

Chichester District Council

Planning Committee

Wednesday 13 February 2019

Report of the Director Of Planning and Environment Services

Schedule of Planning Appeals, Court and Policy Matters

Between 18-Dec-2018 and 29-Jan-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

Reference/Procedure	Proposal
18/01887/DOM Chichester Parish Case Officer: Maria Tomlinson Householder Appeal	17 Oak Close Chichester West Sussex PO19 3AJ - Proposed two storey side and rear extensions and single storey rear extension with various alterations and additions.
18/01581/FUL Sidlesham Parish Case Officer: Maria Tomlinson Householder Appeal	Land North Of Swan Cottage Selsey Road Sidlesham West Sussex - Provision of new access and vehicle gates.

2. DECISIONS MADE

Reference/Procedure	Proposal
<p data-bbox="197 280 453 349">17/01368/FUL Chichester Parish</p> <p data-bbox="197 416 592 450">Case Officer: Fjola Stevens</p> <p data-bbox="197 510 552 544">Written Representation</p>	<p data-bbox="636 280 1422 387">Xavier House 5 Ettrick Road Chichester West Sussex - Replacement of Victorian lean-to with a two storey rear extension.</p>
<p data-bbox="552 598 1139 631">Appeal Decision: APPEAL DISMISSED</p>	
<p data-bbox="178 636 1505 1659">“...Planning Practice Guidance (PPG)¹ states that conditions which modify development in such a way as to make it substantially different from that set out in the application should not be used. To impose a condition permitting the construction of dormers would substantially change the nature of the permitted development by reason of their projection beyond the roof plan. Rooflights would be less intrusive but in the absence of any details on their extent, they could also substantially change the nature of the permitted development. Indeed, interested parties would be prejudiced in not being able to make full comments in the absence of any details, such as plans, on any scheme if the Appellant’s varied condition was imposed. There are upperfloor windows restrictions under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015. However, these relate to dwellings and not flats, and therefore, this does not negate a need for a condition. Taking all these factors into account, the disputed condition is necessary, relevant to planning and to the development to be permitted. Any new openings would be clear to identify and therefore, the disputed condition would be enforceable. In terms of preciseness, the reference to GPDO is superfluous for the above reasons but the condition is not fundamentally flawed with its inclusion and there would not be any significant harm leaving the condition in its current form. The remaining wording specifying the need for planning permission for additional windows or rooflights is unambiguous and thus the condition is precise enough to clearly understand its implications and requirements. The planning permission requirement for additional fenestration would be an additional burden on an applicant but it enables the Council to assess the effect of any additional windows on neighbouring properties through a planning application process, where satisfactory plans would be submitted and publicity... would be carried out, and the proposal considered on its merits. Consequently, the condition is reasonable in all other respects... the disputed condition meets the tests of paragraph 55 of the National Planning Policy Framework. Having regard to the above and to all other matters raised, I conclude that the appeal should be dismissed.”</p>	

Reference/Procedure	Proposal
<p data-bbox="197 232 453 300">18/00525/ADV Chichester Parish</p> <p data-bbox="197 367 558 398">Case Officer: Vicki Baker</p> <p data-bbox="197 461 552 492">Written Representation</p>	<p data-bbox="638 232 1455 300">Unit 1 Portfield Way Chichester PO19 7YH - 2 no. double sided internally illuminated post signs.</p>
<p data-bbox="367 533 1331 564">Appeal Decision: APPEAL PART ALLOWED, PART DISMISSED</p>	
<p data-bbox="181 568 1490 1258">Appeal A ... The appeal is allowed ... Appeal B ... The appeal is dismissed insofar as it relates to Sign 1 ... The appeal is allowed insofar as it relates to Sign 2 ... Appeal A ... These signs are relatively minimalistic and subtle in their design. Consequently they do not appear as being out of place on the fascia nor do they cause any degree of clutter. ... No architectural features of the unit would be covered up by the signs and I do not consider that they would detract from the overall design or appearance of the host unit. The proposed signs complement the existing signage and add interest to a rather bland elevation of the unit. ... Having viewed the signs from a number of locations along the A27, I am satisfied that they do not stand out as being excessive in scale, incongruous, or unacceptably over-dominant in relation to the building or the character of the retail park. ... Appeal B ... Sign 2 would be relatively modest in size which the Council indicates would be approximately 1.5m x 2.90m. I have taken into account the size of the sign, its position and the illumination level suggested in the Council's proposed conditions. These factors lead me to conclude that the proposed illumination of this sign would not cause it to appear as an incongruous feature of an extent that would cause demonstrable harm the visual amenity of the locality. ... Sign 1 would be located in relatively close proximity to Sign 2. It would result in a proliferation of similar signs on the verge outside of the store which would cause unacceptable visual clutter. Consequently, proposed Sign 1 would be detrimental to the visual amenity of the surrounding area. ...</p>	

Reference/Procedure	Proposal
<p data-bbox="197 232 418 264">18/00883/DOM</p> <p data-bbox="197 271 459 302">Fishbourne Parish</p> <p data-bbox="197 367 475 434">Case Officer: Maria Tomlinson</p> <p data-bbox="197 461 512 492">Householder Appeal</p>	<p data-bbox="638 232 1410 336">St Francis 122 Blackboy Lane Fishbourne PO18 8BL - Alteration of existing bungalow to provide first floor bedrooms under a new roof.</p>
<p data-bbox="560 533 1129 564">Appeal Decision: APPEAL ALLOWED</p>	
<p data-bbox="178 568 1503 1086">The form of the dwelling would be unusual. However, an asymmetrical building does not automatically equate to poor design. The size and bulk of the structure would be appropriately in scale with the residential context of its letting and in my view the roof form would purposefully address the floor-plan of the building in a well-considered manner. The dwelling would have an interesting presence but would not appear incongruous within the mixed character of the street scene where there is a notable absence of any regimentation or uniformity to the architecture. ... My overall impression is that, although the appearance of the existing dwelling would dramatically change, the proposal would make a positive contribution to the mixed character and appearance of the street scene. ... The Council has suggested a condition that would require the external materials to match the existing. However, the application proposed alternative materials for the walls and an entirely new roof. The use of concrete roof tiles would reflect those on the existing building and are appropriate to the locality as would the use of render and timber cladding for the walls. No further control by way of condition is necessary.</p>	

Reference/Procedure	Proposal
<p data-bbox="197 230 411 297">18/00244/FUL Kirdford Parish</p> <p data-bbox="197 365 587 398">Case Officer: Daniel Power</p> <p data-bbox="197 454 552 488">Written Representation</p>	<p data-bbox="638 230 1414 338">Land South East Of Sewage Works Glasshouse Lane Kirdford West Sussex - Demolition of old buildings and erection of new workshop for storage and carpentry.</p>
<p data-bbox="560 530 1129 564">Appeal Decision: APPEAL ALLOWED</p>	
<p data-bbox="181 568 1485 1469">Policies 2 and 45 ... indicate that outside settlements development is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification. ... The Council's main concern relates to the potential use of the site as a Use Class B2 within the countryside and the effect that this may have on the tranquil nature and character and appearance of this part of the countryside. ... It was clear from my site visit that the workshop is being used for the manufacture of timber products. In my view, such use is complimentary to the existing lawful use of the site as a timber storage yard. In the context of the existing LDC use, for which I have no evidence of any restrictions on the occupation of the site for Use Class B8 storage, I do not consider that the building or the use of the site for B2 purposes would cause any greater impact on the character and appearance of the countryside beyond that which could occur with the existing lawful use. ... I have also taken into account the Council's concerns that the development would have a harmful effect on the tranquil nature of this part of the countryside. However, the Council have suggested a number of planning conditions, were I minded to allow this appeal, to control the use of mechanical tools. In my view, such conditions would prevent the tranquil nature of this part of the countryside from being unacceptably harmed. ... In my view, the development would be no more unsustainably located than the existing B8 use. ... The development is an acceptable ancillary operation that is complementary to an existing authorised timber storage use. Consequently, I consider that the development is consistent with the advice provided in the Framework with regard to support for a prosperous rural economy. ... Taking the above factors into account, I do not consider that the development would cause any demonstrable harm to the rural character and appearance of the surrounding area or unacceptably undermine the spatial strategy of the Council with regard to the location of development within the countryside. Consequently there would be no conflict with Policies 2 or 45 of the Local Plan. ... □</p>	

Reference/Procedure	Proposal
<p data-bbox="197 230 558 300">17/03545/FUL Plaistow And Ifold Parish</p> <p data-bbox="197 365 568 398">Case Officer: Louise Kent</p> <p data-bbox="197 461 552 495">Written Representation</p>	<p data-bbox="638 230 1449 338">Little Wephurst Walthurst Lane Loxwood RH14 0AE - Replacement dwelling, following demolition of an existing dwelling.</p>
<p data-bbox="552 533 1139 566">Appeal Decision: APPEAL DISMISSED</p>	
<p data-bbox="178 573 1503 1332">The appeal is dismissed. ... The main issue is the impact of the development on the character and appearance of the area. ... Whilst a modest property, the existing building has a level of prominence in its rural setting. It acts as a visual marker along the Public Right of Way (PROW) ... I saw on site that the existing building is unoccupied, and that work had commenced on the side and rear extensions with foundations and low-level walls in place. However, work has ceased on these extensions with the appellant indicating that this is temporary pending the outcome of this appeal as the replacement dwelling would be more financially and energy efficient. ... I accept that these extensions provide a ‘fall-back’ position ... in my view, the proposed dwelling would be a large building of substantial width, bulk and increased height. In addition, its siting further forward f n the plot would increase its visibility ... I therefore conclude on the main issue that by virtue of the scale and massing of the replacement dwelling, which is viewed from several public vantage points, it would have an adverse impact on the character and appearance of the area. Thus, I find the development would conflict with policies 33, 40 and 48 of the Chichester Local Plan ... The Council have stated that the land to the rear of the property lies outside the residential curtilage and as a result the development would encroach onto agricultural land. The redline on the Location Plan does not infer curtilage ... As such, I concur with the appellantthat this is a separate matter ... The proposal would conflict with the development plan as a whole and would not amount to sustainable development. There are no other considerations, including the policies in the National Planning Policy Framework that would outweigh this conflict. ... □</p>	

Reference/Procedure	Proposal
<p data-bbox="197 232 446 300">17/03086/FUL Tangmere Parish</p> <p data-bbox="197 367 478 434">Case Officer: Maria Tomlinson</p> <p data-bbox="197 456 555 501">Written Representation</p>	<p data-bbox="638 232 1455 300">1 Boxgrove Corner Arundel Road Tangmere PO18 0DU - Erection of 1 no. 3 bed dwelling.</p>
<p data-bbox="558 551 1133 586">Appeal Decision: APPEAL ALLOWED</p>	
<p data-bbox="181 591 1497 1310">The area is characterized by groups of dwellings sited closely to one another, with many terraces, and surrounded by significant green open space. The close siting of the appeal dwelling to the pair of semi-detached dwellings would not appear markedly different given this pattern of development furthermore, the dwelling would have a substantial landscaped setting formed by the rear gardens serving 63 and 64 Garland Square. Consequently, the development would not appear cramped or contrived within this context. ... the new dwelling with its frontage orientated the other way round adds some visual interest in the streetscene. It would be constructed with similar materials and a similar pitched roof. Therefore, the difference in design approaches would not result in such a disharmonious clash as to adversely impact upon the appearance and character of the area. ... the dwelling is now sited a considerable distance from the A27 trunk road and the roundabout. It would be sited further away from this noise source than the two schemes previously considered which were to the rear of No 1. Furthermore, there has been no technical objection by the health officer. Indeed, the officer felt that the application could not be refused on noise grounds given that the Inspector's comments on the previous scheme and that the current proposed dwelling's location provides slightly better attenuation for noise from road traffic. ... subject to the imposition of the acoustic boundary screen and the provision of window insulation with appropriate trickle ventilation, the development would not result in unacceptable living conditions for future occupants. Accordingly, the proposal would comply with national policy within paragraph 170 of the NPPF. ... □</p>	

Reference/Procedure	Proposal
<p data-bbox="197 232 497 300">17/00448/FUL West Itchenor Parish</p> <p data-bbox="197 367 587 398">Case Officer: Caitlin Boddy</p> <p data-bbox="197 461 453 492">Informal Hearing</p>	<p data-bbox="638 232 1501 336">Old Haven The Street Itchenor PO20 7AN - Demolition of existing building and construction of 6 bedroom replacement dwelling, garage and associated works.</p>
<p data-bbox="552 533 1139 564">Appeal Decision: APPEAL DISMISSED</p>	
<p data-bbox="181 568 1493 1955">The appeal is dismissed. ... the building has significant historical and associative value in its own right. It makes a positive contribution to the character and the appearance of the CA. There is no substantive evidence before me that the condition of the building justifies its total demolition on viability or any other grounds, and nor was this at issue in the Hearing. Accordingly, its loss would result in harm to the significance of the CA, placing it in conflict with LP policy 47. ... The roofscape of the proposed building has been articulated to divide the mass into three distinct sections along the Street, ... the additional mass at roof level, combined with the additional footprint of the proposal towards the harbour, would result in a building reading more as a large, single mass on the Street, at odds with the closer grain of the elevations which characterize this section of the Street. ... The footprint of the proposed house would advance substantially towards the waterside, reducing the effect of openness in the harbour. ... The effect of the greater footprint of the proposal, its mass above the ground floor, and its position towards the harbour would result in an uncharacteristically large house in views of the waterfront, which it would dominate. ... In its particular context, the proposed building would unbalance the scale of development at the opening of the Street into the harbour side. ... In my view, the scale of the replacement house would undermine the more modest scale and compact mass shared by the houses around it, which contribute to the CA. I agree that the 2-storey, largely glass bay would appear misplaced in the context of the harbour side buildings whose openings tend to reflect the more utilitarian scale of openings of a coastal village than the seaside architecture where outward views from a building are expressed in its form. ... In terms of the effect of the replacement building, I conclude that it would harm the character and appearance of the CA. ... There is nothing in the design of the replacement building and no other factor which justifies the complete demolition of the building. Its loss would harm the significance of the CA, and the replacement building would result in harm to its character and appearance. ... I conclude that the proposed development would conflict with LP policies 33 and 47. ... In the context of paragraph 196 of the Framework I would, in relation to the CA as a whole, define the magnitude of the harm identified as less than substantial. ... Nevertheless, it would be a noticeable and significant, adverse impact, not least by virtue of the positive contribution that the present building makes to the CA. ... there are no public benefits which would outweigh this harm. ... While I have had special regard to the desirability of preserving the settings of the listed buildings in accordance with my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I can see no harm from the proposal to the settings of the cottages, which would be preserved. ... from a closer perspective, the landscape and visual effects of the development become more pronounced. ... I have taken into account that the context of the building is a village with buildings of different sizes. However, in my view, the greater mass of the replacement building as it faces towards the harbour would be uncharacteristic</p>	

in the scale of development at the end of the Street, which is a landscape feature of the Itchenor Reach. ... I am unconvinced that tree planting could mitigate the harm identified above. ... My conclusion is that overall, the proposed development would harm the distinctive character and special qualities of the AONB, placing it in conflict with LP policy 43 where it seeks to conserve and enhance the natural beauty and locally distinctive features of the AONB. It would also be at odds with Paragraph 172 of the Framework which says that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection. ... I recognize the condition of the house and I acknowledge that its replacement would provide additional, modern living space and raise the ground floor against the risk of flooding. It would preserve the setting of the listed buildings opposite which it would stand. These factors weigh in favor of the proposal they would not, however, outweigh the harm to the significance of the CA from the demolition of the existing building, and the harm to its character and appearance from its replacement, as well as the harm to the landscape character and scenic beauty of the AONB, which is in clear conflict with the development plan and the Framework. For the reasons above, and having regard to all other matters raised, the appeal is dismissed.

3. CURRENT APPEALS

Reference/Procedure	Proposal
<p>15/00064/CONLB Chichester Parish</p> <p>Case Officer: Sue Payne</p> <p>Public Inquiry</p> <p>Awaiting Decision</p>	<p>13 Parchment Street Chichester West Sussex PO19 3DA - Appeal against 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>18/01887/DOM Chichester Parish</p> <p>Case Officer: Maria Tomlinson</p> <p>Householder Appeal</p>	<p>17 Oak Close Chichester West Sussex PO19 3AJ - Proposed two storey side and rear extensions and single storey rear extension with various alterations and additions.</p>

<p>18/01889/FUL Chichester Parish</p> <p>Case Officer: Caitlin Boddy</p> <p>Written Representation</p>	<p>Whyke Grange 146 Whyke Road Chichester West Sussex PO19 8HT - Change of use of existing double garage to 1 no. dwelling and associated works.</p>
<p>17/03626/OUT Chidham & Hambrook Parish</p> <p>Case Officer: Mark Bridge</p> <p>Written Representation</p>	<p>Chas Wood Nurseries Main Road Bosham Chichester West Sussex PO18 8PN - Construction of 10 no. dwellings.</p>
<p>18/01661/FUL Earnley Parish</p> <p>Case Officer: Maria Tomlinson</p> <p>Written Representation</p>	<p>Land South Of 129A Third Avenue Batchmere Chichester West Sussex PO20 7LB - Retrospective change of use of menage to storage of caravans, motor homes and boat trailers.</p>

<p>17/02563/DOM Fernhurst Parish</p> <p>Case Officer: James Gellini</p> <p>Written Representation</p>	<p>Stedlands Farm Bell Vale Lane Fernhurst GU27 3DJ - Proposed two storey rear extension.</p>
<p>18/00706/FUL Loxwood Parish</p> <p>Case Officer: Daniel Power</p> <p>Written Representation</p>	<p>Loxwood Meadow Roundstreet Common Loxwood RH14 0AL - Extension to an existing barn of a toilet, shower and rest area for agricultural workers.</p>
<p>17/02572/FUL Plaistow And Ifold Parish</p> <p>Case Officer: Claire Coles</p> <p>Written Representation</p>	<p>Land On The East Side Of The Lane Ifold West Sussex - Erection of 1 no. detached 4 bedroom dwelling.</p>

<p>18/00346/LBC Selsey Parish</p> <p>Case Officer: Claire Coles</p> <p>Written Representation</p>	<p>Fern Cottage 4 Albion Road Selsey Chichester West Sussex PO20 0DH - Replacement rear first floor window and side door and french doors.</p>
<p>18/01581/FUL Sidlesham Parish</p> <p>Case Officer: Maria Tomlinson</p> <p>Householder Appeal</p>	<p>Land North Of Swan Cottage Selsey Road Sidlesham West Sussex - Provision of new access and vehicle gates.</p>
<p>18/00201/FUL Southbourne Parish</p> <p>Case Officer: Claire Coles</p> <p>Written Representation</p>	<p>306 Main Road Southbourne PO10 8JN - Demolition of the existing building and construction of five homes with associated parking, access and landscaping.</p>

<p>18/01580/FUL Southbourne Parish</p> <p>Case Officer: Claire Coles</p> <p>Written Representation</p>	<p>11-15 Stein Road Southbourne PO10 8LB - Demolition of existing detached office building and proposed construction of detached building providing 2 no. care units.</p>
<p>18/02256/DOM West Wittering Parish</p> <p>Case Officer: James Gellini</p> <p>Written Representation</p>	<p>Elis Lodge Cakeham Road West Wittering Chichester West Sussex PO20 8EB - Proposed alterations and extensions to include rear extension, new indoor swimming pool and lounge, and change of use of roofspace to habitable accommodation.</p>
<p>17/03428/FUL Westbourne Parish</p> <p>Case Officer: Caitlin Boddy</p> <p>Written Representation</p>	<p>Land North Of The Grange Woodmancote Lane Woodmancote Emsworth West Sussex - 11122018 Construction of 1 no. agricultural barn, 1 no. poly tunnel and 2 no. fish tanks.</p>

<p>17/03457/DOM Wisborough Green Parish</p> <p>Case Officer: Beverley Stubbington</p> <p>Written Representation</p>	<p>Albion House Petworth Road Wisborough Green RH14 0BH - Construction of single storey side and rear extension.</p>
<p>17/03458/LBC Wisborough Green Parish</p> <p>Case Officer: Beverley Stubbington</p> <p>Written Representation</p>	<p>Albion House Petworth Road Wisborough Green RH14 0BH - Construction of single storey side and rear extension.</p>

4. VARIATIONS TO SECTION 106 AGREEMENTS

18/02026/OBG: Rowan Nursery and Pippins, Bell Lane, Birdham

The variation to the S106 Agreement proposed to amend the affordable housing tenure mix from 7no affordable rented properties to 4no affordable rented and 3no shared ownership properties, with the same size and location as approved. The variation also sought an amendment to the definition of chargee to reflect the standardised wording from the National Housing Federation.

The proposed amendments were discussed between the applicant and the CDC Housing Delivery Manager and no objections were raised.

The S106 deed of variation was completed on 19 December 2018.

5. CALLED-IN APPLICATIONS

1. Injunctions		
Site	Breach	Stage
Land North West of Premier Motor Homes, Birdham	Occupation of mobile homes as settled Gypsy accommodation and retention of stables and track.	Undertakings in place from a limited number of occupiers. Application to be made to Court for an Injunction Order to prevent any further change in circumstances on the land. Witness statements to be amended before proceeding to Court.
Newells Lane, Old Allotment Site	No breach but injunction necessary to stop apprehended breach of planning laws	Legal and client working on evidence to submit with application to the court

Court Hearings		
Site	Matter	Stage
Decoy Farm, Aldingbourne	CDC's Civil Claim to recover costs of clearance	Date received from court of Pre-Trial Review on 23 April 2019 and Trial on 21 May 2019. Parties continue to exchange evidence as per court's directions.

Prosecutions		
Site	Breach	Stage
Field West of five Oaks	Enforcement Notice	Sentence on 18 January 2019: Mr Tobbit received a fine of £250, Victim Surcharge of £30 and a contribution towards the Prosecution costs of £120 (these costs alone will be paid to CDC which is the Prosecuting Authority).
Portsoy, 16 Bonnar Road, Selsey	Enforcement Notice	First hearing date on 15 Feb. 2019 provided by the court. Summons sent to both Defendants with Case Summary of the offence. No contact received from Defendants.

2. POLICY MATTERS