Horsham District Council

# DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1456
Mill Farm , Mill Lane, Itchingfield, West Sussex, RH13 0NP

DESCRIPTION:
Prior Notification for Change of Use of Agricultural Building to form one dwellinghouse.

RELEVANT PLANNING HISTORY:

| | | |
|---|---|---|
| DC/19/0508 | Demolition of existing dwelling and erection of replacement single storey dwelling with associated landscaping. | Application Permitted on 25.06.2019 |
| DC/19/1984 | Demolition of existing dwelling and erection of a dwelling with associated landscaping. | Application Permitted on 11.12.2019 |
| DISC/20/0001 | Approval of details reserved by conditions 3, 4 (a), (b) and (c), 5, 6, 8 and 9 on DC/19/1984 | Application Permitted on 18.08.2020 |
| DC/21/2075 | Prior Notification for the change of use of an agricultural building to a single dwellinghouse (C3). | Prior Approval Required and PERMITTED on 12.11.2021 |
| DC/21/2236 | Change of use of land to form enlarged residential curtilage and installation of an open air swimming pool. | Application Permitted on 20.05.2022 |
| DISC/23/0034 | Approval of details reserved by condition 1 to approve application DC/21/2075. | Application Permitted on 30.03.2023 |
| DC/23/0460 | Demolition of an agricultural building and the erection of a two-storey dwelling (as an alternative to prior approval reference DC/21/2075). | Application Permitted on 02.05.2024 |
| DISC/24/0169 | Application for Approval of Details Reserved by Conditions 3 and 4 to approved application DC/23/0460 | Application Permitted on 24.07.2024 |

DETAILED DESCRIPTION:

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

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

Consultations:

**HDC Environmental Health**:
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.

To ensure the application is properly determined a preliminary risk assessment should be provided to ensure the application is properly determined.

Information with respect to water neutrality is also required.

**WSCC Highways**:
In summary, the movements associated with agricultural use have done so safely with no known safety highways concerns, and C3 residential uses are considered less intensive. West Sussex County Council in its role as LHA has therefore considered the proposal on that basis. The prior approval is therefore considered acceptable in highway terms.

Parish Comments:
This structure is adjacent to the recently permitted change of use to convert ”The Pole Barn” to a dwelling under DC/24/1475. The domestic curtilage is adequate to provide parking for a one bed dwelling. However, please note that on Page 11, paragraph 4.20 of the Batcheller Monkhouse Planning Statement, it states that the 55.2sq metre dwelling is suitable for a 4 bed dwelling. Itchingfield Parish Council believes this to be an unintended error as the proposed dwelling is clearly only suitable as a one bed dwelling as applied for.

Otherwise, Itchingfield Parish Council has no objections to this planning application and recommends for approval.

Representations:
None received

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 Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

**Permitted development:**

**Q. Development consisting of—**

**(a) a change of use –**

**(i) a building that is part of an established agricultural unit and any land within that building's curtilage, or**

**(ii) a former agricultural building that was (but no longer) part of an established agricultural unit and any land within that building's curtilage to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,**

**(b) development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or**

**(c) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of the Schedule or to extend that building.**

Following a site visit it appears the building is currently being used for storage. This appears to be primarily domestic, with a bath, bottles of liquid, suitcase and tennis racket inside. The planning statement states that *"The application buildings have historically been used for the storage of tools and as a workshop."* It also confirms that "Mill Farm extends to 14.17 hectares and comprises mainly arable land used for growing hay which produces a yield annually of approximately 1000 bales".

**Development not permitted:**

**Q.1 Development is not permitted by Class Q if—**

**(a) in the case of a site that is part of an established residential agricultural unit—**

**(i) on 24th July 2023**

**(ii) where the site became part of an established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins,**

**(b) in the case of a building that was (but is no longer) part of an agricultural unit —**

**(i) the site was part of an established agricultural unit on 24th July 2023,**

**(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or**

**(iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose.**

Paragraph X of Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 ('interpretation of Part 3') states that 'agricultural building' means a building used for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouses, and 'agriculture use' refers to such uses.'

Section 336(1) of the Town and Country Planning Act 1990 states that 'agriculture' includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where the use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly.

The Class Q permitted development rights was updated in May 2024, with the ten-year clock reset to 24th July 2024. Following a site visit it appears the building is currently being used for storage. This appears to be primarily domestic, with a bath, bottles of liquid, suitcase and tennis racket inside.

The planning statement states that *"The application buildings have historically been used for the storage of tools and as a workshop."* As states previously while it appears the building is not fully within agricultural use itself it is; however, within the blue line for Mill Farm. Being within the blue line for Mill Farm, which is within agricultural use, indicates the site would be part of an established agricultural unit.

Aerial imaging indicates the building has been in place since at least December 2001.

On the basis of the above, it is therefore considered that the proposal would adhere to the above criteria, and it is considered that the limits at Q.1(a) or (b) are not exceeded in this instance.

**(c) the floor space of any dwellinghouse under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,**

The proposed plan D980/06A shows the floor area to be 55.2 $m^2$.

**(d) the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see Paragraph Q.3(2) of this Part) would result in –**

**(i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or**

**(ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres.**

The total number of dwellings provided within the agricultural unit proposed under Class Q, including those currently under consideration would be two. Another Prior Approval has been approved under DC/21/2075, however a subsequent full application has been approved under DC/23/0460. This seems to have been implemented and therefore the prior approval has not been implemented. The cumulative floor space of the dwellinghouses would not exceed the 1,000 sqm allowed under Class Q. The proposal would therefore be in accordance with the requirements of (d).

On the basis of the above, it is therefore considered that the proposal would adhere to the above criteria, and it is considered that the limits at Q.1(a) are not exceeded in this instance.

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

Not applicable

**(f) less than 1 year before the date development begins—**

**(i) an agricultural tenancy over the site has been terminated, and**

**(ii) the termination was for the purpose of carrying out development under Class Q,**

**unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;**

The Planning Statement confirms *"The site is not subject to an agricultural tenancy and one has not been terminated within the last 12 months."*

**(g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit during the period which is 10 years before the date development under Class Q begins,**

Within the Planning Statement text confirms *"No development within the agricultural unit has been undertaken under Class A or Class B of Part 6 in the last 10 years."*

**(h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point, other than—**

**(i) extension of the building allowed by paragraph Q.1(i);**

**(ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i),**

Building operations to extend the eaves and maximum height by 0.2m or below are proposed. An extension in the width of the dwelling is proposed from 10.7m to 11.11m (an additional 0.4m). The agent has clarified that each wall is to be thicker than the existing, this would not extend more than 0.2m beyond the location of the existing walls.

**(i) the development under Class Q(b) would result in an extension that—**
- **(i) has more than one storey,**
- **(ii) is sited anywhere other than to the rear of the existing building,**
- **(iii) extends beyond the rear wall of the existing building by more than 4 metres,**
- **(iv) has eaves the height of which exceed the height of the eaves of the existing building,**
- **(v) is higher than whichever is the lower of—**
  - **(aa) the highest part of the roof of the existing building, or**
  - **(bb) a height of 4 metres above the ground,**
- **(vi) extends beyond a wall that forms a side or principal elevation of the existing building, or**
- **(vii) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and—**
  - **(aa) the hard surface was not provided on the land on or before 24th July 2023, or**
  - **(bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before the date development under Class Q(b) begins,**

No extension is proposed.

**(j) the development under Class Q(b) would consist of building operations other than—**
- **(i) the installation or replacement of—**
  - **(aa) windows, doors, roofs, or exterior walls, or**
  - **(bb) water, drainage, electricity, gas, or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and**
- **(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);**

*'Building works are allowed under the change to residential use. The permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, it recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. The right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas, or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore, it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.'*

The application has been accompanied by a structural survey and has been assessed during a site visit. It is noted that a Structural Survey has been submitted which concludes that the building is structurally sound and capable of conversion.

The proposal would be constructed from what appears to be two buildings. The officer visit showed the timber building appears to be separating from the block store. The western elevation of the timber structure abuts the wall of the block store and though it may have been joined at some point, it is now evident these buildings are detaching. In addition, the water neutrality statement for DC/23/0460 shows the buildings to be two separate buildings, further evidencing this to be the case. This section of the building would be used as a hallway and bathroom. It is considered that significant works would be required to link the timber structure and the block structure together in a manner which would be suitable

for conversion. The works required to alter the building are therefore exceed the necessary conversion operations allowed for under Q1, (j) (i).

As such, it is considered that the building operations required would go beyond what is 'reasonably necessary' to convert the existing building to form residential accommodation. It is therefore considered that the proposal fails to demonstrate, to the satisfaction of the Local Planning Authority, that the building is capable of conversion without the construction of new structural elements and that the proposed building operations are reasonably necessary for the building to function as dwellinghouse as permitted by Class Q. The proposal therefore fails to comply with the requirements of Q.1.(j) of Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

**(k) the site is on article 2(3) land;**

The site is not on article 2(3) land.

**(l) the site is, or forms part of—**
**(i) a site of special scientific interest;**
**(ii) a safety hazard area;**
**(iii) a military explosives storage area;**

The site is not within any of these areas.

**(m) the site is, or contains, a scheduled monument; or**

The site is not and does not contain a scheduled monument.

**(n) the building is a listed building**

The building is not a listed building.

**(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it, or**

The proposal would measure 55m$^2$, meeting the nationally described space requirements for a 1 bed dwelling. The bedrooms would meet nationally described space standards; however, there is no provision of built-in storage. The rooms appear to be of a layout and size where storage could be added at a later date. The dwellings would therefore provide adequate living and storage space in accordance with national space standards.

**(p) the building does not have suitable existing access to a public highway.**

The proposal is considered to be acceptable on highway grounds following the consultation from West Sussex County Council.

**Conditions**

**Q.2—(1) Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, 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 and highways impact of the development**

The proposal would utilise an existing access to the public highway. Following consultation with WSCC Highways as the Highways Authority, no objection to the proposal has been raised. No traffic flow has been provided within the application, but the LHA recognise that the agricultural use of the site would have generated related vehicle movements by vehicles including HGV's and tractors/trailers and the residential use of and additional unit would likely generate a minimum amount of movement of smaller vehicles. The LHA would raise no highway safety or capacity concerns in relation to the application. The proposal is therefore not considered to result in harm to the function or safety of the public highway network.

**(b) noise impacts of the development**

Paragraph 180 of the National Planning Policy Framework (NPPF) requires development to prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 191 of the NPPF states that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

The subject building is located in close proximity to other residential buildings, as well as another located at the access to the site, with open countryside to the east and south of the site. The site is already occupied by two dwellings, and an additional dwelling is not expected to cause any significant additional noise impacts which would result in demonstrable harm to the amenities of the surrounding residential properties.

**(c) Contamination risks on the site**

Commercial and agricultural buildings and land can be subject to significant contamination risks arising from their use, previous land uses, construction and storage of machinery, equipment, fuels, or other chemicals. Potentially hazardous materials may also be incorporated in made ground, yards, and hard standings. Risks arising from the use therefore require evaluation by the applicant.

No contamination reports have been submitted to support this application. The planning statement states that there are no known contamination issues at the site. While this information is required, it is considered that the additional information could be secured by way of condition if the application was supportable.

**(d) flooding risks on the site**

The site is not within a flood risk zone.

**(e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order**

The subject building is located in close proximity to an existing dwelling and a dwelling under construction. Other residential properties are present along Mill Lane. The proposed dwelling is located in close proximity to two other dwellings. There would be some additional overlooking; however, this would not be above and beyond that provided from standing in the existing yard area to the front elevation of the proposal. The statement confirms that only hay cutting is carried out on the site. Given this context, the residential conversion is generally considered commensurate to the surrounding uses and acceptable in this regard.

The site is not affected by any statutory or non-statutory landscape, biodiversity, or heritage designation. The location of the site, near to existing residential buildings, would be suitable and would have limited impact on neighbouring occupiers in relation to Q.2(1)(e) given the separation to dwellings within the surrounding area.

**(f) the design or external appearance of the building, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application**

The proposed conversion would utilise the existing openings, with the creation of new openings to the rear within the buildings. The proposed elevations illustrate that the external appearance of the front elevation would be retained as far as possible. The proposed material palette is deemed appropriate to a rural setting and would reflect the existing utilitarian character and its surrounding. No objections are therefore raised in this regard.

**(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses.**

Each habitable room will be served by a window to provide natural daylight and ventilation into the dwelling. The proposal is therefore considered to meet the requirements of (g).

**Other Matters**

Water Neutrality

Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended states that:

*'Subject to the provisions of this of this Order and regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010 (general development orders), planning permission is hereby granted for the classes of development described as permitted development in Schedule 2.'*

Section 75 of the Conservation of Habitats and Species Regulations 2017 states that *'it is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which –*

*(a) Is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*

*(b) Is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77 (approval of local planning authority).'*

The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

On this basis, an application under Section 77 of the Conservation of Habitats and Species Regulations 2017 would be required to be submitted, and development subject of this Prior Approval application cannot be carried out until a decision of such application has been made.

The applicant should note that it appears the proposed water offsetting for DC/23/0460 was proposed to be at the roof for this site. The conversion if carried out would prevent the current permission from being water neutral.

**Recommendation: Prior Approval REQUIRED and REFUSED**

Reason for Refusal:

1 The proposal fails to demonstrate, to the satisfaction of the Local Planning Authority, that the building is capable of conversion without the construction of new structural elements and that the proposed building operations are reasonably necessary for the building to function as a dwellinghouse, as permitted by Class Q. The proposal therefore fails to comply with the requirements of Q.1.(j) of Class Q, 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.

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**Plans list for: DC/24/1456**

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

| Plan Type | Description | Drawing Number | Received Date |
|---|---|---|---|
| Floor plan | Proposed and Roof | D980/06A | 20.09.2024 |
| Elevation plan | Proposed | D980/07A | 20.09.2024 |
| Location plan | | D966/01A | 20.09.2024 |
| Block plan | Proposed | D966/03A | 30.09.2024 |

**DELEGATED**

Case Officer sign/initial Alice Johnson Date: 22/11/2024

Authorising Officer sign/initial RHERMITAGE Date: 22.11.2024