

**South Downs National
Park**

Planning Committee

Report of the Director Of Planning and Environment Services

Schedule of Planning Appeals, Court and Policy Matters

Date between 10/12/2019 and 15/01/2020

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.

2. DECIDED

SDNP/18/03665/HOUS Sutton & Barlavington Parish Council Parish Case Officer: Claire Coles Written Representation	Farm Cottage Barlavington Lane Sutton RH20 1PN - Single storey side and rear extension with external conservation repairs. Linked to SDNP/18/03666/LIS
Appeal Decision: APPEAL DISMISSED	
<p>"... The main issues are:</p> <ul style="list-style-type: none">• whether the proposal would preserve the listed building or its setting, or any features of special architectural or historic interest which it possesses²;• whether the proposal would preserve or enhance the character or appearance of the Sutton Conservation Area³; and• the effect of the proposal on the character and appearance of the area with particular regard to whether it would conserve and enhance the natural beauty, wildlife and cultural heritage of the South Downs National Park. ... The Council's decision notices cite the mass, bulk and design of the extension as being overly dominant to the cottage and which would detract from the linear form and historic character and fabric of the listed building. The extension to be replaced is of relatively modern construction and its loss would not be harmful. The extension would utilise the existing opening through the original stone wall at the eastern end of the cottage. Its height would be similar to the existing and as a result of the hipped and catslide roof design would not affect any more of the original eastern end gable wall than the existing. Furthermore, the plan form of the cottage would remain largely unaffected by the proposal. ...	

Appeal Decision: APPEAL DISMISSED - Cont

I note the intention to cut the extension into the rising ground. This would assist in minimising its bulk with the associated effect that it would not dominate the existing cottage. It would appear as a subservient and modest addition at the same floor level ... the position of the garden on higher ground to the north of the cottage results in the rear of the property being situated at a lower level with an associated retaining wall that already provides a visual sense of enclosure. ... the proposal would preserve the special interest of the listed building and its setting and the special architectural and historic features that it possesses. It would not result in harm to its significance. ... the proposal would preserve the special interest and significance of the listed building. Whilst the property is elevated above the road, the modest and subservient nature of the extension would not be dominating to the property or to the surrounding area. Whilst it would be visible from the street to the south, its bulk, massing and use of the topography to cut it into the rising ground would not result in it appearing dominating or intrusive. ... the proposal would preserve and enhance the character and appearance of the Conservation Area ... Given my conclusions above, I do not find that the proposal would cause harm to the natural beauty and cultural heritage of the National Park. ... "

[SDNP/18/03666/LIS](#)

Sutton & Barlavington Parish
Council Parish

Case Officer: Claire Coles

Written Representation

Farm Cottage Barlavington Lane Sutton RH20 1PN - Single storey side and rear extension with external conservation repairs.

Linked to [SDNP/18/03665/HOUS](#)

Appeal Decision: APPEAL DISMISSED

As Above

[SDNP/18/06427/HOUS](#)

Duncton Parish Council
Parish

Case Officer: Louise Kent

Householder Appeal

Duncton Mill House Dye House Lane Duncton GU28 0LF - New detached domestic garage/store.

Appeal Decision: APPEAL DISMISSED

"...The effect on the character and appearance of the area, with particular regard to the South Downs National Park and the setting of the listed buildings on and around the site. ... It falls within the South Downs National Park, where there is a statutory duty to conserve and enhance the natural beauty, wildlife and cultural heritage of the area. ... This is a remote location in the countryside, with very few existing sources of artificial light. The rooflights would be likely to appear illuminated in the hours of darkness, resulting in light pollution that diminishes the intrinsic qualities of the dark sky. The technical evidence before me does not demonstrate that the proposal could be carried out without damaging this natural landscape feature which contributes positively to the rural character of this field. ... A garage has previously been approved and the permission could be implemented, having also been the subject of a recently approved amendment. ... Because of its siting, the proposal before me would represent a more significant degree of visual encroachment in to the countryside than this fall-back development. ... Furthermore, the scale, form and detailed design of the proposal is such that it would appear broadly subservient to them when viewed

Appeal Decision: APPEAL DISMISSED - Cont

from the surrounding area. As such, the proposal would preserve the setting of these listed buildings. ... However, the slight improvement in the visual relationship with the listed buildings due to the revised siting would not overcome the more significant harm that would arise to the character and appearance of this protected rural landscape. This is due to the encroachment of residential development in to an area that has the appearance of countryside, together with the possible loss of a mature tree and harm to the intrinsic qualities of the dark sky. ... private benefits for the residential occupants of the existing buildings ... unacceptable harm to the character and appearance of the area. ... the comments of the previous planning Inspector, including those relating to domestic curtilage, are of little relevance to this decision as they relate to a different part of the site. In conclusion, whilst the proposal would not lead to harm to the setting of listed buildings, it would still result in unacceptable harm to the character and appearance of the area, which is in the South Downs National Park. This harm cannot be mitigated through the use of planning conditions. The proposal conflicts with the development plan when considered as a whole and there are no other considerations that outweigh this finding. The appeal should be dismissed."

SDNP/16/00110/COU
Milland Parish Council Parish

Case Officer: Steven Pattie

Land West of Junction With Dangstein Road Borden Lane Borden Milland West Sussex - Appeal against ML/25

Informal Hearing

Appeal Decision: APPEAL DISMISSED

The Appeal on Ground (c)

"... gates, hurdles, the yurt and timber framed buildings do require considerable added value in terms of processing, whether in a low impact, hand tool fashion or not. I consider that even the occasional production of such items because they requires some processing is not ancillary to forestry and so is not permitted development... The second element of the ground (c) appeal concerned the educational courses... the Council argue that development is not permitted if "the land in question is a building or is within the curtilage of a building". ... a number of timber structures are involved in the courses and the outdoor elements are within the curtilages of these buildings..... whether or not they can be said to have a curtilage is irrelevant, as buildings are excluded from the permitted development rights ... it is clear that not all these buildings are genuinely necessary for or ancillary to forestry activities.....the framing bed cannot be said to be related to a lawful forestry activity... the appeal on ground (c) fails.

The Appeal on Ground (d)

...three structures have been on site for more than 4 years and so, for that reason are immune from enforcement. However, the Council argue they are integral to the material change of use on that basis these structures can be removed regardless of whether they are lawful or not. There are a number of court cases that have defined this principle, the key one for this appeal being Bowring, where it was held that if the operational development installed as part of the material change of use is to be removed, it must be integral too or part and parcel of the use alleged... In this case the framing bed can only be used for the production of timber frames or also as part of a timber framing course, which I have found not to be ancillary to forestry. The compost toilet and the store could both be used by a forestry worker, going about lawful forestry tasks. ... The appeal on ground (d) succeeds for the old toilet/store but fails for the framing bed.

The Appeal on Ground (a)

Small scale forestry activities and low impact educational use is very much within the ethos of the National Park..... However an unfettered permission might well have much more serious consequences. The woodland could be more intensively managed and production of timber products could be significantly stepped up....so any future use would need to be controlled by conditions. ...

Appeal Decision: APPEAL DISMISSED - cont

A properly thought out proposalwould be necessary to allow a reasoned determination by the Council as well as proper consultation and reassurance for neighbours. ...

The appeal on ground (a) fails and I shall refuse to grant planning permission for the matters alleged.

Cost Decision

"... I agree with the Council. There is no mention of ancillary forestry products in the notice as they are, by definition, lawful. No time was taken up at the Hearing discussing this issue as the appellant accepted that the main items of dispute, such as timber frames, gates and hurdles were not ancillary. ... I agreed with the Council that an unfettered permission could not be granted and insufficient thought had been given to the conditions and other matters that would need to be considered before a conditional permission could be considered. In my view the Council has not acted unreasonably..."

[SDNP/18/00113/FUL](#)

Bury Parish Council Parish

Case Officer: Naomi

Langford

Bignor Park Nursery Bignor Park Road Bignor RH20 1HG - Construction of a bespoke joinery building for furniture making. Conversion and extension of an existing barn to equestrian use. Development of a horse walker and sand school plus temporary stationing of a log cabin to support the development of the equestrian business. Ancillary parking, drainage (foul and surface), PV solar panels and landscape planting.

Appeal Decision: APPEAL DISMISSED

"A copy of Policy SD3 was provided to me at the Hearing. ... The appellants' agricultural consultant was unable to attend the Hearing. ... I was provided with a copy of comments from Bury Parish Council and Barlavington Estate during the hearing. ... The appellants explained during the Hearing that the log cabin was intended to be permanent accommodation, but that a five-year temporary consent would be acceptable to them. ...

Character and appearance

There is disagreement between the main parties as to the extent that the area has a tranquil character. ... I do not find that the high degree of tranquility of the site is a particular feature of its character. The appellants describe the site as being formed of three distinct parts and this was evident on my site visit. ... there are clear views of the site from Tripp Hill parts of which are at a significantly higher level than the site. ... highly visible in the view from vehicles on Tripp Hill. ... in the absence of a LDC and on the basis of the evidence before me, I am persuaded by the Council's view that the use of the site should be regarded as agricultural with perhaps a degree of equestrian use. ... the site is excluded from the definition of PDL. ... The position of the joinery workshop ... ameliorate the adverse visual impact of the change to the character of the site. ... I do not reach the same conclusion in respect of the sand school and horse walker as these features would not be out of keeping in a rural landscape where horses are a common feature as is the case in the SDNP. ... I conclude that the joinery workshop and the log cabin, which are integral parts of the appeal scheme, would have a harmful effect on the character and appearance of the site and the surrounding area. ... I am also of the view that the use of the site as proposed would not significantly affect the tranquil character of the area, given the prevailing level of tranquility, the likely level of traffic generation and the level of control over noise and light pollution ... Locational needs of the equestrian business and the bespoke joinery business ... I do not find the conversion and extension of the barn, sand school and horse walker to be harmful. ... I do not find the equestrian business to be harmful to the character and appearance of the site and the surrounding area ... the bespoke joinery business currently has a symbiotic relationship with the area to some degree. ... the evidence before me does not fully justify why it has to be at

Appeal Decision: APPEAL DISMISSED - cont

Bignor Park Nursery to fulfil this requirement. ... I do not find the evidence relating to the locational requirements of the bespoke joinery business to be so compelling as to outweigh the harm to the character and appearance of the SDNP. ... Isolated home in the countryside/essential need for dwelling ... The Planning Justification for a Dwelling for a Rural Worker document (PJDRW), both in its original form and with additional justification, does not provide the clarity required by the Council. ... There does not appear to be a clear business plan for the enterprise ...

For these reasons I do not find that the essential need for the dwelling has been demonstrated. ...

Re-use of existing barn

...The existing barn is fully roofed and its substantial side walls are enclosed by metal cladding, therefore the changes to its appearance would not be significant. ...

Alterations ... would be acceptable ... I do not find that the development amounts to a new building for equestrian use. Nor would there be any harm arising from the works to the barn, in terms of its design. ..."

SDNP/15/00210/COU
Compton Parish Council
Parish

Case Officer: Shona Archer

Cowdown Farm Cowdown Lane Compton Chichester West
Sussex PO18 9NW - Appeal against CP/7

Written Representation

Appeal Decision: APPEAL SPLIT DECISION

The appeal is allowed on ground (f) and it is directed that the enforcement notice be varied by the addition to requirement (i) 'The original low level block wall (about 2m high) of the barn may remain in place', and by the deletion of requirement (ii). Subject to these variations the enforcement notice is upheld. It is directed that the enforcement notice be corrected by deleting the allegation and replacing it with 'without planning permission, the material change of use of the building to use for agriculture and the stationing of a caravan for the purposes of human habitation'. Subject to this correction the appeal is dismissed and the enforcement notice is upheld. I conclude that it is not permitted development. The appeal on ground (c) fails. The gable wall was not completed until the internal leaf of the cavity wall was finished in 2014. Therefore, the wall has not been completed for 4 years and is not lawful through the passage of time. The appeal on ground (d) fails. The appellant suggests that the gable wall can be painted to make it acceptable. However, this does not overcome the harm of the partial construction of a dwelling in this position of which the cavity gable is integral. It is poor design and should not receive planning permission. The appeal on ground (a) fails. I also acknowledge that there was originally a block wall at low level that was in place before the construction of the dwellinghouse began and this can remain. The appeal on ground (f) partially succeeds. The appeal on ground (b) partially succeeds in relation to identifying the agricultural use in the allegation. As this would not have any consequences for natural justice, I shall correct the notice. I consider that this was a reasonable discharge of the duty to ensure the notice is served on the owner and occupiers with an interest in the land. The appeal on ground (e) fails. Given the breach of planning control that has occurred it is reasonable that the caravan and associated paraphernalia should be removed. The appeal under ground (f) fails. The appeal on ground (g) fails."

<p><u>SDNP/15/00209/COU</u> Compton Parish Council Parish</p> <p>Case Officer: Shona Archer</p> <p>Written Representation</p>	<p>Cowdown Farm Cowdown Lane Compton Chichester West Sussex PO18 9NW - Appeal against CP/9 erection of a dwellinghouse in a barn.</p>
<p>Appeal Decision: APPEAL SPLIT DECISION</p>	
<p>As Above</p>	

3. CURRENT APPEALS

<p>SDNP/17/04166/LDE Elsted and Treyford Parish Council Parish</p> <p>Case Officer: Derek Price Public Inquiry</p>	<p>Buriton Barn Buriton Farm Buriton Farm Lane Treyford GU29 0LF - Existing Lawful Development - C3 residential use for the site area and building.</p> <p>Awaiting decision</p>
<p>SDNP/19/02109/FUL Midhurst Town Council Parish</p> <p>Case Officer: Louise Kent</p> <p>Written Representation</p>	<p>Arundel House Rumbolds Hill Midhurst GU29 9ND - Conversion of 2 upper floors to 2 no. flats.</p>
<p>SDNP/16/00496/OPDEV Funtington Parish Council Parish</p> <p>Case Officer: Shona Archer</p> <p>Informal Hearing</p>	<p>Land South of Braefoot Southbrook Road West Ashling West Sussex - Appeal against insertion of a cesspit and engineering works.</p>
<p>SDNP/16/00069/COU Upwaltham Parish Council Parish</p> <p>Case Officer: Shona Archer</p> <p>Public Inquiry</p>	<p>The Mill Eartham Lane Eartham Chichester West Sussex PO18 0NA - Appeal against issue of Enforcement Notice</p>
<p>SDNP/17/00755/COU Fittleworth Parish Council Parish</p> <p>Case Officer: Tara Lang</p> <p>Written Representation</p>	<p>Lithersgate Common Bedham Lane Fittleworth West Sussex - Appeal against FT/10</p>

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

Prosecutions		
Site	Breach	Stage

7. POLICY MATTERS