

Report to	<b>Planning Committee</b>
Date	<b>14 June 2018</b>
Title of Report	<b>Summary of appeal decisions received from 23 February to 30 May 2018</b>
Purpose of Report	<b>To update SDNPA Members on appeal decisions received</b>

**Recommendation: To note the outcome of appeal decisions**

**I. Overview**

- I.1 The attached table (**Appendix I**), ordered by appeal type and date of decision, provides Members with a summary and brief commentary on the appeal decisions recently received by the Authority. This covers both those appeals dealt with by the host authorities and directly by the Authority.
- I.2 In summary, in the last 3 months there were:
- 26 appeal decisions, 18 (69%) of which were dismissed and 8 allowed (or partially allowed). Additionally 3 costs decisions were received, all of which were refused
  - 1 Judicial Review which failed.
- I.3 For purposes of comparison, 70% of appeals were dismissed in the financial year 2017/18, the Authority's strongest ever performance. Members can view all appeal decisions on the Authority's Intranet.
- I.4 Of arguably most significance to the National Park is the failure of the Judicial Review on the Madehurst Lodge application which considered the interpretation of the meaning of 'major development' and 'optimum viable use'. In summary the judgment concludes that the scale and scope of the proposed development was clearly set out in the Officer's report and known to Members of the Planning Committee. The Officer's report reflects the SDNPA legitimate judgment that the proposed development was not 'major development' within the meaning of paragraph 116 of the NPPF. The judgment also reinforces that the consideration of optimal viable use is but one element of the overall assessment of harm to a heritage asset when being weighed against the public benefit of the proposal. The judgment states that the challenge sought an over legalistic reading of selected parts of the officers report. When the officer's report is read fairly, in full and in its proper context, there was found to be no substance in the grounds of challenge.

**TIM SLANEY**  
**Director of Planning**  
**South Downs National Park Authority**

Contact Officer: Sarah Nelson  
Tel: 01730 819285  
email: [sarah.nelson@southdowns.gov.uk](mailto:sarah.nelson@southdowns.gov.uk)  
Appendices: Appeal Decisions  
SDNPA Consultees: Director of Planning, Legal Services

<b>Planning Appeals</b>				
<b>Application No.</b>	<b>Authority</b>	<b>Site</b>	<b>Description of Development</b>	<b>Decision and Appeal Method</b>
SDNP/16/06318/FUL (Delegated refusal) APP/Y9507/W/17/3184039	Chichester	Three Cornered Piece, Bohemia Hollow, West Sussex, GU31 5JJ	Change of use of land to a Gypsy and Traveller Site for one family	Allowed (27 February) Hearing
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• Significant planning history surrounding the site including recovery of an appeal by the Secretary of State.</li> <li>• No in-principle objection to new Gypsy &amp; Traveller pitches in the National Park as evidenced in the emerging South Downs Local Plan.</li> <li>• The proposal would detract from its surroundings, causing harm to the landscape which would not be outweighed or justified sufficiently to allow a permanent occupation.</li> <li>• No need for pitches identified in the Coastal West Sussex area, but appellant and family are clearly in need and that need is unmet.</li> <li>• Considers that the Authority is not yet able to demonstrate a 5 year supply of sites as required. It seems unlikely that pitches will become available in the short term. There has been a failure of policy to address the issues in this area of the Park.</li> <li>• Uncertain living arrangements is incompatible with attending school regularly and managing the land which is leading to harm to the character and appearance of the area. The educational needs of the children carry significant weight.</li> <li>• Granting of a temporary permission allows children to gain education, access to healthcare and the family to control grazing, reinstatement of boundaries and for the situation relating to the supply of sites to become more certain. 3 years temporary, personal permission granted to allow time to re-unite family and seek a permanent solution.</li> </ul> <p><b>Application for award of costs: Refused</b></p> <p>The application was made by Chichester District on behalf of the SDNPA on the grounds that agreeing the Statement of Common ground did not happen in a timely manner and it contained inaccuracies that could not easily be rectified. However, the Inspector felt that there was no evidence that the appellant sought to deceive through the inaccuracies and no time at the Hearing was wasted due to the deficiencies of the Statement.</p> <p>The second ground was on the prospect of the success of the appeal. There had been 3 previous appeals, 2 of which were recovered by the Secretary of State. The Inspector felt that the circumstances of the site and its surroundings may not have changed greatly, but that there has been a delay in policy and the family have been leading an uncertain life since 2014. The increased time over which that has occurred is a material change in the seriousness of the situation, with only a limited opportunity in time for children to be educated. It is reasonable that the appellant should seek planning permission again and pursue it to appeal.</p>				

Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/16/04769/FUL (Delegated refusal) APP/Y9507/W/17/3183639	Chichester	Buriton Barn, Treyford	Change of use of existing barn group to a single dwelling. Change of use of land to garden.	Dismissed (27 February) Written reps
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• The site consisted of traditional farm buildings that are a non-designated heritage asset adjacent to the South Downs Way.</li> <li>• The proposed alterations and large area of parking would result in a more domestic appearance and adversely affect the contribution they make to landscape character and cultural heritage. It would include large windows and new links between buildings of modern design which would be prominent and incongruous.</li> <li>• A residential use in this remote and prominent location adjacent to the South Downs Way would be incongruous and lead to harm to the landscape and scenic beauty of the area.</li> <li>• Significant light spillage would harm the International Dark Skies reserve.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/00294/FUL (Delegated refusal) APP/Y9507/C/16/3159731	Chichester	Land at 1 Sutton Hollow, The Street, Sutton, West Sussex, RH20 1PY	Retrospective application for partial reconstruction and change of use of existing outbuilding to form self-contained annexe/holiday accommodation	Appeal against enforcement notice – Dismissed and enforcement notice upheld  Planning appeal – Dismissed  Listed building appeal – Turned away  Written Reps (28 Feb)
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• Work to the building is so substantial as to amount to its demolition and reconstruction not in accordance with permission granted in 2012.</li> <li>• The appellant argues that the building is solely used as a residential annexe. The Inspector considers that its use is unclear and a number of uses may have taken place.</li> </ul>				

<ul style="list-style-type: none"> <li>• The Inspector is therefore asked to consider the erection of what is now a new building to be used as a self-contained annexe / holiday accommodation, in the countryside within the curtilage of a listed building.</li> <li>• Although there is policy support for small scale tourism development, this does not outweigh the harm to the historic integrity of the listed building through the development of this inappropriate and prominent structure.</li> <li>• The public benefits could have been secured by the implementation of the 2012 planning permission which would not have harmed the listed building.</li> <li>• As the Inspector considers that work to the building has effectively resulted in its demolition, it no longer exists and therefore listed building consent cannot be granted. As a result the final appeal against refusal of the Listed Building consent is turned away.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/01191/FUL (Delegated refusal) APP/Y9507/W/17/3185052	East Hampshire	Wylds Farm, LISS, GU33 7DF	Provision of a mobile home to provide accommodation in relation an agriculture business	Dismissed (7 March) Written Reps
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• The farm is in an isolated location and comprises barns, poly tunnels and Christmas tree growing.</li> <li>• There is a need to regularly attend site to prune trees, undertake pest control etc at particular times of day.</li> <li>• No agricultural tied properties are available in area and the farmhouse cannot be extended further.</li> <li>• This is a viable business.</li> <li>• These matters are not sufficient to demonstrate a clear functional need for the proposed mobile home.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/16/05787/FUL (Committee refusal) APP/Y9507/W/17/3183953	Winchester	Land between Alton Road (A32) and Marlands Lane, West Meon, Hampshire, GU32 1AP	Erection of 3 dwellings (amended scheme following refusal of SDNP/15/05317/FUL).	Dismissed (13 March) Written Reps
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• The site lies just outside the settlement boundary and the open market dwellings do not fall within any of the permitted categories of development. However, they are not isolated and adjoin a rural exception site.</li> <li>• Scale, extent and grouping of development would result in a substantial change to the rural character, landscape and scenic beauty of the National Park. The properties would be overly dominant and the impact more adverse than suggested by the LVIA.</li> </ul>				

<ul style="list-style-type: none"> <li>The provision of 2 of the dwellings as 4 bed homes would be excessive when the pressing need is for 3 bed homes.</li> <li>There would be a boost to housing land supply and the housing would be located where it would enhance and maintain the vitality of rural communities. It would not result in isolated homes. Nevertheless, the proposal would adversely affect the landscape and scenic beauty of the National Park, which is afforded great weight, and there are no other material considerations to outweigh the conflict identified.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/02918/FUL (Delegated refusal) APP/Y9507/D/17/3190837	SDNPA (Wealden)	Snaphill, The Street, Polegate, BN26 5RA	Erection of a new garage with studio space above.	Dismissed (21 March) Written Reps
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>The building will appear substantial and not relate well to the house. Its height, bulk and separation from the house would make it appear visually dominant in the local landscape.</li> <li>Addition of large dormer window and external staircase would significantly differ from majority of outbuildings in locality.</li> <li>Would cause harm to outlook and privacy of adjoining property.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/03050/HOUS (Delegated refusal) APP/Y9507/D/17/3189569	SDNPA (Wealden)	20 The Brow, Friston, EASTBOURNE, BN20 0ES	Rear extension to ground and first floor roof	Allowed (29 March) Written Reps
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>The site consists of a detached chalet bungalow with large un-matching rear dormers. The increase in size proposed is just over 30%. The Inspector noted that there are many materials and styles of homes in Friston.</li> <li>The design would result in an improvement to existing rear elevation and would result in a more symmetrical appearance.</li> <li>The level of glazing would not result in a detrimental increase in the amount of lighting coming from the rear rooms at night.</li> <li>Not contrary to Local Plan or Wealden Design Guide.</li> <li>Thick hedge obscured inter-visibility between this house and its neighbour, even if removed the large garden would still not be subject to significant overbearing.</li> </ul>				

Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/03392/FUL (Delegated approval – appeal against conditions) APP/Y9507/W/17/3187391	East Hampshire	Stanleys, Hatch Lane, Liss, GU33 7NH	Replacement dwelling - Appeal against attachment of 3 conditions to the granting of permission: withdrawal of permitted development rights, prevention of habitable floorspace within roofspace; and, energy saving over and above required by Building Regulations	Allowed - partially (10 April)  Written Reps
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• The permitted replacement dwelling is a 49% increase in floorspace on the original. Extensions permissible under General Permitted Development could result in a significant cumulative increase in size from the original. The conditions in question withdraw permitted development rights, prevent habitable use of the roofspace and require energy saving over and above that required by Building Regulations.</li> <li>• East Hampshire District Local Plan policy sets restrictions to ensure the variety of housing stock is not diminished through replacement and extension. Conditions restricting future permitted development rights are rarely necessary; however, there are exceptional circumstances for example when they are reasonable and necessary to ensuring a range of dwellings exist in the countryside. In this case the conditions are reasonable and necessary but lack precision and require rewriting. A new condition withdrawing the PD rights is therefore attached to the granting of the permission.</li> <li>• In relation to energy saving requirements, the Government’s Written Ministerial Statement states that it is the government’s policy that planning permissions should not be granted requiring, or subject to conditions requiring compliance with any technical housing standards other than those areas where authorities have policies on access, internal space or water efficiency. The East Hampshire JCS does not have such policies in respect of energy performance in connection with Building Regulations and therefore this condition cannot be attached. It is removed.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/03432/OUT (Delegated refusal) APP/Y9507/W/17/3192118	East Hampshire	89 Tilmore Gardens, Petersfield, GU32 2JA	3 Bedroom detached bungalow to the rear of 89 Tilmore Gardens	Dismissed (23 April)  Written representations
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• The spacing of the existing buildings and generous gardens create an open and semi-rural character, emphasised by mature trees and shrubs.</li> <li>• A new house in the rear garden would leave both rear gardens to be conspicuously shorter than houses in the vicinity. It would appear cramped and in combination with the drive and parking spaces would have an urbanising effect. This would conflict harmfully with character and appearance of the</li> </ul>				

<p>area.</p> <ul style="list-style-type: none"> <li>As it is within the built-up area and screened from the countryside it would not cause harm to the natural beauty of the SDNP.</li> <li>Unknown if visibility spays can be achieved and lack of manoeuvring space within site means users may have to reverse onto the highway. Conclude there is a possibility of harm to highway safety.</li> </ul>				
Application No.	Authority	Site	Description of Appeal	Decision and Appeal Method
SDNP/17/01971/HOUS (Delegated refusal) APP/Y9507/C/17/3179665	Lewes	Land at Wootton Farm, Novington Lane, East Chiltington, East Sussex	Period for compliance with Enforcement Notice is too short i.e. 3 months to cease use of land for siting of mobile home and 4 months to remove it.	Notice Upheld (30 April) Written representations
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>A series of successive temporary planning permissions have been granted for occupation of the mobile home on an annual basis. The most recent expired in September 2016. In December 2016 in the absence of meaningful progress in finding alternative living accommodation for the occupier and without special justification for the identified harm to the National Park, a further permission was refused. An enforcement notice was issued in June 2017.</li> <li>Permission has since been granted for a 1 bed home on the site, scheduled for completion end of April 2018.</li> <li>In dismissing the appeal, the Inspector notes that the enforcement requirements will remain but that the new home will be completed in time for the appellant to comply with the notice.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/02952/FUL (Delegated refusal) APP/Y9507/W/18/3193028	Chichester	Hadworth Barn, Hadworth Lane, Bury RH20 1PG	Three bay agricultural store for field maintenance equipment.	Allowed (9 May) Written representations
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>Hadworth Barn forms part of a cluster of buildings within Hadworth Farm. The proposed store would be of traditional design and materials. The site is clearly visible from public paths but would be subservient to Hadworth Barn and the other buildings in the cluster. It would not be unduly dominant. Additional hedge planting would provide further screening.</li> <li>The proposed development would not harm the character and appearance of the area.</li> <li>Development plan policies do not require that there is a substantive agricultural justification for the proposal.</li> <li>No significant effect on the historic or cultural significance of Bignor Roman Villa.</li> </ul>				



Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/01998/FUL (Not determined) APP/Y9507/W/17/3191287	Chichester	Arun Cottage, The Street, Bury RH20 IPA	Demolition of existing dwelling and erection of replacement dwelling.	Allowed (9 May) Written representations
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• The application was not determined in the prescribed period. The subsequent Planning Committee Report resolved that the application would have been approved and therefore the appeal was not contested.</li> <li>• The scheme accorded with existing planning policy on replacement dwellings. The emerging South Downs Local Plan carries only limited weight.</li> <li>• The scheme is significantly larger than the existing dwelling, however this is not expressly precluded by current Chichester District local plan policies.</li> <li>• Design and use of materials takes reference from the local area and the history of the site. It would also be partly set down, limiting its prominence.</li> <li>• Would not harm the character or appearance of the Conservation Area.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/01883/FUL (Delegated refusal) APP/Y9507/W/18/3195783	East Hampshire	92 Andlers Ash Road, Liss GU33 7LR	Subdivide existing dwelling to form 2 dwellings, with a further detached dwelling within the curtilage.	Dismissed (9 May) Written representations
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• The new detached home would result in a cramped layout. Design, scale and siting of new house would be at odds with the street scene. However it would not have a significant effect on the visual integrity of key views.</li> <li>• The proposed extensions would be acceptable.</li> <li>• Part of the proposal does not meet the Nationally Described Space Standards, but these can only be applied where there is relevant current local plan policy.</li> <li>• One unit would unduly overbearing on another, therefore detrimental to their living conditions.</li> <li>• The benefit of providing a modest number of new homes does not outweigh the harm to the character and appearance of the area.</li> </ul>				

Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/02202/FUL (Delegated refusal) APP/Y9507/W/17/3186788	East Hampshire	Ashdell Farm, Headmoor Lane, Four Marks, Alton GU34 3ES	Redevelopment of industrial site to provide a single chalet style bungalow.	Dismissed (10 May) Written representations
<b>Commentary – Inspector’s Reasoning</b>				
<ul style="list-style-type: none"> <li>• Site is outside defined settlement boundary. Development does not meet a community need or realise a local community aspiration. No mention of aspiration to redevelop site in a Neighbourhood Plan. No mechanism put forward to ensure dwelling serves a local community.</li> <li>• Nature of location and distance to walk means occupants of proposed home would be reliant on private car journeys to access everyday services.</li> <li>• New dwelling would result in domestication of appearance of site, associated paraphernalia and activity out of keeping with rural character.</li> <li>• No specific objections raised to loss of employment land.</li> <li>• The benefit of providing one new home does not outweigh the harm in relation to the location and the character and appearance of the National Park.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/04479/HOUS (Delegated refusal) APP/Y9507/D/18/3193799	Chichester	Silver Dell, Carron Lane, Midhurst, West Sussex, GU29 9LB	Conversion of loft space in semi-detached dwelling to bedroom, with shower room and wc; permanent staircase to be installed between first and (new) second floor; dormer at second floor and roof to accommodate the stair landing, shower room and wc.	Dismissed (10 May) Written representations
<b>Commentary – Inspector’s Reasoning</b>				
<ul style="list-style-type: none"> <li>• The dormer would appear dominant and have little harmony with the simple and traditional shape of building’s roof. Incongruous and unsympathetic form would detract from character and appearance of the street scene.</li> </ul>				

Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/03034/HOUS (Delegated refusal) APP/Y9507/D/18/3194450	East Hampshire	Rotherside, Farnham Road, Sheet, Petersfield, GU32 2AP	Demolish the existing garage and erection of a replacement barn style garage.	Allowed (10 May) Written representations
<b>Commentary – Inspector’s Reasoning</b>				
<ul style="list-style-type: none"> <li>The replacement building would be noticeably taller than the existing garage and more prominent, but its roof form would merely add to an existing mix of pitched roof buildings that are clustered around the cul-de-sac, including a range of dwellings and outbuildings of various types and sizes, some with dormer windows, that all sit comfortably with each other.</li> <li>No impact upon the setting of the adjacent conservation area, or the nearby Grade II Listed cottage.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/04338/HOUS (Delegated refusal) APP/Y9507/D/18/3194484	Chichester	Windfallwood Cottage, Jobsons Lane, Windfall Wood Common, Lurgashall, GU27 3BX	New 2-bay open car port	Allowed (10 May) Written representations
<b>Commentary – Inspector’s Reasoning</b>				
<ul style="list-style-type: none"> <li>The property is a non-designated heritage asset.</li> <li>Proposed building in terms of size, appearance and function would reflect the other outbuildings and vernacular of the area.</li> <li>The increase in building on the plot would simply reinforce the impression of an enclosed courtyard, typical for a group of buildings in the area.</li> <li>Does not detract from landscape character of the area.</li> <li>No requirement in adopted policy to require a need for such developments to be justified.</li> </ul>				

Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/04569/HOUS (Delegated refusal) APP/Y9507/D/18/3194744	Chichester	4 Parkway, Easebourne Street, Midhurst, West Sussex GU29 0AW	Demolition of single garage and replacement with a double garage and room over	Dismissed (15 May) Written representations
<b>Commentary – Inspector’s Reasoning</b>				
<ul style="list-style-type: none"> <li>The existing property is one half of a pair of semi-detached properties. There are two matching pairs and they form a coherent and balanced composition, making a positive contribution to the conservation area. This therefore forms a substantial constraint on any alterations and extensions.</li> <li>Likely to be significantly increased overlooking / perception of being overlooked. Limited public benefit, does not outweigh harm.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/05921/HOUS (Delegated refusal) APP/L3815/D/18/3195274	Chichester	Melrose, Ashfield Road, Midhurst GU29 9JX	Loft conversion into habitable space	Dismissed (15 May) Written representations
<b>Commentary – Inspector’s Reasoning</b>				
<ul style="list-style-type: none"> <li>Requires the construction of a dormer which would be disproportionately large and have a significant visual impact.</li> <li>Harmful to the character and appearance of the Midhurst Conservation Area.</li> <li>The fact that this property is within a National Park is not referenced by the Inspector; however, whilst disappointing it is not considered that if noted, a different decision would have been reached.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/03890/FUL (Delegated refusal) APP/Y9507/W/17/3191038	East Hampshire	Land adj to Windyridge, Bones Lane, Buriton GU31 5SE	New dwelling	Dismissed (16 May) Written representations
<b>Commentary – Inspector’s Reasoning</b>				
<ul style="list-style-type: none"> <li>Within Conservation Area and defined settlement policy. The emerging South Downs Local Plan proposes alterations to the policy boundary that</li> </ul>				

<p>would result in the site being outside the boundary. This, the Inspector noted, carried little weight at this point as the plan was at pre-submission stage.</p> <ul style="list-style-type: none"> <li>• The new dwelling would be relatively modest in scale, but would introduce built form in a position where it would have an effect on the appearance of the area. It would dominate a site which is currently free from built form.</li> <li>• The design is complex and unduly ‘fussy’ including the introduction of a tower, dormers, and a feature chimney.</li> <li>• Limited public benefit, does not outweigh harm.</li> <li>• Insufficient mitigation in relation to light emissions and the proposal could potentially be harmful to dark night skies. The site is within 500m of the Dark Sky Core. The harm was not considered to be able to be overcome through the imposition of a condition. The Inspector considered that there was nothing to indicate that suitable measures could be incorporated.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/04844/FUL (Delegated refusal) APP/Y9507/W/18/3194468	East Hampshire	Woodside Manor, Broadhanger Lane, Froxfield, Petersfield GU32 1EN	Change of use of a strip of agricultural land to residential	Allowed (16 May)  Written representations
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• Retrospective application.</li> <li>• The strip of land is about 6m wide alongside 2 recently constructed substantial homes. It is largely screened from public view. Seen in the context of a residential setting.</li> <li>• The inclusion of this land within the garden has no publically discernible effect on the character and appearance of the area or the wider National Park</li> <li>• The principle of the change of use is the main concern, however it is not considered to be harmful in this particular context. Urbanising effect already occurs due to new properties.</li> </ul>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/03969/FUL (Planning Committee refusal - overturned Officer recommendation) APP/Y9507/W/18/3193645	Winchester	Land adjacent to Apple Tree Cottage, Chilcomb Lane, Chilcomb SO21 1HT	New dwelling	Dismissed (16 May)  Written representations
<p><b>Commentary – Inspector’s Reasoning</b></p>				

- Chilcombe does not have any designated settlement boundary therefore there is a general policy of restraint to development.
- There are properties either side of the site and it would form part of a continuously developed road frontage.
- Scale, form and contemporary appearance and materials would be at odds with traditional form of area and adversely harm character and appearance of area.
- Setting of adjoining Grade II listed building would not be preserved.
- Insufficient public benefit, Government support for self-build and modest contribution to supply of housing does not outweigh harm.

**Application for award of costs: Refused**

The appellant made an application for costs on the grounds that a refusal was unnecessary as the Planning Committee Members failed to give full and proper consideration to the application. The appellant states that the LPA’s reason for refusal was based on a misapplication of policy. The officer’s report set out the recommendation for approval.

However, the Inspector comments that this is a matter of planning judgement and the Planning Committee Members are not bound by the officer’s recommendations and professional advice, in making their final decision. In this instance, a case was made by the Planning Committee that the proposal was unacceptable and the reason for refusal set out in the decision is complete, precise and specific to the application. Therefore the LPA did not act unreasonably in this case.

Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/01802/FUL (Planning Committee refusal) APP/Y9507/W/17/3184226	Winchester	Highcroft, Love Lane, Twyford SO21 IFB	One replacement and one new dwelling	Dismissed (16 May) Written representations

**Commentary – Inspector’s Reasoning**

- Appeal site is outside designated settlement boundary therefore there is a general policy of restraint to development.
- Residential use of the area already exists, site is within walking distance of village, range of services and facilities are available therefore not physically or functionally isolated.
- The site would not be highly visible in the wider landscape but the proposed 5 bed dwellings would be significantly larger than the existing dwelling on the site.
- Proposal would introduce uniformity, not typical of the area and would harm the rural character and appearance of the area.
- Insufficient public benefit, Government support for self-build and modest contribution to supply of housing does not outweigh harm. There is a 5-year housing land supply and there is ongoing work through the South Downs Local Plan and the Twyford NDP to address the need for housing in the village.

**Application for award of costs: Refused**

The appellant made an application for costs on the grounds that a refusal was unnecessary as the LPA’s reasons for refusal made unsubstantiated assertions about the proposal’s design and impact on the landscape character and failed to take into account the technical and professional assessment by the LPA’s landscape officer, the appellant’s landscape appraisal consultants and other evidence provided. The appellant states that the LPA failed to undertake a proper balanced assessment despite a professionally prepared application that addressed the LPA’s pre-application concerns.

The Inspector considered that the officer’s committee report, LPA submissions and reasons for refusal taken as a whole provide sufficient clarity to substantiate the details of the development that were considered unacceptable. He therefore cannot agree that the LPA acted unreasonably.

Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/04981/FUL (Delegated refusal) APP/Y9507/W/17/3191273	SDNPA (Mid Sussex)	Land to The South of St Helens, Church Lane, Pyecombe, West Sussex, BN45 7FE	Two three bed semi-detached homes	Dismissed (16 May) Written representations

**Commentary – Inspector’s Reasoning**

- Permission previously granted for one home on the site.
- Proposed semi-detached homes introduce significant built form on a site essentially free from development. The site forms a soft edge at the gateway to Pyecombe.
- Overall mass and increased hard standing largely visible, would adversely affect street scene.
- Modest contribution to supply of housing does not outweigh harm.

Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/16/05360/FUL (Committee refusal) APP/Y9507/W/18/3193966	SDNPA (Winchester)	Land at Manor Farm Alresford Road ITCHEN STOKE SO24 0QT	Erection of an indoor riding arena, conversion of part of an existing frame barn to provide 13 Stables, provision of a new access road and 20 space car park, and the relocation and erection of a horsewalker	Dismissed (18 May) Written representations

**Commentary – Inspector’s Reasoning**

- Visually, the appeal site makes a minimal contribution to the wider area and the proposal would have limited harm on the character of the wider

<p>landscape of the National Park. However the scale and form would be substantial at a more local level, increasing the built form and compromising the sense of space and openness.</p> <ul style="list-style-type: none"> <li>• Scale, massing, form and appearance of the arena would not preserve or enhance the Conservation Area and would have a negative impact on the setting of the listed building and non-designated heritage asset.</li> <li>• Insufficient public benefit (acknowledging the new job opportunities) to offset the identified harm to the character and appearance of the National park and the Conservation Area.</li> </ul> <p>It should be noted that the Inspector unfortunately describes the site as being both within the National Park and also as being adjacent to the National Park. However, this is not felt to have made any difference to the outcome of the decision.</p>				
Application No.	Authority	Site	Description of Development	Decision and Appeal Method
SDNP/17/00899/OUT (Delegated refusal) APP/Y9507/W/17/3188215	Winchester	Beacon House, Warnford Road, Corhampton, SOUTHAMPTON, SO32 3NS	One new dwelling & replacement garage (Outline)	Dismissed (18 May) Written representations
<p><b>Commentary – Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• The appeal site is outside designated settlement boundary therefore there is a general policy of restraint to development.</li> <li>• Whether the site is considered to be previously development land or not is not a determining factor and would not overcome the conflict with policy of restraint within the development plan.</li> <li>• The development is fairly modest but would introduce a more intense residential use of the site and an urbanising effect out of character with the area.</li> <li>• Modest contribution to supply of housing does not outweigh harm to the character and appearance of the area and the conflict with policy in relation to the location of the site outside the designated settlement boundary.</li> </ul>				



<b>Judicial Reviews</b>				
<b>Application No.</b>	<b>Authority</b>	<b>Site</b>	<b>Description of Development</b>	<b>Decision</b>
SDNP/16/06186/FUL and SDNP/16/06187/LIS (Permission granted 9 June 2017) Case No: CO/3387/2017 JH and FW Green Ltd (Claimant) and the South Downs National Park Authority (Defendant) and Home Grown Hotels Ltd (Interested Party)	SDNPA (Arun)	Madehurst Lodge and Woodruff, Madehurst Road, Madehurst, BN18 0NL	Conversion of dwellings and associated outbuildings and land to Hotel / Restaurant (28 rooms) (Class C1 / A3) and associated facilities including staff accommodation and provision of parking spaces (68), and associated Listed Building Consent.	Judicial Review failed. Decision by the High Court on 23 March 2018
<b>Commentary – High Court Judgment</b>				
<p>There were two grounds for challenge; Ground 1 – that the SDNPA failed to correctly apply the test for major development in line with paragraph 116 of the NPPF and Ground 2 – that there was a misinterpretation of the meaning of paragraph 134 of the NPPF. Both grounds failed in a strongly worded decision.</p> <p>On Ground 1 – There were three elements to this challenge:</p> <ul style="list-style-type: none"> <li>(a) the SDNPA failed to take into account the designation of the proposal as major development under the definition of Town and Country Planning (Development Management Procedure) Order 2015,</li> <li>(b) the SDNPA failed to assess the consultee responses which identified the potential for serious adverse impacts resulting from the proposal and</li> <li>(c) the SDNPA failed to take into account local context.</li> </ul> <p>The judgment sets out that whilst the ‘Maurici Opinion’ (referred to in the officer’s report) states the categorisation of ‘major development’ under the 2015 Order <i>will</i> be a relevant consideration when making the separate judgment whether the proposal is ‘major development’ within the meaning of paragraph 116, this interpretation is not supported by other case law. The judgment reiterates that in theory the categorisation of a proposal as a ‘major development’ under the 2015 Order <i>may</i> in some cases be relevant and material but what is relevant and material in any given case is fact sensitive and not susceptible to hard and fast rules or set criteria. In this case, the categorisation of ‘major development’ for the purposes of the 2015 Order only related to the ‘red-line’ boundary of the application being over 1 hectare, it did not say anything about the scale and scope of the actual changes that were proposed. The judgment concludes that the challenge on Ground 1 fails as the scale and scope of the proposed development was clearly set out in the officers report and known to Members of the Planning Committee (through the site visit, the officers report and committee presentation), the officers report adequately reflected the consultee comments and standing back and taking a reasonable approach to the officer report as a whole it properly reflects the SDNPA legitimate judgment on reasonable grounds that the proposed development was not ‘major development’ within the meaning of paragraph 116 of the NPPF.</p> <p>On Ground 2 – There were two elements to this challenge: (a) the specific meaning of ‘optimum viable use’ and (b) whether the existing residential use is the ‘optimum viable use’.</p> <p>The challenge on Ground 2 failed as the challenge sought an over legalistic reading of selected parts of the officers report. When the officer’s report is read fairly, in full and in its proper context, there was no substance in the grounds of challenge.</p>				