

Chichester District Council

Planning Committee

Wednesday 16 August 2017

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/17/00002/FUL WR (P Hunt)	46 South Street, Chichester, PO19 1DS - Attic storey extension to create an additional apartment.
CC/17/00416/DOM WR (P Hunt)	Clydesdale Lodge, 44A Caledonian Road, Chichester PO19 7PJ - Rear first floor extension with a roof garden.
CC/16/03216/ADV WR (R Ballam)	The Fat Fig, 42 South Street, Chichester, West Sussex PO19 1DR - 1 no. fascia sign attached to the front elevation, 2 no. vinyl signs on the windows and 1 no. hanging sign.

SDNP/17/00178/HOUS HEYSHOTT WR (J Shore) In Progress	Cottage On The Green, Peace Road, Heyshott, Midhurst West Sussex, GU29 0DF - Demolition and replacement of detached annexe.
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2.DECISIONS RECEIVED

Reference/Decision	
SDNP/16/04313/FUL BURY WR (L Kent) DISMISSED	Highfield, 161 Bury Road, Bury, Pulborough, West Sussex RH20 1NL - Erection of replacement dwelling - revised scheme to that granted under SDNP/15/05945/FUL.
<p>As such, I consider the development, by virtue of its design, scale and bulk, would result in an incongruous and out-of-keeping addition that would adversely harm the rural character and appearance of the area and would fail to preserve or enhance the landscape and scenic beauty of the South Downs National Park. I have found above that taken overall the development would harm the area's character and appearance. This harm would conflict with the environmental dimension of sustainable development and, in my view, would be sufficient to outweigh the scheme's benefits. The proposal would not therefore amount to sustainable development in the terms of the Framework.</p>	
SDNP/16/05456/HOUS BURY WR (J Shore) DISMISSED	Hollow Farm, The Street, Bury, Pulborough, West Sussex RH20 1PA - Construction of outdoor swimming pool and associated changing room building.
<p>"... I consider on a local level the proposed excavation and regrading to provide a level area for the pool and associated hardstanding area would be entirely different in scale and form to the existing gently sloping garden and would be very much at odds with the verdant character of the area. These shortcomings would be exacerbated by the elevated nature of the site, combined with the proposed siting and design of the changing room building and hardstanding area in close proximity to the adjacent dwelling which would impact on the local landscaped setting of the listed building. ... The purpose of the designation of the SDNP is to safeguard the character and appearance as a whole and I do not consider that the proposed engineering work and the re-profiling of the site would either conserve or enhance this part of the SDNP. As such, I consider the development, by virtue of its siting and design would result in an incongruous and out-of-keeping addition that would adversely harm the rural character and appearance of the area and would fail to preserve or enhance the landscape and scenic beauty of the SDNP. ... The mitigation measures ... do not overcome the adverse effects outlined above and the additional landscaping would take some years to grow before the positive benefits were fully effective. ... The proposal would have negative impact on the setting of the listed building. The setting would therefore not be preserved. However, given the modest scale of the development, the separation distance and the woodland area between the appeal site and the CA, the proposal would have neutral impact on the setting of the CA. The setting of the CA would therefore be preserved. ... I find insufficient public benefit arising from this proposal to offset the identified harm to which I attach significant weight. ... The proposal involves the disposal of the excavated</p>	

Reference/Decision - Cont	
<p>material from the proposed development ... on part of a field outside the appeal site ... A more local level, the Council have identified that the proposed disposal site ... is a rare landscape type in the County. ... Whilst I recognise the potential benefits arising from the disposal of the excavated materials within close proximity to the appeal site, the adverse harm of the appeal scheme as outlined above in this sensitive rural landscape would outweigh the potential benefits. ... I conclude that the development would adversely harm the landscape character of the SDNP and as such would conflict with Saved Policies BE11 and BE14 of the LP, which I consider relevant in this case. ... I note the other developments in the area drawn to my attention by the appellant. ... I ... accord them limited weight as precedents in this case. ..."</p>	
<p>SDNP/15/03654/FUL Elsted & Treyford WR (D Price) ALLOWED WITH VARIATIONS</p>	<p>Elsted Road Bridge, Fitzhall Road, Elsted, West Sussex - Infill single span bridge with stone and foam concrete to provide long-term structural support to the bridge. Form new embankments to sides of bridge and drainage pipes laid at ground level.</p>
<p>"... Both parties refer to Elsted Road Bridge as a non-designated heritage asset and I see no reason to disagree with this. The bridge lies at an angle to the road. ... The former line is not accessible to the public on either side and there is no pavement along the road to be able to view the cutting. Nevertheless, the lack of access does not necessarily affect the potential historical value and significance of the bridge and its setting. ... There is therefore some local historical significance and communal value to the bridge, although I consider this is heavily compromised by the changes which have occurred to the bridge and its surroundings. ... The embankments would be high enough to obscure remaining parts of the wing walls which have not been dismantled, and also the shape of the infilled underside of the bridge. The alterations to the wing walls and placement of the embankment would change the appearance of the bridge. The remainder of the track bed to the north would be isolated from any remnants of the bed to the south. These would have a negative effect on the bridge and the setting would also be further altered. However, significance will not be lost completely as the majority of the features of the bridge itself would remain in-situ albeit obscured. The cutting would remain visible within the garden of Bridge Cottage and the line itself traceable from this and tree lined boundaries in both directions. The parapet walls which are the main feature of the bridge from the road would be retained. I have also had regard to the scheme being potentially reversible. These factors lead me to conclude that the cultural heritage of the SDNP would therefore not be adversely affected to any material degree. Alternative scenarios for the bridge repair have been considered by the appellant and include the consideration of effect on the appearance of the bridge. ... However, some of the alternatives would be limited and impractical due to further repairs being needed after some time, and include other safety considerations and impact on the local road network. ... The route of the former railway line is subject to consideration for a sustainable cycle and pedestrian route. ... The proposed route acknowledges loss of alignment, structures en-route and access issues by avoiding the bridge and private land, and I am not persuaded that a transport route under the bridge would be feasible or practical. ... Landscape character - The bridge is not a significant feature of the road with only a gentle gradient to the brow of the bridge. The cutting is not very noticeable and is only seen in very brief glimpses when travelling by car. Vegetation is a dominant feature of the immediate surroundings of the bridge. ... I acknowledge that the</p>	

Reference/Decision – Cont	
<p>embankments would appear engineered. However, a manmade impact and influence on the local landscape is not out of context given the nearby residential property, the industrial estate and construction of the bridge and former railway itself. ... The scale and design of the scheme in the context of the landscape character would be small, with the wider topography unaffected. ... There would also be no material impact on the wider historic landscape pattern. The scheme would not detract from its surroundings. For the reasons given above, I conclude that the proposal would not cause harm to the cultural heritage and landscape character of the SDNP. ... Conclusion and balance - There is the need to maintain the bridge to a safe and acceptable standard. This in turn will allow its long term continued use as a road bridge supporting access to wider area for the small communities and properties within the area. Other options would not provide these benefits. These factors weigh in favour of the scheme. ... I conclude that ... the appeal should be allowed. "</p>	
<p>SDNP/16/05877/FUL Fernhurst WR (B Stubbington) DISMISSED</p>	<p>Home Farm, Bell Road, Kingsley Green, Fernhurst, GU27 3LG – Formation of a new access with field gate and associated track.</p>
<p>Appeal Decision</p> <p>"... I consider on a local level the proposed excavation and regrading to provide a level area for the pool and associated hardstanding area would be entirely different in scale and form to the existing gently sloping garden and would be very much at odds with the verdant character of the area. These shortcomings would be exacerbated by the elevated nature of the site, combined with the proposed siting and design of the changing room building and hardstanding area in close proximity to the adjacent dwelling which would impact on the local landscaped setting of the listed building. ... The purpose of the designation of the SDNP is to safeguard the character and appearance as a whole and I do not consider that the proposed engineering work and the re-profiling of the site would either conserve or enhance this part of the SDNP. As such, I consider the development, by virtue of its siting and design would result in an incongruous and out-of-keeping addition that would adversely harm the rural character and appearance of the area and would fail to preserve or enhance the landscape and scenic beauty of the SDNP. ... The mitigation measures ... do not overcome the adverse effects outlined above and the additional landscaping would take some years to grow before the positive benefits were fully effective. ... The proposal would have negative impact on the setting of the listed building. the setting would therefore not be preserved. However, given the modest scale of the development, the separation distance and the woodland area between the appeal site and the CA, the proposal would have neutral impact on the setting of the CA. the setting of the CA would therefore be preserved. ... I find insufficient public benefit arising from this proposal to offset the identified harm to which I attach significant weight. ... The proposal involves the disposal of the excavated material from the proposed development ... on part of a field outside the appeal site. ... A more local level, the Council have identified that the proposed disposal site ... is a rear landscape type in the County. ... Whilst I recognise the potential benefits arising from the disposal of the excavated materials within close proximity to the appeal site, the adverse harem of the appeal scheme as outlined above in this sensitive rural landscape would outweigh the potential benefits. ... I conclude that the development would adversely harm the landscape character of the SDNP and as such would conflict with Saved Policies BE11 and BE14 of the LP, which I consider relevant in this case. ... I note the other developments in the area drawn to my attention by the appellant. ... I accord them limited weight as precedents in this case. ... "</p>	

Reference/Decision - Cont	
Costs Application	
<p>"... The application for an award of costs is refused. ... the application for costs seeks a full award on procedural and substantive grounds. The appellant states that the Council was unreasonable and the refusal was unnecessary as they failed to make a decision within the prescribed time period, there was a lack of communication from the Council during the application process, the appeal proposals followed the council's pre-application advice process and a decision notice was issued contrary to proper procedures. ... The Council's submission and supporting evidence clearly shows that the Council was actively engaged with the appellant during the pre-application and application process and carried out their duty to assess the development proposal as submitted. ... and showed the continued dialogue between the main parties and the Council's willingness to delay the determination to allow continued discussion on the proposal. In light of the evidence before me, I do not consider that the Council has acted unreasonably in the regard. ... The officer's report and Council's appeal statement demonstrate the Council's view as to how the proposal would be unacceptable using the evidence submitted by the appellant, third party representations and the Council's observations, including advice from the Council's Historic Building Advisor. ... It will be seen for the reasons set out in my appeal decision, I concur with the Council on this case that there were sufficient grounds for dismissal, relating to the harm caused by the proposed development to the character and appearance of the area including the setting of the adjacent Grade II listed building and the impact of the proposed spoil heap on the landscape character of the South Downs National Park. ... Accordingly, I consider that the Council has shown that it followed the appropriate procedures and was able to substantiate its decision on the above matters and cannot agree that the Council has acted unreasonably in this case. I therefore find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense which would lead to an award of costs, as described in the PPG, has not been demonstrated. "</p>	
SDNP/16/04896/FUL Harting WR (Rafa Grosso MacPherson) ALLOWED	Hill Ash Farm, Hill Ash Lane, West Harting, GU31 5NY - Construction of 1 no. store building for equestrian use.
<p>"... Despite the landscape character of the surrounding land, the land close to the appeal site is contained by existing development and woodland... it would not appear remote and would visually relate to existing development. The proposed building would be small and would have the appearance of a rural agricultural building. It therefore would not materially affect the openness of the land and would blend into its agricultural character... For all these reasons, it would not appear out of place...As the proposed building would be some distance from the listed buildings identified, which form part of the farm complex at Hill Ash Farm, and as it would be small scale, it would not affect the special architectural or historic interest of those buildings...for the same reasons, no harm to their settings would result... I agree that it has not been proven that such a use could not be accommodated within the existing farm complex. However, as I have found that material harm to the SDNP would not be a consequence and that proposed development would generally accord with LP Policy R6, being for storage for equestrian use, that matter would not affect my decision.... A list of suggested planning conditions is before me... Standard time and plans conditions are required to ensure clarity and in the interests of proper planning. A condition to control the use of the appeal building is necessary to ensure that development would be in accordance with LP Policy R6... "</p>	

Reference/Decision	
SDNP/16/00425/FUL Lodsworth WR (J Shore) DISMISSED	Old Bakehouse, Surrey Road, Lickfold, Lurgashall, Petworth, West Sussex, GU28 9DX - Replacement dwelling.
<p>"... Forge Cottage is a two storey C17 part stone and part timber framed dwelling. ... Old Shop Cottage is also a C17 timber framed dwelling. ... In my view the significance of these listed buildings is derived from their architectural quality and their spacious settings. ... The proposal would introduce a significant bulk of tall modern development into the space between Forge Cottage and Old Shop Cottage eroding the space between them and resulting in a relationship that would appear uncharacteristically cramped and at odds with the spacious pattern of development in the area. This would therefore harm the spacious character and appearance of the area and would harm the spacious settings and thus the significance of the grade II listed Forge Cottage and Old Shop Cottage. ... I have also considered the wider views of the proposed development, particularly views from surrounding public footpaths and road. ... I find it would not appear overly prominent or out of place in the landscape and therefore would not harm the scenic beauty of SDNP rural landscape. ... The Framework requires the degree of harm to be balanced against any public benefits the development may bring. ... However, benefits are modest, and do not outweigh the harm I have identified to the designated heritage assets and the overall harm to character and appearance of the area. ... Living Conditions - ... When viewed from Forge Cottage the proposed north elevation would appear as a large dominant expanse of modern roof rising awkwardly above the traditional retained wall. Due to its scale and lack of detail it would appear bland and feel oppressive which would be overbearing. The proposed development would therefore harm the living conditions of the occupants of Forge Cottage with particular regard to outlook. ..."</p>	
NM/16/03884/OUT WR (Fjola Stevens) DISMISSED	The Pine Place, Lagness Road, Runcton, PO20 1AQ – Outline Application for 4 no. dwelling houses and associated works.
<p>"...The application was submitted in outline, with the matter of access for consideration. The matters of appearance, layout, scale and landscaping are reserved for future consideration... The main issue is the effect of the proposed development on the character and appearance of the surrounding area... It is indicated on the plans that the proposed dwellings would occupy relatively narrow plots compared with those in the vicinity either side of the site... It would therefore appear as an uncharacteristically cramped form of development... It is indicated on the submitted elevation drawings that the proposed dwellings would have different designs, with those in the centre being slightly higher and including half hipped roofs to reduce the massing effect. However, that degree of variation and use of appropriate materials would be insufficient to deflect materially from the contradiction that would be caused with the existing spacious settlement pattern in the vicinity of the site, having regard to dwelling spacings. As such, the proposed dwellings would represent jarring and incongruous features of the Lagness Road streetscene... The proposal would be in a sustainable location in respect of being sited within the confines of the village settlement. It would also have the benefit, albeit small due to relating to a net addition of just three dwellings, of adding to the local housing supply. However, these factors would not outweigh the unacceptable harm that would be caused to the character and appearance of the surrounding area. As such it would not be a sustainable form of development..."</p>	

3.OUTSTANDING APPEALS

Reference/Status	Proposal
SDNP/17/00030/APNB Bepton WR (R Grosso MacPherson) Awaiting decision	Padwicks Farm, Whites Lane, Bepton, GU29 0LY - Agricultural storage building.
BI/15/00139/CONSH PI (S Archer) Awaiting decision	Land North West Of Premier Business Park, Birdham Road Birdham, West Sussex – appeal against an enforcement notice re access track, hardstanding and fencing. Linked to BI/15/01288/FUL and BI/15/00194/CONTRV
BI/15/00194/CONTRV PI (S Archer) Awaiting decision	Land North West of Premier Business Park Birdham Road Birdham, West Sussex – appeal against an enforcement notice re Use of land as a Traveller Site. Linked to BI/15/01288/FUL and BI/15/00139/CONSH
BI/15/01288/FUL PI (S Archer) Awaiting decision	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
SDNP/16/02175/FUL BURY WR (B Stubbington) In Progress	Timberley Farm, Bury Common, Bury, Pulborough, West Sussex RH20 1NP - Widen existing farm entrance.
CH/14/00399/CONMHC H (R Hawks) Awaiting decision	Cockleberry Farm, Main Road, Bosham, West Sussex, PO18 8PN - Appeal against an enforcement notice regarding the stationing of mobile homes for the purposes of human habitation. LINKED TO CH/16/01902/PA3P
CH/16/01902/PA3P H (M Tomlinson) Awaiting decision	Cockleberry Farm, Main Road, Bosham, West Sussex, PO18 8PN - Part 3 Class P application for prior approval - Proposed change of use of 3 no. B8 storage buildings to 3 no. dwellings. Revised application further to CH/15/02290/PA3P. LINKED TO CH/14/00399/CONMHC
CC/16/03484/FUL WR (C Boddy) In progress	18 Lavant Road, Chichester, West Sussex, PO19 5RG – Demolition of existing property and construction of 3 no. dwellings, with associated access, parking and landscaping

Reference/Status	Proposal
CC/16/03916/ADV WR (P Hunt) In progress	The Chantry, 27 - 28 Southgate, Chichester, West Sussex PO19 1ES - 1 no. illuminated fascia sign, 2 no. menu signs, 1 no. non-illuminated projection sign and 2 no. written logo signs. 6 no. flood lights and 2 no. lanterns.
E/17/00237/FUL WR (M Tomlinson) In progress	138 Easton Lane, Sidlesham, PO20 7JY - Change use of 2 no. roomed seasonal bed and breakfast accommodation building to dwellinghouse to include the addition of attached garage.
EWB/16/03920/FUL WR (C Boddy) In progress	27 Coney Six, East Wittering, PO20 8DL - 2 no. dwellings, garage and associated works.
SDNP/16/05784/FUL Fernhurst WR (R Grosso MacPherson) In progress	Ashurst, Lickfold Road, Fernhurst, GU27 3JB - Replacement dwelling including realigned driveway.
SDNP/16/05918/HOUS Graffham FT (B Stubbington) In progress	Summerfield Cottage, Graffham Street, Graffham, GU28 0NP – Proposed new driveway with off road parking.
SDNP/16/04701/LIS Harting H (Rafa Grosso MacPherson) In progress	East Harting Farm, Hollist Lane, East Harting, Petersfield, GU31 5LU – Extension to annex.
SDNP/17/01197/FUL Harting WR (D Price) In progress	Tye Oak Farm Cottages, Hollist Lane, East Harting, West Sussex - Demolition of existing dwellings, replacement detached two-storey dwelling and a detached single storey three bay garage.
LX/16/03786/FUL Loxwood WR (Paul Hunt) In progress	Land at Oakhurst Farm, Oakhurst Lane, Loxwood, Billingshurst, RH14 0QR - Demolition of existing kennels building which has consent to be converted into a dwelling under application reference LX/15/00138/FUL and the erection of a new residential building to the west of the existing building.

Reference/Status	Proposal
SDNP/14/00448/COU Lurgashall WR (S Pattie) In Progress	Northurst Farm Dial Green Lane Lurgashall Petworth West Sussex GU28 9HA – appeal against an enforcement notice re: COU of land to garden land.
SDNP/15/00361/COU Lurgashall H (R Hawks) Awaiting decision	Old Hearne Farm, Jays Lane, Lurgashall, Haslemere, West Sussex, GU27 3BL – appeal against an enforcement notice: Without planning permission, the erection of a building and laying of a stone pavement. Linked with SDNP/16/04559/FUL
SDNP/16/04559/FUL Lurgashall H (J Shore) Awaiting decision	Old Hearne Farm, Jays Lane, Lurgashall, Haslemere West Sussex, GU27 3BL - Retention of the east barn and its immediate surroundings for mixed agricultural and equestrian purposes. Linked with SDNP/15/00361/COU
SDNP/16/00204/OPDEV Midhurst WR (S Archer) In progress	Flat 2, Thomond House, North Street, Midhurst, GU29 9DJ – Formation of door opening.
SDNP/16/04426/FUL Midhurst WR (J Shore) In progress	Land to The rear of Fourwinds, Chichester Road West Lavington, Midhurst, West Sussex, GU29 9QE - Construction of detached 5 bedroom dwelling.
NM/15/00375/CONCOU I (R Hawks) In Progress Public Inquiry to be held at 10am 9-11 January 2018 at City Council, Old Court Room	Land North Of Fisher Common Nursery Fisher Lane North Mundham West Sussex – appeal against an enforcement notice: Change of use of barn to single dwelling. Linked to NM/16/00424/ELD
NM/16/00424/ELD North Mundham I (Reg Hawks) Public Inquiry to be held at 10am 9-11 January 2018 at City Council, Old Court Room	10 Acres, Land North of Fisher Common Nursery, Fisher Lane, North Mundham, PO20 1YU - Continuous occupation for in excess of 4 years of barn style building erected under planning permission 10/00517/FUL granted on 28 April 2010. Linked to NM/15/00375/CONCOU

Reference/Status	Proposal
O/16/02254/OUT I (J Bushell) Awaiting Decision	Land To The South Of Oving Road/B2144, Shopwhyke West Sussex - Outline application for the development of the site to provide 100 no. dwellings (use class C3), with an associated access, parking, outdoor space, landscaping and infrastructure.
PS/13/00015/CONCOU I (R Hawks) Adjourned to 31 July 2017 at Brinsbury College, Pulborough	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. Appeal against two enforcement notices. Linked to s78 appeal against refusal of planning permission by WSCC.
SI/15/03440/ELD I (M Tomlinson) In progress	The Cottage, Chichester Road, Sidlesham Common Chichester, West Sussex, PO20 7PY - Use of land as private residential garden land in connection with The Cottage Chichester Road Sidlesham Common Chichester West Sussex PO20 7PY.
SB/16/00176/CONCOU WR (R Ballam/E Kierans) In progress	Land East Of Inlands Road, Inlands Road, Nutbourne, West Sussex – appeal against an enforcement notice: Stationing of metal container buildings. LINKED TO SB/16/02811/FUL
SB/16/02811/FUL WR (R Ballam/E Kierans) In progress	Land East Of Inlands Road, Inlands Road, Nutbourne, West Sussex - Siting of metal shipping container for storage of agricultural equipment and animal feeds. LINK TO SB/16/00176/CONCOU
SB/16/03569/OUT Southbourne I (Rhiannon Jones) Public Inquiry to be held at 10am 12-15 September 2017 at WSCC , Edes House	Land East of Breach Avenue, Southbourne - Outline with all matters reserved except access - development of up to 34 dwellings, access, retention of orchard, public open space and other associated works.
SDNP/16/00334/COU Stedham H (Shona Archer) In progress	The Old Studio, Bridgefoot Lane, Stedham, West Sussex, GU29 0PT – appeal against an enforcement notice: Use of annexe as a self contained residential unit.

Reference/Status	Proposal
TG/16/03798/FUL Tangmere WR (R Ballam) In progress	1 Boxgrove Corner, Arundel Road, Tangmere, PO18 0DU – Erection of 1 no. 3 bed chalet bungalow.
SDNP/16/00069/COU Upwaltham I (Shona Archer) Public Inquiry to be held 10am 31 October and 1 November at CDC Committee Room 2	The Mill, Eartham Lane, Eartham, Chichester, PO18 0NA – appeal against an enforcement notice - use of workshop as single dwelling.
WH/16/02827/FUL WR (C Boddy) In progress	Maudlin Mill, Sidengreen Lane, Maudlin, Westhampnett, Chichester, West Sussex, PO18 0QU - Construction of a workshop with first floor office.

4. VARIATIONS TO SECTION 106 AGREEMENTS

Land on the north of Long Copse Lane, Westbourne – amendment to affordable housing clauses

The Long Copse Lane site in Westbourne has full planning permission following planning permission WE/17/00911/FUL for 16 new dwellings 6 of which are to be provided as affordable dwellings. The development was allowed on appeal following an Inquiry. Works have now commenced and are significantly advanced. The proposal relates to the mortgagee clauses in the existing S.106 agreement dated 30th October 2015 which as drafted currently prevent Radian Housing Association Limited (the Registered Provider [RP] in this instance) from achieving the maximum possible value when securing affordable housing to loan finance. The proposed variation of the standard mortgagee exclusion clause in the agreement addresses this issue and has been assessed by officers and by the Council's Housing Officer. No objection is raised. The National Housing Federation (the professional body of registered providers) has produced standard text relating to the mortgagee in possession clauses and these are now widely used by other councils. This Council also now includes the standard text in its new Section 106/nominations agreements. The changes to this agreement follow this standard. The changes to the mortgagee clause does not change the approved proportion or mix of affordable dwellings secured under the Section 106 agreement for the development. There is a small change affecting the tenure of 1 no. affordable unit for rent which will become a shared ownership unit and a modification to the staircasing clause. There are no significant planning implications raised by the proposals which are supported by the Council's Housing Officer. The variation facilitates the ability/viability of registered providers to continue to deliver affordable housing in the district. Accordingly a deed of variation was completed in this regard on 19th July 2017.

Members are asked to note the completion of the Deed of Variation.

Land north of Main Road and West of Inlands Road, Southbourne

Outline planning permission was granted in April 2015 and Reserved Matters was granted in April 2017 for the erection of 157 dwellings with associated access from Main Road, parking, open space and landscaping on land north of Main Road and West of Inlands Road in Westbourne (14/02800/OUT and 16/03018/REM refer).

The outline application was accompanied by a Section 106 Legal Agreement, which amongst other matters, secured the delivery of the affordable units and vehicular and pedestrian link to the boundary with Southbourne Infant and Junior School. The Council received a request to vary the S106 Agreement in relation to the following:

- i) A change in the split of affordable rented and shared ownership houses - from 70:30 to 53:47 split, due to deliverability issues. The overall numbers of affordable units would remain the same and still comprise 40% of the total unit numbers. The request to vary the S106 Agreement stems from changes to the Welfare Reform and Work Act 2016. The act requires registered providers (RPs) to reduce their rents by 1% p.a. over each of the next four years. RPs had previously expected to increase their rents by a percentage plus inflation each year. The S106 Agreement was completed before the government announcement preceding the Welfare Reform and Work Act 2016. Because rental incomes partly fund future developments, a considerable RP funding gap has arisen and it has been demonstrated that the RPs will not be able to deliver 70:30 affordable rented/shared ownership split on this site. The proposed variation in the split of affordable rented and shared ownership has been assessed by officers and by the Council's Housing Officer. The Housing Officer is satisfied that the proposed mix would meet local need and the new proposals are acceptable in the circumstances of this particular case.
- ii) Modifications to the S106 Agreement to enable the removal of the requirement for vehicular and pedestrian access up to the boundary of the school which would have enabled the school to then provide a vehicular drop-off/pick up access point within the school grounds and to amend the 'Safeguarded Link to the School' and the 'Total Access Demand Contribution (TAD)' definitions. The school has requested that the developer is no longer required to provide an access road and pedestrian footpath up to the school boundary. The request stems from a change in the Head Teacher at the school and issues around safeguarding resulting from the introduction of a new vehicular and pedestrian entrance into the school.

The amendment to the 'Safeguarded Link to the School' definition requires the developer to safeguard this land (in case a link is required in the future) but not to provide the access to the boundary. The safeguarded land will be retained as an area of green space. Associated with the above changes, the TAD definition has been amended, in line with the changes suggested by WSCC highways, to remove the reference for the contribution to deliver a turning head within the school grounds to provide a drop off/pick up facility and delivery of a pedestrian/cycle path from the site to Lodgebury Close and instead to require the contribution to deliver a footway link from Southbourne Station to the site and

enhancement of cycle provision between the site and Southbourne Village centre.

The Deed of Variation does not fundamentally alter the agreed main components of the highway works scheme in the S106 Agreement which will still need to be delivered.

The Council's Housing Officer, WSCC and Southbourne Parish Council raised no objection to these modifications. Accordingly, the modifications were permitted as a formal Deed of Variation to the original S106 Agreement on 20 July 2017.

Members are asked to note the completion of the Deed of Variation.

Land North of 20 Otway Road, Chichester

Full planning permission was granted in August 2014 for the erection of 17 dwellings with access road, parking and landscaping on the former Ministry of Defence site at Roussillon Barracks (13/03113/FUL).

That application was accompanied by a Section 106 Legal Agreement, which amongst other matters, required the affordable units to be provided for in perpetuity. The Council received a request to vary the s106 Agreement to enable a change in lending criteria to the Registered Provider. The request stems from changes in lending criteria to Registered Providers. The revision to the s106 Agreement is sought as the National Housing Federation has produced new wording which is now used as standard by Local Planning Authorities in s106 Agreements if Registered Providers require this. It removes the social housing in perpetuity requirement in case of a default and allows the Registered Provider to obtain a mortgage and get it at a better valuation.

The Council's Housing Officer and the City Council raised no objection to this modification. Accordingly, the modifications were permitted as a formal Deed of Variation to the s106 Agreement, dated 12th June 2017.

Members are asked to note the completion of the Deed of Variation.

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 action is being held in abeyance pending the outcome of the appeal/public inquiry process (see above).

Land at Newells Lane, Funtington	Application for Injunction Without Notice for apprehended/anticipated breach of Planning legislation	Application in progress and awaiting court date
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Prosecutions		
Site	Breach	Stage

7. POLICY MATTERS

NONE