

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 13/01/2021 and 09/02/2021

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)

None

2. DECIDED

Reference/Procedure	Proposal
<u>SDNP/20/00500/FUL</u> Bury Parish Council Parish Case Officer: Jenna Shore Written Representation	The Barn Hale Hill West Burton West Sussex - Change of use of agricultural building and associated works to form 1 no. residential dwelling house.
Appeal Decision: APPEAL DISMISSED	
“...There is very little information before me to demonstrate whether the permanent loss of this agricultural building will lead to a subsequent requirement to erect a replacement agricultural building, either on the holding or outside the holding, to support any continued activities. On the basis of the information before me I am therefore not persuaded that it has been demonstrated the development will not result in the need for another building for agricultural purposes on the holding, and so criterion d) is not satisfied. ... the substantial collapse of the main part of the building that I saw at my site visit leads me to conclude otherwise. I also saw that the smaller lean-to workshop area of the building is of poor construction to its walls and roof. In my judgement the condition of the building clearly points to substantial reconstruction being needed to facilitate a residential use. The proposal therefore does not satisfy criterion c). ... The drawings show French Doors from the living	

**Appeal Decision: APPEAL DISMISSED
- continued**

room in the east elevation opening onto the field to the east. That field, though, is shown as lying outside the appeal site; indeed, there is not any outside area shown for the proposed dwelling save for the parking area to the north of the building and the retained shared vehicular access to the side. The proposed opening of the dwelling to the field gives rise to concern about the domestication of this field, either in the short term or longer term as pressure would exist for the use of that land due to French Doors opening onto the field. The impression would change from that of a modest agricultural building in a rural setting to a domestic dwelling in a residential setting. This would be in addition to the area of parking to the north of the building, where the necessary clearing and works to land would similarly create a domestic setting to the building. ... any dwelling permitted under Policy SD41 must be for a local worker, and that the worker needs to be accommodated in that building. The information before me indicates the intention is for an open market house with no robust evidence to demonstrate why the occupier of that house needs to be located at the appeal site. Criterion g) has therefore not been satisfied. ... “

SDNP/19/04624/FUL
Petworth Town Council
Parish

Case Officer: Beverley
Stubington

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.

Appeal Decision: APPEAL DISMISSED

“ Appeal A - SDNP/19/04624/FUL is dismissed - The development proposed is 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. ... Appeal B - SDNP/19/04625/LIS is dismissed. - The works proposed are internal alterations including installation of dividing walls and sound/fire proofing party floors to facilitate change of use. ...

The proposed development and works affect a listed building located in a conservation area ... I shall therefore consider them in a single document ... Appeal A, the effect of the proposal on the vitality and viability of Petworth town centre ... Appeal B, whether the proposed development and works would preserve the special architectural and historic interest of the Grade II listed building. ... The premises, which are presently vacant, include a ground floor retail unit and offices at first floor level. The site lies within the centre of Petworth, an attractive market town which is defined as an affluent catchment area with a high quality independent shopping offer and low retail vacancy rates. ... the site forms part of the area designated as a Primary Shopping Frontage. The appeal scheme seeks to convert part of the ground floor space and the whole of the first floor level into a two-bedroom dwelling. ... first marketed for sale from January 2017 at a price guide of £700,000, ... reduced to £650,000 in January 2018. ... December 2018, when the guide price was further reduced to £500,000. This suggests that the original guide prices may have proved unrealistic. ... I have been presented with limited evidence to explain how the guide price was set out ... I am unable to ascertain, on the basis of the available information, whether the present guide price constitutes a realistic value of the appeal premises in the current market, ... It is also unclear whether the premises were also marketed for letting for example. The proposed development and works would significantly reduce the size of the area available for trading, ... the proposal would reduce the size of the shop to such an extent that it would unacceptably undermine the viability of the

**Appeal Decision: APPEAL DISMISSED
- continued**

premises. This would in turn adversely affect the viability and vitality of Petworth Town Centre. ... I am unable to conclude that the marketing exercise was sufficiently robust or provide enough justification for reducing the size of the retail premises to this extent. ... there is no substantive evidence demonstrating that the proposed arrangement would prove more viable. The appeal scheme would not result in the loss of a retail unit in its entirety, but it would nevertheless erode the viability of the ground floor premises by reducing their size to a harmful degree. This would have a detrimental effect on the vitality and viability of Petworth town centre. ... These policies seek to protect the vitality and viability of the retail function of the market towns and village centres sited within the National Park. ... The significance of this designated heritage asset derives primarily from its early origins and retention of its timber frame and traditional construction. ... an important contribution to the considerable sense of historic character which defines the Petworth Conservation Area, as notably derived from its tight urban grain and strong sense of enclosure. ... Whilst the appeal scheme may not lead to the loss of historic fabric, the proposed subdivision would cause harm to the building's internal layout. The proposed works would also hide the building's timbers, which are presently largely exposed and contribute to the special interest of this designated heritage asset. ... detrimental effect on the significance of this listed building, and have a harmful effect on its understanding and appreciation. ... nothing before me to suggest that alternative solutions have been explored to preserve the significance of the listed building. ... harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. ... limited evidence to demonstrate that the proposed arrangement would represent the optimum viable use for these premises. Overall, the harm identified would not be outweighed by the limited public benefits which would be derived from the proposal. ... The appeal scheme would however fail to preserve the special architectural and historic interest of the Grade II listed building. ... The proposal would also conflict with the first purpose of designation of the South Downs National Park, which is to conserve and enhance the natural beauty, wildlife and cultural heritage of the area. ... both appeals should be dismissed."

SDNP/19/04625/LIS
Petworth Town Council
Parish

Case Officer: Beverley
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.

Appeal Decision: APPEAL DISMISSED

As above

Reference/Procedure	Proposal
<p data-bbox="165 230 517 338"><u>SDNP/20/02351/HOUS</u> Graffham Parish Council Parish</p> <p data-bbox="165 365 544 398">Case Officer: Jenna Shore</p> <p data-bbox="165 461 480 495">Householder Appeal</p>	<p data-bbox="608 230 1430 300">The Laurels The Street Graffham GU28 0QA - Erection of replacement outbuilding</p>
<p data-bbox="528 524 1114 557">Appeal Decision: APPEAL DISMISSED</p>	
<p data-bbox="146 568 1497 1288">“...The proposed outbuilding would be sited in the same position as the existing outbuilding, and would be of similar length, but it would be of a scale far greater in its presence. The existing workshop and stores in the building are staggered back from the garage element, which significantly reduces the visual presence of the building. The low ridge height and unassuming timber appearance further diminishes any visual presence. The proposed building would not have such a staggered and varied building line which, together with the considerable increase in ridge height over the existing, would substantially increase the visual impact in the area. The domestic appearance of the design would compound this increased presence. The southern elevation is highly glazed, with large windows over the majority of the building, bi-fold doors and front door, and a porch. These all would give an impression of a large building that competes in scale, design and perceived function to the main house, which would diminish the spacious character of the plot and be unduly intrusive to the village and wider landscape. ... I acknowledge that the positioning and orientation of the proposed outbuilding looks towards the existing dwelling. However, the use of the building is entirely given over to bedrooms and living area, with any other incidental use omitted; the existing outbuilding contains a variety of incidental uses typical for a large detached house with a garden of this size. This indicates that the sole purpose of the building would be for living accommodation, with the design of the building emphasizing this, and so there is both no clear functional and physical dependency on the host dwelling, nor any clear incidental use to the large, extended house. ... “</p>	

Reference/Procedure	Proposal
<p>* <u>SDNP/18/05093/LDE</u> Elsted and Treyford Parish Council Parish</p> <p>Case Officer: John Saunders</p> <p>Informal Hearing</p>	<p>Buryfield Cottage Sheepwash Elsted Midhurst West Sussex GU29 0LA - Existing lawful development certificate for occupation of a dwellinghouse without complying with an agricultural occupancy condition.</p>
Appeal Decision: APPEAL DISMISSED	
<p>“... At the Hearing, the NPA said that the appellant ceased employment in agriculture in 1999. He clarified the position, stating that he retired from agriculture in 1995 with the demise of Slate House Farms. However, from then until 1999 he considered his activities as a councillor on Elsted and Treyford Parish Council (‘ETPC’) to be a ‘part time interest’. As such, he was of the opinion that he still complied with the condition as he was last employed in the locality in agriculture. The Council accepted that this was the case. ... The appellant’s view was that this changed, and he no longer complied with the condition, from May 1999 when he was elected to Chichester District Council (‘CDC’). From that time on, in addition to the ‘normal’ duties of a councillor on ETPC and CDC, he represented CDC on the Sussex Downs Conservation Board and South Downs Joint Committee from 2003 to 2011 and, from 2010 to 2015 was CDC’s representative on the NPA. In addition, he was elected as a councillor to Harting Parish Council (‘HPC’) in May 2015. He was a councillor on CDC, ETPC and HPC on the date of the application. ... Essentially, the appellant’s argument was that there is no need for a person to be paid to be employed. In this regard, my attention was drawn to appeal decisions made by the Secretary of State for the Environment, Transport and the Regions in a letter dated 8 March 1998. The first of the appeals the letter refers to² related to an application for a lawful development certificate regarding the failure to comply with agricultural occupancy conditions. I refer to this as the ‘Tandridge decision’. The second appeal³ related to an enforcement notice aimed at the use of land as a caravan site and has no relevance to my decision. I was not provided with the full text of the Tandridge decision. However, what I have been given is clearly relevant to the appeal and has been referred to in both parties’ submissions. Paragraph 12.2 of the Annex to the Tandridge decision letter states that <i>“‘employed’ can take the meaning of spending time doing something for pleasure or out of interest, such as a hobby, regardless of the financial outcome, or of doing something with the intention of a financially beneficial outcome, such as paid work”</i>. This accords with the arguments put forward in the Hearing and I see no reason to disagree. The question is whether the activities carried out by the appellant for the various councils represents employment in terms of the condition. The Secretary of State’s position in that appeal, which concerned a matter similar to that before me, is of considerable importance. He agreed with the Inspector’s view that <i>“‘employed’ in the condition is to be given a reasoning more akin to the latter rather than the former”</i>, that is to say he favoured the “financially beneficial outcome” argument. I give great weight to this part of the Secretary of State’s decision. The context in which the permission was granted was discussed at the Hearing. It was agreed that application ES/12/84 would have been assessed using tests of functional need and financial viability. The purpose of these tests was directed at avoiding an abuse of the planning system. In terms of the latter test, it would have been necessary to have demonstrated that the farm business would provide the occupant of the house with an appropriate level of income. That is to say, that it would be occupied by a person who was genuinely employed in agriculture as a paid occupation. This lends further weight to the finding in the Tandridge decision regarding a <i>“financially beneficial outcome,</i></p>	

such as paid work". I take the point made by the appellant that circumstances on a farm change over time. Be that as it may, my finding is that the meaning of employed and employment, in terms of the condition, is found in those parts of their definitions relating to paid work. The evidence shows that the appellant has not been employed in agriculture since 1995. His extensive engagement in activities relating to his various councillor and NPA roles, whilst these equate to work in terms of the LGA, my finding is that they do not accord with the words 'employed' and 'employment' in condition 3. As such, from the information before me, I find that the appellant was last employed in agriculture in the ten years up to the date of the application. Therefore, he has been unable to demonstrate, on the balance of probability, that there has been occupation of Buryfield Cottage without complying with the agricultural occupancy condition for a period of ten years. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of occupation of a dwellinghouse without complying with an agricultural occupancy condition was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended...."

COSTS DECISION

"In my opinion, the evidence shows that the NPA was aware of the various definitions of the words 'employed' and 'employment'. Its considered view was that, in the context of the condition, this related to financial reward. In this regard, it cited the decision of the SoS in *Tandridge*. I also found this to be compelling evidence. The Officer's report, whilst not giving it's name, clearly referenced the *Parker* case, setting out reasoning why it was not thought to be relevant to the application. Officers from different departments of authorities seeking and receiving advice verbally is, in my experience, commonplace and not unreasonable. That it involved legal advice, here, does not change this. In any event, that advice was reflected in paragraphs 8.13 to 8.16 of the Officer's report. The NPA recognised the appellant's commitment to his various councillor rolls. However, it disagreed with the assertion that this equated to employment, in the context of the condition. Its position was well-reasoned and that it reached an opposing position to the appellant cannot be held to be unreasonable. The appellant was able to counter the Officer's position and recommendation through verbal and written representations to the Planning Committee. On the basis of the evidence, I do not find that members of the Committee were misled. The evidence shows that, being made up of elected councillors with first-hand experience of the arguments, the Planning Committee had a good grasp of the issues. Whilst there was some dissension amongst its members, this is not at all rare in the determination of applications. Overall, I find that its decision was based on a sound Officer report that allowed a robust and informed debate."

3. IN PROGRESS

Reference/Procedure	Proposal
<p><u>SDNP/19/06009/LDP</u> Fernhurst Parish Council Parish</p> <p>Case Officer: Rebecca Perris</p> <p>Written Representation</p>	<p>Meadow Cottage Hawksfold Lane East Fernhurst GU27 3JW - Proposed lawful development for single storey rear extension. The application is made under the auspices of the Town and Country Planning (General Permitted Development) Order 2015 Schedule 2, Part 1 (Class A.) to build one single-storey rear extension to the detached dwelling known as Meadow Cottage.</p>
<p><u>SDNP/19/05392/FUL</u> Fernhurst Parish Council Parish</p> <p>Case Officer: Jenna Shore</p> <p>Written Representation</p>	<p>Copyhold Copyhold Lane Fernhurst GU27 3DZ - Demolition of existing dwelling and detached self-contained ancillary accommodation replaced with 1 no. dwelling and linked self-contained ancillary accommodation.</p>
<p><u>SDNP/20/01982/HOUS</u> Singleton Parish Council Parish</p> <p>Case Officer: Beverley Stubbington</p> <p>Householder Appeal</p>	<p>Wayside A286 Cobblers Row To Middlefield Singleton PO18 0HD - Single storey detached garage.</p>
<p><u>SDNP/20/02062/HOUS</u> Petworth Town Council Parish</p> <p>Case Officer: Jenna Shore</p> <p>Householder Appeal</p>	<p>Leith House Angel Street Petworth West Sussex GU28 0BG - Demolition of existing double garage to replace with Annex extension to include glazed link. Internal/external alterations to the existing property.</p>
<p><u>SDNP/19/03032/FUL</u> Bignor Parish Council Parish</p> <p>Case Officer: Louise Kent</p> <p>Written Representation</p>	<p>Manor Farm Bignor Road Bignor RH20 1PQ - Change of use of agricultural land to a tourist use for the siting of 6 no. shepherds huts, camping and with a part conversion of an agricultural barn to provide ancillary facilities.</p>

Reference/Procedure	Proposal
<p><u>SDNP/20/01635/LDP</u> West Lavington Parish Council Parish Case Officer: Derek Price</p> <p>Written Representation</p>	<p>Kennels Farm Selham Road West Lavington Midhurst West Sussex GU29 0AU - Proposed use of buildings at Kennels Farm as Estate Maintenance yard including a joinery workshop, painters workshop, stores and offices.</p>
<p><u>SDNP/19/05938/HOUS</u> Lurgashall Parish Council Parish Case Officer: Jenna Shore</p> <p>Written Representation</p>	<p>Aldworth Farm Jobsons Lane Lurgashall GU27 3BY - Two storey rear extension to northern wing. Minor internal alterations and replacement fenestration to south west extended section and north east extended section. Amendments to planning permission SDNP/16/03556/FUL and listed building consent SDNP/16/03567/LIS.</p>
<p><u>SDNP/19/05939/LIS</u> Lurgashall Parish Council Parish Case Officer: Jenna Shore</p> <p>Written Representation</p>	<p>Aldworth Farm Jobsons Lane Lurgashall GU27 3BY - Two storey rear extension to northern wing. Minor internal alterations and replacement fenestration to south west extended section and north east extended section. Amendments to planning permission SDNP/16/03556/FUL and listed building consent SDNP/16/03567/LIS.</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