

**Agenda Item 12**  
**Report PC20/21-20**

Report to	<b>Planning Committee</b>
Date	<b>08 October 2020</b>
By	<b>Director of Planning</b>
Title of Report	<b>Summary of appeal decisions received from 24 June 2020 – 23 September 2020</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 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 South Downs National Park Authority.
- I.2 From the 24 June to 23 September:
- 24 appeal decisions (some dealt with concurrently) were received, 19 of which were dismissed.
  - Five applications were made by appellants for an award of costs, and all were dismissed.
  - There were no judicial review judgements.
- I.3 The Authority's appeal performance for this financial year (2020/21) up until the end of September was good with 71% of appeals being dismissed.

**TIM SLANEY**

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Appendices: I. Summary of Appeal Decisions

SDNPA Consultees: Director of Planning, Legal Services

Key to Appeals Reporting

Method of decision

All are delegated decisions unless otherwise specified

Allowed A

Appeal method

All are determined via written representations unless otherwise specified

Dismissed D

Planning Appeals				
Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/03922/HOUS  APP/Y9507/D/20/3247558	Winchester	Magnolia, Hensting Lane, Owslebury, Winchester SO21 1LE	Side extension to existing flat roof dormer (retrospective)	<b>A</b>  24 June 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>The Authority and appellant disagreed on the extent of the cumulative enlargement for the purposes of policy SD31. The Inspector ruled that, in the absence of contrary evidence, the photographs submitted by the appellant dating from 1999 should be used and the existing single storey side extension and the rear box dormer were to be included within the 'existing' building for purposes of policy SD31.</li> <li>Using the appellant's information of a floor area of 260m<sup>2</sup>, the increase in floorspace was significantly less than the 30% limit even when the existing floorspace omitted the attic space.</li> <li>The Inspector agreed that the dormer extension was not well designed because of its size and shape departing from the pitched roof form, but concluded that there was limited landscape impact. A public viewpoint from Hensting Lane provided a side profile of the dormer, to which the mass and bulk was not apparent. The wider views have been screened by adjacent buildings, trees and hedges resulting in no significant impact on the wider landscape. Due to the degree of containment of the site, and as such any views, the Inspector considered that the development accorded with policies SD4 and SD5 and allowed the appeal.</li> </ul>				
Appeal Reference	Authority	Site	Enforcement Appeal	Decision
Appeal A Ref: APP/Y9507/C/19/3236310  Appeal B Ref: APP/Y9507/C/19/3238955	Winchester	Land at Cams Hill Lane, Hambledon, Hampshire PO7 4RQ	The breach of planning control as alleged in the notice is: without planning permission, the material change of use of the land from agricultural use to use for equestrian purposes; the erection of enclosures and the erection of a stable building, including tack room and hay store.	<b>A</b>  01 July 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>The appellants argued that the works alleged in the notice had not occurred and that there had been no material change of use of land from agriculture to equestrian purposes.</li> </ul>				

- The Inspector noted that the building on site was not a field shelter as argued by the appellants, due to the substantial size and the ability to sub-divide areas to enclose and manage access of horses.
- The appellants explained the horses do not require additional supplementary feed, and that indicates the use of the land as agricultural. The Inspector found the fact that horses were grazing the land was not sufficient to demonstrate an agricultural use.
- The appellants divulged that another two horses were ridden for recreational purposes prior to being moved to a livery, further demonstrating that, on the balance of probability, the use of the field was for recreational keeping of horses. Therefore, the Inspector found that a change of use had occurred.
- Whilst the Inspector agreed that the plastic fence poles gave the impression of equestrian use, they were not fixed to the ground creating permanent boundary features and as such were not classed as development. Therefore, the Inspector removed all reference to the enclosures within the enforcement notice.
- The Inspector acknowledged that planning permission for the stable building (the S78 appeal, reference APP/Y9507/W/19/3236309), submitted at the same time as the appeal, has been allowed (on 27 January 2020), and so the stable building is now lawful. The decision clearly stated that it did not prejudice the Authority in relation to any alleged material change of use of the field.
- The S78 appeal concluded that no harm arose from the stable block on the character or appearance of the area, and did not cause any unacceptable impacts on highway safety.
- The Inspector found that the field, as well as the stable block, is well screened by high mature hedges and offered minimal views into it from the road and nearby public footpaths. Glimpsed views into it may occur during the winter, but concluded that such views would do no more than offer views of horses and the temporary subdivision of the field as set out above. This would be no worse than glimpsed views of the stable block itself, which the S78 appeal decision decided was acceptable.
- Therefore, planning permission was granted for the material change of use of the field to equestrian purposes. The Inspector imposed conditions relating to restricting the equestrian use to recreational use and not for any commercial livery, riding school, breeding or training purposes.

#### **Costs Decision – Refused**

- An application for costs was made on the grounds that the Authority failed to apply its enforcement powers proportionately and expediently in that the notice was unreasonably served after an appeal was made against the planning refusal for the stable building and that it should have been withdrawn following the S78 planning appeal being allowed.
- The Inspector noted that nothing in law precludes a Local Planning Authority from serving an enforcement notice prior to the determination of a S78 appeal for the same development and the Authority was entitled to serve the notice when it did.
- Even if the Authority had not cited the material change of use of the land, it had no reason for withdrawing the notice, because the grant of planning permission in the S78 appeal decision means that the notice will now cease to have effect in so far as it is consistent with the planning permission granted.
- The Inspector concluded there was no unreasonable behaviour resulting in unnecessary or wasted expense.

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/03752/PA3O  APP/Y9507/W/20/3247274	East Hants	2 The Domes, Durford Road, Petersfield, Hampshire, GU31 4EU	Change of use of existing B1 Light Industrial Premises to a dwelling house.	<b>D</b>  09 July 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>The prior approval application was made to change a Class B1 (c) Light industrial use, to residential.</li> <li>The main issues were: a) whether the proposal would meet the requirements of Class PA; and b) whether the proposal would fulfil the requirements of Class PA paragraphs PA.1 (b) and (d) of the GPDO which relate to the use and size of the building respectively.</li> <li>The appellants advise that a proposed lawful development certificate to change 235 square metres to B1 office was approved in 2012. It was acknowledged by the Inspector that there is also interchangeability between office and light industrial use. However, there is no evidence to support the appellant's contention that the Authority accepted that the use was not in B8 use, nor B1 use at the relevant dates required by the GPDO.</li> <li>The Inspector was not persuaded that the use of the building, on 19 March 2014, was solely for a light industrial use. Therefore, the proposal did not meet the requirements of para PA.1 (b) of the GPDO and a change of use to a dwelling house would not be permitted development.</li> <li>The Inspector also addressed the appellant's argument that the GPDO does not give a definition in order to measure the floorspace used in the size limits of the GPDO. However, the Inspector ruled that the legislation is clear in its reference to 'gross floorspace' (rather than 'net floorspace') and as such the floorspace would be over 500 square metres exceeding the size limit set down in PA.1 (d). The proposal was not therefore permitted development and the appeal was dismissed.</li> </ul>				
Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/02218/FUL  APP/Y9507/W/20/3245983	Winchester	Land off Folly Hill Lane, Itchen Stoke, Alresford SO24 0QY	Alterations to existing agricultural access and reinstatement of an agricultural track.	<b>D</b>  10 July 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>The Inspector viewed the appeal site and noted that regardless of the field providing informal agricultural access in the past, there was not an existing access track on site.</li> <li>The proposed track would be long, and would closely follow the house boundaries around the field margin, bordering the Conservation Area, giving a contrived appearance. There were no associated agricultural buildings which may have suggested a rural purpose for the track. In addition, the proposal would divert vehicles into the landscape, reducing tranquillity.</li> <li>The Inspector felt that the proposal would be incongruous to the landscape.</li> </ul>				

- The proposal would be visible from Folly Hill Lane where to the north of the access there is less hedging, contrary to the narrow and enclosed rural lane. The proposal would be designed to have a grass central strip, and it would be seen in the context of the villages built form.
- The Inspector ruled that there would be no harm on the character and appearance of the Itchen Stoke Conservation Area.
- The proposed track would facilitate vehicular movements immediately to the rear of a number of properties. The dwellings are set back and are afforded a high level of privacy, and occupiers experience low levels of disturbance from noise, fumes and lighting.
- The Inspector felt that the track could reduce vehicle movements to the front of the house, but is limited to movements associated with just one dwelling. Furthermore, vehicle movements and their effects to the front of the house are expected as part of village life.
- The Inspector also dismissed the argument that there is an existing agricultural need for the development, as no evidence of a need was provided
- It was concluded that the proposal would be contrary to Policies SD4, SD5 and SD7 which seek to protect the experiential and amenity qualities of the landscape and provide high quality space and living conditions.

<b>Planning Application No</b>	<b>Authority</b>	<b>Site</b>	<b>Description of Development</b>	<b>Decision</b>
SDNP/19/04930/CND  APP/Y9507/W/20/3246808	Chichester	Spindles, East Harting Street, East Harting, Petersfield GU31 5LY	Two-storey dwelling to replace existing bungalow and garage without complying with a condition attached to planning permission Ref APP/Y9507/W/18/3208006.	<b>D</b>  13 July 2020

**Inspector's Reasoning**

- Planning permission was granted on appeal for a replacement dwelling on the appeal site located within East Harting Conservation Area.
- The appellants wish to vary the permission so that in place of two car parking spaces, an open fronted car port would be located between the house and the road and forward of the dwellings either side.
- The dwelling sits within the rural hamlet of East Harting, and the East Harting Conservation Area (CA), which is defined by attractive vernacular buildings set back from the roadside edge, largely enclosed by vegetation, with glimpses of views between buildings to the countryside contributing positively to the significance of the Conservation Area.
- The bulk of the built form would be screened somewhat from the road by vegetation, it would be visible and dominant when approaching the west.
- The prominence of the car port would be emphasized by the elevated land level, and the size and height of the built form.
- The Inspector dealing with the replacement dwelling appeal, afforded importance to the well sized gaps between the building and boundaries.
- The introduction of a significant built form in front of the dwelling would obstruct the view through to the down land and as such would undermine the justification for the dwelling allowed on appeal.
- The appellants argue that the car port would have far less significance than the dwelling itself. However, the Inspector ruled that the site frontage was a particular concern of the previous appeal and even afforded exceptional conditions restricting future building.

- The Inspector noted the desirability of preserving or enhancing the character or appearance of a heritage asset, in this case the East Harting CA, was a matter of considerable importance and weight, and concluded that the bulk and massing of the car port, in this particular location, would have a dominant effect and would result in an adverse effect on the CA.

#### Costs Decision – Refused

- The application for costs was signalled by a single sentence within the Grounds of Appeal statement. The inspector dealt with the planning issues separately, and it was here that the Inspector found no evidence to demonstrate that the behaviour of the Authority was unreasonable, nor had it been demonstrated by the applicant that unnecessary expense in the appeal process had been incurred.

Appeal Reference	Authority	Site	Enforcement Appeal	Decision
APP/Y9507/C/19/3236821	Chichester	Land at Jays Farm, Jays Lane, Lurgashall, Haslemere, West Sussex GU27 3BL	The breach of planning control as alleged in the notice is: without planning permission, the construction of an access track and hardstanding.	<b>A</b>  (In part) 14 July 2020

#### Inspector's Reasoning

- The appellants argue that the works were permitted development under Schedule 2, Part 6, Class E, however the Inspector notes that a prior notification process is required to be carried out prior to the works, and as such the works do not benefit from permitted development.
- Jays Farm comprises open fields and extensive area of ancient woodland that connect together ancient woodlands in the surrounding area.
- A felling licence has been issued by the Forestry Commission for regeneration felling within the woodland. As such, timber processing is established.

#### Track

- The track had largely grassed over such that it is disguised in view from the surrounding area. The ground had been slightly raised and the materials had a small adverse effect on the appearance of the immediate area. Use of the track for intensive timber working exacerbates that adverse effect.
- The Inspector noted that the provision of the compacted rubble track enables movement without waterlogging and restricting movement as a result. Therefore, the surface protects the appearance of the track.
- The Inspector found that the track, serving as a link between the woodlands and buildings enhanced the landscape and scenic beauty of the National Park.
- Therefore, the track conforms to Policies SD1, SD4, SD5 and SD11.
- The surfacing of the track does not materially affect ecology or biodiversity, such that it would be conserved. Nevertheless, the surfacing does not enhance ecology or biodiversity.
- The compacted rubble on the track ensures adequate access for the sites needs as timber processing takes place. The Inspector accepted that the track is needed for forestry operations and that this is the best route to link the rides permitted through the woodland to other tracks on the farm

and the wood barn. Consequently, that need outweighs the limited harm arising from the conflict with policies requiring development to enhance the ecology and biodiversity of the area. As such, it complies with the balance set out in Policy SD39.

#### Hardstanding

- The hardstanding had largely grassed over such that it is disguised in view from the surrounding area. The ground had been slightly raised and the materials had a small adverse effect on the visual appearance of the immediate area.
- The Inspector concluded that it did not conserve or enhance the landscape and scenic beauty of the SDNP. As such, it was contrary to Policies SD1, SD4, SD5 and SD11.
- No ecological survey was provided, but a woodland management plan suggests likely protected species present within the area.
- The hardstanding had disturbed the ground on the edge of the woodland and raised the ground level, reducing the natural habitat available for protected species, albeit by only a small amount. Therefore, the Inspector ruled the hardstanding did not conserve or enhance the ecology or biodiversity in the area.
- Policy SD39 states that structures for the purposes of agriculture or forestry that are commensurate with their need will be permitted where they occupy the site best suited to conserving and enhancing the natural beauty and wildlife of the SDNP. The Inspector notes that it is unclear whether the hardstanding is in the best location in order to conserve or enhance the natural beauty and wildlife. The inspector did not find that the need for development outweighed the harm found to the landscape and scenic beauty of the SDNP and the ecology and biodiversity of the area. As such, the Inspector found that the hardstanding did not comply with Policy SD39.

#### Conclusion

- Therefore, the Enforcement Notice stands insofar as the removal of the hardstanding, but the appeal is allowed to provide permission for the track.
- No conditions were imposed, as the Inspector felt that the use of the track and lighting would both need permission. The track is existing, and as such compensatory planting is not required.

Appeal Reference	Authority	Site	Enforcement Appeal	Decision
APP/L3815/C/19/3237802	Chichester	Land at Coombe House, Marley Heights, Fernhurst, Haslemere, West Sussex GU27 3LU	The breach of planning control as alleged in the notice is: without planning permission, change of use of the land to use as garden land in association with the dwelling house known as Coombe House.	<b>D</b> 14 July 2020

#### **Inspector's Reasoning**

- The appellants argue that some of the structures (fruit cage, vegetable beds, compost bins and plants pots) do not meet the definition of development. However, the Inspector notes that regardless of whether they constitute development, the notice was directed at a material change of use, which may require the removal of works that facilitate that use.

- The appellant argued that the glasshouse and log store are lawful as they were erected in 2011 and 2013 respectively. However, in this case, the Inspector noted that they were in residential use as part and parcel of the change of use of the land, and it has been accepted that the change of use occurred within the last 10 years.
- The land at Coombe House is located on the west side of the road between other dwellings with an open grassed area to the opposite side of the road and woodland to the rear.
- The Inspector noted that the hardstanding, gates and sleepers at the access are particularly visible from the road and take a domestic form. The domestic paraphernalia is visible from limited views due to the topography and hedges, and whilst much of the land has an informal appearance, the appearance contrasts with the natural and rural landscape and scenic beauty of the surrounding National Park.
- Given the neighbouring properties and other domestic style gates in the street scene, the changes in appearance are modest, but nevertheless the Inspector rules they do not conserve or enhance the landscape and scenic beauty of the area.
- The use of the hardstanding extends the provision for residential activities, and whilst residential activity only modestly impacts the tranquillity in the area, it adds harm to the landscape and scenic beauty of the National Park.
- Therefore, the appeal was dismissed.

**Costs Decision – Refused**

- The Inspector confirmed that the Authority are not required to establish the previous use of land, and reiterates that the appeals on grounds C and D require the appellant to provide any proof.
- The enforcement notice provided clear details of why it was being served and what harm it was causing, and therefore the Inspector did not find any unreasonable behaviour.



Appeal Reference	Authority	Site	Enforcement Appeal & Description Of Development	Decision
<p>Appeal A Ref: APP/Y9507/C/19/3224642</p> <p>Appeal B Ref: APP/Y9507/C/19/3228447</p> <p>Appeal C Ref: APP/Y9507/X/19/3234602 SDNP/19/01293/LDE</p> <p>Appeal D Ref: APP/Y9507/X/19/3234617 SDNP/19/01322/LDE</p>	Chichester	Land at Northend House, Polecats, Heyshott, Midhurst, West Sussex, GU29 0DD	<p>Appeal A &amp; B The breach of planning control as alleged in the notice is: without planning permission, the erection of iron gates, brick pillars, bollards and kerb lighting and the laying of a shingle and tarmac hardstanding with grey cobbled retaining strips in the approximate positions shown on the attached plan.</p> <p>Appeal C: The use and development for which a certificate of lawful use or development is sought is retention and continued use of the existing driveway.</p> <p>Appeal D: The development for which a certificate of lawful use or development is sought is the retention of existing gates and brick piers serving access to Northend House.</p>	<p><b>A</b> (In part for Appeal A)</p> <p><b>D</b> (Appeals B, C and D) 20 July 2020</p>
<p><b>Inspector's Reasoning</b></p> <ul style="list-style-type: none"> <li>For the reasons set out in Appeals C and D (see below), the majority of Appeal A and all of Appeal B fail and are therefore dismissed.</li> </ul> <p><i>Appeal C</i></p> <ul style="list-style-type: none"> <li>The Inspector deemed that the replacement surfaces and granite setts altered the character of the access and were more than can be considered as maintenance or improvement, and as such comprised engineering operations constituting development.</li> <li>The Authority accepted that the use of access has become lawful (it has been used for a period in excess of 10 yrs), however the notice did not require the use of the access to cease.</li> <li>The appellant accepted the gates, pillars, bollards and lighting were constructed and re-surfacing works to the access took place within the 4 yrs prior to the issuing of the notice and application for Lawful Development Certificate (LDC).</li> <li>For the above reasons, the Inspector concluded that the Authority's refusal to grant a LDC was well-founded and the appeal fails.</li> </ul> <p><i>Appeal D</i></p> <ul style="list-style-type: none"> <li>This appeal relates to the brick piers and gates. There was no dispute over whether the works were considered development, however the appellants argue that the works benefit from permitted development rights available within Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).</li> <li>At the time the notice was issued, and although the height has been reduced, the brick piers were more than 2m in height. The Inspector dealt with the elements that were present on the day the enforcement notice was issued, and as such concluded they did not constitute permitted development.</li> </ul>				

*Appeal on Ground A and Deemed Planning Application*

- Key issue – whether the iron gates, brick pillars, bollards and kerb lighting and the laying of the shingle and tarmac hardstanding (with grey cobbled strips) conserve and enhance the landscape and scenic beauty.
- The Inspector concluded that the design of the development and the predominantly light coloured materials used on the surfacing as well as the materials used in the gates and piers, resulted in the access having a significantly more prominent domestic character and appearance than the previous access. Whilst this would weather over time to reduce its prominence to some extent and the metal gates are largely open that restricts their visibility, it nevertheless, results in a somewhat incongruous domestic character and appearance that does not reflect the location of the property within the countryside.
- In addition, the lighting installed in the kerbs provides uplighters to the pillars that makes the access more visible from the road. Whilst it is relatively subtle, it nevertheless contributes in a small way to light pollution.
- The Inspector did note the highway safety benefits of the use of the access and the tarmac surface may protect the road surface from traffic coming and going over the access. However, on balance the proposed development does not accord with the policies SD4, SD5 and SD8.

*Amended Brick Piers*

- The Inspector acknowledged that the appellant had already reduced the height of the brick piers so they were under 2m in height. Given this is an 'obvious alternative' which would overcome the planning issue with less cost and disruption (the enforcement notice as worded requires the demolition of the piers) and that the piers could be demolished in accordance with the Notice and subsequently rebuilt in the same form as built on site. He found that this would overcome the harm found under ground A (set out above) and the Inspector concluded that planning permission should be granted for the brick piers and gates that now exist on the site so appeal A succeeds to that extent.

**Costs Decision - Refused**

- The Inspector concluded that the refusals and issuing of the Enforcement Notice were not unreasonable for the reasons set out in the appeal decisions and at the time the Enforcement Notice was issued the brick piers were unlawful. No unreasonable behaviour had been demonstrated.

Appeal Reference	Authority	Site	Enforcement Appeal	Decision
<p>Appeal A Ref: APP/L1765/C/19/3235410</p> <p>Appeal B Ref: APP/L1765/C/19/3235411</p> <p>Appeal C Ref: APP/L1765/C/19/3235413</p> <p>Appeal D Ref: APP/L1765/C/19/3235414</p>	Winchester	Land adjacent to Long Road, Soberton, Hampshire, SO32 3PG	<p>Appeal A &amp; B: The breach of planning control as alleged in the notice is: without planning permission, the change of the use of the land from agricultural use to use for the siting of residential caravans and storage of domestic items, the ancillary keeping of domestic animals and the erection of associated shelters, structures and enclosures.</p> <p>Appeal C &amp; D: The breach of planning control as alleged in the notice is: without planning permission, the erection of gates, fences and other means of enclosure on the land.</p>	<p><b>D</b></p> <p>(All Appeals)</p> <p>24 July 2020</p>
<p><b>Inspector's Reasoning</b></p> <p><i>Appeals A &amp; B</i></p> <ul style="list-style-type: none"> <li>The appeal site is a substantial agricultural field, occupying a countryside setting. The field consists of (approx.) 122 smaller plots in various ownerships. The Inspector noted that there was a stationed caravan in residential use, some covered structures nearby including a stable block and shed, metal 'heras' type fencing forming enclosures, and horses, goats, and chicken were all present. Post and wire fencing has been erected, physically dividing the site from the rest of the field.</li> <li>The appellants provided no firm evidence to show the caravan had been used solely for storage or as a resting facility in conjunction with the agricultural use of the site.</li> <li>The Inspector noted that whilst the keeping of goats, chickens and the grazing of (but not keeping) of horses could be defined as agricultural use, it was felt there was nothing to indicate that the animals had been kept on site for anything other than personal enjoyment for domestic needs.</li> <li>The Inspector noted that based on the information presented, the lawful use of the site is for agriculture and that the stationing and residential use of caravans resulted in a material change of use (which by its nature is involved development as defined by the 1990 Planning Act) and was a breach of planning control and the appeal was dismissed.</li> </ul> <p><i>Appeal C &amp; D</i></p> <ul style="list-style-type: none"> <li>Lines of timber posts, around 1-metre-high, had been driven into the surface of the site at similarly-spaced intervals. Barbed wire had been strung between the posts. Whilst some of the fencing had been removed along a substantial length of the south-western boundary, the stumps and the rest of the fencing was still in situ along south west and north west boundaries, including enclosing some individual plots.</li> <li>The Inspector found that the matters alleged in the notice have in fact occurred. The Inspector did not consider whether the works should be granted planning permission as the prescribed planning application fee had not been paid.</li> </ul>				

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/02832/FUL  APP/Y9507/W/20/3247487	Chichester	Baldwins, Ropes Lane, Fernhurst GU27 3JD	Reconstruct the former stables and storage building (destroyed by fire) in 2002 to provide a single holiday let.	<b>D</b>  06 August 2020

#### Inspector's Reasoning

- The appeal site comprises a parcel of land to the north of a two storey dwelling known as Baldwins which is a Grade II listed building. The site comprises a garden area of Baldwins, concrete hardstanding and the remnants of a former building.
- To the rear and side of the site, there are open fields and a hill beyond. Although the fields beyond are outside, the appeal site lies within the Fernhurst Conservation Area.
- The Inspector found that the proposal would introduce a new built form with a domestic appearance in a distinctly rural context. This would result in domestic type uses being apparent in and around the new building. This would take the form of light spill, noise, activity, domestic paraphernalia such as tables and chairs, which would be reasonably associated with a tourist use.
- Whilst no rooflights or external lighting were proposed, the Inspector noted that the plans show hatching on the windows facing the countryside indicating shutters/panels, however these would be opened frequently given the view and would result in light spill affecting the dark night sky contrary to policy SD8.
- Activity and noise associated with the holiday accommodation would also upset rural tranquillity. The Inspector notes that the significant separation between the existing property and the holiday let would limit any actions the occupiers of Baldwins could place on the activities in the let.
- The Inspector found that the previous outbuilding was attractive but not of great architectural merit and the historic relationship with Baldwins is the only feature of significance demonstrated. However, the proposed use of the building as an intensive holiday let would not reflect this historic ancillary relationship. In addition, it was found that it would not be possible to replicate any historical or architectural features due to the new build nature of the development. It is for these reasons that the Inspector decided that there would be no improvement to the setting of the Listed Building.
- The development would be screened from Ropes Lane and much of Tanyard Lane by existing vegetation, however the Inspector found that a lack of public visibility is not an overriding consideration as a Conservation Area is an irreplaceable resource. In addition, there are some positions on Tanyard Lane where new development would be visible, and intrusive.
- The Inspector found there would be harm to the character of the Conservation Area, a quality which is perceived as well as seen. Therefore, the tourist use would fail to preserve the rural character and appearance of the Conservation Area.
- The harm identified would be less than substantial, therefore, the Inspector weighed the harm against any public benefits including providing facilities for visitor enjoyment to the park, enabling wider appreciation of the park, encouraging low carbon modes of transport, biodiversity enhancement. However, the Inspector ruled that the tourist benefits would be small scale, and the heritage asset benefit on the setting at Baldwins would be benign. Thus, the harm identified to the significance of the Conservation Area would outweigh the scheme's benefits.

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/04298/HOUS  APP/Y9507/D/20/3247932	East Hants	6 The Green, Liss GU33 7AP	Demolition of existing single storey side extension and erection of two storey side extension and single storey front extension with associated internal works. New access driveway and parking on site proposed.	<b>D</b>  11 August 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>The property is a detached, two storey three-bedroom dwelling located on the corner of The Green and Station Road within the settlement of Liss. The surrounding area has a suburban character.</li> <li>The Inspector notes that the Authority do not define a small and medium-sized home for the purposes of policy SD31. However, as the appellant did not dispute the Authority's methodology in determining what constitutes a small home, and in the absence of another definition, the dwelling is considered a small home.</li> <li>The appellant argues that if the GIA of the existing garage was included within the calculation of the existing home, the dwelling would exceed 120 square metres so as not to be a small home. However, the Inspector ruled that, as no substantive evidence was provided to demonstrate that the outbuilding had been utilised for ancillary domestic purposes on 18 December 2002, the Inspector was not persuaded that the garage should form part of the 'existing dwelling'.</li> <li>The proposal would increase the dwellings floorspace above the 30% limit, and would result in the loss of a small dwelling.</li> <li>The appellant argues that a growing family and the feasibility of them moving elsewhere requires them to go beyond this limit. However, the Inspector was not provided with any evidence that suitable housing is not available, and noted that the exceptional circumstances which typically arise from disabled or older family members does not form part of the appellant's case. Therefore, exceptional circumstances have not been demonstrated.</li> <li>The Inspector afforded limited weight to the appellant's contention that permitted development rights would provide a comparable extension, as no evidence had been provided to demonstrate that this would be pursued if the appeal failed.</li> <li>It was acknowledged that the design of the extension would safeguard local distinctiveness and rural character, nevertheless this did not overcome or outweigh the conflict with policy SD31 and the loss of a small home.</li> </ul>				
Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/01283/PA3R  APP/Y9507/W/19/3241281	East Hants	Barn at Downlands Farm, Ovenhay Copse Lane, Priors Dean, Hampshire GU32 1BP	The development proposed is a prior approval for the change of use of agricultural building to a flexible use-guest house	<b>D</b>  12 August 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>The existing building is an agricultural barn.</li> </ul>				

- Permitted development under Class R of the GPDO comprises development consisting of a change of use of an agricultural building and any land within its curtilage to a flexible use falling within Class A1, Class A2, Class A3, Class B1, Class B8, Class C1 or Class D2 of the Schedule to the Use Classes Order (UCO). To benefit from this, the development must not be contrary to any condition on an existing permission.
- The planning permission for the barn has a condition stating: “The building hereby permitted shall be used only for agricultural purposes as defined in Section 336(1) of the Town and Country Planning Act 1990” (TCPA). The condition’s reason was “To ensure that the building is used for agricultural purposes only since it lies within a rural area to which restrictive planning policies apply and where only that development needed to meet the essential requirements of the locality is normally permitted.” The condition does not make explicit reference to both the GPDO and the prevention of its application.
- The combination of “only” after “shall be used” gives a strong impression that other uses are to be excluded. The Inspector notes that this is supported by the Royal London Mutual case where it was found the word “only” meant solely or exclusively, and that this word implied exclusion of the Use Classes Order and Class A1 rights.
- The Inspector found that the condition in its full context clearly evidences an intention to remove GPDO rights and therefore dismissed the appeal.

#### Costs Decision – Refused

- No decision was made during the prior approval determination period and it was noted that there was a lack of website publicity for the officer’s report. However, the Inspector found that it had not been demonstrated that these issues had put the applicants to unreasonable expense. Based on the Authority’s objections, the appeal would still have been necessary, and therefore costs were refused.

Appeal Reference	Authority	Site	Enforcement Appeal	Decision
Appeal A: APP/Y9507/C/20/3244657  Appeal B: 3244658	Winchester	Bramdean Cottage, Bramdean, Alresford, SO24 0LW	The breach of planning control as alleged in the notice is: without planning permission, the erection of a close boarded wooden fence.	<b>D</b>  24 August 2020

#### Inspector’s Reasoning

- Bramdean Cottage is located adjacent to a busy main road. Whilst it is set back from the road, it remains an important part of the street scene, with the front boundary forming an important part of the dwelling’s setting.
- Bramdean Cottage is a Grade II listed building, dating from the C16<sup>th</sup>, and remodelled in the C20<sup>th</sup>. It is of timber construction, brick, some cement rendering and plain clay tile roof.
- Development in the area is noted to be low density, and the village has a rural character and verdant appearance. Boundaries are predominantly constructed from brick, flint or vegetation.
- Whilst the Inspector does not specifically refer to Ground A (the consideration of whether planning permission should be granted) in his decision letter, the following points were discussed:

- The fence, whilst not spanning the full length of the front boundary, is a dominant urban feature because of its material and height. It is noted to be at odds with the open character of the village, and due to its height and material is alien in context.
- Other fences along the road frontage were considered by the Inspector not to provide good justification for giving planning permission. Whilst those fences were not associated with Listed Buildings, the fence to the southeast did not fit well within the street scene.
- The fence was described as causing less than substantial harm. Whilst the Inspector recognised the reasons for the fence is to protect the occupiers from the traffic it was considered that the fence was unacceptable and when considered as a whole, were not sufficient benefits to justify permission.
- The Inspector allowed the appeal on Ground B insofar as the notice was amended to correctly identify the fence's location. The Inspector then goes on to add that, subject to the amendment, the planning permission is refused, and the enforcement notice is upheld.

Appeal Reference	Authority	Site	Enforcement Appeal	Decision
APP/Y9507/C/20/3247211	Chichester	Field south east of Beggars Corner, Halfway Bridge, Lodsworth, West Sussex GU28 9BP	The breach of planning control as alleged in the notice is: without planning permission, the erection of a timber stable building.	<b>D</b> 02 September 2020

**Inspector's Reasoning**

- The appellant argued that the development is a moveable structure and therefore benefits from permitted development.
- The structure is a large double stable type enclosed timber structure with two doors. The structure is on 'skids' and has no attachment to the ground, however it is large and very heavy which requires substantial machinery to move it. The Inspector notes that there was evidence of 'tracks' in the grass going to the shelter position indicating longevity in that position.
- In this case, the potential movability of the structure is outweighed by its size and permanence.
- The Inspector found that the permitted development rights applied only to moveable temporary structures that were connected to the land. There was no apparent activity, nor did the land benefit from being over 5 hectares and in agricultural use. Therefore, planning permission was required.
- The site is in an agricultural area with a rural character and appearance, near to a small 'hamlet'. The timber structure is visible from the adjacent lane, although it is partially screened by vegetation, but would be more open in winter with less leafage.
- The Inspector found the stable intrudes on the open rural character of the area, has an unacceptable impact and does not conserve landscape character. Therefore, it does not accord with Policies SD1, SD4 and SD6 and the appeal was dismissed.

<b>Planning Application No</b>	<b>Authority</b>	<b>Site</b>	<b>Description of Development</b>	<b>Decision</b>
SDNP/18/05870/FUL  APP/Y9507/W/20/3245170	Winchester	Land at Butts Farm, Butts Farm Lane, Bishop's Waltham SO32 IPE	Change of use of land from agricultural to the keeping of horses for non-commercial use; erection of wooden doors to enclose 2 existing field shelters; erection of 1 metre post and rail fence (pursuant to Article IV direction on the land).	<b>D</b>  04 September 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>• The appeal site, located just outside of the settlement boundary of Bishops Waltham, is approximately 150 square metres in size and comprises two field shelters.</li> <li>• The site is at the northern edge of the field and adjoins woodlands to the north. Thus it was described as positively contributing to the intrinsic character and beauty of the rural landscape. By virtue of its location, it is part of a landscape which forms the gateway to the National Park and its proximity to the settlement of Bishops Waltham make it sensitive to land use change.</li> <li>• It was agreed that the existing field shelters were mobile structures, with one structure containing sub-divided areas, however the addition of doors, capable of being shut to manage access to and from them would result in them no longer being just a structure. The fencing would also delineate the area intended for grooming and keeping horses. The proposal would result in a form of development that would formalise the existing structures into a permanent location.</li> <li>• Consequently, although the area is relatively small and it is not readily visible from the public domain, the proposed development use would be at odds with the landscape character of the area.</li> <li>• The Inspector found the proposal would represent a permanent and formal equestrian use, introducing an urban fringe activity within the landscape, and consequently adversely affecting the undeveloped rural character.</li> </ul>				
<b>Planning Application No</b>	<b>Authority</b>	<b>Site</b>	<b>Description of Development</b>	<b>Decision</b>
SDNP/19/03855/FUL  APP/Y9507/W/20/3248205	East Hants	Rother Barn, Farnham Road, Liss, GU33 6LJ	Change of use of land for storage purposes (B8 Use Class) together with lorry parking and associated welfare facilities. Re-positioning of existing entrance gates.	<b>D</b>  09 September 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>• Rother Barn is an existing forestry operation. The site is located within the open countryside, outside of any defined settlement boundary. The land associated with the appeal site (outside the red line but within the appellants control) is used for growing and selling Christmas trees. The area of land measures approximately 2.8 hectares, of which about 2 hectares is for growing Christmas trees.</li> <li>• The appellant purchased the site in 2015 and argues that additional income is needed to support the viability of the forestry operation.</li> <li>• The development proposes a change of use of the site to storage use, together with lorry parking for five vehicles and the erection of a welfare hut, toilet block and fuel store, along with hardstanding to facilitate the developments. It is also proposed to move the existing entrance gates further back from the highway.</li> </ul>				



- The extent of any financial losses were not made clear to the Inspector, and no substantive evidence was provided to demonstrate how the income from the development would sustain long term future of the existing forestry operation.
- However, regardless of the proposal's ability to sustain the long-term future of the existing forestry operation, the development was not found to be subsidiary. The current use generates a limited number of vehicle movements throughout the year, with only a high number of movements occurring at one point in the year from the sales of Christmas trees. By contrast, the proposed use would generate daily movements throughout the year and whilst the Inspector notes that the development would not result in a loss of the land used for growing trees, there would be significant intensification of the use.
- The dominant activity undertaken on the site would be the storage and lorry parking, and therefore would not be subsidiary to the existing forestry operation. For that reason, the proposal would not accord with Policies SD40 and SD25.
- Despite the A3 dual-carriageway and the railway line, which are noted as significant features within the wider landscape, the immediate area has an intrinsically rural character. The current use of the site as a forestry operation is therefore in-keeping with the rural landscape and its use therefore had a neutral impact upon the landscape and scenic beauty.
- The proposed use, including a large area of hardstanding created to facilitate that use, has an industrial character and appearance, which appear stark and jarring when viewed in the context of the existing forestry operation.
- It is noted that whilst the existing hedgerows screen the development from public view, this does not outweigh the harm to the character and appearance of the area. In addition, the effectiveness of the hedgerow screening cannot be guaranteed in perpetuity.
- The Inspector acknowledges that there are other small business premises located within the wider area, but that these examples are sporadic and most pre-date the designation of the National Park. Furthermore, the presence of other commercial developments does not provide justification for further harm to the landscape quality.
- In addition, whilst the relative tranquillity of the area is of poor tranquillity, largely due to the impact of the A3 dual-carriageway, the industrial nature of the development and the associated vehicle movements would not conserve or enhance the relative tranquillity of the local area.
- The Inspector concludes that the development would not accord with policies SD1, SD4 and SD7 and dismissed the appeal.