

## Chichester District Council

### Planning Committee

Wednesday 13 September 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
FU/16/03868/FUL WR (C Boddy)	Cotfield, Funtington Road, Oakwood, East Ashling PO18 9AL - Conversion of existing outbuilding to residential annexe.
WW/17/00533/FUL WR (P Hunt)	37 Marine Drive West, West Wittering, Chichester West Sussex, PO20 8HH - Demolition of existing property and construction of replacement dwelling.
WR/16/02717/OUT PI (K Rawlins)	Stable Field, Kirdford Road, Wisborough Green West Sussex - Outline with some matters reserved - access. 1 no. village doctors surgery (use class D1); village community uses (use class D2) to include outdoor activity area, activity room, gym, community building, 30 extra-care units (use class C2) to include affordable accommodation, community allotments and landscaped recreational areas. With associated new vehicle, pedestrian access, ancillary uses and infrastructure.

SDNP/16/01317/LDE Wisborough Green PI (J Shore)	Mockbeggars, Horsebridge Hill, Bedham, Wisborough Green, RH20 1JP - Application for a certificate of lawfulness for an existing use relating to use of land as residential curtilage.
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## 2.DECISIONS RECEIVED

Reference/Decision	
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 <a href="#">BI/15/01288/FUL</a> and BI/15/00194/CONTRV
<p>"... There are 14 appeals made on grounds (a), (e) and (g). On day 1 of the inquiry a case on ground (b) was introduced. ... All the appeals on ground (e) were withdrawn on day 2 of the inquiry. ... On day 6 of the inquiry Mr Masters confirmed ground (f) was not at issue. ... In respect of some of the appeals the appellant sold his/her interest in the land after making the appeal. ... Therefore the new owner will be treated as a third party.</p> <p>...</p> <p>Enforcement notice BI/24 - the wording of the alleged breach should describe the development as a material change of use of the land to use for the stationing of caravans for the purpose of human habitation. ..</p> <p>Enforcement notice BI/23 - The notice has taken effect and the compliance period of 6 months has expired. In brief the requirements were to cease the use and to remove the caravans and associated domestic paraphernalia from the land. ...</p> <p>Enforcement notice BI/29 - There was no appeal against the notice and the 3 months period for compliance has expired. The notice requires the stable building to be dismantled and removed from the land.</p> <p><b>MATERIAL CHANGE OF USE TO A MIXED USE: ENFORCEMENT NOTICE BI/31 - ...</b> The Council submitted that there is an obvious physical and functional connection between the plots. ... To claim otherwise is contrary to the appellants' case that they are highly dependent on each other. ... The issue on ground (b) is whether or not the matters stated in the notice have occurred - a mixed use as a residential caravan site, for the storage of caravans and the keeping of horses. ... From 2015 onwards the land was subdivided and transferred or sold to a number of people. to form a residential caravan site along with other primary uses.... The internal access track was a unifying feature both physically and functionally. Another aspect of functional interdependency was the mutual support and family ties between the occupiers of the plots... The appellants agreed to make a single ground (a) appeal. The evidence supports the description of the mixed use cited in the alleged breach of planning control .... No prejudice has been caused by the issue of a single enforcement notice. In conclusion the appeals on ground (b) do not succeed. ...</p> <p>Appeal on ground (a), deemed planning application - ... The development for which planning permission is being sought is a material storage change in the use of the land to a mixed use as a residential caravan site, for the storage of caravans and the keeping of</p>	

horses. ....The oral accounts came across as being open and were subject to cross examination. Paragraph 116 of the Framework states that planning permission should be refused for major developments in designated areas, including AONBs. ... The policy was addressed in an appeal decision for a development of 46 houses on land to the south of Church Lane, Birdham. ...which concluded that the scheme was a major development in the AONB. .... and I consider the approach to be appropriate. ... The development is a material change of use, not operational development. ... The site is a sizeable area when compared to the settlement pattern of Birdham village. ... The proposal is for up to 22 caravans (11 of which would be statics), the site is located within the landscape setting of the village. ... The site also is a short distance from the Causeway at Birdham Pool, a matter of significance given that the landward portion of the AONB is very small compared to the area covered by water. .. The mixed use can reasonably be concluded to be major development for the purposes of paragraph 116 of the Framework. ... For the purposes of applying Planning Policy for Traveller Sites (PPTS) "gypsies and travellers"... I am satisfied that Mr Mark Goddard, Mr George Smith (plot 3), Mr George Smith (plot 4), Mr Sibley, Ms Boyden and Mr and Mrs Hughes (plot 7) all have gypsy status. In particular the evidence of Mr Hughes, Mr Sibley and Ms Boyden brought out the importance of a regular pattern of travelling and the keeping and dealing in horses to their way of life and livelihoods. The mixed use is very much associated with a gypsy way of life and planning policies for travellers apply. ... Policy 50 of the Local Plan requires appropriate avoidance/mitigation for development resulting in a net increase in residential development within the 5.6 km zone of influence of the SPA. ... On day 2 of the inquiry the appellant paid to the Council a financial contribution. ... There is compliance with Policy 50 of the Local Plan. .... To focus on the Premier Business Park takes insufficient account of the relationship of the field to the historic core of Birdham village and its essential contribution to the open rural setting of the village. ... the undeveloped appeal site made a positive and important contribution to the special qualities of the landscape character of the AONB. ... The consequences of the new land use on landscape character are detrimental. ... The site layout, the form and materials of the residential caravans and the treatment of surrounding space is not in keeping with the predominant settlement form and pattern both within the village and around Birdham Pool. ... Implementation of a landscape scheme would not overcome the fundamental harm... The mixed use development fails to conserve and enhance the natural beauty and locally distinctive features of the AONB, it detracts from its distinctive character and special qualities. ...

None of the criteria of LP Policy 43 are met. There is also conflict with criteria in LP Policy 48 that seek to protect the tranquil and rural character and the distinctive local landscape character. There is conflict with Policy 4 of the Neighbourhood Plan in that the mixed use development does not maintain the local character of the landscape, rather it has an urbanising effect. The appeal site when in agricultural use would have been dark at night and following the direction of Policy 5 the new use should be resisted. ... The presence of the Business Park is not good justification for the in-depth development of adjacent lands. ... Even with a successful landscape scheme, the important open views across the heritage landscape and agricultural heritage would be lost. ... There would be an acceptable level of amenity for the residents of nearby dwellings and for residents of the development. ... There is nothing material to suggest that the development dominates the nearest settled community in terms of its social effects. .... The piecemeal nature and the apparent lack of consideration to planning policy requirements do not support a conclusion that the site is well planned. ... no case was made that it was essential to live on the site on grounds of animal welfare. ... The

effect on highway safety is acceptable and no material impact on bridleways has been identified. ... Countryside LP Policy 45 is relevant. ... Not all criteria are met and the development is not supported by the policy. It follows that the proposal does not comply with LP Policy 2 and Policy 15 of the Neighbourhood Plan. A planning policy statement issued on 31 August 2015 introduced a planning policy that makes intentional unauthorised development a material consideration in the determination of planning applications and appeals. The policy statement was also laid in the House of Commons as a written ministerial statement. ... The development has caused serious harm to the special qualities of the AONB and to visual amenity. By intentionally implementing the development an iterative approach towards the design of a scheme has not occurred. The local planning authority has had to have recourse to enforcement action, costly in time and resources. The policy is directed at such consequences. I conclude that the change of use amounted to intentional unauthorised development within the meaning of the 31 August 2015 planning policy statement. ...

**Need** - A Gypsy and Traveller and Travelling Showpeople Assessment (GTAA) was carried out in 2012/13. The GTAA identified a need for 59 pitches during the plan period 2012 to 2027. These figures are incorporated into LP Policy 36.... The Council maintained that as of February 2017 there was a surplus of 6 pitches in the 5 year supply for the period 2017 to 2022, amounting to a 7.3 years supply. ... Since the base date of September 2012 there has been a significant increase in the stock of traveller sites in the district. ... The Council's assessment on need, site provision and 5 year supply is reasonable when judged against Policy 36. However,.... ... The GTAA no longer provides a robust evidence base to establish up to date accommodation needs in the district, bearing in mind legislative amendment and review of guidance. There has been no new provision of permanent public pitches even though families on the waiting lists for public sites are a consistent and important element of need. By all accounts no pitches are available on the two public sites, turnover is low and waiting lists persist. ...

In view of these considerations I am unable to conclude that need has been met in the district or that there is a supply of specific deliverable sites to provide 5 years' worth of sites against an up to date locally set target. There are no available alternative sites in the form of allocated land or pitches on public sites. Nonetheless, new private sites are an alternative source of supply. According to the Council's evidence, there is a supply of pitches on privately owned land. ... Until a new GTAA, or similar study, is carried out the need for additional pitches is unable to be quantified. The indicators suggest that within the district there probably is a need, given that no public pitches have been developed over the last five years or so.... Whilst probably there is numerically five years' worth of sites..., there is no year five year supply to meet probable need. ... Of the Coastal West Sussex authorities, Chichester has the largest Gypsy and Traveller population. ....The Site Allocation DPD was not progressed ..... As a result no land has been identified and allocated for sites and a policy aim at local and national level has not been met. .... the 'failure of policy' argument provides a small degree of support for the development at the present time. ... The appellants' case is that if they are not allowed to stay on the appeal site they would have nowhere else to go ..... For some of the families affordability would appear to be a critical issue. ... Up to date evidence on individual needs was restricted to those families currently living on the site... The loss of the home and settled base without an alternative permanent site would have serious consequences....particularly so for Mr and Mrs Goddard. ... The evidence of the residents has several inter-related themes, .....the need for a secure and settled base, proximity to family and friends, and provision of health and education. The best interests of the children are evident in each of these issues. ... The land is the home of the eleven family households,... the personal circumstances and human rights of the appellants

provide considerable weight in favour of the development. ... The development has provided additional traveller pitches and has met individual needs for a settled base. These are important considerations when account is taken of general need, the difficulty travellers have in finding suitable and affordable land, the lack of available alternative sites especially as regards public provision and the very limited progress on a Site Allocations DPD, which would provide direction on and promote delivery of additional pitches in acceptable locations... The environmental considerations are compelling. ... The adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. ... it is also highly relevant whether or not a home was established unlawfully in considering whether a requirement that the individual leave his or home is proportionate to the legitimate aim pursued. ... When a 'risk' has been taken, even given the underlying reasons, some responsibility has to lie with the new land owner. This is especially so on plot 6 given its enforcement history. ... The location of the development on the appeal site has been shown to be unacceptable when assessed against the core planning principles and policies that seek to conserve the much valued environment for the enjoyment of all. ...

The community interest in protecting the environment has great weight because of the AONB designation. The interference with residents' rights would be justified. In each case ..the interference with the Article 8 Convention rights of the family or individual occupiers is necessary and proportionate in pursuit of the legitimate aim of regulating land use. ... There would be a serious interference with the right of each household to the peaceful enjoyment of their possessions. Nevertheless the residents would not be deprived of their possessions in that there would be no expropriation of property. .... The public interest centres on regulating the use of land and upholding planning control in accordance with the statutory framework in a designated AONB. ... The interference with every person's rights under Article 1 of the First Protocol is proportionate and necessary in the public interest. ... The material change of use is not sustainable development. ... The purpose of a time-limited permission would be to allow time for alternative acceptable sites to come forward, whether by site allocations in a DPD or by private provision. ... In the event a Site Allocations DPD is progressed.....a period of four years strikes the right balance. ... [but]... balanced against the rights of each family is the legitimate public interest objective of protecting the nationally important unique landscape and scenic beauty of the AONB. ... The development is not acceptable for a time limited period. ... The evidence and my assessment of the planning merits and human rights implications do not support a grant of planning permission for part of the development or part of the land.

Conclusion - The mixed use development is unacceptable and the appeal on ground (a) does not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application. Appeals on ground (g) - ... The public interest lies in remedying the breach of planning control as soon as possible. On the basis of all the relevant evidence I conclude that the families' circumstances justify a period of 12 months to cease the uses with a view to reducing the seriousness of interference with home and family life. An additional three months should be allowed to carry out the remedial works. To this extent the appeals on ground (g) succeed.

**OPERATIONAL DEVELOPMENT ENFORCEMENT NOTICE BI/30** - The access track and areas of hardstanding... The development causes diminution in the important view across the heritage landscape and agricultural heritage to the north of Birdham Road. ...

... an access track appropriate to the keeping of horses would be much less intrusive and harmful than the unauthorised track. ...

The design and form of the existing gates and fence are not essential to achieve the purposes of a means of enclosure at the site access. .... The access track and associated works are visually intrusive and detrimental to special qualities of the landscape character of the AONB. The development, in the form undertaken, is not necessary to provide safe access and security of the land. The development fails to comply with the development plan when read as a whole. ... The appeal on ground (a) does not succeed.

The compliance period needs to be consistent with the period for the requirements on notice BI/31 to be carried out. On that basis a period of 15 months is reasonable. ... I uphold the enforcement notice with a correction and a variation and refuse to grant planning permission on the deemed application. ...

SINGLE PITCH SITE - Appeal Ref APP/L3815/W/15/3132281 - ... in April 2015 aerial photographs show that the site for the single pitch was part of a field. ... The pitch was proposed for and is occupied by Mr William Hughes and his family. Mr and Mrs Hughes have gypsy status. ... The appellant relies on a payment of £2462 intended to satisfy the mitigation requirement in respect of the 14 resident families. ... the Council was of the view that the proposal remained contrary to policy because there was no financial contribution or appropriately worded unilateral undertaking towards the appeal... I conclude that the proposal is likely to have a significant effect on the SPA either alone or in combination with other plans and projects. ... The proposed single pitch would create an isolated parcel of residential development clearly identifiable by the mobile home, residential activity and paraphernalia, parked vehicles, extensive hard surfaces and means of enclosure. ... The undue length of track is necessitated by the location of the pitch away from the road frontage. ... Its presence would interrupt and be harmful to the appearance of the open landscape. The Premier Business Park pre-dated the designation of the AONB. It has a limited effect in ameliorating the visual harm from the single pitch, which by contrast is set well back and visually divorced from the commercial site. A landscape strategy was proposed. ..Nonetheless the proposal would cause diminution of important local views. .... Positive weight should be given to the opportunity for adequate play space for the children. Nevertheless the site is in an inappropriate location in open countryside where traveller sites should be very strictly limited. ...

Need - LP Policy 36 identifies the potential need for permanent pitches., ...Reliance has been placed on private site provision to meet the numerical target confirmed through LP Policy 36. ... No increase has been made in public pitch provision in Chichester despite its important contribution in meeting identified need. The Council's evidence, shows there currently is a supply of pitches on privately owned land.

However, overall I am unable to conclude that need, based on factors regarding quantity and form/type, has been met in the district or that there is a supply of specific deliverable sites to provide 5 years' worth of sites against an up to date locally set target. ... Until a new GTAA is carried out the need for additional pitches is unable to be quantified adequately. ... The range of circumstances leads me to conclude that the 'failure of policy' argument provides a small degree of support for the development. .... In the probable absence of an alternative pitch the family may well have to return to unauthorised camping, with the social, environmental and economic costs this would

entail. ... The proposed single pitch caravan site fails to meet all the criteria set out in LP Policy 36. ... The personal circumstances of the appellant and his family highlight the difficulties in finding a permanent settled base. ... Mr Hughes developed the pitch before gaining planning permission. The fact that the home was established unlawfully is relevant to the fair balance. However, the two children have their own individual rights which are not affected by such actions. ... The opportunity to acquire land at Birdham ended a period of unauthorised encamping. ... The Framework recognises the importance of a home. ... Balanced against these considerations is the harmful impact on the landscape and scenic beauty of the AONB. ... The SPA is an internationally important site. ... In conclusion, the interference with the private rights of the appellant and his family is necessary and proportionate because of the public interest in protecting a unique and much valued natural environment. The appellant indicated that he would accept a temporary permission. ... weighing the adverse impacts against the benefits, the balance is against allowing the proposed caravan site for a temporary period. ...

Conclusion - The material change of use to provide a single pitch is not in accordance with the development plan as a whole. ... The appeal should be dismissed.

Appeal Ref: APP/L385/C/15/63065780 - enforcement notice (BI/24) the appeal is proceeding on a ground (G) only. ... The main issue is whether the compliance period of six months is reasonable. ... In this instance the compliance period for enforcement notices BI/30 and BI/31 are relevant considerations. ... Clearly there is a conflict between the public and private interests. ... A compliance period of 12 months strikes a fair balance between the rights of the appellant and his family and the interests of the community. I am satisfied that this period of time is proportionate in the circumstances. ... A reasonable period for compliance is 12 months and the enforcement notice will be varied accordingly, prior to upholding it. The appeal on ground (g) succeeds to that extent.

Subject to the correction and variation, the appeals are dismissed and the enforcement notice is upheld and in respect of the appeal by Mr W Hughes planning permission is refused on the planning application deemed to have been made under section 177(5) of the 1990 Act as amended.

## COSTS DECISION

" ... The Council seeks principally a full and/or partial award of costs on procedural grounds ..... of unreasonable behaviour ..... present in the appellants' conduct of the case and/or alternatively a full and/or partial award of costs is sought on substantive grounds on the basis that the development is not in accordance with the development plan and no other material considerations are advanced that indicate a decision should be made otherwise. ...

I recognise that the appellants and residents on the site were unlikely to be familiar with the full extent of planning guidance and procedures. However, they were professionally represented throughout by a chartered town planner. ... The appellants also engaged a barrister who is very experienced in gypsy and traveller appeals. In this case inexperience is not an extenuating circumstance. ... The appellants did not make an application for costs. ...

### Conclusions

... Unreasonable behaviour has been demonstrated: failure to adhere to deadlines and the introduction of fresh evidence necessitated extra expense in preparatory work that

otherwise would not have arisen; the very late introduction of the ground (b) appeal unnecessarily prolonged the inquiry proceedings; the making and withdrawal of the appeals on grounds (e) and (f) resulted in unnecessary expense in the time spent addressing the grounds of appeal, primarily in Mrs Archer's evidence (including written evidence) and the associated inquiry time spent in trying to clarify on what basis these grounds of appeal were made. A partial award of costs is justified for those reasons. Following on from that conclusion, there is an issue as to who should be named in the Costs Order. ... At the inquiry Mr Masters and Mr Weymes confirmed that they were representing and presenting a case on behalf of all appellants and all additional residents who were in occupation on the appeal sites at the time of the inquiry. ... However, the new residents were not responsible for making the appeals. ... Weighing up all the considerations my conclusion is that only the appellants should be named in the costs order. ...

**Costs Order**

... IT IS HEREBY ORDERED that the appellants, namely Mr Wayne Smith, Mr Wayne Goddard, Mr William Hughes, Mr Frazer Sibley, Ms Kathy Boyden, Mr Daniel Hughes, Mr Keith Hughes, Mr Paul Watson, Ms Lauren Hughes, Mr Glen Keet, Mrs Kimberley Goddard, Mrs Bonnie Hughes, Ms April Lamb, Ms Carla Baker and Mrs Katie Keet, shall pay to Chichester District Council the costs of the appeal proceedings described in the heading of this decision limited to:

- those additional costs incurred in preparatory work as a result of the appellants' failure to adhere to deadlines and the introduction of fresh evidence on their behalf;
- the unnecessary expense incurred by reason of the additional inquiry time spent dealing with the introduction of appeals on ground (b) in relation to enforcement notice BI/31; and
- the wasted expense incurred in responding to the appeals on grounds (e) and (f) in relation to enforcement notice BI/30 and the appeals on ground (e) in relation to enforcement notice BI/31; ..."

**COSTS DECISION** - The application is made by Chichester Harbour Conservancy  
 Conclusions: ... A partial award of costs is justified. ...

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 <a href="#">BI/15/01288/FUL</a> and BI/15/00139/CONSH
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As above

<a href="#">BI/15/01288/FUL</a> 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
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As above

<a href="#">CH/16/01902/PA3P</a> H (M Tomlinson) DISMISSED	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
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"... There is no dispute that all limitations are met with the exception of limitations (a) and (b). Article 3 paragraph 5 (b) states that permission granted by Schedule 2 does not apply if an existing use is unlawful. ... The existing use of Building A is in breach of Condition 9 of that planning permission. The permitted use of Buildings B and E is a mixed use of storage and maintenance and thus is not a single primary use for storage. Therefore to qualify for Part P rights the appellant has to demonstrate that the storage use taking place in Buildings A, B and E was lawful on the 19th March 2014. I have found that the buildings the subject of Appeal B are within a wider planning unit and thus are part of a mixed use. A use within a mixed use planning unit cannot be considered as falling within a use class as a mixed use is a sui generis use outwith the UCO. ... The application for planning permission CH/93/01741/COU was dated 6 October 1993 with reference to plans dated 31 January 1994 in various conditions and the site plan dated 31 October 1994. The planning permission decision notice is not dated but it was a retrospective planning permission. Therefore it is more likely than not that carpets were stored in Building A and the use of Buildings B and E were in use for the storage and maintenance of vehicles used in connection with a concrete pumping business on the date that planning permission was granted under reference CH/93/01741/COU was approved and for some time after. Mr Snowdon states that the use for general storage started in the late 1990's. This is imprecise and there is nothing to demonstrate who occupied the buildings and what was stored. The statements in the Statutory Declaration by Mr Snowden are general statements. There is no detail about who occupied which building, for how long, the dates of that occupation, and what was stored in the building.

It does record that carpets have not been stored in Building A for well in excess of 10 years and since the late 1990's Buildings A, B and E have been occupied by individual tenants and used for general storage and distribution uses. There is no information as to the frequency of deliveries and collections from each building, the products stored or how much was stored in each building. While it is stated the storage use was continuous in the buildings, it is not clear how this has been assessed or demonstrated. Mr Snowdon does not state when or why or even if he ever went into the buildings. The evidence is general and imprecise. I therefore conclude, that the evidence provided in the Statutory Declaration is less than precise and has failed to demonstrate on the balance of probabilities that the use of Buildings A, B and E has been carried out for a continuous period of 10 years in breach of the relevant conditions of planning permission CH/93/01741/COU by 19th March 2014 or even at the date of the application. As such, the appellant has failed to demonstrate on the balance of probabilities that the storage use of Buildings A, B and E were lawful on 19th March 2014, or if not in use on that date the last use before that date, and therefore fails to comply with limitation P1.1.(a). ... The development for which prior approval was sought could not have been permitted by Schedule 2, Part 3 Class P of the GPDO since it does not comply with limitations P.1. (a). For the reasons given above the appeal is dismissed. ... "

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<p><u>CH/14/00399/CONMHC</u> H (R Hawks) Awaiting decision DISMISSED</p>	<p>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 <a href="#">CH/16/01902/PA3P</a></p>
<p>As above</p>	
<p><u>CC/16/03484/FUL</u> WR (C Boddy) ALLOWED</p>	<p>18 Lavant Road, Chichester, West Sussex, PO19 5RG – Demolition of existing property and construction of 3 no. dwellings, with associated access, parking and landscaping</p>
<p>"... The appeal is allowed. ... The main issue is the effect of the proposed development on the character and appearance of the surrounding area. ... The dwellings would be close together but their design, including greater separation at first floor level between the front elevations would lessen the massing effect. In any case, they would be seen in the context of the variety of designs, sizes and degrees of separation of other properties in the vicinity and the plots would still be fairly wide, of similar width to that relating to the adjacent property at No 16. I have also had regard in this respect to an extant planning permission for two dwellings at No 22 Lavant Road, that would replace an existing dwelling, and would be side by side in fairly close proximity, including at first floor level. The proposed northern access drive would cause the two frontage dwellings to be closer together than they might otherwise be, in the above context they would not appear incongruous within the streetscene or cramped within what would still be fairly large plots. ... Chalet style design ... such a design would ensure that it would not dominate those trees. ... That third dwelling, in a back-land position, would also not appear unusual in the context of other existing back-land development in the vicinity, including at No 20a Lavant Road. It would also not be clearly visible from Lavant Road due to the intervening dwellings. It would be seen from Baytree Close to the northeast of the site. ... I am satisfied that the UPO would meet the tests set out in paragraph 204 of the Framework. Furthermore, the Council confirms that the UPO would address the concerns relating to the second reason for refusal relating to the absence of such mitigation. ... It is therefore unlikely that there would be any overlooking that would amount to a harmful loss of privacy to the residents of The Light House. ... It is therefore unlikely that there would be any overlooking that would amount to a harmful loss of privacy to the residents of The Light House. ... I consider that it would be appropriate to secure further bat survey work and any necessary mitigation measures by condition. This would need to include the submission of an amended site layout plan were it concluded that the tree would need to be retained in the interests of protecting bats. With such a condition in place, it is unlikely that the proposed development would adversely affect bats. ..."</p>	
<p><u>LX/16/03786/FUL</u> Loxwood WR ( Paul Hunt) DISMISSED</p>	<p>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.</p>

"... The development proposed is 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. ... The dwelling would comprise a single storey building that would be substantially larger than the approved kennels conversion, albeit smaller floor area than the existing kennels and approved pheasant rearing building, and of a traditional timber framed and clad design, with a substantial slate roof above. In addition, it is proposed to erect a double garage with biomass heating plant room that would reflect the design of the dwelling. The resulting buildings would have a simple appearance that would be similar to those approved for the conversion of the kennels. Removal of the kennel enclosures would benefit the appearance of the site. However, the bulk and bland appearance of the proposed buildings would result in them appearing prominent and incongruous in this isolated rural location. ... For these reasons, I conclude that the demolition of the kennels building and erection of a dwelling would have a harmful impact on the character and appearance of the surrounding rural area. As such, the development would be contrary to Policies 1, 33, 45 and 48 of Chichester Local Plan (LP), Policy 10 of the Loxwood Neighbourhood Plan (NP) and the National Planning Policy Framework (the Framework) that seek to ensure development is of a high standard of design that recognises the distinctive character of its surroundings and is well related to existing groups of buildings. ... The approved conversion of the kennels would result in a large, albeit single storey, dwelling in close proximity to the designated heritage asset of the listed building at Oakhurst Cottage. This would affect the setting of the listed building that is currently located in an isolated position within the open countryside... In this case, the only public benefit of the proposed development would be the removal of the existing kennel building and completion of the pheasant rearing building could not take place that would otherwise be partially visible from surrounding footpaths and bridleways. However, whether considered individually or cumulatively, neither of those matters constitute public benefits that would outweigh the harm to the designated heritage asset. ..."

[O/16/02254/OUT](#)

I (J Bushell)  
ALLOWED

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.

**Appeal Ref: APP/L3815/W/16/3165228**

**Land at the corner of Oving Road and A27, Chichester PO20 2AG**

**Decision date: 18 August 2017**

**The application Ref 16/02254/OUT**

Decision: The appeal is allowed and outline planning permission is granted for development of the site to provide 100 dwellings (Use Class C3), with associated access, parking, outdoor space, landscaping and infrastructure

The main issues are:

- whether the appeal site would be suitable for housing;
- the effect of the proposed development on the character and appearance of the surrounding area; and
- whether there are any other material considerations which would justify a determination other than in accordance with the development plan.

### **Suitability of the Site for Housing**

I find that the proposed development would be contrary to Policy 45 of the Local Plan, being outside of the settlement boundary for Chichester.

It would be contrary to Policy 2, being within the Rest of Plan Area as defined by that policy and the scale of development would not be consistent with the indicative housing numbers for Chichester and Oving parishes as set out in Policy 5.

### **Character and Appearance**

The scale and nature of the proposed development would result in the sense of openness being reduced and some very local views into open countryside would be lost. I therefore find that the proposal would result in modest harm to the rural character and appearance of the area due to the introduction of built development. However, with screening and landscape enhancements these effects would be largely confined to the immediate vicinity of the site with no significant intrusion into the open countryside. Nevertheless, the proposal would conflict with Policies 33, 47 and 48 of the Local Plan.

### **Other Material Considerations**

The Council's position, based on the most recent data available on 30 April 2017 is that it can demonstrate a 6.0 year supply in respect of the period 2017-2022 with a potential supply of 3,636 dwellings and showing a surplus of 613 new dwellings. This is based on predicted completions for the 2016/17 monitoring period.

In terms of delivery rates the Council's assumption is that sites will deliver 65 to 75 homes per annum based on no more than four house sales per month achieved by a single housebuilder on each site with higher numbers where two or more developers are involved.

On the basis of more extensive evidence provided by the appellants I find the Council's delivery rates to be over-optimistic and I have therefore assumed a rate of 40 dpa on sites with a single developer.

The appellants' case was that an overall reduction of 842 units should be made to the Council's supply equating to a shortfall of 384 units when compared against the Council's claimed surplus of 458 for the period 2016-2021. For the period 2017-2022 the Council's surplus was assessed as 613 dwellings. My own assessment for the period 2017-2022 indicates a reduction in supply of 658 dwellings equating to a shortfall of 45 dwellings when measured against the plan requirement. On this basis I find that the Council cannot demonstrate five years' supply of housing land based upon the five year housing requirement of 3,023 dwellings reflecting the updated housing land supply position at 30 April 2017.

Relevant policies for the supply of housing which, according to paragraph 49 of the Framework, should not be considered to be up-to-date if the local planning authority cannot demonstrate five year supply of deliverable housing sites. Accordingly, paragraph 14 of the Framework is engaged which states that the presumption in favour of sustainable development means that planning permission should be granted, unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or unless specific Framework policies indicate that development should be restricted, none of which apply in this case.

The provision of up to 100 dwellings would make a significant contribution to the supply of housing when considered against the Council's failure to meet its housing requirement. This contribution should be seen in terms of addressing the undersupply of 45 dwellings by a considerable margin and also in terms of the housing requirement and the Framework advice to boost significantly the supply of housing.

### Conclusion

Taking all of this into account, including all other material considerations, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework as a whole. On this basis a decision other than in accordance with the development plan is justified.

SY/15/00376/CONADV  
WR ( S Archer)  
DISMISSED

2 Sherrington Mews, Ellis Square, Selsey, West Sussex  
PO20 0FJ - Unauthorised advertisements.

" Appeal Ref:APP/L3815/G/16/3157809 - Unit 2, Sherrington Mews, Ellis Square, Selsey, Chichester, West Sussex, PO20 0FJ

The appeal is .. against a Discontinuance Notice relating to the display of an advertisement with deemed consent. ... The appeal is dismissed. The Discontinuance Notice shall come back into effect immediately and that the display of the advertisement with deemed consent cease by the end of 14 days from the date of this decision. ... Unit 2 forms part of a two storey mews style terrace development positioned around a .large rectangular shaped courtyard known as Sherrington Mews. ... The front of the terrace of the Unit 2 forms part faces Manor Road. The notice relates to the display of a non-illuminated fascia sign above the front door of Unit 2. ... Notwithstanding the presence of business uses within Sherrington Mews, the impression created by the terrace fronting the highway is distinctly residential. with small open front gardens. ...

Each property features a distinctive pitched roof porch with exposed timber at the front. It is within this triangular space that the advertisement which is the subject of the notice has been placed. ... No other signs are in a similar position. ... Given the position, size and form of the sign, it has a prominence which is out of keeping with its locality. ... This terrace has clearly been designed to replicate housing and complement the residential properties opposite. Against that context, the sign is severely out of character with the property and its surroundings causing substantial injury to amenity. ...

[TG/16/03798/FUL](#)  
Tangmere  
WR (R Ballam)  
DISMISSED

1 Boxgrove Corner, Arundel Road, Tangmere, PO18 0DU –  
Erection of 1 no. 3 bed chalet bungalow.

The appeal was dismissed on the following grounds:

[The proposal] comprises a new dwelling outside the development boundaries of the settlement... The proposal would not require a countryside location, or meet essential, small scale and local need... For these reasons, [it was concluded that] the proposed development would be contrary to the development strategy for the area, in particular

Policy 1 of the NP and Policies 2 and 45 of the LP. This conflict with the development plan carries great weight in the planning process.

...[It was concluded] that the proposed single dwelling would be contrary to the relevant policies of the development plan, comprising the Council's Local Plan and the Tangmere Neighbourhood Plan. Whilst there are a number of material considerations in favour of the scheme, they mostly relate to the basic requirements of development plan policy and are not of such weight, either individually or cumulatively, as to warrant a decision other than in accordance with the aforementioned development plan.

[WH/16/02827/FUL](#)  
WR (C Boddy)  
DISMISSED

Maudlin Mill, Sidengreen Lane, Maudlin, Westhampnett, Chichester, West Sussex, PO18 0QU - Construction of a workshop with first floor office.

The appeal is dismissed.

The proposed two storey building would be largely screened in any views from the north, including from the South Downs National Park, by the existing adjacent building and, if built, the extant one, and by boundary vegetation. However, it would be positioned in a significantly more prominent location in respect of Stane Street than those existing and extant buildings, being immediately adjacent to the site's access. As such, there would be limited scope for screening or softening from the roadside vegetation and it would be clearly visible when passing the site and on the closer approaches. That would be regardless as to whether or not any existing trees would be removed due to the positioning of the proposed building.

Due to the building's height, proximity to the road, and generally utilitarian appearance, it would introduce a jarring and incongruous feature into the otherwise predominantly verdant setting of Stane Street in the vicinity of the site.

I conclude on this issue that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area.

The proposal would be of relatively small scale compared with the existing building and extant scheme on the wider commercial site. It is therefore unlikely that movements and activity would be materially different to those that could currently take place on the site or in the future were the extant scheme implemented. There would also remain a substantial area within the site and wider commercial site for the turning of large vehicles. Although the access drive is not in very good condition, appropriate improvements could be secured by condition were the appeal allowed.

#### Costs Decision

The applicant claims that the Council acted unreasonably in refusing planning permission, especially in light of the most recent appeal decision allowing the proposed Use Classes B1/B2 industrial development of the site. It is claimed that policy 26 of the Local Plan is the important one and which would be fully satisfied by the appeal proposal.

The Council did not take account of policy 26 in coming to its decision and importantly, the council rightly also referred to policy 48. The unacceptable harm to the character and appearance of the surrounding area was an over-riding factor that would outweigh any benefits of the scheme. It is therefore unlikely that had the Council taken account of policy 26, its decision would have been different.

It was reasonable on the part of the Council to consider the proposal on its own merits in a situation where the previous appeal scheme remains to be implemented, and where it assessed there to be a need for further details to be certain that the existing access would be fit for purpose.

I find that the Council did not behave unreasonably.

### 3.OUTSTANDING APPEALS

Reference/Status	Proposal
<a href="#">SDNP/17/00030/APNB</a> Bepton WR (R Grosso MacPherson) Awaiting decision	Padwicks Farm, Whites Lane, Bepton, GU29 0LY - Agricultural storage building.
<a href="#">SDNP/16/02175/FUL</a> BURY WR (B Stubbington) In Progress	Timberley Farm, Bury Common, Bury, Pulborough, West Sussex RH20 1NP - Widen existing farm entrance.
<a href="#">CC/16/03216/ADV</a> WR (R Ballam) In Progress	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.
<a href="#">CC/16/03916/ADV</a> 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.
<a href="#">CC/17/00002/FUL</a> WR (P Hunt) In progress	46 South Street, Chichester, PO19 1DS - Attic storey extension to create an additional apartment.
<a href="#">CC/17/00416/DOM</a> WR (P Hunt) In progress	Clydesdale Lodge, 44A Caledonian Road, Chichester PO19 7PJ - Rear first floor extension with a roof garden.

<p>E/<a href="#">17/00237/FUL</a> WR (M Tomlinson) In progress</p>	<p>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.</p>
<p>EWB/<a href="#">16/03920/FUL</a> WR (C Boddy) In progress</p>	<p>27 Coney Six, East Wittering, PO20 8DL - 2 no. dwellings, garage and associated works.</p>
<p><a href="#">SDNP/16/05784/FUL</a> Fernhurst WR (R Grosso MacPherson) In progress</p>	<p>Ashurst, Lickfold Road, Fernhurst, GU27 3JB - Replacement dwelling including realigned driveway.</p>
<p><a href="#">SDNP/16/05918/HOUS</a> Graffham FT (B Stubbington) In progress</p>	<p>Summerfield Cottage, Graffham Street, Graffham, GU28 0NP – Proposed new driveway with off road parking.</p>
<p><a href="#">SDNP/16/04701/LIS</a> Harting H (Rafa Grosso MacPherson) In progress</p>	<p>East Harting Farm, Hollist Lane, East Harting, Petersfield, GU31 5LU – Extension to annex.</p>
<p><a href="#">SDNP/17/01197/FUL</a> Harting WR (D Price) In progress</p>	<p>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.</p>
<p><a href="#">SDNP/17/00178/HOUS</a> HEYSHOTT WR (J Shore) In Progress</p>	<p>Cottage On The Green, Peace Road, Heyshott, Midhurst West Sussex, GU29 0DF - Demolition and replacement of detached annexe.</p>
<p><a href="#">SDNP/14/00448/COU</a> Lurgashall WR (S Pattie) In Progress</p>	<p>Northurst Farm Dial Green Lane Lurgashall Petworth West Sussex GU28 9HA – appeal against an enforcement notice re: COU of land to garden land.</p>

<p><a href="#">SDNP/15/00361/COU</a> Lurgashall H (R Hawks) Awaiting decision</p>	<p>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 <a href="#">SDNP/16/04559/FUL</a></p>
<p><a href="#">SDNP/16/04559/FUL</a> Lurgashall H (J Shore) Awaiting decision</p>	<p>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</p>
<p><a href="#">SDNP/16/00204/OPDEV</a> Midhurst WR (S Archer) In progress</p>	<p>Flat 2, Thomond House, North Street, Midhurst, GU29 9DJ – Formation of door opening.</p>
<p><a href="#">SDNP/16/04426/FUL</a> Midhurst WR (J Shore) In progress</p>	<p>Land to The rear of Fourwinds, Chichester Road West Lavington, Midhurst, West Sussex, GU29 9QE - Construction of detached 5 bedroom dwelling.</p>
<p><a href="#">NM/15/00375/CONCOU</a> I (R Hawks) In Progress Public Inquiry to be held at 10am 9-11 January 2018 at City Council, Old Court Room</p>	<p>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 <a href="#">NM/16/00424/ELD</a></p>
<p><a href="#">NM/16/00424/ELD</a> North Mundham I (Reg Hawks) Public Inquiry to be held at 10am 9-11 January 2018 at City Council, Old Court Room</p>	<p>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. <a href="#">Linked to NM/15/00375/CONCOU</a></p>
<p><a href="#">PS/13/00015/CONCOU</a> I (R Hawks) Awaiting decision</p>	<p>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.</p>

<p><a href="#">SI/15/03440/ELD</a> I (M Tomlinson) In progress</p>	<p>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.</p>
<p><a href="#">SB/16/00176/CONCOU</a> WR (R Ballam/E Kierans) In progress</p>	<p>Land East Of Inlands Road, Inlands Road, Nutbourne, West Sussex – appeal against an enforcement notice: Stationing of metal container buildings. LINKED TO <a href="#">SB/16/02811/FUL</a></p>
<p><a href="#">SB/16/02811/FUL</a> WR (R Ballam/E Kierans) In progress</p>	<p>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</p>
<p><a href="#">SB/16/03569/OUT</a> Southbourne I (Rhiannon Jones) Public Inquiry to be held at 10am 12-15 September 2017 at WSCC , Edes House</p>	<p>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.</p>
<p><a href="#">SDNP/16/00334/COU</a> Stedham H (Shona Archer) In progress</p>	<p>The Old Studio, Bridgefoot Lane, Stedham, West Sussex, GU29 0PT – appeal against an enforcement notice: Use of annexe as a self contained residential unit.</p>
<p><a href="#">SDNP/16/00069/COU</a> Upwaltham I (Shona Archer) Public Inquiry to be held 10am 31 October and 1 November at CDC Committee Room 2</p>	<p>The Mill, Eartham Lane, Eartham, Chichester, PO18 0NA – appeal against an enforcement notice - use of workshop as single dwelling.</p>

#### **4. VARIATIONS TO SECTION 106 AGREEMENTS**

##### **Stockbridge Halls of Residence (Former Chichester Girls High School site), Stockbridge Road, Chichester**

The Stockbridge Halls of Residence comprises 5 accommodation blocks which house students from both the University of Chichester and Chichester College. Application was made to vary the existing S.106 agreement attached to planning permission CC/09/01276/OUT relating to the development. The effect of the variation will be to allow students to bring cars at certain pre-arranged times into the previously agreed 'parking exclusion zone' established by the planning agreement and through the planning permission.

The application for the variation effects accommodation block buildings A, B, C and D and will bring the use of these blocks in terms of the use of cars by students, into line with the use restrictions pertaining to those already placed on accommodation block E at the re-developed Chichester Girls High School site (block E is the retained and converted former Edwardian school building sited north of blocks A-D which provides 88 single, en-suite study bedrooms). The proposal will also enable guests of the students living in blocks A-D to stay overnight at the site rather than vacating the premises by 11pm thus bringing these blocks into line with the arrangements already in place for Block E.

The Deed of Variation establishes a car parking exclusion zone for all 5 blocks covering a broad swathe of land east and west of the campus including residential estate roads where the random parking of student cars has the potential to cause highway safety issues and access problems for local residents. The proposed restriction only permits students to bring cars within the car parking exclusion zone for the purposes of moving in and out of their student study bedroom on the first and last day of occupation of their tenancy and for a period of not longer than 3 hours on these days. The amended Student Site Management Scheme will ensure that the new restrictions are adhered to and enforced.

Consultations with the statutory highways authority, Highways England, and the local highway authority, WSCC, have both generated no objection to making the car exclusion criteria consistent across all the student accommodation blocks at the Stockbridge campus. The associated introduction of controlled parking zones (CPZ's) in the vicinity of the campus since the original s.106 agreement was completed which are regularly patrolled by parking wardens has also made a big difference in terms of instances of unauthorised parking.

In terms of the deletion of the clause relating to overnight guests, the Council's principal environmental health officer has raised no objection reporting that they are unaware of any complaints from local residents about student noise. Minutes of meetings between the College and local residents' groups submitted with the application for the variation support the impression that the halls of accommodation are generally well run with the odd isolated incident acted upon swiftly and appropriately. The student accommodation is managed, maintained and supervised to a high standard, compliant with the ANUK code (Accreditation Network United Kingdom) for the safety, standard of facilities and management of student accommodation.

Members are asked to note that the Deed of Variation is now completed and the changed elements of it will be encompassed within the management scheme for the site.

## 5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage
NONE		

## 6. COURT AND OTHER MATTERS

<b>Injunctions</b>		
Site	Breach	Stage
Birdham Farm	Breach of Enforcement Notices and Stop Notices	Court action is being held in abeyance after the outcome of the Planning Inspectorate's decision as occupants have one year to find alternative accommodation.
Land at Newells Lane, Funtington	Application for Injunction Without Notice for apprehended/anticipated breach of Planning legislation	Injunction granted against Mr Frederick Bath who purchased the relevant piece of land where unauthorised operation has taken place. Undertaking given by the seller, Mrs Sullivan not to carry out or allow others to carry out any work/development etc in breach of planning legislation on the land retained. Court hearing on 25 September to consider whether injunction should be confirmed, varied or discharged. Mr Bath to attend the hearing.
<b>Court Hearings</b>		
Site	Matter	Stage
Land at Decoy Farm, Oving	The Council is seeking payment of its costs (£27,473.83) incurred from carrying out default works under section 178 of the T&CP Act 1990 to secure compliance with ENs O/10 and O/11 to clear the land and demolish a building	The defendants are opposed to the Council's claim and have entered a counter claim stating that the Council exceeded its powers when it appointed contractors to enter land and carry out the requirements of the notice(s) . A Case Management Conference Hearing took place at Worthing County Court on 21 August 2017. The Judge held that the defendants and the claimant should present the case at a Pre-Trial Review Hearing in April 2018 (statements and other evidence to be exchanged before then) with a Trial to be set in June 2018. Costs budgetting is to be agreed by the parties by 21 Sept 2017.

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

**7. POLICY MATTERS**

NONE