

MINUTES of the Planning and Open Spaces Sub Committee of Plaistow and Ifold Parish Council held on **Wednesday 8th January 2020**, in Kelsey Hall, Ifold.

Present Cllr. Sophie Capsey (Chair); Cllr. Paul Jordan; Cllr. Nick Whitehouse; Cllr. Matthew Hardman; Cllr. David Ribbens and Catherine Nutting (Clerk)

Seven (7) Members of the Public were present, including District Councillor Gareth Evans.

Apologies Apologies were received and accepted from Cllr. Alan Pearson (Chair of the Parish Council)

P/20/001 Declaration of Disclosable Pecuniary Interests by Members in matters on the Agenda for this meeting. To consider and agree any requests for Dispensation.
None.

P/20/002 Representations from Members of the Public: To receive and act upon, if considered necessary by the Council, comments made by members of the public.
A Member of the Public requested an update regarding the Local Planning Authority's Enforcement enquiry regarding Thane, The Drive, Ifold. Please refer to **P/20/006** below for the details, which were discussed during the meeting.

P/20/003 To receive for confirmation Minutes of the Planning and Open Spaces Sub Committee Meeting held on 18th December 2019.
The minutes were agreed and signed by Cllr. Jordan, who Chaired the meeting.

P/20/004 To consider new Planning Applications Clerk
a. PS/19/02908/PA3Q | Proposal: Prior approval for conversion of agricultural barn to a 3-bedroom dwelling. | Address: Winkins Wood Farm, Shillinglee Road, Plaistow, West Sussex, RH14 0PQ

No Comment

b. 19/03078/TPA | Proposal: Fell 3. no. Oak trees (quoted as G13 and T11 on plan) (T7, T8 and T10) subject to

Letter of Comment appended at A

- c. 19/02903/FUL | Proposal: Erection of stable barn and (25m x 50m) manège including fencing, solar photovoltaic panels and muck heap. | Address: Plot 1B, Land At Sparrwood Farm, Shillinglee Road, Plaistow, West Sussex

Letter of Comment appended at B

- d. 19/03076/LBC | Proposal: Reinstatement of door and opening and external alterations including construction of timber steps and dwarf wall. | Address: Spiders Webb, Dunsfold Road, Plaistow, RH14 0QE

No Comment

- e. 19/03148/DOM | Proposal: Proposed demolition of three outbuildings and construction of a single storey annex and new carport. | Address: Keepers Cottage, Oak Lane, Shillinglee, Plaistow, GU8 4SQ

No Comment

- f. PS/19/02182/FUL | Proposal: Demolition of existing outbuildings and erection of 9 no. detached dwellings, play area, landscaping and associated works. **The applicant has submitted revised plans which include one less dwelling, a new layout, new designs of homes and open space.** | Address: Little Springfield Farm Plaistow Road Ifold Loxwood RH14 0TS

No Additional Comments; the Parish Council resubmitted their Letter of Comment dated 4th November 2019 appended at C.

P/20/005

To receive list of recent Planning decisions, Appeals and Enforcement

List circulated to Members in advance of the meeting and published with the Agenda on the Parish Council Notice Boards. The list is appended to these minutes at D.

P/20/006

Appeals & Enforcement Action to be considered

Enforcement re: Thane, The Drive, Ifold

A Temporary Stop Notice, which requires the cessation of the "Importation of caravans and mobile homes" onto the land was issued by the Local Planning Authority (LPA) on 20th December 2019. The Notice expires on 17th January 2020. Additionally, a Planning Contravention Notice was also served on the 20th December, which should be returned at the same time.

The LPA has requested the submission of a Planning Application for the redevelopment of the site, specifically in relation to the existing dwellinghouse. Should this not be forthcoming, then it is possible that an Enforcement Notice could be issued for the intensification of the plot/subdivision without planning permission.

Ifold Estates Ltd are taking legal action, which is separate from the LPA and outside the remit of the Parish Council.

The subcommittee resolved to request copies of the Temporary Stop Notice and Planning Contravention Notice, which are public documents, but not currently in the public domain. Clerk

P/20/007

Clerk's Update

1. 19/01645/FUL | Conversion of former golf clubhouse to form one dwelling including alterations to fenestration, formation of residential curtilage and re-orientation of outbuilding. | **Foxbridge Golf Club**, Foxbridge Lane, Plaistow, RH14 0LB

The Parish Council has written to the LPA requesting a copy of the updated Design and Access statement pertaining to the revised proposals to the above application, which were available in the public domain on 17th December 2019.

2. PS/18/00283/CONBC | Installation of entrance gates and piers adjacent to the highway | **Kogala**, The Drive, Ifold, Loxwood, Billingshurst, West Sussex, RH14 0TD

The Subcommittee resolved to provide Cllr. Evans with a copy of its letter sent to the Enforcement Manager on 7th June 2019 for follow up. To date, the Parish Council has not received a substantive response. Letter appended at E.

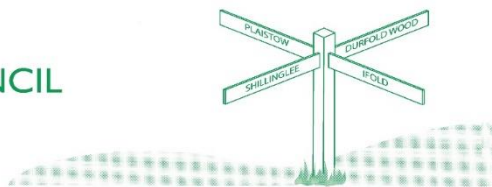
P/20/008

Date of next meeting

29th January 2020, 7:30pm, Kelsey Hall, Ifold

There being no further business, the Chair closed the meeting at 20:30

PLAISTOW AND IFOLD PARISH COUNCIL



9th January 2020

Henry Whitby
Planning Officer
Chichester District Council
East Pallant House
1 East Pallant
Chichester
PO19 1TY

Dear Mr Whitby,

Re: 19/03078/TPA | Fell 3. no. Oak trees (quoted as G13 and T11 on plan) (T7, T8 and T10) subject to PS/90/00789/TPO. | Hornbeam Chalk Road Ifold Loxwood Billingshurst West Sussex RH14 0UD

Following consideration of the above matter at a Planning meeting on Wednesday 8th January, Plaistow and Ifold Parish Council has no objection to the felling of T11; the Council agrees that they are misshapen and near other trees, which will suppress their growth.

Regarding the two Oak trees quoted on the plan as G13, the Council respectfully submits that the applicant has failed to provide enough information and evidence about the situation of the trees and the reasons why they need felling. Consequently, the Parish Council was unable to consider this element of the application and is unable to support the felling in principle.

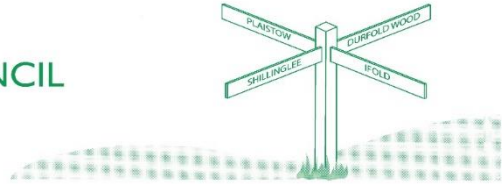
The Parish Council fully supports the applicant's proposal to plant four (4) replacement trees and respectfully submits that this should be a condition of the application. The replacement trees should be two (2) – three (3) metres high, of at least fifteen (15) cm girth and of suitable native British species, for example Oak, Beech, Field Maple.

Yours sincerely

Catherine Nutting
Clerk & RFO to Plaistow and Ifold Parish Council

**Clerk & RFO: Miss Catherine Nutting
Tel: 01403 820737. Email: clerk@plaistowandifold.org.uk
The Old Cottage, Barkfold, Kirdford, West Sussex, RH14 0JH**

PLAISTOW AND IFOLD PARISH COUNCIL



9th January 2020

William Price
Planning Officer
Chichester District Council
East Pallant House
1 East Pallant
Chichester
PO19 1TY

Dear Mr Price,

Re: 19/02903/FUL | Erection of stable barn and (25m x 50m) manège including fencing, solar photovoltaic panels and muck heap. | Plot 1B Land At Sparrwood Farm Shillinglee Road Plaistow West Sussex

Following consideration of the above matter at a Planning meeting on Wednesday 8th January, Plaistow and Ifold Parish Council makes No Comment regarding the proposed stable building, fencing, solar panels and muck heap. Nonetheless, the Parish Council has reservations in relation to the inclusion of a foaling box in such an isolated location, which is a significant distance from residential property.

In relation to the proposed manège, the Parish Council is mindful of the small size of the site and its isolated rural location, with a Public Right of Way along its South East edge. Consequently, the Parish Council objects to the manège and respectfully submits that it should be considered inappropriate development in such a rural area.

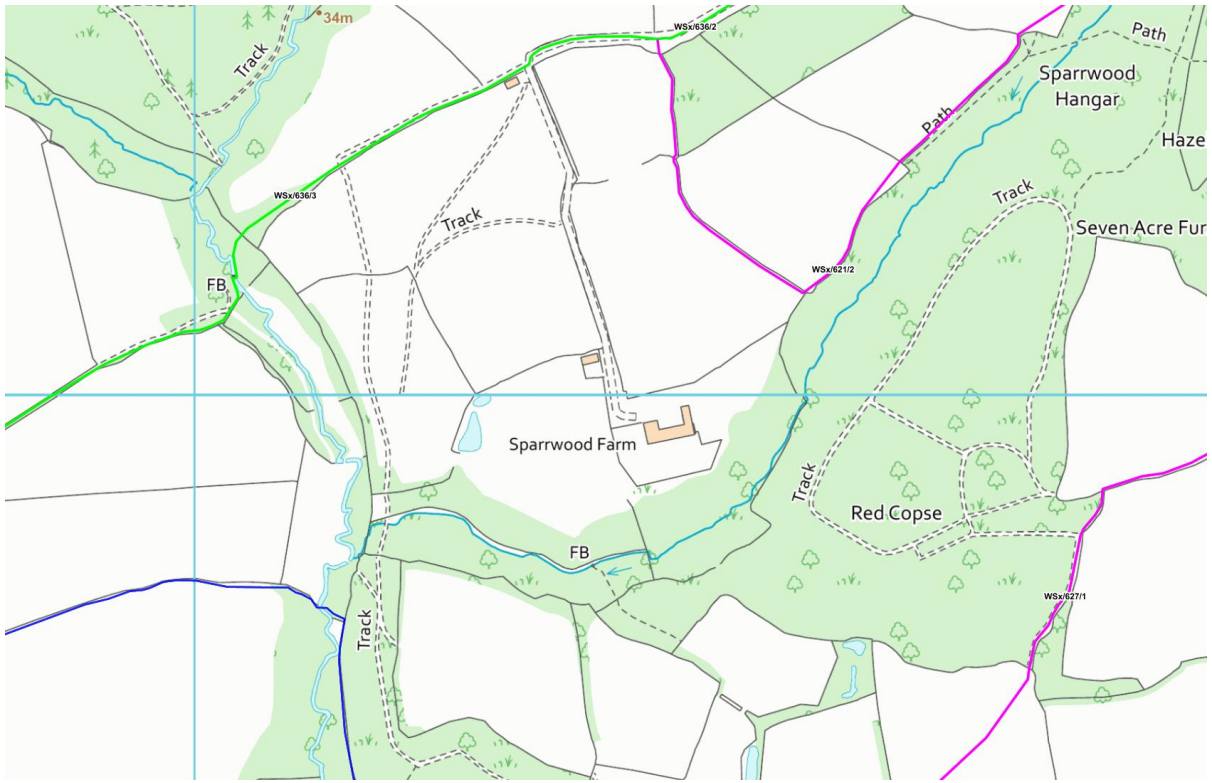
Additionally, the site is adjacent to Chiddingfold Forest, a Site of Special Scientific Interest (SSSI). Therefore, the Parish Council respectfully requests conditions and restrictions be made in respect of lighting if the Local Planning Authority approve the application.

The Parish Council draws your attention to the map of the Parish's Ancient Woodland:
<https://plaistowandifoldparishnp.files.wordpress.com/2018/09/map-5-ancient-woodlands.jpg>
Please refer to the map of the PRow surrounding Sparrwood Farm submitted with this letter.

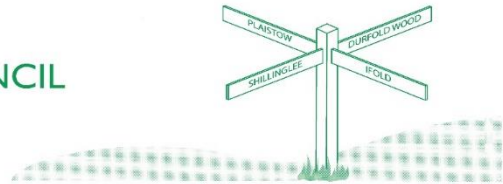
Yours sincerely

Catherine Nutting
Clerk & RFO to Plaistow and Ifold Parish Council

Clerk & RFO: Miss Catherine Nutting
Tel: 01403 820737. Email: clerk@plaistowandifold.org.uk
The Old Cottage, Barkfold, Kirdford, West Sussex, RH14 0JH



PLAISTOW AND IFOLD PARISH COUNCIL



9th January 2020

Ms Jane Thatcher
Planning Officer
Chichester District Council
East Pallant House
1 East Pallant
Chichester
PO19 1TY

Dear Ms Thatcher,

Re: PS/19/02182/FUL | Proposal: Demolition of existing outbuildings and erection of 9 no. detached dwellings, play area, landscaping and associated works. The applicant has submitted revised plans which include one less dwelling, a new layout, new designs of homes and open space. | Address: Little Springfield Farm Plaistow Road Ifold Loxwood RH14 0TS

Plaistow and Ifold Parish Council makes no additional comments in relation to this amended application.

The Parish Council respectfully refers to its Letter of Comment dated 4th November 2019, which is reiterated below for ease of reference.

The site falls within the definition of brownfield and is currently B2 and B8 use classes. The site has been recognised as redundant through a planning appeal decision and the buildings obsolete. Additionally, there would be no loss of suitable employment land should the use class change. The historic B2/B8 use classes are incompatible with the surrounding countryside, adjacent residential dwellings and road access. The Parish Council's emerging Neighbourhood Plan (Reg 15 stage) is supportive of the housing mix.

Yours sincerely

Catherine Nutting
Clerk & RFO to Plaistow and Ifold Parish Council

Clerk & RFO: Miss Catherine Nutting
Tel: 01403 820737. Email: clerk@plaistowandifold.org.uk
The Old Cottage, Barkfold, Kirdford, West Sussex, RH14 0JH

ITEM: 6. To receive list of recent Planning Decisions, Appeals and Enforcement

Planning Decisions:

CDC Weekly Decision List, 51 w/ending 18.12.2019

1. PS/18/02952/DOM | Mr & Mrs Cruse | Wildwood, Plaistow Road, Ifold, RH14 0TY | Room above existing double garage. **REFUSE**.

<https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PHVNNDERLNO00>

Planning Enforcement:

Ref: PS/19/00326/CONAGR

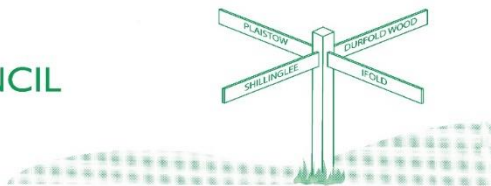
Address: Land North West Of Sparrwood Farm, Shillinglee Road, Plaistow, West Sussex,

Enquiry regarding: Laying of a concrete base.

Decision: A planning application (19/02967/FUL) has been received and is pending consideration.

Therefore, enforcement action will be held in abeyance until determination of this application.

PLAISTOW AND IFOLD PARISH COUNCIL



7th June 2019

Shona Archer
Enforcement Manager
Planning Enforcement
Chichester District Council
East Pallant House
1 East Pallant
Chichester
PO19 1TY

Sent via email: [redacted]

Dear Ms Archer,

Re: PS/18/00283/CONBC | Installation of entrance gates and piers adjacent to the highway | Kogala, The Drive, Ifold, Loxwood, Billingshurst, West Sussex, RH14 0TD

Thank you for your email dated 29th May in which you set out Planning Enforcement's reasoning and decision not to take enforcement action in relation to the above referred to matter.

The Parish Council, in cooperation with Ifold Estates Ltd, have considered the rationale and wish to make the following representations.

The pivotal question is to determine the lawfulness of the development. The legislation governing this installation is Schedule 2, Part 2, Class A, A.1(a)(ii) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This section states:

A.1 Development is not permitted by Class A if—

(a) the **height** of any gate, fence, wall or means of enclosure erected or constructed **adjacent** to a **highway used by vehicular traffic** would, after the carrying out of the development, exceed—

[(i) not cited as irrelevant]

(ii) in any other case, **1 metre** above ground level

(Emphasis added)

The **height** of the entrance gates and piers are uncontentious; it is a matter of fact that they are in excess of 1 meter above ground level.

Your email to Mrs Burrell dated 9th May states “...it is the consideration of ‘**adjacent**’ which has been the subject of enquiry by planning enforcement.” At that time, you concluded enforcement action was not necessary as the distance of the brick pillars and wooden gates, “some 11 metres from the edge of the highway” and their location “in the access to the housing development” flanked by close boarded garden fencing meant that the height of the enclosure “can be 2 metres in height, as permitted by the Town and Country Planning [General Permitted Development] Order 2015 (as amended).”

There appears to be some confusion regarding the exact distance the installation is set back from the highway. In your email dated 29th May you approximate the distance as “some 3 meters...from the back edge of The Drive”. However, the Parish Council submits that focussing on the installation’s distance from The Drive in isolation, in order to determine adjacency, is an incomplete consideration and that demarcation is also a relevant factor.

The Parish Council draws your attention to the enclosed Appeal Decision of Anthony J Wharton in respect of application APP/L3625/X/16/3165616, Whistlers, 3 Can Hatch, Burgh Heath, Surrey, KT206DS. In this case the Inspector states, at paragraph 12, *“The word ‘adjacent’ is not defined in the Planning Act and the courts have held that legislators were not likely to have intended ‘a one size fits all approach’.”* The Inspector goes on to say at paragraph 13 *“...the position established by the courts is that the word ‘adjacent’ does not necessarily mean that the fence has to be abutting or touching the highway.”* *“...the thrust of case law and other appeal decisions is that a wall or fence or a pier and gates can be set back from a highway, but still be ‘adjacent’ to it, as a matter of fact and degree, provided that the enclosure is clearly to define the boundary of the property concerned from the highway and is perceived to do so...”* (para 14).

It is the Parish Council’s view that the express purpose of installing imposing entrance gates to the new development at Kogala, now known as Hawthorn Close, is to define the boundary of the new development from The Drive. The size and type of the fencing, gates and piers serves as an impenetrable barrier/boundary between the road frontage and the dwellings on the other side. It has created a gated community, which is marketed on the strength of its exclusivity created by the divide between the development and the other properties on The Drive. For these reasons, the Parish Council submit that the installation is adjacent to the highway, although being set back from The Drive.

The Drive’s status as a **highway** is fundamental to considering the question of lawfulness. The term ‘highway’ is not specifically defined in legislation but understood by the common law meaning of the word as a way over which members of the public have a right to pass and repass. The Drive¹ is in fact a footpath, which is defined by s.329(1) Highways Act 1980 as *“a highway over which the public have a right of way on foot only”*. Therefore, whilst The Drive is a privately owned and maintained way, it is also a highway by virtue of the fact that it is a footpath and the public at large can use it as of right.

¹ As a point of note for future reference, Chalk Road is a Bridleway.

As a matter of fact, The Drive (highway) is used by vehicular traffic. Residents and visitors to Ifold have a private right-of-way to use vehicles on the highway, which would otherwise be prohibited. The Parish Council submits that the fact that Schedule 2, Part 2, Class A, A.1(a)(ii) specifically refers to a 'highway' is significant. Had the legislator intended the passage of vehicles to be essential to the public right of way, they would have used the term 'carriageway'² and would not have needed to qualify the term with "used by vehicular traffic". The express use of the term 'highway' recognises that the way may not, in of itself, be designated for public (or any) vehicular use, such as a footpath; however, by adding "used by vehicular traffic" recognises that, as a matter of fact, it is used by vehicles regardless of designation.

Therefore, when considering the facts of this matter in respect of all the elements of Schedule 2, Part 2, Class A, A.1(a)(ii) the Parish Council submits that the installation of entrance gates and piers above 1 meter adjacent to The Drive, Ifold is not lawful under permitted development and should have been subject to a planning application.

The Parish Council respectfully submits that Planning Enforcement has considered the matter on three separate occasions³ and, on each occasion, the reasons for rejecting enforcement action has focused on different considerations, therefore demonstrating uncertainty regarding the legal position.

The Parish Council draws your attention to paragraph 8 of the enclosed Appeal Decision of Alan Woolnough in respect of application APP/L3815/X/13/2209008, Helmieh, Chichester Road, Selsey, Chichester, West Sussex PO20 9ED. Inspector Woolnough states *"the Appellant has conflated determinants of lawfulness with considerations that might inform whether his scheme would be deserving of a grant of express planning permission."* He goes onto say, *"these include a desire for privacy, protection from traffic and pollution, impact on the street scene and comparison with other frontage treatments in the locality. However, such factors can have no bearing on whether the development is lawful and cannot therefore be taken into account in determining the appeal."*

The Parish Council submits that Inspector Woolnough's comments are directly applicable in this case. Planning Enforcement have taken into consideration matters which are irrelevant for determining the lawfulness of the installation, namely visual amenity and local precedent:

I can advise you that under delegated authority it has been resolved that it would not be expedient to take enforcement action. In this case it was considered that because of the distance set back and

² "Carriageway" means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles. s.329(1) Highways Act 1980

³ Decision of Sue Payne, Planning Officer on 1st May; Shona Archer, Enforcement Manager on 9th and 29th May

negative visibility from the highway they did not cause an unacceptable level of harm to the visual amenity or neighbourhood. Therefore the justification for enforcement action did not exist.

Sue Payne, Planning Officer, 1st May 2019

Even in the event that the means of enclosure erected was not considered to be a 'permitted development' planning enforcement would have considered the expediency of taking enforcement action having regard to any adverse impact that may arise from gates and walls. In this case, the development is obscured from the views of users of the road, and those passing-by, as it is set back from the front boundaries of the adjoining dwelling houses. The gateway is therefore not immediately obvious in the street scene and so does not, it is considered, give rise to any harm to the visual amenities of the area or the amenities of the neighbouring properties. For these reasons, a decision to take formal enforcement action would not have been a proportionate response to the breach of planning control identified.

Shona Archer, Enforcement Manager, 9th May 2019

This arrangement is not unique in this location. Also accessed from The Drive is Wildacre Close and Sycamore Close that have a five-bar gate at the entrance to these private ways each serving the dwelling houses that are set back off The Drive and flanked by close boarded fencing. I make no comment on whether these arrangements create a 'gated community' but the principle of demarking the 'new' development with a gated entrance and 'labelling' the way is clearly an established practice within the estate.

Shona Archer, Enforcement Manager, 9th May 2019

The Parish Council respectfully asks that Planning Enforcement take legal advice on this matter to determine the lawfulness of the installation and re-evaluate the position not to take enforcement action. If you would find a further site visit useful, representatives of the Parish Council and Ifold Estates Ltd would welcome the opportunity to meet with you to discuss the matter further.

Yours sincerely



Catherine Nutting'

Clerk & RFO to Plaistow and Ifold Parish Council

Clerk & RFO: Miss Catherine Nutting
Tel: 01403 581081 | Email: clerk@plaistowandifold.org.uk
7, Glebelands, Loxwood, West Sussex, RH14 0SW