Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1599
Woodlands Farm, Broadwater Lane, Copsale, West Sussex, RH13 6QW

DESCRIPTION:
Prior Notification for Change of Use from an Agricultural Building to 1no dwellinghouse (C3 Use Class).

RELEVANT PLANNING HISTORY:

DC/08/2192	Erection of a metal framed barn for storage of hay and farm machinery (Land opposite Marelands Farm and to the south east of Ghyll House Farm Broadwater Lane Copsale)	Application Permitted on 28.08.2009.
DC/18/1960	Demolition of existing stable block and erection of 6 bay equestrian stable block and erection of a hay barn.	Application Permitted on 15.11.2018.
DC/18/2627	Retention of a temporary mobile home	Application Permitted on 28.01.2019.
DC/19/0828	Change of use from barn to 10 bay stables and machine store	Application Permitted on 10.09.2019.
DC/20/1619	Prior notification for change of use of agricultural barn to a single dwellinghouse.	Withdrawn Application on 25.09.2020.
DC/24/1018	Change of use of land to a mixed use including settled gypsy accommodation site comprising 2No. pitches. Retention of existing hardstanding and proposed biodiversity enhancements.	Under Consideration

SITE AND SURROUNDINGS:
The agricultural building lies to the east of Broadwater Lane. The site is located in the countryside, within a rural area characterised by farms and individually designed dwellings. The building in question is not visible from public vantage points being screened by the adjoining mature boundary trees and hedging. The building is not Listed or within a Conservation Area. The site is not within a flood risk zone.

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 1no dwellinghouse.

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: Comment: -

Commerical 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.

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.

No information on water neutrality has been provided.

WSCC Highways: Comment: -

Generally, the change of use from agricultural to residential dwelling would generate a reduction in material use at the site. The existing use would create a certain number of movements throughout the day, whereas the movements associated with residential use would be anticipated within network peaks. Therefore, although the nature of trips would change, the frequency would likely not exceed that of current use.

An inspection of collision data supplied to WSCC by Sussex Police over a period the past five years reveals there have been no recorded injury accidents within the vicinity of the existing access point on Broadwater Lane. Therefore, there is no evidence to suggest the existing access is operating unsafely or that the proposal would exacerbate an existing safety concern.

The WSCC Car Parking Demand Calculator indicated that a development of this size in this location would require two car parking spaces. From inspection of the plans, there appears to be suitable space within the site for this parking demand to be accommodated, on-site turning arrangements also appearing achievable.

In summary, the movements associated with agriculture 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. In principle, the current GPDO gives limited ability to consider wider highway and transport impacts beyond those set out. The prior approval is therefore considered acceptable in highway terms.

Parish Comments:
None received.

Representations:
4 representations have been received (from anonymous addresses) objecting to the scheme on the following grounds:

- Intensification on the site
- Water neutrality matters
- Enforcement Notice
- Increased vehicular traffic
- Noise impact
- Light pollution

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

Paragraph W of Part 3 within Schedule 2 of the GPDO sets out the procedure for applications for prior approval (under Part 3) and states:

(11) The development must not begin before the occurrence of one of the following—

a) *(a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;*
b) *(b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or*
c) *(c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.*

The Local Planning Authority did not notify the applicant as to whether prior approval is given or refused in the required time period. The change of use therefore benefits from deemed consent. This deemed consent relates to the prior approval matters set out in Q.2(1), it does not confirm that the development meets the limitations / criteria set out in Q.1 (a) to (m). The following assessment is therefore based on the limitations / criteria set out in Q.1: -

The permitted development rights for Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 was amended on 21 May 2024 to broaden the range of buildings that could be converted to dwellings, allow extensions to the building, and to increase the total number of dwellings from 5 to 10. Until May 2025 applicants can choose to use the previous version of the permitted development as it stood prior to 21 May 2024, or the amended development right. The applicant has ticked that they wish to use the permitted development right as it stood prior to 21 May 2024, so the application has been assessed against this.

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.

Development not permitted:

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.

Woodlands Farm has a complex planning history, with a number of planning applications and enforcement cases determined at the site recently. The building subject of this application was granted permission in 2008 (ref: DC/08/2192). This planning permission was subject of condition 2, which stated that the building shall be used for storage in connection with agricultural purposes only and shall not be used for commerical equestrian or livery purposes or in connection with any form of riding establishment. A mobile home was granted temporary permission on appeal permitted in 2015 (ref: DC/14/2280). The appeal decision notice refers to the applicant's land housing a paddock for horses stabled at the site and also pens for chickens and geese. The planning history and the representations received therefore suggests that the site has been in equestrian use.

The evidence available suggests that the site has likely been used for equestrian purposes, with no substantive evidence provided of agricultural activities undertaken as a part of a business or trade provided. The evidence available would therefore suggest that the site is not being used solely for agricultural and that there has been a breach of condition 2 of permission DC/08/2192 (which may or may not now be lawful). This draws into question whether the site and subject building was in agricultural use as part of an established agricultural unit on 20 March 2013. Given this ambiguity, it is considered that it has not been sufficiently demonstrated that the site was used solely for an agricultural use as part of an established agricultural unit on the relevant date.

It is noted that an enforcement notice has been served on the Woodlands Farm site, with the related plan including the barn subject of this prior approval; with this notice noting an equestrian use of the land. This notice is currently the subject of an appeal (ref: AAP/Z3825/C/24/3352762).

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:

One larger dwellinghouse is proposed with a floor area of 162 sqm, this would not exceed 465 sqm, which is 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;

No smaller dwellings are proposed as part of this application and 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 is considered to meet the requirements (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 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, both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;

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 a review of the planning history, no development under Classes A(a) and B(a) of Part 6 have taken place. The proposal is therefore 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 submitted plans demonstrate that the proposal would not extend beyond the external dimensions of the existing building at a given point. The proposal, therefore, is considered to meet the requirements Q.1(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 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 not been accompanied by a structural survey. While no structural survey has been provided, during a site visit the soundness of the structure was assessed. It is considered limited works would be needed to convert the building into residential use. The structure has a metal sheet roof and walls and steel posts. Windows are proposed on each elevation. Doors are proposed on the north as well as the south elevations. The external structure would remain the same dimensions as existing, and there is no evidence that the building is unsuitable for conversion in its current state.

While recognised that the proposed conversion would involve some alterations to the structural fabric of the building, the subject building would appear capable of conversion in its own right. The infilling of the existing opening is deemed to be reasonably necessary to support a residential use as permitted under Q.1(i). The measures are not considered to be of such a degree to amount to a rebuild, and the required works are therefore considered to be reasonably necessary to convert the building.

(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.

Q.2— As set out above, the development benefits from deemed consent and the LPA is not in a position to make a determination as to whether prior approval is required as to the matters set out in (a) to (g). This does not therefore require further consideration as part of this application.

Others 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 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.

Conclusion:

The proposal has been considered in relation to all relevant conditions, limitations, and restrictions of Class Q in Part 3. As reasoned in detailed above, it is considered that the proposal would comply with all relevant limitations of Class Q, with no individual considerations which would warrant the refusal of prior approval, subject to the conditions listed below.

Recommendation: Deemed Consent in respect of Q.2 (1), The applicant is though advised that prior approval would have been refused for the following reasons: -

Reason:

1. It has not been demonstrated to the satisfaction of the Local Planning Authority that the building subject of this application was in use solely for agricultural purposes, in connection with an agricultural trade or business, on or before 20th March 2013. The proposal is therefore contrary to paragraph Q.1(a) of Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

NOTE TO APPLICANT

- The applicant is advised that the development can only lawfully proceed if carried out in accordance with the conditions and limitations imposed by Class Q (within Part 3 of Schedule 2) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The Local Planning Authority, for the reason set out above, is of the view that the change of use does not represent permitted development. It would therefore be advised that a lawful development certificate should be sought prior to any development taking place on the site.

- The applicant is also advised that planning permission granted by Article 3(1) of the GPDO for the classes of development described as permitted development in Schedule 2 are subject to the provisions of the Order and Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (as amended) relating to general development orders.

Regulation 75 provides that it is a condition of any planning permission granted by a general development order made on or after 30 November 2017 that development which (a) is likely to have a significant effect on a designated habitats site, 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.

Further details on this process are available through: -

https://www.horsham.gov.uk/planning/water-neutrality-in-horsham-district/regulation-77-conservation-of-habitats-and-species-regulations

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Plans list for: DC/24/1599
(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
Supporting Statement		NONE	14.10.2024
Floor plan	Existing Barn and Roof	EFP1 REV A	14.10.2024
Block plan	Existing	EBP1 REV B	11.11.2024
Location plan		LOC1 REV A	14.10.2024
Elevation plan	Proposed	PEV1 REV A	14.10.2024
Floor plan	Proposed and Roof	PFP1 REV A	14.10.2024
Block plan	Proposed	PBP1 REV B	11.11.2024
Elevation plan	Existing Barn	EEV1 REV A	14.10.2024

DELEGATED

Case Officer sign/initial Bethan Tinning Date: 11.02.2025

Authorising Officer sign/initial Guy Everest Date: 25.02.2025