Chichester District Council

Planning Committee

Wednesday 11 November 2015

Report of the Head of Planning Services

Schedule of Planning Appeals, Court and Policy Matters

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).

WR - Written Representation Appeal

H – Hearing I – Inquiry

() – Case Officer initials

Committee level decision

1. NEW APPEALS

Reference/Procedure	Proposal
BO/15/00953/DOM WR (ANMI)	Reef Cottage Bosham Lane Bosham West Sussex PO18 8HT - Extension to existing property to provide first floor bedroom and shower room.
CC/15/01099/FUL WR (PKN)	21 Whyke Lane Chichester West Sussex PO19 7US - Change of use from a 4 bedroom semi-detached house to two no 2 bedroom self-contained flats including two storey rear extension, internal and external alterations.
CC/15/01245/DOM WR (MT)	30 Brandy Hole Lane Chichester West Sussex PO19 5RY - Garage conversion with bay window and new open bay garage with first floor gym and shower.
CH/15/00151/CONDWE WR (RWH)	Cockleberry Farm Main Road Bosham West Sussex PO18 8PN - Retention of The Chalet
CH/11/00538/CONBC H (RWH)	Five Oaks Newells Lane West Ashling Chichester, West Sussex PO18 8DF - Height of building in excess of that permitted under 10/01925/FUL
CH/15/01250/DOM WR (MT)	La Traite Chidham Lane Chidham West Sussex PO18 8TH - New porch and loft extension.
CH/15/01956/DOM WR (CABO)	Dene Cottage Broad Road Hambrook Chidham PO18 8RG - Loft conversion including replacement roof.

Reference/Procedure	Proposal
EWB/14/03986/FUL WR (NAM)	Stables North East of Marula Cottage Church Farm Lane East Wittering West Sussex - Change of use from stables to small holiday let.
SDNP/15/02426/HOUS FERNHURST WR (RHJO)	Fernwood Cottage Bell Road Kingsley Green Fernhurst GU27 3LQ - Remove existing front flat roof and porch. Construct a two storey rear extension, New pitched roof over existing front extension, new dormers (resubmission of SDNP/15/00212/HOUS).
FU/15/00237/CONTRV WR (SCA)	Land South of The Stables Newells Lane West Ashling West Sussex - Engineering Ops and Use of Lane as a Gypsy Site.
PS/14/03983/FUL H (RHJO)	Nell Ball Farm Dunsfold Road Plaistow Billingshurst West Sussex, RH14 0BF - Retention of existing mobile home as a permanent dwelling.
SY/15/00881/FUL WR (MT)	82 East Street Selsey West Sussex PO20 0BS - Elevation changes to convert shop to flat.
SB/11/00022/CONDWE I (SCA)	R B S Nurseries Thornham Lane Southbourne Emsworth Hampshire PO10 8DD - Use of a building as a dwellinghouse
WE/15/00134/CONACC	Hambrook Car Wash Common Road Hambrook Westbourne West Sussex - Creation of an access and removal of trees. Linked to WE/15/01814/FUL
WE/15/01814/FUL WR (FJST)	Hambrook Car Wash Common Road Hambrook Westbourne West Sussex - Use of the land for hand car washing. Linked to WE/15/00134/CONACC
SDNP/15/01791/LDE WEST HARTING WR (RHJO)	2 Ryefield Barns Killarney to Goose Green Road West Harting Petersfield West Sussex GU31 5PE - Existing domestic curtilage extension requested in line with garden boundaries on land between house and driveway.
WW/15/00353/FUL WR (PKN)	Land to the Rear of Tanglewood, Briar Avenue East Wittering West Sussex - Temporary retention for a period of three years of eight no lorry containers for storage purposes. Linked to WW/15/00363/FUL
WW/15/00363/FUL WR (PKN)	Land to the Rear of Tanglewood Briar Avenue East Wittering West Sussex - Proposed six pitch static caravan site with wardens caravan for holiday proposes only. Linked to WW/15/00262/FUL

Reference/Procedure	Proposal
WR/15/00038/CONMHC WR (RWH)	1 Newfields Newpound Wisborough Green Billingshurst West Sussex RH14 0AX - Stationing of two mobile homes.
WR/15/00498/ELD I (CABO)	Beech Farm Roundstreet Common Loxwood Wisborough Green West Sussex RH14 0AN - The siting of a mobile home for the purposes of human habitation independently to Beech Farm House

2. DECISIONS RECEIVED

Reference/Decision	
BO/14/03168/COUPJ	The Mill Ham Farm Main Road Bosham Chichester
WR (C Boddy)	West Sussex PO18 8EH - Part 3 Class J: Change of use from
DISMISSED	B1(a) office to C3 residential.

...The appeal is dismissed.... Following the Council's decision, the Town and Country (General Permitted Development) Order 2013 (as amended) was superseded by the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO), which came into effect in April 2015. In terms of the section which is relevant to this appeal, Class O has replaced the old Class J. However, in respect of the issues relating to this case the content of the GPDO is not materially different.... The provisions of the GPDO at paragraph 0.2 set out that there are three matters on which prior approval may be required; these are transport and highways, contamination risk and flooding. The Council have indicated that these do not apply in this case.... refused the application on the basis that condition 4 attached to the original planning permission1 removes permitted development rights rendering the prior approval regime not applicable in this case. This argument is made in the light of Article 3(4) of the GPDO which states that 'nothing in this order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part III of the Act otherwise by this order'....Condition 4 reads 'The premises shall be used only for the purposes within Use Class B1 as defined in the Town and Country Planning (Use Classes) Order 1987. The reason for the condition is given as 'to comply with the terms of the application and protect the amenities and character of the area'.... The appellant argues that there are appeal decisions and High Court judgements that indicate condition 4 does not withdraw permitted development rights. I have been referred to the 'Dunoon' Court of Appeal case 3 which relates to the operation of the Use Classes Order. However, it is not clear what the context of this judgement was or what matters were considered... The Council refer to the findings of the 'Royal London Mutual' judgement4. This relates to a case involving a condition limiting the types of goods to be sold from a retail park. The judgement refers to the use of the word 'only' in the condition as making it clear that uses apart from retail trade are excluded... Based on the evidence before me, I consider there are clear parallels between the Royal London Mutual judgement and the case before me.... The Council has provided appeal decisions5 for change of use from offices to dwellings at Tangmere within the District. In these cases there was a similar condition attached to B1 uses although the reason for the condition is worded slightly differently. The Inspector concluded that the condition was effective in removing permitted development rights.... The appellant refers to an appeal decision in Chiltern District6 relating to a condition which was also similarly worded to condition 4. I have been provided with an extract of that appeal. The extract states that as there is no reference to the operation of the GPDO in the condition its operation was not prevented.... The extract from the Chiltern appeal indicates that the Inspector took a different view from the Inspector in the Tangmere decisions and the previous Inspector for the appeal site. Consistency between decision makers is important. However, I have not been provided with a full copy of the decision or the other considerations taken into account. Nor am I aware of the arguments that were put to that Inspector. Therefore the weight I give to it has to be tempered accordingly.... The Council accept that the wording of the condition is not in a form which they would use today. Nevertheless, by the use of the word 'only' this is clearly means 'solely' or 'exclusively'. This is supported by the preceding words 'shall be used'. On this basis, I consider that the wording is precisely defined and that there is a clear restriction against any other use.... I turn now to consider the reason for the condition. In this respect, the Council refer to the need to protect the intrinsic rural quality of the area. The location of the appeal site is slightly away from other residential properties with fields to the east and west.... only small clusters of house to the south on Main Road. The Council submit that the presence of domestic paraphernalia would need to be controlled in this rural area and I agree that this would be the case. Both parties refer to the need to consider planning permission in its full context. Therefore, when the condition and the reason are read as a whole it is clearly effective in restricting the use of the building to Class B1.... I conclude that condition 4 of the original planning permission is effective in removing the permitted development rights under Schedule 2, Part 3, Class O of the GPDO. The proposal would be contrary to the GPDO under Article 3(4). The prior approval regime is therefore not available in this case and planning permission would be needed for the proposed change of use. For the above reasons I conclude that the appeal should be dismissed....

SDNP/15/00982/HOUS Rogate WR (M Mew)

ALLOWED

Mottistone Cottage Terwick Hill Rogate Petersfield West Sussex GU31 5EJ - Replacement of a 4ft fence and 8ft Leylandii with 6ft fence and Laurel bush.

...At the time of my visit the Laurels were equivalent in height to the fence and had matured sufficiently to give fairly comprehensive screening along its length. Although the fence could be seen it was not clearly distinguishable and did not stand out as a prominent feature, neither from close quarters nor from views further afield. Instead I saw that the combination of the naturally coloured timber fence and foreground planting merged fairly seamlessly with the roadside enclosures of the site's wider setting.... given the intensely mixed vegetation of the surroundings the planting stands out as neither incongruous nor alien.... For the reasons given I am satisfied that there has been no harm to the area's landscape quality and scenic beauty....

WI/15/00896/DOM

WR (M Tomlinson) DISMISSED Little Court Itchenor Road West Itchenor West Sussex PO20 7DD - Change in fenestration of first floor rear windows and change first floor rear balcony balustrade from timber to glass.

Although I have identified two ostensibly separate elements in the main issue above, they are closely inter-related. This is because the planning history of the building demonstrates that from the outset the Council has sought to achieve a

building that through its design and external materials would be in keeping with the AONB.... This is illustrated by the refusal of the original application 10/03402/FUL for reasons including the large expanse of glazing and a glazed balcony balustrade to the first floor rear elevation and the subsequently negotiated approved scheme 11/00049/FUL, as amended by 11/02777/FUL. The Council later granted permission for a larger single area of glazing on the ground floor under approved application 13/03577/DOM and as I saw on my visit that this has been implemented.... The larger glazing panels now proposed for the first floor would be in keeping with the altered ground floor but in my view they would diminish the high quality of the original design and harm the appearance of the building. This harm would be further increased by the replacement of the traditional timber balcony balustrade handrail and spindles with the frameless fully glazed balustrade.... Although I understand from the appellant's point of view that in terms of making the most of the views and light the increased glazing would be an enhancement to the enjoyment of the dwelling, it is an overtly modern feature that would be at odds with the more traditional and restrained original design, negotiated to ensure that the building would not be intrusive in the AONB landscape.... In this context I note that the Section 6 'Windows and Glazing' of the General Guidelines section of the 'Design Guidelines for New Dwellings and Extensions Chichester Harbour AONB Revised August 2010' says that the visual impact of glazing, in particular the issue of reflection, is a key concern in the AONB. The Guidelines encourage the breakup of glazing and states that 'Disproportionately large expanses of glazing or picture windows can have a very unsympathetic appearance and will tend to draw the eye from the wider landscape'. This is exactly the fear of not only the Council, but also the Chichester Harbour Conservancy and the West Itchenor Parish Council in this case and I consider that there is a reasonable basis for their views.... Of particular relevance in this case is that the Design Guidelines explain that 'Generally, dwellings should be designed with proportionate windows; there should be more building than window. The visual impact of larger windows can be reduced by the vertical subdivision of frames, which helps to reduce the window proportions'. I acknowledge that the appeal scheme does not increase the overall ratio of window to building, but it does remove the vertical subdivision at an elevated level, and it is clear from the officer report that the Council has had some regrets in terms of its decision to permit application 13/03577/DOM for the amendments to the ground floor of the east elevation.... With these factors in mind I consider that there would have to be exceptional reasons to now take a decision directly contrary to the Guidelines, which either in themselves or their objectives were clearly an important consideration in the negotiated approvals of 2011.... However I also note the Council's point as regards a photograph submitted with the application demonstrating the reflective nature of the existing ground floor glazing, whilst there is no detailed evidence in terms of the visual impact of the fully glazed and frameless balustrade, which in my view could be significant in high summer.... Overall in terms of the degree of visual impact I consider that there remains an element of doubt, but perhaps the salient point is that even if I were to give the appellant the benefit of that doubt, this does not alter or overcome my concerns that the proposed alterations are directly in conflict with the Design Guidelines and would harm the architectural integrity of the building....

3. OUTSTANDING APPEALS

Reference/Status	Proposal
BI/15/00194/CONTRV WR (R Hawks) In progress	Land North West of Premier Business Park Birdham Road Appledram West Sussex - Use of land as a Traveller Site
BI/14/23356/PLD WR (F Stevens) In progress	Martins Lea Martins Lane Birdham Chichester PO20 7AU - Construction of driveway to Lock Lane, in connection with additional hard surfacing.
BI/15/01287/FUL I (R Hawks) In progress	Birdham Road Birdham West Sussex PO20 7BU - Proposed single pitch site including the provision of a utility building for settled gypsy accommodation together with existing stables. Linked to BI/15/00194/CONTRV and BI/15/01288/FUL
BI/15/01288/FUL I (R Hawks) In progress	Birdham Road Birdham West Sussex PO20 7BU - Proposed single pitch site including the provision of a utility building for settled gypsy accommodation together with existing stables. Linked to BI/15/00194/CONTRV and BI/15/01287/FUL
SDNP/14/04865/FUL BURY I (D Price) In progress	Land North of Junction with B2138 Bury Road Bury West Sussex - Change of use from agricultural land to a Gypsy and Traveller's site. Linked to SDNP/15/00336/COU
SDNP/15/00336/COU BURY I (R Hawks) In progress	Land North of Junction with B2138 Bury Road Bury West Sussex - Stationing of two caravans for human habitation. Linked to BI/15/01288/FUL, BI/15/01287/FUL and BI/15/00194/CONTRV
CC/14/02201/FUL WR (P Kneen) In progress	Garage Compound South of 39 to 45 Cleveland Road Chichester West Sussex - Proposed residential development to form 3 no 3 bedroom detached houses with associated gardens and garages.
CC/14/03359/PDE WR (H Chowdhury) Awaiting decision	18 Juxon Close Chichester West Sussex PO19 7AA - Single storey rear extension (a) rear extension - 4.0m (b) maximum height - 3.7m (c) height at eaves - 2.3m.
CC/15/01122/DOM WR (A Miller) In progress	28 Westgate Chichester West Sussex PO19 3EU - Single storey rear extension. Linked to CC/15/01123/LBC
CC/15/01123/LBC WR (A Miller) In progress	28 Westgate Chichester West Sussex PO19 3EU - Single storey rear extension. Linked to CC/15/01122/DOM

Reference/Status	Proposal
CC/15/01245/DOM WR (M Tomlinson) In progress	30 Brandy Hole Lane Chichester West Sussex PO19 5RY - Garage conversion with bay window and new open bay garage with first floor gym and shower.
CH/14/00181/CONMHC I (S Archer) In progress Public Inquiry to be held 10 December 2015 at 10am, Bourne Leisure Centre	Field West of Five Oaks Newells Lane West Ashling West Sussex - Stationing of mobile home.
CH/14/01342/FUL I (N Langford) Awaiting Decision	Buildings B C and D Lion Park Broad Road Hambrook Chidham Chichester West Sussex, PO18 8RG - Development of 25 no dwellings (4 no 1 bed and 21 no 2 bed) with associated parking and amenity space, in place of commercial blocks B, C and D approved under 09/04314/OUT and 11/01764/REM (resubmission of 13/00984/FUL).
CH/14/02138/OUT I (J Bell) Awaiting Decision	Land East Of Broad Road Hambrook West Sussex - Residential development of 120 single and two storey dwellings comprising 48 affordable homes and 72 market price homes, garaging and parking together with retail unit, sports pavilion, community facility, new vehicular and pedestrian access to Broad Road, emergency and pedestrian access to Scant Road West, sports facilities, two tennis courts, football pitch and four cricket nets, children's play area, public open space and natural green space on a site of 9.31 ha.
SDNP/15/00662/HOUS DUNCTON WR (M Mew) In progress	The Corn Store Dye House Lane Duncton Petworth, West Sussex GU28 0LF - External alterations and construction of raised platform. Linked to SDNP/15/00663/LIS
SDNP/15/00663/LIS DUNCTON WR (M Mew) In progress	The Corn Store Dye House Lane Duncton Petworth West Sussex GU28 0LF - External alterations and construction of raised platform. Linked to SDNP/15/00662/HOUS
E/15/01149/DOM WR (C Boddy) In progress	95 First Avenue Almodington Earnley PO20 7LQ - Two storey erection of ancillary domestic building comprising garage, workshop, gym, storage and home office.
SDNP/15/02367/HOUS EBERNOE WR (R Grosso Macpherson) In progress	Sparkes Farm Ebernoe Road Balls Cross Ebernoe GU28 9JU - Proposed demolition of various extensions to the rear and east sides of the house and their replacement with new extensions.

Reference/Status	Proposal
SDNP/14/06393/FUL EASEBOURNE WR C (Cranmer) In progress	Ilex House Upperfield Easebourne West Sussex GU29 9AE - Construction of a new dwelling.
SDNP/15/00299/ADV EASEBOURNE WR (C Cranmer) In progress	A286 Kings Drive to Henley Old Road Easebourne West Sussex - To erect and keep for the licence period two signs of a similar size and style to that shown on the attached illustration in positions shown on the attached location plan on Kings Drive.
EWB/14/01806/OUT I (F Stevens) In progress Public Inquiry to be held 8 and 9 December 2015 at 10am, Bracklesham Barn	Land East of Barton Way Clappers Lane Earnley West Sussex - The erection of 110 residential dwellings, new vehicular access, open space, and other ancillary works.
EWB/14/03986/FUL WR (N McKellar) In progress	Stables North East of Marula Cottage Church Farm Lane East Wittering West Sussex - Change of use from stables to small holiday let.
SDNP/14/05057/LIS HARTING WR (M Mew) In progress	Old Manor House West Harting Petersfield GU31 5PA - Replacement of five timber single glazed windows on the rear 1930s extension with new timber double glazed units.
SDNP/15/01301/HOUS FERNHURST WR (R Grosso Macpherson) In progress	32 Vann Road Fernhurst West Sussex GU27 3JN - Single storey and first floor extension.
LX/13/03809/OUT I (N Langford) Awaiting Decision	Land South of Loxwood Farm Place High Street Loxwood – erection of 25 no residential dwellings comprising of 14 no private residential dwellings and 11 no affordable residential dwellings, associated private amenity space and parking.
SDNP/14/02271/HOUS Midhurst WR (M Mew) In progress	The Old Cottage Bepton Midhurst GU29 0JB – Conservatory Linked to SDNP/14/02272/LIS
SDNP/14/02272/LIS Midhurst WR (M Mew) In progress	The Old Cottage Bepton Midhurst GU29 0JB - Conservatory Linked to SDNP/14/02271/HOUS
SDNP/14/00373/OPDEV WR (R Hawks) Petworth In progress	Stillands Shillinglee Road Shillinglee Northchapel Godalming West Sussex GU8 4SX - Creation of a bank. Appeal against enforcement notice.

Reference/Status	Proposal
PS/14/03665/FUL WR (P Kneen) In progress	Oakley Grange Plaistow Road Kirdford Billingshurst West Sussex RH14 0JY - Proposed track across paddock adjoining Oakley Grange, Kirdford.
PS/14/04100/FUL H (F Steven) In progress	Little Springfield Farm Plaistow Road Ifold Loxwood Billingshurst West Sussex RH14 0TS - Demolition of existing industrial buildings and erection of 3 no detached dwelling houses with associated landscaping, surfacing, car parking provision and access works.
SDNP/15/01349/HOUS ROGATE WR (R Grosso Macpherson) In progress	Lower House Durleighmarsh Rogate Petersfield West Sussex GU31 5AX - Oak framed glazed garden room extension to side. Linked to SDNP/15/01351/LIS
SDNP/15/01351/LIS ROGATE WR (R Grosso Macpherson) In progress	Lower House Durleighmarsh Rogate Petersfield West Sussex GU31 5AX - Oak framed glazed garden room extension to side and insertion of roof light on south elevation. Linked to SDNP/15/01349/HOUS
SDNP/14/04194/HOUS Rogate WR (M Mew) In progress	Tollgate Cottage Durleigh Marsh Petersfield Hampshire GU31 5AX - Single storey rear extension and various works. Linked to SDNP/14/04195/LIS
SDNP/14/04195/LIS Rogate WR (M Mew) In progress	Tollgate Cottage, Durleigh Marsh, Petersfield, Hampshire GU31 5AX - Single storey rear extension and various works. Linked to SDNP/14/04194/HOUS
SY/15/00905/COUPMB WR (N McKellar) In progress	Ferry Farm Chichester Road Selsey West Sussex - Proposed change of use from agricultural building to 1 no dwelling (C3 Use Class).
SY/15/00320/FUL Hearing (F Stevens) Awaiting Decision	Student Accommodation Home Farm Chichester Road Selsey Chichester West Sussex PO20 9DX - Variation of condition 3 of permission SY/14/01758/FUL. Change need to retain these buildings in agricultural occupancy.
SI/14/04249/ELD WR (P Kneen) In progress	Magnolia Cottage Cloverlands Chalder Lane Sidlesham Chichester West Sussex PO20 7RJ- To continue use of building as a single dwelling.

Reference/Status	Proposal
SI/15/00157/CONMHC H (R Hawks) Hearing to be held 9 February 2016 at 10am, Chichester District Council	Field South of Green Lane Piggeries Ham Road Sidlesham West Sussex - Stationing of a mobile home engineering works.
SDNP/15/00136/OPDEV WR (A Simpson) In progress	Manor Farm A286 Town Lane to the Grove Singleton Chichester West Sussex PO18 0EX - Earth works.
SB/15/00113/FUL WR (F Stevens) In progress	Land between Meadowsweet and Appletrees Lumley Road Southbourne West Sussex - Construction of a dwelling.
WE/14/00911/FUL I (J Bushell) Awaiting Decision	Land on the North Side of Long Copse Lane Westbourne West Sussex - Erection of 16 no dwellings, vehicular and pedestrian access, car and cycle parking and landscaping
WE/14/01217/FUL H (J Bell) Awaiting Decision	Land West of Harwood Cemetery Lane Woodmancote Westbourne West Sussex - Provision of five Gypsy and Traveller pitches incorporating the re-design of an existing pitch (including the removal of stables granted in permission WE/13/03867/FUL) and the use of land for the stationing of caravans for residential purposes for an additional 4 no gypsy pitches, together with the formation of additional hard standing and utility/ dayrooms ancillary to that use.
WW/13/00232/CONCOM WR (S Archer) In progress	Bramber Plant Centre Chichester Road West Wittering – Portacabins being used as office – appeal against enforcement notice.

4. VARIATIONS TO SECTION 106 AGREEMENTS

5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage
NONE		

6. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage
Land at Premier Site Birdham Road	Stable and other preparatory works in the AONB without planning permission.	Contempt proceedings have been lodged. Crown Court has given a hearing date of 5 October 2015. Due to ongoing breaches and further works injunctions against further parties are being sought in addition to further enforcement action taken.
Land at Scant Road East	Preparation to convert use to residential without planning permission.	Investigations ongoing and injunction being prepared if other methods of enforcement prove not to prevent the planning harm identified. Planning application now made. Court proceedings suspended.
Prosecutions		
Site	Breach	Stage
Nell Ball Farm Plaistow	Failure to comply with planning enforcement notices	(i) Prosecution authorised and papers passed to Legal Services (containers on the land).(ii) Prosecution proceedings to be recommenced in relation to the stationing of mobile homes.
Dean Ale and Cider House West Dean	Failure to comply with planning enforcement notice	Planning application has been received. Matter is listed to 25 September 2015 but likely to be adjourned and will be withdrawn if planning permission for relevant enforcement notice is granted. 25.09.15 — Court hearing adjourned until determination of the application.

Site	Breach	Stage
12 Second Avenue Emsworth	Failure to comply with s 215 notice.	Matter withdrawn as compliance with notice largely achieved. Notice remains in effect and site will be monitored.
Kellys Farm, Bell Lane Birdham	Failure to comply with planning enforcement notice	Certificate of lawful use granted. Matter therefore withdrawn from court as requirements of enforcement notice now satisfied.
The Barnyard	Display of unauthorised adverts.	Defendant found guilty at hearing and given absolute discharge. Further action review 1 November 2015.
High Court		
Site	Matters Prohibited by the Order	Stage
Planning injunction		
NONE		
Magistrates Court		
NONE		

7. POLICY MATTERS

NONE