern side of Fletchers Lane, in a countryside location, to the north west of the settlement of Sidlesham. It comprises a parcel of agricultural land, situated to the north of the associated residential property and extends to Boxham Lane to the east. The wider site comprises a number of single storey former agricultural buildings, converted under the prior approval process to residential use. Access is achieved via an existing track from Fletchers Lane, and mature trees and a 2m high timber fence form the boundary to the roadside.
- 2.2 Fletchers Lane is characterised by residential development, with associated horticultural development/small holdings. The area maintains a rural appearance.

## **3.0 The Proposal**

- 3.1 The proposal seeks planning permission to construct a timber building to house the applicant's chickens. The building would be situated towards the western boundary of the associated agricultural field and access would be achieved from the existing access point onto Fletchers Lane. No additional hardstanding access track is proposed.
- 3.2 The building would be constructed with timber shiplap cladding, measuring 14.1m long by 3.4m wide, with a floor area of approximately 47m<sup>2</sup>. It would measure 2.3m to the eaves and 3.1m to the ridge, with brown Onduline roofing sheets and an eaves overhang. There would be four openings to the east elevation, with mesh over providing security for the chickens.

## **4.0 History**

15/02178/PA3Q	YESPAP	Part 3, Class PA3Q: Change of use of agricultural building to 1 no. dwelling (C3 Use Class).
15/03438/PA3Q	YESPAP	Part 3, Class PA3Q: Change of use of agricultural building to 1 no. dwelling (C3 Use Class).
16/01058/FUL	PER	Change of use from agriculture to 1 no. dwelling (C3 use class) and erection of pitched roof over building alternative to part 3, class Q prior approval SI/15/03438/PA3Q.
16/02089/FUL	PER	Change of Use from Agriculture to 1 no. Dwelling (C3 Use Class) and erection of pitched roofs over flat roof parts of building - alternative to Part 3, Class Q Prior Approval - SI/15/02178/PA3Q.

16/04049/NMA	PER	Non-material amendment of permission SI/16/02089/FUL, changes to fenestration - re-orientation of rooms and window positions.
17/02711/DOC	DOCDEC	Discharge of conditions 6 and 12 from planning permission SI/16/01058/FUL.
17/03449/FUL	PER	Erection of field shelter and creation of new field access onto Boxham Lane.

## 5.0 **Constraints**

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	NO

## 6.0 **Representations and Consultations**

### 6.1 **Parish Council**

Sidlesham Parish Council discussed the above Planning Application at its Planning Committee Meeting on 18th April 2018. The PC object to the application. The shed would be too close to the road but might be more appropriate if sited towards the rear of the plot of land.

## 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 Sidlesham 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 39: Transport, Accessibility and Parking

Policy 42: Flood Risk and Water Management

Policy 45: Development in the Countryside  
Policy 47: Heritage  
Policy 48: Natural Environment  
Policy 49: Biodiversity

### 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,

For decision-taking this means:

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, 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 1 (Achieving Sustainable Development) 4 (Decision-Making), 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).

### Other Local Policy and Guidance

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

Surface Water and Foul Drainage SPD

## **8.0 Planning Comments**

8.1 The main issues arising from this proposal are:

- i. Principle of development
- ii. Impact upon visual amenities and character of the area
- iii. Impact upon the amenity of neighbouring properties
- iv. Ecological considerations



## **Assessment**

### i. Principle of development

- 8.2 Policy 45 of the Chichester Local Plan (CLP) states that within the countryside, development will only be granted where it requires a countryside location and meets the essential, small scale and local need which cannot be met within or immediately adjacent to existing settlements.
- 8.3 The applicant has 40 chickens on site, which are housed in Rabbit Hutch style box cages, which are a temporary solution. The chickens are a mix of breeds, including Brahma, Rhone Island Red and Buff Orpington's, some are bigger birds and are exhibited in events around the country. Small scale breeding takes place and the applicant takes chickens to exhibit across the country. The applicant's enterprise does not provide poultry or products for commercial sale, but it is a small scale use that would be compatible with its countryside location.
- 8.4 The birds are mainly kept in pairs to avoid aggressive behaviour. Separate larger pens are required for each breed. EU welfare for laying hens stipulates nine hens per square metre. For free range hens, the largest bird species would require 4 square metres per hen and the smallest 2 square metres per hen. There is limited guidance for show birds, but The Poultry Club of Great Britain stipulates 1-2 birds per square metre noting the size of the fowl. The useable floor space of the proposed building would be 45 square metres, which would accommodate the current stock and proposed future stock.
- 8.5 The holding no longer comprises any buildings which would be capable of meeting the requirement to house the birds. Two former agricultural buildings to the south of the proposed site have been converted under the prior approval process to residential properties. As such there are no existing buildings on site that could meet the proposed needs.
- 8.6 Overall it is considered the proposal, whilst not for commercial purposes, can demonstrate the requirement for its countryside location and an essential, small scale and local need which would not be met within or immediately adjacent to existing settlements. The proposed building would be functional in form, with clad elevations and openings as required for welfare purposes. Its proposed size has been justified in terms of welfare requirements for the birds. There are presently hens on site and the applicant resides on the same small holding as the building, just to the south. The principle of the proposal would therefore be acceptable, subject to the material considerations as set out below.

ii. Impact upon visual amenities and character of the area.

8.7 Policy 45 sets out that proposals requiring a countryside setting, for example agricultural buildings should pay special attention to scale, siting design and materials to ensure any impact on the landscape and rural character of the area is minimised. Policy 48 requires the development to respect distinctive local landscape character and sensitively contribute to its setting and quality.

8.8 The proposed building would be sited to the western boundary adjacent to Fletchers Lane. Whilst the building would be visible above the boundary fence, it would have low eaves of 2.3m and low pitch roof, with a ridge of 3.1m and it would be constructed of materials which would be reflective of its countryside location and functional need as a chicken shed. The Parish Council raise concern about the visibility of the building and feel it should be sited further back within the site. It is however considered by officers that its current proposed location would fit with the pattern of development that exists within Fletchers Lane, of buildings clustered together towards the front of the holdings and only larger buildings, such as glasshouses to the rear of the sites. Locating the building further within the site, away from the road would result in encroachment into the open field, representing a form of development which would be out of place with the prevailing pattern of development on Fletchers Lane.

8.9 Throughout the course of the application officers explored re-orientating the building so it would be east/west facing, so only the flank would be readily visible from the road. This option was not however considered possible due to impacts on the mature oak tree to the northern boundary and proximity to the new residential dwellings to the south of the building. Locating the building further to the south of its current proposed location would also not be possible due to the proximity to the newly converted residential property.

8.10 Overall it is considered that the proposal has been designed and constructed of materials sympathetic to its rural setting and its functional need. Its proposed siting would allow it to be read in the context of the existing buildings and not in isolation and therefore its impacts on the landscape and rural character of the area is minimised. The proposal would therefore accord with local development plan policies 1, 45 and 48.

iii. Impact upon the amenity of neighbouring properties

8.11 The closest neighbouring residential property would be 15m to the south of the site and is in the same ownership as the application site. It is considered that due to the distance, orientation and single storey nature of the proposal and the low level of activity, it is not considered that there would be an unacceptable impact on the amenities of neighbouring properties, in particular their outlook, privacy, available light or noise generated by the development.

#### iv. Ecological considerations

8.12 Policy 49 of the CLP seeks to ensure that the biodiversity value of a site is safeguarded and demonstrable harm which may arise to protected species or habitats is avoided or mitigated. The proposal by reason of its location on paddock land with low ecological value, its scale and form would not give rise to unacceptable biodiversity impacts and therefore would comply with policy 49 of the CLP.

#### Significant Conditions

8.13 As the proposal seeks the construction of a building to be used for purposes in connection with the hobby farming of keeping of hens, it is considered that it would be proportionate and justified to condition the building to be used for that purpose only and if that use ceases to be removed from the land and the land restored.

#### Conclusion

8.14 Based on the above assessment it is considered the proposal complies with development plan policies 1, 45, 47 and 48 and therefore the application is recommended for approval.

#### Human Rights

8.15 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**

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: Drawings: 1, 2, 3, 05

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

3) The development hereby permitted shall not be constructed other than in accordance with the materials specified within the application form and plans, unless otherwise agreed in writing by the Local Planning Authority.

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

4) Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015, as amended, the building hereby permitted shall be used for agricultural purposes only as defined in section 336 of the Town and Country Planning Act 1990 (as amended) and if the building ceases to be used for that purpose the building shall be permanently demolished, all debris removed from the site and the land restored to its former condition or a condition to first be agreed in writing by the Local Planning Authority.

Reason: To accord with the justification and requirement for the building.

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=P68RQ6ERJZU00>

Parish: Fishbourne	Ward: Fishbourne
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**FB/18/01931/LBC**

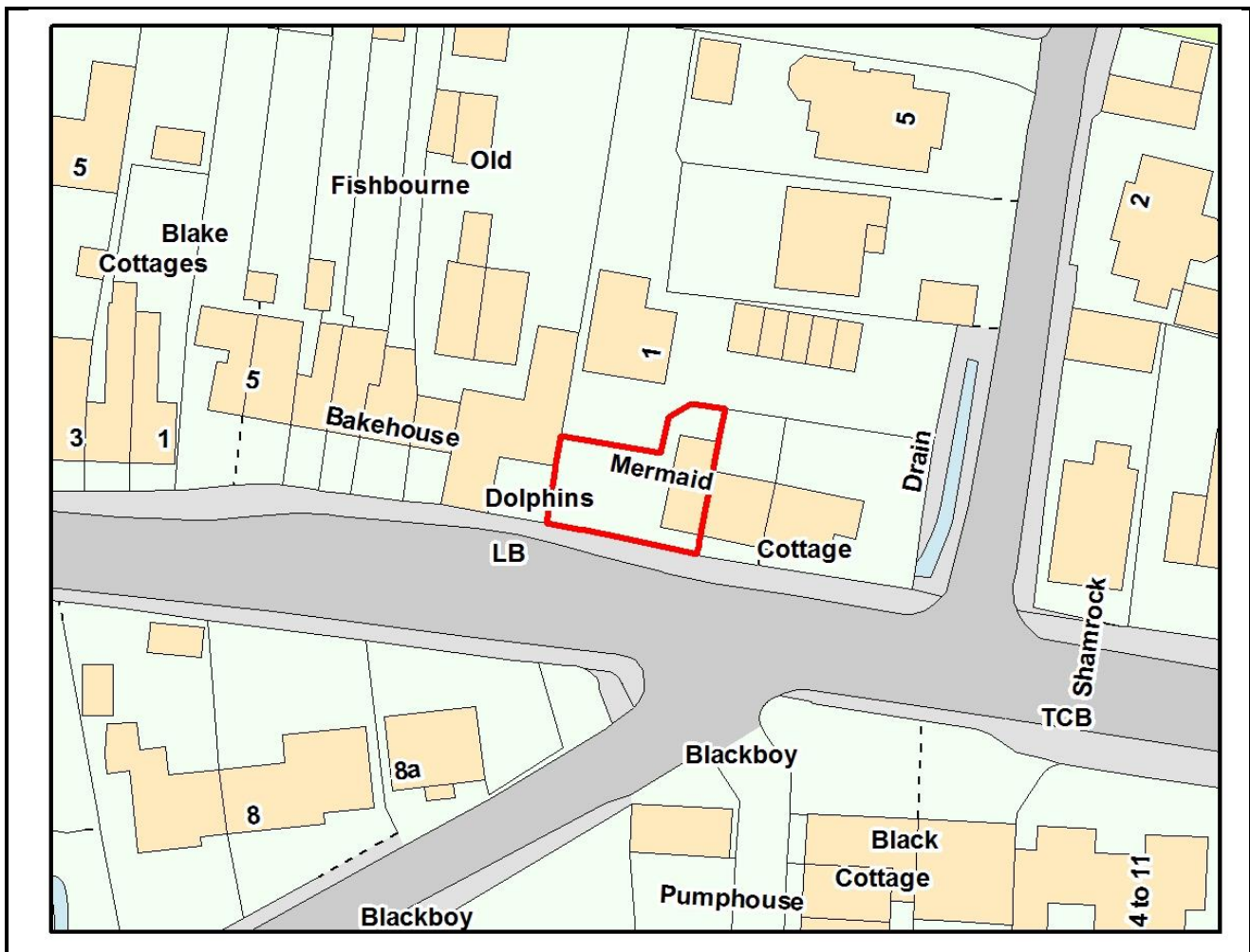
**Proposal** Internal alterations including replacement staircase, removal of downstairs bathroom, new bathroom at first floor, lining of walls, replacement window sills and covering of floor to living room

**Site** Little Dolphins Main Road Fishbourne Chichester West Sussex PO18 8BD

**Map Ref** (E) 483112 (N) 104796

**Applicant** Mr Richard Spawton

**RECOMMENDATION TO PERMIT**



	<b>NOT TO SCALE</b>	<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 Applicant is a Member/Officer of Council, or spouse/partner

## **2.0 The Site and Surroundings**

2.1 The application site is a two storey terraced dwelling house located outside of the Fishbourne Settlement Boundary Area, but within an established cluster of residential properties east of Black Boy Lane and to the north of the junction of the Main Road with Old Park Lane. The property is Grade II Listed and occupies a prominent position on the northern side of the A259 within the Fishbourne Conservation Area.

2.2 The dwelling (known as Little Dolphins) forms the western end property in a terrace of three early 19th century cottages. All three period cottages (Little Dolphins, Mermaid Cottage and April Cottage) were listed on the 28th January 1986. The listing description of the property is as follows;

BOSHAM CHICHESTER ROAD (north side) SU 80 SW FISHBOURNE 16/615 April Cottage, Mermaid's - Cottage and Little Dolphins- II One building. Early C19. Two storeys. Five windows. Red brick. Hipped tiled roof. Casement windows.

2.3 The property is located within an area characterised by buildings of differing ages and architectural styles. The site is constrained to the west and north by residential development.

## **3.0 The Proposal**

3.1 Listed Building Consent is sought for internal alterations including; a replacement staircase, the removal of a downstairs bathroom, provision of a new bathroom at first floor, lining of walls, replacement window sills and covering of floor to living room.

3.2 The application as originally submitted included the replacement of the internal doors. The existing internal doors are now to be retained in-situ. The application is predominantly retrospective as the majority of works have taken place.

## **4.0 History**

18/03033/DOM      INV      Retrospective erection of a shed and replacement boundary fencing.

## **5.0 Constraints**

Listed Building	Grade II Listed
Conservation Area	Yes
Rural Area	Yes
AONB	No
Tree Preservation Order	No
EA Flood Zone	No
Historic Parks and Gardens	No

## **6.0 Representations and Consultations**

### 6.1 Parish Council

No comment.

### 6.2 The Georgian Group received 22 October 2018 (summarised)

The Georgian Group have commented on the application, stating that it lacks sufficient detail to allow a clear assessment on its potential impact. Of particular concern are the works that have taken place to the stair case. Without better understanding of the works that have taken place the proposals fail to give the required "great weight" to the asset's conservation, and the potential harm which could be caused to the asset by the works to the stair lacks the "clear and convincing justification" required by the NPPF. As such, the Group recommends that the application, in its present form, is refused Listed Building Consent.

### 6.3 CDC Conservation and Design

Original plans:

The application has been discussed with the Council's Principal Conservation and Design Officer. Concerns were raised that the works had not been adequately justified and further information was requested.

*[Officer Note – following the submission of further information providing greater detail as to the previous condition and the works undertaken/proposed – it is considered that the concerns initially raised by the Principal Conservation and Design Officer have been addressed. No further consultation advice has therefore been provided]*

### 6.4 Applicant/Agent's Supporting Information

The applicant has submitted an amended Heritage Statement (received January 2019) in response to a request from officers, and the applicant has also confirmed the retention of internal doors (email dated 29th November 2018).

## **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 Fishbourne Neighbourhood Plan was made on the 31st March 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:

#### Chichester Local Plan: Key Policies 2014-2029

Policy 1: Presumption in Favour of Sustainable Development

## Policy 47: Heritage

### 7.3 The Fishbourne Neighbourhood Plan: Policy H1: Heritage Protection

#### 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, which should be seen as running through both plan-making and decision-taking:

For decision-taking this means unless material considerations indicate otherwise:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in (the) Framework indicate development should be restricted.

### 7.5 Consideration should also be given to Section 16 (Conserving and Enhancing the Historic Environment).

#### Other Local Policy and Guidance

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

- Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- The Fishbourne Conservation Area Character Appraisal 2017

### 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**

### 8.0 Planning Comments

#### 8.1 The main issues arising from this proposal are:

- i) Impact upon the Heritage Asset
- ii) Other matters



## Assessment

### i) Impact upon the Heritage Asset

- 8.2 Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority (LPA) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In addition, the NPPF stresses the importance of protecting heritage assets, stating that LPA's should take account of the desirability of sustaining and enhancing the significance of a heritage assets, and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities and to the desirability of new development making a positive contribution to local character of a place. Furthermore, policy 47 of the Local Plan requires new development to recognise, respect and enhance local the distinctiveness and character of the area and heritage assets.
- 8.3 It is proposed to remove the internal wall that currently separates the ground floor kitchen and bathroom to facilitate the creation of a larger kitchen. This wall is a modern plasterboard wall between the original cottage and an early twentieth century extension. No harm would occur as a result of the removal of this wall and the creation of a larger kitchen space. In order to facilitate the creation of an enlarged kitchen, it is also necessary to remove an internal door. Unlike the other internal doors in the property, this door is a modern addition and thus its removal would not cause harm to the historic fabric of the property.
- 8.4 Approval is also sought for the works to the living room floor. This has been overlaid in hardboard to facilitate the introduction of new carpet. The use of non-invasive coverings is considered to be appropriate in order to ensure the retention of the historic floor beneath and to minimise the impact of the installation of carpet, and therefore these works would not harm the special character or fabric of the listed building.
- 8.5 The majority of the walls have been cladded. The submitted heritage statement explains that the existing walls had historically been coated in a bitumen-type paint and a textured paint which are both impermeable. The works undertaken had caused damp within the property as the walls have not been able to breathe. The removal of the paint is not a suitable solution to resolve the damp; as the breaking of the render through percussive actions could cause the loss of large pieces of brickwork and exacerbate failure of the wall. Additionally, as the non-permeable paint is likely to date from pre-1977 it could include asbestos and is thus best left in-situ. The cladding of the walls using timber battens and plasterboard would not harm the fabric of the building and would allow for air to circulate behind the modern finish, therefore these works are considered to be acceptable.
- 8.6 During the course of the cladding of the walls, the skirting boards have been replaced. The former skirting boards consisted of a simple plank with no moulding. The replacement skirting boards contain an ogee moulding. Ogee mouldings are part of the classic vocabulary of architecture during the 18th and 19th Century, at the time the time Little Dolphins was built. Whilst it is of a higher status than the simple plank,

it is not an uncommon feature of in properties of this age, and therefore it is considered that this alteration to the building is not harmful to its special character.

- 8.7 Approval is also sought for the covering of the ceilings that has taken place extensively throughout the property. The existing ceilings are lath and plaster and are considered to be an integral element of the historic fabric of the dwelling. These have been over-boarded using plasterboard as they have also been painted in impermeable textured paint. As is the case with the walls, the removal of this paint would likely have resulted in damage to the lath and plaster ceilings and may have been hazardous to health. The retention of the lath and plaster ceilings above the new boarding means the historic fabric is not lost and therefore the works are considered to be acceptable.
- 8.8 New window cills have also been introduced to many of the ground floor windows. The justification provided in the heritage statement is that replacement was necessary both due to their condition and the change in wall depth following the introduction of plaster board to the walls. It is notable that the windows in the cottage are modern single glazed, timber framed units, installed prior to the applicant's ownership of the dwelling house. It probable that the previous window cills were installed at the same time as the modern windows, and therefore it is unlikely that the works resulted in loss of important historic fabric, and the design of the replacement cills is considered to be suitable for the building and acceptable in this regard.
- 8.9 The previous staircase within the property was removed prior to the case officer's site visit, and so the exact nature and condition of the staircase could not be ascertained at that time. The applicant has stated that the staircase was removed for safety reasons and has provided the LPA with photos of the former staircase. These show a staircase that had come away from the wall in places and was in need of some remedial works, however the extent of the damage and condition of the staircase is not conclusive based upon these images. The property has previously been extended at first floor level to the rear and this required a landing with bannister to be formed to return from the top of the stair to what is now the second bedroom. The heritage statement asserts that the form and simplicity of the bannister is typical of an early twentieth addition. It is therefore likely that the staircase was not the original, rather it was most probably a twentieth century addition to the property. In addition, the photos provided illustrate that the first 5 no. treads at the foot of the staircase were modern, and therefore the stair case had undergone repair in relatively recent years. The new staircase matches the previous staircase in form and appearance, and based on the information now available it is considered that the works would not result in loss of historic fabric, nor would they be detrimental to the significance of the building as a heritage asset.
- 8.10 It is also proposed to install a bathroom to the first floor in place of the middle bedroom. This would reduce the number of bedrooms in the property from three to two. The existing bedroom does not include any features of special historical or architectural interest, and the works involved in creating a first floor bathroom are also reversible. It is considered that these works are, on balance, acceptable.
- 8.11 In conclusion, the works Little Dolphins are not considered to result in significant undue harm to the heritage asset and are thus considered to be acceptable in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990,

the NPPF, Policy 47 of the Chichester Local Plan and Policy H1 of the Fishbourne Neighbourhood Plan.

ii) Other matters

8.12 The comments of the Georgian Group were made at a stage when the LPA was in possession of very little heritage information relating to the proposed development. It is considered that the heritage statement now provided in support of the application now adequately sets out the full extent of the works and provides sufficient detail for the merits of the proposal to be assessed. The concerns of the Georgian Group are considered to have been addressed satisfactorily through the submission of the additional information.

Conclusion

8.13 Based on the above it is considered the proposal is compliant with the Planning (Listed Buildings and Conservation Areas) Act 1990, the NPPF, Policy 47 of the Chichester Local Plan and Policy H1 of the Fishbourne Neighbourhood Plan and therefore the application is recommended for approval.

Human Rights

8.14 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 for which Listed Building Consent is hereby granted must be begun not later than the expiration of three years beginning with the date of this consent.

Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

Reason: To ensure the works comply with the listed building consent.

3) The new internal ceilings, walls and window cills shall match the material design and profile of existing adjacent detailing.

Reason: To maintain the architectural interest of the building.

4) All new works and making good of the retained fabric whether internal or external, shall be finished to match the adjacent work with regard to the methods used and to material, colour, texture, profile and style.

Reason: To safeguard the architectural and historic character of the Listed Building or to ensure the detailing and materials maintain the architectural interest of the building

For further information on this application please contact William Price on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PCGWS1ER0UX00>

Report to **Planning Committee**  
Date **13 February 2019**  
By **Director of Planning and Environment**  
Local Authority **Chichester District Council**  
Application No. **SDNP/18/05672/HOUS**  
Applicant **Miss Carol Thompson**  
Application **Removal of existing shed and erection of 1 no. summer house.**  
Address **2 Grooms Yard  
A286 The Grove To Cobblers Row  
Singleton  
PO18 0SB**

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**Recommendation: That the application be Approved for the reasons and subject to the conditions set out in paragraph 10 of this report.**

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## **Executive Summary**

**Reason for Committee Referral:** Applicant is an Officer of Council

The application seeks the removal of an existing shed and its replacement with a summer house of slightly larger proportions in the same location.

2 Grooms Yard is a Grade II Listed property located within the Singleton Settlement Policy Area (SPA) and Singleton Conservation Area.

The proposed summer house is considered to have limited impact from public vantage points, being well screened and sited within the existing garden area of 2 Grooms Yard. In this respect the proposal is considered to comply with the purposes of designation of the South Downs National Park in that the natural beauty and cultural heritage will be conserved and enhanced.

The location of the summer house is within the rear garden of the main house. The site is well screened from neighbouring properties with existing fencing and hedging. It is a lightweight construction with timber cladding and a curved felt roof. There is adequate space for the summer house and it is not considered to adversely impact upon the setting of the surrounding listed buildings.

For these reasons the application for the removal of existing shed and erection of 1 no. summer house is recommended for approval.

## **1.0 Site Description**

1.1 The site itself is part of the conversion of the former Horse and Groom Public House into six residential dwellings (1-6 Grooms Yard). The front of the converted pub faces onto the A286, with gardens to the rear. This element of the site has been converted into four units with the two remaining units occupying former outbuildings.

1.2 The garden to 2 Grooms Yard is separated from the dwelling. The converted dwellings are accessed from the car park area via a series of linked passage ways. The passage ways and gardens are enclosed by the buildings around them.

## **2.0 Proposal**

2.1 The application is for the removal of the existing shed and the erection of 1 no. summer house.

## **3.0 Relevant Planning History**

99/02548/FUL - Change of use from vacant public house, alterations and extensions to form 6 no. dwellings, car ports, screen walls, bus shelter and landscaping.- Permit

99/02549/LBC - Alterations and extensions to form 6 no. dwellings, car ports, screen walls, bus shelter and landscaping.- Permit

## **4.0 Consultations**

### **4.1 Parish Council Consultee**

No Objection

## **5.0 Representations**

None received

## **6.0 Planning Policy Context**

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):

- South Downs National Park Local Plan - Submission 2018

- SDNPA Partnership Management Plan 2014

The relevant policies to this application are set out in section 7, below.

### National Park Purposes

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.

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 on 24 July 2018. The Circular and NPPF confirm that National Parks have the highest status of protection, and the NPPF states at paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in national parks and that the conservation and enhancement of wildlife and cultural heritage are also important considerations and should be given great weight in National Parks.

### National Planning Policy Framework (NPPF)

- 7.2 The following National Planning Policy Framework documents have been considered in the assessment of this application:
- NPPF12 - Achieving well-designed places
  - NPPF15 - Conserving and enhancing the natural environment
  - NPPF16 - Conserving and enhancing the historic environment

### Chichester District Local Plan 1999

- 7.3 The following policies of the Chichester District Local Plan First Review (1999) are relevant to this application:
- BE1 - Settlement Policy Boundary
  - BE4 - Buildings of Architectural or Historic Merit

- BE5 - Alterations to Listed Buildings
- BE6 - Conservation Areas
- BE11 - New Development

#### Partnership Management Plan

7.4 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.

The following Policies and Outcomes are of particular relevance to this case:

- General Policy 1
- General Policy 9

#### The Submission South Downs Local Plan 2018

7.5 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 26 September to 21 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.

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

- Core Policy SD1 - Sustainable Development
- Strategic Policy SD5 - Design
- Strategic Policy SD12 - Historic Environment
- Development Management Policy SD13 - Listed Buildings



- Development Management Policy SD31 - Extensions to existing dwellings, and provision of annexes and outbuildings

## 8.0 Planning Assessment

8.1 The main issues arising from this proposal are:

- The principle of the development.
- The impact of the development on the setting of the listed building.
- The impact of the development on the neighbouring amenity.

### The principle of the replacement of the existing shed with a summer house

8.2 This application seeks to demolish the existing shed on the site and replace it with a slightly larger summer house. It is proposed to site the summer house within the garden area of the property which is slightly separated from it.

8.3 The overall design and appearance of the building is considered appropriate to its setting. It is a typical timber clad domestic outbuilding measuring 4.5 metres by 2.4 metres. It has a curved roof with an eaves height of 1.8 and a maximum ridge height of 2 metres. In terms of the principle of the replacement building there is no objection to a replacement building for use for purposes incidental to the use of the dwelling.

### The impact on the setting of the listed building

8.4 Policy BE4 of the Chichester District Local Plan 1999 places high priority on protecting the character and appearance of all buildings of architectural or historic interest. As identified above the proposed summer house is a well-designed typical residential outbuilding. The overall design and use of materials complements the surrounding vernacular style of sheds and outbuildings without causing harm to or impacting upon the surrounding listed buildings. In terms of this issue the setting of the adjacent listed buildings is not considered to be adversely impacted upon by the proposal.

### The impact of the development on the amenities of the occupiers of neighbouring properties.

8.5 The use of the proposed summerhouse for incidental purposes is one that would normally be expected in the garden of an existing property. It is unlikely to lead to harm to neighbouring amenity. The proposal is therefore considered to comply with policy BE11 of the Chichester District Local Plan 1999.

## **9.0 Conclusion**

- 9.1 The removal of the existing shed and erection of 1 summer house is considered to have limited impact on the character and appearance of the National Park and adjacent listed buildings, set within existing grounds of the property. Furthermore there is not considered to be any adverse impact on residential amenity. The application is therefore recommended for approval.

## **10 Reason for Recommendation and Conditions**

It is recommended that the application be Approved for the reasons and subject to the conditions set out below.

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

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended)./ To comply with Section 51 of the Planning and Compulsory Purchase Act 2004

2. The application has been assessed and determined on the basis of the schedule of plans in 'Appendix 2 - Plans Referred to in Consideration of this Application'

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

3. The development hereby permitted shall be constructed using external materials as detailed on the Summer House Details dated 2nd November and approved plans unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of amenity.

4. The garden Summerhouse hereby permitted shall be used solely for purposes incidental to the enjoyment of the dwellinghouse as such and for no other purposes whatsoever.

Reason: To safeguard the amenities of neighbouring properties.

## **11 Crime and Disorder Implications**

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

## **12 Human Rights Implications**

- 12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

### **13 Equality Act 2010**

- 13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

### **14 Proactive Working**

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.

**Tim Slaney**  
**Director of Planning**  
**South Downs National Park Authority**

Contact Officer: Louise Kent  
Tel: 01243 534734  
email: lkent@chichester.gov.uk

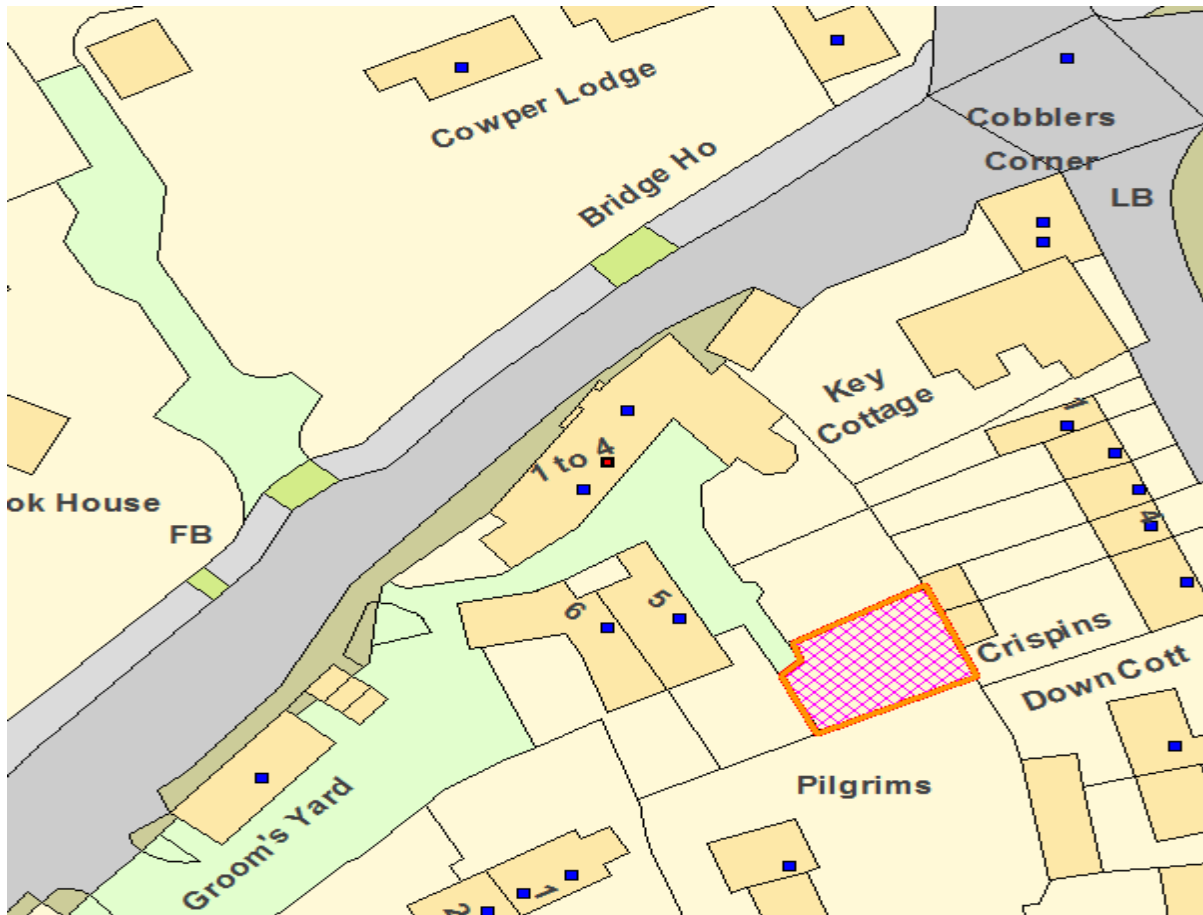
Appendices Appendix 1 - Site Location Map  
Appendix 2 – Plans Referred to in Consideration of  
this application

SDNPA Consultees

Background  
Documents

## Appendix 1

### Site Location Map



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. South Downs National Park Authority, Licence No. 100050083 (2016) (Not to scale).

## 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 - Location Plan	01		05.11.2018	Approved
Plans - Block Plan	02		05.11.2018	Approved
Plans - Proposed Elevations and Floor Plans	03		05.11.2018	Approved

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

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## Chichester District Council

### Planning Committee

**Wednesday 13 February 2019**

#### Report of the Director Of Planning and Environment Services

#### Schedule of Planning Appeals, Court and Policy Matters

**Between 18-Dec-2018 and 29-Jan-2019**

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
<a href="#">18/01887/DOM</a> Chichester Parish  Case Officer: Maria Tomlinson  <b>Householder Appeal</b>	17 Oak Close Chichester West Sussex PO19 3AJ - Proposed two storey side and rear extensions and single storey rear extension with various alterations and additions.
<a href="#">18/01581/FUL</a> Sidlesham Parish  Case Officer: Maria Tomlinson  <b>Householder Appeal</b>	Land North Of Swan Cottage Selsey Road Sidlesham West Sussex - Provision of new access and vehicle gates.

## 2. DECISIONS MADE

Reference/Procedure	Proposal
<p><a href="#">17/01368/FUL</a> Chichester Parish</p> <p>Case Officer: Fjola Stevens</p> <p><b>Written Representation</b></p>	<p>Xavier House 5 Ettrick Road Chichester West Sussex - Replacement of Victorian lean-to with a two storey rear extension.</p>
<p><b>Appeal Decision: APPEAL DISMISSED</b></p>	
<p>“...Planning Practice Guidance (PPG)<sup>1</sup> states that conditions which modify development in such a way as to make it substantially different from that set out in the application should not be used. To impose a condition permitting the construction of dormers would substantially change the nature of the permitted development by reason of their projection beyond the roof plan. Rooflights would be less intrusive but in the absence of any details on their extent, they could also substantially change the nature of the permitted development. Indeed, interested parties would be prejudiced in not being able to make full comments in the absence of any details, such as plans, on any scheme if the Appellant’s varied condition was imposed. There are upperfloor windows restrictions under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015. However, these relate to dwellings and not flats, and therefore, this does not negate a need for a condition. Taking all these factors into account, the disputed condition is necessary, relevant to planning and to the development to be permitted. Any new openings would be clear to identify and therefore, the disputed condition would be enforceable. In terms of preciseness, the reference to GPDO is superfluous for the above reasons but the condition is not fundamentally flawed with its inclusion and there would not be any significant harm leaving the condition in its current form. The remaining wording specifying the need for planning permission for additional windows or rooflights is unambiguous and thus the condition is precise enough to clearly understand its implications and requirements. The planning permission requirement for additional fenestration would be an additional burden on an applicant but it enables the Council to assess the effect of any additional windows on neighbouring properties through a planning application process, where satisfactory plans would be submitted and publicity... would be carried out, and the proposal considered on its merits. Consequently, the condition is reasonable in all other respects... the disputed condition meets the tests of paragraph 55 of the National Planning Policy Framework. Having regard to the above and to all other matters raised, I conclude that the appeal should be dismissed.”</p>	



Reference/Procedure	Proposal
<p data-bbox="197 232 453 300"><a href="#">18/00525/ADV</a> Chichester Parish</p> <p data-bbox="197 367 558 398">Case Officer: Vicki Baker</p> <p data-bbox="197 461 552 492"><b>Written Representation</b></p>	<p data-bbox="638 232 1455 300">Unit 1 Portfield Way Chichester PO19 7YH - 2 no. double sided internally illuminated post signs.</p>
<p data-bbox="367 533 1331 564"><b>Appeal Decision: APPEAL PART ALLOWED, PART DISMISSED</b></p>	
<p data-bbox="181 568 1490 1258">Appeal A ... The appeal is allowed ... Appeal B ... The appeal is dismissed insofar as it relates to Sign 1 ... The appeal is allowed insofar as it relates to Sign 2 ... Appeal A ... These signs are relatively minimalistic and subtle in their design. Consequently they do not appear as being out of place on the fascia nor do they cause any degree of clutter. ... No architectural features of the unit would be covered up by the signs and I do not consider that they would detract from the overall design or appearance of the host unit. The proposed signs complement the existing signage and add interest to a rather bland elevation of the unit. ... Having viewed the signs from a number of locations along the A27, I am satisfied that they do not stand out as being excessive in scale, incongruous, or unacceptably over-dominant in relation to the building or the character of the retail park. ... Appeal B ... Sign 2 would be relatively modest in size which the Council indicates would be approximately 1.5m x 2.90m. I have taken into account the size of the sign, its position and the illumination level suggested in the Council's proposed conditions. These factors lead me to conclude that the proposed illumination of this sign would not cause it to appear as an incongruous feature of an extent that would cause demonstrable harm the visual amenity of the locality. ... Sign 1 would be located in relatively close proximity to Sign 2. It would result in a proliferation of similar signs on the verge outside of the store which would cause unacceptable visual clutter. Consequently, proposed Sign 1 would be detrimental to the visual amenity of the surrounding area. ...</p>	

Reference/Procedure	Proposal
<p data-bbox="197 232 418 264"><a href="#">18/00883/DOM</a></p> <p data-bbox="197 271 459 302">Fishbourne Parish</p> <p data-bbox="197 367 475 434">Case Officer: Maria Tomlinson</p> <p data-bbox="197 461 512 492"><b>Householder Appeal</b></p>	<p data-bbox="638 232 1410 336">St Francis 122 Blackboy Lane Fishbourne PO18 8BL - Alteration of existing bungalow to provide first floor bedrooms under a new roof.</p>
<p data-bbox="558 533 1129 564"><b>Appeal Decision: APPEAL ALLOWED</b></p>	
<p data-bbox="178 568 1503 1086">The form of the dwelling would be unusual. However, an asymmetrical building does not automatically equate to poor design. The size and bulk of the structure would be appropriately in scale with the residential context of its letting and in my view the roof form would purposefully address the floor-plan of the building in a well-considered manner. The dwelling would have an interesting presence but would not appear incongruous within the mixed character of the street scene where there is a notable absence of any regimentation or uniformity to the architecture. ... My overall impression is that, although the appearance of the existing dwelling would dramatically change, the proposal would make a positive contribution to the mixed character and appearance of the street scene. ... The Council has suggested a condition that would require the external materials to match the existing. However, the application proposed alternative materials for the walls and an entirely new roof. The use of concrete roof tiles would reflect those on the existing building and are appropriate to the locality as would the use of render and timber cladding for the walls. No further control by way of condition is necessary.</p>	

Reference/Procedure	Proposal
<p data-bbox="197 230 411 297"><a href="#">18/00244/FUL</a> Kirdford Parish</p> <p data-bbox="197 365 587 398">Case Officer: Daniel Power</p> <p data-bbox="197 454 552 488"><b>Written Representation</b></p>	<p data-bbox="638 230 1414 338">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>
<b>Appeal Decision: APPEAL ALLOWED</b>	
<p data-bbox="181 566 1485 1467">Policies 2 and 45 ... indicate that outside settlements development is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification. ... The Council's main concern relates to the potential use of the site as a Use Class B2 within the countryside and the effect that this may have on the tranquil nature and character and appearance of this part of the countryside. ... It was clear from my site visit that the workshop is being used for the manufacture of timber products. In my view, such use is complimentary to the existing lawful use of the site as a timber storage yard. In the context of the existing LDC use, for which I have no evidence of any restrictions on the occupation of the site for Use Class B8 storage, I do not consider that the building or the use of the site for B2 purposes would cause any greater impact on the character and appearance of the countryside beyond that which could occur with the existing lawful use. ... I have also taken into account the Council's concerns that the development would have a harmful effect on the tranquil nature of this part of the countryside. However, the Council have suggested a number of planning conditions, were I minded to allow this appeal, to control the use of mechanical tools. In my view, such conditions would prevent the tranquil nature of this part of the countryside from being unacceptably harmed. ... In my view, the development would be no more unsustainably located than the existing B8 use. ... The development is an acceptable ancillary operation that is complementary to an existing authorised timber storage use. Consequently, I consider that the development is consistent with the advice provided in the Framework with regard to support for a prosperous rural economy. ... Taking the above factors into account, I do not consider that the development would cause any demonstrable harm to the rural character and appearance of the surrounding area or unacceptably undermine the spatial strategy of the Council with regard to the location of development within the countryside. Consequently there would be no conflict with Policies 2 or 45 of the Local Plan. ... □</p>	

Reference/Procedure	Proposal
<p data-bbox="197 232 558 300"><a href="#">17/03545/FUL</a> Plaistow And Ifold Parish</p> <p data-bbox="197 367 568 398">Case Officer: Louise Kent</p> <p data-bbox="197 461 552 492"><b>Written Representation</b></p>	<p data-bbox="638 232 1449 336">Little Wephurst Walthurst Lane Loxwood RH14 0AE - Replacement dwelling, following demolition of an existing dwelling.</p>
<p data-bbox="552 533 1139 564"><b>Appeal Decision: APPEAL DISMISSED</b></p>	
<p data-bbox="181 568 1497 1332">The appeal is dismissed. ... The main issue is the impact of the development on the character and appearance of the area. ... Whilst a modest property, the existing building has a level of prominence in its rural setting. It acts as a visual marker along the Public Right of Way (PROW) ... I saw on site that the existing building is unoccupied, and that work had commenced on the side and rear extensions with foundations and low-level walls in place. However, work has ceased on these extensions with the appellant indicating that this is temporary pending the outcome of this appeal as the replacement dwelling would be more financially and energy efficient. ... I accept that these extensions provide a ‘fall-back’ position ... in my view, the proposed dwelling would be a large building of substantial width, bulk and increased height. In addition, its siting further forward f n the plot would increase its visibility ... I therefore conclude on the main issue that by virtue of the scale and massing of the replacement dwelling, which is viewed from several public vantage points, it would have an adverse impact on the character and appearance of the area. Thus, I find the development would conflict with policies 33, 40 and 48 of the Chichester Local Plan ... The Council have stated that the land to the rear of the property lies outside the residential curtilage and as a result the development would encroach onto agricultural land. The redline on the Location Plan does not infer curtilage ... As such, I concur with the appellantthat this is a separate matter ... The proposal would conflict with the development plan as a whole and would not amount to sustainable development. There are no other considerations, including the policies in the National Planning Policy Framework that would outweigh this conflict. ... □</p>	

Reference/Procedure	Proposal
<p data-bbox="197 230 448 297"><a href="#">17/03086/FUL</a> Tangmere Parish</p> <p data-bbox="197 365 478 432">Case Officer: Maria Tomlinson</p> <p data-bbox="197 454 553 499"><b>Written Representation</b></p>	<p data-bbox="638 230 1453 297">1 Boxgrove Corner Arundel Road Tangmere PO18 0DU - Erection of 1 no. 3 bed dwelling.</p>
<b>Appeal Decision: APPEAL ALLOWED</b>	
<p data-bbox="181 589 1485 1303">The area is characterized by groups of dwellings sited closely to one another, with many terraces, and surrounded by significant green open space. The close siting of the appeal dwelling to the pair of semi-detached dwellings would not appear markedly different given this pattern of development furthermore, the dwelling would have a substantial landscaped setting formed by the rear gardens serving 63 and 64 Garland Square. Consequently, the development would not appear cramped or contrived within this context. ... the new dwelling with its frontage orientated the other way round adds some visual interest in the streetscene. It would be constructed with similar materials and a similar pitched roof. Therefore, the difference in design approaches would not result in such a disharmonious clash as to adversely impact upon the appearance and character of the area. ... the dwelling is now sited a considerable distance from the A27 trunk road and the roundabout. It would be sited further away from this noise source than the two schemes previously considered which were to the rear of No 1. Furthermore, there has been no technical objection by the health officer. Indeed, the officer felt that the application could not be refused on noise grounds given that the Inspector's comments on the previous scheme and that the current proposed dwelling's location provides slightly better attenuation for noise from road traffic. ... subject to the imposition of the acoustic boundary screen and the provision of window insulation with appropriate trickle ventilation, the development would not result in unacceptable living conditions for future occupants. Accordingly, the proposal would comply with national policy within paragraph 170 of the NPPF. ... □</p>	

Reference/Procedure	Proposal
<p data-bbox="197 232 497 300"><a href="#">17/00448/FUL</a> West Itchenor Parish</p> <p data-bbox="197 367 587 398">Case Officer: Caitlin Boddy</p> <p data-bbox="197 461 453 492"><b>Informal Hearing</b></p>	<p data-bbox="638 232 1501 336">Old Haven The Street Itchenor PO20 7AN - Demolition of existing building and construction of 6 bedroom replacement dwelling, garage and associated works.</p>
<p data-bbox="552 533 1139 564"><b>Appeal Decision: APPEAL DISMISSED</b></p>	
<p data-bbox="181 568 1493 1955">The appeal is dismissed. ... the building has significant historical and associative value in its own right. It makes a positive contribution to the character and the appearance of the CA. There is no substantive evidence before me that the condition of the building justifies its total demolition on viability or any other grounds, and nor was this at issue in the Hearing. Accordingly, its loss would result in harm to the significance of the CA, placing it in conflict with LP policy 47. ... The roofscape of the proposed building has been articulated to divide the mass into three distinct sections along the Street, ... the additional mass at roof level, combined with the additional footprint of the proposal towards the harbour, would result in a building reading more as a large, single mass on the Street, at odds with the closer grain of the elevations which characterize this section of the Street. ... The footprint of the proposed house would advance substantially towards the waterside, reducing the effect of openness in the harbour. ... The effect of the greater footprint of the proposal, its mass above the ground floor, and its position towards the harbour would result in an uncharacteristically large house in views of the waterfront, which it would dominate. ... In its particular context, the proposed building would unbalance the scale of development at the opening of the Street into the harbour side. ... In my view, the scale of the replacement house would undermine the more modest scale and compact mass shared by the houses around it, which contribute to the CA. I agree that the 2-storey, largely glass bay would appear misplaced in the context of the harbour side buildings whose openings tend to reflect the more utilitarian scale of openings of a coastal village than the seaside architecture where outward views from a building are expressed in its form. ... In terms of the effect of the replacement building, I conclude that it would harm the character and appearance of the CA. ... There is nothing in the design of the replacement building and no other factor which justifies the complete demolition of the building. Its loss would harm the significance of the CA, and the replacement building would result in harm to its character and appearance. ... I conclude that the proposed development would conflict with LP policies 33 and 47. ... In the context of paragraph 196 of the Framework I would, in relation to the CA as a whole, define the magnitude of the harm identified as less than substantial. ... Nevertheless, it would be a noticeable and significant, adverse impact, not least by virtue of the positive contribution that the present building makes to the CA. ... there are no public benefits which would outweigh this harm. ... While I have had special regard to the desirability of preserving the settings of the listed buildings in accordance with my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I can see no harm from the proposal to the settings of the cottages, which would be preserved. ... from a closer perspective, the landscape and visual effects of the development become more pronounced. ... I have taken into account that the context of the building is a village with buildings of different sizes. However, in my view, the greater mass of the replacement building as it faces towards the harbour would be uncharacteristic</p>	

in the scale of development at the end of the Street, which is a landscape feature of the Itchenor Reach. ... I am unconvinced that tree planting could mitigate the harm identified above. ... My conclusion is that overall, the proposed development would harm the distinctive character and special qualities of the AONB, placing it in conflict with LP policy 43 where it seeks to conserve and enhance the natural beauty and locally distinctive features of the AONB. It would also be at odds with Paragraph 172 of the Framework which says that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection. ... I recognize the condition of the house and I acknowledge that its replacement would provide additional, modern living space and raise the ground floor against the risk of flooding. It would preserve the setting of the listed buildings opposite which it would stand. These factors weigh in favor of the proposal they would not, however, outweigh the harm to the significance of the CA from the demolition of the existing building, and the harm to its character and appearance from its replacement, as well as the harm to the landscape character and scenic beauty of the AONB, which is in clear conflict with the development plan and the Framework. For the reasons above, and having regard to all other matters raised, the appeal is dismissed.

### 3. CURRENT APPEALS

Reference/Procedure	Proposal
<p><a href="#">15/00064/CONLB</a> Chichester Parish</p> <p>Case Officer: Sue Payne</p> <p><b>Public Inquiry</b></p> <p>Awaiting Decision</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>
<p><a href="#">17/01073/FUL</a> Chichester Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Written Representation</b></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><a href="#">18/01887/DOM</a> Chichester Parish</p> <p>Case Officer: Maria Tomlinson</p> <p><b>Householder Appeal</b></p>	<p>17 Oak Close Chichester West Sussex PO19 3AJ - Proposed two storey side and rear extensions and single storey rear extension with various alterations and additions.</p>



<p><a href="#"><u>18/01889/FUL</u></a> Chichester Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Written Representation</b></p>	<p>Whyke Grange 146 Whyke Road Chichester West Sussex PO19 8HT - Change of use of existing double garage to 1 no. dwelling and associated works.</p>
<p><a href="#"><u>17/03626/OUT</u></a> Chidham &amp; Hambrook Parish</p> <p>Case Officer: Mark Bridge</p> <p><b>Written Representation</b></p>	<p>Chas Wood Nurseries Main Road Bosham Chichester West Sussex PO18 8PN - Construction of 10 no. dwellings.</p>
<p><a href="#"><u>18/01661/FUL</u></a> Earnley Parish</p> <p>Case Officer: Maria Tomlinson</p> <p><b>Written Representation</b></p>	<p>Land South Of 129A Third Avenue Batchmere Chichester West Sussex PO20 7LB - Retrospective change of use of menage to storage of caravans, motor homes and boat trailers.</p>

<p><a href="#">17/02563/DOM</a> Fernhurst Parish</p> <p>Case Officer: James Gellini</p> <p><b>Written Representation</b></p>	<p>Stedlands Farm Bell Vale Lane Fernhurst GU27 3DJ - Proposed two storey rear extension.</p>
<p><a href="#">18/00706/FUL</a> Loxwood Parish</p> <p>Case Officer: Daniel Power</p> <p><b>Written Representation</b></p>	<p>Loxwood Meadow Roundstreet Common Loxwood RH14 0AL - Extension to an existing barn of a toilet, shower and rest area for agricultural workers.</p>
<p><a href="#">17/02572/FUL</a> Plaistow And Ifold Parish</p> <p>Case Officer: Claire Coles</p> <p><b>Written Representation</b></p>	<p>Land On The East Side Of The Lane Ifold West Sussex - Erection of 1 no. detached 4 bedroom dwelling.</p>

<p><a href="#">18/00346/LBC</a> Selsey Parish</p> <p>Case Officer: Claire Coles</p> <p><b>Written Representation</b></p>	<p>Fern Cottage 4 Albion Road Selsey Chichester West Sussex PO20 0DH - Replacement rear first floor window and side door and french doors.</p>
<p><a href="#">18/01581/FUL</a> Sidlesham Parish</p> <p>Case Officer: Maria Tomlinson</p> <p><b>Householder Appeal</b></p>	<p>Land North Of Swan Cottage Selsey Road Sidlesham West Sussex - Provision of new access and vehicle gates.</p>
<p><a href="#">18/00201/FUL</a> Southbourne Parish</p> <p>Case Officer: Claire Coles</p> <p><b>Written Representation</b></p>	<p>306 Main Road Southbourne PO10 8JN - Demolition of the existing building and construction of five homes with associated parking, access and landscaping.</p>

<p><a href="#">18/01580/FUL</a> Southbourne Parish</p> <p>Case Officer: Claire Coles</p> <p><b>Written Representation</b></p>	<p>11-15 Stein Road Southbourne PO10 8LB - Demolition of existing detached office building and proposed construction of detached building providing 2 no. care units.</p>
<p><a href="#">18/02256/DOM</a> West Wittering Parish</p> <p>Case Officer: James Gellini</p> <p><b>Written Representation</b></p>	<p>Elis Lodge Cakeham Road West Wittering Chichester West Sussex PO20 8EB - Proposed alterations and extensions to include rear extension, new indoor swimming pool and lounge, and change of use of roofspace to habitable accommodation.</p>
<p><a href="#">17/03428/FUL</a> Westbourne Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Written Representation</b></p>	<p>Land North Of The Grange Woodmancote Lane Woodmancote Emsworth West Sussex - 11122018 Construction of 1 no. agricultural barn, 1 no. poly tunnel and 2 no. fish tanks.</p>

<p><a href="#">17/03457/DOM</a> Wisborough Green Parish</p> <p>Case Officer: Beverley Stubbington</p> <p><b>Written Representation</b></p>	<p>Albion House Petworth Road Wisborough Green RH14 0BH - Construction of single storey side and rear extension.</p>
<p><a href="#">17/03458/LBC</a> Wisborough Green Parish</p> <p>Case Officer: Beverley Stubbington</p> <p><b>Written Representation</b></p>	<p>Albion House Petworth Road Wisborough Green RH14 0BH - Construction of single storey side and rear extension.</p>

#### 4. VARIATIONS TO SECTION 106 AGREEMENTS

18/02026/OBG: Rowan Nursery and Pippins, Bell Lane, Birdham

The variation to the S106 Agreement proposed to amend the affordable housing tenure mix from 7no affordable rented properties to 4no affordable rented and 3no shared ownership properties, with the same size and location as approved. The variation also sought an amendment to the definition of chargee to reflect the standardised wording from the National Housing Federation.

The proposed amendments were discussed between the applicant and the CDC Housing Delivery Manager and no objections were raised.

The S106 deed of variation was completed on 19 December 2018.

#### 5. CALLED-IN APPLICATIONS

<b>1. Injunctions</b>		
<b>Site</b>	<b>Breach</b>	<b>Stage</b>
Land North West of Premier Motor Homes, Birdham	Occupation of mobile homes as settled Gypsy accommodation and retention of stables and track.	Undertakings in place from a limited number of occupiers. Application to be made to Court for an Injunction Order to prevent any further change in circumstances on the land. Witness statements to be amended before proceeding to Court.
Newells Lane, Old Allotment Site	No breach but injunction necessary to stop apprehended breach of planning laws	Legal and client working on evidence to submit with application to the court

<b>Court Hearings</b>		
<b>Site</b>	<b>Matter</b>	<b>Stage</b>
Decoy Farm, Aldingbourne	CDC's Civil Claim to recover costs of clearance	Date received from court of Pre-Trial Review on 23 April 2019 and Trial on 21 May 2019. Parties continue to exchange evidence as per court's directions.

<b>Prosecutions</b>		
<b>Site</b>	<b>Breach</b>	<b>Stage</b>
Field West of five Oaks	Enforcement Notice	Sentence on 18 January 2019: Mr Tobbit received a fine of £250, Victim Surcharge of £30 and a contribution towards the Prosecution costs of £120 (these costs alone will be paid to CDC which is the Prosecuting Authority).
Portsoy, 16 Bonnar Road, Selsey	Enforcement Notice	First hearing date on 15 Feb. 2019 provided by the court. Summons sent to both Defendants with Case Summary of the offence. No contact received from Defendants.

## **2. POLICY MATTERS**

**South Downs National Park**

**Planning Committee**

**Report of the Director Of Planning and Environment Services**

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

**Between 18-Dec-2018 and 29-Jan-2019**

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**

**None**

## 2. DECIDED

Reference/Procedure	Proposal
<p data-bbox="108 450 448 488"><a href="#">SDNP/17/06433/HOUS</a></p> <p data-bbox="108 490 448 557">Duncton Parish Council Parish</p> <p data-bbox="108 584 491 618">Case Officer: Jenna Shore</p> <p data-bbox="108 678 424 714"><b>Householder Appeal</b></p>	<p data-bbox="552 450 1374 557">Willow Cottage High Street Duncton GU28 0LB - Single storey side and rear extensions, garden room and change of use of barn to habitable space.</p>
<p data-bbox="472 741 1043 775"><b>Appeal Decision: APPEAL ALLOWED</b></p>	
<p data-bbox="92 779 1390 1756">The NPA considers that the further addition of the proposed single storey side and rear extension would harmfully exacerbate the perception of the excessive length of the existing rear addition, with little by way of enhancement offered. However, from the oblique views through the driveway entrance the dummy pitch to the crown roof would be read together with the roof over the bay windows in the front elevation. ... As such, it would match the pitch, eaves and ridge height, and external materials of the frontage and provide an element of visual continuity that would extend the original building's vernacular character to the rear. This would to some extent offset the rather stark appearance the flank of the existing two storey addition. The NPA also criticises the fenestration in the side elevation, but this would again appear to be of the same scale and detailing of the front windows, albeit without forming bays that would be inappropriate on this more rearward part of the dwelling. ... I acknowledge that the length of the existing building would be slightly increased by the proposed garden room, but I consider that the presence of this single storey element at the rear in the form of a step down from the full two storey height would restore a degree of balance and proportion to the building as a whole. It would also allow a more practical relationship between the house and the large garden (the existing 'tacked on' unattractive and sub-standard conservatory does not perform either of these functions). ... Turning to the proposed conversion of the barn, the NPA's concern is that insufficient details have been provided and that the proposed glazing would be 'overly domestic, at odds with the rural agricultural character of the existing built form'. ... whilst I accept that there would be some loss of character, this is in large measure derived from a partially open sided building in a dilapidated condition. As such, this character could not reasonably be sustained whilst at the same time undertaking the work necessary to give the building a practical use and sustainable future. ... In respect of the barn's effect on the setting of the adjacent listed building, I am again with the appellants in their view that the proposed alterations would not read directly with the public house itself, this being to the south within its own arrangement of curtilage buildings and detached from Willow Cottage. ...</p>	



Reference/Procedure	Proposal
<p data-bbox="118 232 421 268"><a href="#">SDNP/17/05928/FUL</a></p> <p data-bbox="118 271 475 338">Fernhurst Parish Council Parish</p> <p data-bbox="118 367 411 434">Case Officer: Rafa Grosso Macpherson</p> <p data-bbox="118 463 475 499"><b>Written Representation</b></p>	<p data-bbox="555 232 1378 338">Home Farm Bell Road Kingsley Green Fernhurst GU27 3LG - Installation of new vehicular access to agricultural field and five bar gate.</p>
<b>Appeal Decision: APPEAL DISMISSED</b>	
<p data-bbox="102 591 1444 1393">Principal access to this field lies (or used to lie) from within the curtilage of Home Farm. ... The locality encompasses agricultural open fields and woodland which create a strong and well defined character. KGCA has a significance which derives from the special architectural and historical interest of the buildings set in an agricultural landscape. The change from grass surface to that planned either side of the gate along with the levels-work would give rise to visual deterioration in this immediate locality and would be out of character with the nature of the landscape environs. I am not persuaded that manufactured Grass Crete in this position generally, and with potential use by larger vehicles possibly further reducing effectiveness, will change from anything other than a man-made appearance albeit there may be some assimilation over time. ... Positioning would mean that the planned works would be widely visible from either direction on the main road; it would impact upon the agricultural landscape and therefore significance of the KGCA. ... There are a range of policies which taken together and amongst other matters seek to safeguard the character and appearance of an area and its landscape setting as well as the qualities of a CA. ... I conclude that the appeal scheme would run contrary to these policies and to the objectives of Paragraph 172 of the Framework and Section 72(1) of the Act. ... A principal concern raised by third parties is in relation to highway safety. However from the evidence I have seen and my site visit I would concur with the Authority that this would not be a matter to justify refusal of the proposal. ... The appeal proposal would lead to less than substantial harm to the significance of the designated heritage asset however what public benefits there would be would not outweigh this harm. Furthermore there are no other benefits, including to the Appellants, which to my mind would be of a scale to outweigh the harm to the setting of the KGCA which I have identified.</p>	

Reference/Procedure	Proposal
<p data-bbox="118 232 466 336"><a href="#">SDNP/18/01704/FUL</a> Tillington Parish Council Parish</p> <p data-bbox="118 367 386 434">Case Officer: Charlotte Cranmer</p> <p data-bbox="118 461 475 497"><b>Written Representation</b></p>	<p data-bbox="555 232 1442 371">Buildings West of The Manor of Dean Dean Lane Tillington West Sussex - Change of use of a agricultural building and the demolition and erection of another, to create a one bedroom holiday let.</p>
<b>Appeal Decision: APPEAL ALLOWED</b>	
<p data-bbox="102 573 1442 1281">“....To my mind the extension work would not be significant in any respect as the very modest dimensions, thoughtful use of materials and discrete sighting would ensure this hallway addition ...would be almost imperceptible in the wider or even local scene.... agree that the existing pheasant building is not worthy of conversion because of its condition...have the hallmarks of building which has served the Estate for decades and would have been of a form which was simple, functionally attractive, and pleasingly related to the older stone barn... Appellant’s idea of ‘replacing’ this building in similar style and exact size would have aesthetic merit... the conversion of the stone barn would to my mind be extremely well handled, with openings almost unchanged, no suggestion of external araphernalia or significant surfacing,... cannot agree with the Authority that there would be landscape harm to the National Park or adverse imposition upon the setting of the listed building from the proposals before me.... appeal scheme would bring with it economic, social and environmental benefits. .... more recent National Planning Policy Framework at Paragraph 83 is quite clear that “sustainable growth of all types of business in rural areas through the conversion of existing buildings and well-designed new buildings” should be enabled. LP Policy T3 is therefore outdated in this regard.... note that its emerging Policy SD23 does not rule out suitable new build. ... overall protection of the SDNP with the inherent need to conserve and enhance landscape qualities and scenic beauty and no conflict with the objectives of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990....</p>	

Reference/Procedure	Proposal
<p data-bbox="118 230 456 264"><a href="#">SDNP/17/06109/HOUS</a></p> <p data-bbox="118 271 485 338">Lodsworth Parish Council Parish</p> <p data-bbox="118 367 499 400">Case Officer: Jenna Shore</p> <p data-bbox="118 461 432 495"><b>Householder Appeal</b></p>	<p data-bbox="555 230 1433 297">1 Gibbs Cottages Surrey Road Lickfold Lurgashall GU28 9DX - Two storey rear extension and associated alterations.</p>
<b>Appeal Decision: APPEAL DISMISSED</b>	
<p data-bbox="102 573 1444 1373">I must ... have regard to the inevitability of the loss of at least some of the original fabric ... the loss and alteration of the historic fabric does not in itself materially diminish the significance of the building as a designated heritage asset and is therefore not a determining factor in my Decision. ... However, the effect of the proposed change in the external appearance of the building is more straightforward. The narrow width building, including its neighbour at No. 2, with its asymmetric roof form including the particularly attractive and distinctive cat slide to the rear, is fundamental to its historic interest and architectural integrity. As the officer's report says, the sheer expanse of the cat slide roof across both dwellings is clear as an original (or at least very early) feature and a defining characteristic of both listed buildings. The rear dormers to the buildings have had an adverse impact but are not of sufficient scale to fully compromise the building's character and appearance. ... The scale of the two storey extension would be such as to be a dominant and visually intrusive addition to the semi-detached pair as a whole and the cat slide roof in particular. ... I acknowledge that with the extension to the rear of the building the visual impact to the surrounding landscape of the National Park is less than if it had been more visible from the public realm in Surrey Road. Nonetheless, I consider that with its presently proposed scale and form the appeal scheme would unacceptably harm the character and appearance of the listed building and its neighbour at No. 2 with the consequence that its significance as a designated heritage asset would be materially diminished. And as the building is part of the landscape there must also be some consequential adverse effect. ... There is a minor public benefit in the improvement of the housing stock in the National Park as regards the dwelling's enhanced layout and facilities, but this would not outweigh the harm caused to the significance of the asset.</p>	

Reference/Procedure	Proposal
<p data-bbox="118 230 539 300"><a href="#">SDNP/18/03645/HOUS</a> Milland Parish Council Parish</p> <p data-bbox="118 365 411 434">Case Officer: Rafa Grosso Macpherson</p> <p data-bbox="118 459 432 495"><b>Householder Appeal</b></p>	<p data-bbox="555 230 1417 338">14 Mill Vale Meadows Milland GU30 7LZ - Rear extension to main dwelling, change of loft space to habitable accommodation and garage extension.</p>
<b>Appeal Decision: APPEAL DISMISSED</b>	
<p data-bbox="102 573 1433 1473">The NPA's concern is that the increase of floorspace that would result from the appeal scheme, calculated as about 86%, would be significantly beyond the 30% limit in emerging Policy SD31 of the Submission South Downs Local Plan 2018 ... Point 3 of the grounds of appeal in effect suggests that until it is adopted ... the policy should not be applied. ... Accordingly, with the Submission Plan currently at its final substantive stage, I must give significant weight to the fact that the proposed increase in floorspace in the appeal scheme would fall not too far short of three times the limit in Policy SD31. With that said, as the Submission Plan has still to be endorsed by the Secretary of State and adopted by the Council, I do not regard the policy on its own as the determining factor in this appeal. ... I am minded to endorse the objection in the first reason of the Notice of Refusal that the roof extension would appear as an overly dominant and bulky addition on the rear elevation of the property. This in turn would be a departure from the simple and vernacular design of the building, causing it to be out of keeping with the existing development pattern in Mill Vale Meadows. This is an outcome that Policy S5 specifically seeks to prevent. ... Accordingly, in addition to Submission Plan Policy SD31 I consider the NPA to be correct in citing a conflict with Policies BE11 &amp; BE12 of the Chichester District Local Plan – First Review 1999 and Policy HD3 of the Neighbourhood Plan ... Turning to ... the effect on the privacy ... Whilst the introduction of four windows in the proposed dormer would be likely to result in a perception of being unduly overlooked at Nos. 12 and 16, I note that the grounds of appeal suggest that the two windows nearest the boundaries could be adapted to restrict their outlook. This could be achieved by means of a condition ... As regards the loss of light to a bedroom in No. 12, ... I conclude that with the appealscheme in its present form there would be harm to the living conditions as regards privacy and light in conflict with the sections of above-mentioned policies insofar as they apply to residential amenity and with paragraph 127f) of the Framework.</p>	

Reference/Procedure	Proposal
<p data-bbox="121 232 453 336"><a href="#">SDNP/18/03262/HOUS</a> Petworth Town Council Parish</p> <p data-bbox="121 367 488 398">Case Officer: Louise Kent</p> <p data-bbox="121 461 432 492"><b>Householder Appeal</b></p>	<p data-bbox="555 232 1431 300">Wickers Glasshouse Lane Kirdford GU28 9PA - Replacement single storey and two storey extensions.</p>
<p data-bbox="475 515 1059 546"><b>Appeal Decision: APPEAL DISMISSED</b></p>	
<p data-bbox="102 555 1447 1095">Such a siting with a relationship between a worker's dwelling and a working building may well have been seen as part of a farmyard or woodyard, but the justification for a new two storey building on this basis in this particular location within the original estate seems to me to be unconvincing. ... the two storey building combined with its contemporary design would not in my view read comfortably on the appeal site. The effect of this combination is that the two storey building would not be perceived as an extension to the cottage but as a separate building in its own right, the ground floor link notwithstanding. Furthermore, its contemporary appearance would draw the eye and compete with the vernacular character of the original dwelling rather than complement it. ... the architecture of the appeal scheme, whilst in itself of merit, to be too assertive in relation to both the host building and its landscape context. As regards the latter, the NPA is in my view correct to draw attention to the elevated position of the site above the road and to the fact that this would increase the prominence of the extensions from public vantage points to the north and north east. ... on balance that the scale of the extension together with its design would be harmful to the character and appearance of Wickers as a simple vernacular estate workers cottage. ...</p>	

Reference/Procedure	Proposal
<a href="#">SDNP/18/01998/HOUS</a> Easebourne Parish Council Parish  Case Officer: Rafa Grosso Macpherson  <b>Householder Appeal</b>	Burnel Dodsley Lane Easebourne GU29 9AS - Retrospective permission for the erection of a boundary fence and outbuilding
<b>Appeal Decision: APPEAL ALLOWED</b>	
<p>In refusing the development the NPA refers to an increase in the height of the fence from its predecessor; the undulating trellis being of an unsympathetic height and design and the retaining wall being constructed of artificial stone of color, size and form harmful out of keeping with the host building, the neighbouring property and the street scene. ... From my visit to the site I formed the view that all aspects of the scheme have been carried out to a high standard. ... I also consider that it represents a significant improvement to the appearance of the boundary treatment and the property as a whole. None of the individual elements of the development – the fence, the trellis, the retaining wall and the shed draw the eye as being of an inappropriate scale, materials or design. ... I am of the opinion that the NPA's overall approach in this case is too interventionist and over-critical. ... Overall, I conclude that the development is not in harmful conflict with Policies BE11, BE12 &amp; BE13 of the Chichester District Local Plan First Review 1999 ... (Given the limited form and impact of the development and its particular location I cannot see why the case for the NPA is in any way improved by the citing in the Refusal Notice of Local Plan Policy BE1; Submission Plan SD4; ... I shall therefore allow the appeal subject to a condition that the development is in accordance with the approved plans for the avoidance of uncertainty as to the nature of the permission and in the interests of proper planning.</p>	

Reference/Procedure	Proposal
<p data-bbox="118 232 549 300"><a href="#">SDNP/18/00843/FUL</a> Midhurst Town Council Parish</p> <p data-bbox="118 367 389 434">Case Officer: Charlotte Cranmer</p> <p data-bbox="118 456 475 501"><b>Written Representation</b></p>	<p data-bbox="555 232 1426 376">Bowling Green June Lane Midhurst West Sussex GU29 9EL - Demolition of existing bowls club buildings and erection of 5 no. dwellinghouses with associated landscaping and parking and creation of new vehicular and pedestrian access.</p>
<b>Appeal Decision: DISMISSED</b>	
<p data-bbox="102 591 1449 1744">“...Midhurst Conservation Area (MCA). This gains its character from the mix within it and the generally good quality of well designed new and old premises and the spaces between them...that development of this site would be beneficial in housing supply terms, I would not discourage access directly off June Lane... Design and scale would be unfortunate and not worthy of this location in the MCA... homes would neither display a high standard of modern design nor be a worthy reflection of the past for this sensitive site... be uninspiring and overly-large particularly towards the June Lane frontage. The mass would look over-bearing and out of character from this vantage point and not display a subtle approach which is called for given the context. Inelegent crown roofs are not a feature of the locality and upper level sizeable gables would be dominant. The two over-scaled virtually unadorned side walls flanking the entrance route would present an ungainly and uninteresting scene as an arrival and be open to appreciable view from outside the site...little or no sense of local distinctiveness...jarring on the eye... appeal proposal would lead to less than substantial harm to the significance of the designated heritage asset however what public benefits there are, including helping to fund a new bowling club and the supply of new homes, would not outweigh this harm....all five homes would be substantial four-bedroomed dwellings when research work, reflected in LP Saved Policy H4 albeit that does make reference to having sympathy with the nature of surrounding development and in this instance I would apply that caveat.... a relatively small site and scope for a real mix of dwellings would be limited by this and any contribution made to the supply of any particular size of home would be extremely modest in any event. larger (albeit not excessive) homes would be in accord with much which is around, the provision of good sized gardens would assist with the local aesthetic, and I do take the point, to a degree, that the exercise aims to raise economic funds for a new bowling club present time set aside the conflict with LPS Policy SD27 given limited weight being applied at this stage in its emergence and cognisant of the positive material considerations which would apply in this instance..... plots’ and housing layout arrangement, separation distances, window positions, room uses, and size and type of windows would all come together such that the Authority’s fears are unfounded and no unacceptable harm to living conditions... If emerging Policy SD28 of the LPS proceeds to adoption that situation would change.... stage reached with the LPS means that I am not minded to make this a determining factor and it does not weigh against the proposal in my assessment.”</p>	

### 3. CURRENT APPEALS

<p><a href="#"><u>SDNP/17/03475/HOUS</u></a> Bury Parish Council Parish</p> <p>Case Officer: Beverley Stubbington</p> <p><b>Householder Appeal</b></p>	<p>The Farmhouse The Street Bury RH20 1PA - Proposed part demolition and refurbishment of dwelling, to include extensions and alterations.</p>
<p><a href="#"><u>SDNP/17/06029/TPO</u></a> Rogate Parish Council Parish</p> <p>Case Officer: Henry Whitby</p> <p><b>Householder Appeal</b></p>	<p>White Rose Group London Road Rogate GU33 7NX - Fell 1 no. Oak tree (T1) subject to RG/83/00853/TPO.</p>
<p><a href="#"><u>SDNP/18/04296/FUL</u></a> Funtington Parish Council Parish</p> <p>Case Officer: Claire Coles</p> <p><b>Written Representation</b></p>	<p>Annexe Cedar Field Five Acres Close Funtington West Sussex - Change of use of existing building to 1 no. residential dwelling together with a linked extension.</p>
<p><a href="#"><u>SDNP/18/01138/FUL</u></a> Milland Parish Council Parish</p> <p>Case Officer: Charlotte Cranmer</p> <p><b>Written Representation</b></p>	<p>The Black Fox Inn Portsmouth Road Milland GU30 7JJ - Change of use from Class A4 public house to Class D1 children's nursery and pre-school with associated works.</p>



<p><a href="#">SDNP/18/02917/FUL</a> Petworth Town Council Parish</p> <p>Case Officer: Beverley Stubbington</p> <p><b>Written Representation</b></p>	<p>The Old Tanneries Byworth Road Byworth Petworth West Sussex GU28 0HL - Closing up of existing domestic access and field access. Formation of a new access to serve dwellinghouse, holiday let and agricultural land.</p>
<p><a href="#">SDNP/18/04138/FUL</a> Heyshott Parish Council Parish</p> <p>Case Officer: John Saunders</p> <p><b>Written Representation</b></p>	<p>Heyshott Meadows Polecats Heyshott West Sussex GU29 0DA - Replace horse menage with tennis court.</p>
<p><a href="#">SDNP/18/03092/HOUS</a> Bury Parish Council Parish</p> <p>Case Officer: Beverley Stubbington</p> <p><b>Householder Appeal</b></p>	<p>Corner House The Street Bury RH20 1PF - Replacement of 2 storey extension.</p>
<p><a href="#">SDNP/18/03618/HOUS</a> Petworth Town Council Parish</p> <p>Case Officer: Beverley Stubbington</p> <p><b>Householder Appeal</b></p>	<p>Heath End Lodge Station Road Petworth GU28 0JG - Two storey rear extension and replacement garage</p>
<p><a href="#">SDNP/18/02658/LIS</a> Petworth Town Council Parish</p> <p>Case Officer: Beverley Stubbington</p> <p><b>Written Representation</b></p>	<p>East House East Street Petworth GU28 0AB - Proposed internal alterations to the existing building to provide guest rooms at first and second floor levels. Proposed external remedial works to existing building fabric.</p>

<p><u>SDNP/16/00069/COU</u> Upwaltham Parish Council Parish</p> <p>Case Officer: Shona Archer</p> <p><b>Public Inquiry</b></p>	<p>The Mill Eartham Lane Eartham Chichester West Sussex PO18 0NA - Appeal against issue of Enforcement Notice</p>
<p><u>SDNP/15/00492/COU</u> Rogate Parish Council Parish</p> <p>Case Officer: Steven Pattie</p> <p><b>Public Inquiry</b></p>	<p>Laundry Cottage Dangstein Dangstein Road Rogate Petersfield West Sussex GU31 5BZ - Appeal against</p>
<p><u>SDNP/16/00676/COU</u> Funtington Parish Council Parish</p> <p>Case Officer: Shona Archer</p> <p><b>Written Representation</b></p>	<p>New Barn Farm Common Road Funtington West Sussex PO18 9DA - Appeal against storage unit</p>
<p><u>SDNP/17/00585/GENER</u> Bury Parish Council Parish</p> <p>Case Officer: Sue Payne (CHICH)</p> <p><b>Written Representation</b></p>	<p>Flint Acres Farm Bignor Park Road Bignor Pulborough West Sussex RH20 1EZ - Appeal against</p>
<p><u>SDNP/16/00691/COU</u> Bury Parish Council Parish</p> <p>Case Officer: Tara Lang</p> <p><b>Written Representation</b></p>	<p>Foxbury Farm West Burton Road West Burton Pulborough West Sussex RH20 1HD - Appeal against Caravan and hardstanding.</p>

**4. VARIATIONS TO SECTION 106 AGREEMENTS**

NONE

**5. CALLED-IN APPLICATIONS**

NONE

**6. COURT AND OTHER MATTERS**

NONE

**7. POLICY MATTERS**

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## Chichester District Council

### Planning Committee

Wednesday 13 February 2019

#### Consultation on Protecting and Enhancing England's Trees and Woodlands

##### 1. Contact

Fjola Stevens, Development Manager (Applications)  
Tel: 01243 534734; Email: [fstevens@chichester.gov.uk](mailto:fstevens@chichester.gov.uk)

##### 2. Recommendation

- 2.1. **Planning Committee are asked to note the contents of Defra's consultation on proposed measures to enhance England's trees and woodlands, and to endorse the proposed response.**

##### 3. Background

- 3.1 The Department for Environment, Food and Rural Affairs (DEFRA) has published a consultation document titled 'Consultation on Protecting and Enhancing England's Trees and Woodlands'. DEFRA is seeking views on introducing "new measures designed to increase transparency and accountability in the process of felling street trees and to strengthen the Forestry Commission's power to tackle illegal tree felling."
- 3.2 The proposed measures would aid in facilitating the Government's 25 year plan to support the natural environment, details of which are available online at <https://www.gov.uk/government/publications/25-year-environment-plan>.
- 3.3 The consultation period runs from 30 December 2018 until 28 February 2019. A copy of the Defra consultation document can be viewed online (see weblink below under 'Background Documents').

##### 4. Consultation question responses

- 4.1 The consultation document asks questions about proposed measures to control the felling of trees. Two of the measures would introduce new duties on local authorities; a duty to consult on the felling of street trees and a duty to consult on trees that have historic or cultural significance. A third requirement of local authorities would be to report on the felling and replanting of trees, including those lost through the granting of planning permission. The fourth

measure would result in the production of best practice guidance to support local authorities in drawing up, consulting on and publishing a Tree and Woodland Strategy, and the fifth measure would give the Forestry Commission more powers to tackle illegal tree felling and strengthen protection of wooded landscapes.

i) Measure 1: Duty to consult on felling street trees in urban areas

4.2 This measure seeks to provide the local community with an opportunity to comment on proposals to fell trees that line the highway in urban environments by carrying out a consultation exercise when a highway tree is proposed to be felled. It does not relate to trees located within parks, open spaces, or alongside highways outside of urban areas. Consideration has been given to 3 means of consultation;

- a full consultation involving letters of residents within 100m<sup>2</sup> area surrounding the tree, a site notice, online consultation and an advert in the paper
- a closed consultation involving a more targeting approach with letters send to residents (as above) and a site notice, and
- a closed consultation with a trigger point, meaning in the event 50% of respondents object to the felling of a tree a full consultation is carried out. The consultation document states that this is the preferred approach

4.3 Officers consider that whilst a consultation prior to the felling of a highway tree could be a positive step to improve engagement with the local community and to ensure valued trees are not felled without good reason, it is considered that a staggered approach to consultation, as preferred by Government, would be confusing for the community and onerous upon the local authority responsible for the highway tree. In addition, officers consider that there should be limitations to when the duty to consult is required, in a similar manner to the criteria for when works to a tree in a conservation area must be the subject of an application based on the size of the tree, to ensure that small or insignificant trees are excluded from the duty to consult.

ii) Measure 2: Duty to consult on felling of trees with historic or cultural significance

4.4 This measure relates to full consultation where a tree with historic or cultural significance is proposed to be felled. Such a tree could be a veteran tree or a tree that is linked to a person or event which is historical or cultural importance. The consultation document recognises that the local authority may not know that the tree is of historic or cultural significance until consultation is undertaken, and this would trigger the need for further

consultations. As stated above officers consider that if a duty to consult is introduced this should be simple and consistent in the interests of clear engagement with the local community and in the interests of being cost effective to undertake.

iii) Measure 3: Reporting by local authorities on the felling and planting of trees

4.5 Currently, the Forestry Commission collects data on trees felled when a felling licence is required, and any compensatory planting that takes place. However, felling licences are not required in many situations where local authorities are responsible for managing trees, including street trees, trees in parks, and trees felled as part of the planning process. The proposal is to require local authorities to report of the trees felled in these situations that are not currently reported/monitored by the Forestry Commission, including the felling of those they local authorities are indirectly responsible for (including as a result of planning permission).

4.6 Officers consider that whilst it may be feasible to report the felling of the Local Authority's own trees and the planting carried out on their own land, it would not be realistic or viable for local authority to be required to report all trees to be felled/planting outside of their direct control (provided within proposed development sites for example). This would be resource heavy, could slow down the application process and result in a significant amount of work monitoring a site following a planning permission. The onus could be placed upon the developer/land owner, however, it would likely lead to developers clearing a site of all trees prior to submitting an application to ensure that the loss of trees did not become problematic at the planning stage, which would be counterproductive.

iv) Measure 4: The introduction of tree and woodland strategies

4.7 Tree and Woodland strategies are local authority documents which set out the policy framework, and management approaches, for trees and woodlands, based on an assessment of the local authority's tree and woodland resource. They are not currently required and it is proposed that they become a requirement. Officers consider that whilst this is likely to have resource implications, they would serve a useful purpose not just in the planning process but also in the management of the Council's parks and gardens, open spaces and car parks where tree planting is important to the environment, biodiversity, health and well-being.

## v) Measure 5: Forestry Commission Enforcement powers

4.8 The consultation also proposes to introduce measures that will strengthen environmental protection by giving the Forestry Commission more powers to address illegal felling. This appears to relate to protected woodlands rather than trees that are covered by a Tree Preservation Order or a tree within a Conservation Area, however this requires clarification. In principle there are no objections to strengthening the powers of the Forestry Commission.

4.9 Officer responses to the consultation questions are set out in Appendix 1.

### **5.0 Proposed Council response**

5.1 Members are asked to endorse the proposed Council response set out in Appendix 1. Any further comments will be incorporated prior to the response being forwarded to DEFRA.

### **6.0 Background documents**

6.1 Defra Protecting trees and woodlands (December 2018):

[https://consult.defra.gov.uk/forestry/protecting-trees-and-woodlands/supporting\\_documents/TreeswoodlandsconsultdocumentRB.pdf](https://consult.defra.gov.uk/forestry/protecting-trees-and-woodlands/supporting_documents/TreeswoodlandsconsultdocumentRB.pdf)



## **Appendix 1: Consultations responses to questions**

### **Measure 1: Duty to consult on street trees**

**Q1. Should a duty for local authorities to consult on the felling of street trees be introduced? Please give reasons for your response.**

Yes. Trees are important to not only the character of an area but they also have health benefits, particularly within urban environments where pollution can be detrimental to the well-being of local residents.

**Q2. Do you agree with the proposed scope of the duty to consult? Please give reasons for your response.**

No. The information provided within the consultation document does not make it clear what would be defined as a highway tree within an urban settlement, and therefore would be open to interpretation. Is an 'urban settlement' a town/city, or could it be a village or hamlet? This would need to be made clear.

**Q3. Do you agree with the government's preferred approach of a closed consultation with trigger point? Please give reasons for your response.**

No. This approach would result in confusion for the local community, and would result in greater resources being required for 2 rounds of consultation. The intention is to involve the local community and therefore a closed consultation, focussed on those most likely to be affected, with the benefit of a site notice that would be seen by others passing by who may have an interest, would be a sufficient means to consulting the local community.

**Q4. In what circumstances do you think a tree should be exempt from the duty to consult? Please give reasons for your response.**

There should be an exemption to consult for trees that are dead or dangerous and for immature trees that do not have a significant presence in the street. The criteria that determines when a tree in a conservation area requires consent to be felled, or when the subject of works, would appear sensible and consistent with existing consent regimes and would mean that small trees and shrubs would not be subject of the duty to consult.

Measure 2: Duty to consult on trees of special historic or cultural significance

**Q5. Do you think it is appropriate that trees of special historic or cultural significance are subject to a more rigorous consultation process? Do you agree with the criteria for designating a tree of special historic or cultural significance? Are there any other categories which should be included?**

No. Any consultation process should be consistent and simple, and this would be at odds with this approach. Should a closed consultation be carried out and then it becomes apparent the tree is of cultural importance it will be confusing for residents to receive a further consultation, and more costly for the local authority proposing the works. Rather, those consulted should be invited to comment on the relevant considerations (ecological value, cultural or historical significance) so that these comments can be taken into account.

**Q6. Do you think that the duty to consult will have any negative impacts on development?**

Yes, it is possible. There may be instances where highway trees need to be felled to accommodate development, i.e. the provision of a visibility splay for a new access, and consultation on felling a tree in this instance could make the process more complex and time consuming for developers.

**Q7. Should consultations be done on an individual basis or in groups of trees where, for example, trees are planted in the same location?**

A single consultation should be possible even where works are proposed to a group of trees/trees along a single street, in the same way that an application to carry out works to trees the subject of a tree preservation order can relate to a number trees; this would be the most cost effective way for local authorities to engage with the community where they initiate a programme of tree management along a street.

Measure 3: Reporting on felling and planting of trees by local authorities

**Q8. Should a duty on local authorities to report on tree felling and planting be introduced? Please explain the reasons for your answer**

Yes, where they are in direct the control of the trees in question, this could help ensure local authorities have a program of tree replacement and compensatory planting when their own trees are removed.

**Q9. Which trees would it be useful to report on? Please explain the reason for your answer.**

This should only relate to trees within the control of the local authority, not trees or planting on private land. Any such requirement should be placed on upon the owner of that land. There are other sufficient controls within the planning system to assist in safeguarding trees on private land, including tree preservation orders and consideration of national and local policy in the determination of development affecting trees.

**Q10. What information do you think local authorities could gather and hold? Please explain the reasons for your answer.**

- date of felling/planting
- location of tree/planting
- species/age of tree if felled
- reason for felling tree

**Q11. How could local authorities present this information? Should national government play a role in collating and managing information?**

Yes, there would need to be a set pro-forma to ensure consistency across England, and the data could form part of a quarterly return uploaded via a portal.

#### Measure 4: Tree and Woodland Strategies

**Q12. Do you agree that Tree and Woodland Strategies help local authorities and the public to manage their trees and woodlands? Would best practice guidance be sufficient for local authorities and the public? Please give reasons for your response.**

Yes.

**Q13. Do you agree with the suggested content for best practice guidance for Tree and Woodland Strategies? Please give reasons for your response**

Yes.

Enforcement powers

**Q14. Do you support these measures?**

The consultation does not make it clear if these measures only relate to woodlands, rather than highway trees or trees within development sites for example. If these measures relate to woodland then the measures are supported.

**Q15. Do you think any other measures are necessary to combat illegal tree felling?**

No comment to make.