

## 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 19/02/2020 and 15/04/2020

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.

#### 1. NEW APPEALS

Reference/Procedure	Proposal
<u>SDNP/19/02832/FUL</u> Fernhurst Parish Council Parish  Case Officer: Derek Price  <b>Written Representation</b>	Baldwins Ropes Lane Fernhurst GU27 3JD - Reconstruction of the former stables and storage building to provide a single holiday let for tourist accommodation.
<u>SDNP/19/01956/HOUS</u> East Dean Parish Council Parish  Case Officer: Derek Price  <b>Householder Appeal</b>	1 Manor Farm Barns East Dean Lane East Dean PO18 0JA - Proposed side extension, relocation of 1 no. heritage style roof light , 2 no. new conservation type roof lights and 1 no. new painted timber double glazed window on west elevation.

## 2. DECIDED

Reference/Procedure	Proposal
<p data-bbox="113 286 480 394"><u>SDNP/17/00755/COU</u> Fittleworth Parish Council Parish</p> <p data-bbox="113 423 459 459">Case Officer: Tara Lang</p> <p data-bbox="113 517 469 553"><b>Written Representation</b></p>	<p data-bbox="555 286 1302 360">Lithersgate Common Bedham Lane Fittleworth West Sussex - Appeal against FT/10</p>
<b>Appeal Decision: APPEAL ALLOWED</b>	
<p data-bbox="97 618 1414 1787">“...The appellant describes the enforcement notice as defective, invalid, a nullity, hopelessly ambiguous, uncertain and confusing. ... The notice contains all that is required having regard to section 173 of the above Act, including a clear allegation and requirements. The appellant states the alleged breach of planning control is incorrectly stated on the enforcement notice as it alleges a material change of use rather than operational development. From the information provided, the earth mounds, wooden structures and plastic sheeting, referred to in the requirements of the notice, were installed as part of the change of use. They facilitate the change of use, are integral to it, and, the notice may require their removal, as is well established in case law. ... The appellant states that no material change of use has occurred and describes the use as the private riding of BMX bikes on 10 – 15 days a year by a small group of riders. However, it is clear that there is permanent operational development facilitating the change of use, in particular the earth mounds. ... I am not satisfied the change of use is not material, notwithstanding that the land may be open for this use on a relatively low number of days of the year. ... Schedule 2, Part 4, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)... grants planning permission for the use of any land for any purpose for not more than 28 days in total in any calendar year and the provision on the land of any moveable structure for the purposes of the permitted use. However, it is clear that operational development which constitutes part of the use alleged is not moveable. Therefore, the use is not permitted development under the above Order. ... The appellant considers that the notice should only require the use to cease as it is only the use which is identified in the breach of planning control. However, it is not necessary for operational development to be referred to in a notice where the allegation is a material change of use. If removal of the operational development had not been required, the land would be left with unauthorized development on it and this was not the purpose of the notice. The notice requires removal of the earth mounds by hand tools. The Council states this is to prevent damage to trees and their roots as well as to ecology and wildlife in this location. Having seen the wooded nature of the site, in my judgement, removing the earth mounds with anything other than hand tools would be likely to cause significant damage and disturbance. So I am satisfied the steps required by the notice do not exceed what is necessary to achieve the purpose of the notice. As such, the appeal on ground (f) fails. ...”</p>	

Reference/Procedure	Proposal
<p><u>SDNP/19/04837/HOUS</u> Milland Parish Council Parish</p> <p>Case Officer: Piotr Kulik</p> <p><b>Householder Appeal</b></p>	<p>Yew Tree Cottage Fernhurst Road Milland Liphook West Sussex GU30 7LU - Two storey side extension including new front dormer.</p>
<p><b>Appeal Decision: APPEAL ALLOWED</b></p>	
<p>"... the proposed increase of floor space of 28% does not suggest 'domination' ... any perception of additional mass and bulk would be reduced by the articulation of the extended front elevation and by the hipped roof. ... legibility and functionality ... enhanced ... front entrance and porch ... rear gable to single storey ... subservience. ... positioned further back from the road ... not materially affect the spaciousness of the plot. ... 2m increase in its width would not be visually significant. ... Policy H.1 ... existing floor space of 145sqm Yew Tree Cottage therefore falls within the definition of a 'large' dwelling. ... "</p>	
<p><u>SDNP/17/04166/LDE</u> Elsted and Treyford Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p><b>Public Inquiry</b></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><b>Appeal Decision: APPEAL PART ALLOWED; COSTS REFUSED</b></p>	
<p>Appeal Decision: "...The main issues in the case are what is the Planning unit and how has the land been used, including considering occupation of the land, physical separation and functional use of the land, past and present, and also the effect of previous planning permissions. ... The identification of an area of land for the purposes of a Planning Contravention Notice does not imply that area is a planning unit. I am considering planning use and not curtilage in the consideration of the appeal. ... It is clear from the various applications starting with that in 2002, that the Authority has endeavoured to control the residential activity associated with the dwelling. In 2002 the authority went back to the applicant and requested a reduction in the site area and land which would reduce the land that would gain residential use, by adjusting the red line position. ... However, in later applications the main control was in relation to the location of curtilage and not residential use, which is not unusual, but with the main aim/outcome being the control of where associated permitted development can occur. To my mind that does not of itself limit residential use of the red line area. However, this is of little effect in relation to this appeal. It is common ground that none of the previous planning permissions have been implemented and therefore the change of use of the land that would have come into being with their implementation has not occurred. ... I therefore give little weight to the intentions of the Authority to limit the area of land for curtilage in previous applications, or the appellant's reliance on the red line of the previous permissions. ... The starting point for consideration of the planning unit is the unit of occupation, the whole land within the red line. ... There is not a great detail of evidence on the use of the site, and the appellant, who has not been in occupation for a considerable time, has not given evidence at the inquiry, which is understandable as for much of his occupation there has been evident residential use of a proportion of the land, particularly that to the south east. ... I will consider the use of the disputed land in three parts:- the land to the front of the dwelling, the hard standing immediately to the rear of the garage and the land to the rear of the site. The land to the front of the building has always been directly associated with the dwelling. ... The previous owner notes that he maintained the land, although it was not in the same intensive way as the central area. ... given that the land is intimate to the door way and that the septic tank will need maintenance and the land is in the appellant's ownership, I conclude on the balance of probability that it was so used. The Authority's aerial photographs and other</p>	

photographs are not sufficient to indicate that this was not the case. ... The hard standing land to the rear of the garage had the hard standing added at an early date after the land had the underground array of pipework serving the heating system installed for the house. The area of hard standing has been used for parking by the occupants of the house and this is clear in the photographs provided by the Authority. ... on the balance of probability the parking use has continued as has the use of heat array pipes. It has continued to be used by the appellant in association with his house and has been in that use for in excess of 4 years. ... The land to the rear was noted by Mr Fenech to have been a paddock used for the keeping of chickens and the whole area, probably including the hard standing, was to be turned back to meadowland. The keeping of chickens is an agricultural use and does little to aid the appellant in establishing a residential use. ... the land is more akin to a meadow than it is for residential use. The heaps of stored materials are relatively small and not a residential use. ... In my view, at present, on the balance of probability the land is in a nil use. It is not in the same planning unit as the residential use. For the reasons given above I conclude, on the evidence now available, that the Authority's refusal to grant a certificate of lawful use or development in respect of C3 residential use for the whole site area and buildings described on the accompanying drawings (193-P20 to P29) was not well-founded and that the appeal should succeed in part only. ..."

Cost Decision: "... I consider that the Authority has acted in a reasonable manner in relation to this appeal. It has provided relevant information at the appropriate times, including its statement and proofs of evidence and agreed the statement of common ground. It has considered the use of the house and with the later submission of appropriate additional material has confirmed the use of the house ensuring that matter did not have to be considered in this appeal. There has not been a lack of cooperation, but a disagreement. ... It is up to the appellant to produce the evidence of a use and not for the planning authority to direct what is required, and a lack of such direction is not indicative of unreasonable behaviour. I accept that there has been some interchangeable use of terminology ... but I do not consider that has made a material difference in relation to its case and in any case is not sufficient to amount to unreasonable behaviour. In terms of wasted expense, ... the appellant made it clear in an email to the Authority that he would continue with the case in regard to the land. ... I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated."

## 2. CURRENT APPEALS

Reference/Procedure	Proposal
<p><u>SDNP/19/02109/FUL</u> Midhurst Town Council Parish</p> <p>Case Officer: Louise Kent</p> <p><b>Written Representation</b></p>	<p>Arundel House Rumbolds Hill Midhurst GU29 9ND - Conversion of 2 upper floors to 2 no. flats.</p>
<p><u>SDNP/19/01293/LDE</u> Heyshott Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p><b>Written Representation</b></p>	<p>Northend House Polecats Heyshott GU29 0DD - Lawful Development Certificate for the retention and continued use of the existing driveway.</p>
<p><u>SDNP/19/01322/LDE</u> Heyshott Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p><b>Written Representation</b></p>	<p>Northend House Polecats Heyshott GU29 0DD - Retention of existing gates and brick piers serving access to Northend House.</p>
<p><u>SDNP/19/03168/LIS</u> Harting Parish Council Parish</p> <p>Case Officer: Piotr Kulik</p> <p><b>Written Representation</b></p>	<p>Rooks Cottage North Lane South Harting GU31 5PZ - Replacement of 6 no. windows and 1 no. door on west elevation. Replacement of 1 no. door on adjacent single storey.</p>
<p><u>SDNP/18/04604/FUL</u> Funtington Parish Council Parish</p> <p>Case Officer: Piotr Kulik</p> <p><b>Written Representation</b></p>	<p>The Coach House Southbrook Road West Ashling PO18 8DN - Replacement dwelling.</p>

Reference/Procedure	Proposal
<p><u>SDNP/19/04389/CND</u> Petworth Town Council Parish</p> <p>Case Officer: Louise Kent</p> <p><b>Written Representation</b></p>	<p>Wickers Glasshouse Lane Kirdford GU28 9PA - Demolition of 1 and 2 storey extensions to dwelling house. Construction of 1.5 storey extensions - Variation of condition 2 of planning permission SDNP/19/02389/HOUS - Amended plans referred to in consideration of this application.</p>
<p><u>SDNP/16/00496/OPDEV</u> Funtington Parish Council Parish</p> <p>Case Officer: Shona Archer</p> <p><b>Informal Hearing</b></p>	<p>Land South of Braefoot Southbrook Road West Ashling West Sussex - Appeal against insertion of a cesspit and engineering works.</p>
<p><u>SDNP/17/00447/GENER</u> Lurgashall Parish Council Parish</p> <p>Case Officer: Emma Kierans</p> <p><b>Written Representation</b></p>	<p>Jays Farm Jays Lane Lurgashall Haslemere West Sussex GU27 3BL - Appeal against LG/16</p>
<p><u>SDNP/18/00087/GENER</u> Heyshott Parish Council Parish</p> <p>Case Officer: Emma Kierans</p> <p><b>Written Representation</b></p>	<p>Northend House Polecats Heyshott Midhurst West Sussex GU29 0DD - Appeal against Enforcement Notice HY/3</p>
<p><u>SDNP/18/00082/GENER</u> Fernhurst Parish Council Parish</p> <p>Case Officer: Emma Kierans</p> <p><b>Written Representation</b></p>	<p>Coombe House Marley Heights Fernhurst Haslemere West Sussex GU27 3LU - Appeal against FH/27</p>

### 3. VARIATIONS TO SECTION 106 AGREEMENTS

### 4. CALLED-IN APPLICATIONS

Reference	Proposal	Stage

### 5. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage

Court Hearings		
Site	Matter	Stage

Prosecutions		
Site	Breach	Stage

### 6. POLICY MATTERS