

Chichester District Council

Planning Committee

Wednesday 11 November 2016

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
- FT – Fast Track (Householder/Commercial Appeals)
- () – Case Officer Initials
- * – Committee level decision

1. NEW APPEALS

Reference/Procedure	Proposal
CC/15/00409/CONBC WR (S Archer)	3 Pound Farm Road, Chichester, West Sussex, PO19 7PX - Residential occupation of games room.
CC/15/03923/FUL WR (M Tomlinson)	25A Chapel Street, Chichester, West Sussex, PO19 1BT - To replace 6 no. windows with UPVC units.
CH/16/02071/FUL WR (R Ballam)	Land South Of Kings Meadow, Broad Road, Hambrook, Chidham, West Sussex - Revised house type on Plot 30 with attached single garage and drive, access onto Broad Road.

2. DECISIONS RECEIVED

Reference/Decision	
BO/14/03677/PLD H (F Stevens/D Price) DISMISS	Land west of Sweet Meadow Bosham Hoe Bosham Chichester PO18 8ET - Use of site for 1no. dwelling.
<p>....The Appellant claims that there is an extant permission for a further dwelling on the western half of the Sweet Meadow holding. It is argued that this permission derives either from the status of the land at the Appointed Day in 1948, or in the alternative follows upon the grant of planning permissions relating to the Bosham Hoe Estate in 1949 and 1953. A decision on this case turns upon the merits of these arguments. The first of the two alternative arguments put forward turns on the 1947 Act, which had had saving provisions establishing the future lawfulness of development extant on the Appointed Day in 1948. The wording used to define the meaning of development for the purposes of the saving provision is that used to define development in the Act itself - use of land and operational development. There is no evidence whatsoever as to there having been any operational development on the appeal site prior to the Appointed Day...Similarly there was no direct evidence as to what if any use the land was put to... it appears very likely that the site was farmland...In the absence of any other evidence I consider it likely that it would either have been still used for that purpose on the Appointed Day, or was unused. As neither agricultural use nor an absence of use is development, there is thus no evidence of either use or operational development on the Appointed Day such as might have been carried forward by the saving provisions in the Act....there is nothing as to use or operational development which would engage the saving provisions of the 1947 Act. I conclude that the Appointed Day argument for granting an LDC fails. The second and main argument put forward for the Appellant relates to events subsequent to the 1947 Act, and in particular to planning permissions granted in 1949 and 1953....As early as 1945 what is now the Sweet Meadow holding was sold subject to a covenant that not more than two dwellings be constructed upon it. Such a covenant does not, however, confer any planning right to build two houses, nor does it impose a legal obligation to build two houses. The 1949 planning permission BO/25/48 decision notice describes the development situate at Bosham Hoe Estate, Bosham as being "for layout"....The appeal holding is shown colored red, and without a house on it. It is shown undivided, as a single square plot set within a green agricultural area. The nature of the 1949 permission...implied in principle approval of a dwelling on each plot, subject to approval of details. On that basis, as there was no subdivision shown of the Sweet Meadows holding, the 1949 permission allowed a single dwelling thereon if the permission is deemed to apply to the red plot land....the 1949 permission...does not in itself either confer permission to develop, nor yet to develop any particular number of units...therefore, the 1949 decision on its face does not grant permission for two dwellings on the holding. In 1953 the Council granted permission to a revised estate layout. Conditions similar to those made in 1949 were imposed, and the same distinction was made between blue plots and red plots. The appeal holding is again shown as a single undivided red plot. For the same reasons as set out in the preceding paragraph I conclude that the 1953 decision does not grant permission for two dwellings on the holding. The Appellant seeks to demonstrate that the appeal site has always been identified as one of two plots. As a matter of fact the Council granted planning permissions between 1952 and 1963 on both parts of the appeal holding, and in some plans the holding is shown subdivided into two plots, with permissions for a dwelling granted on one or other of them. This does not, however, in itself demonstrate more than the Council's willingness at that time to allow a two plot development. It does not establish nor alter what if anything the 1949 permission allowed....the covenant on the</p>	

1945 sale of the holding does not confer any planning right to build two houses, and any such right would in any event have had to be carried forward by the terms of the 1947 Act to remain relevant....For the foregoing reasons I have concluded that the Council's decision to withhold an LDC was well founded, and that the appeal will fail."

[LX/15/03745/FUL](#)
WR (F Stevens)
DISMISS

Dale Farm, The Lane, Ifold, Loxwood, RH14 0UL - Change of use from stable to dwelling and associated works.

The appeal site consists of a long L-shaped single storey building constructed of brick and tiles, formerly used for the private stabling of up to eight horses...set well back from The Lane...300 metres to the north of the settlement boundary of the village of Ifold. LP Policy 46 requires a proposal for conversion or re-use of a building in the countryside to meet a number of criteria. Criteria 2 requires evidence to show that economic uses, including live/work units, have been considered before a residential use and are unviable. This is consistent with the National Planning Policy Framework (the Framework). I fully appreciate that the appellant regards the existing use for private stables as unviable. However, beyond the limited alternative uses she described, there is a wide spectrum of economic uses that could potentially be appropriate to a rural location such as the appeal site. As noted above, the appeal site is a considerable distance outside of the settlement boundary...The facilities in Ifold itself are quite limited, mainly consisting of a community centre. Overall, the future occupiers of the stables would therefore be likely to be mainly reliant on the private car to access employment opportunities and local facilities and services...the formation of a residential garden in the yard, the parking of private vehicles and the other residential paraphernalia in and around the building associated with even the modest sized dwelling proposed, are all likely to give the stables and its surroundings a more obvious residential character and appearance. This would lead to a significant erosion of the rural character of the surroundings when compared with the existing equestrian use.

Protected species...in my experience there is a reasonable likelihood that bats might be roosting in a building like the stables. Therefore, there is a risk that bats might be adversely affected by the proposal.

[SDNP/15/05454/FUL](#)
HASLEMERE
H (D Price)
ALLOW

Courts Yard, Jobsons Lane, Windfall Wood Common Haslemere, Wst Sussex, GU27 3BX - Erection of 2 detached dwellings and garages following the cessation of the current use and demolition and removal of all existing buildings, hardstandings.

"...The main issue is whether the appeal scheme would be sustainable development having regard to:

- the effect of the proposal on the supply of employment land; and
- on the landscape and scenic beauty of the South Downs National Park (SDNP).

Employment land

The appeal site is an existing, as opposed to an allocated, employment site. Policy B8 of the CLP seeks to safeguard employment sites unless the Authority is satisfied that the proposal would not result in the loss of types and sizes of sites and accommodation of which there is limited availability... Policy B6 of the CLP allows for redevelopment of rural sites with established uses provided there is no expansion and no change of use to residential. However, there is a tension between this Policy and paragraphs 17 and 22 of the Framework which are more flexible.... Policy B6 is therefore out of date as it does not allow for balance in considering alternative uses for sites which are no longer suitable for employment uses... The proposals are not accompanied by the robust marketing

exercise of at least a year sought by the Authority, which is a new requirement under Policy SD28 of the emerging SDLP. However, information about employment land supply and demand was submitted. Key employment sectors for the SDNP are wood-related, tourism, food and beverage. Unemployment levels do not appear to be an issue in the SDNP. Indeed, I note that the 2015 Employment Land Review suggests, among other things, that the lack of a local labour force would be a likely barrier to companies moving onto remote rural sites... On the basis of the evidence of what I heard, it seems likely that there may well be some demand for low cost premises for general industrial or sui generis uses.... However, neither party had significant local up to date evidence of the extent of such demand although the Authority is aware of at least three enquiries from companies wishing to open second branches in the area in the last three months.... Courts Yard, due to its size and location some distance from a settlement of any size and from the strategic road network, is an unlikely location for meeting specific identified needs such as the need for larger units, warehousing, offices or displaced businesses in the event of the expansion of Gatwick airport. The Authority's Estates Officer... concludes that the market is too weak for a rural site such as Courts Yard to be of interest for speculative development... From what I saw at my site visit I would agree that Courts Yard, although providing relatively low cost premises for the businesses there, could not currently be described as a good quality employment site....The Authority says that, in principle, redevelopment for employment might be acceptable, for example for small units or for uses as described above. However, the commercial value arising is likely to be significantly outweighed by the costs of development... On balance it seems to me unlikely, on the basis of the available evidence, that there would be significant economically viable demand for Courts Yard in its current state, or for small units on the site... Notwithstanding the lack of a robust marketing exercise, and taking into account that adoption of the SDLP is delayed, with the consequence that its policies therefore have limited weight, I consider there is sufficient evidence, as set out above, to indicate that the site has significant locational disadvantages, has no realistic prospect of redevelopment for employment uses and is likely to decline further as businesses leave. On that basis, I consider that the site is generally not suitable for safeguarding for employment uses in the context of market demand and planning policies. I conclude, therefore, that the loss of employment land at Courts Yard would have little if any effect on the overall supply of employment land and employment levels in the SDNP....

Landscape and scenic beauty

The local character is woodland with open areas, commons, pastures and small settlements, with a scattering of houses. For the reasons set out above, Courts Yard in its present state cannot be considered as making a positive visual contribution to the character and beauty of the SDNP, or the local rural character of the area. Moreover, some of the activities are noisy and dusty and are sometimes carried out in the open which disturbs the tranquil character of the area and the living conditions of occupiers of nearby houses. Traffic movements associated with the site also disturb the area. Some of the buildings and outside storage areas are visible from the bridleway through the entrance to the site. Parts of some of the buildings can also be glimpsed from the bridleway near to the western boundary of the site. In mitigation, the existing buildings are relatively low in height, with the site screened by mature landscaping and views of them are obscured... As such, the buildings have a relatively low impact in terms of long and short range views into the site. This would also be the case for the two proposed houses and garages, particularly as the amended plans show the house at Plot 1 repositioned further from the site boundary, with increased planting on the boundary... The Authority is of the view that residential development would have a suburbanising effect in the rural landscape.... The proposed houses would be of substantial scale and the Authority considers the proposed designs lack subtlety. However, I saw a mix of house sizes and styles in the local area and, in my opinion, the proposed sizes and designs would be in keeping with the SDNP and the local area... whilst the proposed dwellings would be a different use of the site, on balance the effect of the development

would be to improve the appearance of this previously developed land by removing partially redundant and dilapidated buildings which are of limited architectural interest and contribute little towards the high quality of the landscape. Similarly, the proposal would improve the tranquillity of the SDNP by reducing traffic movements and removing noisy and dusty activities... Having given great weight to conserving the landscape and scenic beauty within the SDNP, in accordance with Paragraph 115 of the Framework, I conclude that the proposed development would, overall, have a beneficial effect on the landscape and scenic beauty of the SDNP...

Planning Balance

Economic role

Overall I conclude that the economic role of sustainable development would not be compromised by the proposal.

Social role

The location is not one where market housing is encouraged and I conclude that the social role of sustainable development would only be met to the extent that the two dwellings proposed would help meet the wider housing needs within the district and widen the choice of high quality homes.

Environmental role

The proposal would also make more efficient use of land and improve the appearance of the environment by removing partially redundant and dilapidated buildings which are of limited architectural interest and contribute little towards the high quality of the landscape. It would also improve the tranquillity of the environment and the living conditions of nearby residents by removing noisy and dusty activities... On balance I find that the proposal would satisfy the environmental role of sustainable development.

Planning balance conclusion

I have found that overall the proposal would have significant environmental benefits. On balance I consider that these outweigh the relatively small economic loss of the site for employment uses and the preference for directing market housing to existing settlements. Accordingly, I conclude on balance that the proposed development overall would represent sustainable development as defined by the Framework by achieving the mutually interdependent economic, social and environmental roles of the planning system. I therefore conclude that the proposal would conform with the aims of the development plan and national planning policies taken as a whole..."

[SDNP/15/03433/FUL](#)
LYNCHMERE
WR (C Cranmer)
ALLOW

Danley Hill, Danley Lane, Linchmere, West Sussex GU27 3NF - Demolish fire damaged cottage and re-build as existing before fire damage. (Renewal of permission reference LM/09/03061/FUL).

"... Landscape and scenic beauty of the National Park

The proposal entails rebuilding the Cottage on its current L-shaped footprint. The proposed building would be very similar in terms of its size, overall height, form, general appearance and external materials to that which existed prior to the fire. ... In visual terms, the proposed building would therefore substantially improve the current poor condition of the appeal site. ... The new pitched roof section would be better integrated with the overall design of the proposed building compared with the flat roof treatment on that part of the original structure. ... Consequently, in my view the appeal scheme also offers an opportunity for a visual improvement, albeit modest, over the permitted scheme. Overall I find that the proposal would accord with saved Policy BE11 of the adopted Chichester District Local Plan-First Review 1999 (LP). ... Also, the proposal would be consistent with LP Policy H12, as it would not detract from the rural character and appearance of the existing dwelling or the surrounding area by virtue of its scale and mass and design, and ... would be consistent with paragraph 115 of the National Planning Policy Framework. ... Additionally, the proposal would be consistent with the core planning principle at paragraph 17 of the Framework of taking account of the

different role and character of different areas and recognising the intrinsic character and beauty of the countryside. ...

Sustainability

Both main parties agree that use of the Cottage as residential accommodation has ceased as a result of the fire and the long period without any residential occupation which followed. Therefore ... it would amount to a new isolated home in the countryside as described in the Framework at paragraph 55. ... The approach of paragraph 55 is that new isolated homes in the countryside should be avoided, unless there are special circumstances. ... It is not necessary for the proposal to fall within one of the listed examples in order for special circumstances to apply. ... The appellant has clearly explained that the proposed building would be used for purposes ancillary to the main house. In particular, the residential accommodation in the proposed building would be occupied by staff working at the main house. ... Given the size of the main house and its grounds, it is perhaps not unreasonable to anticipate that at some stage in the future, its occupiers might have a requirement for one or more employees, such as a housekeeper or gardener, to live on the site in a form of separate accommodation. Indeed, this appears to have been the function performed by the Cottage for many years prior to the fire. ... Conditions would ensure that the proposed building maintained a functional relationship with the main house and that consequently, it would not be tantamount to the creation of a new dwelling separate from the main house. ... Moreover, as already described above the appeal scheme offers the opportunity for visual enhancements to the NP in comparison with the recently permitted scheme and having regard to the current poor condition of the appeal site. Accordingly, when these matters are all taken together in my view they would amount to special circumstances in which the proposed building, which would otherwise be an isolated new home in the countryside, could be permitted without it being inconsistent with the objective of promoting sustainable development in rural areas set out at paragraph 55 of the Framework. ... The benefits of the proposal are all small in scale. However, when applying the presumption in favour of development at paragraph 14 of the Framework there are no adverse impacts which would significantly outweigh the benefits, when the proposal is assessed against the policies in the Framework taken as a whole. ..."

[SDNP/14/06285/MPO](#)
PETWORTH
H (J Saunders)

Land At Laundry Cottage Woodlea and Grass Mere
Horsham Road Petworth West Sussex - Removal of
affordable housing obligation attached to planning
permission [SDNP/12/02721/FUL](#).

"... I consider that the main issue in this appeal is whether the affordable housing requirement has rendered the development unviable, and, if so, how the proposal should be dealt with..."

Viability appraisals

At the application stage for the proposal to modify the planning obligation, the Appellant submitted two appraisal calculations for the residential development of the site, excluding and including affordable housing³. The assessment with affordable housing gave a residual land value which was £466,838 lower than the existing use value and that without affordable housing gave a residual land value which was £9,057 higher than the existing use value. Appraisal calculations for the NPA have been undertaken by District Valuer Services (DVS). Calculations at application stage gave a negative differential of £324,618 for a scheme with 40% affordable housing and a positive differential of £375,735 for open market housing⁴. A series of other appraisals have been submitted by both main parties over the course of the appeal. In response to my request, both main parties submitted final appraisals taking account of the discussion on the third day of the hearing. The Appellant has submitted a single appraisal for a scheme

comprising wholly open market units, which gives a deficit of £470,028⁵. The NPA has also submitted an appraisal on an open market basis, together with appraisals for schemes including two and three discounted ownership units. Each of these appraisals shows a surplus, with a figure of £326,255 given for the wholly open market scheme. It is these final appraisals which carry most weight in my considerations. Whilst the NPA maintains that an element of affordable housing could be provided, it agreed with the Appellant that the development would not support the eight units specified in the planning obligation. I have no reason to take a different view.

Common ground

There was considerable discussion at the hearing about the inputs used in the appraisal calculations, in particular concerning additional build costs for those dwellings within Petworth Conservation Area (plot Nos 1-10)⁸, remedial work due to ground conditions, stamp duty land tax, and existing use value. As a consequence of the discussions, agreement was reached between the main parties on the following inputs used in the appraisal calculations:

Capital value of open market housing - £9,229,346

Planning obligation costs - £124,910

Marketing costs (for wholly open market scheme) - £264,307

Developer's profit (for wholly open market scheme) - £1,615,316.

Insofar as build costs are concerned, most items are not in dispute. The NPA had queried various items including enhanced materials in the conservation area, remediation works, piling, and wall construction. Notwithstanding any reservations on other matters, the only differences being pursued by the NPA by the end of the hearing concerned the costs of piling and wall construction. Consequently I have not recorded other components of build costs as being in dispute.

Viability

The difference in build costs between the main parties is due to their respective assessments of the costs of piling and entrance walling. Based on Spon's Construction Cost Book 2016, the Valuation Office Agency, acting for the NPA, has calculated a cost of £143,619.75 for piling (Document L17), whereas at the hearing the Appellant's quantity surveyor gave a much higher figure of £350,523.40

... Moreover the Appellant did not dispute that Spon's figures are widely accepted by tribunals and are based on costing feedback from the construction industry. I consider that more confidence can be placed on a piling cost based on figures from this source, and accordingly I prefer the piling cost put forward by the NPA. The dispute about walling concerns a 3m high section of existing wall, which the Appellant argues needs to be taken down and rebuilt. An annotated plan prepared for the Appellant identifies the walling concerned at the north-east corner of the garden of Laundry Cottage... None of these plans include the rebuilding of a 3m wall in the positions shown on the Appellant's plan, and this work does not form part of the permitted scheme. The note from Casson Associates (in Document A31) suggests that the wall needs to be rebuilt due to instability, but the site plan shows the unstable part as a projecting section which runs across the position of the access road, and which is not included in the lengths identified on the plan in Document A31 for rebuilding. I am not persuaded, therefore, that this work should be included in the build costs for the project...

I turn now to consider existing use value. The site comprises three parcels of land (above, para 16). The Appellant had originally valued Laundry Cottage at £900,000 (in November 2014)⁹, a figure with which the DVS concurred. Subsequently, this house,

which I had the opportunity to inspect as part of my site visit, has been extensively refurbished. The NPA suggested that the value should be uplifted by £20,000 to take account of this work. However the house has been valued by an estate agent at £1,350,000¹⁰, and I note that the Halifax Regional index shows a 9.9% increase between the final quarters of 2014 and 2015¹¹ in the South-East: I consider that this range of evidence supports the higher value of £1,100,000 put forward by the Appellant when the appeal was made¹². There is agreement between the main parties that an increase of 1.5% should be applied to reflect the movement in the property market during the course of the appeal, and they both consider that an incentive should be added to the value of the property. Given the high value of the house, I agree with the NPA that a level of 15% should be sufficient for this purpose, rather than the 20% advocated by the Appellant. Applying this percentage to the Appellant's figure of £1,116,500 (taking account of the 1.5% increase agreed in August 2016) gives an existing use value for Laundry Cottage of £1,283,975...

My assessment of the existing use value of the appeal site has given a figure which exceeds the residual land value in both of the NPA's appraisals which include affordable housing (see table 1 in para 13)¹⁴. Accordingly I find that those schemes, including either two or three discounted ownership dwellings, would not be viable. Insofar as the open market appraisals are concerned, I consider that the NPA's assessment is more reliable in terms of cost inputs (above, para 20). Taking the adjusted figure for stamp duty land tax together with other cost inputs from the NPA's appraisal gives a residual land value which is £80,280 in excess of my assessment of the existing use value. There is nothing before me to indicate whether this amount would be sufficient to fund a single affordable unit. At the hearing the NPA suggested that modification of the planning obligation should include provision for an affordable housing commuted sum, whereby any surplus amount (of residual land value above existing land value) would be used to contribute to the provision of off-site affordable housing. The surplus which I have identified lies between those given as outcomes in the NPA's two appraisals for schemes including affordable housing. On the evidence before me, I conclude that the scheme as originally proposed would not be viable, but that the development would support a contribution of £80,280 towards the provision of affordable housing...

There is agreement between the main parties that the scheme at Laundry Cottage and Woodlea cannot sustain the eight affordable dwellings specified in the planning obligation. I am not persuaded by the evidence before me that any affordable dwellings could be provided as part of the scheme. As the obligation precludes development commencing until notification has been given of the approved body which would be responsible for affordable units on the site, the scheme is effectively stalled. The clear preference of the NPA is for affordable housing to be provided on-site as part of proposals involving 11 or more additional dwellings, as set out in Policy SD24 of the emerging Local Plan, but in exceptional circumstances alternative forms of delivery may be acceptable, including a financial contribution. Although I do not consider that affordable housing could be provided on the appeal site, there would be a sufficient surplus over the existing use value to enable a contribution of £80,280 to be made to provision elsewhere. Having regard to all matters raised, I conclude that the appeal should be allowed, and the planning obligation modified as set out in the attached schedule for a period of three years.

Costs Decision for the Appellant

The application for an award of costs is refused... It is clear from the NPA's statement that the DVS's report was an important consideration in the decision to refuse the application. No explanation has been given as to why there was a gap of three months between the DVS's draft report and the subsequent version, and why a further two months then elapsed before the application was determined. In its statement, the NPA

refers to the DVS's May report as providing the advice sought on viability. The failure to deal with the application more expeditiously after receipt of this report was unreasonable. However I have no reason to think that, if the application had been determined more quickly, a different decision would have been reached and the appeal avoided. I do not consider that the NPA's behaviour led to wasted expense in the appeal process... I turn now to consider the NPA's consideration of the advice provided by the DVS. It is true that the DVS's reports found that the scheme would be unable to provide a policy compliant level of affordable housing (40%), which is the level required by the planning obligation. The reports referred to a level of 15-25% affordable housing, but they also explained that should the remediation works envisaged prove unnecessary, it was likely that a greater number of affordable units could be provided. In addition to remediation, the NPA has explained that it had concerns about other elements contributing to the build cost of the scheme. These are matters which the NPA was entitled to take into account, together with the DVS's reports, and which did not support the Applicant's position that the requirement to provide affordable housing should be discharged. The NPA did not behave unreasonably in respect of advice from the DVS. I conclude that the Council behaved unreasonably in failing to deal with the application for modification of the planning obligation in a timely manner, but that this behaviour has not led to unnecessary or wasted expense in the appeal process. Consequently an award of costs is not justified...

Costs Decision for the SDNPA

The application for an award of costs is allowed in the terms set out below... On 1 February 2016, the day before the hearing opened, the Appellant submitted a revised appeal statement, a revised viability appraisal, and revised details of build costs, explaining that additional information on costs had been received... Whilst there may be situations where a late change in circumstances requires additional documentation to be presented at short notice, it is incumbent on any party intending to appear at a hearing to ensure that it has assembled all the relevant information in support of its case for submission in accordance with the appeal timetable... Both main parties submitted additional documentation at extremely short notice. The documentation from the NPA in large part responded to the appraisal which formed part of the appeal submission, and it did not introduce much detailed new information. At the hearing the agent made it clear that the Appellant could deal with this documentation. In contrast the Appellant's documentation introduced significant new detailed information on build costs and existing use value. As a consequence it was not possible to deal with all matters relating to viability on the single day which had originally been scheduled for the hearing. The hearing was adjourned, and the question of viability was revisited on the second day. It is important that relevant and up-to-date information is available, but no good reason has been given for the late submission of the Appellant's revised statement and associated documentation.

Paragraph 16-052-20140306 of PPG gives the introduction of fresh and substantial evidence at a late stage thereby necessitating an adjournment as one of the circumstances which may lead to an award of costs against an Appellant. It was the late submission of documentation by the Appellant which caused the hearing to be adjourned at the end of the first day, and this unreasonable behaviour caused the NPA unnecessary expense in preparing for and attending the second day of the hearing. I have reached a different view in respect of the third day of the hearing. The hearing had originally been closed at the end of the second day... It was unreasonable for the Appellant's evidence on this element of costs to be altered after the second day of the hearing, without any apparent change in circumstance. However the hearing was re-opened due to the nature of the responses from both main parties, and consequently no additional expense was incurred by the NPA due to the action of the Appellant. The

Appellant submitted revised information on build costs prior to the third day of the hearing. This was a matter on which agreement had been reached but the Appellant argued, in a document attached to an email dated 9 June 2016, that more up-to-date and site specific information was now available. On that basis I agreed that build costs would also be discussed at the hearing. However the revised information on build costs is dated 26 June 2016², and self-evidently could not have been available when the Appellant sought to widen the scope of the re-opened hearing. It was unreasonable for the Appellant to bring forward revised information in this way, particularly on a matter where agreement had been reached after considerable discussion, and the NPA incurred expense in preparation on this material... I conclude that unreasonable behaviour by the Appellant resulted in unnecessary expenditure by the NPA in preparing for and attending the second day of the hearing, and in preparing to address revised information on build costs for the third day of the hearing. A partial award of costs is justified in respect of these matters.

[PS/15/03095/FUL](#)
WR (A Miller)
DISMISS

Hardnips Barn, Crouchlands Farm, Rickmans Lane
Plaistow, Billingshurst, West Sussex RH14 0LE - Retention
of wood store and general garden store on land adjacent to
Hardnip's Barn

Character and appearance - The building is sited within the woodland, set back from its northern edge. The natural finish of the external timber has begun to weather. These factors slightly offset its visual impact. Nevertheless, the building has a domestic scale and appearance. It is sited a considerable distance from the dwelling, with area of woodland in between...the building appears unrelated to the dwelling and is seen as a rather isolated and alien feature in the hitherto largely undeveloped rural surroundings, particularly when viewed at a distance to the north east from the public footpath...In addition, an increase in the level of human activity at the appeal site as a result of the use of the building, the use of artificial lighting in or around the building together with any associated external storage would all cause a further progressive erosion of the secluded rural character of the surrounding countryside over time.

Protected species and ancient woodland - Evidence submitted on behalf of the appellant...suggests that the building is used by at least one feeding/night roosting Brown Long-Eared Bat. The BS indicates that an alternative structure constructed adjacent to the building prior to its removal could provide suitable mitigation. Consequently, I am not persuaded that an alternative bat roost would inevitably cause significantly more harm to protected species in comparison with retaining the building. Accordingly, I have given the benefit offered by the building in terms of its habitat creation for protected species limited weight...An area of ancient woodland has been lost as a result of construction of the building which, whilst limited in size, represented a significant part of a finite natural resource. I have not been supplied with any convincing evidence of a need for the building.

3. OUTSTANDING APPEALS

Reference/Status	Proposal
BI/15/00139/CONSH PI (S Archer) In Progress 7 th – 9 th February 2017 Venue to be confirmed	Land North West Of Premier Business Park, Birdham Road Birdham, West Sussex – Access track, hardstanding and fencing. Linked to BI/15/01288/FUL and BI/15/00194/CONTRV

<p>BI/15/00194/CONTRV PI (S Archer) In Progress 7th – 9th February 2017 Venue to be confirmed</p>	<p>Land North West of Premier Business Park Birdham Road Birdham, West Sussex - Use of land as a Traveller Site. Linked to BI/15/01288/FUL and BI/15/00139/CONSH</p>
<p>BI/15/01288/FUL PI (S Archer) In Progress 7th - 9th February 2017 Venue to be confirmed</p>	<p>Land north west of Premier Business Park, 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/15/00139/CONSH</p>
<p>SDNP/14/04865/FUL BURY I (D Price) In Progress 8-9th December 2016 Bury Village Hall</p>	<p>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.</p>
<p>SDNP/15/00336/COU BURY I (R Hawks) In Progress 8-9th December 2016 Bury Village Hall</p>	<p>Land North of Junction with B2138 Bury Road Bury West Sussex - Stationing of two caravans for human habitation. Linked to SDNP/14/04865/FUL</p>
<p>CC/15/04197/DOM WR (H Chowdhury) Awaiting Decision</p>	<p>39 Ormonde Avenue, Chichester PO19 7UX – Proposed Conservatory</p>
<p>E/14/00118/CONCOU H (R Hawks) Awaiting Decision</p>	<p>Marsh Farm Barn, Drove Lane, Earnley, Chichester, West Sussex, PO20 7JW - Formation of new planning unit/caravan site.</p>
<p>FU/15/02504/FUL H (K Rawlins) In Progress 12th October at Edes House, WSCC</p>	<p>Land South Of The Stables, Scant Road East, Hambrook, West Sussex, PO18 8UB - Change of use of land from equestrian use to half equestrian and residential gypsy and traveller site with the erection of barn and 2 no. stable building</p>
<p>SDNP/15/03829/CND HARTING WR (J Shore) In Progress</p>	<p>Copper Beeches Torberry Farm, B2146 Ditcham Lane to Hurst Mill Lane, Hurst, South Harting, Petersfield, West Sussex, GU31 5RG - Variation of condition 1 of permission HT/02/69. To remove agricultural occupancy from Copper Beeches, Torberry Farm.</p>

HN/16/00607/LBC WR (M Tomlinson) In Progress	Spire Cottage, Church Lane, Hunston, Chichester West Sussex, PO20 1AJ - Replacement timber windows at first floor level, with timber glazed doors and clear glass screens.
SDNP/16/00382/HOUS LAVANT WR (J Shore) In Progress	29 Northside, Mid Lavant, Chichester West Sussex, PO18 0BX - Retention of arctic cabin.
LX/15/00498/ELD I (C Boddy) Awaiting Decision	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
LX/15/03623/PA3Q WR (F Stevens) In Progress	Mallards Farm Buildings, Guildford Road, Loxwood, West Sussex, RH14 0QW - Part 3 Class Q application for prior approval. Change of use from agricultural building to dwelling (C3 Use class).
PS/13/00015/CONCOU I (R Hawks) In Progress 25 th -28 th April & 3 rd -4 th May 2017	Crouchlands Farm, Rickmans Lane, Plaistow, Billingshurst West Sussex, RH14 0LE. Use of anaerobic digestion tanks and equipment for importation of waste and export of biomethane. Construction of a digestate lagoon without planning permission. Linked to s78 appeal against refusal of planning permission by WSCC.
PS/16/00562/PLD WR (H Chowdhury) In Progress	Newhouse Farm, Shillinglee Road, Shillinglee, Northchapel GU8 4SZ - Construction of single storey outbuilding to be used for purposes incidental to the enjoyment of the dwelling.
SY/14/00304/CONHH WR (S Pattie) In Progress	100 Beach Road, Selsey, Chichester, West Sussex PO20 0SZ - Erection of a fence adjacent to the highway.
SY/15/00371/CONCOU I (R Hawks) In Progress	East Beach Evangelical Church, 6 Marisfield Place, Selsey, Chichester, West Sussex PO20 0PD - Stationing of a portacabin.
WH/15/04038/FUL H (F Stevens) In Progress 25 th October 2016 at EPH	Land North Of March Primary School, Claypit Lane, Westhampnett, West Sussex - Erection of two storey detached dwelling house and detached single storey double car port with attached storage.

WI/16/01558/FUL WR (M Tomlinson) In Progress	Church Farm, Itchenor Road, West Itchenor, PO20 7DL - Modify and relocate permitted log store/boathouse (WI/15/03736/DOM) to location within goose pen to rear of property.
SDNP/14/04141/FUL WISBOROUGH GREEN WR (D Price) In Progress	Stroods, Strood Green, Wisborough Green, Billingshurst RH14 0HL - Partial removal of low level boundary wall, retention of remainder of wall and relocation of tennis court. Retention of greenhouse and vegetable patch and removal of patio area and post and rail fence. New post and rail fence to tennis court.

4. VARIATIONS TO SECTION 106 AGREEMENTS

Section 4. Variations to S.106 Agreements

Land adjacent to Wellington Grange Care Home, Broyle Road, Chichester.

Planning permission was granted for the erection of a 72 bed care home on the east side of Broyle Road at its junction with Wellington Road on the remaining parcel of land at the former Roussillon Barracks site on 21.01.2013 under CC/12/01551/FUL. The S.106 accompanying the permission requires the developer within one year of the Care Home being first occupied to agree with the County Council the provision of a cycle path running along the boundary frontage of Wellington Grange parallel with Broyle Road but set back from it. The cycle path has to be delivered within 1 year of the first occupation of the Care Home. The plans approved with the planning permission showed provision for such a path. The developer then applied to the Council to not provide the cycle path citing difficulties with avoiding street service infrastructure and the Smugglers Stone monument which is to be retained in its current location on the site frontage. The developer was advised in writing that non-provision of the cycle path was not acceptable to the County or District Councils. After further negotiations and the submission of a revised drawing the developer has agreed to provide the cycle path which will now need to have a slight deviation to avoid the Smugglers Stone.

Officers have now written (15th August) to the developer approving the amended drawing as a variation to the S.106 and the originally approved cycle path drawing. Before the cycle path can be delivered the developer is required to enter into a S.278 agreement with WSCC to ensure that the path accords with technical and safety standards. The developer has been asked to confirm that this process will commence within 4 weeks of the 15th August or a timetable to be agreed. The Committee will have noted the recent improvements along the west side of Oaklands Park to provide what is now a well-used cycle path. This has highlighted the need to ensure that adjoining connectivity to the north for cycle users adjacent to Broyle Road is also delivered in a timely fashion.

Members are asked to note both the completion of this agreed written variation and that the timetable for delivery of the cycle path is now dependant on the outcome of a S.278 agreement to be reached between the developer and WSCC.

5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage
NONE		

6. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage
Birdham Farm	Breach of Enforcement Notices and Stop Notices	Court Orders will be served on all defendants in person with notification that we reserve the option to have the case re-opened at court before April 2017 after the Planning Inspectorate matter is concluded. Date for the Planning Inspectorate hearing is February 2017. Counsel instructed.

Prosecutions		
Site	Breach	Stage
Nell Ball Farm (Mr & Mrs Cozens-Smith)	Breach of Enforcement Notice x 3	First court hearing at Worthing Magistrates' Court on 7 October 2016. Defendant has requested an adjournment and we are now waiting for a new court date.

Prosecutions		
Site	Breach	Stage
1 The Quell Cottages	Breach of Listed Building Consent and Planning permission	Prosecution to be commenced against the two owners and Project Manager

Prosecutions		
Site	Breach	Stage
Paradise Lane	s. 215 of the Town and Country etc. Act 1990	Appeal Hearing on 26 October 2016. Appeal upheld on all 4 grounds. Costs ordered of £3,873.

7. POLICY MATTERS

NONE