

Chichester District Council

Planning Committee

Wednesday 13 June 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
* <u>17/01712/FUL</u> Chichester Parish Case Officer: Rob Sims Written Representation	Whyke Lodge Residential Care Home 115 Whyke Road Chichester West Sussex PO19 8JG - 6 no. dwellings.
<u>17/02162/FUL</u> Loxwood Parish Case Officer: Caitlin Boddy Written Representation	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.

2. DECISIONS MADE

Reference/Procedure	Proposal
SDNP/17/01998/FUL Bury Parish Case Officer: Derek Price Written Representation	Arun Cottage The Street Bury RH20 1PA - Demolition of existing dwelling and erection of replacement dwelling with associated landscape design.
Appeal Decision: APPEAL ALLOWED	
<p>The appeal results from the Authority's failure to determine the planning application within the prescribed period. I note the assessment and conclusions submitted in the Authority's report to Planning Committee dated 17 January 2018 and the related minutes of that meeting. I have treated this as the basis of the decision the Authority would have made, had it been empowered to do so. The application has been subject to revisions during the course of consideration by the Authority. The associated amended plans were before the Authority at the time of its Committee resolution. And I have determined the appeal on that basis. I conclude that the proposed development would be an appropriate form of development in this location, having regard to relevant local planning policies, including saved Policy H12 of the CDLP and emerging BNDP Policy 4. I note that emerging Policy SD30 proposes net increase restrictions for replacement dwellings outside settlement boundaries. However, the draft SDLP has not yet been examined and it therefore attracts very little weight in this appeal. The new dwelling would be significantly larger than the existing bungalow. However, this is not currently expressly precluded by relevant local planning policies. Moreover, the proposed design and materials take reference from the local area and the history of the site, and the building would be partly set down, which would limit its overall prominence in the landscape. While it would be visible from various public viewpoints, including the adjacent public right of way, this would be principally against the backdrop of other residential properties nearby, together with existing and proposed trees and landscaping. As a result the proposal would not be unduly imposing in public views, or result in the loss of significant views. The proposal would represent an enhancement in the overall appearance of the site, which is currently somewhat degraded. I therefore conclude that the proposal would not harm the character and appearance of the area and would accord with saved Policies H12 and BE11 of the CDLP. It would also accord with the relevant requirements of emerging BNDP Policy 4, and BNDP Policy 2, which seeks to ensure that the built character of development responds to the heritage and character of the area. In forming this view, I have given great weight to conserving the landscape and scenic beauty of the national park. I further conclude that the proposal would not harm the character or appearance of the BCA, I therefore find no conflict with saved Policy BE6 of the CDLP. It has been suggested that the granting of planning permission for the proposed development would be a precedent for other development nearby. However, there is no significant evidence before me that similar proposals are particularly likely to come forward, or that significant harm would necessarily ensue. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed and planning permission granted.</p>	

Reference/Procedure	Proposal
SDNP/17/02952/FUL Bury Parish Case Officer: Derek Price Written Representation	Hadworth Barn Hadworth Lane Bury RH20 1PG - Proposed agricultural storage building.
Appeal Decision: APPEAL ALLOWED	
<p>Hadworth Barn is a residential property set in a rural position within the designated South Downs National Park. has a walled garden area adjacent to the house, with a wider domestic lawned area around it, adjacent to which is a substantial area of gravelled driveway and parking. The proposed store would be positioned opposite Hadworth Barn and sunken somewhat below the prevailing level of the adjacent lawns so as to limit its overall height. The new store would be of traditional design and materials, with two open bays and one enclosed bay with timber cladding and doors, under a hipped, slate roof. The design and materials proposed would be generally consistent with those common to the highly rural surroundings. The site is visually exposed, being open to some clear views from nearby public paths, including immediately along the side of the wider garden area to Hadworth Barn. However, the store would be visually subservient to Hadworth Barn, and other buildings in the cluster, and would be wholly contained within the existing wider domestic garden area associated with it. Moreover, it would be perceived in the wider landscape as part of the modest cluster of buildings. The prominence of the building would also be limited by the existing hedge, together with its set down position. Furthermore, the traditional design and materials would ensure that the store would not appear alien in the immediate or wider landscape. Furthermore, the traditional design and materials would ensure that the store would not appear alien in the immediate or wider landscape. While the store would be visible from public paths, at least in part, it would not be discordant or unduly dominant in those views, or detract from the mainly agricultural setting of the now-converted barn or the wider national park setting. I am therefore not persuaded that the proposal would have any significant effect on the perceived tranquillity of the national park landscape, either in visual or aural terms. I conclude that the proposed development would not harm the character and appearance of the area. Emerging policies of the Pre-Submission South Downs Local Plan, relating to landscape character, design, safeguarding views, tranquillity, and agriculture. They have not yet been through examination in public. Therefore, I have afforded them only very limited weight in this appeal, having regard to paragraph 216 of the Framework. Evidence to support any agricultural need for the building is similarly limited, so as not to be persuasive in itself. Nonetheless, I have found that the proposed building would not harm the character and appearance of the area, or conflict with national park purposes. Also note that there is no significant storage provision at Hadworth Barn at present, and that the appellants have taken storage some distance away at Chichester. The site lies in the vicinity of the Bignor Roman Villa. Due to the generally modest scale of the proposal, its relationship to the existing cluster of buildings, and the degree of separation between the appeal site and the Roman Villa, I am satisfied that the appeal scheme would not have any significant effect on the historic or cultural significance of that heritage asset, or its setting. I conclude that none of these other matters adds significantly to the case for or against the appeal.</p>	

Reference/Procedure	Proposal
17/01892/DOM Selsey Parish Case Officer: Maria Tomlinson Householder Appeal	47 Wellington Gardens Selsey PO20 0RF - Retrospective single storey detached outbuilding ancillary to the house.
Appeal Decision: APPEAL ALLOWED	
<p>“... The grounds of appeal seek to further amend the appellants’ position in that an amended plan proposes that the outbuilding be used as a home office and games room/playroom incidental to the dwelling rather than as ancillary accommodation. The appellants have also decided to move and the outbuilding is no longer required to accommodate a parent. Of further significance is the fallback position and in email correspondence the Council has not disputed that, leaving aside the exact use of the outbuilding, the structure could be re-erected on the same site under permitted development. I am aware that this issue of ‘fallback’ was raised in the 2016 appeal, but the Inspector’s rejection of it was in relation to the building’s past and proposed use as an additional dwelling independent form No.47. The materiality of a fallback position in the decision-making process is in part influenced by the likelihood of its implementation, and there is now extensive case law that there need only be greater than a theoretical possibility that the permitted development might take place (in the case the re-erection of the building on the same site, with the continuation in perpetuity of the substantial harm already caused). Despite the substantial cost of this retention option, given its implications for an enhanced value of the house it would still be significantly more viable than the alternative of outbuilding’s demolition with the sale of the second hand materials to third party for re-erection elsewhere. I therefore attach significant weight to the fallback in this case. I am also mindful of Government policy in the Planning Practice Guidance 2014 that conditions can and should be imposed to enable development proposals to proceed where it would otherwise have been necessary to refuse permission. By mitigating the adverse effects of development. In this instance the problem of independent use and its effect on the character of the area and residential amenity has now been resolved subject to ongoing monitoring, and the main issue is now the adverse physical impact of the building on its surroundings. ... I consider that the incongruous and harmful effect on the character and appearance of the area through the upper part of the building being visible from Denny’s Close and be addressed by a robust condition. The exact details would be a matter for the Council to agree, but I am satisfied that the existing interwoven panel fencing is of insufficient standard. It needs to be replaced by a good quality close boarded fencing of up to 2 metres and surmounted by a metre high trellis, with climbing plants on the fence and a row of evergreen trees or shrubs inside the fence line. Conditions to safeguard the character and appearance of the area and to regulate the outbuilding’s future use are required. These comprise compliance with the amended and now approved plans; the restriction to incidental use to the dwelling; the restriction of alterations to the outbuilding; the restriction of any form of enclosure of the outbuilding within the garden, and its re-painting with a more suitable</p>	

Reference/Procedure	Proposal
Appeal Decision: APPEAL ALLOWED - continued	
<p>colour. With the imposition and subsequent enforcement if and when necessary of these conditions, I consider that the screened outbuilding can remain without having an unacceptable effect on the character and appearance of the area in harmful conflict with Policy 33 of the Chichester Local Plan: Key Policies 2014-2029 and the core planning principles and Section 7: 'Requiring Good Design' of the Framework. The appeal is accordingly allowed."</p>	
<p><u>16/00094/CONMHC</u> Westbourne Parish</p> <p>Case Officer: Reg Hawks</p>	<p>Racton View Marlpit Lane Hambrook Westbourne Emsworth West Sussex PO10 8EQ – Without planning permission, stationing of a mobile home for the purposes of human habitation. Appeal against enforcement notice. Linked to 16/03010/FUL.</p>
Appeal Decision: APPEAL DISMISSED	
<p>"... The appeals are dismissed, the enforcement notice is upheld, and planning permission is refused on the application. ...</p> <p>The ground (d) enforcement appeal ... The Appellant...had not provided sufficiently precise and unambiguous evidence to justify a conclusion, even on the balance of probability, that the alleged change of use of the land to a mixed use for agriculture and the stationing of a mobile home for the purposes of human habitation occurred more than ten years before the date of issue of the enforcement notice. The ground (d) appeal thus fails.</p> <p>The ground (a) enforcement appeal and the planning appeal The main issue is whether there is an essential need for a full-time agricultural worker to be resident on the land. ... Fundamentally, there is no proven essential need for an agricultural worker to be resident on the land and, even if there were, there is no need for a resident full-time worker base on the proposed business. ...There is no real prospect that within three years the business would be viable and sufficiently profitable. The proposed development conflicts with LP policy 37... The ground (a) enforcement appeal and the planning appeal thus fail.</p>	
<p><u>16/03010/FUL</u> Westbourne Parish</p> <p>Case Officer: Caitlin Boddy</p>	<p>Racton View Marlpit Lane Hambrook Westbourne PO10 8EQ - Retention of mobile home for a temporary period of 3 years (revised application further to 16/01547/FUL). Linked to 16/00094/CONMHC</p>
Appeal Decision: APPEAL DISMISSED	
As Above in Linked Case	

3. CURRENT APPEALS

Reference/Procedure	Proposal
<u>16/00933/OUT</u> Birdham Parish Case Officer: Jeremy Bushell Public Inquiry Awaiting Decision	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.
<u>SDNP/17/02952/FUL</u> Bury Parish Case Officer: Derek Price Written Representation	Hadworth Barn Hadworth Lane Bury RH20 1PG - Proposed agricultural storage building.
<u>15/00064/CONLB</u> Chichester Parish Case Officer: Sue Payne Public Inquiry	13 Parchment Street Chichester West Sussex PO19 3DA - Appeal against removal of 3 no. wooden casement windows and replacement with 3 no. UPVC casements in Grade II Listed Building & Conservation Area - appeal against LB enforcement notice.
<u>SDNP/17/03896/HOUS</u> Duncton Parish Case Officer: Bev Stubbington Written Representation	Duncton Mill House Dye House Lane Duncton GU28 0LF - New detached ancillary residential outbuilding comprising with garaging, storage and attic room.
<u>SDNP/17/03224/FUL</u> Easebourne Parish Case Officer: Rafael Grosso Macpherson Written Representation	Vine House Elderly Peoples Residence Easebourne Lane Easebourne Midhurst West Sussex GU29 9AZ - Single storey extension to south elevation, single storey and part two storey extension to the west elevation.

Reference/Procedure	Proposal
SDNP/16/04519/FUL East Lavington Parish Case Officer: John Saunders Written Representation	Copse Cottage Norwood Lane East Lavington Petworth West Sussex GU28 0QG - Replacement dwelling and associated garaging.
SDNP/17/02266/FUL Fernhurst Parish Case Officer: Bev Stubbington Written Representation	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.
SDNP/17/00949/FUL Funtington Parish Case Officer: Derek Price Hearing	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
SDNP/16/00496/OPDEV Funtington Parish Case Officer: Shona Archer Hearing	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
SDNP/17/05536/CND Harting Parish Case Officer: Rafa Grosso-Macpherson Written Representation	Tye Oak Farm, East Harting Hollow Road, East Harting, Petersfield, West Sussex, GU31 5NA - Variation of Condition 2 of planning permission SDNP/17/01720/FUL - Modifications to internal layout, external appearance and landscape layout. Linked to SDNP/17/05537/CND
15/00375/CONCOU North Mundham Parish Case Officer: Reg Hawks Public Inquiry Awaiting Decision	Land North Of Fisher Common Nursery Fisher Lane North Mundham West Sussex - Without planning permission, the change of use of a building to use as a dwellinghouse. Without planning permission, the erection of a dwellinghouse – appeal against enforcement notices.

Reference/Procedure	Proposal
16/00424/ELD North Mundham Parish Case Officer: Reg Hawks Public Inquiry Awaiting Decision	Ten Acres Land North Of Fisher Common Nursery Fisher Lane North Mundham West Sussex PO20 1YU - Continuous occupation for in excess of 4 years of barn style building erected under planning permission 10/00517/FUL granted on 28 April 2010. CLU appeal.
17/00074/CONENF Oving Parish Case Officer: Shona Archer Written Representation	Decoy Farm Decoy Lane Oving Chichester West Sussex PO20 3TR - Appeal against non-compliance with Enforcement Notice O/11 - O/12.
16/03997/OUT Selsey Parish Case Officer: Steve Harris Informal Hearing Awaiting Decision	Land On The South Side Of Warners Lane Selsey West Sussex - Outline application for the construction of 68 no. residential units with primary access off Old Farm Road.
16/00359/CONTRV Sidlesham Parish Case Officer: Emma Kierans Informal Hearing 04/07/2018 Chichester District Council Committee Room1	Land Adj To Ham Road Sidlesham West Sussex - Appeal against Enforcement Notice SI/69 Linked to 16/03383/FUL
16/03383/FUL Sidlesham Parish Case Officer: James Cross Informal Hearing 04/07/2018 Chichester District Council Committee Room1	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

Reference/Procedure	Proposal
17/00031/CONMHC Southbourne Parish Case Officer: Shona Archer Public Inquiry	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 – appeal against enforcement notice.
16/00191/CONCOU Westbourne Parish Case Officer: Reg Hawks Written Representation	The Old Army Camp Cemetery Lane Woodmancote Westbourne West Sussex, without planning permission change of use to HGV operating centre/tarmac contractors yard – appeal against enforcement notice.
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.
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.

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, Aldingbourne	Civil recovery of costs incurred for clearance	Waiting for trial dates to be fixed between September and December 2018.

Prosecutions		
Site	Breach	Stage
Field West of Five Oaks	Breach of Enforcement Notice	Worthing Magistrates' Court on 25/5/18: matter adjourned upon request by Mr Tobitt as he has lodged a further planning application. Next hearing: 3 August 2018.

7. POLICY MATTERS