

# Chichester District Council

## Planning Committee

Wednesday 06 November 2019

### Report of the Director Of Planning and Environment Services Schedule of Planning Appeals, Court and Policy Matters Between 16-Sep-2019 and 16-Oct-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)

<a href="#">19/01425/DOM</a> Sidlesham Parish  Case Officer: Oliver Naish  <b>Written Representation</b>	36 Manhood Lane, Sidlesham, Chichester, West Sussex PO20 7LT - Retrospective application for single storey rear extension.
<a href="#">19/00845/FUL</a> Birdham Parish  Case Officer: James Gellini  <b>Written Representation</b>	Common Piece Main Road Birdham West Sussex - Use of land for the stationing of a static caravan.

## 2. DECISIONS MADE

Reference/Procedure	Proposal
<p><a href="#">14/00292/CONBC</a> Chidham &amp; Hambrook Parish</p> <p>Case Officer: Shona Archer</p> <p><b>Informal Hearing</b> <b>03/10/2019 10:00:00</b> Chichester Harbour Hotel</p>	<p>Paddock View Drift Lane Bosham Chichester West Sussex PO18 8PR - Appeal against CH/55</p>
<p><b>Appeal Decision: APPEAL WITHDRAWN</b></p>	
<p>Following the withdrawal of the enforcement notice(s) on the s.174 appeals (3198721 &amp; 3198722) and s.78 planning appeal (3196089) by the Council and the Appellant's Agent respectively, I confirm no further action will be taking on both sets of appeal(s) above. As a result the Hearing scheduled to open at 10:00am tomorrow, Thursday 3rd October 2019 is accordingly cancelled.</p>	
<p><a href="#">17/00852/FUL</a> Chidham &amp; Hambrook Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Informal Hearing</b> <b>03/10/2019 10:00:00</b> Chichester Harbour Hotel</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>
<p><b>Appeal Decision: APPEAL WITHDRAWN</b></p>	
<p>Following the withdrawal of the enforcement notice(s) on the s.174 appeals (3198721 &amp; 3198722) and s.78 planning appeal (3196089) by the Council and the Appellant's Agent respectively, I confirm no further action will be taking on both sets of appeal(s) above. As a result the Hearing scheduled to open at 10:00am tomorrow, Thursday 3rd October 2019 is accordingly cancelled.</p>	

<p><u>17/00374/CONCOM</u> Donnington Parish</p> <p>Case Officer: Emma Kierans</p> <p><b>Written Representation</b></p>	<p>Southend Farm Selsey Road Donnington Chichester West Sussex PO20 7PS - Appeal against D/8</p>
<p><b>Appeal Decision: APPEAL DISMISSED</b></p>	
<p>The appeal is dismissed and the enforcement notice is upheld with correction and a variation ... I conclude that there is not an essential, small-scale, and local need for the use in a countryside location and it is therefore contrary to Policies 1, 2 and 45 of the LP. ... I conclude that the use is harmful to the character and appearance of the area and conflicts with Policy 48 of the LP ... I have however found that there is not an essential need for a countryside location and that the open storage is harmful to the character and appearance of the area, particularly given its scale. ... For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the deemed application. ... "Nine calendar months" as the period for compliance. ... Subject to these corrections and variation the appeal is dismissed and the enforcement notice is upheld.</p>	
<p><u>19/00648/PNO</u> Plaistow And Ifold Parish</p> <p>Case Officer: James Gellini</p> <p><b>Written Representation</b></p>	<p>Rumbold Wood, Beneath The Oaks The Street Plaistow RH14 0PZ - 1 no. moveable storage container to store tools and equipment used in the management of 12 acre woodland.</p>
<p><b>Appeal Decision: APPEAL - NO FURTHER ACTION</b></p>	
<p>Thank you for your Planning Appeal received on 30 September 2019. Appeals and all of the essential supporting documentation must reach us within 6 month of either, i) the date of the local planning authority's notice of the decision or ii) the end of the period allowed for such a decision. This is usually 8 weeks where the appeal is against failure of the authority to make a decision (plus any extensions agreed in writing between the parties). As we received this appeal(s) after the time limit, we are unable to take any action on it.</p>	

<p><a href="#">19/00668/PNO</a> Plaistow And Ifold Parish</p> <p>Case Officer: James Gellini</p> <p><b>Written Representation</b></p>	<p>Beneath The Oaks Rumbold Wood The Street Plaistow West Sussex - 1 no. composting toilet (moveable structure) for use in managing woodland.</p>
<p><b>Appeal Decision: APPEAL - NO FURTHER ACTION</b></p>	
<p>Thank you for your Planning Appeal received on 30 September 2019 Appeals and all of the essential supporting documentation must reach us within 6 months of either i) the date of the local planning authority's notice of the decision; or ii) the end of the period allowed for such a decision. This is usually 8 weeks where the appeal is against failure of the authority to make a decision (plus any extensions agreed in writing between the parties) As we received this appeal(s) after the time limit, we are unable to take any action on it.</p>	
<p><a href="#">18/02692/PLD</a> Sidlesham Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Written Representation</b></p>	<p>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>
<p><b>Appeal Decision: APPEAL DISMISSED</b></p>	
<p>The appeal is dismissed. ... The main issue is whether the proposed operations are defined with sufficient or precise information to enable a certificate of lawfulness to be granted ... The appeal application does not contain sufficient or precise information to enable the decision maker to establish the lawfulness of any proposed building operations. The onus is on the appellant to provide any such information; but he has failed to discharge those responsibilities.</p>	
<p><b><u>Cost Decision</u></b></p>	
<p>The application for an award of costs is refused. ... The Council did not prompt or encourage the submission and I have found its decision to be well founded, which followed relevant Government guidance and case law. It also appears on the evidence before me that it sought to engage with the appellant adequately throughout the application process. I also have little evidence to convince me that it concealed relevant information. ... I am satisfied the Council acted reasonably in evaluating the application. It provided a detailed reason which justified its decision. The appellant has therefore not incurred unnecessary expense in pursuing the appeal. ... I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.</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><b>Appeal Decision: APPEAL WITHDRAWN</b></p>	
<p>I have received your email dated 19/09/2019 referring to the above Appeal I can confirm that this appeal has been withdrawn and no further action will be taken on it.</p>	

### 3. CURRENT APPEALS

Reference/Procedure	Proposal
<p><a href="#">17/00061/CONENG</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="#">19/00196/FUL</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="#">18/03320/FUL</a> Chichester Parish</p> <p>Case Officer: Robert Sims</p> <p><b>Written Representation</b></p>	<p>23 Lavant Road Chichester PO19 5RA - Redevelopment of the site with a terrace of 2 no. 4-bed and 2 no. 3-bed dwellings, parking, landscaping and associated works.</p>

<p><a href="#">19/00767/DOM</a> Chichester Parish</p> <p>Case Officer: William Price</p> <p><b>Written Representation</b></p>	<p>8 Parchment Street Chichester PO19 3DA - Erection of single storey rear extension.</p>
<p><a href="#">19/00768/LBC</a> Chichester Parish</p> <p>Case Officer: William Price</p> <p><b>Written Representation</b></p>	<p>8 Parchment Street Chichester PO19 3DA - Erection of single storey rear extension.</p>
<p><a href="#">18/03126/FUL</a> Donnington Parish</p> <p>Case Officer: Robert Sims</p> <p><b>Written Representation</b></p>	<p>Louene 34 Birdham Road Donnington PO19 8TD - 1 no. dwelling and associated work.</p>
<p><a href="#">19/00350/LBC</a> Donnington Parish</p> <p>Case Officer: Maria Tomlinson</p> <p><b>Written Representation</b></p>	<p>Hardings Farm Selsey Road Donnington Chichester West Sussex PO20 7PU - Replacement of 8 no. windows to North, East and South Elevations (like for like).</p>
<p><a href="#">19/01036/OUT</a> East Wittering And Bracklesham Parish</p> <p>Case Officer: Maria Tomlinson</p> <p><b>Written Representation</b></p>	<p>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.</p>

<p><a href="#">18/00323/CONHI</a> Funtington Parish</p> <p>Case Officer: Sue Payne</p> <p><b>Written Representation</b></p>	<p>West Stoke Farm House Downs Road West Stoke Funtington Chichester West Sussex PO18 9BQ - Appeal against HH/22</p>
<p><a href="#">18/00402/FUL</a> Funtington Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Public Inquiry</b> <b>22/10/2019 10:00:00</b> The Vicars Hall Cathedral Cloisters Chichester PO19 1PX</p>	<p>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.</p>
<p><a href="#">18/03255/FUL</a> Selsey Parish</p> <p>Case Officer: James Gellini</p> <p><b>Written Representation</b></p>	<p>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.</p>
<p><a href="#">18/03326/FUL</a> Selsey Parish</p> <p>Case Officer: Robert Sims</p> <p><b>Written Representation</b></p>	<p>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.</p>

<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="#">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="#">18/03145/OUT</a> Southbourne Parish</p> <p>Case Officer: Jeremy Bushell</p> <p><b>Public Inquiry</b></p>	<p>Land North Of Cooks Lane Southbourne Hampshire - Outline application with all matters reserved except Access for the erection of 199 dwellings and associated development.</p>
<p><a href="#">18/03428/FUL</a> Southbourne Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Informal Hearing</b></p>	<p>Field South Of 230 Main Road Southbourne Hampshire - Material change of use of the land for stationing of caravans for residential occupation for single pitch Gypsy site with facilitating development (hard standing and utility building).</p>

<p><a href="#">18/03234/FUL</a> West Wittering Parish</p> <p>Case Officer: Caitlin Boddy</p> <p><b>Written Representation</b></p>	<p>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.</p>
<p><a href="#">17/00333/CONMHC</a> Westbourne Parish</p> <p>Case Officer: Tara Lang</p> <p><b>Informal Hearing</b> <b>05/11/2019 10:00:00</b> Fishbourne Centre</p>	<p>Home Paddock Stables Hambrook Hill North Hambrook West Sussex - Appeal against WE/44</p>
<p><a href="#">18/02631/DOC</a> Westbourne Parish</p> <p>Case Officer: Calum Thomas</p> <p><b>Written Representation</b></p>	<p>Westbourne House North Street Westbourne Emsworth West Sussex PO10 8SN - Discharge of condition 3 and 4 from planning permission WE/17/02788/DOM.</p>
<p><a href="#">18/02003/FUL</a> Westhampnett Parish</p> <p>Case Officer: Robert Sims</p> <p><b>Written Representation</b></p>	<p>Greytiles Claypit Lane Westhampnett PO18 0NU - Demolition of existing garage, construction of additional dwelling and associated works, subdividing plot.</p>

#### 4. VARIATIONS TO SECTION 106 AGREEMENTS

14/02391/OBG: 4 Milestone Cottages, Birdham Road, Appledram.

The proposed amendments to the S106 relate to the change in tenure of an affordable property, from shared ownership to shared equity. The need has arisen to change the tenure of the property due to difficulties in finding an affordable housing provider to take on the property. In 2014, the applicant and CDC Housing Officers worked together in order to find a registered provider to take on the unit, and were unsuccessful. An alternative tenure option was however secured, with the property remaining as intermediate (i.e not an open market property). This is considered still to be a benefit. This deed of variation application sought to confirm this through a revised S106 clause. No other changes were proposed to the scheme.

The proposal is considered to be in accordance with local and national development plans and is acceptable in planning terms. The S106 deed of variation was completed on 25 September 2019.

18/02650/OBG: Flat Farm, Broad Road, Hambrook

A deed of variation was sought for Flat Farm in order to change all three approved affordable units to affordable rented. The developer has struggled to sell properties due the presence of a pylon within the site. The applicant, an affordable housing provider, has since changed the site of 11 properties to all affordable rented. The original S106 secures only 3 affordable units (2 x 2 bed and 1 x 3 bed) and such this deed of variation only covers these policy compliant units. However, all 11 properties are secured in affordable rent through the appended nominations agreement. The delivery of 11 affordable rented properties is of significant benefit to the district.

The proposal is considered to be in accordance with local and national development plans and is acceptable in planning terms. The S106 deed of variation was completed on 08 May 2019.

#### 5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage

#### 6. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage
Birdham, Land North West of Premier Park	Council's Injunction application	All relevant evidence finalised and submitted to our barrister for the Application for the injunction to be lodged by the end of the week.

#### Court Hearings

**Site** – Breach Avenue, Southbourne

**Matter** – Council's Challenge of Inspectors decision letter – appeal to the Court of Appeal

**Summary and Outcome** - In allowing the appeal for up to 34 dwellings, the Inspector stated, in his decision letter dated 2<sup>nd</sup> November 2017, that the proposal conflicted with the “aims” of the Southbourne Neighborhood Plan (which sought to avoid new residential development north of the railway crossing) but it did not conflict with the “policies” of the neighborhood plan (as those policies did not expressly prohibit such development on unallocated sites).

The District Council challenged this decision in the High Court claiming that the proposal did conflict with the neighborhood plan as it was not an allocated site and, indeed, it had been specifically rejected as an allocation for housing in preference to other named sites. The Council claimed that, as a consequence, the Inspector had also misapplied paragraph 198 of the NPPF of March 2012 which provided that where an application for planning permission “conflicts” with a neighborhood plan permission should not normally be granted. The High Court judge did not accept such submissions and dismissed the appeal.

The Council appealed to the Court of Appeal and a hearing took place on 23<sup>rd</sup> July 2018. The judgement was handed down on Wednesday 9<sup>th</sup> October 2019. The Council’s appeal was dismissed. Lord Justice Baker commented that the Inspector had grasped the fact that the conflict with the development plan “was not a conflict with the neighborhood plan, which had nothing to say about development on unallocated sites beyond the settlement boundary, but a conflict with policies of the development (Local)plan...”. He further commented that the Inspector was entitled to reduce the weight of such policies because of the Council’s inability to demonstrate a five year supply of housing land. In his path to his conclusion he had not misconstrued or misapplied paragraph 198 of the NPPF.

The Council has been ordered to pay the First Respondents costs of £10,816 (and High Court costs of £9,227).

<b>Prosecutions</b>		
<b>Site</b>	<b>Breach</b>	<b>Stage</b>

**7. POLICY MATTERS**