



Appeal Decision

Site visit made on 29 May 2025

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 9th July 2025

Appeal Ref: APP/L3815/W/24/3357610

Sidlesham Basket and Bedding Plant Nursery, Lambkins, Street End Road, Sidlesham, Chichester, PO20 7QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Edward Rees, Domusea Developments, against the decision of Chichester District Council.
 - The application Ref is SI/24/01487/FUL.
 - The development proposed is demolition of existing outbuildings and construction of 2 no. units of live/work accommodation and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing outbuildings and construction of 2 no. units of live/work accommodation and associated works at Sidlesham Basket and Bedding Plant Nursery, Lambkins, Street End Road, Sidlesham, Chichester, PO20 7QD in accordance with the terms of the application, Ref SI/24/01487/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. In December 2024 the National Planning Policy Framework (the Framework) was revised. References in this decision are to the revised version.
3. Work has progressed significantly on the Emerging Chichester Local Plan 2021 – 2039. Subject to consultation responses on the Main Modifications it is anticipated the Emerging LP will be adopted summer 2025. Its Emerging Policies therefore carry some weight although the wording might still change.
4. During the course of this appeal the appellant submitted a Unilateral Undertaking pursuant to section 106 of the Town and Country Planning Act 1990 as amended to address the second and third reasons for refusal. I return to this below.

Main Issues

5. The main issues are:
 - whether the site is a suitable location for two live/work units taking into account local and national strategic planning policies and access to services and facilities;
 - whether satisfactory provision has been made for highway infrastructure; and

- whether the effect of the proposal on the Chichester and Langstone Harbours and Pagham Harbour Special Protection Areas (the Harbour Habitats) would be satisfactorily mitigated.

Reasons

Location

6. The appeal site is accessed from the B1245 Street End Road the principal arterial road between Selsey and Chichester. It is outside any defined settlement boundary. The immediate surroundings are characterised by sporadic residential and horticultural development. Policy 2 of the Chichester Local Plan: Key Policies, 2014-2029 (the LP) and Emerging Policy S2 seek direct development to the most sustainable locations in accordance with the settlement hierarchy.
7. The appeal site is within the Rest of Plan Area (countryside and small villages and hamlets with poor access to services) the lowest tier of the hierarchy. There was a previous horticultural use on the site and there are extensive redundant glasshouses which may not have been used for horticulture since 2014. These buildings have come to the end of their viable life. However, this does not demonstrate an essential need for open market dwellings or live/work units in the countryside as such uses can be more sustainably accommodated in, or adjacent to, existing settlements. Nor would the proposal meet an essential local rural need or support rural diversification. Accordingly the proposal would conflict with the development strategy as set out in Policy 2 of the LP and Emerging Policy S2.
8. There is no allocation of housing for Sidlesham under Policy 5 of the LP. A footnote makes clear that 100% affordable housing schemes may be acceptable as a rural exception site. As open market housing the proposal is in conflict with Policy 5.
9. Policy 45 of the LP and Emerging Policy NE10, which contains similar criteria, allow for sustainable development in the countryside in certain circumstances. There is a bus service along Street End Road into Chichester, with a bus stop within about 250m, and there is a primary school at Sidlesham and a secondary school at Hunston some 5 minutes away by bus. Accordingly the site is more accessible than some, including the site where a colleague Inspector dismissed an appeal for a live/work unit at Almodington, Earnley¹ where the bus stop was some 1.5 miles away.
10. However, Street End Road it is very busy and mainly unlit near the site. For these reasons, it is unlikely that future occupiers would commonly choose to walk or cycle to access the closest services and facilities, especially not during periods of darkness or during inclement weather. Accordingly it is likely that occupants of the proposed development would rely on the private vehicle for most day to day services and facilities.
11. Although not isolated the proposed buildings would not be particularly well related to a farmstead or group of buildings, as the only close building is the immediately adjacent house known as Lambkins, and would not be close to an established settlement boundary, the closest of which is some considerable distance away. Accordingly the proposal does not garner support from the exception at Policy 45(1) of the LP or Emerging Policy NE10.

¹ APP/L3815/W/22/3297668

12. The supporting text to Policy 45 does indicate support for live/work schemes in appropriate locations particularly rural areas and Policy 3 allows for live/work units in appropriate circumstances where commercial demand exists. The appellant cites a Chichester Annual Monitoring Report which indicates that only a modest amount of employment space has been developed in the period 2021 to 2022 and that little has been on the Manhood Peninsula.
13. Policy 3 of the LP seeks to ensure a flexible supply of employment land and premises and the proposal would conflict with Policy 3 of the LP as land for horticulture would be lost. The Viability of the Horticultural Glasshouse Industry in West Sussex Report² found that older less efficient glasshouses are going out of production and are being replaced by modern units. These tend to be larger to take advantage of economies of scale in construction costs and labour and energy use and that areas of glass of less than 2 hectares may be uneconomic. The site is some 1.1 hectares and the glasshouses are some 0.3 hectares, which is too small to compete meaningfully with larger producers. Accordingly I give relatively little weight to the conflict with Policy 3 in terms of providing for horticultural needs.
14. The appellant has explored alternative uses through pre-application enquiries with the Council. Though I have no details of these it appears they raised concerns about the impact on the character and appearance of the area. The Economic Market Appraisal dated June 2024 gives examples of possible alternative uses such as a retail garden centre or replacement glasshouses for higher value crops. It concludes that the site is too small with no possibility of expansion and that the payback periods for the investments required would be unreasonable.
15. Policy 3 of the LP and the supporting text to Policy 45 provide for live/work units where commercial demand exists. The Council recognises that the opportunities for further development within horticultural use are very limited but has not disputed the Economic Market Appraisal in any detail. The Economic Development Service does not support the proposal as they have seen no requests for live/work units and indicates there is demand for small units for light industrial or product development. However, the Officer Report indicates there is a likely demand in the District for live/work units and the appellant has provided correspondence with a local estate agent to demonstrate demand for such units, including a specific expression of interest.
16. For the above reasons I conclude that the site is not a suitable location for a dwelling in terms of strategic planning policies or access to services and facilities. In these respects the proposal conflicts with Policies 2, 5 and 45(1), of the LP, and Emerging Policies S2 and NE10. As set out above there would be some conflict with Policy 3 of the LP in relation to horticultural needs but this is offset to some extent by the support for live/work units and the associated economic opportunities.

Highway Network

17. The LP recognises that road congestion is a major issue affecting parts of the Plan area, including the junctions on the A27 Chichester Bypass. The A27 Chichester Bypass Mitigation Supplementary Planning Document 2024 (the SPD) has been adopted to address in-combination effects of residential development on the safety and function of the strategic and local highway network pending the adoption of the Emerging LP.

² West Sussex Growers Association Report prepared for the Council in 2009

18. The appeal scheme in isolation would not result in a severe impact upon the highway network. However, the 2024 SPD requires all development to contribute towards highway improvements because cumulatively small developments could result in severe highway impacts arising from further congestion. It is also clear from the SPD that the financial contribution would be put towards improvements to the A27 Chichester Bypass, including to junctions, that would improve the flow of traffic on the A27.
19. The submitted UU makes provision for a contribution to mitigate the effects of the highway network. The Council has confirmed that the contribution towards highway infrastructure is £13,360, and not £151,040 as cited in the Officer Report on the planning application, and considers that the UU adequately addresses the third reason for refusal. The UU contains provision for an annual increase in the amount should development be delayed. I find that the obligation meets the tests for planning obligations in the Framework and the statutory tests within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).
20. For the above reasons I conclude that satisfactory provision has been made for highway infrastructure. I find no conflict with Policies 8 and 9 of the LP which seek to improve accessibility to key services and facilities; to provide an improved and better integrated transport network and to make effective infrastructure provision.

The Harbour Habitats

21. The site is within the respective Zones of Influence of the Harbour Habitats. The estuarine basins of the Harbour Habitats support a wide variety of breeding and over-wintering birds and are particularly important for migratory birds. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations) require me as competent authority to make an Appropriate Assessment (AA) of the implications on the integrity of the European site in view of its conservation objectives. Any likely significant effects arising from the development need to be considered alone and in combination with other development in the area.
22. The qualifying features of the Harbour Habitats include a variety of breeding and non-breeding waterfowl. The conservation objectives include maintaining or restoring the population, distribution and habitats of qualifying features.
23. The proposed dwellings would result in an increase in population. This, alone and in-combination with other developments, would give rise to likely significant effects on the qualifying features of the Harbour Habitats through increased recreational use of the habitats causing degradation and disturbance. Overwintering bird populations inhabiting the protected sites would be particularly vulnerable to disturbance resulting from the increase in visitor numbers.
24. The Council has an agreed mitigation strategy³ and the UU makes provision for the payment of the appropriate Recreation Disturbance Mitigation Contribution. Natural England has confirmed that this proposed mitigation would be sufficient to avoid an adverse impact on the integrity of the specified qualifying features of the Harbour Habitats. I am satisfied that the UU meets the relevant tests in this respect.

1. ³ Recreational Disturbance of Birds in Special Protection Areas (SPAs) Guidance for planning in the Chichester Local Plan area. April 2025. Bird Aware Solent Revised Strategy 2024

25. For the above reasons I conclude that the effect on the Harbour Habitats will be satisfactorily mitigated. I find no conflict with Policies 50 and 51 of the LP, which seek to protect the integrity of the Harbour Habitats, or with the Habitat and Protected Species Regulations 2017.

Other Matters

26. The proposed single storey live/work units would be much smaller than the glass houses they would replace. The Council raises no objections in terms of their character and appearance and I find no reason to conclude otherwise.
27. On-site Biodiversity Net Gain forms part of the proposals, and subject to appropriate conditions to ensure habitat creation and retention the Council raises no objections in this regard. In order to secure the necessary monitoring over a period of 30 years the Council proposes that a legal agreement could be secured at the discharge of conditions stage.
28. An appeal Ref APP/L3815/W/23/3328217 at Chalder Lane Sidlesham was dismissed. However, that differs from the proposal before me in that a colleague Inspector found that there would be a harmful effect on the character and appearance of the area and that no deed was provided to address the likely effect on the Harbour Habitats or the highway network. Accordingly it does not lead me to any different conclusions in the appeal before me.

Conditions

29. I have considered the conditions against the tests in the Framework and the Planning Practice Guidance. Where appropriate I have altered the wording for clarity and precision.
30. Conditions 1 and 2 are required in the interests of certainty. Condition 3 is necessary to safeguard economic activity on the site. Conditions 4-8, 12, 13 and 15 are necessary to achieve biodiversity across the site and in the interests of wildlife. Conditions 9 and 11 are necessary to provide alternative means of travel to the private vehicle and to ensure vehicles can park clear of the highway. Condition 10 is necessary in the interests of health and safety and to encourage sustainable management of waste. Condition 14 is necessary to ensure good use of resources and to minimise the impact on climate change. Condition 16 is necessary to protect the living conditions of occupiers of nearby houses. Conditions 17-19 are required for certainty and in the interests of the character and appearance of the area.

Planning Balance

31. The Council considers it can demonstrate approximately 4.13 years supply of deliverable housing land and this is not disputed by the appellant. The spatial strategy has been unable to deliver the requisite housing land. In the absence of a five year supply Paragraph 11(d) of the Framework indicates that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole having particular regard to the key policies of directing development to sustainable locations, making effective use of land and securing well designed places.
32. The proposal would make effective use of land and add two much needed dwellings to the local supply of housing. There would be economic benefits in the

rural economy during the period of construction; from spend in the local economy and from economic activity in the work units. As live/work units an element of employment would be retained on the site. These matters together attract substantial weight but this would be limited by the small scale of the proposal.

33. As set out above there would be conflict with the development strategy in Policies 2, 5, and 45(1) of the LP, and Emerging Policies S2 and NE10 and some conflict with Policy 3 of the LP. However, the live/work units could potentially reduce demand for travel to work and there is some availability of public transport nearby. I consider the conflict with the spatial strategy in this case to be less than substantial. I conclude that, when assessed against the policies in the Framework as a whole, this adverse impact does not significantly and demonstrably outweigh the benefits of additional live/work units on a windfall site. This is a material consideration which outweighs the conflict with the development plan.

Conclusion

34. I conclude that the appeal should be allowed.

S Harley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - Block Plan 24003-02
 - Proposed floor plan unit 'a' 24003-4
 - Proposed floor plan unit 'b' 24003-5
 - Proposed elevations for plot 'a' 24003 - 06
 - Proposed elevations plot 'b' 24003-7
 - Site/Roof plan with 'vis splays' 24003-SK03
 - Location Plan 24003 - 01
 - Soft Landscape Plan 'LMP' GS173 – Rev 3
 - Plan of Removed Habitats 'PLH' GS173 – Rev2
 - Site Habitat Plan 'SHP' GS173 - Rev 3
- 3) (1) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, and the Town and Country Planning (General Permitted Development) Order 2015, or any other statutory instrument amending, revoking and reenacting the Order, the commercial workspace of the live/work units, as labelled on plans number 24003-4 and 24003-5, shall be used for any purposes within Class E E(c) (i, ii and iii), E(e) and E(g) (i, ii and iii) and for no other purpose (including any other purpose in Class E only of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 or in any provision equivalent to that Class in any other statutory instrument revoking and re-enacting that Order).

(2) The residential floorspace of the live/work units, as labelled individually on plans number 24003-4 and 24003-5 shall not be occupied other than by occupiers of the commercial workspace or any resident dependants.
- 4) Based on the information available, this permission will require the approval of a Biodiversity Gain Plan by the local planning authority before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

The effect of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 is that planning permission granted for the development is deemed to have been granted subject to the condition ("the biodiversity condition") that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- b) the planning authority has approved the plan.

- 5) The Biodiversity Gain Plan shall be prepared in accordance with the Statutory Biodiversity Metric dated 04.01.2024 and prepared by George Sayer.
- 6) Prior to the commencement of the development hereby permitted, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the Local Planning Authority. The HMMP shall accord with the Biodiversity Gain Plan and shall include:
 - a) A non-technical summary,
 - b) The roles and responsibilities of the people or organisations delivering the HMMP,
 - c) The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan,
 - d) The management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the first occupation of the development,
 - e) The monitoring methodology and frequency in respect of the created or enhanced habitat,
 - f) Provision for the identification, agreement and implementation of contingencies and/or remedial actions where the results from monitoring show that the conservation aims and objectives of the HMMP are not being met.

The created and/or enhanced habitat specified in the approved HMMP shall thereafter be managed and maintained in accordance with the approved HMMP.

- 7) Prior to the first occupation of the development hereby permitted, a completion report, evidencing the completed habitat enhancements set out in the approved Habitat Management and Monitoring Plan, shall be submitted to and approved in writing by the Local Planning Authority.
- 8) Habitat monitoring reports shall be submitted to and approved in writing by the Local Planning Authority in accordance with the methodology and frequency specified in the approved Habitat Management and Monitoring Plan.

The reports shall include (where the results from monitoring show that conservation aims and objectives of the HMMP are not being met) any contingencies and/or remedial action for agreement. Any agreed contingencies or remedial action shall thereafter be implemented in accordance with the approved details.

- 9) No part of the development hereby permitted shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking shall be retained for that purpose in perpetuity.
- 10) No part of the development hereby permitted shall be occupied until refuse and recycling storage facilities have been provided in accordance with a scheme that shall first have been submitted to and approved in writing by the

Local Planning Authority. Thereafter the refuse and recycling storage facilities shall be maintained as approved and kept available for their approved purposes in perpetuity.

- 11) No part of the development hereby permitted shall be first occupied until the car parking has been constructed and laid out in accordance with the approved site plan and the details specified within the application form. These spaces shall thereafter be retained at all times for their designated purpose.
- 12) The development hereby permitted shall not be first brought into use until the following ecological enhancements have been implemented in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority
 - a) The integration of one bat box/brick into each of the live/work units hereby approved, or the provision of a bat box within a tree sited within the grounds of the development proposal. The bat box shall face south/south westerly and be positioned 3-5m above ground.
 - b) The integration of one bird box into each of the live/work units hereby approved or within a tree sited within the grounds of the development proposal.
 - c) The provision of hedgehog nesting boxes within the site.

Thereafter, the ecological enhancements shall be retained and maintained in perpetuity.

- 13) The development hereby permitted shall be carried out in strict accordance with the Ecological Impact Assessment (01.08.2023) and the methodology and mitigation recommendations it details.
- 14) The development hereby permitted shall be carried out in strict accordance with the Sustainability Statement, prepared by Domusea Developments and the sustainability measures it details.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no external illumination shall be provided on the site other than in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed location, level of luminance and design of the light including measures proposed to reduce light spill. Thereafter the lighting shall be maintained in accordance with the approved lighting scheme in perpetuity.
- 16) No deliveries in association with the work units of the development hereby approved shall be taken to or despatched from the site outside of the hours of 08:00 and 18:00 hours Monday to Saturday or on Public Holidays.
- 17) Prior to the commencement of construction works a detailed scheme of hard and soft landscaping in line with the principles shown on Soft Landscape Plan 'LMP' GS173 – Rev 3 shall be submitted in writing for the written approval of the Local Planning Authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of

development; a detailed scheme of tree and hedge planting; and ancillary external structures including lighting and boundary treatments and gates.

- 18) All soft landscaping shall be fully implemented in the first planting season following the occupation of any part of the development and shall be completed strictly in accordance with the approved details. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any plants or species which within a period of 5 years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.
- 19) All hard landscaping shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme previously agreed in writing with the Local Planning Authority.

End of Schedule