



**DELEGATED APPLICATIONS - ASSESSMENT SHEET**

**APPLICATION NO./ADDRESS:**

DC/22/1918

Land to the East of Land Parcel at 523169 138274, The Mount, Ifield, Crawley, West Sussex, RH11 0LF

**DESCRIPTION:**

Prior Notification for Change of Use of Agricultural Building to residential (Use Class C3) to form 5no dwellinghouses.

**RELEVANT PLANNING HISTORY:**

|            |     |                                                                                                                                                                                |         |
|------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| DC/19/2310 | FUL | Retrospective application for the removal of 10m of hedging, the creation of new road access, installation of a perforated pipe into existing ditch and laying of hardstanding | Pending |
|------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|

**SITE AND SURROUNDINGS:**

The application site is a parcel of land containing a single-story barn in a state of disrepair located to the east side of Hillybarn Road, outside of any built up area, and is a rural location. The site is accessed from the highway via an existing timber five bar gate set back from the highway. Boundary treatment to the highway consists of timber post and rail either side the timber gate and mature hedging and trees either side.

The site is surrounded by agricultural land to the east, north and west. To the north of the parcel of land a public footpath (PROW 3711) runs west to east. A further public footpath (PROW1506) runs west to east to the south of the parcel of land and further south are buildings associated with Hillybarn Farm. The nearest listed building is 350 metres to the southwest.

The barn the subject of this Class Q proposal is an agricultural building and is described within the submitted details as having been used solely for agricultural purposes for the keeping of livestock, storage of hay, feed and agricultural plant as part of the wider farm holding (on 20<sup>th</sup> March 2013) and that there have been no subsequent changes of use or non-agricultural uses of the barn.

**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

It is proposed under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to convert the barn described into 5 single-storey dwellings (C3 Use class). The 5 dwellings there would consist of one 6 bed dwelling, one 5 bed dwelling, one 3 bed dwelling and two 2 bed dwellings.

Garden curtilage is proposed to each dwelling on the east side of the building and each garden to measure the same area (approx) as each dwelling. The proposal includes the insertion of new windows

and doors, insulation, and new timber cladding to the elevations along with a replacement profiled metal sheet roof covering.

## 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](http://www.horsham.gov.uk)

### Consultations:

**HDC Environmental Health:** No Objection, conditions recommended

*'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.*

*Information is required on these matters and a preliminary risk assessment should be provided to ensure the application is properly determined.'*

**WSCC Highways:** No Objection, conditions recommended

### Parish Comments: Strong Objection

- Visible from footpath running along the side of the site
- Unclear whether criteria (c)(i)(bb) is met
- Vehicle movements in excess of current situation
- Isolated location away from public transport
- Traffic and congestion
- No indication of car parking or EV charging
- Located under the Gatwick flight path
- Out of character with rural setting
- No need for additional housing
- Water neutrality issues

### Representations:

2 separate representations of objection received, objecting on the basis of:

- Demand on utilities due to increase in occupants
- Significant increase in vehicle movements
- Highway safety
- Impact on users of road
- Visible from public vantage points
- Impact on amenity of neighbouring property
- Disused battery chicken shed and recent use as car storage and repairs
- Hazardous waste
- Out of keeping with rural area
- Flooding

- Impact on wildlife

## EQUALITY AND HUMAN RIGHTS:

Under the Equality Act 2010, the Council has a legal duty to pay 'due regard' to the need to eliminate discrimination and promote equality, fostering good relations in respect of Race, Disability, Gender including gender reassignment, Age, Sexual Orientation, Pregnancy and maternity, Religion or belief. The Equality Act 2010 will form part of the planning assessment below.

Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application.

Consideration of Human Rights and Equalities forms part of the planning assessment below.

## 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 of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; or**
- (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.**

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

- (a) the site was not used solely for an agricultural use as part of an established agricultural unit—**
  - (i) on 20th March 2013, or**
  - (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 site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;**

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 barn the subject of this Class Q proposal is a large, single storey agricultural style building with low lying eaves and shallow pitch roof. The information submitted with the application states that the agricultural building remains last in agricultural use in connection with the wider agricultural holding.

Whilst no substantive information has been provided to evidence this, it is noted that a representation received from the neighbouring property indicates that the building was used for battery chicken purposes. It is acknowledged that reference to car storage most recently has been suggested.

The Council holds no evidence to suggest that the building was not used for agricultural purposes on the relevant date of 20 March 2013 as part of an established agricultural unit. On the balance of the evidence, it is considered that the building was in use for agricultural purposes on the relevant date.

- b) in the case of—**
  - (i) a larger dwellinghouse, within an established agricultural unit—**
    - (aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or**
    - (bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;**

The cumulative floor space of the existing building is GEA of approximately 647 square metres. The proposal would result in the provision of 5no. single-storey dwellings that would measure to a total internal floor area of approximately 603 square metres. Two of the dwellings would be larger dwelling houses totalling approximately 378.98 square metres. At present no dwellings have been developed at the holding under the provisions of Class Q. The proposal is therefore considered to meet the requirements of (b).

- (c) in the case of—**
  - (i) a smaller dwellinghouse, within an established agricultural unit—**
    - (aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or**
    - (bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;**

The proposal would result in the provision of 3no. larger dwellinghouses that would measure to an internal floor area of 222.61 square metres. Each smaller dwelling would measure less than 100 square metres. The proposal is considered to meet the requirements of (c).

- (d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—**
  - (i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;**
  - (ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;**

The proposal would result in the provision of 5no. single-storey dwellings that would measure to a total floor area of approximately 601.59 sqm. Two of the dwellings would be larger dwelling houses which would have a floor area of less than 465 sqm.. The proposal is considered to meet the requirements (b) through (d).

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

The site is not occupied under an agricultural tenancy. The proposal is considered to meet the requirements of (e).

- (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;**

An agricultural tenancy has not been terminated on the site within the last year. As such, the proposal is considered to meet the requirements of (f).

- (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—**
  - (i) since 20th March 2013; or**
  - (ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;**

From the evidence available, no works under Class A(a) and Class B(a) has been undertaken on the agricultural unit. As such the proposal is considered to meet the requirements of (g).

- (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;"**

The proposal would not result in the external dimensions of the building extending beyond the external dimensions of the existing building. The proposal is therefore considered to meet the requirements (h).

- (i) 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);**

Paragraph 105 of the Planning Practice Guidance in relation to building operations states the following:

*Building works are allowed under the right permitting agricultural buildings to change to residential use. However, the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes 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 allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.*

The agricultural building to which this notification relates appears to be structurally stable and capable of conversion to function as a dwellinghouse, albeit that no accompanying structural report has been submitted.

The proposal would involve the installation of windows and doors to the western and eastern elevations, and windows to the north and south elevation. These works are considered to be reasonably necessary for the conversion, and the proposal is therefore considered to meet the requirements of (i).

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

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

- (k) 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.

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

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

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

The building is not a listed building

**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 impacts of the development,**

The proposal would utilise the existing access to the site. West Sussex County Council Highways have been consulted as part of the prior notification process and commented that there would be no highway grounds to resist the prior approval and the prior approval is therefore considered acceptable in highway terms.

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

The Council's Environmental Health Department has been consulted as part of the prior notification process and have raised no concerns with regard to noise impact with conditions imposed to restrict hours of operation and deliveries.

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

The Council's Environmental Health department have not raised an objection to the scheme provided a number of conditions be included to address potential pollutants and verification of any remediation works.

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

The site is not located on land which is designated as being at risk of flooding. Therefore, no objection is raised in respect of flood risk.

**(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, and**

The building proposed to be converted maintains separation from any surrounding buildings. It is recognised that the building the subject of this notification and the proposed conversion with associated domestication of its character and appearance to feature new windows, doors, roofing and wall materials and the provision of residential curtilage would, due to its size, be considered to raise concerns as to harm to the setting within the countryside. It is considered that the change of use would raise concerns in resulting in a level of domesticity that would detract further from the rural context of the site.

**(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 building is set back approximately 27m from Hillybarn Road. The application site is located within a countryside location, the nearest listed building being 350 metres to the southwest. The proposal would involve the installation of windows, doors, roofing and wall materials to the building.

The subject building is considered to be of limited aesthetic or visual merit. Whilst it is recognised that the building would result in the introduction of a number of windows and doors, the number and layout of these openings are considered to provide some visual interest and relief. The overall proportions of the building would be maintained, and no objections are raised to the design.

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

The submitted plans indicate that all habitable rooms would benefit from adequate natural light.

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

The proposed development would incorporate windows and full height glazed openings to all elevations. These openings would provide adequate natural light to all habitable rooms.

**the provisions of paragraph W (prior approval) of this Part apply in relation to that application.**

Part X of Part 3 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 defines “curtilage” for the purposes of Class Q as:

*“the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser”*

The curtilage proposed by the application is no greater than the land occupied by the agricultural buildings and therefore accords within Paragraph X. Parking spaces are to be provided immediately at the front (west elevation) of the building.

**Paragraph 9A of Article 3 Schedule 2 states that “Schedule 2 does not grant the permission for, or authorise any development of, any new dwellinghouse –**

**(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 27<sup>th</sup> March 2015(1).”**

The proposal would comply with the above.

**Other Matters**

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 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 30<sup>th</sup> 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 could not be carried out until a decision of such application has been made.

### **Recommendation: Prior Approval Required and PERMITTED**

1 **Pre-Commencement Condition:** No development shall commence until the following components of a scheme to deal with the risks associated with contamination, (including asbestos contamination), of the site be submitted to and approved, in writing, by the local planning authority:

- (a) A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site.

The following aspects (b) – (d) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.

- (b) An intrusive site investigation scheme, based on (a) to provide information for a detailed risk assessment to the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site.
- (c) Full details of the remediation measures required and how they are to be undertaken based on the results of the intrusive site investigation (b) and an options appraisal.
- (d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required.

The scheme shall be implemented as approved. Any changes to these components require the consent of the local planning authority.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

#### **NOTE TO APPLICANT**

The applicant is advised that this decision relates solely to whether the Prior Approval of the Local Planning Authority is required, it does not confirm that the proposal represents Permitted Development. The site lies within the Sussex North Water Supply Zone where Natural England has advised that water extraction cannot be concluded as having no adverse effect on the integrity of the Arun Valley Special Area Conservation (SAC), the Arun Valley Special protection Area (SPA) and the Arun Valley Ramsar Site.

It is a condition of Permitted Development (Article 3(1) of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended) that development likely to have a significant effect on a European Site "must not be begun" until an application has been made to Natural England for its opinion as to whether the development is likely to have a relevant effect. Following this an application must be made to the Local Planning Authority for its approval. No development must be begun until the developer has received written notification of the approval of the local planning

authority. For further information on this process see Regulations 75 to 77 of the Conservation of Habitats and Species Regulations 2017 (general development orders).

The applicant is advised that any development commenced without compliance with Regulation 75 of the Conservation of Habitats and Species Regulations 2017 would be in breach of the GPDO and would be subject to potential future enforcement action.

#### 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/22/1918**

Schedule of plans/documents **approved**:

| Plan Type              | Description                                | Drawing Number       | Received Date |
|------------------------|--------------------------------------------|----------------------|---------------|
| Location plan          | Existing Location Plan                     | 2209HI_R0_000<br>R.0 | 10.10.2022    |
| Block plan             | Proposed Site Plan                         | 2209HI_R0_001<br>R.0 | 10.10.2022    |
| Elevation & Floor plan | Existing and Proposed Plans and Elevations | 2209HI_R0_200<br>R.0 | 10.10.2022    |

#### DELEGATED

Case Officer sign/initial     Steve Astles     Date: 01.12.2022

Authorising Officer sign/initial     Tamara Dale     Date: 01.12.2022