

Parish: Sidlesham	Ward: Sidlesham With Selsey North
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SI/23/00530/FUL

Proposal	Siting of 1 no. caravan, with toilet for the purpose of on-site small holding farm assistance and erection of timber board enclosure and aviary cages for animal welfare and security, (retrospective).		
Site	Cherry Tree Farm Jury Lane Sidlesham Common West Sussex PO20 7PY		
Map Ref	(E) 484935 (N) 100086		
Applicant	Cherry Tree Farm, Sidlesham	Agent	Mr Andrew Belcher

RECOMMENDATION TO REFUSE

	<p>NOT TO SCALE</p>	<p>Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803</p>
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1.0 Reason for Committee Referral

1.1 Red Card: Cllr D Johnson - Important information/opinion to raise in debate.

2.0 The Site and Surroundings

- 2.1 The application site is located to the west of the B2201 Selsey Road, within the rural Parish of Sidlesham. The site comprises a rectangular parcel of land, centrally positioned along the eastern boundary of Cherry Tree Farm, with vehicle access directly onto Selsey Road. The wider farm is approximately 6.82 acres in size, mostly laid to meadow, with hedgerow boundaries. The farm has a small heard of Gotland Sheep.
- 2.2 The site is occupied by an existing timber barn, a livestock polytunnel, several storage containers, and various aviary cages, arranged in a rectangular footprint with walkways. In addition, a touring caravan is located to the east of the aviary cages, with a small garden area and vegetable allotment. There is a gravel hardstanding to the north, which provides vehicle parking.
- 2.3 The site lies within the designated countryside, lying within open countryside, albeit countryside with established horticultural and commercial uses. The wider farm is located between a light industrial estate to the north and west, a loose knit cluster of dwellings to the south, and open countryside to the east.

3.0 The Proposal

3.1 This application seeks retrospective planning permission for the siting of one touring caravan with a newly proposed composting toilet. It also seeks retrospective consent for the erection of timber board enclosure and aviary cages, on the footprint of the previously permitted timber barn.

4.0 History

19/02491/FUL	PER	Demolition of an existing static caravan and chicken co-op, construction of 1 no. barn/store, 1 no. livestock polytunnel and refurbishment of existing shed.
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5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	
- Flood Zone 2	NO
- Flood Zone 3	NO

6.0 Representations and Consultations

6.1 Parish Council

No Objection provided a temporary permission is given to be reviewed in two years' time.

6.2 WSCC Highways

This application is for the siting of caravan with toilet for the purpose of on-site farm assistance and erection of timber board enclosure with aviary cages. The site is located on Chichester Road, a B-classified road subject to a speed restriction of 40 mph in this location.

The LHA previously provided consultation advice for this site for application 19/02491/FUL, raising no highway safety concerns. The Local Planning Authority (LPA) permitted the application.

For the current application, no alterations are proposed to the existing access arrangement. The proposed development is not anticipated to give rise to a material intensification of use of the existing access point. In addition, there appears to be suitable space on-site to accommodate suitable parking provision and turning manoeuvres.

In summary, the LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (Paragraph 111), and that there are no transport grounds to resist the proposal.

6.3 WSCC Water and Access

Having viewed the plans for the planning application no. 23/00530/FUL for the Siting of 1 no. caravan, with toilet for the purpose of on-site small holding farm assistance and erection of timber board enclosure and Aviary cages for Animal Welfare and Security, (retrospective), I wanted to make you and the owner aware the nearest fire hydrant to this site is 250 metres away, 75 metres further than the 175 metres distance normally required for a domestic premises. If an alternative supply of water for firefighting is to be considered it will need to conform with the details identified in Approved Document - B (AD-B) Volume 1 - 2019 edition: B5 section 14.

The lack of water for firefighting may affect the insurance for the business, properties and contents should a fire or emergency occur.

6.4 CDC Economic Development

The Economic Development Service has no objection to this application.

6.5 CDC Environmental Strategy

Further comments

As the works are retrospective there is only so much that can be gained from a survey, however we are not condoning works taking place without surveys. However, if they are able to provide and we can secure enhancements for the site, this would be a good way forward.

Original comments

The Preliminary Ecological Appraisal Report (Aug 2019) which has been submitted with this application is unfortunately out of date. Following Natural England's guidance surveys are only valid for 2-3 years and once this period has passed new surveys are required because enough time has passed for the habitats and species to have dramatically changed within the site. We require that an updated phase one habitat survey is undertaken, and this should be done with the current proposals in mind. If there is potential for protected species, then further surveys would be required. These surveys plus any mitigation strategies required will need to be submitted as part of the planning application prior to determination.

For this application we are satisfied that the HRA issue of recreational disturbance can be resolved if the applicant is willing to provide a contribution to the Bird Aware scheme, the standard HRA Screening Matrix and Appropriate Assessment Statement template can be used.

6.6 CDC Costal and Drainage

Flood Risk: The site is wholly within flood zone 1 (low risk) and we have no additional knowledge of the site being at increased flood risk.

Surface Water Drainage: The application form states that surface water is to be disposed of via soakaway, this approach is acceptable in principle. Due to the scale of the proposed development, we have no conditions to request.

6.7 Third Party Representation

Nine letters of support have been received concerning:

- It would help a military veteran.
- Provide experiences to local school children.
- The birds are part of Andy's rehabilitation.
- Taken grandchildren many times to see the animals and birds.
- Provides help with security and animal welfare.
- The West Sussex & Chichester Armed Forces Covenant 2.2 which purpose is to encourage support for the Armed Forces community working & residing in West Sussex.
- The site is not within open countryside and surrounded by commercial development.
- The occupant and birds will become homeless.

- There is a requirement for bird welfare.
- Benefit to all the community.

Two letters of objection have been received, by members of the public wishing to remain anonymous, and therefore these comments carry limited weight. The letters concern:

- Change of use of field to commercial enterprise with visits from the public and living accommodation.
- Other sustainable options have not been explored.
- Loss of use of field for grazing.
- The change of use is inappropriate in this area.
- Application doesn't address significant issues.
- History of water lying on the field.
- Impact to local wildlife.
- 24hr lighting activity.
- The third application on this site.
- The proposal is a drastic change from the initial intentions for this site.

7.0 Planning Policy

The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029, the CDC Site Allocation Development Plan Document and all made neighbourhood plans. There is no made neighbourhood plan for Sidlesham.
- 7.2 The principal planning policies relevant to the consideration of this application are as follows:

Chichester Local Plan: Key Policies 2014-2029

- Policy 1: Presumption in Favour of Sustainable Development
- Policy 2: Development Strategy and Settlement Hierarchy
- Policy 4: Housing Provision
- Policy 8: Transport and Accessibility
- Policy 33: New Residential Development
- Policy 37 Accommodation for Agricultural and other Rural Workers
- Policy 39: Transport, Accessibility and Parking
- Policy 42: Flood Risk and Water Management
- Policy 45: Development in the Countryside
- Policy 49: Biodiversity
- Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours Special Protection Areas
- Policy 51: Development and Disturbance of Birds in Pagham Harbour Special Protection Area

7.4 CDC Site Allocation Development Plan Document

National Policy and Guidance

- 7.5 Government planning policy now comprises the revised National Planning Policy Framework (NPPF 2021), which took effect from 20 July 2021. Paragraph 11 of the revised Framework states that plans and decisions should apply a presumption in favour of sustainable development, and for decision-taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole
- 7.6 Consideration should be given to Sections 1 (Introduction), 2 (Achieving Sustainable Development), Section 4 (Decision making), 5 (Delivering a sufficient Supply of Homes), Section 9 (Promoting sustainable transport), 12 (Achieving Well-Designed Places), 14 (Meeting the Challenge of Climate Change, Flooding, and Coastal Change) and 15 (Conserving and Enhancing the Natural Environments) of the NPPF. In addition, the relevant paragraphs of the National Planning Practice Guidance have also been considered.

Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19)

- 7.7 Work on the review of the adopted Local Plan to consider the development needs of the Chichester Plan Area through to 2039 is now well advanced. Consultation on a Preferred Approach Local Plan has taken place. Following detailed consideration of all responses to the consultation, the Council has published a Submission Local Plan under Regulation 19, which was approved by Cabinet and Full Council for consultation in January 2023. A period of consultation took place from 3rd February to 17th March 2023, and the Submission Local Plan is expected to be submitted to the Secretary of State for independent examination in Autumn 2023. In accordance with the Local Development Scheme, it is anticipated that the new Plan will be adopted by the Council in 2024. At this stage, the Local Plan Review is an important material consideration in the determination of planning applications, the weight that can be attached to the policies contained therein is dependent on the significance of unresolved objection attributed to any relevant policy, commensurate with government policy at paragraph 48 of the NPPF (2021).
- 7.8 Relevant policies from the published Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19) are:
- Policy S1 Spatial Development Strategy
 - Policy S2 Settlement Hierarchy
 - Policy NE2 Natural Landscape
 - Policy NE3 Landscape Gaps between settlements
 - Policy NE5 Biodiversity and Biodiversity Net Gain
 - Policy NE6 Chichester's Internationally and Nationally Designated Habitats

- Policy NE7 Development and Disturbance of Birds in Chichester and Langstone Harbours, Pagham Harbour, Solent and Dorset Coast Special Protection Areas and Medmerry Compensatory Habitat
- Policy NE8 Trees, Hedgerows and Woodlands
- Policy NE10 Development in the Countryside
- Policy NE15 Flood Risk and Water Management
- Policy NE16 Water Management and Water Quality
- Policy NE20 Pollution
- Policy NE21 Lighting
- Policy H9 Accommodation for Agricultural, Horticultural and other Rural Workers
- Policy P2 Local Character and Distinctiveness
- Policy P4 Layout and Access
- Policy P5 Spaces and Landscaping
- Policy P6 Amenity
- Policy P15 Open Space, Sport and Recreation
- Policy P16 Health and Well-being
- Policy E3 Addressing Horticultural Needs
- Policy E4 Horticultural Development
- Policy T1: Transport Infrastructure
- Policy T2 Transport and Development
- Policy T3 Active Travel - Walking and Cycling Provision
- Policy T4 Parking Provision
- Policy I1 Infrastructure Provision

Other Local Policy and Guidance

7.9 Consideration has also been given to:

- Planning Obligations and Affordable Housing SPD (July 2016)
- Surface Water and Foul Drainage SPD (September 2016)
- CDC Waste Storage and Collection Guidance (January 2017)
- Chichester Landscape Capacity Study (March 2019)
- Landscape Gap Assessment for Chichester Local Plan Review 2035 (May 2019).

7.10 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 The main issues arising from this proposal are:

- i. Principle of development
- ii. Design and impact upon character of the surrounding area
- iii. Amenity of neighbouring properties and future occupiers
- iv. Impact upon highway safety and parking

- v. Drainage
- vi. Ecology
- vii. Recreational Disturbance

Assessment

i. Principle of development

- 8.2 The application site is located within the Parish of Sidlesham, outside of the defined settlement boundary within the designated countryside. Local Plan Policy 45 advises development will be supported, outside of settlement boundaries, where it requires a countryside location and meets an essential, small scale and local need which cannot be met within or immediately adjacent to existing settlements.
- 8.3 Policy 37 of the Local Plan provides five-point criteria for accommodation for rural workers and supports proposals which are necessary to meet the accommodation needs of full - time workers in agriculture, forestry or other businesses requiring a countryside location providing they meet the five criteria contained in the policy. The policy pre-text at paragraph 17.38 provides that the evidence required for new occupational dwellings is outlined in Appendix E in the adopted Local Plan. Paragraph E9 of Appendix E Appropriate Marketing Guidance requires that supporting information for new occupational dwellings to support existing agricultural activities on well-established agricultural units must demonstrate that there is a clearly established existing functional need and the unit and agricultural activity concerned have been established for more than three years, are currently financially sound and have a clear prospect of remaining so.
- 8.4 The National Planning Policy Framework (NPPF) sets out at paragraph 80(a) that development of isolated homes in the countryside should be avoided unless there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. Planning Practice Guidance "Housing Needs of Different Groups" details at paragraph 010 that considerations that may be relevant to consider when applying the NPPF paragraphs include evidence of the necessity for a rural worker to live at, or in close proximity to their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24 hours a day and where otherwise there would be a risk to human or animal health from crime, or to deal quickly with emergencies that could cause serious loss of crops or products) and whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process.

Agricultural activities

- 8.5 The five criteria of Policy 37 are as follows:
1. Provision on-site or in the immediate vicinity is essential for the operation of the business.
 2. No suitable accommodation exists or could be made available in established buildings on the site or in the immediate vicinity

3. The proposal does not involve replacing a dwelling disposed of recently as general market housing
4. The dwelling is no larger than is required to meet the operational needs of the business
5. The siting and landscaping of the new dwelling minimises the impact to the character and appearance of the countryside and ensures no adverse impact on designated sites

- 8.6 Policy 37 sets out strict tests for an agricultural workers dwelling, not least criterion one which requires the dwelling to be essential for the operation of the business. In considering the submitted supporting documentation which highlights the activities within the farm, it is considered the activities are modest and liken to that of a hobby business rather than a full-scale farming operation.
- 8.7 As part of a site visit undertaken by the case officer, it was advised there were approximately 70 lambs currently on site, with activities including daily feeding, cleaning, and general caring, requiring someone to be in attendance for a notable period each day; however, these activities do not justify an essential provision on site for accommodation. This is particularly true, given the accommodation sought by this application is for Mr Kendall who only has a limited role in the operations of the farm, with his primary role being the care of the owls. The landowner and applicant, Mr Craig and his daughter take an active role in the daily activities of the farm; however, they are not seeking accommodation for themselves.
- 8.8 It is appreciated more intensive activities, such as sheering or lambing, which occur only a couple of times each year, will require a more intensive presence on site; however, such a presence is only required during these times and it itself not justification for full time agricultural workers accommodation. It could be justification for the siting of a mobile home for welfare to provide refreshments and rest areas during these intensive period only. It is these intensive activities which Mr Kendall provides additional support to Mr Craig and his daughter. The yarn from the lambs is taken off-site to produce products which are sold primarily online, and away from the farm.
- 8.9 It has further been advised a presence is required as part fire safety, with it advised that Mr Kendall is aware of the fire safety action plan. This action plan has not been provided, and it is unclear how crucial a role an on-site presence plays in this action plan. It is also unclear what measures, if any have been employed to reduce the risk of fire and or to suppress a fire within the buildings. It is likely mitigation, besides that of an on-site presence could provide sufficient precautions in the unlikely event of a fire. Similarly, it is advised a presence is required for security purposes; however, there has been no evidence provided of historic patterns of past breaches in security or thefts. Moreover, there has been no details provided of what security measures have been put in place to combat the perceived security risks, besides resorting to an on-site presence.
- 8.9 In considering criterion two of Policy 37, there is no existing accommodation on the site which could meet the essential need (if one were identified). The agent has provided some limited analysis of available accommodation within the Sidlesham Parish. As the parish is relatively small and with the housing stock considering primarily of larger, rural style properties, it is acknowledged there is likely to be limited opportunities for alternative accommodation available. It has been advised accommodation exists within Selsey, which is likely to be more realistic and affordable; however, the agent advises this distance

would be unacceptable in the event of an emergency. The site is approximately 2.1 miles from the northern tip of Selsey, with this journey likely to take approximately 5 minutes. The site is approximately 3 miles from the centre of Selsey Highstreet with this journey likely to take approximately 6-8 minutes. It is appreciated at peak times, these journey times may take slightly longer, but when taking into consideration there is typically a presence at the site during the day, an emergency is more likely to occur during the evening/night when traffic would likely be lighter. As such, accommodation options within Selsey could provide suitable accommodation, within an acceptable travelling distance to meet the limited needs of the operation on site.

- 8.10 The proposal does not result in the replacement of a recently disposed dwelling. The level of accommodation, being a touring caravan is modest and unlikely to be considered excessive should an essential on-site presence have been satisfactorily evidenced. However, as this is not the case, the level of accommodation sought is in excess of what is required. The landscape impacts of the accommodation are set out in section ii below.
- 8.11 In considering the above, there is insufficient justification to demonstrate an on-site presence is essential for the operation of the business. The current operation of the farm is modest, more liken to a hobby business as opposed to a full-scale farming operation. It is nevertheless appreciated the daily activities require a period to be spent at the farm each day, with this time increasing during infrequent intensive periods, and there may be benefits in residing on the site. However, this does not justify the proposed on-site permanent residential presence.

Mr Kendell - Birds

- 8.12 It is common ground between the applicant and officers that the keeping of owls on the site does not constitute an agricultural activity and therefore cannot be considered under Policy 37. Therefore, as there is insufficient agricultural activity to justify the touring caravan under Policy 37, it is necessary to consider Policy 45 (Development in the Countryside). It is necessary to restrict development in the countryside in order to protect the landscape, character, quality and tranquillity of the countryside. Policy 45 therefore only supports development where it requires a countryside location and meets the essential, small scale, and local need which cannot be met within or immediately adjacent to existing settlements.
- 8.13 Policy 45 includes a comparable, 'essential, small scale and local need' test to that of Policy 37. As such, the question is whether the presence of the birds and their aviary is compliant with this policy (i.e., do this require this specific countryside location) and then, does Mr Kendell need to an on-site presence to care for the birds.
- 8.14 No justification has been provided as to why the birds require this countryside location, with it unclear why this site is more suited than others. The situation has arisen due to the personal circumstances of Mr Kendell, who had to vacate his previous premises, where Owls About Town (a wildlife sanctuary and business) operated. Irrespective of this, it is generally accepted the keeping of birds, in this quantity does require a countryside location, with it undesirable to keep birds within a settlement boundary.

- 8.15 It is acknowledged Mr Kendell is in the process of obtaining a licence for 'Keeping or Training of Animals'. However, there is no license requirement for residential occupation on site. Understandably, there would be a need to frequent attendance at the site, including some early morning and late evenings, and this is why one of the general stipulations for the keyholder is to be roughly 30 minutes or less from the site. As discussed in Paragraph 8.9 much of Selsey is less than 10 minutes' drive from the site and residence there would still ensure Mr Kendell could be within suitable travel distance to the site.
- 8.16 It is appreciated this may not be desirable to Mr Kendell; however, an alternative could be to explore alternative locations for the birds, closer to an established settlement boundary. This would reduce commuting distances further, whilst also providing housing options for Mr Kendell. Alternatively, exploring securer accommodation for the owls, could provide greater reassurance of the safety of the birds, thus allowing Mr Kendell to reside within somewhere slightly further away than desired (i.e., Selsey), but close enough for the necessary care provisions.
- 8.17 It is suggested by many third parties that Mr Kendell requires accommodation on-site, in close proximity to the birds for rehabilitation and healthcare reasons. The application also details how Mr Kendall came about living at Cherry Tree Farm after becoming homeless during the Covid 19 pandemic. Officers are entirely sympathetic to Mr Kendell's personal situation, and it is clear Mr Kendell is both knowledgeable about his animals and cares greatly for them. However, this is unfortunately not a material consideration which should be given weight in the determination of this application. Similarly, it does not justify a deviation from planning policy. It is appreciated that by refusing this application, any subsequent enforcement action would require the removal of the caravan from the site, thus rendering Mr Kendell without accommodation. This would be handled with great sensitivity by Officers, however it is not a material consideration that would justify permitted a development that is clearly in conflict with the development plan.
- 8.18 In considering the above, whilst it is accepted the aviary cages require a countryside location, albeit not necessarily this location, their presence on this site in any event would not justify the retention of the touring caravan for on-site overnight accommodation. As such, the proposal is fails to comply with Policies 37 or 45 of the Local Plan and Paragraph 80a of the NPPF.

Recent Appeal Decisions

- 8.19 The Council has received two appeal decisions recently which both relate to the proposed development of new dwellings in the countryside. These are material considerations in assessing this application.
- 8.20 A recent appeal decision in Sidlesham (APP/L3815/W/22/3307155) highlights the Inspector's position on new dwellings in the countryside and the application of 'essential' need. In this Appeal decision, the Inspector considered the monthly calendar of tasks and daily tasks and understood that the business was labour intensive. However, the information did not demonstrate an essential need for overnight accommodation and therefore did not give justification for the construction of a new dwelling. Giving this decision weight, officers therefore maintain the view that intensive working hours and or labour does not constitute an essential need for a dwelling contrary to the development plan.

8.21 Appeal decision APP/L3815/W/22/3303937 relates to the proposed construction of a detached dwelling in the countryside outside of the settlement boundary. In this application, there was no essential need and the dwelling being sought was not for agricultural workers accommodation. The proposed dwelling was found by the Inspector to not fall within any of the exceptions to the restrictions pertaining to development in such locations set out by the Local Plan (Policies 2 and 45). The Inspector found that the proposed development would be in clear conflict with the development strategy for the District as established in Policy 2 of the Local Plan. There were no matters which outweighed the conflicts with the development plan and the appeal was dismissed.

Sub conclusion

8.22 The site lies outside of the Settlement Boundary and within the Rest of the Plan Area wherein Local Plan Policy 45 states that development will only be permitted where it requires a countryside location and meets an essential, small scale and local need which cannot be met within or immediately adjacent to the existing settlement boundary. As an exception to this, Policy 37 supports the provision of agricultural and other rural workers dwellings, when an on-site presence is evidenced to be essential for the operation of an established and financially viable business. It has not been demonstrated to the satisfaction of Officers, that an onsite presence is essential or necessary for the operation of the business. Similarly, it has not been demonstrated the on-site presence for the care of the bird meets an essential, small scale and local need, as required by Policy 45. Consequently, the proposal fails to protect the landscape, character, quality and tranquillity of the countryside and is contrary to Policies 1,2, 37 and 47 of the Local Plan and Paragraph 80 of the NPPF.

ii. Design and Impact upon Visual Amenity/Character of Area

8.23 Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, and create places with a high standard of amenity for existing and future users.

8.24 Policy 37 required the siting and landscaping of the new dwelling to minimise the impact to the character and appearance of the countryside and ensures no adverse impact on designated sites. Similarly, Policy 45 requires proposals requiring a countryside location should ensure that their scale, siting, design, and materials would have a limited impact on the landscape and rural character of the area.

8.25 The static caravan is set to the east of the agricultural building and aviary cages, and setback from Selsey Road. The established hedgerows to the boundary with Selsey Road help to screen the caravan when viewed from the east, with only glimpsed views possible through the gated vehicle access. The distance from the remaining north, south, and east boundaries and their established vegetation again help to limit views of the mobile home to mostly within the site only. The caravan, when viewed from within the site is prominent, given its white, stark appearance; however, this is read in the context of the existing buildings on site, including the light coloured polytunnel, which are commonplace within agricultural landscapes. In addition, there are other static mobile homes within the adjacent site to the north, with obscured view of these structures possible from within the farm. Therefore, siting of the caravan would not cause significant harm or detriment to the wider area and therefore would accord with local and national development plan policies.

8.26 The aviary cages design and scale reflect its use and siting. They are single storey, lightweight structured that include wire mesh front and side elevations, with a solid back. The cages occupy a rectangular footprint, with walkways in between, and are position on the footprint of an agricultural barn which was approved under reference 19/02491/FUL. They are reflective of agricultural style buildings, which are commonplace within the locality and as such the be appropriate having regarding to the existing buildings and the character of the area. Similarly, the composting toilet resembled a small, barrel roof shed with flue and would be appropriate having regarding to the existing buildings and the character of the area. Consequently, whilst the principle of development is not considered to be acceptable, with there being no justification for the siting of the static caravan, the proposal is not considered to result in an unacceptable impact upon the character of the area of wider landscape and would comply with Policies 37 and 45 of the local plan in terms of its impact on visual amenity and character.

iii. Amenity of neighbouring properties and future occupiers

8.27 The NPPF states at Paragraph 130 that planning should ensure a good quality of amenity for existing and future users (of places). Policy 33 of the local plan include requirements to protect the amenities of neighbouring properties.

8.28 It is considered the proposal would be sufficiently distanced, orientated and designed so as not to have an unacceptable effect on the amenities of the neighbouring properties, in particular to their outlook, privacy or available light.

iv. Impact upon highway safety and parking

8.29 Paragraph 111 of the NPPF states that 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. Additionally, Policy 39 of the CLP asserts that development should be designed to minimise additional traffic generation. The assessment of access, highway safety and parking has been undertaken in consultation with WSCC Highways

8.30 The proposal has been reviewed in consultation with WSCC Highways, who have raised no objection on highways safety. The proposal utilises an established vehicle access onto Selsey Road, with the retrospective development having uses this established access safely for a notable period. The residential use, together with the siting of the aviary cages, is not considered to give rise to a significant intensification of the use of the site. Therefore, the proposal is acceptable on highways grounds and would accord with Paragraph 111 of the NPPF and Policy 39 of the Local Plan.

v. Drainage

8.31 The site is wholly within Flood Zone 1 (low risk) and the Local Planning Authority have no additional knowledge of the site being at increased flood risk.

8.32 The proposal would drain surface water via soakaway, which is acceptable in principle and given the scale of the development, the Councils Drainage Engineer is satisfied with this approach and does not require any further information to be submitted. The proposal therefore complies with Policy 42 of the Local Plan.

vi. Ecology

8.33 Policy 49 of the Local Plan requires the biodiversity of the site to be safeguarded.

8.34 The phase one ecology survey provided in support of this application is out of date, and provides a limited picture of the ecology on site currently. However, as the works are retrospective, this proposal is not looking to approve works without a survey. Therefore, it would be considered acceptable in this instance, should officers have been minded to approve this application, to secure some further enhancements to the site.

8.35 It has been advised that the landowner has actively enhanced the site through the following, construction of a hibernaculum, bird boxes, enhanced hedgerow planting, hedgehog houses, bee keeping, wildflower seeding and ditch improvements. It has also been advised there are other enhancements options possible, including further improvements, more hedgerow plating, rejuvenating parts of the east hedgerow and the potential to plant an orchard of the north of the site.

8.36 It is considered there are suitable options available to secure a biodiversity enhancement to the site as part of this application. These options could be agreed with the applicant and secured via condition. Consequently, the proposal could be capable of complying with Policy 49 subject to a condition securing biodiversity enhancements.

viii. Recreational Disturbance

8.37 The site is located within the buffer zone of the both the Chichester and Langstone Harbours and Pagham Harbour Special Protection Area where any net increase in overnight accommodation would likely cause harm to the special qualities of the European designated site because of recreational disturbance. In accordance with Policy 50 and 51 of the Local Plan a financial contribution towards the established mitigation schemes is required to address the increased recreational disturbance.

8.38 The following contribution would be obtained via the S106 agreement:

- 1 x £938 + Monitoring and Obligation fee (£130)

8.39 As this application has been recommended to refuse, the required contribution has not been secured. However, this could be secured via the completion of a Unilateral Undertaking, and payment of the necessary fee. At this time an agreement is not in place and therefore as it stands, the proposal is contrary to Policies 50 and 51 of the Local Plan and the requirements of the Habitat and Protected Species Regulations 2017.

Conclusion

8.40 The site lies outside of the Settlement Boundary and within the Rest of the Plan Area wherein Local Plan Policy 45 states that development will only be permitted where it requires a countryside location and meets an essential, small scale and local need which cannot be met within or immediately adjacent to the existing settlement boundary. As an exception to this, Policy 37 supports the provision of agricultural and other rural workers dwellings, when an on-site presence is evidenced to be essential for the operation of an established and financially viable business. It has not been demonstrated to the satisfaction of Officers, that an onsite presence is essential or necessary for the operation of the business. Similarly, it has not been demonstrated the on-site presence for the care of the bird is meets an essential, small scale and local need, as required by Policy 45. Whilst Officers are sympathetic to Mr Kendell's personal circumstances, they are not material and should not be given weight in the determination of this application. They also do not justify a deviation from planning policy. Therefore, the proposal is contrary to Policies 1 ,2, 37 and 47 of the Local Plan and Paragraph 80 of the NPPF.

Human Rights

8.41 In reaching this conclusion the Human Rights of the applicants and those within the settled community have been taken into account under Article 8 and Article 1 of the First Protocol of Human Rights. The application has been assessed, upon its own merits in line with National and Local Planning Policy, with a decision issued accordingly.

RECOMMENDATION

REFUSE for the following reasons:-

1) The site lies outside of the Settlement Boundary and within the Rest of the Plan Area wherein Local Plan Policy 45 states that development will only be permitted where it requires a countryside location and meets an essential, small scale and local need which cannot be met within or immediately adjacent to the existing settlement boundary. As an exception to this, Policy 37 supports the provision of agricultural and other rural workers dwellings, when an on-site presence is evidenced to be essential for the operation of an established and financially viable business. It has not been demonstrated to the satisfaction of Officers, that an onsite presence is essential or necessary for the operation of the business. Similarly, it has not been demonstrated the on-site presence for the care of the bird is meets an essential, small scale and local need, as required by Policy 45. Consequently, the proposal fails to protect the landscape, character, quality and tranquillity of the countryside and is contrary to Policies 1,2, 37 and 47 of the Local Plan and Paragraph 80 of the NPPF.

2) The site is located within the 'Zone of Influence' of the Chichester and Langstone Harbours and Pagham Harbour Special Protection Area where it has been identified that the net increase in residential development results in significant harm to those areas of nature conservation due to increased recreational disturbance. Sufficient mitigation against such an impact has not been made and, therefore, the proposal is contrary to Policies 50 and 51 of the Chichester Local Plan Key Policies 2014-2029. The development would therefore contravene the Conservation of Habitats and Species Regulations 2017 and the advice in the National Planning Policy Framework

INFORMATIVES

1) 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, it has not been possible to resolve them. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

2) This decision relates to the following plans: 0135 - 1A, 0135 - 003, 0135 - 005, 0135-02, 0135-05, 0135-06, 0135-07 and 0135-08.

For further information on this application please contact Calum Thomas on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RQSVETERJCT00>