

## Chichester District Council

### Planning Committee

**Wednesday 15<sup>th</sup> November 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**

<b>Reference/Procedure</b>	<b>Proposal</b>
<a href="#">BI/16/00933/OUT</a> PI (J Bushell)	Koolbergen, Kelly's Nurseries And Bellfield Nurseries Bell Lane, Birdham, Chichester, West Sussex, PO20 7HY - Erection of 77 houses B1 floorspace, retail and open space with retention of 1 dwelling.
<a href="#">CC/17/00874/DOM</a> WR ( M Tomlinson)	2 Beech Avenue, Chichester, PO19 3DR - Detached double garage and boundary wall and gates.
<a href="#">EWB/16/00492/FUL</a> WR ( J Cross)	Ashbury, Kimbridge Road, East Wittering, West Sussex, PO20 8PE - Demolition of existing house and detached garage and construction of 5 no. flats and 1 no. single storey dwelling.
<a href="#">SY/16/03696/DOM</a> WR (J Cross)	Portsoy, 16 Bonnar Road, Selsey, PO20 9AT - Retention of single storey front extension.

WR/ <a href="#">17/00934/FUL</a> WR (M Tomlinson)	Old Helyers Farm, Kirdford Road, Wisborough Green, RH14 0DD - Conversion of commercial equestrian indoor riding school barn to 3 no. dwellings.
WW/ <a href="#">17/00410/DOM</a> WR (R Ballam)	Little Orchard, Summerfield Road, West Wittering, Chichester, West Sussex, PO20 8LY - Retrospective erection of replacement front boundary fencing.

## 2.DECISIONS RECEIVED

<b>Reference/Decision</b>	
<a href="#">SDNP/17/00030/APNB</a> Bepton WR (R Grosso MacPherson)	Padwicks Farm, Whites Lane, Bepton, GU29 0LY - Agricultural storage building.
<p>"... The existing barn and shed are listed and have received planning permission and listed consent into holiday accommodation. However the shed and barn have limited external openings with significant low internal height areas restricting the practical storage for machinery and storage. Based on the equipment and machinery detailed, necessary alterations to these listed buildings would be likely to harm their historical and architectural qualities and significance. ... However the sheep farming operation would be significantly changed on the holding and therefore it is not unreasonable for the Appellant to be able to use his own machinery and equipment. ... The building would provide storage for a sheep topping unit and even if the covered feed storage area is small, this would suggest that the size of the farm building would not be overly large for its intended purposes. ... the AJS provides a good justification for the new agricultural building, and how it would be used for the changed farming operation on the holding involving greater all year round sheep presence and 'in-house' use of machinery and equipment. For all these reasons, the building would be reasonably necessary for the purposes of agriculture. ... The Appellant's agent has indicated that his normal business hours are up to 1730 hours during the working week. ... However, if was, it would still have been outside of the agent's normal business hours. The Authority has provided copies of email correspondence sent to the agent after 1730 hours but this only provides a snapshot of the working times of the Appellant's agent during the year and so cannot be representative. Moreover they could simply indicate the agent's presence on an ad hoc basis to catch up on a heavy workload. The Authority states that the agent's business hours are not published on the company website or other media. Nevertheless this merely emphasises the need to check them further if such an important notice was required to be sent within a prescribed deadline. For all these reasons, the decision notices should be treated as being received the next working day and therefore, the development could have proceeded given my previous comments on the reasonable necessity test. ... "</p> <p><b>COST DECISION</b></p> <p>"... The applicant claims no reference was made to the AJS. No specific reference was made to the document in either the officer's report or the decision notices. However the report has referred to the applicant's existing and future agricultural storage supporting the Authority's position that it considered the AJS. Furthermore the AJS has been</p>	

<p>referenced within its appeal statement to support its case. On this basis, the Authority's approach has not been flawed by omitting due consideration of the AJS. ..."</p>	
<p>CC/<a href="#">16/03892/ADV</a> WR (R Ballam) Part Allowed, Part Dismissed</p>	
<p>Crew Clothing Company, 57 - 58 South Street, Chichester West Sussex, PO19 1DS - Non-illuminated 2 no. fascia signs and 1 no. hanging sign. Linked to 16/03895/LBC</p>	
<p>"Appeal A: The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent. I allow the appeal insofar as it relates to works to the shopfront, glazing and signage, and I dismiss the appeal insofar as it relates to the striped painting, and hanging sign. I grant listed building consent for the repair and redecoration of the shopfront and fascia signage ... subject to the following condition: 1) The floor mosaic located within the entrance alcove of the property shall be preserved in its entirety and shall remain uncovered and unaltered thereafter.</p> <p>Appeal B: The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent. I dismiss that part of the appeal that relates to the hanging sign. I allow that part of the appeal that relates to the fascia signage (sign 1 and sign 2) ... The consent is for five years from the date of this decision.</p> <p>The main issue is the effect of the proposals on the significance of the listed building and the character and appearance of the Chichester Conservation Area.</p> <p>The hanging sign. The Guidance states that within the historic city of Chichester hanging or projecting signs are not normally allowed, and within the four main shopping streets where street widths are generous and shop frontages wide, fascia signs provide sufficient advertising potential. The shopfront is within a listed building and is within one of the wider parts of one of the four main shopping streets. ... the sign in place here causes visual clutter and disrupts the layout of the upper windows with the attractive detailing of their surrounds.</p> <p>The lettering and fascia logo. There is little or no perceptible difference between the appeal lettering and other examples of stand-off lettering nearby... The view taken in these Decisions is that bearing in mind the narrow font and the small depth, no visual harm occurs.</p> <p>The painted striped treatment of the central pilaster. As explained in the Guidance, pilasters, along with the items that make up the entablature are a historic, and highly attractive, reference to the ancient 'orders' and provide a frame for the shop's openings and a visual support for the masonry above. The appeal shopfront is a good example of this principle, containing as it does three consoles supported on pilasters with the fascias spanning between. The central one displays to good effect the three elements referred to in the Guidance; a plinth, a trunk and a capital. The trunk has fluting as a further attractive, classical reference. The striped treatment fails to relate well to panelling within the reveal, and fails to relate attractively or appropriately to the classical features of the pilaster, and this causes visual harm to the listed building and its setting within the conservation area.</p> <p>Replacement of glazing and fascia timberwork. The glazing is described by the appellant as having been a hazard to the public. In addition, like-for-like repairs would be permissible, and with the exception of the items specifically found against in this Decision, the resulting arrangement appears attractive and well-executed. On that basis, consent should be granted.</p>	

The level of harm is 'less than substantial'. It is clear from the photographs provided that there has been some improvement over the previous presentation of the shopfront and the economic benefits of the use of the shop are public ones. Those considerations do not however outweigh the harm identified, as the benefits could be delivered without the necessity for the hanging sign and striped paint."

<p><a href="#">CC/16/03895/LBC</a> WR (R Ballam) Part Allowed, Part Dismissed</p>	<p>Crew Clothing Company, 57 - 58 South Street, Chichester West Sussex, PO19 1DS - Repair and redecorate shopfront, proposed signage and internal refit. Linked to 16/03892/ADV</p>
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As above

<p><a href="#">CC/17/00002/FUL</a> WR (P Hunt) Dismissed</p>	<p>46 South Street, Chichester, PO19 1DS - Attic storey extension to create an additional apartment.</p>
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Conservation Area and listed buildings

"...Although a more modern building than most along South Street, the proportions of the front elevation of no. 46 reflect those of the surrounding Georgian buildings, such that it is in keeping with the surrounding area...The proposal would provide an extra storey above the building, with a pitched roof to the front with side gables. The eaves of the resulting building would be above those of both Richmond House and no. 45, although the ridge would be below that of no. 45. The additional height of the building at both eaves and ridge, combined with the gabled roof and dormer windows, would result in a building that would be prominent in views along the street and dominate those listed buildings to either side. In addition, the bulk of the proposed roof would have a discordant effect on the proportions of the building...Views are afforded over the open car park [to the rear] and the buildings fronting South Street, including no. 46, toward the spire of Chichester Cathedral, which is listed Grade I... an additional floor would result in a building that would be taller than most other buildings in this view and would result in some harm to views toward the Cathedral from South Pallant...

That additional height would also mean the resulting building would increase the existing domination of Richmond Cottage by neighbouring buildings. Richmond Cottage is a two storey building with a much more domestic scale than most surrounding buildings...the proposed development would harm the setting of 45 South Street and Richmond House, Richmond Cottage and Chichester Cathedral and would not preserve or enhance the character and appearance of the Chichester Conservation Area. That harm to the significance of the heritage assets of 45 South Street, Richmond House and Chichester Conservation Area would be substantial. The harm to the significance of the heritage assets of Richmond Cottage and Chichester Cathedral would be less than substantial...

Living conditions

The close knit nature of development surrounding 46 South Street means that garden areas are generally modest and dominated by surrounding development. However, the additional floor in this case would materially increase the dominance of the building on the rear windows of Richmond House and the outside amenity area. Although the new roof would not extend alongside the garden to Richmond Cottage, it would be in close proximity to it and would significantly increase the dominance of the building on the windows and garden of that property. For these reasons, I conclude that the proposed attic storey would have an adverse effect on the living conditions of neighbouring

<p>occupiers of Richmond House and Richmond Cottage with particular regard to outlook...Chichester and Langstone Harbours Special Protection Areas ...in the absence of an appropriate planning obligation or how any financial contributions would be spent in line with the CIL Regulations, I conclude that the development would harm the Chichester and Langstone Harbours SPAs. As such, the development is contrary to Policy 50 of the LP and the Habitats Regulations that seek to protect the SPAs from development that would affect their integrity.”</p>	
<p><a href="#">CC/17/00416/DOM</a> WR (P Hunt) Dismissed</p>	
<p>Clydesdale Lodge, 44A Caledonian Road, Chichester PO19 7PJ - Rear first floor extension with a roof garden.</p>	
<p>The appeal is dismissed. ...The proposal would comprise an extension to Clydesdale Lodge to provide a room at first floor level with roof garden provided above and surrounded by a glass railing. This would result in a substantial wall a short distance outside the office window closest to the front of Forum House. Such a wall would dominate the room inside that window... the proximity and height of the proposed wall in relation to that window would result in a material loss of daylight and sunlight through that window.The proposed development is located within Chichester Conservation Area. It would be located to the rear of the building such that it would not be visible other than from very limited vantage points, and has been designed to reflect the character and appearance of the remainder of the building. As a result, it would protect the character and appearance of the conservation area, thereby not affecting the significance of the heritage asset.”</p>	
<p><a href="#">SDNP/16/05784/FUL</a> Fernhurst WR (R Grosso MacPherson) Dismissed</p>	
<p>Ashurst, Lickfold Road, Fernhurst, GU27 3JB - Replacement dwelling including realigned driveway.</p>	
<p>"... By reason of the dispersed siting of buildings, landscape topography and trees, there is also a distinctive rural quality to the Conservation area. Together with the richness of construction materials, the rural, historic and architectural qualities form the defining characteristics of the Conservation Area. These characteristics are of significance and value, and are of special interest to the Conservation Area. ... the existing building does have a great landmark quality by reason of its position and relationship at the end of a long drive and within a landscaped setting, including a former walled garden. This relationship also still helps to illustrate how the Ashurst estate was developed and functioned. Much of the original form of the building is also identifiable with its double row of pitched roofs and side gables. ... Given Ashurst's function as a country house within the Edwardian estate, there is a historical significance to the driveway, unloading/parking area and walled garden for these reasons. ... have value for present and future generations by reason of its historical and architectural qualities for the reasons previously indicated. For these reasons, it merits consideration as a non-designated heritage asset despite more recent works. ... Given the historical significance of the access drive layout and the walled garden, such works would adversely affect the significance of Ashurst as an Edwardian country house. ... Even with planning conditions, an exact re-creation of Ashurst in its original Edwardian form and architecture would also be difficult due to the need for works to be undertaken in accordance with</p>	

modern standards and modern building regulations. Therefore, the new development taken as a whole, would not satisfactorily reinstate Ashurst as an Edwardian country house within the Ashurst estate part of the Conservation Area. Moreover, it would fail to preserve the character and appearance of the Fernhurst Conservation Area by reason of the changes to the drive, forecourt and walled garden. In terms of sustainable development ... there would be adverse impact on the Conservation Area and such environmental harm would outweigh the economic and social benefits and thus, the development would not be sustainable. ..."

<a href="#">SDNP/17/01197/FUL</a> Harting WR (D Price) Allowed	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.
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"... While the replacement house would be taller and have a deeper floorplan than the existing house, I consider it would sit comfortably within the site, without it appearing domineering in the CA's streetscene. The new house would be of a fairly traditional form and it would be clad in materials that would be compatible with the vernacular found in the area. ... I am not persuaded that the replacement house would have an assertive or dominant built form in the CA. That is because the houses in this CA exhibit much variation, in terms of their design and scale, and it is that variety which characterises the CA. ... The house would be in keeping with the sporadic pattern of development in the area and I therefore consider it would be in sympathy with the character and appearance of the NP. ... I therefore find that there would be no conflict with the statutory purposes for the NP's designation. ... I therefore consider that the new siting would give Hollist Farm House a more spacious setting. .. I therefore find that the listed building's setting would be preserved. ... "

<a href="#">SDNP/17/00178/HOUS</a> HEYSHOTT WR (J Shore) Dismissed	Cottage On The Green, Peace Road, Heyshott, Midhurst West Sussex, GU29 0DF - Demolition and replacement of detached annexe.
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"... whilst its width fronting Peace Road would be the same as the existing annex, the proposal would be of a considerably greater size and massing than the existing annex. Its high roof in comparison to the existing outbuildings, including a dormer window to the first floor bedroom, would appear as unduly dominant in this location. As a result, in this location at the front of the site, it would be significantly more prominent and visually intrusive than the existing building. It would also have its own separate parking area, extending the existing hardstanding associated with the stables/car port building... As a result of these factors, I consider that the proposal would result in considerable harm to the setting of the listed building 'Cottage on the Green' along with the general historic character and setting of the area. Whilst its impact would be restricted to the immediate vicinity of the site, it would also result in limited harm to, and therefore would not conserve the landscape and scenic beauty of the South Downs National Park. In the context of paragraph 134 of the National Planning Policy Framework ('the Framework') the harm to the setting of the listed building would be less than substantial. However, this would not be outweighed by any public benefits of the proposal... The existing annex includes a bathroom and kitchen recess and hence it is largely self-contained, though it

offers more limited overall accommodation in comparison to the proposed annex... Though I do have some concerns in this regard given the separation of the proposed building from the main dwelling and the level of accommodation proposed, the appellant is clear that the building is proposed to be used as an annex and not a new dwelling and it would also replace the existing annex in a similar location. I have no reason to doubt the appellant intention... "

LX/[16/03406/FUL](#)  
WR (P Hunt)  
Dismissed

Mallards Farm Buildings, Guildford Road, Loxwood,  
RH14 0QW - Change use of existing stables into 4 no.  
residential holiday lets.

"The appellant contends that the building is surplus to requirements and because of recent land sales, there are no parcels of land suitable or grazing that a livery would require. The appeal building is a reasonably attractive structure constructed in a vernacular style and the simple, traditional form and appearance is entirely typical of such buildings in this rural area. In this regard I do not share the Council's view that it is not worthy of retention...Policy 2 refers to Policies 45 and 46 and taken together these allow sustainable development in the countryside subject to a number of criteria being met... The appellant has provided an extract from an online search that shows other available accommodation in the locality<sup>1</sup>. However, this does little to demonstrate demand for such accommodation and there is nothing substantive before me to demonstrate a need on this particular site or that it could not be accommodated within existing settlements. Furthermore, I am not persuaded that a potential partnership with a local public house which seeks to secure 50% occupancy, satisfactorily demonstrates that such requirements have been complied with...Despite the presence of other development within the vicinity of the dwelling, it was evident from my site visit that the appeal site is remote from services and facilities... In my view, future occupants would not choose to walk or cycle to them as they would be unlikely to perceive the route as safe or convenient, especially in inclement weather and at night... Future residents would have little choice other than to be heavily reliant on car based journeys...Furthermore, I have no evidence before me that the proposal would result in any meaningful enhancement or maintenance of the vitality of rural communities. The Framework supports the re-use of redundant or disused buildings where this would lead to an enhancement to the immediate setting... However, the building was not dilapidated nor was it causing harm to the visual interests of its surroundings. I am not therefore persuaded that the proposal would lead to an enhancement of its immediate setting...Although there would be compliance with parts of the development plan in terms of the building being worthy of retention, I give greater weight to my findings that in this particular case, the proposal would conflict with Policies 2, 30, 45 and 46 in terms of the demonstration of need, proximity to services and facilities and the Framework.

SDNP/16/04426/FUL  
Midhurst  
WR (J Shore)  
Dismissed

Land to The rear of Fourwinds, Chichester Road, West  
Lavington, Midhurst, West Sussex, GU29 9QE -  
Construction of detached 5 bedroom dwelling.

"The appeal is dismissed... By siting the dwelling much closer to the northern boundary there would be less space around in comparison with the dwelling subject to the extant permission. While the density of the currently proposed development would be the same

as the subject to the extant permission, I consider that the former would lack the spaciousness of the latter. I consider that the relative development would lack the spaciousness exhibited by the vast majority of the dwellings in the immediate vicinity of Four Winds. I therefore consider the amount of space around the whole of the dwelling would not be respectful of its surroundings... any additional planting, while being capable of softening the appearance of the dwelling, would of itself not alleviate the tightness of the dwelling's siting relative to the northern boundary... I therefore conclude that the development would cause unacceptable harm to the area's character and appearance. There would therefore be conflict with saved Policies BE11 and BE13 of the Chichester District Local Plan of 1999 (the Local Plan) and section 7 (Requiring good design) of the National Planning Policy Framework (the Framework)... The Council contends that there would be conflict section 11 (Conserving and enhancing the natural environment) of the Framework because the dwelling would be in the South Downs National Park (NP). However, the dwelling would be surrounded by other dwellings and would not be seen as a new built development in the NP's undeveloped landscape. I therefore consider that there would be no conflict with section 11 of the Framework or the purposes for the NP's designation... The tree would therefore be capable of providing some privacy screening. However, if the tree was to be removed for any reason then I consider that the occupiers of Cedars would experience an actual or perceived loss of privacy because of the dormer window's presence, given its height and proximity of the northern boundary. There has already been some history of an Ash tree being lost to storm damage and there can be no guarantee that the tree would not be similarly affected or removed for some other reason. I therefore consider that in order to safeguard the privacy of the occupiers of Cedars there would be undue reliance on the tree's presence. While it would be possible for the dormer window to be installed with obscure glazing, I consider that would have an unacceptable effect on the outlook for the fourth bedroom's users. I therefore consider it would be inappropriate for a condition to be imposed requiring bedroom four's window to be installed with obscured glazing...the screening provided by that planting would only be effective for so long as it remained in-situ and there can be no guarantee that it would remain in place in perpetuity. In that respect I consider that a reasonable planning condition could not be imposed requiring the existing, and any additional planting, to be maintained at a height and density that would mitigate the effect on the outlook for the occupiers of Cedars arising from the dwelling being sited 3.0 metres from the northern boundary.

I conclude that the development would cause unacceptable harm to the living conditions of the occupiers of Cedars. There would therefore be conflict with Policy BE11 of the Local Plan because the development would have an unacceptable effect on the living conditions of a neighbouring dwelling..."

PS/13/00015/CONCOU  
I (R Hawks)  
Dismissed

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.

3 Appeals at Crouchland Farm, Plaistow Road, Kirdford, Billingshurst, West Sussex, RH14 0LE

Ground (a)

The baseline position...

It will be necessary firstly to determine whether the 'baseline' position in the appellants' vocabulary and the 'fall-back position' in that of the Councils can be achieved without the need for further consents then, secondly, to consider whether there is a realistic prospect that they would be implemented if planning permission is refused. If the baseline proposals pass these tests, weight can be attributed to them commensurate with the likelihood that they will be implemented. A comparison would then be made between the impacts of the development for which planning permission is sought and the realistic situation likely to occur if the appeals are dismissed... The situation at present is therefore that, for the baseline scenario to be operable, further site works and investment in capital equipment and livestock would be needed. Even if an EA permit were to be forthcoming in the future, the fact is that it had not been issued at the time of the Inquiry. Consequently, even if the appellants' baseline scenario were not a material change of use, it could not be implemented at present and whether it could be put into place in the future is still dependent on a number of variables....In conclusion, that whilst some of the queries raised do not indicate that the baseline scenario would be impractical or unrealistic, there are nonetheless other concerns that have not been satisfactorily overcome by the appellants' arguments. These indicate that, even if the baseline scenario was authorised and more than a theoretical possibility and, despite the stated intention to do so, the likelihood of it being able to be implemented is, at best, uncertain and the weight that I will attach to this possibility when considering the planning applications is consequently limited...

Planning considerations

With that in mind I will now consider the merits of the development enforced against and for which planning permission is sought under the appeals on ground (a) and the application that is the subject of Appeal C...

Highway safety

I agree that the use of the lanes for the number of HGVs proposed would create a situation where local residents felt unsafe and mitigation measures are necessary.... the suggested changes would not result in any significant improvement to the free flow of traffic in Foxbridge Lane or contribute to the safety of pedestrians and riders to any meaningful degree...the improvements would cause a degree of harm to the rural character of this country lane through the loss of the roadside trees and the additional areas of hard surfacing and, whilst this would not be severe, it would nonetheless have a detrimental impact...

Living conditions

I consider that, although the local residents are bound to be subject to a certain amount of HGV traffic noise and disturbance from the operation if the problem of the unauthorised flare is overcome, any increase in the number of HGV trips would prove detrimental to their living conditions. Again, this is a factor that conflicts with WLP policy 19...

Landscape character and impact

...the unauthorised operational development has turned the appearance of the complex of farm buildings from expected from agricultural operations in the countryside into a large scale industrial plant... The lagoon... it is a large structure that appears as a somewhat alien man-made intrusion in the otherwise largely undeveloped area... that the impact of the unauthorised development is more than minimal and this policy conflict adds additional weight to the arguments against the grant of planning permission...

#### Need for/siting of the facility

...The Facility would have the advantage of providing additional waste recovery capacity for which there is an identified need in the WLP...the proposed additions to the plant would take it over the size considered to be 'small scale'... there is no existing permission for a stand-alone waste management facility... Overall, I conclude that whilst there are advantages in respect of providing an additional waste management facility to meet an identified need, this particular proposal does not meet the requirements of policy W3 and is consequently not supported by the Development Plan in this respect...

#### Heritage assets

...whilst it is possible that there is no harm I am not able to conclude that this would be the case without an assessment of significance for the heritage assets...

#### Conclusions

...the scale of the operation is such that it would amount to an industrial process to which the original farming enterprise would then be subservient. The Development Plan policies discussed above resist the location of such industrial development in the countryside... The noise and vibrations from the traffic would be unacceptable in this rural location and detrimental to the character of the area, thereby conflicting with Development Plan policies....I conclude that the conditions would not serve to make the development acceptable....Therefore I conclude that, in the scenario where the baseline position is not authorised and no weight can be accorded to it, the adverse impacts of the proposal are not outweighed by the benefits of the development....I shall uphold the enforcement notices, with corrections and variations, and refuse to grant planning permission on the deemed applications...

#### Ground (g)

...I agree that the time taken to de-commission and remove the unauthorised equipment will be likely to be more than the 6 months allowed in the enforcement notices, and I will therefore vary this accordingly. In respect of the time needed to cease the unauthorised change of use...ground (g) appeal in respect of requirement (i) of Appeal B fails...

#### Costs Decisions

The application for an award of costs is refused

#### The submissions for the Parish Councils

...the application for partial award of costs relates to the claim that the appellants have failed to follow procedure through submitting the final version of their baseline report shortly before submission of proofs of evidence. The Council say that this caused them wasted expense through having to substantially revise their evidence on receipt of the updated document... I consider that the Parish Councils should have been aware that the document was likely to evolve... The fact that the Parish Councils has prepared their evidence before the final version was issued is unfortunate for them but I do not find that it was unreasonable for the appellants to have made revisions within this timescale... the assumption made by the Parish Councils that the January version was the final iteration was taken at their own risk. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

SDNP/16/00334/COU  
Stedham  
H (Shona Archer)  
Dismissed, notice upheld

The Old Studio, Bridgefoot Lane, Stedham, West Sussex,  
GU29 0PT – appeal against an enforcement notice: Use of  
annexe as a self contained residential unit.

“...Appeal dismissed, notice upheld and planning permission refused...The Old Studio was originally a garage which at some time became used as an artist’s studio... Until January 2008, the studio had been an outbuilding in the grounds of No 5 and used by a Mr Leazell as an art studio but in that year flooding of No 5 led to the occupier moving out of the dwelling into the studio to live, until 2011... In May 2016 an appeal by the current appellant against the refusal of a Lawful Development Certificate (LDC) for ‘use of the Old Studio as a self-contained residential unit for a period in excess of 4 years’ was dismissed (APP/Y9507/X/15/3134748). The inspector determined on the facts before him that two dwellings had existed – No 5 and the Old Studio; and, that a new chapter in planning history opened in July 2013 when the Old Studio was hived off to form a separate unit of occupation from the cottage at No 5. The appellant continues to live in the Old Studio... He states that his intention with the LDC application was to regularise the use of the Old Studio in order that a planning application could be submitted for its replacement. In view of the LDC decision, the parties have concluded that two planning units now exist and that neither the Old Studio nor No 5 (which does not form part of this appeal) has any current lawful uses.

The appeal on ground (a)

The site lies outside the settlement policy area for Stedham... The development does not fall within the exceptions for new isolated homes in the countryside... The Old Studio...is also prominent within the setting of the listed terrace through its size, its elevated position and its close proximity to the listed terrace which is also an indicator of the functional relationship with No. 5... The appeal building is of little architectural merit which has been extended over the years either with or without express planning permission... The emerging South Downs Local Plan Strategic Policy 26 (June 2017) relates to the delivery of new housing and identifies a potential allocation of 18 homes... at Stedham Sawmill... The Parish Council is preparing a Neighbourhood Plan ...Although... there is an absence of a 5 year housing supply... allowing this appeal would not significantly reduce the need to build additional housing elsewhere in the village and would not overcome the harm caused... I consider that the development would be harmful to the living conditions of occupiers of the Old Studio and adjoining dwellings... It is also harmful to the character and appearance of the South Downs National Park where there is a statutory duty to conserve and enhance the landscape and natural beauty of the area and harmful to the setting of the listed building and the character of the Conservation Area. The appellant considers that if the appeal is dismissed then the Old Studio would be vacated and become redundant, and that this would represent a fallback position. ... A more realistic fallback position is that the Old Studio reverts back to its original lawful use as an ancillary outbuilding to the dwelling at No 5 which is a situation that the Council supports although it is accepted that there is no current lawful use of the outbuilding. Whilst planning permission would be required, this would be the most appropriate use of the outbuilding and it would reflect its original function and relationship with No 5... I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application...”

[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.

APPEAL WITHDRAWN

**APPEALS AT SUMMERFIELD COTTAGE, GRAFFHAM STREET, GRAFFHAM GU28 0NP AND 'NEW BARN COTTAGE', NEWBARN LANE, LORDINGTON, STOUGHTON PO18 9DU**

Letter dated 29.09.2017 received from PIN's in respect of the above appeals which were both allowed.

I write further to my letter of 15 September 2017 and your letter of 24 August 2017.

I am sorry to read of your concerns regarding these appeal decisions and would ask that you please accept my sincere apologies for the length of time it has taken to reply. However, it has been necessary to seek the views of the Inspector and other colleagues during the course of my investigation. I will deal with each appeal individually.

**Summerfield Cottage, Graffham Street, Graffham GU28 0NP  
(APP/Y9507/D/17/3171533)**

Firstly, you have commented that the Inspector failed to take previous appeal decisions into account. It is the responsibility of the parties to ensure that all the evidence which they wish to be taken into account is submitted at the appropriate time. The appeal decisions, to which you refer, were not before the Inspector in his consideration of this appeal. It is important to note, also, that rarely, if ever, are two applications for planning permission likely to be identical in all factors. It is through the objective consideration of the individual merits of the proposed scheme, the evidence submitted by the parties and the relevant local and national planning policies that a consistent approach to decision making is achieved.

However, it is acknowledged that, whilst the Inspector sets out the statutory duty and notes the relevant policy background, he has failed to carry out the correct weighing exercise set out in paragraph 134 of National Planning Policy Framework (The Framework) albeit he has identified harm and that it is less than substantial. It is acknowledged, also, that the Inspector has failed to mention the National Park nor is there any consideration of this matter, even though it formed part of the Council's case. A significant justified complaint has been recorded against the Inspector for this appeal.

**New Barn Cottage, Newbarn Lane, Lordington, Stoughton PO18 9DU  
(APP/Y9507/D/17/3175809)**

I would explain that, although the Inspector will have considered carefully all of the evidence before him, it is not necessary for every point raised to be mentioned as the appeal decision is intended to cover just the main issues in dispute. It is important to note that, as the appeal decision is a legal document, the Planning Inspectorate's complaint service is unable to add to or interpret the reasoning provided by the Inspector.

However, from my reading of the appeal decision, as a whole, it is clear that the Inspector has set out the historic interest and has identified only minor harm, a judgement to which he was entitled. This is balanced by the wording that the 'benefit of creating a much more useful dwelling outweighs the harm to the architecture of the original building'. Paragraph 135 of the Framework states that, 'In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement

will be required having regard to the scale of any loss and the significance of the heritage asset'. It would appear that the Inspector has done this albeit that it is acknowledged that the Inspector could have been more explicit, particularly as the relevant policy was submitted as part of the Council's case.

However, it is acknowledged that the Inspector has failed to address the location of the appeal site in the National Park in accordance with paragraph 115 of the Framework. The failure of the Inspector to deal with such a material consideration particularly as the relevant policy and references in the Framework formed part of the Council's case and reason for refusal was remiss. This has been recorded as a significant justified complaint. Notwithstanding our findings, this omission would not necessarily have affected the overall outcome. The Inspector states, in paragraph 10, that the proposed extension 'would not, however, have any significant impact on the wider surrounding area or on public views'.

Please accept our sincere apologies for these errors and omissions. We strive for an output which is free from mistakes but sometimes they do occur. Inspectors are provided with regular training and updates on planning matters and are subject to ongoing performance management measures. The Planning Inspectorate aims to provide a high quality service and, where errors do occur, these are collated and considered to prevent recurrence. As you are aware, the only way that an appeal decision can be reconsidered is following a successful challenge in the High Court, during the period specified in planning law.

I would thank you for bringing your concerns to our attention. Once again, please accept our sincere apologies for the omissions made by the Inspector.

### 3.OUTSTANDING APPEALS

Reference/Status	Proposal
<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="#">FU/16/03868/FUL</a> WR (C Boddy) In progress	Cotfield, Funtington Road, Oakwood, East Ashling PO18 9AL - Conversion of existing outbuilding to residential annexe.
<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	Land North Of Fisher Common Nursery Fisher Lane North Mundham West Sussex – appeal against an enforcement notice: Change of use of barn to a single dwelling. Linked to <a href="#">NM/16/00424/ELD</a>

<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	10 Acres, Land North of Fisher Common Nursery, Fisher Lane, North Mundham, PO20 1YU - Continuous occupation 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>
<a href="#">NM/17/00838/ELD</a> I (C Boddy) Public Inquiry to be held at 10am 20 <sup>th</sup> and 21 <sup>st</sup> March 2018 at CDC, Committee Room 1	Field House, Vinnetrow Road, Runcton, PO20 1QB - Erection of building and its use as a dwellinghouse.
<a href="#">SI/15/03440/ELD</a> 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.
<a href="#">SI/16/03906/FUL</a> WR (C Boddy) In Progress	Land To The North Of Sunnybrook, Highleigh Road Sidlesham, West Sussex - New dwelling house, garden, greenhouse and ancillary landscaping.
<a href="#">SB/16/00176/CONCOU</a> 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. <a href="#">LINKED TO SB/16/02811/FUL</a>
<a href="#">SB/16/02811/FUL</a> 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. <a href="#">LINK TO SB/16/00176/CONCOU</a>
<a href="#">SB/16/03569/OUT</a> Southbourne I (Rhiannon Jones) Public Inquiry Awaiting Decision	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/15/00109/OPDEV Stedham WR (R Hawks) In progress	Field South of The Old Stables, Mill Lane, Stedham, Midhurst, West Sussex, GU29 0PR - Laying of hard surface access track. Appeal against Enforcement Notice
SDNP/17/00294/FUL Sutton WR (B Stubbington) In progress	1 Sutton Hollow, The Street, Sutton, RH20 1PY - Retrospective application for partial reconstruction and change of use of existing outbuilding to form self contained annexe/holiday accommodation in connection with 1 Sutton Hollow (variation from SDNP/12/0149/HOUS and SDNP/12/12050/LIS).
SDNP/17/00295/LIS Sutton WR (B Stubbington) In progress	1 Sutton Hollow, The Street, Sutton, RH20 1PY - Retrospective application for partial reconstruction and change of use of existing outbuilding to form self contained annexe/holiday accommodation in connection with 1 Sutton Hollow
<a href="#">WE/16/03010/FUL</a> I (C Boddy) Public Inquiry to be held 10am 1 <sup>st</sup> and 2 <sup>nd</sup> May 2018 at CDC Committee Room 2	Racton View, Marlpit Lane, Hambrook, Westbourne, PO10 8EQ - Retention of mobile home for a temporary period of 3 years (revised application further to 16/01547/FUL).
SDNP/16/00069/COU Upwaltham I (Shona Archer) Public Inquiry to be held 10am 31 October and 1 November 2017 at CDC Committee Room 2	The Mill, Eartham Lane, Eartham, Chichester, PO18 0NA – appeal against an enforcement notice - use of workshop as single dwelling.
<a href="#">WW/17/00533/FUL</a> WR (P Hunt) In progress	37 Marine Drive West, West Wittering, Chichester West Sussex, PO20 8HH - Demolition of existing property and construction of replacement dwelling.
<a href="#">WR/16/02717/OUT</a> PI (Rhiannon Jones/Naomi Langford) Public Inquiry to be held 10am 30 January – 2 February 2018 at CDC Committee Room 2	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.


#### 4. VARIATIONS TO SECTION 106 AGREEMENTS

NONE

#### 5. CALLED-IN APPLICATIONS

Reference	Proposal	Stage
NONE		

#### 6. COURT AND OTHER MATTERS

Injunctions		
Site	Breach	Stage
Land at Newells Lane, Funtington	Development of five pitches with access track and hardstandings	<p>Application for Injunction granted against Mr Frederick Bath who purchased and developed the land. The owner of the adjacent land, Mrs D Sullivan gave an undertaking to the Court not to carry out or allow others to carry out any work/development. Court hearing on 25 September to consider whether injunction should be confirmed.</p> <p>25.09.2017: District Judge Ellis at Chichester County Court granted a full and indefinite Injunction against Mr Frederick Bath and added Mr Joseph Smith as 4<sup>th</sup> defendant as the person now in possession of the land (1<sup>st</sup> defendant remains Della Sullivan, Frederick Bath as 2<sup>nd</sup> defendant, persons unknown as 3<sup>rd</sup> defendant) . The Court ordered that the 2<sup>nd</sup> defendant, Mr Bath, pay the Councils costs in this matter of £2,742.25 by 4pm on 9 October 2017. The Injunction will fall away if planning permission is granted for the use and development of the land as five gypsy pitches. Injunction against Mr Smith,</p>

		under the same terms as the one against Mr Bath, granted.
<b>Court Hearings</b>		
<b>Site</b>	<b>Matter</b>	<b>Stage</b>
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	<p>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) .</p> <p>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.</p> <p>Both the Council Claimant and Defendants have asked the court to grant an extension to agree each other's costs. Awaiting court's decision.</p> <p>Court Order received for Pre-Trial Review listed on 24 April 2018 at Brighton County Court. Before then, both parties will need to comply with several directions as ordered by the court in relation to filing and serving of documents in support of the claim and defence.</p>

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

## 7. POLICY MATTERS

NONE