

**Chichester District Council**

**Planning Committee**

**Wednesday 04 September 2019**

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

**Schedule of Planning Appeals, Court and Policy Matters  
Between 19-Jul-2019 and 16-Aug-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 (Lodged)**

Reference/Procedure	Proposal
<u>18/00005/CONAGR</u> Sidlesham Parish  Case Officer: Sue Payne  <b>Written Representation</b>	Greenwood Group Highleigh Nurseries Highleigh Road Sidlesham Chichester West Sussex PO20 7NR - Appeal against SI/70
<u>18/00389/CONCOU</u> Southbourne Parish  Case Officer: Steven Pattie  <b>Written Representation</b>	1 Green Acre Inlands Road Nutbourne Chichester West Sussex PO18 8RJ - Appeal against SB/117

<p><a href="#"><u>19/00731/DOM</u></a> East Wittering and Bracklesham Parish</p> <p>Case Officer: Calum Thomas</p> <p><b>Written Representation</b></p>	<p>5 Charlmead, East Wittering, PO20 8DN - Creation of habitable space at first floor level.</p>
<p><a href="#"><u>19/01352/DOM</u></a> Bosham Parish</p> <p>Case Officer: Oliver Naish</p> <p><b>Written Representation</b></p>	<p>The Old Town Hall, Bosham Lane, Bosham, PO18 8HY - Construction of an outdoor swimming pool.</p>

## 2. DECISIONS MADE

Reference/Procedure	Proposal
<p><u>15/00018/CONBC</u> Chichester Parish</p> <p>Case Officer: Shona Archer</p> <p><b>Written Representation</b></p>	<p>Wildwood 30 Southgate Chichester West Sussex PO19 1DP - Appeal against CC/143</p>
<p><b>Appeal Decision: Appeal succeeds in that the period of compliance is extended – NOTICE UPHELD</b></p>	
<p><b>Ground (a) appeal and deemed application ...</b> Planning permission reference CC/96/01257/COU (the Permission) includes a condition (condition 8) preventing the use of land at the rear of the premises for any purpose other than as a store/covered yard and store/wc. The main issue in this appeal is the effect of the use of this land as a kitchen without compliance with condition 8 on the living conditions of occupiers of the neighbouring residential property with particular regard to noise and disturbance and cooking odours. ... The Permission is for the change of use of the ground floor from A1 shop to A3 restaurant. Condition 8 of the Permission provides that the store/covered yard and store/wc areas to the rear of the premises as shown on the permitted plans shall be retained for these purposes in perpetuity and shall not be used for any other purpose whatsoever including any additional restaurant seating area'. The reason given for the imposition of this condition is 'in the interests of amenity'. ... I note that the Appellant has always intended to use the area as a kitchen and was not aware of condition 8 but these are not matters that weigh heavily in favour of the appeal. I note that the approved plan the subject of listed building consent Ref. 14/03075 for internal alterations annotates the covered yard area as 'kitchen' but this does not provide planning permission for its use as a kitchen. ... On the basis of the evidence before me I conclude that due to the close proximity of the rear extension to its residential neighbour removal or variation of condition 8 to permit use as a kitchen would cause undue harm to the living conditions of the neighbouring residential property with particular regard to noise and disturbance and cooking odours contrary to the development plan and the Framework. ... If a mechanical ventilation scheme was able to prevent the transmission of noise and vibration between the appeal site and the neighbouring dwellinghouse I consider that the identified harm could be overcome. But there is insufficient evidence before me to enable me to ascertain whether this is a plausible and practical solution. ... For the reasons given above the appeal on ground (a) does not succeed and planning permission is refused on the deemed application ... <b>Ground (f) appeal ...</b> In this case the steps require discontinuance of the use and therefore it seeks to remedy the non-compliance with condition 8 of the Permission.</p>	

I consider that no lesser steps would secure compliance with the purpose of the notice. ... I conclude that the requirements of the notice are not excessive and the ground (f) appeal does not succeed. ... **Ground (g) appeal** ... I have balanced competing interests. The private interest of the Appellant in running a business and the public interest in bringing the identified harm to an end without unnecessary delay. The steps required by the notice are not specialist or complex but I recognise the planning necessary to mitigate any adverse impact on customers. I therefore find that six months strikes an appropriate balance and I shall amend the notice accordingly. ... **Formal Decision** ... The appeal is allowed on ground (g) and it is directed that the enforcement notice be varied by the substitution of 6 months as the period for compliance. Subject to this variation the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

[18/01578/FUL](#)

Loxwood Parish

Case Officer: Robert Sims

**Written Representation**

Land East Of Lady Lea House Brewhurst Lane Loxwood  
RH14 0RJ - Demolition of storage outbuilding and erection  
of detached three bedroom dwelling.

#### **Appeal Decision: APPEAL DISMISSED**

In this respect, whilst I acknowledge that the current building may not be suitable for some forms of commercial operation, the general comments provided by the Appellant with regards to whether the building and land would be attractive for other commercial enterprises is not, in my view, sufficient evidence to demonstrate that the site is no longer required or would be unlikely to be re-used or redeveloped for employment purposes. Furthermore, there is no evidence before me which demonstrates that the current use of the site is unviable. ... Consequently, the proposed development would conflict with Policies 2 and 26 of the Local Plan which seek to safeguard existing employment sites. For the same reasons, the proposal would not accord with the provision of the Framework with regards to supporting a prosperous rural economy. ... Policy 45 of the Local Plan confirms that sustainable development outside of settlement boundaries will only be supported where certain criteria are all met ... this Policy also requires that in such locations proposals would be required to not prejudice other existing viable uses and, for the reasons given above on the first main issue, the proposal would result in the loss of employment land and use of the site. ... Consequently, given that the proposal would prejudice an existing viable use and would be for residential housing where it has not been demonstrated that the proposal would require a countryside setting, the appeal scheme would conflict with Policy 45 of the Local Plan and subsequently would not accord with Policy 2 of the Local Plan. This conflict with the development plan weighs against the appeal scheme. ... the potential benefits of the appeal scheme ... would be outweighed by the significant harm that would result from the loss of employment land and the conflict with the development plan when taken as a whole. ... the proposal could not be considered to be sustainable development in the terms of the Framework or in terms of Policies 2 and 45 of the Local Plan and Policy 2 of the Neighbourhood Plan, for which there is a presumption in favour of.

<p><a href="#"><u>19/01106/PLD</u></a> Sidlesham Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Written Representation</b></p>	<p>62 Street End Lane Sidlesham PO20 7RG - Proposed lawful development certificate for all or any of those operations specified in the attached schedule of proposed works within the site edged red on the location plan (TQRQM18256171349316).</p>
<p align="center"><b>Appeal Decision: APPEAL - NO FURTHER ACTION</b></p> <p>Thank you for your Lawful Development Certificate Appeal. The original applicant was Mr J Ayling and the appeal was made in the name of Mr Paul Collins, the right of appeal is given only to the original applicant. As the appeal was not made in the name of the original applicant, we are unable to accept the appeal and we are unable to take any action on it. I am sending a copy of this letter to the local planning authority.</p>	
<p><a href="#"><u>18/00808/FUL</u></a> Tangmere Parish</p> <p>Case Officer: Steve Harris</p> <p><b>Written Representation</b></p>	<p>Land West Of Little Paddocks City Fields Way Tangmere West Sussex - Erection of 39 dwellings, open space, landscaping and access road.</p>
<p align="center"><b>Appeal Decision: APPEAL WITHDRAWN</b></p> <p>We have received a letter from the appellant requesting the above appeal is withdrawn. This has now been completed. I confirm no further action will be taken.</p>	

<p><u>17/00403/CONENG</u> Westbourne Parish</p> <p>Case Officer: Tara Lang</p> <p><b>Written Representation</b></p>	<p>Land South West Of Racton View Marlpit Lane Hambrook Westbourne West Sussex - Appeal against erection of walls and gates over 1m in height adjacent to the highway. WE/46</p>
<p align="center"><b>Appeal Decision: APPEAL DISMISSED</b></p>	
<p>The development in this case comprises fencing and an entrance gate, wing walls and piers and raised gravel banks. The Appellant argues that each element of the development is free standing and must be judged individually. I disagree. The development appears as one means of enclosure and in my opinion as a matter of fact and degree comprises a single structure providing an entrance to the site. The Appellant argues that the fencing on either side of the main gates is not adjacent to the highway as the pier walls curve around in front of them and shrubs sit in front of them. The shrubs do not provide a sufficient intervening obstruction to physically obstruct the fencing from the highway. I find as a matter of fact and degree that the enclosure as a whole defines the boundary of the property from the highway (and is perceived as such) and therefore the single means of enclosure is reasonably considered adjacent to a highway. It follows that the 1 metre threshold applies to the development as a whole. This threshold is exceeded and therefore it does not benefit from permitted development rights. ... The design, height and scale of the development is urban and formal in appearance. The solid entrance gate with its prominent fencing and solid wing walls dominates its setting. It is highly prominent from the highway and appears out of keeping with its rural setting. It stands in marked contrast to its agricultural setting and the simpler entrances found elsewhere in the locality. There is no justification before me for such an incongruous urban design. ... I have considered permitted development rights as a fallback position. But the development carried out causes significantly greater harm than any permitted development. ... I conclude as a matter of fact and degree that the development causes undue harm to the character and appearance of its rural setting. It does not accord with relevant policies in the development plan, including policy 45 of the Local Plan, or the Framework. ... I have considered whether the identified harm could be overcome by conditions. I have taken into account the Planning Practice Guidance Landscaping and planting conditions would not overcome the prominence of the structure. ... The Appellant suggests that the development could be landscaped with planting or lowered to 1 metre in height. But landscaping would not remedy the identified harm. The notice does not prevent the exercise of lawful rights nor does it remove permitted development rights.</p>	

### 3. CURRENT APPEALS

Reference/Procedure	Proposal
<p><a href="#"><u>17/00061/CONENG</u></a> Birdham Parish</p> <p>Case Officer: Emma Kierans</p> <p><b>Written Representation</b></p>	<p>Land North Of Cowdry Nursery Sidlesham Lane Birdham West Sussex - Appeal against BI/40</p>
<p><a href="#"><u>19/00196/FUL</u></a> Bosham Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Written Representation</b></p>	<p>By-The-Brook Bosham Lane Bosham PO18 8HG - Demolish 1 no. existing dwelling and erect 2 no. 2 bed dwellings and 1 no. 3 bed dwelling.</p>
<p><a href="#"><u>14/00292/CONBC</u></a> Chidham &amp; Hambrook Parish</p> <p>Case Officer: Shona Archer</p> <p><b>Informal Hearing</b></p>	<p>Paddock View Drift Lane Bosham Chichester West Sussex PO18 8PR - Appeal against CH/55</p>
<p><a href="#"><u>17/00852/FUL</u></a> Chidham &amp; Hambrook Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Informal Hearing</b></p>	<p>Paddock View Drift Lane Bosham Chichester PO18 8PR - Variation of condition 2 from planning permission CH/12/01036/FUL, appeal ref APP/L3815/A/12/2179869. To make the permission permanent.</p>

<a href="#"><u>17/00374/CONCOM</u></a> Donnington Parish  Case Officer: Emma Kierans  <b>Written Representation</b>	Southend Farm Selsey Road Donnington Chichester West Sussex PO20 7PS - Appeal against D/8
<a href="#"><u>18/03126/FUL</u></a> Donnington Parish  Case Officer: Robert Sims  <b>Written Representation</b>	Louene 34 Birdham Road Donnington PO19 8TD - 1 no. dwelling and associated work.
<a href="#"><u>19/01036/OUT</u></a> East Wittering And Bracklesham Parish  Case Officer: Maria Tomlinson  <b>Written Representation</b>	Land To North Of 20 Wessex Avenue East Wittering Chichester West Sussex PO20 8NP - Outline planning application some matters reserved (access) - Erection of 1 no bungalow.
<a href="#"><u>17/02563/DOM</u></a> Fernhurst Parish  Case Officer: James Gellini  <b>Written Representation</b>	Stedlands Farm Bell Vale Lane Fernhurst GU27 3DJ - Proposed two storey rear extension.



<a href="#"><u>17/02564/LBC</u></a> Fernhurst Parish  Case Officer: James Gellini  <b>Written Representation</b>	Stedlands Farm Bell Vale Lane Fernhurst GU27 3DJ - Proposed two storey rear extension.
<a href="#"><u>18/00323/CONHI</u></a> Funtington Parish  Case Officer: Sue Payne  <b>Written Representation</b>	West Stoke Farm House Downs Road West Stoke Funtington Chichester West Sussex PO18 9BQ - Appeal against HH/22
<a href="#"><u>18/00402/FUL</u></a> Funtington Parish  Case Officer: Caitlin Boddy  <b>Public Inquiry</b>  The Vicars Hall Cathedral Cloisters Chichester PO19 1PX	Field West Of Beachlands Nursery Newells Lane West Ashling West Sussex - The use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and utility/dayrooms ancillary to that use.
<a href="#"><u>18/03255/FUL</u></a> Selsey Parish  Case Officer: James Gellini  <b>Written Representation</b>	Land Adjacent To 71 West Street Selsey Chichester West Sussex PO20 9AG - Erection of 1 no. 2 bed bungalow - resubmission of SY/18/02197/FUL.

<a href="#">18/03326/FUL</a> Selsey Parish  Case Officer: Robert Sims  <b>Written Representation</b>	17-19 Seal Road Selsey PO20 0HW - Alterations and conversion of main property into 7 no. flats and alterations and conversion of the former owners accommodation into a self contained bungalow with associated access, parking, bin and cycle storage.
<a href="#">17/02640/FUL</a> Sidlesham Parish  Case Officer: Claire Coles  <b>Informal Hearing</b>	Land At Junction Of Keynor Lane And Selsey Road Sidlesham West Sussex - Change of use of land from agricultural land for stationing of caravans for residential purposed by 3 no. gypsy-traveller families, with associated utility building, hard standing, widened gateway, landscaping and access.
<a href="#">18/01173/FUL</a> Sidlesham Parish  Case Officer: Claire Coles  <b>Informal Hearing</b>	Land South Of Recreation Grounds At Junction Of Keynor Lane Sidlesham West Sussex - Change of use of land from agricultural land for stationing of caravans for residential purposes by 3 gypsy-traveller families with facilitating development (utility buildings, hard standing, widened gateway, septic tank and landscaping).
<a href="#">18/02692/PLD</a> Sidlesham Parish  Case Officer: Caitlin Boddy  <b>Written Representation</b>	62 Street End Lane Sidlesham PO20 7RG - All or any development as permitted by Schedule 2 Part 1 Development within the curtilage of a dwelling house of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended now or in the future).

<p>* <a href="#">18/02925/FUL</a> Sidlesham Parish</p> <p>Case Officer: Maria Tomlinson</p> <p><b>Written Representation</b></p>	<p>Land South Of Telephone Exchange Selsey Road Sidlesham West Sussex - Proposed private stable block and associated hard standing. New access to the highway.</p>
<p><a href="#">19/00084/TPA</a> Sidlesham Parish</p> <p>Case Officer: Henry Whitby</p> <p><b>Informal Hearing</b></p>	<p>35 Chalk Lane Sidlesham Chichester West Sussex PO20 7LW - Fell 1 no. Black Poplar tree (T3). Reduce crown widths/spreads to 5m and heights down to 15m, sever ivy and remove deadwood on 2 no. Black Poplar trees (T4 and T5) and 1 no. Black Poplar tree (quoted as T1 - northern tree, within Group, G3). All 4 no. trees are subject to SI/86/00938/TPO.</p>
<p><a href="#">18/02976/FUL</a> Southbourne Parish</p> <p>Case Officer: Robert Sims</p> <p><b>Written Representation</b></p>	<p>Lumley Mill Lumley Road Southbourne PO10 8AQ - Proposed 1 no. dwelling and garage on foundations of the Old Mill.</p>
<p><a href="#">18/03121/DOC</a> West Wittering Parish</p> <p>Case Officer: Calum Thomas</p> <p><b>Written Representation</b></p>	<p>Rife Cottage Piggery Hall Lane West Wittering Chichester West Sussex PO20 8PZ - Discharge of condition 3 from planning permission WW/17/02506/DOM - schedule of materials.</p>

<a href="#"><u>18/03234/FUL</u></a> West Wittering Parish  Case Officer: Caitlin Boddy  <b>Written Representation</b>	Edelsten Cottage 2 Marine Drive West Wittering PO20 8HE - Demolition of single dwelling house and construction of development comprising 4 no. 2-bed flats, new access and associated works.
<a href="#"><u>17/00333/CONMHC</u></a> Westbourne Parish  Case Officer: Tara Lang  <b>Informal Hearing</b>	Home Paddock Stables Hambrook Hill North Hambrook West Sussex - Appeal against WE/44
<a href="#"><u>18/02003/FUL</u></a> Westhampnett Parish  Case Officer: Robert Sims  <b>Written Representation</b>	Greytiles Claypit Lane Westhampnett PO18 0NU - Demolition of existing garage, construction of additional dwelling and associated works, subdividing plot.

#### 4. VARIATIONS TO SECTION 106 AGREEMENTS

None.

#### 5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage

#### 6. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage
Birdham Gypsy Site	Non compliance with Enforcement Notices upheld at appeal	Evidence bundle sent to Barrister for consideration before an application for an Injunction is made to the High Court.

Court Hearings		
Site	Matter	Stage
Breach Avenue, Southbourne	Council's challenge of Inspector's decision letter	Hearing in the Court of Appeal held on 23 <sup>rd</sup> July 2019. Decision awaited.

Prosecutions		
Site	Breach	Stage

#### 7. POLICY MATTERS