

Chichester District Council

Planning Committee

Wednesday 7 December 2016

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).

- WR – Written Representation Appeal
- H – Hearing
- I – Inquiry
- FT – Fast Track (Householder/Commercial Appeals)
- () – Case Officer Initials
- * – Committee level decision

1. NEW APPEALS

Reference/Procedure	Proposal
SDNP/16/01778/HOUS EASEBOURNE WR (J Shore)	Callian Cottage, Dodsley Lane, Easebourne, GU29 9AS - Proposed side and rear single storey extension and new porch to side elevation.
EWB/16/00311/FUL WR (J Cross)	22 Seafeld Close, East Wittering, West Sussex, PO20 8DP - Conversion of 1 no. single storey detached dwelling to form 2 no. 2 storey semi-detached dwellings, including demolition of existing garage and outbuildings. LINKED TO EWB/16/01793/8DOM
EWB/16/01638/DOM WR (M Tomlinson)	Offshore, 5 Tamarisk Walk, East Wittering, Chichester, West Sussex, PO20 8DQ - Amendment to planning application 16/00677/DOM - narrow balcony to rear elevation.

Reference/Procedure	Proposal
EWB/16/01793/DOM WR (J Cross)	22 Seafeld Close, East Wittering, West Sussex, PO20 8DP - Demolition of garage and outbuildings, extension and loft conversion to bungalow. LINKED TO EWB/16/00311/FUL
SDNP/16/01496/HOUS GRAFFHAM WR (J Shore)	The Dower House, Graffham Street, Graffham, GU28 0NP - Single storey side extension.
SDNP/16/00711/HOUS HEYSHOTT WR (B Stubbington)	Hoyle Farm, Hoyle Lane, Heyshott, West Sussex, GU29 0DY - Construction of hazel hurdle fence adjacent to highway.
HN/16/01665/OUT WR (M Tomlinson)	Streamside, 1 St Leodegars Way, Hunston, PO20 1PE - Outline application for the erection of 1 no. 3 bedroom dwelling.
SDNP/16/00067/HOUS KIRDFORD WR (S Archer)	Roundwoods, Croucham Lane, Kirdford, Billingshurst, West Sussex, RH14 0LL - A two storey extension to rear of house and front studio extension with south facing dormer window.
SY/16/02420/DOM WR (P Hunt)	Alkerton House, 58 James Street, Selsey, PO20 0JG - Proposed first floor extension over side extension of permitted application 15/02712/DOM.
WE/16/01529/FUL WR (C Boddy)	The Meadow, Cemetery Lane, Woodmancote, Westbourne West Sussex - Use of land as a single pitch private gypsy plot. Resubmission of WE/15/01114/FUL.

2. DECISIONS RECEIVED

Reference/Decision	
LX/15/03623/PA3Q WR (F Stevens) Dismissed	Mallards Farm Buildings, Guildford Road, Loxwood, West Sussex, RH14 0QW - Part 3 Class Q application for prior approval. Change of use from agricultural building to dwelling (C3 Use class).
<p>“The appellant's case is supported by the sworn statement of Lucy Fisher (LF) dated 21 January 2016. LF says that Mallards Farm was used for agricultural purposes and an income was obtained from it in the period 1996-2014, and that the building was in use for agriculture during that period. However, in a sworn statement dated 13 December 2011, the then owner Freda Fisher (FF) had described the use of Mallards Farm as being for private equestrian purposes since 1995. She stated that, at the time, such use still subsisted. Only in the subsequent paragraphs of her statement did FF go on to describe in detail the use of the buildings and land included in application reference LX/11/05487/ELD, made under Section 191 of the Act. Consequently, whilst I have considered LF's comments on FF's statement, it seems to me that FF was initially referring to all of Mallards Farm, including the appeal site, and not just the red line area of the above application. LF's evidence is therefore inconsistent with that of FF.</p> <p>Mrs Sherring (MS) describes the use of Mallards Farm as being mainly for equestrian purposes, with little agricultural activity, in the period between 1998 and 2014. LF's statement refers to estate agent particulars which she says describe the building as a 'former sow yard'. However, her statement does not contain further details that would support her recollection of the agricultural use of Mallards Farm during the period her parents owned the farm. In particular, no details such as extracts from the annual business accounts, livestock movement records and details of contracts with suppliers or purchasers, have been submitted to support the claim of an agricultural business being operated from Mallards Farm during the period she refers to. It would not be unusual to expect that such records would be kept in respect of an agricultural business operating over such a long period and that they might be still available to be produced to support the appellant's claim. On 23 May 2014, a Council officer noted that 'the buildings' clearly remained in equestrian use. He did not distinguish between the use of the building and the adjacent stables as he might have done, had the former obviously been in an agricultural use at that time. Moreover, at her visit on 20 November 2015 a Council officer noted horse blankets and tack, both consistent with an equestrian use, stored within the building. One of the PC's photographs, which I understand were taken in December 2015, shows the building being used to store non-agricultural items. One of the photographs supplied in representations made on behalf of Dr and Mrs Drummond shows indiscriminate external storage taking place outside the building circa 2014. The above evidence all post-dates 20 March 2013. Even so, when taken with FF's statement describing events at Mallards Farm up to December 2011, there is little evidence to suggest that any significant change in activities had taken place at the appeal site between that date and the present. I accept that in accordance with the principles set out in Burdle3, the equestrian and agricultural activities at Mallards Farm could have formed part of separate planning units... dependent on their scale relative to one another, all of those activities could equally have been consistent with a primary use of Mallards Farm for equestrian purposes or as a mixed use for equestrian/agricultural purposes. Similarly, if the use of the building, which as noted above is interconnected with the stables, had been to store hay, plant and machinery in connection with maintenance of the holding as LF recalls, this could also be consistent with a use associated either with an equestrian or a mixed equestrian/agricultural planning unit. No further details have been provided of the respective activities by which it would be possible to ascertain what the primary use of Mallards Farm was during the period described by LF. Consequently, whilst I have taken the contents of LF's statement into</p>	

account, much of the other evidence available points towards the appeal site being used either for purposes ancillary to an equestrian use or possibly a mixed equestrian/agricultural use, during the period she describes. In the absence of more detailed evidence which would indicate otherwise, I therefore consider it probable that the appeal site could have formed part of an equestrian or mixed equestrian/agricultural planning unit on 20 March 2013. I find that the appellant's evidence is not sufficiently clear or precise to demonstrate that, on the balance of probability, the appeal site was used solely for agriculture as part of an agricultural unit on 20 March 2013. Consequently, on the basis of the evidence before me I cannot conclude that the proposal complies with limitation Q.1 (a) (i). The Council did not find any other breach of the limitations at Q.1 (b)-(m) of Class Q. In my own assessment, I found no reason to disagree with the Council's findings in respect of these matters or in relation to the matters listed at Q.2 (1) (a)-(f). The Council received the application on 30 October 2015 and prior approval was refused 29 January 2016. I am aware that the Council agreed an extension of the time it had to determine the application with the appellant. The Council says that it determined the application within the extended time period. ...under the GPDO at Part 3, W. (11) (c), the Council has to have given notice that the application was refused within 56 days of its receipt. I note that Article 34 (2) (c) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 provides for the Council and an applicant to agree an extension of time in which to determine planning applications. Even so, there is no equivalent statutory provision within the GPDO for the parties to agree an extension of time in respect of an application for prior approval made under Part 3. Consequently, the application was determined outside of the 56-day period prescribed in the GPDO. Therefore, in accordance with the principles set out in Murrell⁵, if the proposal had otherwise been in accordance with the scope of permitted development, prior approval would have been deemed to be granted. However, for the reason set out above the proposal does not fall within the scope of permitted development and as a result, the determination of the application out of time by the Council has no bearing on the outcome of the appeal.”

3. OUTSTANDING APPEALS

Reference/Status	Proposal
BI/15/00139/CONSH PI (S Archer) In Progress 7 th – 9 th February 2017 Venue to be confirmed	Land North West Of Premier Business Park, Birdham Road Birdham, West Sussex – Access track, hardstanding and fencing. Linked to BI/15/01288/FUL and BI/15/00194/CONTRV
BI/15/00194/CONTRV PI (S Archer) In Progress 7 th – 9 th February 2017 Venue to be confirmed	Land North West of Premier Business Park Birdham Road Birdham, West Sussex - Use of land as a Traveller Site. Linked to BI/15/01288/FUL and BI/15/00139/CONSH
BI/15/01288/FUL PI (S Archer) In Progress 7 th - 9 th February 2017 Venue to be confirmed	Land north west of Premier Business Park, Birdham Road Birdham, West Sussex PO20 7BU - Proposed single pitch site including the provision of a utility building for settled gypsy accommodation together with existing stables. Linked to BI/15/00194/CONTRV and BI/15/00139/CONSH

Reference/Status	Proposal
SDNP/14/04865/FUL BURY I (D Price) In Progress 8-9 th December 2016 Bury Village Hall	Land North of Junction with B2138 Bury Road Bury West Sussex - Change of use from agricultural land to a Gypsy and Traveller's site. Linked to SDNP/15/00336/COU .
SDNP/15/00336/COU BURY I (R Hawks) In Progress 8-9 th December 2016 Bury Village Hall	Land North of Junction with B2138 Bury Road Bury West Sussex - Stationing of two caravans for human habitation. Appeal against enforcement notice Linked to SDNP/14/04865/FUL
CC/15/00409/CONBC WR (S Archer) In Progress	3 Pound Farm Road, Chichester, West Sussex, PO19 7PX - Residential occupation of games room. Appeal against enforcement notice.
CC/15/03923/FUL WR (M Tomlinson) In Progress	25A Chapel Street, Chichester, West Sussex, PO19 1BT - To replace 6 no. windows with UPVC units.
CC/15/04197/DOM WR (H Chowdhury) Awaiting Decision	39 Ormonde Avenue, Chichester PO19 7UX – Proposed Conservatory
CH/16/02071/FUL WR (R Ballam) In Progress	Land South Of Kings Meadow, Broad Road, Hambrook, Chidham, West Sussex - Revised house type on Plot 30 with attached single garage and drive, access onto Broad Road.
E/14/00118/CONCOU H (R Hawks) Awaiting Decision	Marsh Farm Barn, Drove Lane, Earnley, Chichester, West Sussex, PO20 7JW - Formation of new planning unit/caravan site. DECIDED!! Appeal allowed.
FU/15/02504/FUL H (K Rawlins) Awaiting Decision	Land South Of The Stables, Scant Road East, Hambrook, West Sussex, PO18 8UB - Change of use of land from equestrian use to half equestrian and residential gypsy and traveller site with the erection of barn and 2 no. stable building
SDNP/15/03829/CND HARTING WR (J Shore) In Progress	Copper Beeches Torberry Farm, B2146 Ditcham Lane to Hurst Mill Lane, Hurst, South Harting, Petersfield, West Sussex, GU31 5RG - Variation of condition 1 of permission HT/02/69. To remove agricultural occupancy from Copper Beeches, Torberry Farm.

Reference/Status	Proposal
HN/16/00607/LBC WR (M Tomlinson) In Progress	Spire Cottage, Church Lane, Hunston, Chichester West Sussex, PO20 1AJ - Replacement timber windows at first floor level, with timber glazed doors and clear glass screens.
SDNP/16/00382/HOUS LAVANT WR (J Shore) In Progress	29 Northside, Mid Lavant, Chichester West Sussex, PO18 0BX - Retention of arctic cabin.
LX/15/00498/ELD I (C Boddy) Awaiting Decision	Beech Farm, Roundstreet Common, Loxwood, Wisborough Green, West Sussex, RH14 0AN. - The siting of a mobile home for the purposes of human habitation independently to Beech Farm House
PS/13/00015/CONCOU I (R Hawks) In Progress 25 th -28 th April & 3 rd -4 th May 2017	Crouchlands Farm, Rickmans Lane, Plaistow, Billingshurst West Sussex, RH14 0LE. Use of anaerobic digestion tanks and equipment for importation of waste and export of biomethane. Construction of a digestate lagoon without planning permission. Appeal against enforcement notice. Linked to s78 appeal against refusal of planning permission by WSCC.
PS/16/00562/PLD WR (H Chowdhury) In Progress	Newhouse Farm, Shillinglee Road, Shillinglee, Northchapel GU8 4SZ - Construction of single storey outbuilding to be used for purposes incidental to the enjoyment of the dwelling.
SY/14/00304/CONHH WR (S Pattie) In Progress	100 Beach Road, Selsey, Chichester, West Sussex PO20 0SZ - Erection of a fence adjacent to the highway. Appeal against enforcement notice.
SY/15/00371/CONCOU H (R Hawks) In Progress	East Beach Evangelical Church, 6 Marisfield Place, Selsey, Chichester, West Sussex PO20 0PD - Stationing of a portacabin. Appeal against enforcement notice.
WH/15/04038/FUL H (F Stevens) Awaiting Decision	Land North Of March Primary School, Claypit Lane, Westhampnett, West Sussex - Erection of two storey detached dwelling house and detached single storey double car port with attached storage.

Reference/Status	Proposal
WI/16/01558/FUL WR (M Tomlinson) In Progress	Church Farm, Itchenor Road, West Itchenor, PO20 7DL - Modify and relocate permitted log store/boathouse (WI/15/03736/DOM) to location within goose pen to rear of property.
SDNP/14/04141/FUL WISBOROUGH GREEN WR (D Price) In Progress	Stroods, Strood Green, Wisborough Green, Billingshurst RH14 0HL - Partial removal of low level boundary wall, retention of remainder of wall and relocation of tennis court. Retention of greenhouse and vegetable patch and removal of patio area and post and rail fence. New post and rail fence to tennis court.

4. VARIATIONS TO SECTION 106 AGREEMENTS

Maudlin Nursery Hanging Basket Centre, Stane Street, Westhampnett.

Outline planning permission was granted for the development of the site to comprise 100 residential units and associated public open space, village hall, village green and a restaurant/ public house with associated landscaping, access and car parking and amenity space (WH/12/02360/OUT). The planning permission was accompanied by a S106 Agreement which, amongst other things, required provision of 40% affordable housing.

A Reserved Matters Application was approved in December 2015 (WH/15/01695/REM) for 99 homes and retention of the existing dwelling. Following the grant of permission, the Council received a request to vary the S106 Agreement such that the affordable housing tenures were altered without reducing the number of affordable housing units provided (still 40%). The amendment results in a change in tenure split from 70/30 affordable rented units and intermediate housing to a 50/50 tenure split. The Council's Housing Enabling Officer raised no objection to the proposal as, following the rent reductions for Affordable Housing providers, the delivery of the original tenure split for the affordable housing units would be unaffordable. The Housing Enabling Officer concluded that she was satisfied that the affordable mix, numbers and tenure as proposed were acceptable and met the Council's SHMA requirements.

A further change was also made to the wording of the clause as the original S106 Agreement was based on the delivery of 100 homes whereas 99 will, in fact now be constructed. This required the payment of a commuted sum.

Accordingly a written variation of the clause to the affordable housing tenure splits and addition for the payment of a commuted sum was agreed.

5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage
NONE		

COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage
Birdham Farm	Breach of Enforcement Notices and Stop Notices	Court Orders will be served on all defendants in person with notification that we reserve the option to have the case re-opened at court before April 2017 after the Planning Inspectorate matter is concluded. Date for the public Inquiry is February 2017. Counsel instructed.

Prosecutions		
Site	Breach	Stage
Nell Ball Farm (Mr & Mrs Cozens-Smith)	Breach of Enforcement Notices x 3	First court hearing at Worthing Magistrates' Court on 7 October 2016. Defendant has requested an adjournment, now awaiting a new court date.

Prosecutions		
Site	Breach	Stage
1 The Quell Cottages	Breach of Listed Building Consent and Planning permission	Prosecution in progress against the owners and building Project Manager

Prosecutions		
Site	Breach	Stage
Paradise Lane	s. 215 of the Town and Country etc. Act 1990	Appeal Hearing on 26 October 2016. Appeal upheld on all 4 grounds. Costs ordered of £3,873.

7. POLICY MATTERS

NONE