

Recommendation Report for Planning Permission

REF NO: WA/39/22/PL

LOCATION: Cherry Tree Nursery
Eastergate Lane
Walberton
BN18 0BA

PROPOSAL: Continuation of use of land for the stationing of 14 No agricultural workers caravans for a temporary period of 3 years (resubmission following WA/3/21/PL). This site is in CIL Zone 3 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application seeks retrospective planning permission for the provision of 14 no. static caravans for agricultural workers - the caravans are being currently occupied. The existing static caravans have been located on site since April 2020 with occupation delayed due to COVID-19 until July / August 2020. The application seeks temporary planning permission for 3 years starting from a period of 1st May 2022. The Site Plan shows the 14 caravans as being spread around the site around 6m apart, and the proposals include a utility building and a refuse collection point to serve the caravan's occupants and 8 car parking spaces. No elevations of the caravans or utility building have been provided.
TOPOGRAPHY	Predominantly flat.
TREES	Hedgerows and trees on perimeter of site.
BOUNDARY TREATMENT	The site (part edged blue) is enclosed to the front (south) by close board timber fence panels, to the rear (north) and sides with natural screening of hedgerows and vegetation and is partially open to the access track on the west side.
SITE CHARACTERISTICS	The site (Cherry Tree Nursery) has historically been a horticultural nursery, located on the north side of Eastergate Lane. Prior to the applicant's ownership, there was a substantial glasshouse to the north part of the site, the horticultural use of which then ceased. Much of the area adjacent to the south of the glasshouse was used for storage.
CHARACTER OF LOCALITY	The character of the area is rural with a mixture of dwellings and horticultural type uses. Eastergate Lane has been the location of numerous horticultural nurseries and more recently many of these, and other parcels of land, have changed use to gypsy, traveller and travelling show people sites. The nearest settlements are Fontwell, about 1 km to the north; Walberton, about 1 km to the east; and Westergate and Eastergate, approximately 1km to the south. In the wider context,

Chichester and Tangmere are both located nearby. These settlements provide access to shops and other amenities.

RELEVANT SITE HISTORY

WA/37/21/PL	Continuation of use of land for the stationing of 14 No agricultural workers caravans for a temporary period of 2 years.	Refused 19-11-21
AL/61/20/PL	Continued use of land for agricultural workers accommodation for a temporary period of 2 years comprising 14 No chalets, low level lighting, retention of existing hardstanding, utilisation of existing individual foul treatment plants and existing permitted access, and associated works. This application falls in CIL Zone 3 (Zero Rated) as 'other development'.	ApproveConditionally 28-10-20
WA/98/16/CLE	Application for a Lawful Development Certificate for an existing use of land for siting of 1No residential mobile home.	Approve 05-10-17
WA/99/16/CLE	Application for a Lawful Development Certificate for an Existing use of land for the storage of boats & cars (Use Class B8).	Approve 19-09-17
WA/34/12/CLE	Application for a Certificate of Lawfulness for an Existing Use of land for the storage of fairground and amusement arcade features and materials and the parking of up to 5 lorries. The buildings are used as offices for the fairground and amusement arcade business.	Approve 09-10-12

The proposal is identical to that previously refused, although a temporary 3 year period is now requested and additional information has been submitted with regard to car parking.

Reason for refusal 3 of WA/37/21/PL stated

"The submitted Site Plan does not show any space or provision for on-site car parking, turning and manoeuvring. As such, the application fails to provide adequate parking provision on-site, which could result in on-street parking pressures and highways safety issues, contrary to the National Planning Policy Framework, policies T SP1 and T DM1 of the Arun Local Plan and the Arun District Council Parking SPD."

This reason for refusal has been addressed in this re-submitted proposal in that the site plan now identifies 8 car parking spaces adjacent to the caravans.

REPRESENTATIONS

Walberton Parish Council - Objection.

- The application is almost identical to that made last year, WA/37/21/PL, which was refused.
- The new letter from the agent provides no additional detail and the majority is a word for word duplicate of their previous submission.
- There seems to be confusion from the applicant as to the time scale requested for the temporary period as the letter refers to both two and three year periods.
- The agent does note a lack of formal enforcement action at this time. However, there is an on-going enforcement case. The failure of the site owner to comply with planning regulations does not imply that a re-application should be successful.
- We note the three reasons for refusal given in the decision notice for the previous application. The current application makes no effort to address any of these and so the logical course of action would be to refuse this application and continue with the enforcement process.

One Support

- No issues with the caravans on the land which are for agricultural workers who are taken to work in the morning and return late afternoon.
- There is no excess traffic at any time of day.

COMMENTS ON REPRESENTATIONS RECEIVED:

The comments from the Parish Council are agreed.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No objection.

Caravan licensing includes exemptions for agricultural or forestry workers providing the caravans occupy a site for a specific season(s) and that the workers utilising the accommodation will be employed to work on the same land as the caravans occupy. Request applicant provides confirmation of the season(s) the caravans will be on site during and that the workers will be working on the same land the caravans occupy.

If the above criteria are not met, then the applicant shall be required to submit an application for a licence for the caravan site. Environmental Health has no objection to the applicant obtaining a licence for the proposed 2-year period.

Suggest planning conditions for potentially contaminated land and unexpected contamination.

WSCC Highways - No objection.

The site is proposed for 30 agricultural workers who are not anticipated to have access to private vehicles of their own and will be transported to and from their workplace via 17-seater minibus. It is anticipated 4 minibus movements (2 x two-way movements) will be generated per day. As such the proposal would not result in a severe intensification of use of the existing access, or any capacity issues on the local highway network.

Eight parking spaces are proposed however only 7 have been demonstrated on the plans. The Planning Statement and supporting cover letter indicate that this is more than sufficient provision as occupants are generally not anticipated to own a private vehicle. As such, the LHA would not raise any concerns over parking provision.

If appropriate, secure and covered cycle storage could be conditioned to further encourage sustainable transport methods.

Drainage Engineer - No objection.

The application site is within the Lidsey Treatment Catchment, therefore surface water drainage design should be carefully considered. A planning condition should be imposed to ensure that the development is adequately drained and does not increase flood risk elsewhere.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and addressed in Conclusion section of report.

8 car parking spaces, not 7, are indicated on the Site Plan.

POLICY CONTEXT

Designation applicable to site:

Countryside

Prone to groundwater flooding

Lidsey Waste Water Treatment Works Catchment Area

Source Protection Zone

Singleton and Cocking Tunnels SAC Buffer Area (protected bats)

Sharp Sand and Gravel Minerals Safeguarding Area

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

CSP1	C SP1 Countryside
HDM3	H DM3Agricultural forestry and horticultural Rural dwellings
DDM1	D DM1 Aspects of form and design quality
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development
TDM1	T DM1 Sustainable Travel and Public Rights of Way
DSP1	D SP1 Design
LANDM1	LAN DM1 Protection of landscape character
WMDM1	WM DM1 Waste Management
WSP1	W SP1 Water
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
QEDM2	QE DM2 Light pollution
QEDM4	QE DM4 Contaminated Land
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
HORDM1	HOR DM1 Horticulture

[Joint Minerals Local Plan 2018:](#)

Joint West Sussex M9 Safeguarding Minerals

Walberton Neighbourhood Plan Policy 2017 VE2	Horticultural Development
Walberton Neighbourhood Plan Policy 2017 VE10	Biodiversity & Archaeology
Walberton Neighbourhood Plan Policy 2019-2031 HP1	Built up boundary (BUAB)
Walberton Neighbourhood Plan Policy 2019-2031 HP13	Design Guidance
Walberton Neighbourhood Plan Policy 2019-2031 VE7	Surface Water Management
Walberton Neighbourhood Plan Policy 2019-2031 VE8	'Unlit village' status

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan 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.

The Walberton Neighbourhood Plan 2 (adopted 2021) is relevant in the determination of this application. The relevant policy has been considered in this report.

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

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

The proposal is considered to conflict with the relevant Development Plan policies in that it is for new accommodation in the countryside, where in this case there are no exceptional circumstances to justify

the development in this location. It is therefore unacceptable in principle, as per Arun Local Plan policies C SP1 and H DM3. It also results in a poor quality of accommodation for occupants, unacceptable residential amenity impacts for neighbouring occupants, and potential visual impact, drainage, and land contamination issues. This conflicts with Policies D DM1, QE SP1, D SP1, LAN DM1, W DM3, W SP1, QE DM4 and H DM3 of the Arun Local Plan, policies HP 13 and VE 7 of the Walberton Neighbourhood Plan, and the Arun District Council Design SPD and Parking SPD.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

KEY ISSUES:

The key issues in the determination of this application are as follows:

- Principle of development.
- Impact on residential amenity.
- Quality of accommodation.
- Parking provision.
- Potential visual impact issues.
- Potential drainage issues.
- Potential land contamination issues.

PRINCIPLE OF DEVELOPMENT:

The site is located outside the Built-Up Area Boundary (BUAB), in the designated Countryside. New development should be focussed within the BUAB, according to Arun Local Plan (ALP) policy SP SD2. New residential accommodation in the countryside is normally unacceptable in principle and precluded by ALP countryside policy C SP1. However, policy C SP1 contains several exception tests, where countryside development is justified. This includes where it is (a) for the operational needs of agriculture, horticulture, forestry and (f) in accordance with other policies in the Plan which refer to a specific use or type of development. In respect of (f) one such policy in the Development Plan which refers to a specific use or type of development is H DM3 which refers to 'rural workers dwellings'. H DM3 (3) states temporary seasonal horticultural workers dwellings shall only be granted in exceptional circumstances, where there is clear evidence that the structures are absolutely essential for the provision of staff accommodation for running a farm or agricultural holding and various tests are met. This includes that there is no suitable alternative means of providing the accommodation, approved on temporary basis only with use of planning conditions to ensure seasonal and temporary occupancy, structures sited to minimise visual impact on area, structures are designed to provide adequate accommodation, meet requirements in terms of access/fire/ventilation and light/services and drainage issues are addressed.

Walberton Neighbourhood Plan (WNP) 2 policy HP1 (2020 BUAB) states 'Proposals for development outside of the built-up area boundary will be supported where they accord with countryside policies in the Arun Local Plan and South Downs Local Plan.' Policy VE2 (Horticultural Development) states that 'Redevelopment of under-used, redundant or derelict glasshouses, polytunnels or packhouses will be supported provided that'...the redundancy is proven to the Local Planning Authority (LPA), land is remediated from any contamination and is used for direct diversification of horticulture or countryside based enterprise activity which supports the rural economy and proposed works include full details of landscaping, screening, trees/vegetation/structures to be retained on site. Policy HOR DM1 of the ALP states the same.

Section 38(5) of the Planning and Compulsory Purchase Act 2004 states: If to any extent a policy

contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. In this case, the ALP pre-dates the WNP and so any conflict would be resolved in favour of the NP policies. In this particular matter, there is no conflict between the relevant policies in the LP and NP.

The applicant does not refer to policy H DM3 in the Supporting Statement but there is a short statement as to need which is summarised below:

- Due to the Covid-19 Pandemic, there is a requirement for some 80,000 agricultural workers in the UK (source: www.fwi.co.uk/business/business-management/staff/coronavirus-uk-eases-restrictions-on-foreign-seasonal-workers).
- The majority of these are likely to be required in the south of England.

The justification provided is not considered to demonstrate that these are exceptional circumstances in which this type of accommodation should be granted approval. Neither is there clear evidence of the need, that the structures are absolutely essential for the provision of staff accommodation to facilitate the economic running of a farm or horticultural holding. The accommodation is not to assist with any agricultural activities on the site and it is proposed workers will be bussed to nearby locations. No clear evidence has been provided that there is an essential need for this accommodation in this location to facilitate the running of a farm or horticultural holding. The application does not consider suitable alternative means of providing the accommodation e.g. local rental properties and low-cost HMOs/bedsits, so fails to meet criteria (a) of H DM3 (3). The applicant states the structures cannot be seasonal as no season can be confirmed for these workers and the structures cannot be temporary and removed seasonally, although planning conditions could be used to meet criteria (b). Criteria (c) to (g), with the exception of (d), are met as is demonstrated by this report. It has not been proven in this case the development would be essential to serve the operational needs of agriculture and horticulture (policy C SP1, a).

As such, the proposals would conflict with Development Plan policies C SP1 and H DM3 of the Local Plan and HP1 of the Neighbourhood Plan. There are no other material considerations (as detailed within this report) which would outweigh this conflict. As such, the proposed development in this countryside location is unacceptable in principle.

RESIDENTIAL AMENITY:

Para 130 (f) of the NPPF states development should have a high standard of amenity for existing and future users.

Policy D DM1 of the ALP states new development will have minimal impact to users and occupiers of nearby property and land, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance. QE SP1 states the Council requires development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity. Policies QE DM1, QE DM2, QE DM3 and QE DM4 relate to noise, light, air and land pollution and the need for impacts from development to be controlled.

The Arun Design Guide (ADC) SPD includes detailed guidance on the protection of residential amenity, including setting out the required distances between properties to accord with the 45-and 25-degree tests for daylight, sunlight and overlooking (Section G.03), required separation distances between habitable rooms to ensure privacy (Section H.04), measures to maintain privacy (Section J.02) and minimisation of impacts of noise and overshadowing (Section J.06).

The structures are single storey, located some distance from neighbouring properties and the site is well screened. As such, the structures would not have a detrimental impact on the outlook, light or privacy levels of the nearest residential properties.

However, the addition of 14 caravans with up to 30 workers on this size of site is an over-intensive use and results in a high number of coming and going of occupants. This is thought to cause an unacceptable level of general noise and disturbance to neighbouring occupants potentially at early hours of the day (the nature of agricultural work) and late in the evening (particularly in the summer months). This will have a significant negative impact on the amenity and the quiet enjoyment of the occupants of these properties. As such, the application conflicts with the NPPF, and ALP policies D DM1 and QE SP1.

QUALITY OF ACCOMMODATION:

No internal layout plans of the caravans have been provided with the application. Since the application relates solely to a change of use of the land (rather than the structures), ALP policy D DM2 (Internal space standards) and Nationally Described Space Standards for internal habitable accommodation are not applicable in this instance, and instead the Caravan Act which specifies maximum dimensions will apply.

Notwithstanding this, the caravans should still be designed to provide 'adequate accommodation' as per ALP policy H DM3. It is noted that the caravans are spaced very close together, only around 5-6m apart in most cases. The Environmental Health Officer has confirmed that under a Caravan Site Licence the minimum distance between caravans is 6m and this can be reduced to 5.25m if the caravans are fitted with fire retardant cladding to its facing walls. As such, the development would appear to accord with the Caravan Site Licence requirements and providing adequate accommodation as per ALP policy H DM3 for temporary seasonal workers accommodation. An informative should be added stating that the development would be subject to a Caravan Site Licence where the development would need to comply with.

SITE ACCESS AND PARKING PROVISION:

Para 110 of the NPPF states in assessing specific applications for development it should be ensured that (b) safe and suitable access to the site can be achieved for all users. Para 111 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy T SP1 of the Arun Local Plan requires development proposals to provide safe access on to the highway network and to incorporate appropriate levels of parking in line with adopted planning policies. ALP policy T DM1 requires development to make provision for facilities for sustainable modes of transport such as cycling, to meet the parking standards, including cycle storage. The ADC Design Guide SPD (Sections I.01, I.02 and I.03) includes guidance on the provision and design of car parking, electric vehicle bays and charging points, and cycle parking.

The Local Highways Authority (LHA) WSCC have raised no objection to the application. No alterations to the existing site access off Eastergate Lane are proposed. The proposed 30 agricultural workers are transported to and from their workplace via 17-seater minibus generating a total of 4 minibus movements (2 x two-way movements) per day. As such, the proposal would not result in a severe intensification of use of the existing access, or any capacity issues on the local highway network. Therefore, it is not contrary to the NPPF (para 111), and there are no other transport grounds to resist the proposal.

Eight parking spaces are proposed in the application form and Planning Statement and are now shown on the Site Plans. The Planning Statement and supporting cover letter indicate that this level of car parking is sufficient provision as they claim the occupants are generally not anticipated to own a private

vehicle. The LHA have not raised any concerns over car parking provision. The ADC Parking SPD specifies 1 car parking space per 1 and 2 bed dwelling and 2 spaces per 3-bed in Parking Behaviour Zone 4. The proposal for 14 units (with up to 30 bedrooms) would generate a requirement 18 car parking spaces. However, this is not a typical permanent residential dwelling type use proposed and, in those instances, and for certain types of uses the ADC Parking SPD states that parking provision will be determined on a case by case basis. The Local Planning Authority (LPA) agree with the LHA that 8 car parking spaces would be sufficient to serve the needs of this type of development and would comply with the NPPF and ALP policy T SP1 and the ADC Parking SPD.

VISUAL AND LANDSCAPE IMPACT:

Para 174 of the NPPF (2021) states decisions should protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside. Para 130 requires that applications for developments (b) are visually attractive as a result of good architecture and (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting. Para 134 states "Development that is not well designed should be refused".

Policy D SP1 of the ALP states development should seek to make efficient use of land but reflect the characteristics of the site and local area. ALP policy D DM1 looks at aspects of form and design quality, including character, appearance, density, scale, innovation, adaptability, residential amenity impact, trees and crime prevention. New buildings should be harmonious with their surroundings and successfully integrate with the surrounding environment. ALP policy LAN DM1 states that development should respect the particular characteristics and natural features of the relevant landscape character areas. Policy H DM3 (3) states temporary seasonal horticultural workers dwellings shall only be granted in exceptional circumstances, including (c). The structures are sited in order to minimise their visual impact on the surrounding area. Policy QE DM2 requires that proposals which include outdoor lighting must be accompanied by a lighting scheme and that there should be no adverse impacts on the wider landscape, particularly with regard the SDNP International Dark Sky Reserve designation.

Policy HP 13 of the WNP states new development which would have an effect on the appearance or character of the surrounding area must be of a high quality of design, that it integrates with existing streetscapes and visual amenity of an area. The WNP identifies important vistas in Walberton Neighbourhood Plan area in Schedule 7 however the site is not directly affected and would only form part of very long-distance views. Policy VE 8 of the WNP states that development proposals which detract from the 'unlit' environments of the Parish will not be supported and that new lighting will need to conform to the highest standard of light pollution restrictions.

The site is located within the designated Countryside on a rural lane comprising a mix of dwellings, gardens and horticultural nurseries/agricultural businesses. The site was formerly in horticultural use and previously accommodated a substantial glasshouse. It is noted that there are other caravan developments within the area, storage outbuildings, and horticultural agri-business structures such as glasshouses and polytunnels. The site itself is also physically contained by boundary treatments and other developments on all sides. As such, the siting of caravans on the application site is not incompatible with the character of existing built form and uses in the area and would not result in a significant incursion into the open countryside nor harm significant views across the open countryside and landscape.

However, on a site of this size, 14 caravans results in cramped spacing which represents overdevelopment. That being said, this 'overdevelopment' of the site is not readily appreciable, since the structures are single storey, located well within the confines of the sites' developed area away from the frontage with Eastergate Lane, and the site is well contained and screened.

No elevations have been submitted of the caravan structures or the utility building denoted on the Site

Plan. It is understood from development already present on site that these structures are/would be all single storey. A planning condition could be applied to ensure the caravans adhere to the maximum dimensions (including single storey height) under the Caravans Act. A planning condition could also be used to secure details of the utility building to be submitted to and approved in writing by the LPA within 3 months of the date of the decision, to ensure this would be single storey and have an acceptable visual impact. Based on the structures being single storey, their set back siting within the site away from the lane, and the existing fencing/vegetative screening they would have an acceptable visual impact. As such, the structures have been sited to minimise the visual impact on the surrounding area, as per policy H DM3, and would integrate sufficiently and have an acceptable impact on the appearance and character of the street scape, landscape and countryside, in accordance with ALP policies D SP1, D DM1, LAN DM1 and WNP policy HP 13.

In terms of the impact of external lighting on the landscape and SDNP Dark Sky Reserve designation, the Planning Statement confirms 'low level' 'sensor-controlled lighting'. A planning condition could be used to secure details of any external lighting to be submitted to and approved in writing by the LPA and then fully implemented in accordance with this plan, within 3 months of the date of the decision, to ensure an acceptable impact in this regard to accord with policies QE DM2 and VE 8.

DRAINAGE:

The NPPF seeks to direct sensitive development away from areas at highest flood risk. ALP policy W DM2 sets out the requirements for development in areas at risk of flooding, including the need for the sequential test, an FRA, adaptation and mitigation measures, flood warning and evacuation plans and site drainage plans. ALP policy W DM3 states that all development must identify opportunities to incorporate a range of Sustainable Urban Drainage (SUDs) systems. Policy W SP1 requires that development proposals be accompanied by a full Drainage Impact Assessment which takes account of surface water and foul water to ensure an acceptable impact in the Lidsey Waste Water Treatment Works Catchment Area. Policy H DM3 states temporary seasonal horticultural workers dwellings shall only be granted in exceptional circumstances, including (f) Any drainage issues are satisfactorily addressed. The ADC Design SPD (Section K.04) requires that development incorporate Sustainable Drainage Systems (SUDs) and flood risk mitigation. Policy VE 7 of the WNP states that new development should aim to reduce the overall level of flood risk and include surface water management measures, SUDs and FRAs as appropriate.

The site is in Flood Zone 1 (lowest risk of flooding) and the plot is smaller than 1 hectare and as such a Flood Risk Assessment nor flood mitigation measures are required. The site is in an area prone to groundwater flooding, the Lidsey Waste Water Treatment Works Catchment Area, and in an Environment Agency Source Protection Zone (protected groundwater for drinking water supply). The Council's Drainage Engineer has advised as follows:

Given the site's location within Lidsey Catchment Area, surface water drainage design should be carefully considered and infiltration must be fully investigated. It is not clear what foundations the cabins are placed on, nor what the pre-existing surfacing was, but it is clear that the increase in impermeable area from the 14 units could be considerable. Without further detail it is difficult to make an assessment. It is also unclear as to how long the units will be in situ as the situation is to be 'reviewed' after two years, the implication being a more permanent outcome. It is understood that the development has already commenced as the application is retrospective, therefore the wording any proposed drainage condition would be changed to 'prior to occupation' to reflect this. A planning condition (for a Surface Water Drainage Scheme based on infiltration and winter groundwater monitoring) should be imposed to ensure that the development is adequately drained and does not increase flood risk elsewhere.

The application form states that the intention is not to connect to the existing drainage system/public sewer network and that foul sewage is to be drained by a package treatment plant. However, no details

of its location, appearance or specification and drainage details have been provided. Nor has a full Drainage Impact Assessment including for foul water disposal (which would need to be prepared in consultation with the EA and the appropriate water company), been submitted, contrary to policy W SP1. This is of concern given the site's location within the Lidsey Catchment Area and within an EA Source Protection Zone (which seeks to protect groundwater used for drinking supply from pollution).

Since the development is already in existence (and occupied) and this application is for retrospective planning permission, pre-commencement or prior to occupation planning conditions cannot be used to secure this information. However, the Drainage Engineer has confirmed that this could be dealt with post-occupation, via planning conditions requiring a Surface Water Drainage Scheme and a Foul Water Drainage Impact Assessment/Scheme to be submitted to the LPA for approval and implemented as soon as possible and within a reasonable timeframe (e.g., maximum 1 year) after the date of the decision. This would ensure that the development would be appropriately drained and not lead to any water pollution to the SPZ, in accordance with the NPPF, ALP policies W SP1, W DM3 and H DM3, and NP policy VE 7.

CONTAMINATION:

Policy QE DM4 of the ALP states that 'The Council promotes, and will permit, the use of previously developed land and the remediation of contaminated land to ensure that land is brought back into use' where evidence to show that unacceptable risk from contamination will be successfully addressed through remediation is provided.

The former use of the land was as a horticultural business (Cherry Tree Nursery) and a Certificate application was also granted for its use for storage of cars and boats. The HELAA and NPs discounted this site as being unsuitable for residential use due to potential contamination from previous uses. In practice often pre-commencement planning conditions can be used to ensure a site is fully investigated and remediated of contamination prior to commencement of development. The Council's Environmental Health Officer has suggested that planning conditions could be used to deal with land contamination and unexpected contamination.

Since the development is already in existence (and occupied) and this application is for retrospective planning permission, pre-commencement or prior to occupation planning conditions cannot be used to secure this information. However, Environmental Health have confirmed that this could be dealt with post-occupation, although clearly any required intrusive site investigations would be more difficult in parts of the site which are inaccessible due to structures having been installed etc. Notwithstanding this, the matter of potential land contamination could be dealt with by a planning condition requiring stage 1 risk assessment and any stage 2 intrusive survey (if deemed appropriate following stage 1 risk assessment) and any required remediation measures to be undertaken within a certain timeframe after the date of the decision. Similarly, a planning condition could be used to deal with any previously unexpected contamination being found on site. These planning conditions would ensure any land contamination issues are addressed, as required by the NPPF and ALP policy QE DM4.

BIODIVERSITY:

In terms of legislation, development will need to avoid impacts on legally protected species, and where this is not possible, mitigation or compensation will be necessary and a Licence from Natural England may be required. Paras 174 and 180 of the NPPF indicates that developments should aim to protect or enhance, minimise impacts, and provide net gains to biodiversity. Net Biodiversity Gain is an important aspect of the new Environment Act and the NPPF. ALP policy ENV DM5 states development shall seek to achieve a net gain in biodiversity and protect existing habitats on site. Policy VE 10 of the WNP states 'Development of biodiversity rich habitats shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on sites'.

The site is not located within a Biodiversity Opportunity Area in Local Plan but is fairly close (a few sites

down) from a Biodiversity Corridor identified in the Walberton Neighbourhood Plan. There is no evidence that the application has a negative impact on biodiversity as the proposal does not appear to include any removal of hedgerows, trees or vegetation. The application does not include measures to improve biodiversity, but it is not considered to result in any harm, therefore, on balance, it is considered acceptable in respect of biodiversity impacts. Notwithstanding this, a planning condition could be used to secure a Biodiversity Enhancement Plan to be submitted to and approved by the LPA and for measures to be implemented in full on-site within 3 months of a decision, to secure Biodiversity Net Gain in accordance with the Environment Bill, NPPF, ALP policy ENV DM5 and WNP policy VE 10.

HRA BUFFER:

The site is located within the Singleton and Cocking Tunnels SAC 12k Buffer.

Strategic policy SD10 of the South Downs National Park Local Plan states that:

1. Development proposals on greenfield sites and sites that support or are in close proximity to suitable commuting and foraging habitat (including mature vegetative linear features such as woodlands, hedgerows riverine and wetland habitats) within the following ranges as shown on the Policies Map, should have due regard to the possibility that Barbastelle and Bechstein's Bats will be utilising the site. Such proposals will be required to incorporate necessary surveys and ensure that key features (foraging habitat and commuting routes) are retained, in addition to a suitable buffer to safeguard against disturbance.

a) 6.5km: Key conservation area - all impacts to bats must be considered given that habitats within this zone are considered critical for sustaining the populations of bats within the SACs; and

b) 12km: Wider conservation area - significant impacts or severance to flight lines to be considered.

The policy does not have a threshold for any particular scale or type of development, so it needs to be considered for all types of development within the Buffer area. The purpose of the policy requirement of the 12km wider buffer zone is to ensure that 'flight lines' i.e., commuting routes for bats are not harmed through disturbance from structures or light pollution etc.

Policy VE 10 of the Walberton Neighbourhood Plan states that Development within the Singleton and Cocking Tunnels SAC Wider Conservation Area should evaluate the potential loss of suitable foraging habitat and/or severance of commuting flight-lines such as semi-natural meadows, mature treelines, hedgerows and watercourses. Such features should be preserved where it is demonstrated that they are used by Barbastelle bats.

The proposed caravan structures would be single storey and located within the confines of the site enclosed by hedgerows to be retained. As such, the structures or proposals themselves would not appear to result in loss of foraging habitat or severance of commuting flight lines. As discussed already in this report, a planning condition could be used to secure details of any external lighting to be submitted to and approved in writing by the LPA and then fully implemented in accordance with this plan, within 3 months of the date of the decision, to ensure no unacceptable light disturbance impacts on the SAC buffer area.

MINERALS:

The site is located within a Sharp Sand and Gravel Minerals Safeguarding Area. Policy M9 in the West Sussex Joint Minerals Local Plan (WSJMLP) states that for non-mineral development within the Minerals Safeguarding Areas it will not be permitted unless (i) mineral sterilisation will not occur; or (ii) it is appropriate and practical to extract the mineral prior to development or (iii) overriding need for development outweighs safeguarding of mineral and prior extraction not possible. In this case, the

proposals for temporary caravan structures would not result in mineral sterilisation occurring and so prior extraction or an overriding need case is not necessary here and the application complies with M9 of the WSJLMP.

SUMMARY:

The development applied for conflicts with Arun Local Plan (ALP) policies C SP1 and H DM3 and Walberton Neighbourhood Plan policy HP1, since it is for new temporary rural workers accommodation in the countryside, where, in this case, no clear evidence has been provided that there are exceptional circumstances to justify development in this location and that it cannot be located elsewhere. Therefore, the development is unacceptable in principle in this countryside location.

The development also results in significant harm to neighbouring residential amenity, in conflict with ALP policies D DM1 and QE SP1.

In terms of other material planning considerations it is acknowledged that there is a pressing need for agricultural workers (and thus potentially workers accommodation) in the UK and that a 3 year temporary planning permission is being applied for so impacts would be time-limited. The LPA also acknowledges the recent application for similar development at the Nyton's Rest site (AL/61/20/PL) which was approved. In that case, however, it was concluded that the conflict with the Development Plan in respect of policies C SP1, H DM3 and HP1 was outweighed by other material considerations, in the form of the pressing need for agricultural workers (and accommodation) in the UK and the fact that given it was for a temporary 2 year permission there would be no permanent harm from its siting in this countryside location. The same cannot be concluded in respect of this current application, since along with conflict with policies C SP1, H DM3 and HP1 there is conflict with a number of other Development Plan policies including D DM1 and QE SP1, in terms of significant harm to neighbouring residential amenity. As such, in this particular case, there are no other material considerations which outweigh the conflict with the Development Plan in this instance.

Accordingly, this application is recommended for refusal, for the following reasons

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 development introduces temporary workers accommodation into a Countryside location, and no clear evidence has been provided that these are exceptional circumstances where the structures are absolutely essential for the provision of staff accommodation to facilitate the economic running of an agricultural or horticultural holding. Its countryside location is unacceptable in principle and is not justified, and therefore conflicts with policies C SP1 and H DM3 of the Arun Local Plan and HP1 of the Walberton Neighbourhood Plan.
- 2 The development of 14 caravans with up to 30 rural workers on this size of site is excessive, over-development, and an over-intensive use with a high number of coming and going of occupants which results in an unacceptable level of general noise and disturbance to neighbouring occupants. This results in a significant negative impact on neighbouring amenity and the quiet enjoyment of their properties, in conflict with the National Planning Policy Framework and policies D DM1 and QE SP1 of the Arun Local Plan.
- 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 determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.
- 4 **INFORMATIVE:** The applicant is reminded that, separate to planning permission, a Caravan Site Licence is required. Details of which can be found on the Council's website.