

Chichester District Council

Planning Committee

Wednesday 15 August 2018

Report of the Head of Planning Services Schedule of Planning Appeals,

Court and Policy Matters

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

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

* - Committee level decision.

1. NEW APPEALS

Reference/Procedure	Proposal
17/02433/FUL East Wittering And Bracklesham Parish Case Officer: Maria Tomlinson Written Representation	Bon Ami Peerley Road East Wittering PO20 8DW - Erection of 1 no. bungalow - resubmission of EWB/17/00240/FUL.
17/00055/CONCOU Plaistow And Ifold Parish Case Officer: Reg Hawks Written Representation	Nell Ball Farm Dunsfold Road Plaistow Billingshurst West Sussex RH14 0BF - Appeal against enforcement notice
18/00747/DOM Southbourne Parish Case Officer: Luke Simpson Householder Appeal	4 Park Road Southbourne PO10 8NZ - Change of use of loft space into habitable accommodation with front and rear dormers plus cable build ups.

2. DECISIONS MADE

Reference/Procedure	Proposal
<p data-bbox="204 286 517 353">SDNP/17/02266/FUL Fernhurst Parish</p> <p data-bbox="204 398 635 432">Case Officer: Bev Stubbington</p> <p data-bbox="204 472 552 506">Written Representation</p>	<p data-bbox="644 286 1495 432">October House Marley Heights Fernhurst Haslemere West Sussex GU27 3LU - Change use of land to garden land and construction of tennis court with 2.75m high surrounding fence.</p>
<p data-bbox="552 521 1139 555">Appeal Decision: APPEAL DISMISSED</p>	
<p data-bbox="178 562 1495 1357">“... The main issue in this case is the effect of the proposal on the character and appearance of the landscape and natural beauty of the National Park. ... The Landscape Character Assessment (LCA) for the area states that the site lies within the Landscape Type N Greensand Hills. Within this Type the County Council state that the site lies within sub category N1 Blackdown to Petworth Greensand Hills, falling within an area that is described as a ‘deeply rural, tranquil and enclosed landscape’... The proposal seeks to change the use of the site to garden land and construct a tennis court in the northern corner of the site; this court would be surrounded by a fence and gravel path. The land would be cut and filled to achieve a flat area, with no spoils stated to be taken off site. ... Due to the topography of the site the court would involve a fairly substantial engineering operation... The combination of the completed court, the high fence surrounding, and the wooden sleeper retaining wall for part of the court, would all alter the character of the site fairly substantially, failing to retain the open sloping nature of the site, and hence failing to conserve or enhance the natural beauty of the National Park. I note in the evidence with wide number of tennis courts that are present in the area and those that the Authority and their predecessors have allowed nearby. However, I do not consider that the number of them is so high so that they now form part of the character of the area. Moreover, I have little evidence if such courts required similar levels of engineering as the one before me... I do not consider that such private benefits would outweigh the harm to the intrinsic character and beauty of the countryside that the proposal would cause. I therefore conclude that the proposal would have an adverse effect on the character and appearance of the landscape and natural beauty of the National Park...”</p> <p data-bbox="178 1361 437 1395">COST DECISION</p> <p data-bbox="178 1400 1495 1619">“The application for an award of costs is refused. Planning Practice Guidance (PPG) states that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive. ... I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.”</p>	

Reference/Procedure	Proposal
<p data-bbox="197 230 416 264">17/03572/DOM</p> <p data-bbox="197 271 459 304">Fishbourne Parish</p> <p data-bbox="197 365 517 439">Case Officer: Summer Sharpe</p> <p data-bbox="197 461 512 495">Householder Appeal</p>	<p data-bbox="638 230 1382 304">Tambelup 127 Salthill Road Fishbourne PO19 3PZ - Detached garage.</p>
Appeal Decision: APPEAL DISMISSED	
<p data-bbox="181 555 1469 954">“The appeal is dismissed. ... the appeal site is characterised by the dwelling being set well back into the plot with the result that the front garden has an open and spacious appearance. This development pattern is repeated in the immediate surroundings.... The introduction of a garage well in front of the established building line would appear visually intrusive and incongruous.... Associated landscaping would ‘soften’ the intrusive impact of the building but in my view would not eliminate the harm caused to the street scene of this part of Salthill Road. Furthermore, if I were to allow the appeal it would be difficult for the Council in all fairness to refuse similar proposals, and in that event the harm to the street scene would be exacerbated.... The open character of No. 127 and its immediate neighbours makes this part of Salthill Road a more aesthetically appealing part of the neighbourhood and the appeal scheme would undermine that.”</p>	
<p data-bbox="197 1014 403 1048">17/02162/FUL</p> <p data-bbox="197 1055 427 1088">Loxwood Parish</p> <p data-bbox="197 1149 584 1182">Case Officer: Caitlin Boddy</p> <p data-bbox="197 1243 552 1276">Written Representation</p>	<p data-bbox="638 1014 1477 1267">Beech Farm Roundstreet Common Loxwood RH14 0AN - Proposed mixed use live work development - conversion of commercial equestrian buildings and barns into flexible B1 offices and light industrial workshops/B8 commercial storage uses and 9 no. residential dwellings together with re-routing of internal access and removal of outdoor menage and enclosed horsewalker.</p>
Appeal Decision: APPEAL DISMISSED	
<p data-bbox="181 1346 1477 1744">“The appeal is dismissed. ... I consider that the overall appeal site would have both residential and commercial units on it, none would represent live/work units. Consequently, the proposal should be considered as for both residential and commercial units without any linking connection. ... With the exception of Building A, the works to facilitate the new uses would represent new build and the proposal should be considered as such. The proposal should be considered as a whole and I do not consider that it would be appropriate to consider Building A separately..... I consider the site to be in an isolated location as it lies in an area of widely scattered development..... In light of my findings over the nature of the proposal and that it would not mostly represent new building, both residential and commercial elements need to be considered against the development plan for such proposals.</p> <p data-bbox="181 1751 1485 2067">There are benefits of the proposal through the delivery of the new dwellings and commercial units, and the effect on highway safety is neutral. However, this must be off-set against what would be the significant harm to the character and appearance of the area from inappropriate development in the countryside, the proposal would not result in a high quality living environment for the occupiers harmful to their living conditions in terms of noise and disturbance, the failure to deliver necessary affordable housing, the location being in an area where need to travel would not be minimised and the use of sustainable transport modes maximised, and the potential harm to protected species. These harms far outweigh the benefits of the proposal. ...”</p>	

Reference/Procedure	Proposal
<p data-bbox="197 228 485 300">17/03629/DOM Southbourne Parish</p> <p data-bbox="197 362 478 434">Case Officer: Maria Tomlinson</p> <p data-bbox="197 461 513 497">Householder Appeal</p>	<p data-bbox="635 228 1407 336">2 Fairview Cottages Prinsted Lane Prinsted Emsworth Hampshire PO10 8HR - Change use of loft space to habitable accommodation to include rear dormer.</p>
<p data-bbox="552 519 1139 555">Appeal Decision: APPEAL DISMISSED</p>	
<p data-bbox="181 560 1490 990">“...The proposed dormer would occupy almost the entire rear roof plane of No. 2 and with its mid terrace position essentially dominate the rear of the terrace above eaves level. With only a small half hipped roof and not being set down from the ridge or away from the flanks and a minimal distance above the eaves the addition would have a very limited design merit and appear disproportionately large in relation to both No. 2 and the terrace as a whole... The appellant also argues that dormer would only be glimpsed from the public realm, but this is disputed in the representations of the consultees on the application. However, bearing in mind that Fairview Cottages form part of the conservation area, I do not consider that the exact extent of its visibility is the determining factor. In my assessment the dormer would harm the character and appearance of the dwelling and the terrace as a whole and in so doing would also fail to preserve the character and appearance of the conservation area, and to a more limited extent the AONB.</p>	
<p data-bbox="197 1057 485 1128">16/00191/CONCOU Westbourne Parish</p> <p data-bbox="197 1191 593 1227">Case Officer: Shona Archer</p> <p data-bbox="197 1285 555 1321">Written Representation</p>	<p data-bbox="635 1057 1439 1164">The Old Army Camp Cemetery Lane Woodmancote Westbourne West Sussex - Appeal against enforcement notice re: change of use to tarmac contractor.</p> <p data-bbox="635 1169 979 1205">Linked to 17/00378/FUL</p>
<p data-bbox="181 1348 1458 2011">“Appeal A... against an enforcement notice issued by Chichester District Council... The breach of planning control as alleged in the notice is change of use of the land to use as a HGV Operating Centre...Appeal B... The application Ref WE/17/00378/FUL. Refused by notice dated 26 August 2017 Decisions – Appeal A succeeds to a limited degree on ground (g) only and Appeal B is dismissed...The main issues in both appeals are as follows*: Whether or not the location of the site is appropriate*; The effect on the character and appearance of the area*; The effect on residential amenity*; The effect on the Westbourne Cemetery (a non-designated heritage asset)*; The effect on the local highway network and highway safety□. In reaching my conclusions on the five main issues I have found in the appellant’s favour on those relating to the effect on the non-designated heritage asset and on highway safety and the impact on the local highway network... However, with regard to the first three issues I have found against the appellant. Firstly I have concluded that the HGV use is not acceptable in principle and that it is contrary to Policy 45 of the CLPKP. Secondly I have found that it is harmful to the character and appearance of this part of the District and thereby contrary to Policies 45, 47 and 48 of the CLPKP. And, thirdly, I have concluded that it is also harmful to residential amenity due to loss of outlook and noise and disturbance and thereby contrary to development plan policies as well as to the NPPF... Sustainable</p>	

Reference/Procedure	Proposal
	<p>development involves seeking positive improvements in the quality of the built and natural environments, as well as in the quality of peoples' quality of life. In this case my overall conclusion is that the HGV use on this site cannot be considered to be sustainable. This particular land use in this location is not, in my view, sustainable and fails to perform two of the necessary roles. Any presumption in favour of development is outweighed by the other material considerations... I do not consider, therefore that planning permission should be granted for the use of the land as open storage for vehicles and use as HGV Operating Centre with ancillary offices and stores. Appeal A on ground (a) and Appeal B, therefore fail. Appeal A on ground (g)...in this case and due to the complexities of finding an alternative site, whilst continuing the business commitments (including employment) already in hand, I consider that 18 months is appropriate and necessary. Appeal A succeeds to this limited degree and I shall vary the enforcement notice accordingly... Appeal A..the appeal is dismissed, the enforcement notice (WE/39) is upheld as varied and planning permission is refused on the application deemed to have been made under section 177(5) of the Act. Appeal B is dismissed...</p> <p>COSTS DECISION The application for an award of costs is refused...I do not consider that the Council acted unreasonably with regard to the application of Policy 2 of the CLP... The site is rural as opposed to being urban despite the fact that it is PDL... I accept that the land is PDL and that HGV sites can be required to be located in rural areas. I also note the point about rural diversification. However, on this last point a rural diversification development which detract from, rather than conserving or enhancing a rural area cannot be justified simply on the basis of diversification. In any case this is not diversification of a use which definitely required a rural location...traffic issues, again I do not consider that this amounted to unreasonable behaviour on the part of the LPA. The Council was concerned about traffic movements and noise in relation to the way the vehicles operated at the site. I have shared those concerns and concluded that harm has been caused due to early morning engine and vehicle noise as well as noise in the late afternoons and early evenings... I acknowledge the points made regarding Policy OA1 of the WNP and the NPPF, the principle of giving some weight to such emerging policies does not in itself constitute unreasonable behaviour... It is a material consideration... As long as a LPA substantiates its reasons for refusal by reference to the most relevant and appropriate policies, it cannot, in my view, be found to ... have been unreasonable I do not accept, therefore, that the Council acted unreasonably in relying on the impact of the HGV use of the site on the non-designated heritage asset... In the enforcement appeal I do not accept the contention that it was unreasonable of the Council to decide that it is the use of the land that is causing the material harm alleged... In conclusion I do not consider that the Council has acted unreasonably in these cases and I agree with them that the fact that those advising the appellant have a difference of opinion on whether the proposal complies with policies, does not amount to unreasonable behaviour. It follows that I do not consider that the appellant has incurred unnecessary loss and expense in the appeal process. The parties should be responsible for their own costs..."</p>

Appeal Decision: APPEAL DISMISSED - NOTICE UPHELD	
17/00378/FUL Westbourne Parish Case Officer: Caitlin Boddy Written Representation	The Old Army Camp Cemetery Lane Woodmancote Westbourne PO10 8RZ - Retrospective application for change of use of land as open storage for vehicles and use as HGV Operating Centre, with ancillary office and stores. Linked to 16/00191/CONCOU
Appeal Decision: APPEAL DISMISSED	
As Above	
17/01644/FUL Westhampnett Parish Case Officer: Claire Coles Written Representation	Land North Of Junction With Old Arundel Road Stane Street Maudlin Westhampnett West Sussex - Proposed construction of 5 no. dwellings.
Appeal Decision: APPEAL DISMISSED	
<p>“The appeal is dismissed. ... I consider that the development would result in distinctly urban appearance at the edge of the settlement extending the built form into an essentially open area. The resulting effect would be a stark contrast to the existing character which would neither preserve nor enhance the setting of the listed buildings even though the resulting harm would, in the words of the Framework, be less than substantial. ... A unilateral undertaking has been provided and I am satisfied that this issue is capable of being dealt with by that undertaking in order to overcome refusal reason 3 [impact upon Chichester and Langstone Harbour SPA]. ... Whilst the provision of 5 dwellings would make a modest contribution to the housing supply in the area and there would be an economic benefit arising from the construction of dwellings no other public benefit has been outlined. ... “</p>	

3. CURRENT APPEALS

Reference/Procedure	Proposal
16/00933/OUT Birdham Parish Case Officer: Jeremy Bushell Public Inquiry 02/10/2018 10:00:00 The Vicars Hall Cathedral Cloisters Chichester PO19 1PX	Koolbergen, Kelly's Nurseries And Bellfield Nurseries Bell Lane Birdham Chichester West Sussex PO20 7HY - Erection of 77 houses B1 floorspace, retail and open space with retention of 1 dwelling.

Reference/Procedure	Proposal
<p>15/00064/CONLB Chichester Parish</p> <p>Case Officer: Sue Payne</p> <p>Public Inquiry</p> <p>30/10/2018</p> <p>Assembly Room North Street, Chichester, PO19 1QL</p>	<p>13 Parchment Street Chichester West Sussex PO19 3DA - Appeal against listed building enforcement notice Re: removal of x 3 wooden casements and fitting of x 3 UPVC casements in Grade II listed building in Conservation Area.</p>
<p>17/01073/FUL Chichester Parish</p> <p>Case Officer: Caitlin Boddy</p> <p>Written Representation</p>	<p>22A Lavant Road Chichester West Sussex PO19 5RG - Demolition of existing dwelling and erection of 2 no. 4 bed detached properties with shared garage, 3 no. 3 bed link detached properties with integral garages, parking and new access drive.</p>
<p>* 17/01712/FUL Chichester Parish</p> <p>Case Officer: Caitlin Boddy</p> <p>Written Representation</p>	<p>Whyke Lodge Residential Care Home 115 Whyke Road Chichester West Sussex PO19 8JG - 6 no. dwellings.</p>
<p>17/03126/FUL Chichester Parish</p> <p>Case Officer: Summer Sharpe</p> <p>Written Representation</p>	<p>Rose Court St Cyriacs Chichester PO19 1AW - Replacement windows and doors.</p>
<p>17/02138/FUL East Wittering And Bracklesham Parish</p> <p>Case Officer: Naomi Langford</p> <p>Informal Hearing</p>	<p>Royal Oak Stocks Lane East Wittering Chichester West Sussex PO20 8BS - Demolition of the former public house and erection of a two storey terrace of 9 no. dwellings (consisting of 7 no. 3 bedroom units and 2 no. 4 bedroom units) with undercroft and parking to the rear and the erection of 1 no. 2 bedroom bungalow.</p>

Reference/Procedure	Proposal
<p>SDNP/17/00949/FUL Funtington Parish</p> <p>Case Officer: Derek Price</p> <p>Awaiting Decision</p>	<p>Land South of Braefoot, Southbrook Road, West Ashling West Sussex - Retention and continued use of mobile home for gypsy family occupation including existing timber shed and refuse enclosure. Linked to SDNP/16/00496/OPDEV</p>
<p>SDNP/16/00496/OPDEV Funtington Parish</p> <p>Case Officer: Shona Archer</p> <p>Awaiting Decision</p>	<p>Land South of Braefoot, Southbrook Road, West Ashling West Sussex – Mobile home inc installation of a cesspit and engineering works - appeal against enforcement notice. Linked to SDNP/17/00949/FUL</p>
<p>16/00359/CONTRV Sidlesham Parish</p> <p>Case Officer: Emma Kierans</p> <p>Informal Hearing</p>	<p>Land Adj To Ham Road Sidlesham West Sussex - Appeal against Enforcement Notice SI/69 Linked to 16/03383/FUL</p>
<p>16/03383/FUL Sidlesham Parish</p> <p>Case Officer: Emma Kierans</p> <p>Informal Hearing</p>	<p>Land Adjacent To Ham Road Sidlesham West Sussex - Use of land as a travellers caravan site consisting of 2 no. touring caravans, 1 no. amenity structure and associated development. Linked to 16/00359/CONTRV</p>
<p>17/00031/CONMHC Southbourne Parish</p> <p>Case Officer: Shona Archer</p> <p>Awaiting Decision</p>	<p>Land North Of Marina Farm Thorney Road Southbourne Hampshire - Without planning permission, change of use of the land to a mixed or dual use for the grazing of horses and the stationing of a mobile home for the purposes of human habitation</p>

4. VARIATIONS TO SECTION 106 AGREEMENTS

5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage

6. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage

Court Hearings		
Site	Matter	Stage
Decoy Farm	Civil Claim to recover clearance costs	On-Going in terms of preparation for trial. Pre-Trial Review on 9 October 2018 at Worthing County Court

Prosecutions		
Site	Breach	Stage
Filed West of Five Oaks	Enforcement Notice	Adjourned hearing at Worthing Magistrates' Court on 3 August for plea to be entered
Land North of White Barn, Elms Lane	Enforcement Notice	Hearing at Worthing Magistrates' Court on 3 August for plea to be entered

7. POLICY MATTERS