

## 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 25/05/2022 and 17/06/2022

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/21/05908/HOUS</u> Lodsworth Parish Council  Case Officer: Beverley Stubbington  <b>Written Representation</b>	Oakleaves School Lane Lodsworth GU28 9DH - Extension of existing bungalow to provide first floor accommodation and construction of a new garage building.
<u>SDNP/21/04858/FUL</u> Kirdford Parish Council  Case Officer: Beverley Stubbington  <b>Written Representation</b>	Former Cricket Pavilion The Old Coach House Hawkhurst Court Kirdford Billingshurst West Sussex RH14 0HS - Retrospective planning application for the conversion of a former cricket pavilion into a holiday let.
<u>SDNP/21/03816/FUL</u> Funtington Parish Council  Case Officer: Lauren Cripps  <b>Written Representation</b>	Birchwood Lye Lane East Ashling PO18 9BB - Conversion of the stable for ancillary residential accommodation for disabled mother.

Reference/Procedure	Proposal
<u>SDNP/21/04454/HOUS</u> Lurgashall Parish Council  Case Officer: Beverley Stubbington  <b>Householder Appeal</b>	Smugglers Cottage Jobsons Lane Windfall Wood Common Lurgashall GU28 9HA - Erection of garden outbuilding.

## 2. DECIDED

Reference/Procedure	Proposal
<u>SDNP/20/01635/LDP</u> West Lavington Parish Council  Case Officer: Derek Price  <b>Informal Hearing</b>	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.

### Appeal Decision: APPEAL ALLOWED

...In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. ... The case must be considered solely on the relevant legal tests, and its planning merits are of no relevance in the context of an appeal made under section 195 of the 1990 Act as amended. ... This application seeks to demonstrate that the proposed use of buildings at Kennels Farm as Estate Maintenance yard including a joinery workshop, painters' workshop, stores, and offices is lawful. The application for an LDC was made on the basis that the agricultural use of Kennels Farm, West Lavington, and the use of the existing Estate's Maintenance Yard at Easebourne, are within the same Planning Unit (which has been identified within a 'Core Area' of the Estate<sup>1</sup>). Therefore, this application seeks to demonstrate that the relocation of the Estate's Maintenance Yard is not "Development" for the purposes of Section 55 of the Town and Country Planning Act 1990. Consequently, the appeal turns on an understanding of the correct Planning Unit which is considered below. ... In cases where there is a dispute as to whether a proposal would constitute a material change of use, it is first necessary to ascertain the correct planning unit. In the case of *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207, it was held that the planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and/or occupied for different and unrelated purposes. The concept of physical and functional separation is a very significant factor. ... The Authority consider that the third limb of *Burdle* is relevant in so far as it is possible to distinguish separate planning units within distinct and identifiable areas of land, each with their own function and character. The Golf Course and Club House, the Farm Shop, Kennels Farm, and the Estate Maintenance Yard are all cited as examples of this. ... The appellant contends that the Core is a single mixed-use planning unit with a number of main composite uses, and several ancillary uses (such as the Estate Office). ... for the appeal to succeed, it would be sufficient in this case, for the appellant to demonstrate, on the balance of probabilities, that the Estate Maintenance Yard and Kennels Farm are within the same planning unit, even if the exact boundaries of the planning unit are not precisely established. ... Kennels Farm has always been an integral part of the Estate, and particularly closely associated with the main house. The Maintenance Yard, which is also located centrally within the Core and has been developed from the early 1900's to accommodate the stores and workshops needed to maintain the Estate's property. ... A diagrammatic summary of the business structure<sup>4</sup> illustrates that all of the various components of the business, which includes both the existing Maintenance Yard and Kennels Farm (forming part of Home Farms), falls under a single CEO. ... All components of the business share a common/centralised administrative service, including payroll, finance, and marketing. Furthermore, the Estate Maintenance Team is a shared resource, with the majority of their work (approximately 85%<sup>5</sup>) being located within the identified Core. ... During the hearing I also heard how the maintenance team carryout an annual pro-active repair programme at Kennels Farm, and the adjacent residential property, which includes checking the electrics, drainage,

and gutters of the buildings. ... The interaction of the Estate Maintenance Team to the other enterprises within the Core, including Kennels Farms, demonstrates a very clear functional relationship. This all demonstrates that, on the balance of probability, a functional relationship exists across the estate including Kennels Farm, with the activities carried out by the Maintenance Team being ancillary to the primary uses within the estate. ... With regard to the physical relationship, the Authority contends that both Kennels Farm and the Polo Grounds have their own distinct character and occupies a well-defined area of land. However, given the strong functional relationships which exist between these uses and the remainder of the Estate (as outlined above), I consider that the Polo Grounds and Kennels Farm forms part of the single mixed use Planning Unit. ... Notwithstanding that the Maintenance Yard is contained within clearly defined boundaries, this use is clearly ancillary to the wider Estate, with the majority of the teams work located within the Core. ... I also observed during my site visit that the various components of the business within the identified Core were contiguous. Whilst the existing Maintenance Yard and Kennels Farm are some distance apart, all the intervening land (Cowdray Park, the Polo pitches, agricultural land, and woodland area) are all in the ownership and control of the Estate. It was also apparent from my site visit that one could travel between the various parts of the Core without leaving the estate property ownership. This therefore demonstrates a physical relationship of the Estate Maintenance Yard to the remainder of the Core and Kennels Farm. ... The existing Maintenance Yard and Kennels Farm fall under the ownership and occupation of the Cowdray Estate (and thus are within a single unit of occupation), and all components of the business are contiguous within the Core, and share a CEO, an administrative, finance and marketing service, and an Estate Maintenance Team. Therefore, on the balance of probabilities, I consider that the agricultural use of Kennels Farm and the other primary uses within the estate are composite uses within the same Planning Unit and this includes the existing Estate's Maintenance Yard. ... I have found, on the balance of probabilities, that the activities to be re-located are ancillary uses to the wider estate and both the existing Maintenance Yard and Kennels Farm are within the same planning unit. Therefore, the Maintenance Yard is not being introduced into the Planning Unit but is already an integral part of the Unit. Relocating that use within the Planning Unit does not result in an intensification of any one component use - but simply a 'reshuffling' within the planning unit without intensification. As a result, the proposal would not change the overall character of this Planning Unit and would not result in any intensification of the existing uses to the extent that a MCU of the whole Planning Unit would occur. ... To conclude, on the balance of probabilities, given the functional and physical relationships of the Estate Maintenance Yard to the various components of the business within the Core, together with the overarching control of Estate on these components (through its administration, financing, marketing and maintenance of the Core Estate land and buildings), in my judgement, the existing Estate Maintenance Yard and Kennels Farm are situated within a single mixed use planning unit. Therefore, I consider that the relocation of the Estate's Maintenance Yard is not "Development" for the purposes of Section 55 of the Town and Country Planning Act 1990. ... For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed use of buildings at Kennels Farm as Estate Maintenance yard including a joinery workshop, painters workshop, stores and offices was not well-founded and that the appeal should succeed...

### 3. CURRENT APPEALS

<b>Reference/Procedure</b>	<b>Proposal</b>
<u>SDNP/20/05011/FUL</u> Ebernoe Parish Council  Case Officer: Jenna Shore  <b>Written Representation</b>	Bittlesfield Ebernoe Road Balls Cross Ebernoe GU28 9JU - Demolition of 1 no. existing dwelling, garage and outbuildings, replaced with 1no. detached dwelling and 1no. detached garage/storage including access, driveway, parking and amenity space.
<u>SDNP/20/04086/HOUS</u> Bury Parish Council Case  Officer: Jenna Shore  <b>Written Representation</b>	Cokes Barn West Burton Road West Burton RH20 1HD - Annex extension including three bay garage, cycle store and bin store
<u>SDNP/21/04110/LDE</u> Lynchmere Parish Council  Case Officer: Louise Kent  <b>Written Representation</b>	1 Stone Pit Cottages Marley Combe Road Camelsdale Linchmere GU27 3SP - Existing lawful development - rear garden cabin.
<u>SDNP/21/03068/LIS</u> Fittleworth Parish Council  Case Officer: Beverley Stubbington  <b>Written Representation</b>	Old Well Cottage Lower Street Fittleworth RH20 1EJ - First Floor extension and internal alterations.
<u>SDNP/21/04109/FUL</u> Lurgashall Parish Council  Case Officer: Lauren Cripps  <b>Written Representation</b>	Land Adjoining Sods Farm High Hamstead Lane Lurgashall Petworth West Sussex GU28 9EX - Erection of new hardstanding area to allow vehicular access to site.
<u>SDNP/20/04087/LIS</u> Bury Parish Council  Case Officer: Jenna Shore  <b>Written Representation</b>	Cokes Barn West Burton Road West Burton RH20 1HD - Annex extension including three bay garage, cycle store and bin store

Reference/Procedure	Proposal
<p><u>SDNP/21/00910/FUL</u> Rogate Parish Council Case</p> <p>Officer: Rebecca Perris</p> <p><b>Written Representation</b></p>	<p>Land North East of Paddock Lodge London Road Hill Brow Rogate West Sussex - 1 no. dwelling with associated work and extension of driveway.</p>
<p><u>SDNP/20/02935/CND</u> Harting Parish Council Case</p> <p>Officer: Derek Price</p> <p><b>Informal Hearing</b> <b>13/12/2022 10:00:00</b> South Downs Centre Memorial Hall</p>	<p>Three Cornered Piece East Harting Hollow Road East Harting West Sussex GU31 5JJ - Change of use to a mixed use of the land comprising the keeping and grazing of horses and a gypsy and traveller site for one family. (Variation of conditions 1, 2, 3 and 4 of planning permission SDNP/16/06318/FUL- To make the permission permanent,non personal to increase the number of mobile homes by one to change the layout.)</p>
<p><u>SDNP/21/03067/HOUS</u> Fittleworth Parish Council</p> <p>Case Officer: Beverley Stubbington</p> <p><b>Written Representation</b></p>	<p>Old Well Cottage Lower Street Fittleworth RH20 1EJ - First Floor extension and internal alterations.</p>
<p><u>SDNP/21/03527/FUL</u> Tillington Parish Council</p> <p>Case Officer: Lauren Cripps</p> <p><b>Written Representation</b></p>	<p>Field South East of Beggars Corner Halfway Bridge Lodsworth West Sussex - Erection of timber stable building and change of use of the land for the keeping of horses for private use.</p>
<p><u>SDNP/21/04454/HOUS</u> Lurgashall Parish Council</p> <p>Case Officer: Beverley Stubbington</p> <p><b>Householder Appeal</b></p>	<p>Smugglers Cottage Jobsons Lane Windfall Wood Common Lurgashall GU28 9HA - Erection of garden outbuilding.</p>
<p><u>SDNP/21/01877/FUL</u> Fittleworth Parish Council</p> <p>Case Officer: Beverley Stubbington</p> <p><b>Written Representation</b></p>	<p>Rew Cottage Hesworth Common Lane Fittleworth RH20 1EW - Retrospective planning application for the retention of the realigned access road together with the replacement gates.</p>

<b>Reference/Procedure</b>	<b>Proposal</b>
<u>SDNP/18/00609/BRECO</u> Rogate Parish Council  Case Officer: Steven Pattie (EX SDNPA)  <b>Written Representation</b>	Land South of Harting Combe House Sandy Lane Rake Rogate West Sussex - Appeal against Enforcement Notice RG/37
<u>SDNP/19/00386/COU</u> Fittleworth Parish Council  Case Officer: Sue Payne  <b>Written Representation</b>	Douglaslake Farm Little Bognor Road Fittleworth Pulborough West Sussex RH20 1JS - Appeal against FT/11

**4. VARIATIONS TO SECTION 106 AGREEMENTS**

None

**5. CALLED-IN APPLICATIONS**

None

**6. COURT AND OTHER MATTERS**

None

<b>Injunctions</b>		
<b>Site</b>	<b>Breach</b>	<b>Stage</b>

<b>Court Hearings</b>		
<b>Site</b>	<b>Matter</b>	<b>Stage</b>

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

**7. POLICY MATTERS**

None