# DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/24/1575
Jack Dunkleys, Birchfield Nursery, Birchfield Nursery, Kidders Lane, Henfield, West Sussex, BN5 9AB

DESCRIPTION:

Prior notification for the change of use of an existing portacabin to be changed to flexible commercial (Class R).

RELEVANT PLANNING HISTORY:

| | | |
|---|---|---|
| DC/20/1906 | Change in use of the premises to mixed-use purposes for Use Classes B8, E and as a base for a garden design and landscaping business. | Application REFUSED on 24.06.2021<br><br>[DISMISSED ON APPEAL] |

DETAILED DESCRIPTION:

This notification seeks prior approval under Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 to form

RELEVANT PLANNING POLICIES

**National Planning Policy Framework**

**Horsham District Planning Framework (HDPF 2015)**:
Policy 1 - Strategic Policy: Sustainable Development
Policy 24 - Strategic Policy: Environmental Protection
Policy 26 - Strategic Policy: Countryside Protection
Policy 33 - Development Principles
Policy 38 - Strategic Policy: Flooding
Policy 41 - Parking

REPRESENTATIONS AND CONSULTATIONS RESPONSES

Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Parish Comments:

None received

Representations:

One letter of representation received objecting to the proposal on the following grounds:

- The portacabin is a temporary structure and does not qualify as an "agricultural building" under GPDO definitions.
- It has not been used for agriculture since 2016 and currently operates as a sweet shop with a history of unauthorised non-agricultural uses.
- Change to Class R would worsen noise, visual disturbances, and traffic, harming the enjoyment of the neighbouring property.
- Proposed retail use would endanger pedestrians, especially children, due to proximity to heavy machinery, HGV storage, and repair operations.
- The site and structures not linked to Garden Sage tenants are under enforcement notices and have not been used agriculturally since Birchfield Nursery's closure.
- The proposal is out of character with the rural locality and would negatively impact the area's character.

HUMAN RIGHTS AND EQUALITY:

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING ASSESSMENT

The main issue is whether prior approval is required for the proposed change of use and conversion of the existing agricultural building to provide a single dwelling under Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

R.1(a)(iii) of the GPDO states that:

***R.1*** *Development is not permitted by Class R if-*

*(a) the building was not used solely for an agricultural use as part of an established agricultural unit-*

*...*

*(iii) in the case of a building which was brought into use after 3rd July 2012, for a period of at least 10 years before the date development under Class R begins*

Dated Google Earth imagery indicates that the unit subject of this prior notification was not present on site until circa 2018. In order for the unit to benefit from the permitted development right, it would have had to have been present on site for a period in excess of ten years. As the unit was not present on site in September 2014 (the relevant ten-year period from the point of submission), it would not benefit from this permitted development right.

There is also some concern whether the modular building would meet the definition of a “building” as contained within Article 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Furthermore, a document (titled ‘Current building/ site occupants - as per April 2021’) attached to application DC/20/1906 indicates that the unit (‘building 14’) was in use (at the time of the application) as ‘*Construction rooms are used to building fencing, panels, painting etc for Jack Dunckley projects taking place all over the country*.’ The document further notes that ‘*We have recently been contacted*

*by a company who wish to store 3x Cherry Pickers on site and use this as a teaching space for new operators.*' A Planning Compliance case (EN/23/0183) indicates that this use did take place, though has since ceased. Accordingly, even if the unit had been in place since the relevant period, it has not been in continuous agricultural use.

With the above in mind, the unit would not benefit from the permitted development right afforded under Class R, thus the Local Planning Authority objects to the notification.

**Recommendation: Objection to Notification**

POSITIVE AND PROACTIVE STATEMENT

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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

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**Plans list for: DC/24/1575**
Schedule of plans/documents:

| Plan Type | Description | Drawing Number | Received Date |
|---|---|---|---|
| Block Plan | | NONE | 30.09.2024 |

**DELEGATED**

Case Officer sign/initial RHERMITAGE Date: 20.11.2024

Authorising Officer sign/initial TDALE Date: 22.11.2024