

Parish: Sidlesham	Ward: Sidlesham with Selsey North
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SI/19/00892/FUL

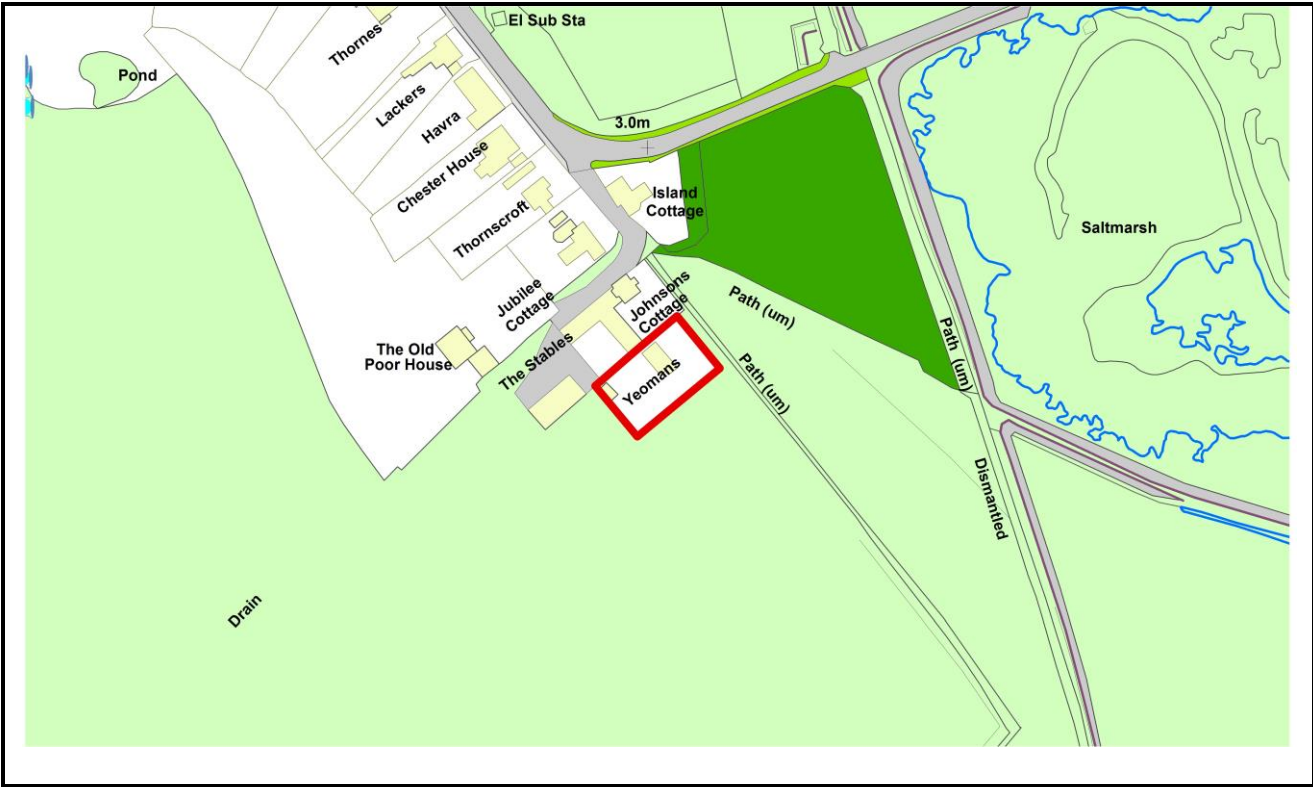
Proposal Erection of Westholm two bedroom bungalow. Removal of Condition 1 from Planning Permission SI/8/91 to remove the limitation of occupancy.


Site Yeomans Mill Lane Sidlesham PO20 7NA

Map Ref (E) 485933 (N) 97157

Applicant Ann Campbell

RECOMMENDATION TO PERMIT



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1.0 Reason for Committee Referral

1.1 Parish Council objection - Officer recommends Permit.

2.0 The Site and Surroundings

2.1 The application site is a single-storey bungalow situated at the southern end of Mill Lane and adjacent to Pagham Harbour. The site is outside any defined settlement boundary, within the countryside, and adjacent to the Sidlesham Quay Conservation Area. The property comprises a 1970s 'L-shaped' house with detached outbuilding/garage, within a modest sized rectangular plot. There is a row of residential properties to the north-west and open countryside to the south. The edge of the Pagham Harbour Special Protection Area (SPA) begins approximately 5 metres to the east of the site boundary. The site is also within Flood Zones 2 and 3.

2.2 The dwelling which is the subject of this application was granted under SI/51/69 as an agricultural workers dwelling. Later, in 1991 under SI/8/91 permission was sought to amend the restrictive agricultural occupancy condition to allow the dwelling to be occupied by wardens employed at the Pagham Harbour Local Nature Reserve. The dwelling is currently surplus to requirement by the RSPB and is vacant.

3.0 Proposal

3.1 The application seeks permission, under Section 73 of the Town and Country Planning Act 1990, to remove condition 1 attached to planning consent SI/8/91. This permission was for the variation of the original condition to allow for the Pagham Harbour warden to also occupy the dwelling; and the condition read as follows:

"The occupation of the dwelling shall be limited to the Pagham Harbour L.N.R. warden and his immediate dependants OR to a person solely or mainly working or last working in the locality in agriculture as defined in Section 336(1) of the Town and Country Planning Act 1990 or in forestry, or a widow or widower of such a person and to any resident dependants

Reason: The site lies in a rural area where in accordance with the policies of the Structure Plan, development unrelated to the essential needs of agriculture or forestry or in connection with any other essential rural activity would not normally be permitted."

4.0 History

SI/8/91	PER	Variation of existing occupancy condition to include in addition occupancy by the Pagham Harbour warden and his family
SI/51/69	PER	Erection of a Westholm two bedroom bungalow (for agricultural worker)

5.0 **Constraints**

Listed Building	No
Conservation Area	Adjacent to Sidlesham Quay Conservation Area
Rural Area	Yes
AONB	No
Tree Preservation Order	No
EA Flood Zone	Flood Zones 2 & 3
Historic Parks and Gardens	No

6.0 **Representations and Consultations**

6.1 Parish Council

Sidlesham Parish Council discussed the above Application at its Planning Committee Meeting on 17th April 2019. The PC objects to this application. It would like the bungalow to remain in horticultural/agricultural use.

6.2 Natural England

No comment.

6.3 Environment Agency

No comments received to date.

6.4 CDC Biodiversity Officer

We have no comments to make regarding this application at this stage.

6.5 CDC Drainage Officer

We have no comments regarding this application.

6.6 CDC Economic Development

No comments received to date.

6.7 Third Party Representations

A total of two third party letters of objection have been received. The following comments are raised within these representations:

- a) the building can be seen from the public highway, contrary to planning statement
- b) the site has not flooded in 100 years, and insurance not affected by siting
- c) no effort has been made to find a rural worker to occupy the dwelling
- d) valuation of the property was too high
- e) property valuation is not reflective with regards to views of the harbour
- f) estate agents may have discouraged potential buyers

7.0 Planning Policy

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans. There is no made neighbourhood plan for Sidlesham at this time.

Chichester Local Plan: Key Policies 2014-2029

7.2 The principal planning policies relevant to the consideration of this application are as follows:

- Policy 1: Presumption in Favour of Sustainable Development
- Policy 2: Development Strategy & Settlement Hierarchy
- Policy 33: New Residential Development
- Policy 37: Accommodation for Agricultural and other Rural Workers
- Policy 42: Flood Risk and Water Management
- Policy 45: Development in the Countryside
- Policy 48: Natural Environment
- Policy 49: Biodiversity
- Policy 51: Development & Disturbance of Birds in Pagham Harbour SPA

National Policy and Guidance

7.3 Government planning policy now comprises the National Planning Policy Framework (NPPF) 2019, with the sections relevant to this application and considered being: 2, 4, 5 & 15.

7.4 Section 2 (Achieving sustainable development), paragraphs 10 and 11 state:

"So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development..."

"...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 or 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."

7.5 Sections 5 (Delivering a sufficient supply of homes) and 15 (Conserving and enhancing the natural environment) should also be considered generally.

Neighbourhood Plan

7.6 There is no adopted neighbourhood plan for the area at this time.

Other Local Policy and Guidance

7.7 There is no other relevant local policy or guidance.

7.8 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:

- Support communities to meet their own housing needs
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

- 8.1 This application has been made under section 73 of the Town and Country Planning Act and seeks consent to amend condition 1 of planning consent SI/8/91. The legislation makes it clear that when determining such applications the Authority can only consider the matter in question and not revisit the original planning permission. In this case, the applicant has requested changes to a condition which limits occupation (agricultural/restricted occupancy); therefore considerations relating to this change are the only matters that can be considered. It should be noted that if granted, the effect of the decision is to create a stand-alone planning permission; therefore the original planning conditions must be re-imposed where relevant. The legislation does, however, permit the addition of new conditions or the variation of other conditions, if appropriate, provided that there is reasonable justification.
- 8.2 The main considerations are as follows:
- i. Principle of development including the loss of a rural worker's dwelling
 - ii. Ecological considerations
 - iii. Flood risk
 - iv. Other matters
- i. Principle of development including loss of a rural workers dwelling
- 8.3 The application seeks to remove a restrictive condition on planning permission SI/8/91 which restricts the occupation of the dwelling at Yeoman's Mill to "the Pagham Harbour L.N.R warden and their dependant or a person solely or mainly working or last working in the locality in agriculture as defined in Section 336 of the Town and Country Planning Act 1990, or in forestry, or a widow or widower of such a person, and to any resident dependants."
- 8.4 In accordance with the requirements of Policy 37 of the Chichester Local Plan (Accommodation for Agricultural and other Rural Workers), any application to remove a restrictive occupancy condition in a countryside location such as Yeoman's Mill, will need to demonstrate that the need for housing an agricultural worker, for which the dwelling was approved originally, no longer exists. Evidence demonstrating how this requirement has been investigated will be needed to support any application to vary or remove a restrictive occupancy condition.
- 8.5 Appendix E to the Chichester Local Plan details the type of information which should accompany any application to vary or remove a restrictive occupancy condition. This states that evidence will be required to demonstrate that the dwelling has been marketed for a reasonable period of time based on the current economic climate, how such marketing has been targeted and on what basis, and should be at a realistic market price for an agricultural tied dwelling. A discount of at least 30% against open market price would be expected to establish whether it could meet the existing needs of another local farm or rural business.

- 8.6 This is in addition to the general marketing requirements detailed in Appendix E that requires the marketing to be appropriate and genuine, in the form of an independent valuer with relevant qualifications; and that a record of all the marketing is presented with the application proposal. The type and scale of marketing should be commensurate with the scale of the facility proposed to be lost. In general, applicants should provide evidence that the site has been vigorously and exhaustively marketed for between a year and 18 months. The period of marketing must have ended on a date within the nine months prior to the date the planning application was submitted.
- 8.7 In all cases the marketing process requires as a minimum:
- *“Confirmation by an appropriate marketing agent on headed company paper that the premises were appropriately and extensively marketed for the required length of time;*
 - *How interest in the site has been objectively dealt with;*
 - *Details of the conditions/state of the land/premises and their upkeep before and during marketing and viability;*
 - *Details that the marketing price is realistic;*
 - *Dated photographs of marketing board/s on the premises of an appropriate quality, size, scale, location and number during this time;*
 - *An enquiry log, how it was followed up and why it was unsuccessful;*
 - *A copy of all advertisements in the local press and trade journals (should be at least four weeks' worth of advertisements, spread across a six month period);*
 - *Evidence of marketing via the internet.”*
- 8.8 The application included the following submission documents:
- Planning Statement
 - Letter from RSPB confirming they no longer require the site for managing Pagham Harbour
 - Letter from Strutt & Parker outlining marketing and price reductions
 - Proof of advertisement (through estate agents and online)
 - Enquiry Log (including viewings)
 - Private record of enquirers and reasons why it wasn't considered suitable
- 8.9 It is considered the property has been adequately marketed in-line with the criteria of Chichester Local Plan Appendix E, and as set-out above. Sufficient evidence of this marketing has been included as part of this application. The property was first brought to market on 12th June 2017, valued at £650,000 and listed with a guide price of £500,000 (23% below the market valuation). A short while later, during October 2017, this was reduced to £425,000 (35% below market value). A final reduction was made during January 2018; to £395,000 (40% of market value). The property was still on the market at time of submission, and has been marketed for almost two years, and at more than 30% below market value for a period of between one year and eighteen months. The valuation has been carried out by an estate agent, and there is no reason to view the figure as being inconsistent with comparable properties or the economic climate. This marketing process therefore accords with both the specific occupancy and general requirement of Appendix E.

8.10 The marketing evidence alone suggests there is no longer a need for this property to remain tied to rural workers in the locality. However, in addition to this, other considerations indicate the same rationale. The size of the associated rural plot (Johnsons Farm) has been substantially reduced over the years from approximately 92 acres in 1969 when the building was permitted, to 35 acres in 1991; 23 of which are unproductive marshland. Furthermore, due to changes in operations at RSPB, who manage the Pagham Harbour Nature Reserve and up until 2015 occupied the site, there is no longer a requirement for a warden to live on site. This has been confirmed in writing by the RSPB.

8.11 Taking into account the requisite marketing for the site, in accordance with local policy requirement, and other considerations which justify a limited need for a rural workers dwelling in this location, the proposed removal of the rural occupancy condition is considered to be justified and acceptable, and accords with Policy 37 and Appendix E of the Local Plan.

ii. Ecological considerations

8.12 There is not considered to be any material impact on the nearby Pagham Harbour Special Protection Area (SPA) given that the site is already a lawful single residential property, albeit with restricted occupation, and there would not be any increase in the number of residential properties or level of use. Natural England was consulted and stated they had no comments to make on the application.

iii. Flood risk

8.13 Although within Flood Zones 2 and 3, residential use for the site has already been established. The removal of an occupancy condition is not considered to have any implications for flood risk; there would be no material change or intensification in residential use.

iv. Other matters

8.14 Many of the comments received through the public representations have been addressed within the above assessment sections. The remainder of these comments are addressed below:

- visibility of the site, frequency of flooding and insurance premiums are not material considerations in the assessment of this proposal given the nature of a S73 application and that consideration is limited to whether or not there is still a need for a rural worker's dwelling
- there is no evidence to suggest the estate agents have been discouraging sale of the property. Evidence, in the form of enquiry logs, would suggest the contrary.

- 8.15 There are no other conditions attached to consent SI/8/91, and no relevant conditions attached to SI/51/69, which would need to be included on the decision in the event this application is approved. A new condition, however, is recommended relating any decision to the submitted location plan.
- 8.16 There are not considered to be any other material considerations which would outweigh the recommendation.

9.0 Conclusion

- 9.1 The proposal is considered to be in accordance with local and national development plans and the loss of a rural worker's dwelling has been adequately justified against Policy 37 and Appendix E of the Chichester Local Plan. There are not deemed to be any implications for flood risk or SPA recreational disturbance, and as such the proposal is acceptable.

Human Rights

- 9.2 In reaching this conclusion, the Human Rights of the applicants and nearby occupiers have been taken into account and it is deemed that the recommendation to permit is justified and proportionate.

RECOMMENDATION

PERMIT subject to the following conditions and informatives:-

- 1) The development hereby permitted shall be carried out in relation to the property known as 'Yeoman's Mill', as identified within the submitted Location Plan and edged in red.

Reason: To ensure the development complies with the planning permission.

INFORMATIVES

- 1) The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

For further information on this application please contact James Gellini on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=POXI43ERJ1I00>