

Recommendation Report for Planning Permission

REF NO: P/86/20/PL

LOCATION: Bowley Farm
Bowley Lane
South Mundham
Chichester

PROPOSAL: Retention of 4 No. mobile homes for countryside workers together with drainage & service connection provision in connection with permission P/72/09 as varied by P/22/17/PL. This application is in CIL Zone 5 (Zero Rated) as 'other development'.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks permission for a retention of 4 caravans for agricultural workers engaged in agricultural employment at Bowley Farm located on the western side of the approved 20 mobile homes(P/72/09/) together with drainage and service connection provision.
SITE AREA	2190 square metres.
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 surrounded by further caravans.
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.

RELEVANT SITE HISTORY

P/22/17/PL	Variation of condition 2 imposed under P/72/09/ relating to occupancy dates.	ApproveConditionally 23-06-17
P/72/09/	Formation of hardstanding and use of land for siting of agricultural workers mobile homes together with drainage & service connection provision	ApproveConditionally 05-01-10

P/22/17/PL for variation of condition 2 imposed under P/72/09/ relating to occupancy dates. Condition 2

has been deleted and replaced by new conditions:

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

02 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.

P/72/09/ was approved with 8 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

Pagham Parish Council: No objection.

Chichester DC comments:

- No objection to the principle of additional worker accommodation if there is an agricultural need and occupancy is conditioned accordingly.
- A short section of the northernmost part of the access appears to cross the boundary into Chichester District. With associated traffic accessing roads within Chichester District, and the application seeking additional accommodation it is requested that a green travel plan is considered. This should include options and encouragement offered to workers to access local facilities and services by bicycle or shared modest of transport and the installation of electric vehicle charging points on site.

North Mundham Parish Council: Objection.

- The proliferation of caravans on this site has already led to an unacceptable volume of traffic along the narrow and winding Bowley Lane and through the other narrow lanes in the parish.
- The comments already submitted by local residents will attest to this. Notwithstanding the claims in Luken Beck's covering letter that migrant workers tend not to own cars, they are a regular feature at all times of day and night as an addition to the regular traffic of private minibuses. Traffic levels far exceed the capacity of this part of the rural road network.
- Should this application receive consent we ask it should be conditional on all traffic associated with the caravans at Bowley Farm being routed along the existing track to the Sefter Farm site and thence to the Pagham Road.

6 letters of objection received:

- The mobile homes (more than 50 now) are not used for seasonal workers but they are lived in all year

round for people generally working in the area, not on Bowley Farm.

- Taxi's are up and down the lane, collecting school children living in these mobile homes.
- The ditches are broken down constantly from large amounts of traffic trying to pass each other.
- Seasonal workers do not reside in the caravans on a temporary basis; a number have been living there for many years.
- It is suggested that a site inspection should be carried out to ascertain how many there are.
- During the Summer month's in particular, life is hell with the volume and speed of farm vehicles up and down Bowley Lane.
- The occupants of the caravan site have little regard to the safety of other residents as they often speed down the lane with endangering other users - pedestrians/horse riders/animals/cyclists etc.
- The large generator has been provided by SSE. This initially did not work because of the demand from the caravans at Bowley Farm. The SSE representative explained that they were "not aware of the caravan site and its demand for electricity"
- People living on this site have a scant regard for the impact they have on the quality of life of the other residents of Bowley Lane and have thrown their rubbish.
- Bowley Lane is already in a poor state of repair and the increased traffic as a result of the caravan site only makes the road deteriorate that much quicker.
- Over the years there have objections raised by members of the public, parish councils and councillors of which Arun district council are well aware.
- Approximately 54 caravans are on site (as shown on Google Map).
- The lanes, Bowley, South Mundham and Runcton are totally unsuitable for the amount of traffic coming from the mobile/static homes.

COMMENTS ON REPRESENTATIONS RECEIVED:

WSCC, the Highways' comments on this application concluded they would not anticipate that the proposal would generate a highways safety concern at the existing access.

Other planning issues will be discussed in the Conclusions section.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENTAL AGENCY; Site lies in Flood Zone 3. In the absence of a flood risk assessment (FRA), we object to this application and recommend that planning permission is refused.

DRAINAGE ENGINEERS: The access road is partly within the current/future flood zones and therefore the applicant should note that restricted access to the site may be a possibility on occasions.

WSCC: No objection subject to suggested conditions.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

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 Local Plan 2011 - 2031:

CSP1	C SP1 Countryside
ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
HDM3	H DM3Agricultural forestry and horticultural Rural dwellings
QESP1	QE SP1 Quality of the Environment
WDM2	W DM2 Flood Risk

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

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

On the 24th June 2020, the "Pagham Development Management Plan 2019-2026" was published under regulation 14. It is therefore necessary, in accordance with paragraph 48 of the NPPF, to have regard to this draft Neighbourhood Plan as a material planning consideration. However, the weight to be attached to the Plan is a matter of judgement for the decision maker. The plan contains 11 policies and only Policy 1 Countryside is relevant to the impacts of retention of additional 4 caravans on the amenities of local residents and surrounding environment.

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 conflicts with relevant development plan policies in that it fails to consider current and future flood risk, fails to consider ecology and contradicts the requirement of condition 8 of previous approval P/72/09/.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the

Development Plan.

CONCLUSIONS

PRINCIPLE:

The site is outside of the built-up area boundary in the countryside where policy C SP1 of the Arun Local Plan and policy apply.

Policy C SP1 of the Arun Local Plan states within criteria a-f the development which is permitted within the countryside. Criterion a. states 'development will be permitted in the countryside where it is for the operational needs of agriculture, horticulture, forestry...' and criterion f. concludes 'development is in accordance with other policies in the Plan which refer to a specific use or type of development'.

The four mobile homes on the site previously granted permission for 20 mobile homes on the 5th January 2010 are for the accommodation of countryside workers within the agricultural and horticultural industries therefore it is considered that the current proposal would comply with criterion a. of policy C SP1 of the Arun Local Plan, however would fail to comply with criterion f. as proposed 4 mobile homes do not accord with policy H DM3 as discuss below.

PLANNING POLICIES FOR AGRICULTURAL WORKERS' ACOMMODATION

Policy H DM3 of the Arun Local Plan makes it clear that if a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it shall for the first three years, be provided by a caravan or other temporary accommodation, shall provide clear evidence of a firm intention and ability to develop the enterprise concerned, demonstrate a functional need, provide clear evidence that the proposed enterprise has been planned on a sound financial basis, demonstrate that functional need could not be fulfilled by another existing dwelling on the site, or any other existing accommodation in the area.

The proposed 4 mobile homes were to be added on the site a couple of years ago due to a continuing need for the workers to support agriculture and horticulture as the applicant points out in submitted covering letter. No evidence or demonstration required by the above policy has been provided by applicant and the proposed 4 caravans are on the site for more than three years whilst policy H DM3 clearly states that the provision of caravans shall be for the first three years only. Therefore it is considered that the proposed retention of 4 mobile homes does not comply with the requirements of the Arun Local Plan policy H DM3.

The applicant in their cover letter stresses migrant workers tend not to own cars due to the short intervals of temporary employment relying on walking, cycling or the private minibus and as far as they are aware the development has caused no difficulties or given rise to any complaints.

Reading through the letter of objections the other point of view rather different is shown;

- Taxi's are up and down the lane, collecting school children living in these mobile homes,
- The occupants of the caravan site have little regard to the safety of other residents as they often speed down the lane with endangering other users
- The SSE representative explained that they were "not aware of the caravan site and its demand for electricity".

The issues expressed by neighbours are noted and are subject to an enforcement investigation.

WATER SUPPLY AND QUALITY/ DEVELOPMENT AND BIODIVERSITY

Policy W DM1 of the Arun Local Plan, paragraph 18.2.1 highlights prevention of deterioration in the status of aquatic ecosystems, protect them and improve the ecological condition of waters and conserve habitats and species that depend directly on water. Policy ENV DM5 stresses that development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitat on site.

'This application relates only to the 4 mobile homes located on the western side of the approved 20 mobile homes', explains the applicant in their Covering Letter, 'because these units were the first to be added a couple of years ago simply to accommodate four additional workers given the immediate need for extra workers.'

Condition 8 of P/72/09/ for Formation of hardstanding and use of land for siting of agricultural workers mobile homes states;

'Prior to the commencement of development a scheme for the provision and management of a buffer zone alongside the watercourse shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority.'

The scheme for the provision and management of a buffer zone alongside the watercourse (drawing No 1010-PC-01 dated Nov 2011) was submitted by the applicant and approved by the local planning authority on the recommendation of Environment Agency and condition 8 was discharged (P/96/11/DOC). As above condition stated: the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The proposal is, for the reasons below, contrary to condition 8 which has been discharged but the buffer zone should be maintained.

The proposed 4 mobile homes, subject to this application, are located in the buffer zone alongside the watercourse (min 5m wide measured from bank top for the whole extent o the site) which should be without structures, footpaths and should not include formal landscaping. This is the requirement of the Environmental Agency in line with s.23 of the Land Drainage Act 1991 and s. 109 of the Water Resources Act 1991 to protect the adjacent watercourse and land alongside watercourse with its wildlife. As mentioned in the advisory information of the Environmental Agency, water voles have been previously recorded in close proximity to existing ditch network.

Therefore these 4 mobile homes due to their position within the defined buffer zone are the potential threat to groundwater pollution and disruption or loss of the protected species. Contrary to the Arun Local Plan policies W DM1, ENV DM5 and H DM3 and paragraph 175(a) of the National Planning Policy Framework.

FLOOD RISK:

Policy W DM2 requires that development in areas at risk from flooding, identified on the latest Environmental Agency flood risk maps and the Council's Strategic Flood Risk Assessment (SFRA), will only be permitted where all of the criteria of this policy have been satisfied.

The only access to the proposed site is within Flood Zone 3 according to Environmental Agency Flood Risk Map. The application is not supported by a full Flood Risk Assessment detailing flood resilient measures that ensures the occupants would not be put at unacceptable risk of flooding and the applicant in the Cover Letter submitted with current application states that the 20 mobile homes granted permission in 2010 have never experienced any issues associated with floodwaters. According to the

latest Environment Agency website Flood Map, the whole of the site forming the planning application is situated outside any likely area of flooding.

The Environmental Agency objected this application in the absence of a flood risk assessment (FRA). For the above reasons the proposal would be contrary to the ACD policy W DM2 and the guidance in the National Planning Policy Framework.

HIGHWAY SAFETY AND PARKING

No objection (subject to conditions) has been raised from the County Highways and therefore the development is not considered to have a significant adverse impact on highway safety or traffic generation in the location.

As such development would comply with policy T SP1 of the Arun Local Plan.

SUMMARY

The proposed is sited in area of a buffer zone as approved under reference P/72/09/ and the only access to the site is within flood zone 3 identified on the latest Environmental Agency flood risk maps and the Council's Strategic Flood Risk Assessment (SFRA) and the applicant failed to provide the Flood Risk Assessment (FRA).

The proposal is considered to conflict with the development plan, particularly policies ENV DM5, H DM3, W DM1 and W DM2 of the Arun Local Plan and relevant paragraphs of NPPF and consequently is recommended for refusal.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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

REFUSE

- 1 The site lies within Flood Zone 3, which is land defined by the planning practice guidance as having a high probability of flooding. The National Planning Policy Framework (paragraph 163, footnote 50) states that a Flood Risk Assessment must be submitted when development is proposed in such locations. The applicant has failed to demonstrate that the development will be safe without increasing flood risk elsewhere and reduce flood risk overall. The proposal is therefore in conflict with Arun Local Plan policy W DM2 and with the guidance in the National Planning Policy Framework.
- 2 The 4 mobile homes are in a buffer zone (approved by P/72/09) alongside the watercourse which should be kept without structures, footpaths and formal landscaping to protect the watercourse and the wildlife. The proposal represents a threat to groundwater pollution and disruption or loss of the protected species, in conflict with policies ENV DM5, H DM3 and W DM1 of the Arun Local Plan and paragraph 175(a) of the National Planning Policy Framework.
- 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 identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.