

Recommendation Report for Planning Permission

REF NO: P/22/17/PL

LOCATION: Bowley Farm
Bowley Lane
South Mundham Pagham

PROPOSAL: Variation of condition 2 imposed under P/72/09/ relating to occupancy dates.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The application seeks to amend the scheme permitted by P/72/09 by allowing all year round use of the caravans (an extra 4 months), albeit still with restricted occupancy to agricultural workers engaged in agricultural employment at Bowley Farm and other land in the same ownership and/or control as Bowley Farm only.

SITE AREA

0.30 hectares.

TOPOGRAPHY

Predominantly flat. The land then slopes down gently to the north.

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

Hedgerows.

SITE CHARACTERISTICS

Existing caravan site with caravans laid out in rows on hardstanding, surrounding by grassed areas and with hardstanding tracks for access/circulation. Small solar farm to the north.

CHARACTER OF LOCALITY

Rural farmland. The site is approached via the Chichester district along a country lane on which there are a few residential properties. To the rear of the land is Sefton Farm (which is owned by Barfoots of Botley).

RELEVANT SITE HISTORY

P/72/09/	Formation of hardstanding and use of land for siting of agricultural workers mobile homes together with drainage & service connection provision	ApproveConditionally 05-01-2010
P/96/11/DOC	Application to discharge conditions 6 and 8 following the grant of planning approval P/72/09/	DOC Approved 16-02-2012

Planning Application P/72/09/ was approved with 8 separate planning conditions. Of particular note are numbers 2, 3, 4 and 7:

(2) The caravans hereby approved shall only be occupied between 1st March and 31st October in any year.

(3) The caravans shall only be occupied by agricultural workers engaged in agricultural employment at Bowley Farm and other land in the same ownership and/or control as Bowley Farm.

(4) In the event of the caravans for which permission is hereby granted ceasing to be used for agriculture or horticultural purposes, as defined by Section 336(1) of the Town and Country Planning Act 1990, they shall be demolished and removed from the site and the land restored to pasture or arable cultivation within 3 months of the cessation of such use or within such extended time as may be agreed in writing with the Local Planning Authority.

(7) All of the caravans delivered and taken away from Bowley farm shall be via Sefter Farm and Pagham Road not through Mundham.

REPRESENTATIONS

Representations received:

Pagham Parish Council

"NO OBJECTION to the proposed variation provided this did not provide a means for the owner to prove residential use of the land. The restriction at Condition 3 ensuring accommodation is provided for agricultural workers only should be retained."

In addition, an objection has been received from North Mundham Parish Council (NMPC) who are an adjacent parish council situated within the Chichester District. Their 2 page response is set out in full on the Council's website and a summary of their objection set out below:

- * Introduction of 22 residential dwellings in an isolated countryside location;
- * Conflict with the NPPF paragraph 55 (rural dwellings);
- * No evidence of functional need for permanent agricultural workers;
- * Conflict with emerging Local Plan policy H DM3
- * Highway impact as a result of need for workers/their families to travel to work or to access shops/services; and
- * The application requires assessment against the Habitat Regulations given its location within 2.25km of the Pagham Harbour SPA.

NMPC submitted a second letter following the response of the applicants to their first (see below). This 2 page response is also set out in full on the Council's website and the new points summarised below:

- * The application is not for another 12 weeks use but actually represents a 50% extension of time;
- * There are actually 24 caravans on the site;
- * Despite the presence of wheels on the caravans, the site would still be permanent;
- * Can conceive of no condition that would prevent individual workers from being in residence all year round;
- * A 50 week permission will not help as the workers would just take a holiday for 2 weeks of the year;

- * The report for Application P/72/09 acknowledged the inadequate capacity of local roads; and
- * Condition 03 of P/72/09 also allows for agricultural employment at other sites in the same ownership or control as Bowley Farm and this therefore allows considerable flexibility of work destinations in the local area.

Comments on Representations received:

The Pagham Parish Council comments are noted. Condition 03 will remain and thus prevents the use from being considered as general residential.

The comments of North Mundham Parish Council (NMPC) are noted and will be discussed within the conclusions section of this report.

The applicant has provided a 2 page written response to the first comments of NMPC which is available on the Councils website and summarised below:

- * Wheeled caravans cannot be considered to be permanent;
- * The occupiers are transitory workers and have a permanent address outside of the site;
- * The question that arises is what harm will there be from an additional 12 weeks use per year;
- * The caravans have been in situ for 7 years without any problems. They are also well screened;
- * The extra 3 months will provide on-going flexible & temporary accommodation to support the evolving agricultural / horticultural industry;
- * The Local Planning Authority, could if it so wished restrict the use to only 50 weeks per year; and
- * it is not considered that the proposal would be likely to have a significant effect on a European site.

It should be noted that contrary to the 3rd point (and also NMPC's assertion about a 50% increase in the section above), the application actually seeks another 4 months of use per year.

The comment from NMPC in their second letter about the number of caravans is noted. This matter is being dealt with separately and is not currently up for consideration.

CONSULTATIONS

Environmental Health
Chichester District Council
WSCC Strategic Planning

Consultations responses received:

WSCC HIGHWAYS - No objection. Comments as follows: "The existing days and times of operating are duly noted. The variation of condition will see extended hours will evidently give rise to the site generating vehicular traffic over an extended period. However, the number of movements would not be anticipated to be particularly significant and would not be expected to exacerbate any existing issues, nor warrant an objection on the basis of safety or capacity. Whilst the Planning Authority will no doubt wish to consider matters of amenity for local residents, no highway objection would be raised."

CHICHESTER DISTRICT COUNCIL - No objection.

ADC ENVIRONMENTAL HEALTH OFFICER (EHO) - Full comments on the Councils website

but in summary, consider that the application site will no longer qualify as an exemption from caravan licensing laws and must therefore obtain a site license - and that there are a number of reasons why it will not currently meet the licensing standards. The EHO also advises that any noise from the proposed use is not likely to be noticeable at the nearest noise sensitive receiver. Conditions are requested in respect of a Construction Management Plan, Lighting scheme and a detailed site layout for the purposes of licensing standards.

Comments on Consultation responses:

Comments noted. The conditions requested by the EHO are not considered to be reasonable as no new building works are proposed, a lighting condition already exists on the original permission and because site licensing is a separate regime which exists separately to planning.

POLICY CONTEXT

Designations applicable to site:

Outside the Built-Up Area Boundary;
Special Control of Adverts;
No Public Sewer; and
Pagham Harbour SPA Zone B.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN3	Protection of the Countryside
	GEN7	The Form of New Development
Publication Version of the Local Plan (October 2014):	GEN12	Parking in New Development
		C SP1 Countryside
		D DM1 Aspects of Form and Design Quality
		ENV DM2 Pagham Harbour
		H DM3 Agricultural, Forestry & Horticultural Workers' Dwellings
		T SP1 Transport and Development

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation may be a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was commenced but is currently suspended whilst Arun District Council addresses matters raised by the Inspector.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these is taking place 10 April 2017 to 5pm on Tuesday 30 May 2017. The Main Modifications should be

read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used are material considerations in the determination of this planning application. The emerging Plan was submitted in January 2015 and the examination is currently suspended. The examination is due to re-commence in summer 2017 following publication of modifications to the Plan.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

In December 2014, the Pagham Neighbourhood Plan was withdrawn from the examination process in order to produce further studies in respect of the impact on the Pagham Harbour

SPA/Ramsar Site. This work has been completed and the Regulation 14 'pre-submission consultation & publicity' stage was undertaken between 02/10/15 and 13/11/15. It is therefore necessary, in accordance with paragraph 216 of the NPPF, to have regard to the Draft Neighbourhood Plan as a material planning consideration.

Policies 1 and 9 are relevant to this proposal.

Policy 1 directs new development to sites within the Built Up Area Boundary and states that proposals outside of the Built Up Area Boundary must conform to development plan policy in respect of the control of development in the countryside.

Policy 9 "Agricultural Land" states that:

"The Neighbourhood Plan will support proposals that ensure the continued efficient use of agricultural land, encouraging appropriate developments thereon that maximise its use for the provision of sustainable energy and horticultural food production, provided:

- i. they are located away from the immediate built up area, on poorer grade land and are sympathetically landscaped to ensure that open vistas are retained and enhanced to the west of the Pagham Road;
- ii. that any ecological or environmental impact of any such development on the green infrastructure is minimised, including, but not limited to, fertilisers, noise pollution, light pollution and traffic movements;
- iii. that the highest quality and most versatile agricultural land which is outside of immediate flood zones and closest to the built up boundary is retained and protected for agricultural use and production and soil conservation;
- iv. there is no degradation in biodiversity value or in the integrity of the strategic gap; and
- v. they help deliver new green infrastructure that is relevant to the rural context, including, but not limited to, the use of farmland, woodland, wetlands or other features to provide such services as flood protection, carbon storage, water purification, bio-digester/power generation or geothermal heat exchangers."

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality, there are no nearby residential properties and the proposal would not have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE & NEED:

The site lies outside of the Built-Up Area Boundary where in accordance with Arun Local Plan policy GEN3 (which forms part of the development plan), development is not acceptable in principle, unless necessary for the needs of agriculture, forestry, the extraction of minerals, deposit of waste or the diversification of the rural economy.

Bowley Farm is an existing agricultural farm which is part of a local co-operative. Furthermore, the farmland at Bowley is leased to the nearby Sefter Farm site which is operated by Barfoots of Botley. Barfoots business is the growing, processing, packing and marketing of range of semi-exotic produce and as such also falls within an agricultural use.

It is also noted that the National Planning Policy Framework (NPPF) states at paragraph 28 that "To promote a strong rural economy, local and neighbourhood plans should (2) promote the development and diversification of agricultural and other land-based rural businesses;"

This advice is also reflected in the proposed Pagham Neighbourhood Plan (policy 9) which supports proposals that ensure the continued efficient use of agricultural land. It is considered vital, in order to be able to maintain an agricultural operation, to have an available workforce nearby.

When the original application was determined, the nature of farm work locally was seasonal between March and October. However, due to changing farming and horticultural practices there is now a demand for all year round labour to support the industry. Hence there is a need for staff to be available throughout the year to assist with such activities as soil preparation, planting, picking, processing and packing. Furthermore, there are a greater number of pack houses in the local area than there used to be and these operate 24 hours a day on a 3 shift basis. The last decade has also seen an intensification in the agricultural and horticultural business as the supermarkets have become more 'aggressive' in the market place putting added pressure on growers and packers to bring fresh produce to the customer's table. All of this has resulted in the extended season which is now a full year.

PLANNING POLICIES FOR AGRICULTURAL WORKERS' ACCOMMODATION

There are no relevant policies within the current Local Plan. Furthermore, paragraph 55 of the NPPF is only relevant to permanent accommodation for rural workers. Although this proposal is for 12 months occupation of the caravans, the application has confirmed (by letter dated 17/05/17) that the workers are transitory and that their occupation within the caravans is dependant upon the seasonal work occasioned by the agricultural/horticultural requirements of Bowley/Sefter Farms. Therefore, none of the workers can be considered to be permanent.

Policy H DM3 of the Arun Local Plan 2011-2031 (Publication Version showing Modifications) includes advice on applications for Temporary seasonal horticultural workers' dwellings. This policy has not yet been through an Examination in Public but has been subject to more than one

round of public consultation and therefore does attract moderate weight in the determination of this application. The policy states that:

"Permission for temporary accommodation for seasonal horticultural workers will only be granted in exceptional circumstances, where there is clear evidence that the structures are absolutely essential for the provision of staff accommodation to facilitate the economic running of a farm or horticultural holding and providing that:

- a. There is no suitable alternative means of providing the accommodation;
- b. The structures are recognised as an interim measure and approved on a temporary basis only, subject to seasonal and temporary occupancy conditions. Planning conditions/obligations shall be used to limit the duration of the proposed use;
- c. The structures are sited in order to minimise their visual impact on the surrounding area;
- d. The scale, design, materials and colours are closely related to surrounding buildings or countryside;
- e. The structures are designed to provide adequate accommodation which complies with minimum health standards;
- f. The structures are designed and sited to meet normal planning and technical requirements including access, hardstanding, fire resistance and light ventilation;
- g. Any drainage issues are satisfactorily addressed; and
- h. All other necessary services to serve the dwelling(s) exist."

Much of the above does not apply to this application as the caravans themselves have already been approved. However, criteria (b) is relevant. Although this application seeks to remove the temporary occupation restriction, the workers will still be seasonal and transitory in nature. Indeed, the applicant has stated that the caravans have been occupied by various agricultural workers at different times of the season. Furthermore, depending on the time of the year, some family members have joined the main breadwinner to complete the family group for holidays or temporary periods but not on a permanent basis.

Planning conditions could be imposed to ensure that no caravan is occupied as a sole place of residence and to require that a register of the occupiers of individual caravans is maintained in order that the Local Planning Authority can check that the occupiers are indeed based elsewhere. The applicant has given their written agreement to these conditions and has also stated that a register of occupiers is already maintained.

LANDSCAPE/VISUAL AMENITY:

It is not considered that the application will result in any new harm to the landscape. The caravans are sited on the land for 12 months a year and have been so for the last 7 years. The application proposes no changes to the caravans or any of the physical parts of the site. The additional occupation of the caravans for an extra 4 months a year will result in a greater level of activity but this is not considered to result in any adverse harm to the local landscape.

RESIDENTIAL AMENITY:

The site is not close to any residential properties with the nearest residential property approximately 140 metres away. However, this is Bowley Farm House and forms part of the farm. The nearest residential dwelling in separate ownership is 4 Bowley Lane to the North at 290m.

Therefore there is not considered to be any significant loss to residential amenity.

HIGHWAY SAFETY & CONVENIENCE:

Part of North Mundham Parish Council's (NMPC) objection to the application concerns the impact of caravan occupiers travelling to/from the site to work or to access shops & services. NMPC also consider that these workers are not only working at Bowley & Sefter Farms but travelling to other sites in the district.

The officers planning report for P/72/09 acknowledged that there was a lack of suitable passing places on local roads and it was for this reason that a condition was imposed requiring that all caravans be brought onto the land via Sefter Farm (thereby avoiding the local roads of North and South Mundham).

First, it should be noted that the existing 8 month seasonal use of the caravans will already result in movements to/from the site by caravan occupiers. It is not considered likely that the movements associated with another 4 months will be over and above existing movements in other months of the year or that they will have a materially different impact on residential amenity.

West Sussex Highways have been consulted on this application and do not consider that the number of additional highway movements will be particularly significant or that these movements will exacerbate any existing capacity or safety issues,

IMPACT ON PAGHAM HARBOUR

North Mundham Parish Council consider that the application should be subject to a Habitat Regulations Assessment given its location within 2.25 km of the Pagham Harbour Special Protection Area. However, it is not considered likely that the proposal will have a significant effect upon the Pagham Harbour SPA particularly given that the proposal will not result in the loss of any existing wildlife habitat.

SUMMARY:

It is considered that there is an agricultural need for the additional 4 months occupation of the existing caravans for seasonal transit workers. At the same time, it is not considered that there will be any significant harm to either local residential amenity, the character of the landscape or the safety/convenience of local highways. Two additional conditions will be imposed to ensure that the caravans are not occupied permanently and to enable the local planning authority to monitor the use.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation

for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The caravans shall not be occupied as a person's sole or main place of residence.

Reason: The caravans have been approved for the seasonal occupation of transitory agricultural workers and in accordance with Arun District Local Plan policy GEN3

- 2 The owners/operators shall maintain an up to date register of the names of all of the occupiers of individual caravans on the site of their main home addresses and dates of occupation and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: The caravans have been approved for the seasonal occupation of transitory agricultural workers and in accordance with Arun District Local Plan policy GEN3

- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 4 **INFORMATIVE:** All of the conditions imposed on P/72/09/ shall remain in force except for condition 02 which is deleted by this permission and replaced by new conditions 01 and 02 above.