

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 15/04/2020 and 13/05/2020

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 |
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| <u>SDNP/19/04930/CND</u> Harting Parish Council Parish Case Officer: Piotr Kulik Written Representation | Spindles East Harting Street East Harting Petersfield West Sussex GU31 5LY - Replacement 1 no. dwelling - variation of condition 2 of planning permission SDNP/18/01754/FUL - substitute plans 57b for 57 and add new plans 21b and 27. |
| <u>SDNP/19/04625/LIS</u> Petworth Town Council Parish Case Officer: Beverly Stubbington Written Representation | Riverbank High Street Petworth West Sussex GU28 0AU - Internal alterations including installation of dividing walls and sound/fire proofing party floors to facilitate change of use. |

| Reference/Procedure | Proposal |
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| <u>SDNP/19/04624/FUL</u> Petworth Town Council Parish Case Officer: Beverly Stubbington Written Representation | Riverbank High Street Petworth West Sussex GU28 0AU - Change of use of rear room currently used as retail store and first floor offices to residential to form a self-contained two bedroom flat. Soundproofing and fireproofing internal walls. Formation of WC at ground floor level. |
| <u>SDNP/18/00733/COU</u> Tillington Parish Council Parish Case Officer: Emma Kierans Written Representation | Field South East of Beggars Corner Halfway Bridge Lodsworth West Sussex - Appeal against erection of stables and increased vehicular activity on the land, subject to Enforcement Notice LD/16. |

2. DECIDED

| Reference/Procedure | Proposal |
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| <u>SDNP/17/04166/LDE</u> Elsted and Treyford Parish Council Parish Case Officer: Derek Price Public Inquiry | Buriton Barn Buriton Farm Buriton Farm Lane Treyford GU29 0LF - Existing Lawful Development - C3 residential use for the site area and building. |
| Appeal Decision: APPEAL SPLIT DECISION | |
| <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</p> | |

Appeal Decision: APPEAL SPLIT DECISION - continued

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 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 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."

| Reference/Procedure | Proposal |
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| <p data-bbox="209 230 635 297"><u>SDNP/19/02109/FUL</u> Midhurst Town Council Parish</p> <p data-bbox="209 342 635 376">Case Officer: Louise Kent</p> <p data-bbox="209 421 635 454">Written Representation</p> | <p data-bbox="639 230 1487 297">Arundel House Rumbolds Hill Midhurst GU29 9ND - Conversion of 2 upper floors to 2 no. flats.</p> |
| <p data-bbox="209 483 1487 517">Appeal Decision: APPEAL ALLOWED</p> | |
| <p data-bbox="209 524 1487 1688">"... The appeal is allowed ... Policy SD37 of the LP seeks to support the vitality and viability of the retail function of market towns and village centre ... Importantly, the appeal proposal would maintain the predominantly retail interface at ground floor level whilst facilitating residential development on the floors above, which is characteristic of the mix of uses along this part of Rumbold Hill. I am also satisfied that the introduction of a residential use as proposed would support the vitality and retail function of the center by providing greater access to local businesses and services as recognised by Paragraph 85(f) of the National Planning Policy Framework (the Framework). The appellant goes on to analyse the composition of retail units in the area and identifies several occupied retail units of a similar size or smaller to the appeal proposal, that supports their position that the proposed retail unit would remain functional with the overall makeup of the town centre. ... I am satisfied that the proposed retail unit would remain viable having regard for the current demand and composition of different retail unit sizes within the Midhurst Town Centre. This is generally supported by the Economic Development Service (EDS) comments submitted by the LPA which states that "certain [retail] sectors are thriving such as barbers, health and beauty salons, alternative and complimentary medicines, bars, and mobile phones...", contrary to the general decline of other retail sectors based on recent statistics. The retail uses described by the EDS would generally occupy smaller unit sizes such as that created by the appeal proposal. ... Nevertheless, the proposed retail unit is of a comparable size to other small units in the centre, demonstrating the potential for its viability, and there are public conveniences and food outlets in walking distance of the appeal site to serve staff needs if no onsite facilities are provided. I am therefore satisfied that an appropriate retail use could reasonably occupy the proposed unit based on the evidence provided. ...Accordingly, the proposal would not harm the vitality or viability of the Midhurst Town Centre. It would comply with Policy SD37 of the LP, which supports development proposals in town centres that do not result in the loss of a retail unit, harm the retail function of the centre and are compatible with its scale and historic nature. ... Whilst the current external appearance of the appeal site at ground floor level would benefit from some maintenance, the only alterations to the façade of the building would be for the proposed entrance door serving the residential flats proposed at the first and second floor levels. The minor nature of the external works proposed and the overall preservation of the external built form of the building would have a neutral effect on the CA. ..."</p> | |

3. CURRENT APPEALS

| Reference/Procedure | Proposal |
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| <p><u>SDNP/19/01293/LDE</u> Heyshott Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p>Written Representation</p> | <p>Northend House Polecats Heyshott GU29 0DD - Lawful Development Certificate for the retention and continued use of the existing driveway.</p> <p>Linked to <u>SDNP/19/01322/LDE</u></p> |
| <p><u>SDNP/19/01322/LDE</u> Heyshott Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p>Written Representation</p> | <p>Northend House Polecats Heyshott GU29 0DD - Retention of existing gates and brick piers serving access to Northend House.</p> <p>Linked to <u>SDNP/19/01293/LDE</u></p> |
| <p><u>SDNP/19/02832/FUL</u> Fernhurst Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p>Written Representation</p> | <p>Baldwins Ropes Lane Fernhurst GU27 3JD - Reconstruction of the former stables and storage building to provide a single holiday let for tourist accommodation.</p> |
| <p><u>SDNP/19/04930/CND</u> Harting Parish Council Parish</p> <p>Case Officer: Piotr Kulik</p> <p>Written Representation</p> | <p>Spindles East Harting Street East Harting Petersfield West Sussex GU31 5LY - Replacement 1 no. dwelling - variation of condition 2 of planning permission SDNP/18/01754/FUL - substitute plans 57b for 57 and add new plans 21b and 27.</p> |
| <p><u>SDNP/19/04625/LIS</u> Petworth Town Council Parish</p> <p>Case Officer: Beverly Stubbington</p> <p>Written Representation</p> | <p>Riverbank High Street Petworth West Sussex GU28 0AU - Internal alterations including installation of dividing walls and sound/fire proofing party floors to facilitate change of use.</p> <p>Linked to <u>SDNP/19/04624/FUL</u></p> |

| Reference/Procedure | Proposal |
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| <p><u>SDNP/19/03168/LIS</u> Harting Parish Council Parish</p> <p>Case Officer: Piotr Kulik</p> <p>Written Representation</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/19/04624/FUL</u> Petworth Town Council Parish</p> <p>Case Officer: Beverly Stubbington</p> <p>Written Representation</p> | <p>Riverbank High Street Petworth West Sussex GU28 0AU - Change of use of rear room currently used as retail store and first floor offices to residential to form a self-contained two bedroom flat. Soundproofing and fireproofing internal walls. Formation of WC at ground floor level.</p> <p>Linked to <u>SDNP/19/04625/LIS</u></p> |
| <p><u>SDNP/19/01956/HOUS</u> East Dean Parish Council Parish</p> <p>Case Officer: Derek Price</p> <p>Householder Appeal</p> | <p>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.</p> |
| <p><u>SDNP/18/04604/FUL</u> Funtington Parish Council Parish</p> <p>Case Officer: Piotr Kulik</p> <p>Written Representation</p> | <p>The Coach House Southbrook Road West Ashling PO18 8DN - Replacement dwelling.</p> |
| <p><u>SDNP/19/04389/CND</u> Petworth Town Council Parish</p> <p>Case Officer: Louise Kent</p> <p>Written Representation</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> |

| Reference/Procedure | Proposal |
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| <p><u>SDNP/16/00496/OPDEV</u> 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><u>SDNP/17/00447/GENER</u> Lurgashall Parish Council Parish</p> <p>Case Officer: Emma Kierans</p> <p>Written Representation</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>Written Representation</p> | <p>Northend House Polecats Heyshott Midhurst West Sussex GU29 0DD - Appeal against Enforcement Notice HY/3</p> <p>Linked to <u>SDNP/19/01322/LDE & SDNP/19/01293/LDE</u></p> |
| <p><u>SDNP/18/00082/GENER</u> Fernhurst Parish Council Parish</p> <p>Case Officer: Emma Kierans</p> <p>Written Representation</p> | <p>Coombe House Marley Heights Fernhurst Haslemere West Sussex GU27 3LU - Appeal against FH/27</p> |
| <p><u>SDNP/18/00733/COU</u> Tillington Parish Council Parish</p> <p>Case Officer: Emma Kierans</p> <p>Written Representation</p> | <p>Field South East of Beggars Corner Halfway Bridge Lodsworth West Sussex - Appeal against erection of stables and increased vehicular activity on the land, subject to Enforcement Notice LD/16.</p> |

4. VARIATIONS TO SECTION 106 AGREEMENTS

5. CALLED-IN APPLICATIONS

| Reference | Proposal | Stage |
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6. COURT AND OTHER MATTERS

| Injunctions | | |
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| Site | Breach | Stage |
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| Court Hearings | | |
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| Site | Matter | Stage |
| | | |

| Prosecutions | | |
|---------------------|---------------|--------------|
| Site | Breach | Stage |
| | | |

7. POLICY MATTERS