

Agenda Item 14
Report PC 21/22-15

Report to	Planning Committee
Date	9th September 2021
Title of Report	Summary of appeal decisions received from 13 May 2021 – 18 August 2021
Purpose of Report	To update SDNPA Members on appeal decisions received

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 and any Judicial Reviews 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 13 May to 18 August:
- 20 appeal decisions (some dealt with concurrently) were received, 15 of which were dismissed.
 - 1 application was made by an appellant for an award of costs, which was refused.
 - There were two Judicial Reviews, details are included within the table below.
- I.3 From 13 May 2021 until 18 August 2021, the Authority had 75% of appeals dismissed. In comparison, the dismissal rate over the last financial year was 67%.
- I.4 Please note, the National Planning Policy Framework (NPPF) was revised on 20 July 2021. Therefore appeal decisions after that date will refer to the revised paragraph numbers now contained in the NPPF, whereas appeal decision before that date will refer to paragraph numbers contained in February 2019 version.

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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 and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/19/06085/FUL APP/Y9507/W/20/3265385	East Hants	Land at Westwood House London Road Petersfield GU31 5AJ	New dwelling	D 13 May 2021
Inspector's Reasoning				
<ul style="list-style-type: none"> The main issues are; whether or not the appeal site would be a suitable location for a new dwelling and the effect of the proposed development on the character and appearance of the area. The appeal site was located within the sizeable garden at Westwood House. It was outside the boundary of any designated settlement and was within the open countryside. Policy SD25 and Policy I of the Liss Neighbourhood Plan (LNP) set out that exceptionally, development will be permitted outside of settlement boundaries, where it complies with relevant policies and meets certain criteria. No evidence was provided to demonstrate that there was a genuine, proven or essential need for a dwelling outside the settlement boundary. The appellant argued that the site was previously developed land (PDL) as it formed part of a residential garden outside a built up area. Under criteria d) of Policy SD25, residential gardens are excluded from counting as PDL and therefore the proposal would not meet this policy requirement. The Inspector found that London Road was characterised by large detached houses within spacious plots, with significant separation distances between them. Properties were not widely visible from the street, being set back within their plots behind wooded boundaries and fencing. The proposed dwelling would be a detached single-storey building with a sizeable L-shaped footprint, positioned centrally towards the front of the plot. It was determined by the Inspector that the height of the proposed building, existing boundary fence, trees and levels of the site from London Road, would result in a dwelling largely concealed from public view. The proposed green roof, would further reduce its visual prominence. The proposal would appear as an infill development between Westwood House and Tudor Cottage which would be out of keeping with the dispersed nature of London Road. A previous appeal scheme was dismissed on this basis too. The increased movement arising from an additional dwelling and the domestic paraphernalia associated with a dwelling would add to the urbanising effect of the proposal. Although the proposed house would share the same driveway as the host property, there would be an increase in activity which would harm the sylvan and semi-rural qualities of the area. 				

- The design of the house was not a matter of dispute, and whilst this would be sympathetic to the local landscape, it would not overcome the harm that would arise from the development in the semi-rural and countryside location.
- The proposed development would harm the character and appearance of the area and the landscape and scenic beauty of the NP. It would therefore conflict with Policy SD5 and Policy Liss 9 of the LNP.
- The Inspector gave significant weight to the proposal providing a zero carbon residential unit with an ultra-low environmental impact, incorporating technologies such as on-site batteries, integrated solar PV in glazing, rainwater harvesting and a green roof to reduce water run-off.
- The Inspector gave moderate weight to the ecological enhancements being proposed, including a green roof comprising wildflower turf, living walls and integral bat roosts.
- The Inspector concluded the proposal would be contrary to the development plan and that the benefits of the scheme would not outweigh the conflict and therefore the appeal was dismissed.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/03062/PA16 APP/Y9507/W/20/3262210	SDNPA	Telecommunications Site 74561, Station Road junction with Riverside Close, Liss, GU33 7AF	1 no. 17.5m monopole with 2 no. 300mm dishes, 2 no. equipment cabinets and associated ancillary works.	D 14 May 2021

- Inspector's Reasoning**
- The principle of this development type is established by the Town and Country Planning General Permitted Development Order. The scope of the appeal was limited to the effects of its siting and appearance on the locality.
 - The Inspector identified that the 'hidden' character of Liss was an important feature of the village.
 - In the absence of any similarly tall structures or sufficiently tall trees to provide screening or that would allow it to blend in, would extend significantly higher than surrounding development and would appear particularly prominent. It would create visual clutter, and it would be out of character as an urbanising feature on the approach to the centre of the village at the lower end of Station Road. The Inspector considered that this feature would not conserve or enhance the appearance and the character of the area, or the National Park.
 - The Inspector identified that the proposed monopole would be prominent in views both into and looking out from a limited part of the LCA. As a modern and tall structure, it would detract from the historic character of the LCA. As such, the Inspector found the proposal would result in some

harm to the setting of the LCA but this harm would be at the lower end of the ‘less than substantial’ scale. On the evidence before the Inspector, they were not satisfied that there were no alternative locations that would be less harmful in this sensitive location.

- Whilst the Inspector found that there would be benefits of the scheme which outweighed the less than substantial harm to the LCA, they concluded that these benefits did not outweigh the harm that would result from the siting of the monopole in this particular location within the SDNP.
- The Inspector also highlighted that the proposal would not align with the objectives of the Authority’s guidance, Roads in the South Downs 2015, which seek to reduce roadside clutter and recognises careful design of infrastructure and positioning of roadside furniture can all add to the special qualities of the area.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/19/03032/FUL APP/Y9507/W/20/3256900	Chichester	Manor Farm Bignor Road Bignor RH20 1PQ	Change of use of agricultural land to tourist use for the siting of 6 no. shepherds huts, camping and with a part conversion of an agricultural barn to provide ancillary facilities.	D 19 May 2021

Inspector’s Reasoning

- The main issues were the effect of the proposal on the character and appearance of the area within the South Downs National Park (SDNP), the effect on the significance of designated heritage assets and farm diversification and the planning balance.
- The Inspector identified various shortcomings in the information supplied about groundworks and re-profiling, however notwithstanding this, they made a reasonable assumption that re-profiling would be required to cross the gully and provide the pitches and some level land outside the huts. This was found to be an unnatural and invasive change to the topography of the landscape. The addition of the activity and structures of the huts would further harm the character and appearance of the area including when experienced from a nearby public right of way.
- The Inspector contemplated the rationale behind the intended use of a site that required such alteration, and concluded that an existing Dutch Barn with no architectural merit, could provide toilets, dining areas and other facilities to tourists. However, the Inspector considered that the facilities could have catered for a gathering of 30 people or more, unlike the capacity of 6 shepherd huts proposed. The building and associated activity could have an adverse effect on the occupiers of the Manor Farm Courtyard.
- The Inspector found no material impacts on dark night skies beyond those associated with any other camping site, and considered the proximity of the site to buildings and the village would reduce the harm compared with a more isolated site.
- In terms of sustainable travel options, the Inspector noted that routes seen on site were not conducive to pleasant walking and would involve steep hills. The likelihood would be that visitors would arrive by car and use a private car for touring while at the site.
- With regard to impacts on heritage assets, the fields in question provide a rural setting for listed buildings and the conservation area. The Inspector described Bignor as a small tranquil village and the introduction of the likely numbers of people in this location would have an adverse effect on the character of the area and its rural setting. The Inspector found that this harm would be less than substantial.
- On the matter of farm diversification, the Inspector noted that the use of the land appeared to be agricultural; livestock and arable were present on both sides of the gully, and there would be the loss of that use. This did not appear to be an area of degraded land that was not of use to the farm

business. With regard to Policy SD40 which was specific to farm diversification, the Report satisfied the need for a Plan under I.a) and would re-use a building under I.b). However, the harm found in the first main issue was such it failed to conserve and enhance the natural beauty of the area.

- With regard to other key policies, the Inspector found that the approach had not been landscape-led, resulting in intrusive and unattractive changes to topography (Policy SD5), harm to views from rights of way (Policy SD6) and overall the harm caused would undermine the benefits visitors would be seeking to experience (Policy SD2). For Policy SD23 (sustainable tourism), the Inspector found the proposal would meet some of the criteria, but the proposal detracted from the experiences of visitors and adversely affected the appearance and character of the area.
- The Inspector concluded that the proposal would fail to conserve the landscape character and appearance. In the planning balance there were not benefits that demonstrably outweighed the harm and was not considered to be sustainable development. The appeal was therefore dismissed.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/02062/HOUS APP/Y9507/D/20/3264363	Chichester	Leith House Angel Street Petworth GU28 0BG	Demolition of existing double garage and alterations and extensions to existing dwelling	D 21 May 2021

Inspector’s Reasoning

- The appeal site was located within the Petworth Conservation Area (PCA) and within the setting of several designated Grade II Listed Buildings including the Presbytery of the Roman Catholic Church, the Roman Catholic Church of the Sacred Heart, Leith Cottage and Egremont Row.
- The property was described as a typical 1930 – 1950’s design. This contrasted with the description of Angel Street as an early suburb developed from the 16th Century onwards on the eastern fringe of the commercial area of Petworth. The pattern of development on Angel Street was 16th – 17th Century timber framed, stone fronted dwellings.
- The appeal site occupied a central, prominent and highly visible position within Angel Street. The design of the existing dwelling did not replicate the prevailing architecture in this location. It was found that the simple and unassuming appearance of the building had a neutral impact on the PCA and did not detract from the surrounding historic street scene. This was also the case for the adjoining timber clad garage.
- The proposed extension would have a modern and contemporary appearance, with horizontal black/grey timber cladding to the elevations and a dark grey zinc roof. Various alterations were proposed to the host building, including a new bay window at the rear, replacement windows and a new porch. The elevations to the host property would also be painted in an off-white colour to reflect the painted brick finish prevalent within the town.
- The Inspector thought that the scale, height and design of the proposed extension would appear overly dominant and out of character with the existing pattern of development and historic street scene. Its modern and contemporary design would overwhelm and draw attention away from its unassuming host and would introduce an awkward juxtaposition that would appear to be a new separate dwelling.
- The existing ridge to the garage appeared to sit level with the eaves of the host property, whereas the ridge of the new extension would appear to sit at a higher level. The increase in height, bulk and the infilling of the gap between the host property and the garage would obscure views and sight lines of the Presbytery and Church.

- It was acknowledged that there would be a higher ratio of glazing, which could have conflict with Policy SD8 (dark skies). The Inspector found that due to the location within the built-up area of Petworth, as well as existing street lighting and light spill, any increase in light spill resulting from the appeal proposal would not be significant.
- The Inspector also noted that the relationship of the appeal site to the wider open landscape and public footpaths to the north east would not result in any material harm to the tranquillity or visual qualities of the wider landscape.
- The proposed extension would be contrary to Policy SD31 as the floorspace would increase by more than 30%, and no exceptional circumstances were put forward by the appellant.
- The Inspector concluded that the proposed extension would be out of keeping in the historic location, harming the setting of the Presbytery and Church which were of significant importance. The proposed extension would cause significant harm to its setting and the design of the proposed extension was not informed by the scale, local distinctiveness and design of the prevailing pattern of development in this area or the historic setting within the PCA. The level of harm was not found to be outweighed by any public benefits, and the appeal was dismissed.

Appeal Reference	Authority	Site	Enforcement Appeal	Decision
Appeal A: APP/Y9507/C/19/3232149	East Hants	Land lying to the north of Warren Corner (AKA Warren Barn), Warren Lane Priors Dean Petersfield Hampshire GU32 1BW	Material change of use of land from agriculture to as a site for travelling showperson(s) and family and the stationing of caravan(s) for residential use.	<p>Appeal A</p> <p>D</p> <p>Appeal B</p> <p>D</p> <p>27 May 2021</p>
Appeal B: APP/Y9507/C/19/3232150				

Inspector's Reasoning

- The appeal site was a parcel of land adjacent to, and partly within, established woodland of ecological importance (Wealden Edge Hangers Site of Special Scientific Interest (SSSI) and the East Hampshire Hangers Special Area of Conservation (SAC)), with the woodland outside of the site also designated as the Ashford Hangers National Nature Reserve (NNR). The site and adjoining woodland were also noted as being Ancient and Semi-Natural Woodland.
- A 3-year planning permission was granted in May 2012 for the “Change of use of land and building for travelling show persons use for one family including the re-siting of caravans.” The residential part of the site was confined to the north-western portion of the site, and conditions restricted the use to the appellants and their dependants and to travelling show-people. Other relevant conditions restricted the number of caravans and required the submission, approval and implementation of a Restoration Plan for the land owned by the appellant. Use of the SAC in connection with the travelling show-people site was precluded. Commercial activity within the travelling show-people site was also restricted, being permitted only within the existing barn on the site.
- Planning permission was refused in February 2018 for the continued use of the site as a travelling show-people plot, and that refusal was not appealed.

- The enforcement notice alleged a material change of use to a travelling showperson(s) site, but where planning permission has been granted for a material change of use subject to a 'temporary' condition, and, as occurred here, the use was continued after the expiry of the period specified, enforcement action should be taken against a breach of the condition. It could not be said that the continuation of the use amounted to the carrying out of a material change of use because the change of use was in fact authorised by the original planning permission. Therefore, the Inspector made corrections to the Enforcement Notice to address this issue.
- The main issues for consideration under Appeal A (ground (a) and the deemed planning application) were, the effect of the development on the character and appearance of the area; whether there were any effects on sites of ecological importance or protected species, and whether there were material considerations sufficient to outweigh any conflict with the development plan or other harm identified.
- The appeal site was considered distant from services, but the occupants were able to access essential services such as health and education from the site. The Inspector concluded that there was no conflict with Policy SD25 in terms of the site's location outside the settlement boundary and there was no clear conflict with Policy SD33.
- The Inspector concluded that the core residential part of the site where the mobile home was sited, little if any would be directly visible from public viewpoints, so the visual impact of the development was limited.
- The site lied within the National Park's Dark Night Skies Core, and was considered to be in one of the highest pockets of tranquillity. Activity associated with the use and the need to provide lighting at night were likely to harm the relative tranquillity and its character generally.
- In addition, despite the limited views into the site it was considered that the intrusion of the development into the wooded landscape was jarring and discordant with its surroundings. The significant changes in land levels to accommodate caravans was a notable disruption of the natural topography, and would fail to conserve the natural beauty of the area.
- The appellants argued that the landscape sensitivity and magnitude fo the development would result in a slight landscape impact. The Inspector rebutted this and concluded that insufficient weight was given to pattern and scale, and landscape quality, and by virtue of its failure to integrate with, respect and sympathetically complement the landscape character, it was considered that the development conflicted with Policy and Policy SD1.
- In the absence of details on land form changes and drainage, it was not possible to ascertain that the development would not pose a risk to the integrity of the designated areas (SSSI and SAC) by contaminated drainage water or altered hydrology. There was also no up to date ecological information to provide confidence that the development would not harm, or pose a risk to, protected species. In addition, the development was likely to lead to the further deterioration or total loss of an area of ancient woodland. It was therefore in conflict with Policy SD9.
- It was recognised that no sites have yet been identified to meet the need for travelling show-people, nor has the SDNPA been able to point to any suitable and available alternative sites for the appellants within the National Park or the wider area. The appellants themselves have been looking for sites within a distance limited search area, but none that they have found has turned out to be considered suitable in planning policy terms.
- The Inspector concluded that the best interests of the children on the site would be served by living there. They would continue to have good access to education and health care and a stable home. This was a primary consideration that weighs strongly in favour of a grant of planning permission, particularly since there were no alternative sites available.

- The Inspector clarified that intentional unauthorised development was a material consideration that should be weighed in the determination of planning applications and appeals. However, the development itself, while unauthorised, took place prior to the introduction of the policy, hence the originally unauthorised nature of the development does not weigh against it.
- It was considered that the harm and risk of harm to sensitive habitats, were not outweighed by the weight of the other considerations (i.e. the National Park and wider area has a significant level of unmet need for travelling show-people sites, and the personal circumstances of the family are material planning considerations that they are worthy of very significant weight).
- The Inspector concluded that the appeal development conflicts with the development plan, read as a whole, and there are not material considerations to justify a grant of planning permission, even on a temporary basis.
- The main issue for consideration under Appeal A (ground (g)) and Appeal B was that the period for compliance falls short of what should reasonable be allowed. The Inspector concluded that the period of 3 years sought by the appellant would be tantamount to a temporary permission which the Inspector found was not justified. Therefore, the appeal failed on these grounds.
- Subject to corrections to the Enforcement Notice as directed by the Inspector, the appeals were dismissed and the Enforcement Notice was upheld and planning permission refused.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/03875/CND APP/Y9507/W/20/3263866	East Hants	Lower Oxenbourne Farm Harvesting Lane East Meon Petersfield GU32 1QR	Re-siting of previously approved dwelling and alterations to existing barn without complying with a condition attached to planning permission Ref SDNP/19/02402/FUL	D 07 June 2021

Inspector's Reasoning

- The appeal proposal sought permission to re-locate the approved dwelling, to a position approximately 10m to the south-west of the approved location. Subsequent amendments were also be made to the proposed access arrangements and the location of the car parking area.
- The main issues in this appeal were the effect of the proposal upon the character, appearance and landscape beauty of the South Downs National Park; and whether the proposal would result in the provision of two dwellings on the site, and if so, whether this meets the strategy for the provision of additional dwellings in the National Park.
- The appeal site lied in an isolated, rural location and consisted of a cluster of buildings on the northern part, which included a detached dwelling and its garden, a large detached commercial building and associated parking / turning area, and a currently unused and partially derelict flint barn building. The remainder of the appeal site was described as open and undeveloped and comprising mainly mown grass, with material being stored in a number of locations. The surrounding area was open countryside and its quality very much reflects the site's location within the National Park.
- In contrast to the location of the approved dwelling, which would be positioned on an area of existing hardstanding, it was proposed that the dwelling be sited on an area that was currently undeveloped and, as a result, appears more as open countryside. Furthermore, the location was proposed further away from the existing pattern of built development on the site. Notwithstanding the appellant's landscape and visual assessment, the Inspector

found the amended location to be more visually prominent. As a result, when seen from surrounding public viewpoints, in comparison to the approved location, the proposed dwelling would represent a substantial intrusion into the open countryside, which would harm the overall landscape and natural beauty of the area.

- The Inspector recognised that the proposal would deliver improvements through a substantial reduction in the overall length of the access driveway. Whilst this was considered to be a benefit of the proposal, the Inspector concluded it was not of sufficient weight to outweigh the harm identified to the landscape and scenic beauty of the area, to which great weight was given. The proposal would be contrary to Policies SD4 and SD5, Policies EM5 and EM6 of the East Meon Neighbourhood Development Plan (EMNP) and Policies contained within Part 12 and Paragraph 172 of the National Planning Policy Framework.
- On the matter of an additional dwelling, the Inspector recognised that the approved location of the appeal dwelling currently prohibits the implementation of the extant permission. However, should the location of the appeal dwelling be amended, then, in theory, this would leave space for the completion of the extant scheme, thereby allowing the development of two dwellings on the site. The appeal site lied outside of any identified settlement boundary and no evidence was presented to demonstrate that the dwelling would meet any of the identified exceptions. As a result, the provision of two dwellings on site would be contrary to Policy SD25.
- No mechanism was put before the Inspector to ensure that only one dwelling was erected on the site. Therefore, whilst reference was made to a potential solution to the issue, without any evidence or mechanism to overcome the objection, the Inspector gave these submissions little weight.
- The Inspector therefore concluded that the proposed development would result in the provision of an additional dwelling in the countryside, for which no justification has been provided and, in this respect, the proposal would be contrary to Policy SD25, Policy EM2 of the EMNP and Paragraph 172 of the Framework. The appeal was consequently dismissed.

Costs Decision – Refused

- The application for costs related to three aspects, namely, in refusing the application, the Local Planning Authority (the Authority) wilfully ignored the comments of their own Landscape Officer; the Authority failed to take into account the overall conclusions of the appellant's Visual Appraisal; and that in determining the application, the Authority failed to consider the implications of the reduced length of track.
- On the first matter, the Inspector noted the Landscape Officer raised no objection, however deemed it was clear from both the Officer's Report and Authority's appeal submissions that the matter went beyond just landscape considerations and officers came to a different conclusion on what was principally a subjective matter. The Inspector agreed that the Authority had provided sufficient explanation of the impact of the proposal on the landscape character of the National Park to justify their position.
- Turning to matter 2, the Inspector found no evidence to lead them to agree with the applicant that the Authority failed to take into account the conclusions of the Visual Appraisal. It was appreciated that the basis for the SDNPA's decision was somewhat diminished by the lack of an objection from the Landscape Officer, however the Authority did not act unreasonably.
- The committee report was silent on the matter of the track which the Inspector cites as an omission as the SDNPA were required to consider all material considerations. However, the Inspector found that it was clear from the submission that even if this matter had been considered it would not have been sufficient to overcome the identified harm. The omission would not have negated the need for the appeal.
- The Inspector concluded the applicant was not put to unnecessary or wasted expense therefore the costs application failed.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/02578/FUL APP/Y9507/W/20/326524I	Chichester	Bramleys 36A Vann Road Fernhurst GU27 3JN	New dwelling and garage within a residential garden.	A 08 June 2021

Inspector's Reasoning

- The appeal site lied within the settlement of Fernhurst and comprised the existing side garden of the host property, Bramelys. The host property was a relatively large, two-storey detached property, set back from Vann Road behind the properties which front the road.
- The proposed dwelling would be single storey with dormer windows in the roof space. Most of the site was not readily discernible within the street scene and views were only possible through gaps between dwellings. Only the very top of the roof would be visible above surrounding development and the height of the dwelling would be less than the host property. The limited visibility of the site within the street scene, and the relationship to surrounding properties means that the scale, bulk and mass of the proposal would not materially harm the character and appearance of the area.
- The dwelling would be set slightly further back than the neighbouring bungalow. The overall plot size would be comparable to surrounding properties. Sufficient space would be provided to the front and rear to allow for both access and the provision of landscaping and necessary boundary treatment. As a result, the proposal would not represent a cramped form of development.
- The Inspector found that development facing directly onto Vann Road was not a clearly defining characteristic of the area. There were a considerable number of new developments that had been positioned behind historical frontage development. Therefore the location of the proposed dwelling would be in keeping with the character and appearance of the area.
- The Inspector concluded that the proposed development would not harm the character and appearance of the area and would preserve the natural beauty of the National Park. Consequently it would accord with Policies SD1, SD5 and SD25, the Policies contained within the Fernhurst Neighbourhood Plan (FNP) and Paragraphs 127 and 172 of the National Planning Policy Framework (NPPF).
- Vehicular and pedestrian access would be via the existing access which served the host property and was located between No 36 Vann Road and a further property. There would be an increase in the amount of vehicular traffic using the existing shared access which would give rise to some level of additional noise and disturbance to surrounding properties. However, the amount of activity that would be generated by a single house would be minimal and therefore would not be overly disruptive to surrounding residents. Additionally, the main orientation of the nearby dwellings was away from the access. Therefore, given the location and nature of the site and the relationship with surrounding development, on its own, this would not amount to a justifiable reason to withhold planning permission.
- The Inspector also considered the impact of the proposal upon the living conditions of No 34a Vann Road. Part of the flank wall of the proposed development would extend beyond the rear wall of No 34a. The Inspector considered that whilst this would result in some impact, due to the limited size of the proposed rear projection and the overall height of the building, it would not give rise to significant overbearing effects to warrant the withholding of planning permission.

<ul style="list-style-type: none"> The Inspector concluded that the proposed development would not harm the living conditions of surrounding residents and would accord with Policy SD5, the FNP and the NPPF and that the appeal should be allowed, subject to conditions. 				
Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/19/02093/CND APP/PI425/W/19/3241423	Lewes	Hawthorn Cottage The Street Kingston Lewes BN7 3NT	Removal of a condition of a non-material amendment (SDNP/17/05243/NMA)	A 09 June 2021
Inspector's Reasoning				
<ul style="list-style-type: none"> The Authority granted planning permission SDNP/17/02512/HOUS for a two storey side extension to Hawthorn Cottage. Condition No. 3 restricted the insertion of windows in the south west elevation to 'protect the privacy and residential amenity of neighbours'. Subsequently a non-material amendment SDNP/17/05243/NMA to allow a window in the first floor west elevation was approved. The appellant carried out the original permission, including a first floor window in the side elevation which was obscured glazed. The appellant subsequently replaced the obscured glass with clear glass. The main issue was whether the inclusion of the condition in dispute was necessary and reasonable, having regard to the effect of the window on the living conditions of the existing occupiers of the adjoining dwellings 'Russets', 'Rest Harrow' and 'The Post House', with particular regard to privacy. The appeal site was located in the Kingston Conservation Area (KCA). Hawthorn Cottage was a detached chalet bungalow. The side elevation was close to the common boundary with the adjoining bungalow Russets, which had a ground floor master bedroom window facing a driveway. On the other side of the driveway was the rear garden of the house at Rest Harrow and next to this was part of The Post House, which was a listed building, and had three first floor windows, including to a bedroom and a bathroom. The window faced these three properties and there was the potential for overlooking. Due to the relative difference in positioning and orientation between these respective properties and Hawthorn Cottage, the main perpendicular view from the window, including from the two small top opening fanlights were not directly towards any of these properties. Most normal domestic activity in this room would result in limited or glimpsed views out, or none at all. Regarding Russets, the linear distance between the window and the ground floor window was reasonably short. The view down towards the ground floor window was sideways at a very steep oblique angle. Observation would therefore extend little beyond the plane of the ground floor window and not intrude significantly in-depth into the bedroom. Furthermore, the space in front of Russets was primarily used for car parking, rather than for more private domestic activity. Regarding Rest Harrow, the distance between the window and the nearest part of the rear garden was relatively short. While the angle of view was therefore reasonably steep down towards this part of the rear garden, observation was nonetheless limited by the sideways outlook at an oblique angle. The rear garden was reasonably long and as a result the more private part was significantly further away, such that the view from the window would become more oblique and consequently more limited and less intrusive. 				

- Regarding The Post House, the view from the window, which was reasonably small and visually inconspicuous, towards the first floor window was at about the same opposing level. However, the first floor windows were reasonably narrow in height and, combined with the oblique angle of view, this significantly reduced the extent of observation of these first floor windows and rooms. The Post House was separated by a reasonable gap to the side elevation and the view from the window was therefore longer distance in nature and consequently not unduly intrusive. The window did not have any meaningful effect on the setting of the listed building, so would not affect the special architectural or historic interest nor would it adversely affect the character and appearance of the KCA. Consequently, there would be no harm to, or loss of, the significance of these designated heritage assets. The window would therefore preserve the listed building and its setting and would preserve the character and appearance of this part of the KCA.
- The Inspector found that the window would not result in an unacceptable degree of overlooking or detrimental impact on neighbour amenity. It therefore did not cause significant harm to the living conditions of the existing occupiers, and the appeal was allowed.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/04320/HOUS APP/Y9507/D/21/3269555	Chichester	Ridgeview (formerly Spindles) East Harting Street East Harting Petersfield GU31 5LY	Front garden pergola.	A 11 June 2021

Inspector's Reasoning

- The appeal site was located within East Harting, which was described as a small rural hamlet separated from the larger village of South Harting by countryside, which surrounds both settlements. Most of the hamlet falls within the East Hants Conservation Area (EHCA), the significance of which appeared to be characterised by attractive vernacular buildings arranged in sporadic clusters. The outward vistas towards the surrounding countryside contribute positively to its significance.
- To the south of the site the land rises sharply to a chalk scarp, known as Harting Down. The wider site was clearly visible from parts of this hilltop. The existing dwelling formed part of a row of residential properties, and were a pleasant feature of the rural landscape. The proposal would not be visible from these vantage points due to its location to the front of the site.
- The site was slightly higher than the adjacent lane by approximately 1.5metres, however views into it would largely be screened by a vegetative boundary. As a result, views into the site were dependent on standing in the driveway, and at this point the house was the main feature of the site, which was set back significantly from the lane and supported by a generous level of space around it.
- The proposed development would be open on all sides, formed of six timber posts to support a roof structure which would be at a very slight angle rising from 2.4 metres to 2.7 metres. The open design was considered to sit comfortably within the site and combined with the existing levels of space and established boundary planting, would preserve the first purpose of the National Park designation and respect the significance of the EHCA with regards to long reaching views.
- It was acknowledged that the existing dwelling was permitted at appeal (Ref APP/Y9507/VV/18/3208006). The Inspector included a condition removing a number of permitted development rights, including the construction of outbuildings. The reasoning being that the building was readily visible from the

front, whilst also sitting within in an important wider landscape vista from Harting Down. However, the condition did not restrict any development at a future date, moreover it secured the need for any development to be properly assessed in its context.

- The Inspector found that the proposal would comply with the development plan when taken as a whole, and therefore allowed the appeal.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/02583/APNB APP/Y9507/W/21/3266265	SDNPA	Harmony Vineyard Steyning Road Shoreham by Sea West Sussex	New agricultural building	D 11 June 2021

Inspector’s Reasoning

- The original application was to determine if prior approval was required for the erection of a building on agricultural land which is reasonably necessary for the purposes of agriculture within that unit, as set out in Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order (2015) (the GDPO). As an application for prior approval the LPA must assess the proposed development solely on the basis of its siting, design and external appearance.
- Based on the evidence and most recent case law the Inspector also considered whether the development otherwise falls within the definitional scope of the particular class of permitted development.
- The main issues were therefore whether the proposed development would be granted planning permission by Schedule 2, Part 6 Class A of the GPDO in terms of; if the proposed development was reasonably necessary, and the effect of the siting, design and external appearance on the character and appearance of the area.
- Reasonably Necessary - The building was needed to store and protect wine and machinery, for a workshop and parts store, for secure chemicals storage, for toilet and washing for staff and contractors and for personal shelter. The Inspector was satisfied that, although there may be several possible courses of action in terms of the size of the building, the proposed development was one that a reasonable person would choose. As such the proposed building would be reasonably necessary.
- Design and External Appearance - The site was on the periphery of the National Park located within the Adur Valley Sides landscape character area, typified by its open undeveloped nature. The change in the landform between the appeal site and the adjoining steeply sloping valley sides was pronounced in this location and was highly visible from the Mill Hill Local Nature Reserve and Open Access Land. The site’s open undeveloped and gently undulating appearance therefore make a positive contribution to the character, appearance and natural beauty of this area. The proposed building would be a sizable, bulky structure. Given the characteristics of the area include very little development, such a large and conspicuous building design would be inappropriate in this location in terms of its appearance. Furthermore, the proposed design would be cut into the landscape. This would harmfully erode the gentle undulation of the site, disrupting the important topography of the floodplain landscape. Consequently, the proposed design and external appearance would be harmful to the positive characteristics of this area.
- Siting - The proposed development is, in principle, permitted development and can therefore proceed somewhere. The entire appeal site lies within the National Park and the Adur Valley Sides landscape character area. The GDPO does not restrict permitted development rights relating to

agriculture and forestry for Class A in National Parks. Therefore, the type of development that falls in this category does not conflict with the reasons for designating this National Park, nor was the Inspector directed to a less sensitive landscape character area within the appeal site. As such, they concluded that the proposed siting would not be unacceptably harmful.

- The Inspector concluded that the proposed development was reasonably necessary for the purposes of agriculture, and did not find harm with regard to its siting. There was however public and permanent harm to the character and appearance of the area including the natural beauty of the National Park which has the highest status of protection in relation to these issues, therefore the appeal was dismissed.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/02166/FUL / SDNP/20/02167/LIS Appeal A Ref: APP/Y9507/W/21/3269531 (FUL) Appeal B Ref: APP/Y9507/Y/21/3269529 (LIS)	SDNPA	Racton Tower Monument Lane Lordington Chichester PO18 9DR	Change of use and conversion of folly to 1 no. dwelling with associated Listed Building Consent	<p style="text-align: center;">Appeal A</p> <p style="text-align: center;">D</p> <p style="text-align: center;">Appeal B</p> <p style="text-align: center;">D</p> <p style="text-align: center;">15 June 2021</p>

Inspector’s Reasoning

- The appeal site comprised the Grade II Listed ruins of a folly, which, due to its elevated and dramatic position on top of a hill, was prominent in wide ranging views. The site’s secluded setting, in an area of dark skies, together with the surrounding vegetation, was relatively tranquil. The appeal scheme sought to rebuild and extend the existing structure in order to enable its conversion to residential use.
- The Inspector noted that the resulting changes to the character and appearance of the site and surrounding area would be significant, and that limited information had been submitted by the applicant to demonstrate that the proposal would not cause harm to the special qualities of the SDNP.
- The Inspector found that the proposed works to the building, together with the construction of large, contemporary additions and the associated domestic paraphernalia, would result in a domestication of the building and the plot, at odds with the generally undisturbed nature of the site and its wider surroundings. The harm would be exacerbated by the creation of a formal access, which would lead to an intensification of use and general activity within the site and along Monument Lane. This would erode the rural character of the area and its sense of tranquillity.
- The Inspector considered that the extensive glazing proposed would cause unacceptable harm to views of the nocturnal landscape and the intrinsic quality of the dark night skies.
- Turning to effects on the listed building, the Inspector summarised that the appeal building was a Grade II listed folly or landmark dating from the later part of the 18th century. Racton Monument has been in ruins for centuries, and was therefore in that condition when it was formally listed in 1958, and was valued as such. The Inspector found the significance of Racton Monument derives primarily from its historic and architectural interest as an example of a Georgian Gothic ornamental building which may have been designed as a folly with no practical purpose. Although there was no certainty

regarding its original purpose, the building nevertheless acts as an important landmark, which makes a substantial contribution to the cultural heritage, landscape character and scenic quality of the SDNP.

- The Inspector identified that significant alterations would be required to enable the conversion, which would detract from the special interest of the listed building. The side extensions, due to their excessive scale, would visually compromise the vertical emphasis and triangular shape which define the building as a piece of architecture. Moreover, there would be a dramatic protrusion of the glazed elements which, in particular, would extend well beyond the north-eastern elevation of the building in a material that, by reason of its extensive use, would give the converted folly an overtly contemporary appearance and unduly stand out as incongruous additions.
- The Inspector concluded that the proposed development and works would cause less than substantial harm to the significance of Racton Monument and its setting, to which they ascribed considerable importance and weight. The Inspector recognised that the proposal would contribute one dwelling to the housing supply and support and enable the restoration and active use of a building that could sustain it long-term. However the lack of information to demonstrate sustainable conversion, and harm had been identified, a proposed residential use would not constitute the optimum viable use. The Inspector concluded that the harm caused would not be outweighed by the public benefits.
- On the matter of location, the proposal would result in the creation of an isolated dwelling in the countryside, which should be avoided. While the Inspector noted that the appeal scheme would be development on previously developed land, it would fail to conserve and enhance the landscape character, scenic beauty and cultural heritage of the National Park.
- The site was recognised to have ecological sensitivity and the required further surveys had not been provided and could not be satisfactorily sought and assessed via the imposition of a planning condition. The Inspector could not be satisfied that the proposal would not adversely affect protected species, with particular regard to bats and dormice and as such the proposal would conflict with Policies SD9, SD10 and SD11 and paragraph 170 of the NPPF. Further assessment on matters of nutrient neutrality and impacts on the Solent Special Protection Areas and associated Habitat Regulations Appropriate Assessment requirements were not discussed further by the Inspector, due to the adverse conclusions already drawn.
- In the planning balance, the Inspector recognised that permission had previously been granted for the conversion of the building for a private dwelling, but that this had expired and pre-dated the adoption of the South Downs Local Plan and the publication of the NPPF. Concerns about anti-social behaviour and vandalism were noted but that this could be dealt with without the harm caused from the proposal.
- Based on the above findings, the Inspector dismissed the appeal.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/18/02844/LDE APP/Y9507/X/18/3217799	Winchester	The Bungalow Avington Trout Fisheries Avington Winchester SO21 1BZ	Lawful Development Certificate sought for the material change of use of a building previously used as a single dwelling to use as two separate single dwellinghouses by way of subdivision	D 22 June 2021
Inspector's Reasoning				

- The appellants purchased the property in 1999 and identified that the bungalow was initially converted, without planning permission, into 3 separate independent units.
- The Authority accepted that this was the situation, the case based on the change not being from a single dwelling-house and therefore not coming within the ambit of The Town and Country Planning Act Section 55(3)(a), which related to conversion of a single dwelling-house to two or more separate dwellinghouses. Section 55(3)(a) notes ‘the use as two or more separate dwelling-houses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used’.
- The three separate units were converted to two separate units in 2008. Therefore, on this evidence, the initial conversion of the single dwelling-house to three separate units would appear, by definition of Section 55(3) (a), to have been a material change of use in 1999.
- As the further change was more than four years later, the initial conversion would have become lawful by passage of time. The current conversion involved changes to all three units, so the change of use that has occurred involved all three units.
- The appellant argued that the use can be considered as a change from a single dwelling-house to two units on the basis of Section 55(3)(a) in that it refers to the dwellinghouses’ use ‘previously’ and not the ‘last’ use. The Inspector disagreed with this interpretation.
- That which has to be considered is whether a material change of use has occurred by reducing the units from 3 units to 2 units.
- Much of the argument put forward by the appellants and Authority related to the change from a single unit to two units, and not effectively the reverse from 3 to 2 units, and therefore they have not had the opportunity to address the materiality of the change that has actually occurred and in the interest of natural justice the parties need to be able to address the relevant issues.
- The appellant has not made out the case on the balance of probability that the change that occurred was a material change of use which has become lawful, so it would not be appropriate to change the description.
- The Inspector therefore concluded that the Authority’s refusal to grant the certificate of lawful use or development to be well-founded and the appeal should fail.
- The Inspector goes to say that if the original permission were found to apply and any residential use was controlled by the planning conditions, this does not confine its use to a water keeper working at the trout fishery. It is clear from the reason given for imposing the condition that it was to meet the essential needs of the area not the needs of the business. Therefore, if the condition does apply, the building would be a normal agriculturally tied dwellinghouse.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/00629/LDE APP/Y9507/X/20/3252974	SDNPA	Woodside Farm Campsite Gosport Road Alton GU34 3NJ	Use of land as a caravan site	A 30 June 2021
Inspector’s Reasoning				

- During the course of the Inquiry, the appellant and the SDNPA came to an agreed position on the lawful use of the land outlined in red. The Inspector noted that appeal was open to an alternative view being given by them, but nevertheless, that agreed position carried significant weight in the Inspectors considerations.
- The main issue was whether the decision of the SDNPA was well-founded. This related to the decision rather than the reasons for taking that decision. This means that, even if the SDNPA's decision was well-founded when it was taken, it may not be now given the additional evidence presented in support of the later application and at the Inquiry. The Inspectors decision took account of that additional evidence and considered whether the decision was well-founded in light of that.
- The onus was on the appellant to provide evidence in support of a Lawful Development Certificate (LDC), with the relevant test of the evidence being on the balance of probability.
- The appellants stated that there had always between approximately 10 to 15 caravans occupied residentially in the period from 2008. The evidence provided was consistent, precise and unambiguous.
- The residentially occupied caravans now consist of touring caravans, including a Winnebago, and three static caravans. At least one of those static caravans was brought onto the site during the relevant period. There was some fluctuation in the number of touring and static caravans so it was not possible to specify the number of each in this particular case.
- The touring caravans were normally located under the trees to the side of the open field that formed the majority of the site area. The appellant explained that this helped with temperature control and reduced the need for caravans to move for maintenance purposes. This meant the caravans could not be seen on aerial photographs due to the canopy of trees, but the Inspector considered that these were not deliberately concealed.
- Regarding the holiday units, maximum numbers varied and no written records were presented, as it was found that most visitors paid in cash. Reference was made to people visiting for Christmas and contractors staying for work. Most evidence suggested the maximum number of holiday units visiting at one time was around 50, of which half were touring caravans. The figure of 25 touring holiday caravans agreed by the SDNPA appeared to be appropriate. No figure was put forward as to the maximum number of tents.
- The Inspector clarified that it was necessary to be precise as to the number of caravans in order to define the use such that it can be monitored and regulated by the SDNPA in the future. Consequently the Inspector specified the number of caravans on site as comprising of 14 that were permanently residentially occupied and 25 that were temporarily brought onto the site for occupation by holiday-makers and contractors.
- At the Inquiry, the Inspector heard that the buildings located close to the access to the site contained storage relating to the caravan site use, and also for storage by the residential caravans. The metal framed pole barn contained the residentially occupied Winnebago, another unoccupied caravan, van and other storage. These buildings were in that location for the whole of the relevant period. No evidence was produced as to any other uses within the buildings. The SDNPA concluded that they and the land immediately surrounding them have been used as part of the caravan site for the relevant period, so should be included within the area relating to the LDC.
- The Inspector noted that the buildings and surrounding land was outside of the red line of the plan within the submitted application. If this land was to be included, then they would need to take account of whether anyone would be prejudiced by its inclusion within any LDC. No substantive evidence was put forward to contradict that set out by the appellant relating to the use of the buildings and surrounding land. Whilst the amended site boundary would be closer to neighbouring dwellings, the appellant and the SDNPA agreed that the lawful use extends over this land. The Inspector concluded

that the issue of an LDC, including over that land, would not result in injustice to neighbouring occupiers, consequently it was accepted that this land would be included within the site on a plan attached to any LDC.

- The main access to the site was via a long and winding track from the road. There was another access shared with neighbouring houses that appeared to predate that access. The main access was not within the area outlined in red on the submitted plans and no evidence was provided relating to when use of that access commenced. Consequently, it was not possible to include this within the site area for the LDC.
- Reference was made to a shower block within the site which appeared to have been constructed within the relevant period, but it was unclear when. As the Inspector had limited evidence as to its lawfulness, and it was not referred to in the application for the LDC or the SDNPA's decision, it was not referred to in the LDC resulting from this appeal.
- The Inspector concluded that, based on the evidence now available, that the SDNPAs refusal to grant a certificate of lawful use or development in respect of the mixed use as a caravan and camping site operating all year round, comprising fourteen residential caravans, twenty five touring holiday caravans, and the siting of tents was not well-founded and that the appeal should succeed and a Certificate of Lawful Use issued.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/00814/LIS APP/Y9507/Y/20/3271120	Lewes	23 Friars Walk Lewes BN7 2LF	Removal of existing walls to lower ground floor & reinstatement of W.C. to a Listed Building	D 23 July 2021

Inspector's Reasoning

- 23 Friars Walk was described as a Grade II Listed three storey terraced dwelling with the front elevation constructed in grey brick headers and red brick dressings that date from the early 19th Century. It was located within Lewes Conservation Area (LCA) and contributed to the significance of the LCA as a heritage asset.
- The lower ground floor comprised a kitchen with access to storage rooms with W.C. to the front. The kitchen was divided from the storage rooms by a wall across approximately half the width of the building containing a window to the W.C. that provided light. The wall was a historic brick wall that was probably contemporary with the building. A beam above the opening between the kitchen and storage rooms continued the line of the wall.
- It was proposed to remove the historic brick wall and replace the beam. The layout of the lower ground floor, in particular the remaining historic section of wall between kitchen and storage room, contributed toward the significance of the listed building and one's understanding of it. The effect of the loss of the historic section of wall on the layout of the building would have a material harmful effect on the special architectural or historic interest of the listed building.
- The later stud walls dividing the storage space and W.C. was found not to contribute to the special historic interest or significance of the building. Its loss would have a neutral effect on the special interest of the listed building.
- A new block wall was proposed inside the front wall of this floor of the property with a new door to the storage room under the basement which would reduce the size of the storage room by a small amount and obscure the original front wall. As a result, this was found to harm the special interest of the listed building.

<ul style="list-style-type: none"> The Inspector noted that the internal layout changes would not preserve the historic significance of the Grade II Listed Building. However, given that the works were internal, this would preserve the character and appearance of the LCA. As such, the works would result in less than substantial harm to the significance of the listed building as a heritage asset. The Inspector concluded that proposal would not comply with Policies SD12 and SD13, Policy HC3B of the Lewes Neighbourhood Plan and paragraphs 194-200 of the NPPF. There would be no public benefits that would outweigh the identified harm, and therefore the Inspector dismissed the appeal. 				
Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/01390/FUL Appeal A - Ref: APP/Y9507/W/20/3264506 SDNP/20/01391/LIS Appeal B - Ref: APP/Y9550/Y/20/3264508	Chichester	Dunford House Dunford Hollow West Lavington West Sussex GU29 0AF	Change of use of listed building (Use Class C2) to a single dwellinghouse (Use Class C3), including demolition of modern extension and external and internal alterations	Appeal A D 05 August 2021 Appeal B A 05 August 2021
<p>Inspector's Reasoning</p> <ul style="list-style-type: none"> Dunford House was described as a Grade II Listed building, and was listed mainly for its historic interest over its architecture, being the home of eminent Victorian politician Richard Cobden and his daughters, also politicians and suffragettes. Since around 1920 the building had been used for training and education linked to the Cobden ideals and legacy, adding to the historic significance of the building. The Inspector held the proposed change of use to a dwelling would break this continuity and harm the historic significance of the building, albeit the harm was considered to be 'less than substantial'. The plans to remove an unsympathetic extension and restore a domestic use were, however, judged to enhance the architectural value of the listed building as the proposal could be regarded as better revealing the building's original architectural significance and character as a Victorian country house. The benefits were not as great as they could have been due to the proposed inclusion of a discordant swimming pool building directly to the rear of the structure. However, the addition would be sunken into the ground and would be much smaller than the sprawling accretions that were currently in situ. Thus, the works would enhance the architectural value of the listed building. The Inspector concluded that listed building consent should be granted for the proposed works, therefore Appeal B was allowed. In the heritage balance the Inspector agreed with the SDNPA that a use linked to the values and legacy of Cobden, which also allows public access, was going to be the optimum viable use of Dunford House. In addition, the evidence put forward by the appellant does not demonstrate the proposal for a single dwelling-house would be the optimum viable use of the building. 				

- It was considered that the proposal would enhance the architectural value of the listed building and its setting, and there were other public benefits (such as securing the long-term future for the building and a modest boost to housing supply). However it was considered by the Inspector that considerable importance and weight must be given to the special regard that must be paid to the desirability of preserving the listed building. The matter was finely balanced as the proposal would harm the historic value of the building but included significant public benefits. Overall, the public benefits of the proposal would outweigh the harm to the significance of the listed building. Thus, a conflict with Policies SD12 and SD13 would not occur.
- In the absence of a robust marketing exercise complying with local plan requirements to demonstrate no market demand for the existing use or an equivalent community use, the Inspector found conflict with Policy SD43 safeguarding community facilities. The conversion into a private dwelling would effectively prevent members of the public from experiencing the building as a cultural asset and would have an adverse impact on the social and cultural history and heritage of the National Park, which was given great weight.
- In conclusion, the Inspector allowed Appeal B and granted listed building consent (subject to conditions) for the proposed works of demolition and alteration, having found these would preserve the architectural value of the building. However, Appeal A was dismissed for the reasons set out above.

Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/02881/FUL APP/Y9507/W/21/3268358	Lewes	1-3 Friars Mews Pinwell Road Lewes BN7 2LW	Replacement of existing French doors with UPVC wood effect two panel sliding doors	D 18 August 2021
<ul style="list-style-type: none"> The appeal site was located within Lewes Conservation Area (LCA). The LCA is characterised by steep topography, historic buildings curved and undulating streets and open space. Timber frame windows are noted as a positive characteristic. Properties adjacent to 1-3 Friars Mews are outside of the LCA boundary and form a modern residential development. The set back of the properties and their appearance was seen to separate them from the historic buildings in the LCA. The proposal would seek to replace the first floor wooden patio doors, which were identified by the Inspector as not being traditional. As a result the loss of these doors would not represent a loss of a positive characteristic of the LCA. The Inspector noted that, in this specific context, the replacement doors would not be largely noticeable compared to the existing and as such would preserve the character and appearance of the LCA. The Inspector found that replacement doors would be undertaken to 3 dwellings (1-3 Friars Mews). No mechanism was presented to ensure that these would be undertaken at the same time and to the same, shape, size and standard as they were all in separate ownerships. The Inspector stated that this would cause an inharmonious mix of window styles in a highly visible position, and would cause less than substantial harm to the appearance of the dwelling and the LCA. It was acknowledged that replacement doors would require less maintenance, but this was a private benefit not outweighing the harm. In addition, it was argued that thermal performance would increase, however this was rebutted by the Inspector who concluded that on balance the energy required for the manufacture would outweigh this overall. The proposal was deemed contrary to Policy SD2, SD14 and SD15, and the Inspector dismissed the appeal. 				
Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Decision
SDNP/20/02881/FUL APP/Y9507/W/21/3270640	Chichester	Ashurst, Lickfold Road, Fernhurst GU27 3JB	Replacement dwelling and with associated parking.	D 18 August 2021
Inspector's Reasoning				
<ul style="list-style-type: none"> This site was the subject of a previously dismissed appeal decision, which was a material consideration the Inspector afforded weight. 				

- The appeal site was an early 20th Century Edwardian small-scale country estate, with a large two-storey detached dwelling, with extensive grounds. It was located on the outskirts of Fernhurst, within the 2016 addition to the Fernhurst Conservation Area (FCA) and was acknowledged as making a positive contribution to the character of the FCA.
- The house has changed as a result of previous demolition, alteration and extension works, and many of its original Edwardian architectural features have been lost. However, much of the original detailing remains discernible, such as original window design.
- The Inspector considered the existing dwelling comprised a non-designated heritage asset, for which the loss of the dwelling would result in an adverse loss of significance. This would also erode the significance of the FCA.
- The proposal would have a less harmful impact on the character and appearance of the site than that of the earlier appeal scheme, due to the omission of previously proposed alterations to the driveway, forecourt and former walled garden.
- The design of the replacement dwelling would be the same as that consented in the previous appeal scheme, therefore the design benefits acknowledged by the previous appeal were valid. However there was no significant improvements that would weigh in its favour.
- Additionally, there was an extant permission for a two-storey extension to the dwelling which would allow part demolition the existing building, however it would limit the element of building replacement to that of the unsympathetically altered part. The completion of the approved scheme would enable a majority of the Edwardian design style elements of the current appeal proposal to be carried out, whilst retaining a substantial part of the existing building. The Inspector was not persuaded that the extant permission justified the complete replacement of the existing building as now proposed.
- The Inspector considered that it would be very difficult to achieve a replica replacement building and highlighted that there was no guarantee that, despite imposing planning conditions, an exact re-creation of Ashurst in its original Edwardian form could be ensured, due to the use of modern materials and current legislative requirements.
- The Inspector concluded that the proposal would fail to preserve or enhance the character or appearance of the designated heritage asset and the proposal would fail to accord with Policies SD12 and SD15. The Inspector stated that the harm to the FCA would be no greater than “less than substantial”.
- The partial restoration of the former walled kitchen garden would amount to an enhancement, which would not be secured as part of the extant permission. This weighed modestly in favour of the proposal as it was seen as a public benefit. However, this benefit was significantly outweighed by the harm the development would cause to the character and appearance of the FCA. Additionally, no reasons have been put forward to demonstrate that these works could not still take place with an alternative re-build scheme.
- The Inspector acknowledged that there would be a public benefit from the implementation of modern energy technology that would reduce carbon emissions compared to the existing dwelling. However, this would be largely off-set by emissions that would result from the new construction. The Inspector found that the less than substantial harm would not be outweighed by any public benefits, therefore the appeal was dismissed.

Judicial Reviews				
Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Outcome
SDNP/20/02881/FUL APP/Y9507/W/21/3270640	SDNPA	1-2 Cuckmere Cottages South Hill Cuckmere Haven Seaford East Sussex BN25 4AR	Repair, reconstruction and extension of existing sea defences Repair, reconstruction and extension of existing sea defences	Quashed 25 June 2021
<p>Decision</p> <p>The SDNPA's decision to grant planning permission by a decision notice dated 26 March 2021 (for the repair, reconstruction and extension of existing sea defences at 1-2 Cuckmere Cottages, South Hill, Cuckmere Haven, Seaford, East Sussex) was quashed.</p> <p>The Court ordered by consent that the decision should be quashed on the basis that:</p> <ul style="list-style-type: none"> • Ground 1A. The SDNPA failed to carry out an environmental impact assessment contrary to Regulation 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017; • Ground 1B. The SDNPA failed to comply with section 125 and/or 126 of the Marine and Coastal Access Act 2009 by not assessing the risk to the protected features of the Marine Conservation Zone and/or related ecological and geomorphological processes or notifying the appropriate statutory conservation body; and • Ground 2. The SDNPA failed properly to apply the tests set out in Policy SD9 of the South Downs Local Plan. <p>The First and Second Interested Parties also conceded the claim on ground (1A), as set out above, but reserved their position with regard to grounds (1B), and the additional grounds put forward by the Claimant. For the avoidance of doubt, the Claimant considered that the Decision was also unlawful for additional reasons however, they accepted that those points did not require the determination of the Court given the Interested Parties' respective concessions on ground (1A), and the Defendant's concession on ground (1A-B) and (2), as set out above.</p>				
Planning Application and Appeal Reference Numbers	Authority	Site	Description of Development	Outcome
SDNP/18/05444/FUL CO/1773/2021	SDNPA	Garden Street Auction Rooms Garden Street Lewes BN7 1TJ	Redevelopment of 'former auction rooms' into ten residential units comprising two no. two-bed split-level apartments, four no. three-bedroom houses and four no. four-bedroom houses	D 25 June 2021

The SDNPA refused planning application SDNP/18/05444/FUL, which was subsequently granted on appeal. The appeal decision was subject to a Judicial Review on the following grounds:

- Ground 1 was made in relation to a public speaker at planning committee that had not been notified of the appeal made.
- Ground 2 was made to 1) challenge the Inspector's assessment of the evidence, and the final conclusions, and 2) sought to challenge the omission of each specific argument and representation made.

With regard to Ground 1, it was found that there were no obligations to inform the public speaker, as they had not made prior written representations, nor left their contact details at the meeting. On Ground 2, it was noted that the challenge was largely to dispute the outcome of the Inspector's assessment, and that no error of law had been identified. Therefore, the application to seek a Judicial Review was dismissed.

