Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/23/2128
Granary Cottage, Broadford Bridge, Billingshurst, West Sussex, RH14 9EB

DESCRIPTION:
Prior Notification for Change of Use of Agricultural Building to a single dwellinghouse.

SITE AND SURROUNDINGS:

The wider application site consists of a range of agricultural buildings to the west of Broadford Bridge and accessed along a private access road. The wider farm relates to a poultry farm and there are two rural workers dwellings on site. The application site is outside of the built up area boundary. There is a pubic right of way immediately to the north of the site. The site is located approximately 120m west of Broadford Bridge Farm House (Grade II listed)

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 1x dwelling.

RELEVANT PLANNING HISTORY:
None relevant

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 structures, made ground, yards and hard standings.

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.

The application proposes to introduce a dwelling in immediate proximity to Homefield poultry farm. A slurry bed is shown on the site plan provided with the application. These established agricultural activities may adversely impact the amenity of the proposed dwelling. There also is no restriction to prevent buildings in the vicinity of the proposed dwelling being used more intensely than at present. Such an intensification in activity could generate additional noise and disturbance.

Further information is required from the applicant to demonstrate that the uses of these buildings and associated activities will not adversely impact the amenity of the occupiers of the proposed dwelling.

No detailed information regarding water neutrality has been provided.

WSCC Highways: No objections
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. The prior approval is therefore considered acceptable in highway terms.

Compliance: Comment
It is known that the application site has been under investigation under EN/23/0086.

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.

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.

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 considered from the enforcement investigation EN/23/0086 that the building had not been used as a stables for some time, although it is not known when this use ceased, this was the buildings last known use. It is noted that the information submitted as part of the current application states that the building was used as a deer farm, however there is no evidence has been advanced in of support this. Furthermore, from the Council's own evidence, the building was last used for Stabling of horses. Horses are not considered livestock such that the building can be said to have been within an agricultural use. The development would not therefore benefit from the permitted development under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

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;

Not applicable.

(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 notification seeks consent for the creation of one smaller dwellinghouse, and notwithstanding other noncompliance with Class Q.1(a) as above, would be in accordance to (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;

Notwithstanding other noncompliance with Class Q.1(a) as above, would be in accordance to (d).

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

Notwithstanding other noncompliance with Class Q.1(a) as above, there is no evidence before the local authority that would indicate that the proposal is not in accordance with 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;

Not applicable

(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;

No development under Class A(a) or Class B(a) of Part 6 has taken place.

(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 proposed does not include any extension or additions to the existing structure.

(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.'

Given that the works have already been undertaken, there is no evidence before the local authority to suggest that the proposal would not be in accordance to (h).

(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

It is noted that the building immediately to the east of the application building is a Grade II listed building. The building subject to this application is not a listed building.

Other Matters

Paragraph W

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) 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) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or
(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.

A recent compliance investigation found that works to convert the building have already commenced. Accordingly, the proposed works do not accord with Paragraph (11)(a) or (b) thus the building subject of this consent would not therefore benefit from permitted development as a retrospective scheme.

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 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 assessed against all relevant conditions, limitations and restrictions of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). For the reasons discussed in detail above it is considered that the proposal fails to benefit from permitted development as the works have already commenced in which, this application would be considered retrospective in nature as a dwellinghouse permitted by Class Q.

Recommendation: Prior Approval Required and REFUSED

Reasons for Refusal:

1 On the basis of the available information there is significant doubt that the building was last in an agricultural use as part of an established agricultural unit on the relevant date of 20 March 2013. It is considered that the barns are used for equestrian purposes (on 20th March 2013) and thus do not fall within the definition of agriculture, as set out in Paragraph X of Part 3, and as such would not benefit from a permitted change of use to a dwellinghouse, therefore failing to comply with Schedule 2, Part 3, Class Q (Q.1(a)) of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

2 Works to convert the subject building to a dwelling commenced prior to the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is / is not required, contrary to Paragraph W of Part 3 (Procedure for application for prior approval under Part 3), and as such would not benefit from a permitted change of use to a dwellinghouse, therefore failing to comply with Schedule 2, Part 3, Paragraph W 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/23/2128
Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date

Supporting Statement	Planning Statement		21.11.2023
Elevation plan	Existing Elevations		21.11.2023
Elevation plan	Proposed Elevations		21.11.2023
Location plan	Location Plan	Plan No K P 4	21.11.2023
Site plan	Site Plan	Plan No K P 3	21.11.2023

DELEGATED

Case Officer sign/initial Hannah Darley Date: 28.05.2024

Authorising Officer sign/initial RHERMITAGE Date: 22.07.2024