Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/26/0042
Cowshed Studio, Hammes Barn, Washington Road, Steyning, West Sussex, BN44 3DA

DESCRIPTION:
Prior Notification for the Change Of Use from commercial (Use Class E) to residential (Use Class C3) to form 1no. dwelling.

RELEVANT PLANNING HISTORY:

DC/25/1745	Application to confirm the continuous use of the building for business and commercial activities (Lawful Development Certificate Existing)	Split Decision on 05.01.2026
DC/08/0677	Demolition of barn and erection of artist's studio for teaching and exhibition	Application Permitted on 01.04.2008

DESCRIPTION, SITE AND SURROUNDINGS

The application site comprises a single-storey studio building known as The Cow Shed Studio located at Hammes Farm, Washington Road, Steyning.

The application building is located within a group of agricultural / former agricultural buildings accessed down a private access track in a countryside location. Beyond the buildings to the north, south, east and west lies open countryside comprised of agricultural fields and paddocks.

Planning permission was granted under reference DC/08/0677 on 1 April 2008 for the “Demolition of barn and erection of artist’s studio for teaching and exhibition.” The approved building was constructed in 2009.

The approved development replaced a former barn with a purpose-built studio for artistic and teaching purposes.

RELEVANT PLANNING POLICIES
National Planning Policy Framework

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

The Town and Country Planning (General Permitted Development) (England) Order 2021, as amended.

Schedule 2, Part 3, Class MA - Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E of Schedule 2 to a use falling within Class C3 (dwellinghouse).

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: *Comment*

Commercial or agricultural buildings can be subject to significant contamination risks arising from their use, construction and storage of machinery equipment fuels or other chemicals. Potentially hazardous materials, including asbestos, may be incorporated in structures, made ground, yards and hard standings.

In accordance with the recommendations of the Planning Practice Guidance, information is required on these matters and a preliminary risk assessment including a site walkover should be provided to ensure the site can be made safe and suitable for the development.

WSCC Highways: *No Objection [Summary]*

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

Parish Comments:

None received

Representations:

1 Representation was received which Objected to the proposed.

- Design
- Highway Access and Parking
- Loss of General Amenity
- Overdevelopment
- Privacy Light and Noise

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 under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. Schedule 2, Part 3, Class MA of the above Order states that the following constitutes permitted development:

Permitted development

MA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

MA.1 (1) Development is not permitted by Class MA—

~~***(a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;***~~

(section deleted following the 2024 update to the order on 05.03.2024)

(b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

Viewing the planning history of the site, DC/08/0677 (Demolition of barn and erection of artist's studio for teaching and exhibition was permitted 01/04/2008. Recent application, DC/25/1745 (Application to confirm the continuous use of the building for business and commercial activities (Lawful Development Certificate Existing) sought to confirm the that the use of the artists studio had been operating lawfully. The application was issued a split decision on 05/01/2026. The application confirmed that:

"*The Cow Shed Studio (shown edged in red on the plan below) has been continuously and lawfully been used for the purposes of an artist's studio for teaching and exhibition, as authorised by condition 3 of planning permission DC/08/0677, and that these activities fall within Use Class E(g) (as an artist studio only) following the 1 September 2020 amendments to the Town and Country Planning (Use Classes) Order 1987 (as amended)*"

It is considered that the previous application (DC/25/1745) has confirmed that the structure has operated for a continuous period in excess of 2 years prior to the date of the submission of this prior approval.

~~***(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;***~~

(section deleted following the 2024 update to the order on 05.03.2024)

(d) if land covered by, or within the curtilage of, the building—
- **(i) is or forms part of a site of special scientific interest;**
- **(ii) is or forms part of a listed building or land within its curtilage;**
- **(iii) is or forms part of a scheduled monument or land within its curtilage;**
- **(iv) is or forms part of a safety hazard area; or**
- **(v) is or forms part of a military explosives storage area;**

N/A

(e) if the building is within—
- **(i) an area of outstanding natural beauty;**
- **(ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;**
- **(iii) the Broads;**
- **(iv) a National Park; or**
- **(v) a World Heritage Site;**

The application site is opposite to the South Down National Park, however is not within the National Park itself.

(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained

N/A

(g) before 1 August 2022, if—
- **(i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and**
- **(ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.**

N/A

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

(a) the following classes of the Schedule as it had effect before 1st September 2020—
- **(i) Class A1 (shops);**
- **(ii) Class A2 (financial and professional services);**
- **(iii) Class A3 (food and drink);**
- **(iv) Class B1 (business);**
- **(v) Class D1(a) (non-residential institutions – medical or health services);**
- **(vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);**
- **(vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;**

See below

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.'

Article 3(4) of the Town and Country (General Permitted Development) (England) Order 2015 as amended states that "nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order."

As above, the application site was most recently in use as an artist studio which has been confirmed as operating under Class E under DC/25/1745.

It is however noted that condition 3 of the permission of which the studio was erected under DC/08/0677 (Demolition of barn and erection of artist's studio for teaching and exhibition) restricts the use of the building to an artist's studio. The condition is laid out below:

3 The development hereby approved shall be used for an artists studio for teaching and exhibition and for no other purpose (including any other purpose in any class in the schedule to the Town and Country Planning (Use Classes) Order 1987.

Reason: Changes of use as permitted by the Town and Country Planning (General Permitted Development) Order 1995 are not considered appropriate in this case under policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

The above condition expressly outlines that the buildings shall be used as an artist's studio and for no other purpose. The condition refers directly to the Use Classes Order, with the reason stating that changes of use as permitted by the General Permitted Development Order are not appropriate in this case.

In Carpet Décor (Guildford) Ltd v SSE and Guildford BC [1981] it was held that "where a local planning authority intended to exclude the operation of the Use Classes Order or the General Development Order they should say so by the imposition of a condition in unequivocal terms, for in the absence of such a condition it must be assumed that those orders will have effect by operation of law". In The Rugby Football Union v SSLGTR [2001] EWHC 927 (Admin) it was stated that "The words "for no other use" are clear. They have no other sensibly discernible purpose than to prevent some other use which might otherwise be permissible without planning permission." As such, a condition which says "a building shall be used for a specific purpose and no other purpose" is quite clearly meant to limit that building to the single use as specified.

In the case of the above condition, it specifically mentions the Use Classes Order and limits the use of the building to one particular use, and although the use was recently confirmed as belonging within Class E, the condition states that it should only be for that specific purpose "and no other purpose in any other class". This is a clear statement of meaning which excludes the operation of any order, including the GPDO. This is reinforced in the reason of the condition, which states that changes of use as permitted by the GPDO are not considered appropriate. By clearly expressing the condition in this manner, the rights as permitted within the GPDO are excluded, including those permitted under Class MA.

Given the wording of the aforementioned condition, it is considered that the building are restricted to uses falling within that of artists studio. The condition is still considered to be enforceable, restricting use of the building to an artist's studio and no other purposes. As such, the application site is not considered to benefit from the permitted development under Class MA.

Consideration

Paragraph MA.2 states that the development must apply to the Local Planning Authority for determination as to whether the prior approval of the authority will be required as to: the transport impacts of the development, particularly to ensure safe site access; contamination risks in relation to the building; flooding risks in relation to the building; impacts of noise from commercial premises on the intended occupants of the development; where the building is located within a conservation area and where the development involves a change of use for the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area; the provisions of natural light in all habitable rooms of the dwellinghouses; the impacts on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; the impact on the local provision of the loss of a registered day nursery of health centre, and; Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building:

MA.2 (1) Development under Class MA is permitted subject to the following conditions.

(2) Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(a) transport impacts of the development, particularly to ensure safe site access;

No transport statement has been submitted as part of the application, however it is considered that there would be parking spaces and that there does not appear to be any issues relating to utilising the existing access. The development is in accordance to the above criteria.

(b) contamination risks in relation to the building;

The NPPF states that planning decisions should be based on adequate site investigation information, prepared by a competent person, which demonstrates suitability for use. Without sufficient information submitted with this application it is not possible to make such a determination.

Commercial or agricultural buildings can be subject to significant contamination risks arising from their use, construction and storage of machinery equipment fuels or other chemicals. Potentially hazardous materials may also be incorporated in made ground, yards and hard standings.

A preliminary contamination assessment was provided to the Council and reviewed by the Environmental Health team. Environmental Health were satisfied with detail and also confirmed with the applicant no excavations for services or other ground works were required for the change of use for initial conversions.

(c) flooding risks in relation to the building;

The application would be limited to internal alterations only, with the application site not considered to be at risk of flooding. The proposal is exposed to a 0.1% limited risk of surface water flooding.

(d) impacts of noise from commercial premises on the intended occupiers of the development

The application site appears to form part of a wider residential complex though it is noted that the site was a former agricultural holding. Given the locale it would be considered that the development would be in appropriate position and would not result in unacceptable noise impacts for future occupiers.

(e) where—
- **(i) the building is located in a conservation area**
- **(ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area.**

the impact of that change of use on the character or sustainability of the conservation area;

N/A

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

All habitable rooms would benefit from fenestration such that it is considered that all rooms would have adequate natural light.

(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;

There does not appear to be general or heavy industry, waste management, storage and distribution or a mix of such uses.

(h) where the development involves the loss of services provided by—
- **(i) a registered nursery, or**
- **(ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost and**

The use of the site appears to have most recently been as an artist studio confirmed under DC/25/1725. As such the development is in accordance with the above criteria.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

A fire statement is not required given that the height is not more than 18 metres and would contain less than 7 storeys in height.

Other Matters

National Space Standards

In accordance with Section (9A) of Article 3 of the General Permitted Development Order (2021 Amendment), Schedule 2 of the Order only permits development for the creation of new dwellinghouses:

> *'(a) Where the gross internal floor area is less than 37 square metres in size; or*
> *(b) That does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.'*

The proposal incorporates the creation of one, two person, one-bedroom dwelling. The size of the unit exceeds the minimum space standards for a dwelling of this size and would benefit from the required built-in storage as per the National Space Standards, and would have adequate space to incorporate freestanding storage for additional needs. The proposed conversion of the building is therefore considered to provide adequate living space in accordance with national space standards, in accordance with Section (9A) of Article 3 of the Order.

Conclusion

The application buildings are subject of a condition imposed under planning reference DC/08/0677 for use of the building as an artist studio only. By clearly expressing the condition in the manner written, the rights as permitted under the GPDO are excluded. The subject buildings do not therefore benefit from permitted development rights. The proposal would not therefore represent permitted development granted under Class MA of Part 3 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended

Recommendation: Prior Approval Required and REFUSED

Reason for Refusal:

1. The application building is subject of a condition (3) imposed under planning reference DC/08/677 which restricts use of the buidling as an artists studio only and for no other purpose. The change of use would not therefore be permitted by Article 3(4) of the Town and Country (General Permitted Development) (England) Order 2015, as amended or Class MA of Part 3 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

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.

Plans list for: DC/26/0042
Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date

Location & Block plan		22538 - 101 REV A	12.01.2026
Floor plan	Existing and Proposed	22538 - 102 REV A	13.01.2026
Elevation plan	Existing	22538 - 103	12.01.2026
Elevation plan	Proposed	22538 - 104	12.01.2026
Supporting Statement		NONE	12.01.2026

DELEGATED

Case Officer sign/initial JBurrowes Date: 03/03/2026

Authorising Officer sign/initial ..... Date: .....