

## Key to Appeals Reporting

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| <b>Method of decision</b> | All are delegated decisions unless otherwise specified                    |
| <b>Appeal method</b>      | All are determined via written representations unless otherwise specified |
| <b>Allowed</b>            | A   |
| <b>Dismissed</b>          | D   |

| Planning Appeals   |   |
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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/19/05824/FUL<br>APP/Y9507/W/21/3275512                           |
| <b>Authority:</b>  | East Hants  |
| <b>Site:</b>   | Broadlands Meadow Farm, Town Lane, Sheet, Petersfield, GU32 2AF       |
| <b>Description of Development:</b>                       | The development proposed is a rural worker's dwelling and farm track. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>Hearing<br>27 February 2023                               |

### Inspector's Reasoning:

- The main issue was whether there is an essential need for a dwelling to accommodate a rural worker with particular regard to the viability of the rural enterprise.
- The Inspector identified that this followed a temporary permission in 2017 for a temporary rural worker's dwelling and agricultural track which was still in situ. There was no dispute that the enterprise is established, extensive and would not undermine the special qualities of the National Park. The matter subject to debate was the extent to which the enterprise was shown to be a viable business for the purposes of paragraph (a) of Local Plan Policy SD32. At the time of the hearing the enterprise was comprised of 59 alpacas (including 15 pregnant females), 73 sheep and 47 goats, and a small number of rare breeds.
- The Inspector concluded that the submitted financial information clearly sets out the economic viability of the enterprise as required within Policy SD32. It led them to the view that the enterprise is viable, it has a reasonable prospect of remaining viable for the foreseeable future and the profitability is sufficient to justify the proposed dwelling. Consequently, the appeal scheme accords with the provisions of Policy SD32 and was able to demonstrate a genuine need for a countryside location.

**Costs Decision - Refused**

- The Inspector found the Authority (EHDC) to have acted unreasonably in respect of its delay in instructing an agricultural expert, the consequent failure to determine the application within the statutory time frame and failure to give proper notification of its explanation for the delay. However, this did not affect the refusal of the application or generate unnecessary or wasted expense for the appellant.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/03816/FUL<br>APP/Y9507/W/21/3289720   |
| <b>Authority:</b>  | Chichester  |
| <b>Site:</b>   | Birchwood, Lye Lane, East Ashling PO18 9BB  |
| <b>Description of breach of Planning Control:</b>        | The development proposed is described as the conversion of the stable for ancillary residential accommodation for disabled mother |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>3 March 2023  |

**Inspector's Reasoning:**

- The main issues were whether the proposed development would constitute ancillary accommodation; whether it is appropriate to the countryside location; and its effect on the character and appearance of the area with regard to the natural beauty of the South Downs National Park.
- The proposal sought to create a separate living unit to include 2 bedrooms, a bathroom, sitting room and kitchen. These facilities would support independent living from the main dwelling, which was used as a House in Multiple Occupation (HMO). The unit would share access, parking and garden space with the HMO but it was unclear how any future occupant of the proposed dwelling would live as part of the household on a day to day basis. On this basis it was tantamount to a separate dwelling. There was no essential need for the dwelling to be in the countryside and it would be unsustainable.
- The Inspector found that another unit of accommodation in addition to a 6 unit HMO would not constitute unacceptable urbanisation or alter the visual impact of the surrounding area. Whilst the proposal would not provide any enhancement it would conserve the character appearance and visual integrity of the SDNP in accordance with policy. There were no other matters or material considerations, including the Public Sector Equality Duty, that had a bearing on the outcome of the appeal. For the reasons set out above, the appeal was dismissed.

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| <b>Planning Application and Appeal Reference Number:</b>    | SDNP/21/02690/HOUS<br>APP/Y9507/W/22/3298327   |
| <b>Authority:</b>   | Chichester   |
| <b>Site:</b>  | St Andrews, Selham Road, West Lavington GU29 0EG   |
| <b>Description of Development and Condition in dispute:</b> | <p>The development permitted is proposed erection of a single storey orangery to the rear of the property.</p> <p>The condition in dispute is No. 3 which states that: 'The development hereby approved shall not be implemented in conjunction with any part of the previously granted planning permission reference SDNP/19/03251/HOUS'.</p> <p>The reason given for the condition is: 'In the interests of clarity and to avoid an inappropriate form of development by the partial or joint implementation of both permissions.'</p> |
| <b>Decision and Date of Decision:</b>                       | <b>A</b><br>3 March 2023   |

**Inspector's Reasoning:**

- Planning permission was granted for an orangery which included a condition preventing implementation of that permission in combination with single and two storey extensions and alterations permitted under SDNP/19/03251/HOUS. The main issue was whether the condition is reasonable, necessary and relevant having regard to the effect of the permitted developments on the character and appearance of the dwelling.
- The rear extensions on the two permitted schemes would overlap to a significant degree and any alternative construction which combined both elements would conflict with approved plans, therefore only one can feasibly be implemented. The disputed condition would restrict implementation of other discrete elements and alterations judged by the Authority to be acceptable on merit. Consequently the disputed condition is not necessary or reasonable and does not meet the necessary tests.
- The appeal was therefore allowed without the condition.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/00600/HOUS<br>Appeal Ref: APP/Y9507/D/22/3303595   |
| <b>Authority:</b>  | Lewes  |
| <b>Site:</b>   | 13 Mill Road, Lewes BN7 2RT  |
| <b>Description of Development:</b>                       | The development proposed is a part two storey, part single storey rear/side extension, creation of a porch and reconfiguration of the staircase. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>6 March 2023   |

**Inspector's Reasoning:**

- The main issues were (i) the effect of the extensions on the living conditions for neighbouring occupiers at No. 15 as regards outlook and light, and (ii) whether the cumulative increase in the amount of floorspace at the property would harmfully exceed the limit laid down by Policy SD31.
- The Inspector found that due to the eaves height and boundary proximity there would be a significant effect on the outlook from the kitchen and living room windows of No. 15, with a harmful increase in the perception of enclosure from these windows and the courtyard which was likely to be in frequent use. The extension at ground floor would intersect with the notional 45 degree line from the extensions guidance. Daylight and sunlight to these windows and courtyard would be reduced. The effect would be significant and harmful and conflict with Policy SD31(c) and paragraph 130(f) of the NPPF.
- The proposed 32% increase in floorspace exceeding Policy SD31 would not outweigh the harm arising from the first issue. Therefore, the appeal was dismissed.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/01837/HOUS<br>APP/Y9507/D/22/3303985                                      |
| <b>Authority:</b>  | Lewes   |
| <b>Site:</b>   | 58 South Way, Lewes BN7 1LY   |
| <b>Description of Development:</b>                       | The development proposed is the erection of a two-storey side and rear extension. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>6 March 2023  |

#### Inspector's Reasoning:

- The main issues were (i) whether the cumulative increase in the amount of floorspace at the property would harmfully exceed the limit laid down by Policy SD31 and result in the loss of a 'small/medium dwelling' and (ii) the effect of the development on the living conditions for the occupiers of No. 60 in terms of outlook, privacy and light.
- The parties debated whether the garage was to be counted under Policy SD31, which would take the percentage increase from 32% (appellant's calculation) to 47% (Authority's calculation). The garage was deemed by the Inspector to be ancillary and dated from pre-2002. No replacement garage was included and the Inspector concluded the removal of the outbuilding would improve the appearance of the site, therefore no concern was raised on this basis.
- The TAN in paragraph 3.6 defines a small or medium sized dwelling as having a gross internal area of 120sqm *and/or* having one, two or three bedrooms. The use of the word 'or' does not preclude the appeal scheme because the existing dwelling already has three bedrooms and although the first floor of the extension would provide increased floorspace and the provision of additional facilities, it does not increase the number of bedrooms.
- The extension would be set down and back to achieve the necessary subordination to the host dwelling. The increase in width and depth would be proportionate to the existing footprint. The removal of the existing garage on the boundary would more than compensate for the effect of the appeal scheme, set back, as regards outlook despite the two-storey height of the proposed extension. The relationship between the properties, outlook, privacy and light effects were deemed as acceptable and typical for side by side houses. No objection was raised by the nearest neighbour.
- The Inspector concluded that on both main issues there would not be harmful conflict with Policies SD5 and SD31 or paragraph 130(f) of the NPPF and accordingly allowed the appeal.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/04484/FUL<br>APP/Y9507/W/22/3301038  |
| <b>Authority:</b>  | SDNPA  |
| <b>Site:</b>   | Land West of The Flying Bull, London Road, Rake, Rogate GU33 7JB                               |
| <b>Description of Development:</b>                       | The development proposed is the erection of 4 no. dwellings (including 1 no. affordable unit). |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>21 March 2023  |

### Inspector's Reasoning:

- The main issues were (i) the effect of the proposal on the character and appearance of the area; (ii) whether the proposal would include adequate and safe car parking arrangements; (iii) whether the proposal would adequately address climate change; and (iv) whether the proposal would provide the necessary affordable housing.
- (i) The Inspector found that in contrast to the linear roadside character of Rake, particularly in the vicinity of the appeal site, with its detached, semi-detached and terraced housing lining the road frontage, the proposal is for an informally laid out group of detached houses around an in-depth cul-de-sac. The houses would be poorly related to each other, oriented in different directions, with Plot 4 isolated to one side with its own individual access. Plots 1-3 would also fail to relate satisfactorily to the road. The scheme makes inefficient use of land with an excessive area devoted to hardstanding for turning and manoeuvring, and an unduly large rear garden for Plot 1 which would most likely be domestic in character. The overall result would be a low density, suburban style cul-de-sac of primarily large detached dwellings which would be unsympathetic in its setting and contrary to the objective of the Neighbourhood Plan for smaller, ideally affordable housing that would complement the row of housing on the other side of the road. For these reasons the proposal would significantly harm the character and appearance of the area and the NP.
- (ii) The Inspector determined that while the overall number of parking spaces would be adequate, the tandem arrangement off the main road for Plot 4 would be unsafe leading to highway safety risks.
- (iii) On the matter of climate change and compliance with Policy SD48, the Inspector deemed that while preferably submitted pre-decision, compliance could be secured through pre-commencement conditions.
- (iv) No S106 legal agreement had been submitted to secure the one affordable home, which would conflict with Policy SD28.
- It was insufficiently clear that the footpath required by NDP policy H6B formed part of the proposal.
- The Inspector concluded that the benefits to local housing needs of four additional dwellings would be significantly outweighed by the harm that would result to the character and appearance of the area, highway safety and the lack of affordable housing provision, and dismissed the appeal.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/03110/FUL<br>APP/Y9507/W/22/3308594   |
| <b>Authority:</b>  | Lewes   |
| <b>Site:</b>   | 34 Middle Way, Lewes, East Sussex BN7 1NH   |
| <b>Description of Development:</b>                       | The development proposed is a new 3 bedroom dwelling on the land adjacent to 34 Middle Way. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>24 March 2023   |

#### Inspector's Reasoning:

- The main issues were (i) the effect of the proposed dwelling on the character and appearance of the area, and (ii) the adequacy of the private amenity area for future occupiers of the proposed house.
- The Inspector concluded that the proposed dwelling would have a harmful effect on the character and appearance of the area because of the combination of the radically different design (they noted the existing development on the 'Neville Estate' remains predominantly the same in terms of dwelling type, design and spatial pattern) and its 'cheek by jowl' setting with the host building / terrace on a 'tight' site that would result in the dwelling being perceived as incongruous. In addition, the chosen option of materials to match the terrace arguably served to confuse the contrasting design concepts and was insufficient to safeguard the street scene from the incongruity that would occur.
- On the issue of inadequate amenity space (the Authority's position), the Inspector concluded that whilst not wholly discounting the concerns raised, as the Authority does not have minimum space standards for amenity space, and with a small to medium-sized house, it may well be that future occupiers would require no more than a sitting out area, it was considered that the adequacy of the garden space should be more a matter of the residents' choice. Therefore, there was no unacceptable harm as regards either Policies SD5 and SD25 or paragraph 130(f) of the NPPF.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/02640/HOUS<br>APP/Y9507/D/22/3307103   |
| <b>Authority:</b>  | SDNPA  |
| <b>Site:</b>   | 83 Michel Dene Road, East Dean, East Sussex, BN20 0JZ  |
| <b>Description of Development:</b>                       | The development proposed is the construction of a veranda and external access steps on rear elevation with installation of a pair of doors from the lounge to the new veranda and cladding of part of the rear elevation |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>24 March 2023  |

**Inspector's Reasoning:**

- The main issue was the effect on the living conditions of neighbours in terms of privacy as a result of the construction and use of the veranda.
- Noting that similar permissions have been granted for verandas on other nearby properties (such as No.79), the Inspector concluded the relevant issue was whether the elevated outdoor area was disproportionately large, such that it causes egregious harm to the privacy of the neighbours.
- They concluded that the submitted plans showed a veranda that was both proportionate to the house and of a relatively modest scale. In addition, the view into the garden of No. 81 is already impeded by that dwelling's extension and a substantial area of bushes/ hedges, with the effect that only a modestly sized area at the bottom of that garden can be overlooked. Therefore, the veranda does not cause a significant loss of privacy for neighbouring occupiers in conflict with Policy SD5 and the appeal was allowed.



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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/03041/HOUS<br>APP/M1710/D/22/3306554   |
| <b>Authority:</b>  | East Hants   |
| <b>Site:</b>   | Enderley, Blacknest Road, Blacknest, Alton, GU34 4PX   |
| <b>Description of Development:</b>                       | The development proposed is the erection of a two-storey side and rear extension and a single storey rear extension, demolition of existing single garage and the addition of an attached double garage plus addition of a wooden open sided porch to the front elevation. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>24 March 2023  |

**Inspector's Reasoning:**

- The main issue was whether the appeal proposal would conflict with Policy SD31 that seeks to protect the supply of small and medium sized properties.
- Policy SD31 states (amongst other things) that the floorspace should not be increased by more than 30%. The Authority's calculations on this proposal note an increase of 118% (excluding the garage).
- The Inspector concluded that the existing dwelling can be regarded as a small/medium sized property and that the appeal proposal would result in the loss of such a dwelling. Therefore there is conflict with Policy SD31 and there were no exceptional circumstances that would warrant a departure from policy.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/04109/FUL<br>APP/Y9507/W/22/3290890  |
| <b>Authority:</b>  | Chichester   |
| <b>Site:</b>   | Land adjoining Sods Farm, Highstead Lane, Lickfold GU28 9EX                            |
| <b>Description of Development:</b>                       | The development proposed is a hardstanding area to allow vehicular access to the site. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>27 March 2023  |

### Inspector's Reasoning:

- The main issues were the effects of the proposal on the character and appearance of the area, with particular regard to the landscape and scenic beauty of the National Park.
- The Inspector noted that the majority of the site is covered by woodland and hardstandings may not be typically found in woodland locations in the area. However, the extent of the proposed hardstanding would be confined to the grassed area immediately adjacent to the field gate at the site's access point and would be sited away from trees. The proposed use of grasscrete as a material for the hardstanding would enable grass and other vegetation to grow within the voids of the hardstanding's structure. Therefore, whilst the hardstanding would initially have an engineered appearance, this would be temporary as the surface would become concealed by vegetation thereby minimising its visual impact. The proposed hardstanding, once grass cover is established, would not therefore appear as an incongruous feature. In addition, given its location any views to the hardstanding would be limited and fleeting glimpses experienced by users of the highway. The proposed hardstanding would not therefore appear prominent within the street scene or wider landscape. Therefore, there was no conflict with Local Plan policies and the appeal was allowed.
- In addition, whilst the proposal would involve some clearance of overgrown grassed areas and cutting back of shrubs, the proposal would not involve the removal of hedgerows. Therefore, the loss of hedgerows which provide foraging areas and flightlines for protected bat species would not occur from implementation of the proposal. The Inspector was satisfied the proposed development would not result in the loss of habitats of qualifying species and therefore the proposal would not have likely significant effects on the Ebernoe Common SAC, The Mens SAC, or the Singleton and Cocking Tunnels SAC, either alone or in combination with other plans or projects.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/02850/FUL<br>APP/Y9507/W/22/3297292  |
| <b>Authority:</b>  | SDNPA  |
| <b>Site:</b>   | Part of the Totalisator Building, The Motor Road, Old Racecourse, Lewes, BN7 IUR   |
| <b>Description of Development:</b>                       | The development proposed is change of use of part of an empty and redundant stable block from equestrian use to storage use. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>27 March 2023  |

### Inspector's Reasoning:

- The main issues were whether the site was an appropriate location for the proposed storage use in terms of the development strategy; whether the proposal conserves or enhances the natural beauty, wildlife and cultural heritage of the National Park; and whether satisfactory parking and loading/unloading facilities would be available.
- The Inspector noted that the storage use does not have an essential need for a countryside location nor would it promote or protect businesses linked to the National Park's key economic sectors. In addition, the site is some distance from Lewes and Brighton. Therefore, it is probable that the private vehicle would be relied on for most trips associated with the current business so the proposal would conflict with Policy SD19. This is probably the case for most storage uses, and it adds to the concerns about whether the site is an appropriate one for storage use.
- Therefore, the location would not be appropriate for the storage use in general, or furniture storage in particular, in terms of the development strategy for the area. Accordingly, the proposal would not amount to an appropriate re-use of previously developed land in this particular location. It would conflict with those parts of Policies SD25(2), SD34 and SD19.
- The Inspector concluded that the proposal would have a limited harmful effect on the National Park (as the proposal would have no relation to the historic equestrian or agricultural character of the area). It would not enhance or conserve the natural beauty and cultural heritage or how these are appreciated by users of the National Park and the countryside. Accordingly, there would be some conflict with Policies SD25(2), SD4, SD5 and SD6.
- The Inspector also noted that based on the information provided they could not be confident that sufficient space would be available for parking and loading/unloading associated with the proposed storage use and the use of the rest of the Building or that the nearby Bridleway would not be impeded. Therefore, there was conflict with Policy SD22.

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| <b>Enforcement Appeal Reference Number:</b>       | APP/Y9507/F/22/3305457   |
| <b>Authority:</b>                                 | Winchester   |
| <b>Site:</b>                                      | The Milburys, Beauworth Road, Beauworth, Alresford SO24 0PB  |
| <b>Description of breach of Planning Control:</b> | <p>The contravention of listed building control alleged in the notice is (i) the removal of 6no. traditionally detailed and rebated single glazed 6 over 6 timber sliding sash windows; and (ii) the replacement of the windows identified in item (i) with UPVC top hung double glazed units on the south elevation.</p> <p>The requirements of the notice are (i) remove the UPVC windows and frames shown circled in red on photo A; (ii) replace the windows circled in red on photo A with traditionally detailed vertical sliding 6 over 6 sash windows, without horns, with true glazing bars and a puttied finish. The windows and frames shall be constructed in timber and painted white inside and out. The replacement windows shall exactly match the traditional sliding sash 6 over 6 windows on the first floor of the western elevation in all respects; and (iii) make good surrounding fabric, where required, on a like for like basis.</p> <p>The period for compliance with these requirements is 6 months.</p> <p>The appeal is made on the grounds set out in section 39(1)(a), (d), (h), (i), (j), and (k).</p> |
| <b>Decision and Date of Decision:</b>             | <b>D</b><br>29 March 2023  |

**Inspector's Reasoning:**

- The Inspector noted that whilst the appeal form refers to appeals under grounds (a), (d), (h), (i), (j) and (k), it appears from the submissions that the appellant believes that listed building consent should be granted for the works involved. Therefore, they also considered an appeal under ground (e).
- On Ground (a) - for an appeal to succeed under ground (a), it would need to be shown that the building is not one of special architectural or historic interest. The Milburys is listed at Grade II and dates from the mid 18th Century with 19th Century additions. The appellant did not dispute the list entry and Inspector concluded to that extent, the building is evidently one of special architectural and historic interest. In addition, they noted it is a fine example of a mid 18th Century Public House, with traditional form, materials and detailing, that very clearly warrants its place on the statutory list. Therefore the appeal on Ground (a) fails.
- On Ground (d) – for an appeal to succeed under ground (d), it would need to be shown that the works were urgently necessary in the interests of safety or health or for the preservation of the building, and that the works carried out were limited to the minimum measures immediately necessary. The Inspector noted that the windows previously in place were single glazed, may well have been draughty and in turn may have had an impact on the

health and well-being of the appellant. However, they concluded there appeared to be no good reason why these impacts could not have been alleviated by refurbishing and draughtproofing the existing windows, or failing that, replacing them like for like with appropriate timber sliding sashes.

- On Ground (e) that listed building consent ought to be granted for the works – The Inspector concluded that the listed building is a fine example of a mid 18th Century Public House, with traditional form, materials and detailing. The timber windows, whether sashes or casements, with their customary joinery details, make a substantial contribution to all that. In that context, the removal of the traditionally detailed timber windows from the south elevation has harmed the special architectural and historic interest of the listed building. The UPVC windows that have been installed in their place are a very poor substitute. The detailing is very clumsy, with much thicker framing sections, that are particularly evident on the opening lights. The top hung nature of the opening lights is itself incongruous. Moreover, the glazing bars are applied to the surface of the glass and as such, lack authenticity. The replacement windows have had a profoundly harmful impact on the special interest and significance of the listed building. Therefore, there is no justification for a grant of listed building consent for the works that have taken place and the appeal on ground (e) fails.
- On Ground (h) - that the period specified in the Notice falls short of what should reasonably be allowed. The Notice specifies a period of six months. Whilst the Inspector noted the Authority's suggestion that compliance period could be extended to nine months, they concluded that six months is a reasonable period for the unauthorised windows to be properly replaced.
- On Grounds (i), (j), and (k) - Ground (i) is that the steps required by the Notice for the purpose of restoring the character of the building to its former state would not serve that purpose. Ground (j) is that steps required to be taken by the Notice exceed what is necessary to alleviate the effect of the works, while Ground (k) is that steps required to be taken exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with. Ground (k) fails as there has been no grant of listed building consent for the works carried out and therefore there is no listed building consent that the appellant could have complied with. With regards to grounds (i) and (j), there was no dispute that six original, timber windows were removed, and replaced with six UPVC windows. The Inspector found that removing the UPVC windows, and replacing them with appropriately detailed timber windows, would restore the building to its former state and that these works were the minimum necessary to alleviate the effect of the unauthorised works.
- The appeal was dismissed.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/06431/FUL<br>APP/Y9507/W/22/3308885   |
| <b>Authority:</b>  | SDNPA (Planning Committee decision)   |
| <b>Site:</b>   | A3 Buriton Interchange, Petersfield   |
| <b>Description of Development:</b>                       | The development proposed is a change of use and redevelopment of the site to provide a recharge centre for electrically powered vehicles, with control and battery room and secure area for the delivery and storage of Bio Gas. Up to 60 eco-lodges (Use Class C1), and engineering work to create an earth sheltered block comprising up to 1,330m2 of tunnel floor space for a flexible mix of uses within classes C1 and E(a)(b)(c). The formation of a two-way entrance off the B2070, the laying of a perimeter vehicular access road, with link roads, cycle tracks, and areas of hardstanding to provide up to 127 parking spaces. Engineering work for the purpose of landscaping and operations to install drainage infrastructure. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>Public Inquiry<br>29 March 2023   |

### Inspector's Reasoning:

- The SDNPA refused planning permission for four reasons: i) that the proposed development was major development for the purposes of paragraph 177 of the NPPF and it had not been demonstrated that there were exceptional circumstances in the public interest to justify the need for the development on this specific site, ii) that the development would not conserve and enhance the National Park landscape and would result in an incongruous urban and intensive form of development in a rural location (including harming dark night skies), iii) as Biodiversity Net Gain was not provided and it had not been demonstrated that the proposals would not cause harm to protected species and, iv) highways grounds and safe access and egress of the site.
- In advance of the inquiry and following the submission of further information by the appellant, the SDNPA confirmed that the third (relating to ecology) and fourth (relating to highways matters) reasons for refusals no longer applied. Therefore, the Inspector considered the main issues in the appeal were whether the proposal would conserve or enhance the National Park's landscape and scenic beauty and whether the proposal constitutes 'major development'.
- The Inspector found that the A3 slip roads entirely separate the appeal site from the wider landscape and that the site is dominated by surrounding road infrastructure and embankments and is evidently an island piece of land left over after the introduction of the A3. The treed boundaries of the site would largely remain and be supplemented with further planting. The ancient watercourse on site would be retained and incorporated into the scheme.

- The Inspector noted that the development would be located alongside a major trunk road and be surrounded by infrastructure associated with it. It would, he considered, be quite distinct from any settlement with vast areas of countryside continuing to surround the site. The Inspector considered that the existing site made little positive contribution to the wider landscape given its isolated context and poor condition. The holiday lodges, although regimented in their linear layout, would subtly follow the line of the ancient watercourse. The Inspector held that the development had been designed to work with the few positive characteristics the site had (boundary trees and the watercourse) and that the design of the scheme could be reasonably described as landscape led.
- The Inspector explained that, in views, the development would be relatively well contained. From Butser Hill the development would be viewed in context with other built form including Petersfield, the houses on Greenway Lane and the A3 and its slip roads and infrastructure. The development would be viewed in this context, as a very small part of the view, and screened heavily by existing and proposed boundary landscaping.
- Overall the Inspector considered that the scale and extent of development would be limited, being contained within established trunk road infrastructure. Whilst the Inspector noted that it unlikely that the effects of the development would be mitigated entirely the landscape and visual effects would be no more than minor.
- The lighting strategy proposed was a good one (where all opportunities to reduce light pollution had been taken) and the lighting would have only a minor impact with little consequence beyond site boundaries. There would be no harm to the International Dark Skies Reserve.
- The Inspector did not consider that the proposal represented 'major development' on account of the major highways infrastructure surrounding the site, its very well screened nature and as it would not have a significant adverse impact on the National Park's statutory purposes. It was not therefore necessary for exceptional circumstances to be demonstrated.
- The tourism accommodation provided was considered to be a benefit of the proposals, given the need for additional tourist accommodation in the National Park. The off grid nature of the proposal (it would use biogas and solar panels) was also considered a benefit.
- The Inspector stated that the National Park is not exempt from the need to provide infrastructure for electric vehicles and the delivery of a significant number of electric vehicle charging points alongside the busy A3 would be very beneficial.
- The Inspector allowed the appeal, noting that it is exactly the sort of development that would assist in meeting Climate Change objectives and that the harm from the scheme (to which he attached great weight) would be far outweighed by the substantial benefits of the scheme. 39 planning conditions were attached to the grant of planning permission.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/04858/FUL<br>APP/Y9507/W/22/3291439  |
| <b>Authority:</b>  | Chichester   |
| <b>Site:</b>   | Former Cricket Pavilion, The Old Coach House, Hawkhurst Court, Kirdford, RH14 0HS  |
| <b>Description of Development:</b>                       | The development proposed is retrospective planning application for the conversion of a former cricket pavilion into a holiday let. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>03 April 2023  |

### Inspector's Reasoning:

- The main issues were the effect of the development on the character and appearance of the area; and the effect on biodiversity taking particular account of whether or not water neutrality has been demonstrated.
- The Inspector noted the exterior wall cladding, roof shingles, and windows have been replaced using similar materials and two new windows and insulation has been installed. None of these works individually or collectively have a significant impact on the character and appearance of the building and most likely would not require planning permission. The hard standing for vehicle parking, gravel seating area, swing and fire pit are indicative of domestic use and have a suburbanising effect. However, this is relatively slight; the sport pitches use would have had structures and hardstanding's associated with them; and a condition could control any further enclosure of the curtilage. There would be some vehicle movements associated with the holiday let but this is small scale and in the context of vehicles associated with the houses at Hawkhurst Court. Generally, the development is well located in terms of access to rights of way and there are many tourist attractions in the locality. Therefore, the Inspector concluded the development does not have a harmful effect on the character and appearance of the area.
- On biodiversity, the Inspector concluded that the development does not have likely significant adverse impacts on species at The Mens, the Ebernoe Common or the Upper Arun Valley statutorily protected nature conservation sites. This accords with the findings of Natural England (NE) who raised no objection to the development on these grounds. In addition, conditions could be imposed that would secure the delivery of a wildflower meadow and other planting as recommended in the Bat Scoping Report and Preliminary Ecological Appraisal; appropriate mitigation as proposed in the Lighting Strategy; and to limit the number of nights of occupation.
- On water neutrality, the Inspector concluded that insufficient information (in accordance with published guidance) had been provided so they could not confidently conclude that water neutrality had been demonstrated or that the existing risk of adverse effect on the Arun Valley protected sites would not be added to. Therefore, the proposal conflicted with Policies SD1(2), SD2(c) SD9(d) and SD17 and the Habitats Regulations in terms of conserving water resources and the effect on the protected habitats of the Arun Valley. The appeal was dismissed.



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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/02436/HOUS<br>APP/Y9507/D/22/3308025              |
| <b>Authority:</b>  | Chichester  |
| <b>Site:</b>   | Firs Cottage, Nyewood Road, Nyewood, Petersfield GU31 5JA |
| <b>Description of Development:</b>                       | The development proposed is a first floor rear extension. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>03 April 2023                                 |

### Inspector's Reasoning:

- The main issues were (i) the effect of the proposed living conditions for occupiers of the neighbouring property as regards outlook & light and (ii) the increase in floorspace having regard to the provisions of Policy SD31.
- With regards to outlook, the Inspector concluded that, Roseleigh, the other half of the semi-detached pair, has a first floor bedroom window in close proximity to the western flank wall of the proposed extension. Although the existing two storey development at Firs Cottage has some effect on the outlook from the bedroom, there would be a significant increase in perceived and actual enclosure from a wall of the depth proposed this close to the window. Whilst the principal outlook is directly to the south east, the quality of the aspect would significantly change for the worse following the removal of any peripheral vision immediately to the east and east-south-east.
- With regards to light and sunlight, the Inspector concluded that that with the bedroom's primarily southern aspect, the reduction in daylight would not in itself be so significant as to carry great weight in the decision making. They also had regard to the orientation of the dwellings in relation to the sun's path, and concluded that the combined height of the wall and roof would substantially increase the period during which the bedroom window would be in shadow. This would be all or most of the time when the sun is rising in the east to its southerly peak. The loss of direct sunlight combined with the reduction in outlook would have a materially detrimental impact on the enjoyment of the room concerned and would be counter to the requirements of paragraph k) Policy SD5.
- With regards Policy SD31 (which sets the limit of approximately 30% increased floorspace of an existing building unless there are exceptional circumstances). In this case the dispute is 36% (the Authority's position) or 32% (the appellant's position). The Inspector concluded they did not need to adjudicate as to the correct figure because of the additional proviso in criterion c) of the policy which states that a proposal should not be overbearing or of a form which would be detrimental to the amenity of nearby residents by virtue of loss of light and/or privacy. The Inspector had already found that the proposal was unacceptable in this regard therefore the proposal was harmful and in conflict with Policy SD31.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/04099/FUL<br>APP/Y9507/W/22/3301657   |
| <b>Authority:</b>  | SDNPA   |
| <b>Site:</b>   | Greenhaven, Home Farm Road, Brighton BN1 9JS  |
| <b>Description of Development:</b>                       | The development proposed is described as a replacement dwelling and associated landscaping. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>04 April 2023   |

### Inspector's Reasoning:

- The main issues were (i) Whether the proposed development would be appropriate having regard to the spatial strategy of the development plan; (ii) The effect of the development on the landscape, natural beauty and cultural heritage of the South Downs National Park; (iii) The effect of the development on biodiversity; (iv) The effect of the development on climate change; and (v) The effect of the development on highway safety and access.
- The Inspector noted that Policy SD30 indicates, amongst other things, that replacement residential dwellings outside settlement boundaries will be permitted where the structure, constituting all new and existing development, does not result in a net increase of more than approximately 30%, compared with the gross internal area of the existing dwelling. Both parties acknowledge that some form of accommodation existed at the site on 18 December 2002. What was in dispute was whether the outbuildings were utilised for ancillary domestic purposes.
- The Inspector concluded that in the absence of convincing evidence, it cannot be said which outbuildings were utilised for ancillary domestic purposes on 18 December 2002 and which had non-domestic uses. Therefore, the only clearly demonstrated uses would be the mobile homes (Buildings A and C). The total GIA of these buildings would be approximately 124sqm. The proposed development would have an approximate total GIA of 245sqm. This increase would be significantly more than 30% of 124 sqm and consequently would conflict with Policy SD30.
- The Inspector concluded, while parts of the site would align with the contours of the site, this would not offset the significant increase in height, width, depth, length and form of the development proposal. There is also limited evidence-based analysis, appraisal or strategy associated with the proposed design approach in relation to conserving or enhancing the distinctive character, pattern and evolution of the National Park, its natural beauty or cultural heritage. For all these reasons, this would unacceptably increase the presence of development in this elevated, sensitive, tranquil, and remote site, harmfully eroding the intrinsic value and visual integrity of the special landscape and therefore would conflict with the relevant provisions of Policies SD1, SD4, SD5 and SD25.
- On biodiversity, the Inspector noted there was limited evidence present to suggest that planning conditions would not deliver the net gains or that such conditions would not secure updated bat surveys.

- With regards to Climate Change and Policy SD48 – these requirements could be achieved via a planning condition.
- On highway safety and access, the Inspector noted the appeal site has an established residential use. The access is already in use. There is no evidence to suggest traffic or pedestrian access would unacceptably increase as part of this appeal proposal and the proposed development would not introduce any new unacceptable or adverse highway safety hazards or severely affect the free flow of traffic over existing levels.

**Costs Decision - Refused**

- The applicant considers that the Authority behaved unreasonably by failing to objectively support its reasons for refusal at appeal. This includes confusing the terms ‘incidental’ and ‘ancillary’ and declining to further negotiate upon receipt of additional information which was provided during the application’s lifecycle.
- On the issue of ‘incidental’ and ‘ancillary’, the Inspector noted it could be reasonably said that such terms may be applied interchangeably given the absence of any definitive definition. Nevertheless, it had not been clearly shown that the application of either use of these terms would have been determinative to the outcome of this appeal. This is because the appeal finding principally turned on whether the outbuildings had demonstrated a domestic use rather than any nuanced ancillary or incidental use.
- The Inspector noted that the Authority is required to make a decision based on the information submitted. While it is good practice to work proactively and resolve / narrow areas of dispute, the Authority is entitled to come to a decision based on what has been submitted.
- The Inspector concluded that unreasonable behaviour by the Authority had not been demonstrated. Therefore, unnecessary or wasted expense had not been incurred by the applicant. Consequently, the application for an award of costs was refused.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/00505/HOUS<br>APP/Y9507/D/22/3308907  |
| <b>Authority:</b>  | Chichester  |
| <b>Site:</b>   | Brickyard Cottage, Surrey Road, Lodsworth, Petworth GU28 9DR                                |
| <b>Description of Development:</b>                       | The development proposed is a glazed link between the main cottage and the detached office. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>06 April 2023   |

**Inspector’s Reasoning:**

- The main issue was the effect of the proposed glazed link on the character and appearance of the host building and its surroundings.

- The Inspector noted that although originally a cottage when built in the 1800's, as a result of significant extensions permitted in the 1960's and again about 20 years ago, the appeal dwelling is now a substantial country house that sits unobtrusively in its secluded grounds of over an acre. In the period between these extensions the self-contained office was permitted in 2008 and is linked to the dwelling by a paved area enclosed at the front by a low wooden fence and to the rear by a brick wall that retains the lawn at a higher level. They also had regard to the comments made by the Historic Building's Advisor on the earlier alterations and additions on the building's historic character and noted their disagreement with the appeal scheme. However, their observations also comment that *'the original historic building has already been extended beyond the point where it can retain its historic character and identity'*.
- The proposed glazed link that would have the functional role of connecting the house with the office, thereby allowing moving between them without the inconvenience of going outside, especially at times of inclement weather. The Inspector concluded that the link would be perceived as a lightweight structure far superior in appearance to the existing wooden fence. Moreover, a contemporary glazed addition to a historic building is a well-established principle in development proposals, subject to its subservience and high quality detailing and materials. Accordingly, no harm would be caused to the character or appearance of the existing building, the immediate surroundings of the dwelling's gardens, and to this part of the National Park. There would therefore be no conflict with the Local Plan policies.

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| <b>Enforcement Appeal Reference Number:</b>       | APP/Y9507/C/21/3284536  |
| <b>Authority:</b>                                 | East Hants  |
| <b>Site:</b>                                      | Land known as Lone Barn Farm, Church Lane, Greatham, Liss, GU33 6HB   |
| <b>Description of breach of Planning Control:</b> | <p>The breach of planning control as alleged in the notice is without planning permission and within the last 10 years, a material change of use of the land to a mixed use of agriculture and the stationing of a caravan for residential purposes.</p> <p>The requirements of the notice are: 1) Cease the use of the land for the stationing of caravans for the purposes of human habitation/residential use. 2) Remove the caravan from the land. 3) Remove all items from the land that relate to domestic living. 4) Removal all other items including hard surfaces, structures and all fencing from the land that facilitate and relate to the residential use. 5) Remove the stable building and associated hard surface. 6) Restore the land to its condition prior to the breach of planning control taking place.</p> <p>The period for compliance with the requirements is: 6 months.</p> |
| <b>Decision and Date of Decision:</b>             | <p><b>D</b></p> <p>Hearing</p> <p>14 April 2023</p>   |

### Inspector's Reasoning:

- The Inspector considered the number of alpacas, their location, quality of the land and levels of risk to the stock, the financial viability of the enterprise, functional need and the vulnerability of the alpacas when giving birth and raising young. The Inspector found that while living on site would be convenient and for some of the year would be important to welfare, a year-round occupation was not essential; a seasonal workers caravan may be sufficient. The Inspector considered that the applicant's intention to live on site was the underlying intention of the enterprise. This was not appropriate in a National Park where new housing is strictly controlled for good reasons. The Inspector had doubts that the enterprise was planned on a sound financial basis nor that there was a year-round functional need. The dwelling was contrary to Local Plan policy SD32.
- Wording alterations were deemed necessary under ground (f) to specify that it was the mobile home subject to the enforcement action and not the touring caravan or campervan (requirements 1 and 2). Domestic paraphernalia should be used as a specific term under (3). The hard surfacing and fencing were not considered to be materially different to the situation when the land was purchased, therefore these were removed from the requirement, with the septic tank instead identified specifically. Requirements (5) and (6) were amended to more precisely refer to the stable building and require the removal of the hardstanding under it.

- An extension from 6 months to 8 months for compliance was deemed appropriate by the Inspector, due to the need to sell the alpacas who may be at different stages of pregnancy.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/05482/PA16<br>APP/Y9507/W/22/3294264  |
| <b>Authority:</b>  | SDNPA   |
| <b>Site:</b>   | Land on the north west side of Kiln Lane, Buriton, Petersfield  |
| <b>Description of Development:</b>                       | The development proposed is the installation of a 15m slim-line alpha pole supporting 1 no. integrated internal tri-sector antenna, 4no. equipment cabinets, landscaping and ancillary development thereto. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>17 April 2023   |

#### Inspector's Reasoning:

- The principle of development is established by the General Permitted Development Order (Schedule 2, Part 16, Class A) therefore the remit of the Local Authority relates solely to the siting and appearance of the equipment.
- The main issues were: (i) The effects of the siting and appearance of the proposal on the landscape and scenic beauty of the South Downs National Park; (b) Whether the proposal would preserve the setting of the Buriton Conservation Area; and (iii) If any harm would occur in respect of the above issues, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.
- Through its open, agricultural appearance set against the backdrop of the scarp, the Inspector found that the site contributes positively to the landscape character of the National Park. Noting amendments following a previous refusal, the installation would be further set back from Kiln Lane, reducing its visual prominence. Views would be largely obscured by vegetation other than through the field gate or lower or sparse sections of hedgerow. Where visible from nearby dwellings, the mast would be seen against the wooded backdrop of the scarp; from the recreation ground and further afield it would be seen against the sky. The proposed mast would add to existing visual clutter however the presence of existing telegraph poles which are prominent vertical features, would aid the assimilation of the proposed mast into its surroundings, as would the visually prominent passing trains on the railway. These man-made features serve to increase the capacity of the landscape to accommodate the proposal in the view of the Inspector. The proposed planting strategy would not wholly mitigate the visual impacts of the proposal.
- The Inspector concluded that the siting and appearance of the installation would adversely affect the landscape and scenic beauty of the National Park, which carries substantial weight.

- On matter (ii), the proposal would be sited in the setting of the Conservation Area, where it would introduce a tall, modern feature of functional appearance which would be out of keeping with the area's historic and rural character. This would be detrimental to the unique and distinct landscape setting of Buriton village at the foot of the Buriton Scarp, but such harm would be modest under paragraph 202 of the NPPF. The Inspector found that the public benefits of providing network coverage in Buriton and the railway would carry significant weight and this would outweigh the less than substantial harm to the Conservation Area.
- With regard to matter (iii) the applicant undertook a sequential search of 13 potential alternative sites in the local area (Buriton Village and the specific section of railway line) and none were found to be more appropriate. The Inspector considered the methodology and results for alternatives were satisfactory and the submitted evidence provided clear persuasive reasoning for the discounting of each alternative option. The Authority had not put forward any preferable sites. The proposal was considered to be the least harmful available option and the appeal was allowed.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/04144/FUL<br>APP/Y9507/W/22/3298808  |
| <b>Authority:</b>  | SDNPA (Planning Committee Decision)  |
| <b>Site:</b>   | Broad View Farm, Blacknest Road, Binsted, Alton GU34 4PX   |
| <b>Description of Development:</b>                       | The development proposed is change of use of agricultural land to glamping site to include 6 timber framed glamping tents for holiday accommodation all year round, with associated parking. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>20 April 2023  |

#### Inspector's Reasoning:

- The main issues were: (i) The effect of the proposal on the character and appearance of the area, including whether or not it would conserve or enhance the landscape and scenic beauty of the National Park and (ii) Whether the proposal would provide adequate means of foul drainage to serve the development.
- The Inspector noted that the proposed glamping site comprised a grassed paddock, which was largely undeveloped except for a small field shelter. The paddock is bound by a low post and rail timber fence and has an open, rural and quiet character. They also noted that the whole site was already subject to farm diversification (the 4 timber lodges providing tourist accommodation) and that the proposal would in effect, comprise an expansion of the existing adjacent approved tourist facilities.
- However, the Inspector concluded that the proposal would introduce a sprawling layout of development that would be at odds with the existing cluster of tourism-related activities on the farm (i.e. the existing lodges are laid out informally, and include variety in design, as well as in positioning in relation to each other). This ad-hoc arrangement of structures, together with their timber lodge form, means they sit comfortably on the site within

the context of the farmyard setting. Whereas, the combination of the proposed size of the units, and their regular rectangular-shaped form, rigid and linear layout, regular spacing in relation to each other and identical orientation of the glamping tents would all combine to result in an unduly regimented formal layout of development which would be strongly at odds with the adjacent sporadic and organic arrangement of structures.

- The increased noise and activity associated with the use of the tents would significantly encroach upon the tranquillity of the area. Moreover, it would not be unreasonable to assume that footpath access would be required (although not shown on the submitted drawings) and given the site is liable to be wet and muddy at particular times of the year, some form of hardcore (similar used for the existing lodges) would be likely. Such access arrangements would contribute to the urbanising impacts upon this part of the landscape.
- In addition, the proposal is offered limited screening from existing trees and would be visually dominant over and above that of the farm buildings, and would stand out as an anomaly within the surrounding rolling downland pastures. This harmful visual impact would be exacerbated during the winter months when the tree belt adjacent to the site is more sparsely leafed. Noting the appellant's proposal to plant additional natural screening within the SINC tree belt and new hedging along the southern site boundary, even if it were possible to effectively screen the development, this would not mitigate the intrinsic harm to the landscape character that would arise from the proposal. Therefore, the proposal is contrary to policies SD1, SD2, SD4, SD5, SD9 and SD23.
- On issue (ii) the appellant proposes to connect the new units to the existing foul drainage system serving the existing holiday lodges. However, no evidence was submitted to demonstrate there was sufficient capacity to accommodate the new units. Whilst the matter of foul drainage is capable, in principle, of being dealt with by condition, the Inspector concluded it was not unreasonable for the Authority to seek a further degree of certainty, and the Authority would need to be satisfied that should an alternative be required (if there was not sufficient capacity on the existing system) that this could be achieved without harm to the nature conservation of the site. Therefore, the proposal was contrary to SD5 as insufficient information had been provided to satisfactorily demonstrate the proposal would provide adequate means of foul drainage.

### **Costs Decision - Refused**

- The applicant's view was that the Authority's refusal was unreasonable and unjustified, as the Authority did not apply reasonable planning judgement, failed to substantiate the reasons for refusal and failed to impose conditions that could have overcome the objections.
- The Inspector found that the Authority's decision notice was complete, precise and specific and that the reasons for refusal were adequately substantiated within the Planning Committee Report, Committee Minutes and the Authority's Appeal Statement. In addition, the Inspector noted that in dismissing the appeal, they concluded that the Authority was justified in not dealing with the drainage objection via a condition.
- The Inspector concluded that unreasonable behaviour by the Authority had not been demonstrated and the application for an award of costs was refused.



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| <b>Enforcement Appeal Reference Number:</b>       | APP/M1710/C/21/3288365   |
| <b>Authority:</b>                                 | East Hants   |
| <b>Site:</b>                                      | Land South of Spring House, Stairs Hill, Empshott, Liss, GU33 6HR  |
| <b>Description of breach of Planning Control:</b> | <p>The breach of planning control as alleged in the notice is within the last 10 years and without planning permission, a material change of use of land to a mixed use of agricultural and recreational.</p> <p>The requirements of the notice are to:</p> <p>(i) To cease the use of the caravan for recreational use, hatched in the approximate position on the attached plan.</p> <p>(ii) Remove the caravan from the Land edged red on the attached plan.</p> <p>(iii) Remove all resultant materials from the Land.</p> <p>The period for compliance with the requirements is three months.</p> |
| <b>Decision and Date of Decision:</b>             | <p><b>A</b></p> <p>16 May 2023</p>   |

### Inspector's Reasoning:

- The enforcement notice was quashed (and the appeal allowed) as the notice as drafted did not specify with sufficient clarity the alleged breach of planning control and the steps required for compliance. In addition, the Inspector concluded it was not open for them to correct the errors in accordance with the powers under section 176(1)(a) of the 1990 Act as amended, since injustice would be caused were they to do so.
- The main issue considered was the term 'recreational' used within the notice. The requirements of the notice essentially focused on ceasing the use of the caravan at the site for recreational use and its removal from the land.
- From the Authority's submission, the Inspector concluded that Authority reference to 'recreational use' was referring to 'hobby farming'. Nevertheless, the allegation is not as clear as it should be in telling the appellant what he has done wrong. Consequently, to put it on a proper footing, it would need to be corrected. However, doing so could result in injustice to the Authority if a more detailed allegation were not to properly encompass its concerns. Injustice could also be caused to the appellant as the scope of the allegation would potentially be expanded.
- The Inspector also concluded that the requirements of an enforcement notice should also square up with and follow logically from the allegation. That isn't achieved in this case. The allegation is a material change of use of the *land* to a mixed use of agricultural and recreational whereas the requirements are to cease the use of the *caravan* for recreational use, along with its removal from the land.

- The stationing of a caravan is normally taken as constituting a use of the land and the notice does not require the recreational use of land to cease. Consequently a ‘recreational use’ of all the land subject to the enforcement notice, not just where the caravan is stationed, could be granted unconditional planning permission under s173(11) of the 1990 Act. For the same reasons, that would also apply to any hobby farming, as the notice doesn’t require that to cease either. Therefore, the notice was quashed.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/03290/FUL<br>APP/Y9507/W/22/3301680   |
| <b>Authority:</b>  | Chichester  |
| <b>Site:</b>   | North Lane House, North Lane, Charlton, Singleton PO18 0HU  |
| <b>Description of Development:</b>                       | The development proposed is replacement of existing domestic outbuilding with a single storey barn to form a self contained holiday let (C3). |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>23 May 2023   |

#### Inspector’s Reasoning:

- The main issue was the effect of the proposed development on the character and appearance of the area, including the Charlton Conservation Area (the CCA) and the National Park.
- The Inspector noted that the existing stable building and adjacent workshop are low level and timber clad. Despite being used for domestic storage, by reason of their simple character and relationship to the adjacent paddocks, they appear typical of a rural setting, and contribute to the transition of the edge of the village into the countryside beyond. This rural character also contributes positively to the setting of the CCA, which encompasses buildings within the village to the south. As such, the stable and workshop contribute in part to the appreciation of the significance of the CCA.
- The Inspector concluded the replacement building would create a more regular shaped form, with an increased footprint and slightly higher ridgeline. It would comprise traditional materials, intended to respect those in the adjacent village, and include windows and doors of a domestic appearance across a substantial portion of its north facing elevation, as well as a flue. In combination, these features would result in the building having a more domestic character and appearance, in stark contrast to the stable building which currently exists. This would result in the perceived edge of the village creeping further to the north along North Lane, further diluting the nucleated form of the existing settlement and causing encroachment of the village edges into the countryside and into the setting of the CCA. Therefore, the proposal would cause harm to the character and appearance of the area and the landscape character of the National Park.
- In addition, for the same reasons the proposal would cause some harm to the CCA through the loss of the rural character in its setting, to which the site contributes. The Inspector concluded that this would be at the lower end of the scale given the scale of the proposal and would be less than

substantial. However, the public benefits of the scheme (i.e. providing a unit of tourist accommodation) would attract moderate weight and would not outweigh the harm identified.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/00894/FUL<br>APP/Y9507/W/22/3292828      |
| <b>Authority:</b>  | Lewes  |
| <b>Site:</b>   | Land West of The Drove, BN6 8TR                  |
| <b>Description of Development:</b>                       | Use of land for the keeping of 5 or more horses. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>05 June 2023                         |

#### Inspector's Reasoning:

- Preliminary Matters – the Inspector noted that the Authority refused an application for a Certificate of Lawful Use or Development (CLEUD) and the evidence presented that use beyond grazing may have taken place in recent years, at least intermittently, even if not to the extent that would justify granting an CLEUD. Therefore, the Inspector considered the appeal as seeking permission for equestrian use of the land.
- The appeal relates to the failure of the Authority to issue a decision within the prescribed time. The Authority in their appeal statement confirmed that permission would have been refused for a number of reasons. The Inspector considered that the main issues were (i) the effect of the use on the character and appearance of the area; (ii) whether the appeal site was a suitable location for the keeping of horses taking into account drainage and the availability of public bridleways; and (iii) whether the access arrangements were satisfactory.
- On point (i) the Inspector noted that the immediate character is that of a rural countryside, largely comprising agricultural land with narrow lanes edged by dense hedgerows and woodland, occasional wetlands, scattered buildings and the edge of Ditchling. In addition, Recreational activity and opportunities for improvement of physical and mental health, are appropriate in a countryside setting outside a settlement boundary as well as being part of the National Park's purposes (to promote opportunities for public understanding and enjoyment of the special qualities of the area).
- The Inspector also acknowledged that the grazing of a field in the countryside and the National Park for the purposes of agriculture, whether horses or other animals, is to be expected and it is part of its character and appearance. The grazing of horses in itself does not require planning permission. However, case law has held that the "keeping" of up to four horses requiring bucket feed and rugging or other shelter constituted a change of use.
- The Inspector also noted that no permanent structures were proposed (and the willingness to accept a condition that limits the storage of the structures to that position when not in use). Therefore, providing an unobtrusive location for the storage of movable structures when not in use; controlling the numbers and types of structure and the permanent sub-division of the land would be sufficient to protect the appearance of the

countryside, the National Park, views across the land by passers-by, and the important physical gap separating Ditchling from Keymer. Additional tree and hedge planting would also improve the character and appearance of the area.

- Equestrian use is appropriate in a countryside setting and the substation separates the site from the CA boundary. Therefore, the proposal would have a neutral effect on the setting of the CA.
- The Inspector concluded that equestrian use of the land does not have a harmful effect on the character and appearance of the countryside, the National Park, the important settlement gap or the Conservation Area. Accordingly, there was no conflict with those parts of Policies SD4 and SD24 Local Plan and Policy CONS7 of the Ditchling, Streat and Westmeston Neighbourhood Plan.
- On point (ii), the Inspector acknowledged that the whole site may not be suitable for continuous use (due to standing water), that drainage works had taken place on adjacent land, the appellant has been managing the water course to minimise water logging and that from time-to-time horses could be kept elsewhere. The Inspector concluded that it may be that an appropriate conservation-based land management approach, as envisaged by Policy SD24, could further alleviate any flooding; improve the useability of the land; and manage any effects of manure storage. Taking this into account, they considered the equestrian use of the site would not be inappropriate in drainage terms.
- The Inspector also noted that whilst there would be some conflict with policy SD24 (as there are no bridleways in the immediate vicinity) there are a number of bridleways within the wider National Park and equestrian use has been accepted on the site across the Keymer Road. Therefore, the Inspector concluded the harm arising from this conflict was slight and the site's location was not so unsuitable to justify a reason for refusal.
- On point (iii), the Inspector noted there was no objection from the Local Highway Authority and that there was no convincing evidence of visibility or highway safety problems at the junction (where The Drove meets the carriageway) and there was no compelling evidence that vehicle movements associated with equestrian use would be unsafe.

### **Costs Decisions – Both Cost Applications (A and B) were Refused**

#### **Cost Application A – application made by appellant against the Authority**

- The applicant's view was that the Authority inaccurately interpreted planning law (resulting in the separate CLEUD being refused), gave conflicting views about whether planning permission would be required, caused delay (in submitting the appeal information late, deliberately concealing information, new reasons for refusal were introduced during the appeal process) and that planning permission should have been granted (there were no reasonable grounds for refusal).
- The Inspector noted that the appeal does not relate to the refusal of the CLEUD, so it was not for them to consider this. There appeared to be conflicting advice about whether planning permission would be required for the keeping of horses however this issue was covered in the description of development and it is clear the applicant understood this and made the application and the fact this could have resulted in a refusal of permission. The Inspector saw no compelling evidence that information was deliberately concealed and the Authority set out putative reasons for refusal in their appeal statement which is good practice and to be expected. The failure to give notice within the prescribed period of a decision on an application for planning permission is regrettable. It would appear that there was communication between the Parties including an indication of the reason for delay, but that communication was relatively sparse. Whilst these matters amount to unreasonable behaviour on the part of the Authority, had the Authority

taken the decision, it seems planning permission would have been refused. Accordingly, the appeal could not have been avoided. The Inspector also noted that the appellant, during the appeal process, clearly took the opportunity to submit additional information, thereby contributing to the delays.

- The Inspector concluded that unreasonable behaviour by the Authority had not been demonstrated and consequently, the application for an award of costs was refused.

### **Cost Application B – application made by Authority against the appellant**

- In responding to the appellant’s application for costs, the Authority submitted a counter claim for costs stating that the current appeal does not relate to the refused CLEUD and that professional judgement and experience were properly exercised. The appeal documents were submitted on the due date and the other cases cited do not set a precedent as those decisions pre-date the adoption of the South Downs Local Plan.
- For reasons set out above, the Inspector concluded that unreasonable behaviour by the appellant had not been demonstrated and, consequently, the application for an award of costs was refused.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/02406/FUL<br>APP/Y9507/W/22/3310647                                     |
| <b>Authority:</b>  | Chichester  |
| <b>Site:</b>   | Southbrook Lodge, Southbrook Road, West Ashling, West Sussex, PO18 8DN          |
| <b>Description of Development:</b>                       | The development proposed is one dwelling in the side garden of Southbrook Lodge |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>15 June 2023  |

### **Inspector’s Reasoning:**

- The main issues were (i) Whether the site is suitably located for the proposed development with regard to local and national planning policy, and (ii) The effect of the proposal on the character and appearance of the area.
- The appeal site is in a rural area away from the built up area of West Ashling, which is to the north. It was the appellant’s view that the site should be considered previously developed land (PDL). The Inspector noted that the appeal site was a residential garden. It is close to a very small number of other dwellings in an area that cannot be characterised as built-up.
- The Inspector concluded that the appeal site does not have a developed appearance and the sentence within the NPPF glossary that ‘it should not be assumed that the whole of the curtilage should be developed’ to be highly relevant. The proposed dwelling would be a considerable distance from the

existing dwelling. It would not replace an existing structure and would stand on land that has a different appearance to the primary domestic curtilage that surrounds the existing dwelling to the north of the driveway. Therefore, the site is not suitably located for the proposed development and is contrary to Policies SD1 and SD25.

- With regards to character and appearance of the area, the Inspector concluded the proposed dwelling would intensify built form in the area. It would be sited parallel with the road whereby, owing to the raised ground level of the site relative to the road, it would be prominent to view when passing by the site in either direction. In such views it would be seen to connect up the existing dwellings to the north and south, and in doing so would result in a row of three dwellings parallel with the road that would lessen the area's strong rural character and appearance. This adverse impact would be exacerbated by the bulky form of the proposed dwelling, that would include large and prominent road facing dormers and a substantial linear footprint. Therefore, the proposal would have a harmful impact on the character and appearance of the area and conflict with Policies SD1, SD4, SD5, SD8 and SD25.

#### **Costs Decision - Refused**

- The appellant claimed the authority acted unreasonably by failing to deal with the application reasonably and accurately by not accepting that the site is previously developed land (PDL). In addition, by not finding the site to be PDL the applicant suggests that the Authority was wrong to state that the site was open countryside, and that it should instead be regarded as an infill plot.
- The Inspector concluded that it was clear from the evidence that the Authority considered the matter and that PDL was referred to in the officer's report and the reasons for not concluding that the site is PDL are set out clearly, with reference to the definition of PDL given in the NPPF where it says that 'it should not be assumed that the whole of the curtilage should be developed'. The Inspector was satisfied that the Authority's assessment of the proposal in the context of its development plan was reasonable.
- Therefore, unreasonable behaviour resulting in unnecessary or wasted expense had not occurred and an award of costs was refused.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/03503/HOUS<br>APP/Y9507/W/22/3310503   |
| <b>Authority:</b>  | SDNPA  |
| <b>Site:</b>   | Orchard House, Arundel Road, Patching, Worthing, BN13 3UH  |
| <b>Description of Development:</b>                       | The development proposed is 'alterations to outbuilding to change 3 stables to 4 garages, create ancillary residential accommodation by raising the western ridge and inserting two 2 bed flats in the roofspace, with new rooflights and two dormers in the courtyard'. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>22 June 2023   |

#### Inspector's Reasoning:

- The main issue is the effect of the proposal on the living conditions of the occupants of Selden Grange, including the occupants of a static tourist caravan, having regard to outlook and natural light.
- The outbuilding (under construction and approved by an earlier permission) is sited on slightly lower ground and mostly single storey. The Inspector noted that apart from the top of the roof and some upper parts of the elevations and eaves at the back of the building, it would not be seen from the garden or ground floor habitat rooms of Selden Grange, largely due to the intervening outbuildings, trees, hedging and fencing. The outbuilding will be more noticeable from the first floor bedroom windows but the outbuilding is too low and distant to dominate in views. In addition, the Inspector concluded that the upper parts of the outbuilding would be too far and low from parts of the garden, or any habitable room windows, to appear overbearing. Nor would it be tall enough to have any material adverse effect on restricting natural light to most of the garden or through these windows, including during sunrise. Natural light would otherwise be unaffected.
- With regards to the Caravan, the Inspector noted that the caravan is close to the outbuilding, separated by a narrow side passageway next to the boundary. The Inspector concluded that whilst the length and vertical height of the rear elevation would be apparent to the occupants of the caravan, including from a rear open deck area, this sort of juxtaposition between buildings and uses even in rural areas is not unusual or unacceptable. The external amenity space for the caravan faces mainly to the west and north so would not be affected.
- In addition, the Inspector noted that additional hedgerow planting had taken place along the inside of Selden Grange, which screen most of the vertical elevation of the outbuilding. The shallow pitched slope of the roof up to the taller ridge would recede away from the caravan and its external amenity area. As such, while the outbuilding would have some effect on restricting a sunrise to the east, it would not be significant or unduly restrict natural light into the caravan or the external amenity space. The caravan would be occupied temporarily, not as permanent living accommodation, and as such there is no evidence that the outbuilding would render tourist use of the caravan in this position unviable or unattractive.

- Therefore, the Inspector concluded that the proposal would not be visually or physically overwhelming or unduly compromise residential amenity. It would not have an unacceptable effect on the living conditions of the occupants of Selden Grange or the static tourist caravan. Therefore, there was no conflict with policies SD5 or SD31 of the Local Plan, Policy PLACES 5 of the Patching Neighbourhood Development Plan, April 2018 or section C.6.2(a) of the Authority's Design Guide, July 2022.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/01511/HOUS<br>Appeal A - APP/Y9507/D/22/3312605  |
| <b>Authority:</b>  | Chichester   |
| <b>Site:</b>   | The Rubbing House, Town Lane, Singleton, West Sussex, PO18 0SP   |
| <b>Description of Development:</b>                       | The development proposed is loft conversion to second floor with access stair from the first floor, dormer windows to north, south, west and east, flat roof terrace on the second floor   |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>28 June 2023   |
| <b>Planning Application and Appeal Reference Number:</b> | SDNPA/22/01510/HOUS<br>Appeal B - APP/Y9507/D/22/3312606   |
| <b>Authority:</b>  | Chichester   |
| <b>Site:</b>   | The Rubbing House, Town Lane, Singleton, West Sussex, PO18 0SP   |
| <b>Description of Development:</b>                       | The development proposed is loft conversion to second floor with access stair from the first floor, dormer window to north, conservation style Velux windows to the south, west and east, flat roof terrace on the second floor. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>28 June 2023   |

#### Inspector's Reasoning:

- The appeals relate to similar schemes at the same site. The appeal A scheme is for 4 dormer windows. The appeal B scheme is for roof lights as an alternative to the dormers. Both schemes also include the same proposal for a flat roof terrace on the second floor.



- The main issue for both appeals was the effect of the proposals upon the character and appearance of the area, including the setting of the Scheduled Monument known as The Trundle Hillfort and the grade II\* West Dean Registered Park and Garden.
- The Inspector noted that the existing dwelling stands in a highly sensitive and iconic location, and the area has a tranquil and remote character. They also acknowledged the evidence provided by the Authority which refers to the historic landscape of great time depth, with references to the nearby iron age hill fort to the east, various historic earthworks in the immediate area, ancient woodland, and the adjacent designed landscape of West Dean to the north. The Inspector also noted that the existing dwelling is highly prominent from the area to the south and southwest, which is readily accessed by the public across a network of local rights of way. From these perspectives the full height of its well composed south front and side elevations can be easily seen. In addition, the roof is currently only broken by a formal set of chimneys, one to each side.
- In terms of Appeal A, the Inspector stated that proposal would see the public facing roof slopes altered by the addition of two dormer windows to the front slope, and one to either side. The dormer windows would be modestly sized so that they would appear as a clear subservient addition to the principal floors below. They would be positioned to align with the façade arrangement below and thus respect the dwelling's strong symmetry. They would read as an appropriate addition that would not be discordant with the original design rationale, where modestly sized roof apertures such as this were common place. In addition, the dormers would be set well up above the eaves and down from the ridge, each occupying less than half of the roof length. As a result, the cheeks of the dormers would be relatively modest and not overly assertive.
- The Inspector also concluded that a similarly modest arrangement of roof lights, as is proposed in appeal B, would also not appear out of place and that neither the dormers nor the roof lights would be overly prominent.
- With regards to the terrace (common in both appeals) that would be accessed from the attic level and would make use of the existing flat roof at the rear. The Inspector stated that the terrace would be set back significantly from the edge of the existing flat roof and set in from the sides. They concluded that it would be difficult to see this alteration from any of the nearby footpaths to the south and southwest of the dwelling. Beyond this to the north the existing vegetation and topography would also make views of the proposed terrace very difficult. Additionally, the rear of the dwelling is separated from the rear boundary of the site by a significant depth of garden and other buildings. For these reasons, even if it was glimpsed from land to the north, it would not be prominent to view and would be seen in the context of a developed and inward facing domestic curtilage.
- Therefore, the proposals would not harm the character or appearance of the area and would accord with Policies SD1, SD4, SD5, SD6, SD7, SD8, SD10, SD20 and SD31.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/04848/FUL<br>APP/Y9507/W/23/3314274  |
| <b>Authority:</b>  | SDNPA (Planning Committee decision)  |
| <b>Site:</b>   | Liss Forest Nursery, Petersfield Road, Greatham, Liss GU33 6HA   |
| <b>Description of Development:</b>                       | The development proposed is 37 dwellings (including affordable homes), alterations to existing access onto Petersfield Road, hard and soft landscaping, drainage and all other associated development works. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>Inquiry held in May 2023<br>30 June 2023   |

**Inspector's Reasoning:**

- The main issues were (i) whether the proposal would provide an acceptable level of affordable housing provision; and (ii) the effect of the proposal on The Wealden Heaths Phase II Special Protection Area.
- On issue (i), during the course of the Inquiry the appellant and Authority reached agreement and provided the Inspector with a signed Section 106 agreement which secured 8 units of affordable housing on site (21.6%) and a further £75,000 towards an off-site affordable housing provision. The scheme as originally submitted offered the 8 units of affordable housing on site only.
- Therefore, the Inspector concluded that the proposed 8 dwellings together with the £75,000 off site provision would provide an acceptable level of affordable housing bearing in mind the viability of this particular proposal on this particular site. The proposal therefore complied with Policy SD28 and the Affordable Housing Supplementary Planning Document.
- On issue (ii), during the course of the Inquiry the appellant and Authority reached agreement and provided the Inspector with a signed Section 106 agreement securing a £15,000 financial contribution towards the Wealden Heaths Phase II Special Protection Area (SPA).
- Therefore, the Inspector concluded that with the mitigation secured through the planning obligation, the scheme would not harm the SPA and therefore the proposal would not conflict policies SD9 and SD10.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/01389/FUL<br>APP/Y9507/W/22/3304659   |
| <b>Authority:</b>  | SDNPA   |
| <b>Site:</b>   | Stanmer House, Stanmer Village, Stanmer Park, Brighton, BN1 9QA   |
| <b>Description of Development:</b>                       | The development proposed is temporary provision for seven accessible car parking bays including the construction of a reinforced grass surface treatment. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>10 July 2023  |

### Inspector's Reasoning:

- The main issue was the effect of the proposal upon the significance of Stanmer Park, including the setting of the Grade I listed Stanmer House, the Grade II Registered Park and Garden of Stanmer Park and the Stanmer Conservation Area.
- The appeal site is in an area close to the southeast façade of Stanmer House, just beyond the formal fountain garden and in an area that is currently occupied by informal car parking. Stanmer House is a fine large country house dating from the early 18th century that is largely the work of the architect Nicholas Dubois. It is built in a typical Palladian style with the central three bays of its principal northeast façade projecting slightly forward and topped with a pediment. This elevation faces out over the parkland, which includes gently rising land to the east and Church to the north. The Inspector also noted that Stanmer House enjoys a spacious and verdant parkland setting. This includes various associated historic estate buildings. The interrelationship between the house and these other buildings is largely retained and easy to appreciate today.
- The proposed parking area would introduce a row of parked cars to one side of the land that is just beyond but largely integral with the formal fountain garden.
- The Inspector noted that parked cars, and the associated surfacing and marked out parking bays, would be highly intrusive to views across the garden in both directions. This would include views out from the formal southeast elevation of the house, where the presence of parked cars would detract from a designed outlook over an intimate area of formal garden and a wider area of parkland, that was part of the original Dubois design. Although the trees surrounding this area would mean that views of the parked cars from the wider area would be limited, it is likely that they would still be glimpsed from the open parkland to the southeast. From here the presence of parked cars and the movement of vehicles would be particularly harmful to the formal setting of the house.
- The Inspector also noted that the proposal would be less harmful than the existing informal parking, as it would occupy a smaller area, would be offset, and would allow the remaining area to be returned to lawn. However, the existing layout was on a temporary basis (pending the development of the wider masterplan, which is now in place), therefore this was given little weight.

- The Inspector concluded that the proposal would harm the significance of the heritage assets, albeit that harm is less than substantial. The Inspector also noted the appellant's case that the parking would provide accessible spaces close to the house (to be used by workers and visitors) and therefore of public benefit. However, the Inspector gave this less weight as there are other accessible spaces (in the main parking areas) and a pedestrian link is proposed, which would not be unsafe or difficult to use. In addition, the existing accessible parking serves the whole estate, is well laid out and is an integral part of the main parking provision, whereas the proposed parking would be more isolated and would appear to only serve visitors to the house. Therefore, the benefits were not sufficient to outweigh the harm identified and the proposal would be contrary to policies SD1, SD4, SD5, SD12 and SD15.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/02405/CND<br>APP/Y9507/W/22/3311093  |
| <b>Authority:</b>  | Winchester   |
| <b>Site:</b>   | Land at Corhampton Lane, Corhampton, SO32 3NB  |
| <b>Description of Development:</b>                       | The application sought planning permission for a change of use to dog training centre without complying with a condition attached to planning permission Ref SDNP/20/03795, dated 31 March 2021.<br><br>The condition in dispute is No 2 which states that: The hours of use of the field for any activity involving dogs shall be restricted to 8am to 6pm on weekdays, and 8am to 1pm on Saturdays, and is not to be used on Sundays or Bank Holidays.<br><br>The reason given for the condition is: To protect the amenity of the area and local residents. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>14 July 2023   |

#### Inspector's Reasoning:

- The main issue was the effect varying condition 2 would have on the living conditions of occupants of neighbouring properties regarding noise.
- The appeal site is situated at the edge of Corhampton and Meonstoke at the junction between Corhampton Lane and Warnford Road. Adjacent to the site is the residence, Corhampton Court, with further dwellings beyond, and on the opposite side of the roads are several other dwellings. The site is a large field divided into a series of different training areas. There is also a large parking area adjacent to the boundary with Corhampton Court and a group of small buildings around the entrance.
- The Inspector noted it is inescapable that even for a short period of time, the very nature of dog barks and human shouts or whistles is to attract attention, so they are often louder and at higher frequency than the background noise levels, and unpredictable in their occurrence. Due to the

variable nature of humans and dogs as a source of noise, the only reliable form of control is by limiting the hours of operation, which as a default would also reduce the period of time vehicles could access the site. Condition 2 would therefore provide occupants of nearby properties with limits as to when they could reasonably expect to hear such noise from the appeal site, and to provide respite from it during the weekend, when people are most likely to be at home.

- The Inspector was not persuaded by the appellant's submitted noise assessment and found that the relatively quiet and tranquil nature of the surrounding area, and lack of any proposed mitigation would mean the proposal could still have a harmful effect on the living conditions of nearby residents by considerably reducing the period of time they could expect respite. Therefore the appeal was dismissed as the proposal would not comply with policies SD5(k) and SD7.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/05284/CND<br>APP/Y9507/W/22/3302678   |
| <b>Authority:</b>  | East Hants  |
| <b>Site:</b>   | Brickyards Industrial Estate, Rockpits Lane, Steep Marsh, Petersfield GU32 2BN  |
| <b>Description of Development:</b>                       | <p>The application sought planning permission for three industrial units - amendment to previously approved scheme (SDNP/12/00513/FUL) without complying with a condition attached to planning permission Ref SDNP/13/01966/FUL, dated 6 August 2013.</p> <p>The condition in dispute is No 10 which states that: Notwithstanding the changes of use permitted within Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2005 (as amended), the development hereby permitted shall be used for purposes within Class B.1 (c) of the Town and Country (Use Classes) Order, 1987 only, and for no other purpose.</p> <p>The reason given for the condition is: In order to maintain control over future use of the premises in the interests of the general amenity of the area and because the car parking provision of the site is insufficient to meet the needs associated with other B.1 uses which if implemented could be detrimental to the interests of highway safety.</p> |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>14 July 2023  |

#### Inspector's Reasoning:

- Preliminary matters – the appeal was submitted on the basis of the Authority failing to make a decision within the prescribed period. The Authority confirmed that they had no objection to the proposed subject to conditions. In addition, following a site visits and information provided by the appellant, the Inspector determined the application under Section 73A (application has been made retrospectively).

- The main issues were (i) the effect that varying condition 10 (to allow B8 storage use) would have on the living conditions of the occupants of neighbouring properties, with particular regard to noise and disturbance; and (ii) the effect that varying condition 10 would have on highway safety.
- On issue (i) the Inspector noted that the site benefits from an existing permission which allows for any industrial process under Class E (g)(iii). Additionally, the proposal is only seeking to amend condition 10, which controls the permitted use and not condition 6, which restricts hours of use.
- The Inspector acknowledged that there has likely to have been an increase in noise breakout arising from vehicles arriving and loading and unloading. However, the Inspector noted that the appeal site is of a modest size and the mixed-use nature of the business means that it does not involve significant vehicle movements in contrast to a sole B8 storage and distribution use. The limited noise generated by such movements is heard within the context of a working industrial park occupied by other uses generating different levels of noise. In addition, no substantive evidence was presented to demonstrate that unacceptable levels of noise or disturbance have occurred during the lawful hours of operation. Therefore, the Inspector concluded that subject to a condition on restricting the uses of Unit G3 and in accordance with the re-imposition of the condition on hours of operation, the proposed development would not cause harm to the living conditions of nearby residents and would comply with policies SD5, SD7 and SD35.
- On issue (ii) the Inspector acknowledged that an additional B8 use would likely increase traffic, albeit in a limited way. However, they found there was no substantive evidence that the increase has resulted in inappropriate or reckless driving or that the levels of additional vehicular movements have caused damage to verges or hedges/trees solely from Unit G3. Therefore, the proposal would not be harmful to highway safety and the proposal complies with policies SD19 and SD35.
- Therefore the appeal was allowed subject to the imposition of new and amended conditions, including limited hours of use for machinery and processes and limiting the permissible uses within the specified Use Class.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/00481/HOUS<br>Appeal A - APP/Y9507/W/22/3308085   |
| <b>Authority:</b>  | Chichester  |
| <b>Site:</b>   | Forge Cottage, Northchapel, Petworth, West Sussex GU28 9HX  |
| <b>Description of Development:</b>                       | The development proposed is a rear single storey extension / conservatory, including the removal of existing external WC, removal of 1 no. casement window and lowering of 1 no. window cill. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>18 July 2023  |
| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/00482/LIS<br>Appeal B - APP/Y9507/Y/22/3308084  |
| <b>Authority:</b>  | Chichester  |
| <b>Site:</b>   | Forge Cottage, Northchapel, Petworth, West Sussex GU28 9HX  |
| <b>Description of Development:</b>                       | The works proposed are a rear single storey extension / conservatory, including the removal of existing external WC, removal of 1 no. casement window and lowering of 1 no. window cill.      |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>18 July 2023  |

### Inspector's Reasoning:

- The planning and listed building appeals relate to the same scheme, so the Inspector dealt with both appeals together.
- The main issues were (i) whether the proposal would preserve the Grade II listed building and any features of special architectural or historic interest that it possesses; and (ii) whether the proposal would preserve or enhance the character or appearance of the Northchapel Conservation Area and the role it plays in the cultural heritage of the South Downs National Park.
- On issue (i), The Inspector noted that Forge Cottage is a two-storey brick building with rooms in the roof space, the southern end (Foxglove Cottage) forming a later continuation to the earlier northern range. It has a hipped, tiled roof which at the rear of Forge Cottage continues down to single storey height in the form of a cat slide roof. Alongside Forge Cottage, and now forming part of its living space, is a substantial single storey range formerly used as the village forge. The significance and special interest of the Listed Building lies in its simple plan form, traditional

appearance and historic connection with the former forge. In so far as it relates to the appeal proposal, the catslide roof at the rear is characteristic of cottages of this period as a way of providing additional space under a continuous roof. It is a feature of the building that contributes towards its historic and architectural interest.

- In terms of its scale, the Inspector found that the proposed extension would not be overly dominant when compared to the size of the existing cottage nor would the materials be incongruous. However, in terms of design it would sit awkwardly in relation to the rear elevation with the extension butting up to the rear wall but with the roof unconnected either physically or visually in terms of its form. That awkward juxtaposition would appear at odds with the simple lines of the existing cottage. It would in particular interrupt views of and draw the eye away from the largely unbroken sweep of the catslide roof that is the prevailing feature of this part of the Listed Building. This would cause less than substantial harm, but which nevertheless carries considerable importance and weight in determining the appeals.
- On issue (ii), the awkward juxtaposition between the roof of the proposed extension and the catslide roof would be seen from the village green, and as a result would be detrimental to the Northchapel Conservation Area. Those views would be oblique, across the garden of Foxglove Cottage and seen in context with the extensions and the garage at the rear of the neighbouring property. Based on the appellant's calculations, the amount of catslide roof visually screened by the extension would also be small. The Inspector acknowledged that all these factors would serve to reduce the visual impact caused by the extension. Nevertheless, the unsatisfactory relationship between the roof of the extension and the existing catslide roof would still be visible. Although the impact on public views within the Conservation Area would be limited, the proposal would still fail to preserve or enhance its character or appearance. Such harm would be less than substantial.
- The Inspector concluded that overall the harm that would be caused would be less than substantial and whilst they appreciated that the extension would allow the appellant (and his family) to better enjoy views of the rear garden, this represented a private rather than a public benefit. Therefore, in this case there are no public benefits that outweigh the harm identified and the proposal would conflict with Policies SD1, SD5, SD6, SD12, SD13, SD15 and SD31.



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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/21/03755/FUL<br>APP/Y9507/W/22/3302291  |
| <b>Authority:</b>  | Bulmer House, 4 Ramshill, Petersfield, GU31 4AP  |
| <b>Site:</b>   | SDNPA (Planning Committee decision)  |
| <b>Description of Development:</b>                       | The development proposed is demolition of the existing Bulmer House and construction of a new 56 apartment extra care scheme and day centre with associated landscaping. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>21 July 2023   |

### Inspector's Reasoning:

- The main issues were (i) The effect of the proposal on the character and appearance of the area including whether or not it would conserve or enhance the landscape and scenic beauty of the South Downs National Park (SDNP); and (ii) whether the proposal would provide satisfactory living conditions for the future occupiers with particular regard to outdoor amenity space.
- The Inspector rejected the revised landscaping plans submitted by the appellant during the appeal in order to seek to address the reasons for refusal. The Inspector concluded that a new planning application, not an appeal, would be the appropriate procedure for considering any revisions.
- The proposal would replace the existing Bulmer House with a larger building in footprint and height, including 3 storey elements and rooms within a mansard-style roof. It would have a number of wings projecting from a central element with courtyard spaces. Parking would be provided on the opposite side of the entrance as existing.
- The Inspector acknowledged the increased size and height but recognised that the proposed building would retain the majority of the set-in from the site boundaries, the bulk and massing would be broken up with the design and form. While the built form would be closer to the southern boundary, the set-back was sufficient to avoid the bulk and mass being incongruous notwithstanding its raised position. The proposed development would be viewed largely against a backdrop of substantially sized trees and other development. The height was as expected given the topography. The volume and form of the roof was functional and roof design offered sufficient variation to not draw the eye. The proposal would not be out of keeping with development found nearby. The layout prioritised mobility for pedestrians with varied needs and would be legible. While other design solutions could have been incorporated, the Inspector concluded it was a landscape-led scheme of an appropriate density for the location, and necessary details could be controlled by condition.
- On matter (ii), the Inspector identified a range of amenity spaces would be provided including courtyards and a roof terrace. The Authority were concerned about the amount and quality of these spaces for the needs of the future occupiers and the lack of a circular outdoor route. The Inspector recognised there was no specific policy or guidance for minimum sizes for the use proposed, nor evidence to adequately illustrate impacts on light levels or compromised living conditions due to shading from trees or the building form. Proximity to air source heat pump equipment and vehicle

parking were not deemed to prevent occupiers using certain spaces. The Inspector concluded that the outdoor areas as a totality would be capable of providing high-quality outdoor space appropriate to the needs of the future occupiers and would comply with policy SD5.

- Other matters considered by the Inspector included the impacts on the setting of heritage assets including individually listed buildings and the Petersfield Conservation Area, which the proposal would preserve, and took into account considerations of tree and vegetation loss, parking pressures and impacts on neighbouring amenity. The Petersfield Neighbourhood Plan gave an indicative number of dwellings for the site but this was not a maximum.
- A Unilateral Undertaking was provided which would secure 100% affordable housing. Policy HP3 in the Neighbourhood Plan expects affordable housing provision without specifying use classes, while Local Plan policy SD28 and the Affordable Housing SPD requires affordable housing for uses falling under Class C3 (dwellinghouses). However, as there was no clear policy basis to require affordable housing for a C2 use (residential accommodation and care to people in need of care) in the Local Plan and this post-dated the PNDP, the Inspector decided this provision, albeit a benefit, would not be necessary to make the development acceptable. This obligation was therefore given no weight in the decision. The Travel Plan obligation was supported.
- The Inspector agreed with the Authority that this scheme did not represent major development under policy SD3.
- The Inspector found that the development complied with the development plan when read as a whole, therefore the appeal was allowed. A condition to secure BREEAM Excellent was one of a series of conditions applied.

**Note:**

- A revised scheme for the same number of extra care apartments with an alternative design, reduced footprint and different articulation, and comprising 100% affordable housing, was supported at Planning Committee on 13th April 2023 (SDNP/22/05643/FUL) subject to a resolution of surface water drainage matters and completion of a Section 106 agreement. The appeal however continued on the basis of the earlier refused scheme.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/02957/CND<br>APP/Y9507/W/22/3306699   |
| <b>Authority:</b>  | Lewes   |
| <b>Site:</b>   | St Johns Church Hall, Talbot Terrace, Lewes, East Sussex, BN7 2DS   |
| <b>Description of Development:</b>                       | <p>The application sought planning permission for demolition of existing Church Hall and garage and the construction of 3 no. residential dwellings, without complying with condition 2 attached to planning permission Ref SDNP/22/01620/CND, dated 27 May 2022.</p> <p>The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the plans listed below under the heading “Plans Referred to in Consideration of this Application”.</p> <p>The reasons given for the condition is: For the avoidance of doubt and in the interests of proper planning.</p> |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>03 August 2023  |

**Inspector’s Reasoning:**

- The proposed revisions related to the internal layout of the second floor of the proposed dwellings, changing the second bathroom to an ensuite and providing a dedicated study area. No changes to gross internal area nor external appearance were proposed. The main issue for the appeal related to housing mix and the impact of the change to layout on the supply of smaller dwellings.
- The Inspector recognised that policy SD27 aims to deliver a balanced mix of housing and that the supporting text identifies that any room which is not a main reception room, kitchen, bathroom or WC and has dimensions that allow for a single bed, will be counted as a bedroom. The proposed study exceeds the minimum floor area of 7.5sqm for a single bedroom set out in the Nationally Described Space Standards. They considered that this supporting text is directly related to the requirements of the policy but is explanatory text. The Inspector noted that the proposed plans specify three not four bedrooms, the bathroom fittings on the approved plans could be removed to form a 4<sup>th</sup> bedroom should a future occupier wish, and it would not be reasonable to prohibit this by condition. In addition, the availability of home working spaces is supported by policy HC4 of the Lewes Neighbourhood Plan, recognising the increased demand for hybrid working evidenced by the Office for National Statistics. This general trend was considered to provide limited additional justification for the revisions.
- Notwithstanding the policy position and Authority’s Monitoring Report, the Inspector had not been provided with recent or detailed evidence to demonstrate under-delivery of smaller dwellings, and even if this was available, they deemed that this modest development would not significantly compromise the delivery of smaller dwellings in the local area or the National Park. The Inspector was also not persuaded that amendments made to an earlier permission to delete a fourth bedroom before permission was granted prevented them from allowing this new layout. The appeal was therefore allowed.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/22/01719/FUL<br>APP/Y9507/W/23/3315029  |
| <b>Authority:</b>  | East Hants   |
| <b>Site:</b>   | 4 Buckingham Road, Petersfield, Hampshire GU32 3AZ   |
| <b>Description of Development:</b>                       | The development proposed is described as 'Garage conversion to a mixed use of C3 and Sui Generis for a salon'. |
| <b>Decision and Date of Decision:</b>                    | <b>D</b><br>10 August 2023   |

### Inspector's Reasoning:

- The main issues for this retrospective application were whether the development has a harmful effect on the character of the area and living conditions of neighbouring residents, with particular regard to (i) noise and disturbance, as well as (ii) the development's effects upon highway safety
- The detached garage to this semi-detached property was located within the rear garden, with parking in the front garden and access through a side gate. Adherence to opening hours of between 9am-2pm Mondays, 9am-4pm Tuesdays, Thursdays and Fridays and 9am-1pm Wednesdays and Saturdays were disputed by third parties. Up to 3 members of staff could be working on site at any one time. Whilst the use and operating hours of the salon could be controlled by planning condition should the appeal be allowed, the Inspector agreed that conditioning the number of customers at the premises would be difficult to monitor and enforce.
- The Inspector stated the street had a generally quiet character despite the nearby commercial uses, with no passing traffic, and customers would likely use a private car to access. The activities associated with salon use at the proposed intensity over prolonged periods far exceeds that to be expected in a residential setting. There were no details of the baseline noise level, what noise mitigation would entail or how it would work in practice so this would not be a practical suitable or enforceable solution. Increased traffic movements were likely to be readily discernible and not insignificant, adding to the disturbance caused by the proposed use. The Inspector concluded that this would adversely affect the character of the area and living conditions of the neighbours, in conflict with policy SD5 and paragraph 130 of the NPPF.
- The Inspector was not convinced that there was sufficient space to accommodate the five vehicles shown on the proposed plans, and such an arrangement would be difficult and uninviting with limited manoeuvring room thereby resulting in on-street parking. However, the Inspector considered that the likely level of parking would not cause significant congestion or result in harm to highway safety.
- The Inspector considered the proposed salon use was more intensive than a typical arrangement of working from home. No evidence to support the salon relocation from the town centre due to viability were presented to support the appellant's claims. The salon would bring socio-economic benefits however, on this scale, these would be limited. The use would be convenient to some members of the public. Yet, these benefits would not overcome the Inspector's concerns or resolve the conflict with the development plan on matter (i). The appeal was dismissed.

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| <b>Planning Application and Appeal Reference Number:</b> | SDNP/20/04461/FUL<br>APP/Y9507/W/22/3304459   |
| <b>Authority:</b>  | East Hampshire  |
| <b>Site:</b>   | Land adjacent Ivy House, Ivy House Lane, Froxfield, Petersfield GU32 IEE  |
| <b>Description of Development:</b>                       | The development proposed is described as 'Retention of a small jetty on the northern side of the pond. It is constructed of green oak, and extends approximately 5 metres into the pond. The majority of the length of the jetty is 1 metre wide, however, it widens at the end to 3 metres in width. The jetty sits just above the water line of the pond and is supported within the pond by recycled plastic lumber structures'. |
| <b>Decision and Date of Decision:</b>                    | <b>A</b><br>10 August 2023  |

**Inspector's Reasoning:**

- EHDC had refused, on behalf of the Authority, planning permission for the development as they considered that it negatively altered the character of the pond and had an adverse impact on tranquillity.
- The Inspector incorrectly referenced, in their decision, the South Downs Area of Outstanding Natural Beauty (sic). The Inspector did make reference to the purpose of conserving and enhancing, albeit within a AONB rather than a National Park. This error is unlikely to have affected the outcome of the appeal.
- The Inspector considered that the pond had few special qualities in terms of its appearance and condition but that nevertheless its largely open and vegetated state still contributes to pleasing verdant and rural character of the area. The jetty was considered to be an inconspicuous form of development due to its limited overall scale and low profile and with public views of the proposal being highly limited. Overall the Inspector considered that the development conserved the natural beauty and tranquillity of the AONB (sic) and was in accordance with the South Downs Local Plan. Accordingly, the appeal was allowed.

