Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/24/0219
Upper Chancton Farm, Hole Street, Wiston, West Sussex,

DESCRIPTION:

Prior Notification for Change of Use of 2No. Agricultural Buildings to 5No. dwellinghouses

RELEVANT PLANNING HISTORY:

None relevant.

SITE AND SURROUNDINGS:

The application site is located to the south of Hole Street, outside of any designated built-up area. The site is therefore located within the countryside in policy terms. The site comprises a number of buildings, with the subject buildings located to the north of the site and a group of buildings located to the south. The planning history indicates that the buildings to the south of the site have previously been in use for light industrial and storage and distribution purposes.

The wider area is characterised by a mix of residential and agriculture, with residential properties located to the north of Hole Street and agricultural fields located to the south, east, and west.

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 5no. dwellinghouses. The proposal would include the demolition of part of the larger barn (referred to as the Wood Frame Barn) to facilitate amenity space for Plots 3 and 4.

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: 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 may also be incorporated in structures, made ground, yards and hard standings. The presence of asbestos cement sheeting has been identified.

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

Water neutrality requirements within the proposed dwellings are to be met through offsetting at another location and therefore it is assumed that a mains supply will be provided to the development.

WSCC Highways: No Objection

The site is accessed from Hole Street, via a private access road. Hole Street is a two-way single carriageway 'C' classified road subject to 40 miles per hour speed restriction. Visibility splays along both sides of the road are good, for the posted speed limit. An inspection of data supplied to WSCC by Sussex Police over a period of last five years reveals that there has been no incident immediately near to site access, which indicates the site access has been operating in a safe manner in its current form.

The proposal includes the provision of parking within site. It is understandable given the rural setting of the site residents / visitors would largely rely on private vehicular use, with limited opportunities for sustainable travel / public transport.

The previous use of the buildings for agricultural purposes could have generated a greater number of trips and attracted larger vehicles compared to the proposed residential use. Therefore, the proposed use is not expected to cause a material impact on the operation of the local highway network. The prior approval is therefore considered acceptable in highway terms.

HDC Conservation Officer: Comment

If there is opportunity to repurpose the historic barn and nineteenth century stables that would protect this historic outfarm for the future.

Parish Comments:

None received

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 5 dwellings 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.

The buildings are agricultural in usage.

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.

It is evident from the context of the barns that the buildings were designed for agricultural purposes and in association with the historic Wiston estate. The Council hold no evidence to contradict this assertion that the buildings were not in an agricultural use when last used, and it is therefore considered that the subject buildings were used for agricultural use on the relevant date, in accordance with Q.1 (a).

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 proposal comprises the conversion of 2no. buildings to 5no. dwellings. The larger building (referred to as the Wood Frame Barn) would be converted to 4no. dwellings and the smaller building (referred to as the Concrete Frame Barn) would be converted to 1no. dwelling.

The Floor Plan of the larger building (referred to as the Wood Frame Barn) appears to show the incorrect scale, where when comparing with the Site Plan, it is assumed that the scale should be 1:100

(rather than 1:50 as indicated). Based upon this scale, the larger barn would be converted to 4no. dwellings measuring to a floor area of between 142sqm (Plots 2 and 5) and 94sqm (Plots 3 and 4).

The Floor Plan for the smaller building (referred to as the Concrete Frame Barn) appears to measure to the stated scale, and shows that the building would be converted to 1no. dwelling measuring to a floor area of 101sqm.

The proposal would therefore involve the conversion of the 2no. buildings to 3no. larger dwellinghouses and 2no. smaller dwellinghouses. The 3no. larger dwellinghouses would measure to a cumulative floor area of 384.77sqm. The proposal would therefore 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 create 2no. smaller dwellinghouses with a floor area of less than 100sqm. The proposal would therefore 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) 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 involve the conversion of the 2no. buildings to 3no. larger dwellinghouses with a cumulative floor area of 384.77sqm, and 2no. smaller dwellinghouses.. The proposal would therefore meet the requirements of (d).

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

From the information available, the site has not been 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;

From the information available, the site has not been occupied under an agricultural tenancy. 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;

There is no evidence that development under Class A(a) or Class B(a) of Part 6 has taken place since the relevant date.

(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 plans submitted seem to indicate that no part of the development would extend beyond the existing dimensions such that it would not be in accordance to (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.'*

Hibbitt v. SSCLG [2016] EWHC 2853 (Admin) outlined that there are three components of significance when considering Class Q permitted development. The first is the assumption that the building must be capable of functioning as a dwelling. Second, that the development include no new structural elements. Third, that the existing building must be sufficiently structurally strong to bear the loading from the external work.

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.

Structural information has been provided to support the application and ascertains that both the barns on site are in a sufficient state that they would be capable of conversion without new structural elements. The Report does recognised that 26 of the 102 posts within the Wood Frame Barn would require repair, and insulated panel walls will be required where these can be supported on a reinforced concrete slab independent of the posts. The Report highlights that the existing concrete floor of the Wood Frame Barn would need to be checked to ensure that there is adequate steel reinforcement. It states that it may be necessary to replace the entire concrete floor if the weld mesh is of insufficient size and if the concrete is of insufficient thickness to support the weight of the external insulated walls and intermediate party walls. The Report outlines that additional rafters would be required to support a new insulated single ply membrane roofing to the Concrete Frame Barn. An insulated reinforced concrete floor will also be required incorporating a damp proof membrane. The edges of the concrete floor slab can be thickened to provide support to lightweight insulated timber panel wall infill.

Whilst the findings of the Structural Report are noted, the officer site visit has confirmed that structural works would be required to both buildings. In terms of the Wood Frame barn, a large section of the roof has fallen down, the floor of the barn has cracks in it that would need repair and is bare earth in places

without evidence of foundation. There are some posts that appear secure, but many are in a state of disrepair with evidence of some being entirely rotten through at the base or hanging loose from the rafters. This is contrary to the findings within the Structural survey which states 'The existing timber posts are over engineered and more than adequate to transfer the weight of the roof safely to the ground'. It was evident from the site visit that part of the roof to the Concrete Frame Barn would need to be replaced and would require further support, and the concrete base frame has evidence of large cracks within it. Whilst the structural survey stated the floor was made of chip bark and hardcore, no evidence of hardcore was visible.

Given the evidence from the site visit and the suggestions within the Structural Report, it is considered that the buildings are not capable of conversion without the construction of extensive new structural elements. It is not the intention of permitted development to include the construction of new structural elements of the building under class Q such that neither buildings proposed for conversion would be in accordance with Q.1 (i).

The proposal would therefore be contrary to the requirements of Q.1.(i) of Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

(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 an existing access extending from the south of Hole Street. The Local Highways Authority have been consulted during the course of the application and have no objections to the proposal from a transport and highways impact suggesting that the proposal would not result in a material intensification within the site.

(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 decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so, they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development.

It is not considered that the proposed development would give rise to unacceptable noise impacts.

(c) contamination risks on the site,

Paragraph 189 of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use, taking account of ground conditions and any risks arising from land instability and contamination.

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.

Environmental Health have been consulted during the course of the application and note that given the likely contamination risks caused by the previous use of the buildings, a preliminary risk assessment including a site walkover is required to ensure the application is properly determined. Had the development been otherwise acceptable, it would have included a condition relating to the above contamination matters.

(d) flooding risks on the site,

The proposal is not located within a Flood Zone 2 or 3. The proposal would be considered in accordance to Q.2 (d).

(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

Paragraph 109 of the Planning Practice Guidance states that *"Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable"*

The subject buildings are positioned in close relationship with a number of existing buildings to the south (outside of the development site) which have permission for use for light industrial and storage and distribution purposes. Any potential occupiers of the dwellings would have no control over the use of these buildings, where the access and all associated vehicle movements would run immediately adjacent to Plot 1. It is however recognised that the nature of these uses are generally accepted within a residential area, where there is an established relationship evident by Hole Street Farmhouse to the north. A greater degree of separation would be maintained than that experienced by the existing dwelling, and it is therefore considered on the balance of these considerations, that the location or siting of the building would not make it otherwise impractical or undesirable from the building to change use.

(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 design and external appearance of the subject buildings resulting from their conversion is considered acceptable. The proposal is considered to maintain the rural character and agricultural vernacular of the buildings, with the number and arrangement of the window and door openings considered to retain the proportions and appearance of the buildings.

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

Each habitable room serving each of the dwellings would benefit from access to natural light from the proposed new door and window apertures to be installed on the elevations of the building. As such, no objection is raised on these grounds.

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 proposed residential curtilages for each of the dwellings, as indicated by the dashed lines shown on the Proposed Site Plan, would be greater than the land occupied by the agricultural buildings.

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 27th 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 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.

Recommendation: Prior Approval Required and REFUSED

Reason(s) 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.(i) of Class Q, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2 The proposed curtilage(s) would exceed the area permitted under Paragraph X 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/24/0219
Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan	Location Plan	4063-LOC	09.02.2024
Site plan	Site Plan As Existing	4063-S-01 Rev A	09.02.2024
Site plan	Site Plan As Proposed	4063-S-02 Rev A	09.02.2024
Elevation & Floor plan	Concrete Farm Barn Floor Plans & Elevations As Existing	4063-C-01 Rev A	09.02.2024
Elevation & Floor plan	Concrete Farm Barn Floor Plans & Elevations As Proposed	4063-C-02 Rev B	09.02.2024
Elevation & Floor plan	Wood Frame Barn Floor Plans & Elevations As Existing	4063-PB-01 Rev A	09.02.2024
Elevation & Floor plan	Wood Frame Barn Floor Plans & Elevations As Proposed	4063-PB-02 Rev D	09.02.2024
Supporting Statement	Building Survey by Ditchling Building Services dated 11.01.2024	CSV/aw/805	09.02.2024
Supporting Statement	Technical Note 2: Water Neutrality Statement by Motion dated 12.01.2024	1cbwas/2307044	09.02.2024

DELEGATED

Case Officer sign/initial Hannah Darley Date: 03/04/2024

Authorising Officer sign/initial Tamara Dale Date: 04.04.2024