Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/25/0810
Jack Dunkleys Birchfield Nursery, Birchfield Nursery, Kidders Lane, Henfield, West Sussex, BN5 9AB

DESCRIPTION:
Prior Notification for the Change of Use of an Agricultural Building to flexible commercial use.

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.
DC/23/1536	Application to confirm the continuous use of building for Class E use as a Coffee shop for a period in excess of ten years (Lawful Development Certificate Existing)	Application Refused on 10.10.2023.
DC/23/1563	Retention of existing hardstanding for the storage of outside plants and erection of a storage building for agricultural use (landscape supply).	Application Refused on 16.04.2024.
DC/24/0290	Temporary permission to retain pop-up coffee shop, ancillary to the wider horticultural use (Retrospective)	Application Refused on 23.04.2024.
DC/24/1411	Temporary permission to retain pop-up coffee shop, ancillary to the wider horticultural use (Retrospective)	Application Permitted on 19.12.2024.
DC/24/1448	Creation of onsite storage including barn and polytunnel.	Application Permitted on 19.03.2025.
DC/24/1447	Retention and use of hardstanding (Retrospective).	Application Permitted on 19.03.2025.
DC/24/1575	Prior notification for the change of use of an existing portacabin to be changed to flexible commercial (Class R).	OBJECTION to Notification on 22.11.2024
DC/25/0625	Prior Notification for Change of Use to a flexible commercial use, covering the following usages B2,B8, E or Class F or the provisional of agricultural training.	NO OBJECTION to Notification on 09.06.2025

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 a flexible commerical use.

RELEVANT PLANNING POLICIES
National Planning Policy Framework

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.

Consultations:
HDC Environmental Health: Due to the location and nature of the area this department have no adverse comments to make regarding contraction and operational stages proposed with this application.

WSCC Highways: Comment: -

The Local Highways Authority has been consulted on a similar proposal under DC/25/0625- this sought for Prior Notification of Change of Use to a flexible commercial use, covering the following usages B2, B8, E or Class F or the provisional of agricultural training. This was for a separate building within the wider Birchfield Nursery site although the application seems to use a different address. This application appears to be currently undecided. It is unclear if this application is a fallback or if both will be implemented.

This application seeks prior approval for the proposed change of use of an office and storage building to flexible commercial use (class E). The site is located off A281 London Road, Henfield.

As part of the prior approval process, there are several matters to be considered. This includes matters relating to highways and transport. However, the GPDO is quite clear as to what highway matters can be considered, namely whether the proposal is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site.

No alterations are proposed to the existing vehicular access arrangements. The LHA would not anticipate that the proposed change of use to a flexible commercial use to provide agricultural training would result in a significant material intensification of movements to or from the site, when compared with the potential of existing use. From inspection of WSCC mapping, there are no apparent visibility issues with the existing access point onto the publicly maintained highway.

An inspection of collision data supplied to WSCC by Sussex Police over a period the past five years reveals there has been a single recorded collision at the site access onto London Road. However, this was not attributed to any existing defects with the junction or highway network at this point. Therefore, there is no evidence to suggest the existing access is operating unsafely or that the proposal would exacerbate an existing safety concern.

From inspection of the submitted plans and WSCC mapping, there appears to be sufficient space within the site for an appropriate parking provision to be accommodated although the parking provision has not been shown specifically within the plan provided. Given the nature of the proposed flexible use, it would be anticipated that the use of the building would be ancillary to activities of the wider site.

As this is for a flexible use class, the LHA has assessed the parking demand on a worst-case basis, addressing the use class generating the most parking demand. This would generate the requirement for a maximum of 12.5 parking spaces to serve the development.

There is also space for on-site turning to be achievable, allowing vehicles to exit the site in a forward gear.

In summary, the prior approval is considered acceptable in highway terms.

Parish Comments:
None received.

Representations:
1 representation was received, objecting to the proposal for the following reasons: -

- Main issue whether the site is appropriate for proposed use and effects on character and appearance.
- Site is located in the countryside, not an area designated for development in the HDPF.

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 a flexible commercial use under Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). While the applicant has not specified the use as per R(a) or R(b) of the Order, written correspondence confirming the use can be provided prior to the use commencing.

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—

(i) on 3rd July 2012;
(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or
(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;

The Council's aerial mapping indicates that the unit subject of this prior notification has been on site since at least 2001, though likely longer. The application form states that the building use prior to July 2012 was growing nursery stock and plants. According to the application form all of the uses since July 2012 have involved growing of nursery stock and storing agricultural and nursery equipment.

An enforcement investigation (referenced EN/18/0135) did though reveal that the polytunnels had been used for the unauthorised storage of caravans, etc. and domestic household clearance items, although some were being used for horticultural purposes ancillary to the lawful use of the land. This is further clarified in a document (titled "Current building/ site occupants – as per April 2021") attached to application DC/20/1906, which indicates that the polytunnels were used for multiple uses with a block plan indicating that the polytunnels were subdivided into 5 units, containing 6a Jack Dunkley, 6b Merlin Lighting, 6c Ice Cream Business, 6d Mama Bars, and 6E Space and Thyme Events. These uses involved the storage of catering vehicles, the storage of lights and construction room for building fencing and panels, with use of this nature not ancillary to an agricultural use of the site.

The building has clearly been present on site for a period in excess of 24 years and within this period the wider site has been in agricultural use. The Council holds records of non-agricultural uses within the building subject of this submission and there is limited evidence to demonstrate an agricultural use on the relevant date (and given the compliance history). It is not therefore apparent that the building would benefit from the permitted development right set out in Class R.1(a).

(b) the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 1000 square metres;

The building comprises a floor area of 500m2 and is not in excess of 1000m2 which would be in accordance with (b).

(c) the site is, or forms part of, a military explosives storage area;

Not applicable.

(d) the site is, or forms part of, a safety hazard area; or

Not applicable.

(e) the building is a listed building or a scheduled monument.

Not applicable.

R.3— (1) (b) where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit exceeds 150 square metres, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(i) transport and highways impacts of the development;

No alterations are proposed to the existing vehicular access arrangement and the proposed change of use is not anticipated to result in a significant material intensification of movements to and from the site. WSCC Highways confirmed that there were no apparent visibility issues with the existing access point onto the publicly maintained highway. There also appears to be sufficient space for appropriate parking provision. There is also space for on-site turning to be achievable, allowing vehicles to exit the site in a forward gear. With the above in mind, the proposed change of use would not result in any adverse transport or highways impact.

(ii) noise impacts of the development;

Due to the location of the building and the nature of the use, it is not anticipated that there would be unacceptable impacts arising from noise. The building is located surrounded by other agricultural and commercial buildings which operate from the site.

(iii) contamination risks on the site; and

According to the application form, the building has previously been used for agricultural purposes, for growing nursery stock and the storage of agricultural and nursery equipment. The wider site may have been used for agricultural purposes, however, the building in recent years has been in use for Class E storage, as per the 2020 application. Even so, it is not considered that there would be significant contamination risks associated with the change of use to flexible commerical use. Environmental Health had no comments to make on the change of use.

(iv) flooding risks on the site,

The site is not within a Flood Zone and there are no concerns in respect of flood risk.

Conclusion

The proposal seeks conversion of a building which is in excess of 150m2, which means prior approval is therefore required. The proposal has been considered in relation to all relevant conditions, limitations, and restrictions of Class R in Part 3. As reasoned in detail above, it is considered that the proposal would not comply with all relevant criteria of Class R, and it is therefore recommended that prior approval be refused.

Recommendation: Prior Approval Required and REFUSED

Reason for Refusal:

1. Insufficient information has been provided to demonstrate that the building subject of the application was in agricultural use on the relevant date. It has not therefore been demonstrated that the building would benefit from the permitted development right set out in Class R of Part 3 within Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended.

Plans list for: DC/25/0810
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Site plan		DWL 00b	13.05.2025

DELEGATED

Case Officer sign/initial Bethan Tinning Date: 07.07.2025

Authorising Officer sign/initial Guy Everest Date: 07.07.2025