

Report to	<b>Planning Committee</b>
Date	<b>11 June 2020</b>
Title of Report	<b>Summary of appeal decisions received from 28 January 2020 – 27 May 2020</b>
Purpose of Report	<b>To update SDNPA Members on appeal decisions received</b>

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

**I. Overview**

- I.1 The attached table (**Appendix I**), ordered by date of decision, provides Members with a summary and brief commentary on the appeal decisions recently received by the Authority. This covers both those appeals dealt with by the host authorities and directly by the South Downs National Park Authority.
- I.2 From the 28 January to 27 May:
- 20 appeal decisions (some dealt with concurrently) were received, 13 of which were dismissed and 7 of which were allowed.
  - Two applications were made by appellants for an award of costs, both were refused.
  - There were no judicial review judgements.
- I.3 The Authority's appeal performance in the last financial year (2019/20) had 69% of appeals being dismissed. This is a good performance in and of itself but especially so given that for the first quarter of the financial year the Local Plan had not been adopted and Inspectors were applying varying weight to its policies.
- I.4 All appeal decisions are individually important but one appeal of particular interest relates to lford Farm, lford and the continued use of the land for a shoot. The Inspector found that in this case the shoot would conserve tranquillity but not enhance it as required by Local Plan Policy SD7 and dismissed the appeal given this and the conflict with the first purpose of the National Park.

**TIM SLANEY**  
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Appendices: I. Summary of Appeal Decisions  
SDNPA Consultees: Director of Planning, Legal Services

Key to Appeals Reporting

**Method of decision** All are delegated decisions unless otherwise specified **Allowed** A  
**Appeal method** All are determined via written representations unless otherwise specified **Dismissed** D

Planning Appeals				
Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/00564/HOUS APP/Y9507/D/19/3233129	East Hants	South Lodge, Annexe, Blackmoor Road, Blackmoor, Liss GU33 6BJ	The erection of a hobbies room and store	<b>D</b> 31 January 2020
<b>Inspector's Reasoning</b>				
<ul style="list-style-type: none"> <li>The proposed single-storey side extension would be attached to the south-east elevation of an annexe. Taking into account the scale and subordinate design of the extension and the set-back position of the annexe from the road compared to the adjoining South Lodge (a Grade II listed building), the development was not considered by the Inspector to significantly change the visual relationship between South Lodge and its annexe in local views from Blackmoor Road. The annexe would remain broadly subservient to South Lodge and for these reasons the Inspector considered that the setting of the listed building would be preserved.</li> <li>The Inspector noted that there was no compelling evidence that the proposed single storey extension would result in a new self-contained dwelling in the countryside.</li> <li>The property was granted permission (which had been implemented) to extend its floorspace by 48% in 2007. The proposal to extend the property even further would therefore not be in accordance with Local Plan Policy SD31 which applies to extensions to existing dwellings and which seeks to resist the increase in floorspace of existing dwellings by more than approximately 30% unless there are exceptional circumstances. The Inspector held that no exceptional circumstances had been presented to permit a greater increase in floorspace.</li> <li>Whilst the Inspector considered the proposal to preserve the setting of the listed building he noted it did not accord with the Authority's strategy for the extension of residential accommodation in the National Park, was contrary to the development plan and dismissed the appeal.</li> </ul>				

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/00007/LDP APP/Y9507/X/19/3227482	SDNPA	Newtimber Place, Stables Cottage, Newtimber Place Lane, Newtimber, BN6 9BU	The development for which a certificate of lawful use or development is sought is alterations and additions to roof (ref: SDNP/18/04919/HOUS)	<b>A</b> 12 February 2020
<p><b>Inspector's Reasoning</b></p> <ul style="list-style-type: none"> <li>The application sought to establish that it was lawful to carry out alterations and additions to the roof for which planning permission was granted, without any further consent. The Authority refused the application on the basis that the building is within the curtilage of a listed building and therefore listed building consent would be required for the work quoting the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (LBCA) in the reason for refusal.</li> <li>The Inspector stated that the grant of a certificate applies only to the lawfulness of development in accordance with planning legislation. It does not remove the need to comply with any other legal requirements, such as the LBCA. As a result, the Inspector said that whether or not the building is a curtilage listed building is not a question that stands to be answered.</li> <li>Since planning permission had been granted for the alterations and additions to the roof, it would clearly have been lawful at the date of the application, hence a certificate can be granted.</li> <li>The Inspector concluded, on the evidence available, that the Authority's refusal to grant a certificate of lawful use or development in respect of alterations and additions to roof in accordance with planning permission reference SDNP/18/04919/HOUS was not well-founded and that the appeal should succeed.</li> </ul> <p><b>Costs Decision: Refused</b></p> <ul style="list-style-type: none"> <li>In approving the original planning application (reference SDNP/18/04919/HOUS), the SDNPA added an informative note advising the appellant that listed building consent was required. The appellant stated that this informative note lacked any explanation or justification, and was tantamount to a pre-commencement condition. However, as it was not a condition, the appellant did not have the opportunity to lodge an appeal against it.</li> <li>Planning Practice Guidance advises that the use of informatives to remind applicants to obtain other consents may be appropriate. As the Authority followed this advice, they did not behave in a manner that caused the applicant to incur unnecessary or wasted expense and the application for costs was refused.</li> </ul>				
Planning Application No	Authority	Site	Description of Development	Decision
SDNP/18/06579/HOUS Appeal A: APP/Y9507/W/19/3233350  SDNP/18/06580/LIS Appeal B: APP/Y9507/Y/19/3233355	Winchester  (Planning Committee Decision)	Ivy Cottage, Avington Road, Avington SO21 1DD	Extension to the rear of the site	<b>D</b> 12 February 2020

**Inspector’s Reasoning**

- Appeal A relates to the refusal of planning permission whilst Appeal B relates to the refusal of listed building consent.
- The main issue was whether the proposed development would preserve the special architectural or historic interest of Ivy Cottage, a grade II listed building; and whether it would preserve or enhance the character or appearance of the Avington Conservation Area.
- The Inspector noted that the appeal site includes a small 18th century detached cottage. The property’s simple form, detailing, historic fabric and internal arrangement, along with its relationship with the outbuildings to the rear, all contribute to its significance as a listed building.
- The appeal property is close to open fields, trees and planting and has a large garden. Those matters contribute to its rural and spacious setting. It is located within the Avington Conservation Area and significantly contributes to the character and appearance of the Conservation Area.
- The proposal would include an enlarged building, roughly in the place of the existing small outbuilding, along with a link to the main house. The resultant built form would be very large in relation to the existing building, such that it would appear out of scale with it. Even though the appeal proposal would be cut into the slope of the garden, it would still appear visually dominant in relation to the main house. When viewed from the side, it would represent a significant increase in bulk, such that it would compromise the simple compact form of the historic core. Further, by linking on to the main house in the manner proposed, its complex, linear form would fail to integrate successfully with the existing simple, compact form, including catslide roof, of the main house, particularly when viewed from the side.
- The proposed use of a mixture of materials, the Inspector held, would appear particularly out of place.
- The Inspector dismissed the appeals noting that the proposal would fail to preserve the special architectural and historic interest of this listed building and would fail to preserve or enhance the character or appearance of the Conservation Area.

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/04837/HOUS APP/L3815/D/20/3245825	Chichester	Yew Tree Cottage, Fernhurst Road, Milland, Liphook GU30 7LU	Two storey side extension including new front dormer.	<b>A</b> 17 March 2020

**Inspector’s Reasoning**

- The Authority was concerned that the proposed extension would dominate the existing building and negatively erode the space around the building, particularly the gap to the western boundary. However, the Inspector considered that the proposed increase of floor space of 28% does not suggest ‘domination’.
- The Inspector set out that the width of the extended building, when seen from Fernhurst Road, would still be far less than the width of properties to the west and east. Any perception of additional mass and bulk would be reduced by the articulation of the extended front elevation and by the hipped roof. The legibility and functionality of the building would be enhanced through the creation of a new front entrance and porch. The extensions would result in the building being an improved architectural composition with enhanced family accommodation.
- The Inspector understood the Authority’s point in respect of reducing the gap between Yew Tree Cottage and Durrants Cottages to the west. However the Inspector noted that between 2m and 2.5m would remain between the boundary and the side gable of the nearest of the pair of Durrants Cottages. Given this separation, and taking into account the fact that Yew Tree Cottage is positioned further back from the road than its

neighbours, and because the south and east of the house is a considerable distance from the site's boundaries it was determined that the proposal would not materially affect the spaciousness of the plot. The spaciousness of the plot would remain 'appropriate' and the rural character and appearance of the area would not be adversely affected.

- The proposal was not considered a contravention of Policy H.1 of the Milland Neighbourhood Plan which seeks to retain small dwellings as the Inspector determined that, at 145 sq m, the house is a large dwelling. The extension would be within the 30% limit set out in Local Plan Policy SD31.
- The Inspector concluded that the appeal scheme would not harm the existing building and its setting, or the rural character and appearance of the area and allowed the appeal.

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/02284/FUL	SDNPA	Admiral's Knock, Mill Lane, Rodmell, BN7 3HS	Replacement of existing dwelling.	<b>D</b> 20 March 2020
APP/Y9507/W/19/3243542				

**Inspector's Reasoning**

- The appeal site is around 4 hectares in size and contains a modest one-and-a-half storey dwelling positioned roughly in the centre. As a result of the size of the site and the position of the proposed replacement dwelling within it, the development would not conflict with Local Plan Policy SD30 part b) which requires that the replacement dwelling is not detrimental to the amenity of nearby residents.
- The proposal would result in a net increase of considerably more than 30% compared with the gross internal area of the existing dwelling that existed in 2002. Thus, in the context of the purpose of Policy SD30, the proposal would result in the loss of the existing dwelling and replace it with one substantially larger.
- The Inspector noted that the site benefits from an extant planning permission for a replacement dwelling. The appellant set out that the extant planning permission negates the primary purpose of Policy SD30, in that the existing smaller home on the site is effectively lost, and that in their view this is a material consideration that outweighs this aspect of the policy. However, the extant planning permission allows a replacement dwelling to be positioned on the site with a gross internal floor area of 411 square metres. Consequently, whilst it would result in a dwelling with a gross internal floor area appreciably greater (by considerably more than 30%) than the existing dwelling, it would not result in a replacement dwelling with a gross internal floor area as large as the appeal proposal. Therefore, the Inspector considered that although the fallback position would result in a dwelling significantly larger than that permitted by policy, this would not amount to sufficient justification for a proposal substantially larger again.
- The appeal site is outside any settlement boundary and within the countryside. Within the vicinity are dispersed mainly detached properties of varying sizes set within mostly substantial plots with mature planting. The architectural characteristics of properties vary, however most are of traditional understated design.
- The appeal proposal was for a new dwelling in the style of a 'fortified house'. One half of the proposed building would be single storey and of relatively unassuming design; the other half of the building would be very different in design terms by virtue of its style as a 'fortified house'. It would be constructed using different materials, including large rubble stone and flint rubble walls, and would include a tower and parapet wall akin to a historic castle. Consequently, the Inspector considered that the design of the development would appear disjointed, resulting in overly complicated

<p>elevations that would result in a visually jarring building within the landscape.</p> <ul style="list-style-type: none"> <li>• The evidence indicates that the landscape at this location is not characterised by a long history of settlement. Hence, the proposal for a new dwelling in the style of a ‘fortified house’ within this context, notwithstanding the medieval origins of Rodmell, would not respect the local character nor adopt a landscape-led approach.</li> <li>• The Inspector stated that the relatively limited views of the proposal from the public domain did not obviate the need to achieve good design.</li> <li>• The Inspector concluded that the proposed development would be significantly harmful to the character and appearance of the area and dismissed the appeal.</li> </ul>				
Planning Application No	Authority	Site	Enforcement Appeal	Decision
APP/Y9507/C/19/3220029	Chichester	Land at Lithersgate Common, Bedham Lane, Fittleworth,	The breach of planning control as alleged in the enforcement notice is: Without planning permission, change of use of the land to a BMX cycle track.	<b>D</b> 23 March 2020
<p><b>Inspector’s Reasoning</b></p> <ul style="list-style-type: none"> <li>• The appellant stated that no material change of use had occurred and described the use as the private riding of BMX bikes on 10 – 15 days a year by a small group of riders. However, the Inspector noted that there is permanent operational development facilitating the change of use, in particular the presence of earth mounds.</li> <li>• The enforcement notice identifies that the use and the scale and extent of engineering work (the tracks and jumps) results in unacceptable impacts on the landscape and its relative tranquillity. The Inspector found that a material change of use had occurred with a significant difference in planning terms in the character of the land and the activity now on it.</li> <li>• The General Permitted Development Order grants planning permission for the use of any land for any purpose for not more than 28 days in total in any calendar year. However, the Inspector stated that it is clear that operational development which constitutes part of the use alleged is not moveable. Therefore, the use is not permitted development.</li> <li>• The enforcement notice in this case requires the use to cease as well as the removal of the operational development which facilitates the use. The appellant considers that the notice should only require the use to cease as it is only the use which is identified in the breach of planning control. The Inspector disagreed noting that if removal of the operational development had not been required, the land would be left with unauthorised development on it.</li> <li>• The notice requires removal of the earth mounds by hand tools. The Authority stated this was to prevent damage to trees and their roots as well as to ecology and wildlife in this location. The Inspector was satisfied that this did not exceed what was necessary.</li> <li>• The appellant sought a period of 12 months to comply with the requirements of the enforcement notice. The Inspector considered that the 6 months specified in the notice is adequate to cease the use of the land and remove the wooded structures and plastic sheeting. However, given the constrained and wooded nature of the site and the requirement for the earth mounds to be removed by hand tools, the Inspector varied the enforcement notice to allow for 12 months to comply with this aspect.</li> </ul>				

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/18/06553/FUL W/4000237	SDNPA  (Planning Committee decision)	The Beacon Nurseries, Ditchling, BN6 8XB	Demolition of existing stables and erection of new single storey dwelling with associated landscaping.	<b>D</b> 25 March 2020

**Inspector's Reasoning**

- The appeal site is outside of the defined settlement boundary of Ditchling. It is a paddock with a stable type building located within a cluster of residential dwellings that are generally set within spacious grounds and are interspersed with open or undeveloped equestrian land. The appeal site contributes to this rural character by providing a significant break in residential development and reinforces the openness and undeveloped nature of the wider national park.
- The proposal would replace the existing stable block with a single storey dwelling. The size of the proposed dwelling would be significant in comparison to the existing structure, the erection of which would not only drastically increase the level of built form on the site, but also introduce a more formal residential character to the lane. The Inspector considered that this would severely diminish the current rural qualities and be harmful to the sporadic and open character of the wider area.
- It was considered that the scheme cannot be made acceptable through the use of landscape mitigation as identified in the LVIA submitted by the appellant. Whilst long reaching views of the proposal would be minimal, the very character and nature of site and the specific quality that it contributes to as a rural environment would be extinguished, and this would result in considerable harm to the immediate environment.
- It was acknowledged that care had been taken in designing the proposal but this did not overcome the fact that the significant increase in development on the plot and the associated residential paraphernalia would be harmful to the character of the area and would fail to conserve the landscape character.
- The appeal site is not located within a settlement. Both the Local Plan and the Neighbourhood Plan identify that development outside of the settlement, on previously developed land, is only acceptable in exceptional circumstances and in cases where the development is demonstrably necessary to meet the wider objectives of the Local Plan. The stables appear to be a permanent structure that have been on the site for a considerable period of time. Equestrian uses are not excluded from the definition of previously developed land and the Inspector considered that the site would fall within previously developed land as set out in the NPPF. However, the fact that there has been an historic use of the site is not in itself an exceptional circumstance. The wider objectives of the Local Plan are to direct housing towards defined settlements to cater for a medium level of dispersed growth. A single open market dwelling in this location would not be necessary to meet these wider objectives and, further, the site is not easily accessible other than by private vehicle.
- The proposal would not result in harm to living conditions of neighbouring occupiers, it would provide adequate off street parking and would not have a detrimental impact on highway safety. It would preserve dark skies and would not result in harm to biodiversity. The use of an integrated eco-system approach to green roof and rain water harvesting would also be a benefit of the scheme. However, the Inspector judged that these considerations did not outweigh the fundamental conflict and harm identified and the appeal was dismissed.

Appeal Reference	Authority	Site	Enforcement Appeal	Decision
APP/Y9507/C/19/3227436	Chichester	Land north west of Upton Farm House, Chilgrove Road, West Dean, Chichester, PO18 9JA	The breach of planning control as alleged in the notice is: The engineering of an inert material bund with imported materials around three sides of a field.	<b>D</b> 27 March 2020

**Inspector’s Reasoning**

- The Inspector noted that the bund is a lengthy U-shaped feature, bounding the field and with its main stretch running parallel to the roadside. Its height fluctuates between 1.6m and 2m along this section which covers a significant expanse. The appellant stated that it was built up over a period of some 9 months.
- The bund is largely covered in vegetation. It is in the main positioned behind trees which run along the boundary with the road beyond. However, no form of landscape appraisal has been submitted and the proposed retention of the bund does not address the nature of its constituent materials, for which the appellant has submitted no evidence. Photographs provided by the Authority show a significant amount of hard-core deposited, and the Inspector considered the term “earth bund”, as used by the appellant, something of a misnomer.
- The Authority noted that, as the constituent materials had not been verified, a risk of contaminants was possible. The Authority also had concerns that it had not been demonstrated that the “waste” cannot practicably be reused, recycled or recovered, nor had it been demonstrated that there were no adverse impacts on the immediate area’s biodiversity. These concerns were shared by the Inspector.
- The Inspector stated that whilst the visual impact of the development may have been tempered due to its vegetative covering, the bund is not a naturally formed feature and its height and extent cannot be considered as insignificant in the contextual setting. The Inspector concluded that the development is harmful to the character and appearance of the area, and is in conflict with the aims and requirements of Local Plan policies.
- The notice requires that the material is removed from the site. The appellant considered that this exceeds what is necessary and that it could be redistributed across agricultural land. However, the Inspector did not agree considering that there is no evidence providing certainty as to the type of materials deposited at the site and that a proper assessment was not possible in this regard.
- The appellant considered the three month period specified in the enforcement notice to remove the bund to be insufficient. Under normal conditions the Inspector found it to be adequate. However the Inspector determined, in relation to the Covid 19 outbreak, that there was consequent uncertainty as to when normal business might resume. The Inspector adjudged that rather than him speculate as to when it might be practicably possible for the remedial works to be undertaken the period of compliance remain as stated in the enforcement notice and that, instead, the Authority used its legislative powers to extend the period of compliance as it sees fit, depending on how matters develop.
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Planning Application No	Authority	Site	Description of Development	Decision
SDNP/18/04431/HOUS APP/Y9507/W/19/3224690	East Hants	22A Stable Cottage, High Street, Petersfield GU32 3JL	Extension to existing outbuilding to form a single garage	<b>D</b> 02 April 2020
<b>Inspector's Reasoning</b>				
<ul style="list-style-type: none"> <li>• Located to the rear of 22 High Street within Petersfield town centre, the appeal site comprises part of an outbuilding, Stable Cottage, and part of a 12th Century burgage plot. No.22 is a Grade II Listed building and Stable Cottage is a curtilage listed building which has been converted to a dwelling. The appeal site is also within the Petersfield Conservation Area.</li> <li>• The Authority's Conservation Area Character Appraisal and Management Plan identifies the historic layout of the 12th century burgage plots as a key positive feature of the Conservation Area. The appeal site is part of one of the last two such plots in the area.</li> <li>• Due to the projecting nature of the garage extension and its higher eaves height than the host outbuilding, the Inspector held that it would appear incongruous in views from the burgage plot. This would be compounded by the proposed Hazel Coppice fencing which would contrast starkly with the traditional walled enclosure of the burgage plot. Together these elements would detract from the appearance of the existing outbuildings to the rear of No 22.</li> <li>• The combination of an additional physical structure and associated fencing would result in the permanent erosion and subdivision of the burgage plot whilst the installation of the proposed clay brick paving would contrast with the existing gravelled surface, thereby further highlighting the subdivision.</li> <li>• The Inspector considered that the proposal represented poor quality design which would be harmful to the setting of the listed buildings and the historical significance of the burgage plot. It would also fail to preserve or enhance the character and appearance of the Conservation Area.</li> <li>• The appellant stated that there is currently an unsightly prefabricated garage building on site so the proposed building would not only provide secure garaging but there would remain less scope for further unsightly paraphernalia within the garden area. However, the Inspector referenced paragraph 191 of the NPPF and that the deteriorated state of a heritage asset should not be taken into account in any decision. Meanwhile the provision of covered parking for Stable Cottage would be a personal benefit. Consequently, the Inspector considered that there were no public benefits which outweighed the harm identified and dismissed the appeal.</li> </ul>				

Planning Application No	Authority	Site	Enforcement Appeal	Decision
SDNP/18/04431/HOUS SDNP/19/02605/FUL  Appeal A Ref: APP/Y9507/C/19/3228664  Appeal B Ref: APP/Y9507/C/19/3228665  Appeal C Ref: APP/Y9507/W/19/3237085	SDNPA	Appeals A and B: Land to the South of the A27 known as The Ranch, Water Lane, Angmering  Appeal C: Fairhaven, Water Lane, Angmering	Appeals A and B: The breach of planning control as alleged in the enforcement notice is: Without planning permission and within the last 10 years the material change of use of Land to residential and the construction of a structure for the purposes of human habitation.  Appeal C: The replacement of a mobile home consented under SDNP/14/06164/FUL. The applicant is replacing the development with a mobile home with an agricultural occupancy restriction.	<p style="text-align: center;"><b>D</b></p> <p style="text-align: center;">07 April 2020</p>
<ul style="list-style-type: none"> <li>• Based on the information provided, the Inspector was not satisfied that the development on site complies with the definition of a mobile home, set out in section 13 of the Caravan Sites Act 1968. Therefore, it cannot be a ‘like for like’ replacement of a mobile home which previously existed on site with planning permission.</li> <li>• The appeal site is outside of any settlement boundary and is therefore within open countryside where development is only acceptable in the exceptional circumstances specified in Local Plan Policy SD25. With reference to paragraph 79 of the NPPF the Inspector considered that the appeal development was an isolated home in the countryside.</li> <li>• The appellant stated that the appeal development is for a rural workers dwelling and that they are happy to have an agricultural occupancy restriction placed on the property.</li> <li>• Local Plan Policy SD32 contains a number of tests which must be met, in addition to requiring a demonstration that the nature and demand of agricultural work make it essential for the worker to live at or close to the site of their work. Of particular relevance to this case SD32 e) requires the proposed agricultural or forestry dwelling to be well-related in terms of siting to existing buildings or dwellings within the enterprise, result in and remain as a total habitable floor space not exceeding 120m<sup>2</sup> (gross internal area) and be sensitively designed.</li> <li>• The Inspector stated that no evidence had been provided which satisfied them that all of the tests in Policy SD32 had been met, particularly given the scale of the structure which has been built and which is proposed in Appeal C.</li> <li>• The Inspector was not satisfied that it was necessary for the appellant to live in the structure which has been erected on the appeal site nor the development proposed in Appeal C and that the appeals failed to comply with development plan requirements and the NPPF.</li> <li>• The Inspector noted that at the time of their visit the structure on site was not complete but that regardless its scale was obvious. The structure on site is clearly seen when travelling west on the A280 Water Lane from its nearby junction with the A27. In this open and otherwise undeveloped countryside location, it was considered that the structure appears as a substantial and incongruous feature within the National Park landscape.</li> <li>• The appellant said that they will plant trees and hedges and let roadside hedges grow to block views of the development from the A280, but no further detail was provided. Based on the information available, the Inspector was not satisfied the plant growth proposals described by the</li> </ul>				

appellant would mitigate the effect of the development on the character and appearance of the area.

- The Inspector concluded that the development would harm the character and appearance of the area, contrary to Local Plan and Neighbourhood Plan Policy and contrary to paragraph 172 of the NPPF which gives great weight to conserving and enhancing landscape and scenic beauty in National Parks.
- Were the development to have been acceptable the Inspector stated that a planning condition could ensure the proposal would be sustainable in respect of climate change mitigation and adaptation and water and energy efficiency to comply with policy SD48 of the Local Plan. But in the absence of a response to the specific requirements of Policy SD2 the proposal would not be sustainable in respect of ecosystem services and would not comply with Policy SD2 of the Local Plan in this regard.
- The enforcement notice was issued on 9 May 2019 and gave a period for compliance of 2 months. Given the Covid 19 public health emergency the Authority stated that 6 months was reasonable. The Inspector agreed and amended the period for compliance accordingly.

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/18/03009/FUL APP/Y9507/W/19/3235127	East Hants	Blacknest Golf and Country Club, Frith End Road, Blacknest, Alton, GU34 4QL	Erection of 3 linked tipis, associated facilities building and pavilion, change of use and conversion of first floor gym, function room and multi-use rooms in clubhouse to 7 hotel rooms, alterations to first floor gym changing room to form open plan gym, conversion of first floor offices over pro-shop into security staff flat associated with proposed hotel rooms, change of use and conversion of part of driving range to 3 hotel rooms (2 x Part M compliant) with associated raised access path.	<b>A</b> 15 April 2020

**Inspector’s Reasoning**

- The permanent tipis, along with an associated facilities building, would enable events such as weddings to be carried out on this part of the golf course.
- The Inspector considered that the proposal would increase the spread of built form across the golf course but that the proposed development is of modest size, rising only to a single storey in height. The development would be set well away from the external boundaries of the golf course and in a setting which is heavily obscured by mature trees. The function of the tipis would be consistent with the existing longstanding use of this land as an area for recreation and leisure. The Inspector considered the appearance of the tipis would be similar to that of a marquee, a feature often found in the English countryside. It was found that the proposal would complement the landscape and would not detract from its character.
- Conditions were imposed to ensure that the new buildings remain ancillary to the golf course and do not become a destination or attraction in their own right.
- In relation to noise and impact on neighbouring residents the Inspector set out the importance of the sound system within the tipis having a limit on the noise emitted. A noise management plan, required by condition, would set out these limits together with measures to ensure that they were adhered to.

- Several residential properties have reported noise disturbance from similar, temporary structures on site. The Inspector considered that if the appeal fails it is likely that the temporary structures would continue to be erected with continued noise disturbance.
- The zone array sound system that would be installed within the venue directs music from the ceiling to the dancefloor, rather than conventional amplification systems which are less directional. This would be subject to strict noise limits, enforced through a noise management plan. The exact noise limits for different times of the day would be subject to the agreement of the Authority, this would ensure that noise does not unreasonably impact on neighbouring residents the Inspector stated.
- Whilst noting the appeal proposal is a permanent form of development, it was found by the Inspector likely to represent a significant improvement over the existing situation in terms of the local noise environment, at the times when the venue is in use. In conclusion the Inspector judged that the evidence before him indicated that noise could be limited to acceptable levels through the use of planning conditions.
- In respect of tranquillity the appeal site's location, whilst being predominantly rural, was proximate to housing and traffic along the Frith End Road giving it, in the Inspector's opinion, a medium level of tranquillity. There were concerns that the approval of a permanent structure could result in regular events occurring at the site. This, the Inspector agreed, would have the potential to lead to an urbanising effect and in response to this a condition was imposed limiting the use of amplified sound at the venue to 30 days within each calendar year. Subject to this limitation, additional noise arising from the tipis would occur on such an infrequent basis that it would not materially affect the prevailing relative tranquillity of this area.
- The Inspector considered that the modest works to this existing rural business were likely to support its ongoing viability as a sports venue and community meeting place.
- Dark night skies matters were addressed by planning condition.

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/17/04166/LDE  APP/Y9507/X/18/3200665	Chichester	Buriton Barn, Buriton Farm Lane, Treyford GU29 0LF	The use for which a certificate of lawful use or development was sought is C3 residential use for the site area and buildings	<b>A</b>  In part 17 April 2020 (public inquiry)

**Inspector's Reasoning**

- The main issues in the case were what the planning unit was and how the land has been used, including considering occupation of the land, physical separation and functional use of the land, past and present, and also the effect of previous planning permissions. To be lawful the residential use had to have been used as such for more than 4 years before the application date. This is determined on the balance of probability.
- In the appeal the Inspector gave little weight to the intentions of the Authority to limit the area of land for curtilage in previous applications, or to the appellant's reliance on the red line of the previous permissions. The Inspector noted that the appeal does not relate to planning impacts, but rather what has occurred in terms of the use.
- Subsequent to the inquiry the Authority had agreed on information provided by the appellant that the residential use of the buildings is lawful and on the lawful development certificate had drawn the red line closely around the group of buildings. This appeal therefore concentrates on the land beyond the buildings. The Inspector considered the use of the disputed land in three parts; i) the land to the front of the dwelling, ii) the hardstanding immediately to the rear of the dwelling and, iii) the land to the rear of the site.

- It was noted that the land to the front of the building has always been directly associated with the dwelling. When it was constructed it had the drainage and septic tank for the dwelling installed in the land and doors from the dwelling open directly out to the land. The previous owner notes that he maintained the land. The drainage and door way do not necessarily mean that the land is used in association with the house, but given that the land is intimate to the door way and that the septic tank will need maintenance and the land is in the appellant's ownership, the Inspector concluded on the balance of probability that it was so used (for residential use).
- The hard standing land to the rear of the garage had the hard standing added at an early date after the land had the underground array of pipework serving the heating system installed for the house. The area of hard standing has been used for parking by the occupants of the house and this is clear in the photographs provided by the Authority. On the balance of probability the parking use has continued as has the use of heat array pipes. It has continued to be used by the appellant in association with his house and has been in that use for in excess of 4 years (and thus was lawful).
- With regard to the land to the rear of the site the Inspector accepted that any agricultural use had ceased for quite some time but that the land is more akin to a meadow than residential use. The heaps of stored materials are relatively small and not a residential use. The small shed is de minimis and again not sufficient to establish a residential use. The aerial photographs provided by the Authority suggest that there has been no specific use of the land. In the Inspector's view, at present, and on the balance of probability the land is in a nil use. It is not in the same planning unit as the residential use.
- For these reasons the appeal was allowed in part and a certificate of lawfulness issued for residential use that included the dwelling, the land to the front of the dwelling and for the hardstanding immediately to the rear of the dwelling. The certificate of lawfulness for residential use did not include the land to the rear of the site as its use for residential purposes for more than 4 years before the application date had not been established.

**Costs Decision: Refused**

- The Inspector considered that the Authority had acted in a reasonable manner in relation to this appeal. It had provided relevant information at the appropriate times, including its statement and proofs of evidence and agreed the statement of common ground. It had considered the use of the house and with the later submission of appropriate additional material had confirmed the use of the house ensuring that matter did not have to be considered in this appeal. There had not been a lack of cooperation, but a disagreement.
- The Inspector noted that it is up to the appellant to produce the evidence of a use (it is for the appellant to prove their case) and not for the planning authority to direct what is required.
- It was accepted by the Inspector that there had been some interchangeable use of terminology in relation to curtilage and use by the Authority but that it had not made a material difference in relation to the case and in any case did not amount to unreasonable behaviour. The application for an award of costs was refused.

Planning Application No	Authority	Site	Enforcement Appeal	Decision
<p>SDNP/18/00679/FUL</p> <p>Appeal A Ref: APP/Y9507/C/19/3237773</p> <p>SDNP/19/01331/CND</p> <p>Appeal B Ref: APP/Y9507/W/19/3232344</p>	<p>Winchester</p>	<p>Land at Abbots Worth House, Abbots Worthy, Winchester SO21 1DR</p>	<p>Appeal A The breach of planning control as alleged in the enforcement notice is the failure to comply with Condition 2 of planning permission SDNP/18/00679/FUL by failing to carry out the development in accordance with the approved plans by: Increasing the height of the roof; Relocating and resizing of the second floor windows to the north elevation; Inserting a window to the second floor east elevation and extending the roof; Relocation of the skylights; The relocation and resizing of the second floor windows to the south elevation; and Insertion of doors to the main dormer to south elevation.</p> <p>Appeal B The application sought planning permission for the partial change of nursery (Use Class D1) at Abbots Worthy House back to residential dwelling (Use Class C3) and extension to the roof to create additional habitable accommodation, without complying with condition 2 attached to planning permission Ref SDNP/18/00679/FUL, dated 18 April 2018.</p>	<p><b>A</b></p> <p>24 April 2020</p>
<p><b>Inspector's Reasoning</b></p> <ul style="list-style-type: none"> <li>• The two appeals were dealt with by the Inspector together. In these combined appeals, the common main issue was the effect of the development on the architectural character of the existing building.</li> <li>• The roof of the building has been increased in height by 0.4 metres and this has resulted in an increase in both the height of the roof and the roof pitch and that this results in the building being slightly more visible from outside the site.</li> <li>• The overall design of the roof was considered to remain similar to that previously approved. The additional height and pitch is different, but the roof is set back behind a low parapet wall and roof walkway, which reduces the overall scale and visual impact of the roof. When viewed in the context of the scale and design of the existing building, the roof as built, was considered to remain subservient to the building as a whole. Consequently, the small increase in the pitch and height of the roof was not held by the Inspector to cause any discernible visual harm to the proportions and architectural design of the existing building.</li> <li>• Changes to the windows in the front elevation and the enlargement and repositioning of the dormer window were considered to overall enhance the symmetry of this elevation. The other changes in fenestration detail were considered to be minor and to have no adverse impact on the original building, when viewed as a whole. In conclusion the Inspector determined that the changes were respectful of the design proportions and architectural character of the host building and the appeal was allowed.</li> </ul>				

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/00334/FUL APP/Y9507/W/19/3239742	East Hants	71A Station Road, Liss GU33 7AD	Retrospective change of use from retail A1 use to 1 bed residential flat.	<b>D</b> 27 April 2020
<b>Inspector's Reasoning</b>				
<ul style="list-style-type: none"> <li>The appeal property is wholly located within Flood Zone 3a and as such has a high probability of flooding. The Inspector noted that the appeal development introduces a more vulnerable use within this flood zone.</li> <li>The Flood Risk Assessment (FRA) accompanying the application identified that both the finished floor level of the appeal site and the access fall below the Environment Agency's 1 in 100 year modelled flood event plus climate change. Accordingly, the Inspector determined, the occupants of the appeal development would be at demonstrably unacceptable risk during the modelled flood event with no flood free or safe access from the site. The single storey nature of the development also provides no opportunity for safe on-site refuge.</li> <li>The appellant had erected a permanent wall (1.2m in height) within the rear courtyard, outside of the identified appeal site, to serve as a flood barrier along the boundary adjoining the River Rother. This wall was not identified as a recommended mitigation measure within the submitted FRA. As such the FRA did not assess the consequence that this wall would have upon flood storage capacity and the residual flood risk to other properties in the catchment. Significantly, the height of the constructed wall would still be below the 1:100 year modelled flood event plus climate change, and as such could potentially introduce a dangerous surge of flood water from overtopping of this wall and result in prolonged flooding of the property. Conversely, the erected wall could also have a negative effect on the natural function of the River Rother as a watercourse and ecosystem service.</li> <li>The Inspector noted that the appellant had attempted to occupy the appeal site as a retail and office use with little long term success but that this did not justify the introduction of a more vulnerable land use within an area at high probability of flood risk. Whilst the FRA includes a list of generalised mitigation measures, it is unclear how these physical design measures can be practically implemented given the retrospective nature of the development, and whether the suggested flood warning and evacuation plans are appropriate. Furthermore, the erection of a rear boundary wall to serve as a flood barrier potentially introduces greater risk to both occupants and the property, as well as potentially effecting flood storage capacity, other properties in the catchment and the natural characteristics of the watercourse. The Inspector judged that the appeal development would be at an unacceptable risk of flooding.</li> <li>In relation to living conditions the London to Portsmouth railway line is closely located to the appeal site. Nonetheless that Inspector noted that it was clear the Authority had approved other residential development in similar proximity to the railway line and that the Authority had not provided any substantive evidence or cogent reasoning as to why this appeal development differs to those approved schemes. Consequently the Inspector determined that it had not been adequately demonstrated that the railway line would harm the living conditions of occupiers.</li> </ul>				

Planning Application No	Authority	Site	Enforcement Appeal	Decision
APP/Y9507/C/18/3209964	Lewes	Land at Iford Farm, The Street, Iford BN7 3EU	<p>The breach of planning control as alleged in the enforcement notice is without planning permission, the material change of use of the Land from agriculture to a mixed use of the land for agriculture and for the shooting of game birds (including partridge and pheasant) for sport in the shooting season (1 September – 1 February), with the shooting of game birds for sport in the shooting season taking place in excess of that permitted under Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. This order permits the temporary use of Land for no more than 28 days in total in any calendar year.</p> <p>The requirements of the notice are to cease the use of the Land or any part of the Land for the shooting of game birds for sporting purposes in excess of that permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).</p> <p>The period for compliance with the requirements is two months.</p>	<p><b>D</b></p> <p>29 April 2020</p> <p>(Informal hearing)</p>
<p><b>Inspector's Reasoning</b></p> <ul style="list-style-type: none"> <li>• Shooting occurred at the Iford Downs Shoot on either 52 or 57 days in the 2017-18 season and has been operating commercially since 2010. It generally consists of 4 drives of up to around 30 minutes over a 6 hour day. The shooting season is from 1 September to 1 February. No shooting currently takes place on a Sunday.</li> <li>• The South Downs Way crosses the area of the Shoot whilst a bridleway forms the boundary of the area use for shooting and there is nearby open access land. As a result, walkers, horse riders and other users of the South Downs Way, bridleway and open access land could be in close proximity to the shoot while it is operating.</li> <li>• The number of people involved in a shoot, including guns, beaters and shoot staff, can be substantial. According to the Noise Impact Assessment, the sound of guns raises the ambient noise at locations around the shooting areas while it is taking place. The shoot could affect a substantial number of people on the paths through and around the shoot were it to operate on an unrestricted basis through the shooting season, albeit it was accepted that the open access land is rarely used by the public.</li> <li>• Some representations suggested that members of the public have found operation of the shoot intimidating when using the public footpaths and bridleway around the area but the Inspector noted that shooting is a traditional pastime in the countryside such that the noise of guns would not be</li> </ul>				



unusual in an area such as this.

- Conditions to mitigate the effects of the shoot were discussed during the hearing and included:
  - Limiting the number of guns on the shoot to 9
  - Limiting the hours of operation of the shoot
  - A Management Plan for the shoot with regard to other users of the National Park
  - No shooting or beating over public rights of way
  - Limiting the number of days shooting per year
- The Inspector noted that to comply with Local Plan SD7 development needs to *positively* enhance tranquillity. The Inspector was satisfied that the suggested conditions would reduce the amount of noise and disturbance on days when the shoot operates and that they would also significantly limit the effect on other users of public rights of way, such that the shoot would not have a material effect on the behaviour or attitude of users of public rights of way in the area. Nevertheless whilst the Inspector considered that overall the shoot would *conserve* the relative tranquillity of the area there would not be an *enhancement* of the conditions of users of the public rights of way relating to noise and disturbance as required by Policy SD7 and would therefore be contrary to development plan policy. On this issue the Inspector concluded that the use does not conserve and enhance the natural beauty of the SDNP, with particular regard to the tranquillity of the area.
- Turning to ecology and biodiversity part of the site is within a SSSI. On the basis of the evidence submitted the Inspector considered that the shoot does not affect protected species nor the condition of the SSSI. In terms of bird species the Inspector considered the shoot to enhance biodiversity but noted that there may be negative impacts on the natural environment such as through the disturbance of flora and fauna, deposition of lead shot and displacement of native bird species. However, it was noted that these were presented as assertions with limited evidence to back them up and therefore there was a lack of certainty as to the nature and extent of these effects on biodiversity. On balance, and on the basis of the evidence available, the Inspector considered that the shoot conserved and enhanced ecology and biodiversity.
- The Inspector noted that the Estate had an endorsed Whole Estate Plan that provided details of the activities undertaken on the Estate, including the shoot. The shoot contributes toward the income of the Estate and toward the vision for the estate set out in the Whole Estate Plan. As a result, the mixed use for agriculture and for shooting of game birds complies with Local Plan Policy SD40 that supports farm diversification.
- The Inspector also noted that the shoot provides open air recreation and that is also provides employment. These factors carried moderate weight the Inspector determined.
- The appeal was dismissed as the Inspector judged the use, with particular regard to the tranquillity of the area, would not enhance the natural beauty of the SDNP, contrary to Local Plan Policy SD7 and conflicting with the first purpose of the SDNP to which the Inspector attached great weight in the planning balance.

Planning Application No	Authority	Site	Description of Development	Decision
SDNP/19/02109/FUL APP/Y9507/W/19/3239471	Chichester	Arundel House, Rumbolds Hill, Midhurst GU29 9ND	Conversion of two upper floors to two flats (1x1 bed and 1x2bed). Minor external works at ground floor level to facilitate access to the proposed residential flats.	<b>A</b> 7 May 2020

**Inspector’s Reasoning**

- The appeal site is a three storey building wholly used for retail purposes and comprised of two retail units which are separated at ground floor level. The retail unit subject of the appeal occupies part of the ground floor and the full extent of the first and second floors of the building. The appeal site is in Midhurst Town Centre and within a Primary Shopping Frontage defined by the Local Plan.
- Local Plan Policy SD37 seeks to support the vitality and viability of the retail function of market towns. The policy emphasises that development proposals within the town centre must not harm the retail function of the town centre and that the loss of retail units within the Primary Shopping Frontage will not be permitted.
- The Inspector noted that the appeal proposal sought to convert the first and second floors of the appeal site to residential flats, with a reconfigured retail unit retained at ground floor level. Policy SD37 explicitly describes the loss of a retail unit as not being permissible, so although the retail unit would be of a reduced size it would not equate to the complete loss of a retail unit and would therefore satisfy this clause of the policy, provided it remains viable for retail purposes.
- It was considered that the appeal proposal would maintain the predominantly retail interface at ground floor level whilst facilitating residential development on the floors above, which it was noted was characteristic of the mix of uses along this part of Rumbold Hill. The introduction of a residential use would support the vitality and retail function of the centre, it was considered, by providing greater access to local businesses and services as recognised by Paragraph 85 of the NPPF.
- The Authority had expressed concerns about the significant reduction in size of the retail unit, reduced shop front width, irregular configuration and lack of staff facilities (i.e. toilet and kitchenette). In response the Inspector considered that the size of the retail unit remaining was similar to other retail units in the town centre and that it would remain a viable prospect for both the short and long term prosperity of the town centre. In relation to staff facilities the Inspector noted that there are public conveniences and food outlets within walking distance if no onsite facilities are provided.
- The minor nature of the external works were considered to have a neutral impact on the Conservation Area and the appeal was allowed.