

Chichester District Council Planning Committee

Wednesday 16 August 2023

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

Appeals, Court and Policy Matters

between 26-07-2023 - 15-08-2023

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
23/00770/DOM	
Donnington Parish Case Officer: Rebecca Perris Fast Track Appeal	Herongate 53 Grosvenor Road Donnington Chichester Sussex PO19 8RT Demolition of existing garage and conservatory. New single storey rear extension. First floor extension and new roof.

2. DECISIONS MADE

Reference/Procedure	Proposal
20/02066/OUT	
Birdham Parish Case Officer: Jeremy Bushell Informal Hearing	Koolbergen, Kelly's Nurseries And Bellfield Nurseries Bell Lane Birdham Chichester West Sussex PO20 7HY Outline Application with all matters reserved apart from access for the erection of up to 73 dwellings, open space and associated works, Class E(g) employment floorspace and Class E(a) retail floorspace.
Appeal Decision: APPEAL DISMISSED	
<p>" ... The proposal is not small-scale, and it is not advanced that the provision of 73 dwellings, business and retail premises, has a specific need to be in a countryside location. ... Therefore, overall, it could not be deemed to meet an essential local rural need and would conflict with Policy 45 of the CLP and Policy 15 of the NP, as a whole. ... This proposal would provide considerably more homes than the numbers planned in the CLP and NP. ... the proposal does not accord with planning policies concerned with the location of new development and the protection of the countryside. It conflicts with Policies 2 and 45 of the CLP and Policies 12, 13 and 15 of the NP. ...</p> <p><u>Horticultural Industry</u> - The area has good conditions for horticulture, it contributes significantly to the local economy and is valued in the NP area. Policy 23 of the NP gives support to the retention of all businesses related to tourism, marine, horticultural and agricultural industries against any proposals for redevelopment. ... This proposal would result in the loss of the currently active horticultural business and premises of Bellfield Nursery. ... The buildings appeared in a reasonable condition and there is no substantive evidence demonstrating significant investment is necessary to the buildings, were they to be sold- on. ... Kelly's Nurseries is understood to have ceased in 2014. ... The appellants expressed views that its size, lack of expansion space, and substantial costs and investment mean a horticultural use is not possible or viable. ... While the structures might be of some age, most appeared in reasonable condition suggesting relatively limited work may be necessary. The appeal development would be likely to result in the loss of one existing business and a second premises suitable for local businesses that Policy 23 seeks to protect and support. Given the size of the premises and business opportunities to be lost in the context of the NP area, the effect would be a significantly adverse one. ... I do not agree with the appellants that it is certain Policy 23 will fall following reviews of the NP and CLP due to the need to deliver housing. The policy was adopted to reflect local priorities and values in the NP area, having seen the loss of premises to housing and following modifications by the NP examining Inspector. ... For the reasons set out above, the proposed development would have a significantly adverse effect on local horticultural business and the local horticultural industry, in conflict with Policy 23 of the NP ...</p> <p><u>Flood Risk and drainage</u> - No FRA is provided. I am provided with a drainage statement, and consultation responses expressing no objection from the Lead Local Flood Authority (LLFA), Southern Water (SW), and the Coastal and Drainage Engineer (CDE). The responses suggest various conditions including pre- commencement conditions, to which the appellants do not object. The appellants believe I have sufficient evidence to</p>	

Appeal Decision: APPEAL DISMISSED - continued

conclude an FRA is not necessary, an acceptable solution could be found, and conditions would address matters outstanding. ... The absence of groundwater monitoring and evidence that should be provided in an FRA, means it is not demonstrated the development would provide wider sustainability benefits to the community that outweigh the level flood risk. Neither is it demonstrated the development would be safe for its lifetime taking account of the vulnerability of its users, or that flood risk will not be increased elsewhere. Therefore, the ET is not passed. ... Therefore, for the reasons set out, the proposal is not compliant with policies in respect of flood risk, and suitable provision for and maintenance of drainage infrastructure is not demonstrated. It would conflict with Policies 33 and 42 of the CLP which, in combination and amongst other things states development will only be permitted where the ET (where required) is passed, a site-specific FRA demonstrates that the development will be safe, with specific requirements including protection, resilience and resistance measures included, and adequate infrastructure can be provided. ... Paragraph 188 of the Framework states the focus of planning decisions should be on whether a proposed development is an acceptable use of land, rather than the control of processes or emissions where subject to separate pollution control regimes. Planning decisions should assume that these regimes will operate effectively. ... The proposed development would connect to the mains sewer system via a new on-site wet well and pumping station. ... I am informed there have been no sewer flooding incidents on the appeal site itself, although sewage flooding or blockage incidents have occurred at properties in the wider area over recent years. ... SW advise incidents have been caused by infiltration of pipes by water, often during times of significant precipitation. This can result the system capacity being exceeded and the need to tanker wastewater directly to STW. SW has indicated there may need to be some reinforcement to avoid an increased risk of the sewer system being overwhelmed. Work is on-going to identify the points at which infiltration occurs and to rectify this through the New Infrastructure Charge and SW's capital works programme. ... While I understand the strongly held views of residents in this regard, I conclude that sewage from the development could be adequately dealt with, would not increase pollution incidents, and in accordance with the principles set out in paragraph 188 of the Framework I see no reason it will not be effectively regulated. ...

A27 Mitigation – The A27 is operating over capacity at several locations. It is unavoidable that future occupiers would use A27 to access settlements north of it for services and facilities, so there would be effects upon the A27 directly attributable to the proposal. ... The Council informs me that due to rising costs the improvements to be funded by the SPD formula are not likely to be deliverable. A study¹⁴ (the CTS) to inform (amongst others) Policy T1 of the DCLP identifies a new package of measures that it states are the minimum necessary to increase capacity. ... reduce congestion and improve safety on the A27. It sets out the level of contributions based upon mitigating the effects of 3,351 new dwellings over DCLP period. Applying this formula, the proposal should provide £556,416. ... The CTS apportions percentages of trip growth to new development within the Council area which would be expected to contribute to scheme mitigation. However, the CTS is not part of the development plan, it is not an adopted SPD, and Policy T1 is yet to be found sound. I am informed NH has been part of the CTS and DCLP process. However, while it appears they have discussed and agreed to many aspects of the CTS, it is not clear from it that NH has agreed to the new costings. ... Despite the opportunity to respond to this appeal, NH has not done so, or sought an increased contribution in-line with the Council's expectations. ... Therefore, in the absence of clear confirmation from NH of agreement that the new costings are necessary, I cannot be certain the level sought by the Council is necessary. While I am informed by the Council that NH do not collect the funding, the Council are not the statutory body for the A27. Therefore, in the absence of NH confirmation to the contrary, it appears appropriate the payment should be made to NH. ...

Appeal Decision: APPEAL DISMISSED - continued

Conclusion - Overall, the magnitude of the harm and the degree of policy conflicts are such that overall, these outweigh the benefits. In light of my findings the proposal is also in conflict with Policy 1 of the CLP and paragraphs 11, 12 and 47 of the Framework, ... For the reasons set out above, the proposal is contrary to the development plan taken as a whole. ...”

COST DECISION – “The application for an award of costs is allowed in part. ... The Council had a very limited amount of evidence upon which to consider the ability to provide a maintenance buffer to the ditch. From the evidence before me it was not unreasonable to defer the decision to seek clarification upon certain matters. However, it is not clear why, if the buffer did need to be greater than suggested on the indicative plans, the quantum and configuration of development could not be provided on the site given the scope for considering design and layout at the reserved matters stage. ... Moreover, the Lead Local Flood Authority has in certain circumstances accepted lesser distances, so it may not even be necessary to provide the full 3m buffer. Therefore, in respect of the third reason for refusal, the Council has not adequately justified its position and I find it has behaved unreasonably and resulted in unnecessary or wasted expense incurred in the appeal process. ... The Members were advised in officer reports it is the statutory duty of SW to ensure that off-site foul drainage infrastructure is fit for purpose. A representative of SW attended a committee meeting and SW did not object to the proposal. Members were advised that the matter could be addressed by planning conditions in respect of phasing, and that any failings of SW are to be addressed under the Water Industry Act 1991 with recourse to OFWAT. ... The Council has not set out substantive evidence to me that demonstrates such an approach is incorrect. Therefore, in respect of the fourth reason for refusal, the Council has behaved unreasonably and resulted in unnecessary or wasted expense being incurred by the appellant in the appeal process ...”

Reference/Procedure	Proposal
20/03164/FUL	
<p>Westbourne Parish Case Officer: Calum Thomas Informal Hearings</p>	<p>Land East Of Monk Hill Monks Hill Westbourne West</p> <p>Change of use of land to 1 no. private gypsy and traveller caravan site consisting of 1 no. mobile home, 1 no. touring caravan, 1 no. utility dayroom and associated development.</p>
Appeal Decision: APPEAL ALLOWED	
<p>... The GTAA estimates a total net need for the provision of 94 pitches in the period 2018-2036. ... the Council accepts it cannot demonstrate a five year supply ... A new Local Plan is under preparation which, the Council witness indicated, would set out a strategy for responding to the identified need for gypsy and traveller accommodation. The unmet need for gypsy & traveller sites within the Chichester district is a matter to which I ascribe considerable weight. ... The site can be glimpsed from a public footpath that lies close to the SDNP, although it is proposed that native hedgerow be planted on the site's eastern boundary which will perform a screening function to this end. The Westbourne Neighbourhood Plan ... says that the development of further sites in the Westbourne area for gypsy and traveller purposes would be 'premature and disproportionate for Westbourne'. ... there are now some 45 pitches in Westbourne, which represents approximately 22% of all existing pitches in the Chichester District ... The stated figure and percentage may be the case, although I note that the NP is incorrect in stating that the Council is able to demonstrate a five year land supply for gypsy and traveller pitches. ... Allowing the current appeal ... would result in some degree of harm to the character of the landscape, but I consider this more to do with a perception from change. ... this would not be significant and, as such, with little visual intrusion, I consider that the development is not significantly harmful to the surrounding rural character. ... Given the absence of available gypsy sites in the borough it is hardly surprising that no viable alternative accommodation has been suggested that might be suitable. ... The lack of alternative sites is therefore a consideration that weighs in favour of the appellants. It is clear that the shortfall of gypsy and traveller sites is significant. Accordingly, a settled base, rather than a roadside existence, can only be beneficial, and I consider that the development provides suitable accommodation consistent with this.... "</p>	

3. IN PROGRESS

Reference/Procedure	Proposal
<u>* 21/01830/OUT</u>	
Birdham Parish Case Officer: Andrew Robbins Public Inquiry 12-14 and 19-21 Sep-2023 Oaklands Pavilion	Land Off Main Road Birdham Chichester West Sussex PO20 7HU Outline planning application for up to 150 dwellings (including 30% affordable housing) with community park, public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access.
<u>* 21/00571/FUL</u>	
Bosham Parish Case Officer: Jeremy Bushell Public Inquiry 03-06 and 10-11 Oct-2023 Emsworth Baptist Church North Street Emsworth PO10 7BY	Land North of Highgrove Farm Main Road Bosham West Sussex Construction of 300 dwellings (including 90 affordable dwellings), community hall, public open space, associated works and 2 no. accesses from the A259 (one temporary for construction).
<u>20/00040/CONENG</u>	
Chichester Parish Case Officer: Mr Michael Coates-Evans Written Representation	Land North West of Newbridge Farm Salthill Road Fishbourne West Sussex Appeal against CC/154
<u>20/03320/OUTEIA</u>	
Chidham & Hambrook Parish Case Officer: Jane Thatcher Public Inquiry	Land East Of Broad Road Broad Road Nutbourne West Sussex Outline planning application (with all matters reserved except access) for up to 132 dwellings and provision of associated infrastructure.
<u>20/03321/OUTEIA</u>	
Chidham & Hambrook Parish Case Officer: Jane Thatcher	Land North Of A259 Flat Farm Main Road Chidham West Sussex Outline planning application (with all matters reserved except access) for up to 68 no. dwellings and provision of associated infrastructure.

Reference/Procedure	Proposal
<u>20/03378/OUT</u>	
Chidham & Hambrook Parish Case Officer: Andrew Robbins	Land At Flat Farm Hambrook West Sussex PO18 8FT Outline Planning Permission With Some Matters Reserved (Access) - Erection of 30 dwellings comprising 21 market and 9 affordable homes, access and associated works including the provision of swales.
<u>* 21/02303/OUT</u>	
Chidham & Hambrook Parish Case Officer: Calum Thomas Written Representation	Caravan And Camping Site Orchard Farm Drift Lane Bosham Chichester West Sussex PO18 8PP Outline Application (with all matter reserved accept Access) for the demolition of caravan repair building, cessation of use of land for caravan storage and removal of hardstandings and erection of 1no 4bed, 3no 3 bed, 4no 2bed and 1no 1 bed bungalows.
<u>* 21/02361/FUL</u>	
Chidham & Hambrook Parish Case Officer: Jane Thatcher Written Representation	Cockleberry Farm Main Road Bosham Chichester West Sussex PO18 8PN Demolition of existing warehouse buildings, B8 container storage, residential caravans/park homes and stables and the erection of 9 no. dwellings and associated works including landscaping and access alterations.
<u>22/02589/DOM</u>	
Earnley Parish Case Officer: Emma Kierans Fast Track Appeal	Sandalwood Almodington Lane Almodington Earnley West Sussex PO20 7JX Proposed two storey rear and first floor side extension and associated alterations.
<u>22/01366/FUL</u>	
East Wittering And Bracklesham Parish Case Officer: Calum Thomas Written Representation	Land To Rear Of Co-Op Store Bracklesham Lane Bracklesham Bay West Sussex 1 no. detached dwelling (plot 1).

Reference/Procedure	Proposal
<u>22/01367/FUL</u>	
East Wittering And Bracklesham Parish Case Officer: Calum Thomas Written Representation	Land To Rear Of Co-Op Store Bracklesham Lane Bracklesham Bay West Sussex 1 no. dwelling.
<u>21/02428/FUL</u>	
Linchmere Parish Case Officer: Calum Thomas Written Representation	Land North Of 1 To 16 Sturt Avenue Camelsdale Linchmere West Sussex GU27 3SJ 9 no. new dwelling houses and 9 no. carports/studios with associated access, infrastructure, parking and landscaping.
<u>22/01593/FUL</u>	
Linchmere Parish Case Officer: Calum Thomas Written Representation	Land North Of 1 To 16 Sturt Avenue Camelsdale Linchmere West Sussex GU27 3SJ New bridge access.
<u>19/01400/FUL</u>	
Loxwood Parish Case Officer: Martin Mew Written Representation	Moores Cottage Loxwood Road Alfold Bars Loxwood Billingshurst West Sussex RH14 0QS Erection of a detached dwelling following demolition of free-standing garage.
<u>* 21/02849/FUL</u>	
Loxwood Parish Case Officer: Calum Thomas Written Representation	Land South West Of Willets Way Willetts Way Loxwood West Sussex 5 no. residential dwellings, vehicular and pedestrian access and hard and soft landscaping.
<u>22/00470/PA3Q</u>	
Loxwood Parish Case Officer: Sascha Haigh Written Representation	Mill House Farm Drungewick Lane Loxwood Billingshurst West Sussex RH14 0RS Proposed change of use from agricultural buildings to 4 dwellings - (C3 Use class); Class Q (a).

Reference/Procedure	Proposal
<u>22/00637/PA3Q</u>	
Loxwood Parish Case Officer: Sascha Haigh Written Representation	Mill House Farm Drungewick Lane Loxwood Billingshurst West Sussex RH14 0RS Proposed change of use from agricultural building to 1 dwelling - (C3 Use class).
<u>22/01565/ELD</u>	
Loxwood Parish Case Officer: Emma Kierans Informal Hearings	Loxwood Farm Brewhurst Lane Loxwood West Sussex RH14 0RJ Existing lawful development use of land as garden curtilage.
<u>22/01003/FUL</u>	
Oving Parish Case Officer: Joanne Prichard Written Representation	Littlemead Business Centre, S & R Interiors Limited Tangmere Road Tangmere West Sussex PO20 2EU Two storey rear extension employing class uses E(g)(iii) and B8 Ground Floor with ancillary offices on first floor
<u>21/01697/PA3Q</u>	
Plaistow And Ifold Parish Case Officer: Rebecca Perris Written Representation	Premier Treecare & Conservation Ltd Oxencroft Ifold Bridge Lane Ifold Loxwood Billingshurst West Sussex RH14 0UJ Prior notification for the change of use of agricultural buildings to 1 no. dwelling (C3 Use Class) with alterations
<u>20/00414/CONHH</u>	
Plaistow And Ifold Parish Case Officer: Sue Payne Public Inquiry	Oxencroft Ifold Bridge Lane Ifold Loxwood Billingshurst West Sussex RH14 0UJ Appeal against Enforcement Notice PS/71.
<u>22/01038/PA3Q</u>	
Sidlesham Parish Case Officer: Sascha Haigh Written Representation	Butskiln Street End Road Sidlesham Chichester West Sussex PO20 7QD Change of use of agricultural building to form 1 no. dwelling (Use Class C3) and associated operational development.

Reference/Procedure	Proposal
<u>20/02077/FUL</u>	
Southbourne Parish Case Officer: Martin Mew Written Representation	Marina Farm Thorney Road Southbourne Emsworth Hampshire PO10 8BZ Redevelopment of previously developed land. Removal of existing 5 no. buildings. Proposed 1 no. dwelling.
<u>* 22/01283/FULEIA</u>	
Southbourne Parish Case Officer: Jane Thatcher Public Inquiry	G And R Harris Main Road Nutbourne Chichester West Sussex PO18 8RL Demolition and mixed use development comprising 103 no. dwellings and a Childrens' Nursery, together with associated access, parking, landscaping (including provision of wildlife corridor) and associated works.
<u>19/00103/CONCOU</u>	
Southbourne Parish Case Officer: Mr Michael Coates-Evans Written Representation	Thornham Marina Thornham Lane Southbourne Emsworth Hampshire PO10 8DD Appeal against SB/124
<u>21/00051/FUL</u>	
Westbourne Parish Case Officer: Calum Thomas Written Representation	The Stables Cemetery Lane Woodmancote Westbourne PO10 8QB Increase number of permitted caravans from 1 no. static and 1 no. tourer to 2 no. static and 2 no. tourers and retention of stable block.
<u>19/00176/CONT</u>	
Westbourne Parish Case Officer: Shona Archer Fast Track Appeal	4 The Paddocks Common Road Hambrook Westbourne Chichester West Sussex PO18 8UP Appeal against Enforcement Notice WE/55 - removal of TPO'd trees without an application for tree works.
<u>23/00076/CONCOU</u>	
Westbourne Parish Case Officer: Andrew George Written Representation	Southleigh Park Estate The Woodlands Marlpit Lane Hambrook Westbourne Emsworth West Sussex PO10 8EQ Appeal against WE/61

Reference/Procedure	Proposal
<u>23/00076/CONCOU</u>	
Westbourne Parish Case Officer: Andrew George Written Representation	Southleigh Park Estate The Woodlands Marlpit Lane Hambrook Westbourne Emsworth West Sussex PO10 8EQ Appeal against WE/60
<u>22/02269/DOM</u>	
Westhampnett Parish Case Officer: Freya Divey Fast Track Appeal	Pampas Cottage Claypit Lane Westhampnett West Sussex PO18 0NU Front boundary wall and gates.
<u>21/03135/FUL</u>	
Wisborough Green Parish Case Officer: Calum Thomas Written Representation	Land Adjacent To 1 Newfields Newpound Wisborough Green RH14 0AX Change use of land to private gypsy and traveller caravan site consisting of 1 no. pitch.

4. VARIATIONS TO SECTION 106 AGREEMENTS

None

5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage

6. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage
Birdham	Of 4 Enforcement Notices	Contempt of Court Proceedings. Hearing at the High Court on 20 & 21 December

Court Hearings		
Site	Matter	Stage

Prosecutions		
Site	Breach	Stage
Crouchlands – Lagoon 3	Of Enforcement Notice	Trial at Horsham Magistrates' Court on 23 August 2023
Farmfield Nurseries	Of Enforcement Notice	Trial date requested from court as previous date given clashes with another trial
82a Fletchers Lane	Of Enforcement Notice	Matter adjourned to 28 November due to 2 out of 3 Defendants not at court and due to lack of court time. All 3 Defendants to attend on next occasion.
Land at Home Paddock Stables	Of Enforcement Notice	First hearing listed on 12 September. All papers served.
Land South of the Stables	Of Enforcement Notice	Court chased. Waiting to hear from them with a new date further to defendant requesting an adjournment.

7. POLICY MATTERS