Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/24/1834
Little Millfields, Horsham Road, Rowhook, Horsham, West Sussex, RH12 3PZ

DESCRIPTION:

Prior Notification for Change of Use from 2no Agricultural Buildings to 1no dwellinghouses (C3 Use Class).

RELEVANT PLANNING HISTORY:

DC/24/1815	Prior notification for the demolition of 3no. equestrian and poultry buildings.	Prior Approval Not Required on 19.12.2024

SITE AND SURROUNDINGS:

The subject buildings are located within a cluster to the north of Horsham Road, outside of any designated built-up area boundary.

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

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 made ground, yards and hard standings. The Structural Inspection has identified the presence of corrugated asbestos cement roofing to the buildings.

In accordance with the recommendations of the Planning Practice Guidance, information is required on these matters and 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.

Information with respect to water neutrality should also be provided.

HDC Arboriculture: Advice

Serval trees within the main garden area of the property, within close proximity to the more easterly agricultural building, have been felled recently. Due to the proximity of the tree to the building, they would have represented a constraint on the development proposal. However, these trees were free from any planning constraints, and the landowner did not need planning permission to fell them.

Around 4m to the southwest of the more westerly agricultural Building, is a mature oak, that forms part of a line of Oaks located on the private track that runs east to west to the south of the property. The trees in this area make a positive contribution to the rural nature of the area and have a fair level of localised landscape value.

The tree-to-build relationship between the Oak and the more westerly agricultural building, at around 4m is very poor suggesting it would be very challenging to convert the building without the works impacting the tree in some form; though the renovation works or post-development due to concerns with the tree's location and impact on the building caused by heavy shade and falling detritus. In addition, a high percentage of the building's footprint is already located within the tree's Root Protection Area (RPA).

Although mature, the tree in question does not represent a good example of the species in terms of its form; it has either suffered from storm damage in the past or had some poorly executed surgery undertaken upon it in the past.

HDC Conservation: *No Objections*

The proposal is not ideal but in this case there is sufficient distance from the listed building that no harm will arise. The historic cottage will remain recognisable and appreciated in its setting without visual reference to the proposed converted buildings. There may be a rise in other impacts such as noise and perception of activity but this had been the case in the recent past when the buildings were used for agricultural purposes.

WSCC Highways: *Comment*

The current access to the site is via a private track that adjoins the publicly maintained highway at a junction with Horsham Road. An inspection of data supplied to WSCC by Sussex Police over a period the past five years reveals that have been no recorded injury accidents within the vicinity of the site. Therefore, there is no evidence to suggest that the existing access is operating unsafely or that the proposal would exacerbate an existing safety concern.

The WSCC Car Parking Demand Calculator indicates that a development of this size and location would require two car parking spaces. From inspection of the plans, there appears to be space within the site to accommodate this parking demand, with space for on-site turning to be achievable. The LPA may wish to secure cycle parking provision if they deem it appropriate to do so.

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

<u>Parish Comments</u>:

The plans show 2 buildings, one to be converted into a dwelling (Class Q conversion) and the other not to be converted to a dwelling, but to a home office. The buildings are not apparently joined, and each is currently shown as having its own individual red line boundary.

The proposed office, currently shown with its own red line boundary, would have the capability to be let or used as commercial office space, which is not permitted under Class Q regulations and Class 3 use.

Therefore, clarity is required as to the actual curtilage of the C3 single dwelling proposed and to how it would be created from 2 separate buildings with individual red line boundaries.

Additionally, will any trees be affected or justifiably removed, in order to accommodate the development of the site? If so, these should be identified and RNP Policy 17 must be adhered to.

If prior approval is given, pre commencement conditions should be added concerning further investigation into the suspected presence of asbestos in the existing roof, and consequent submission of a remediation strategy.

Representations:

2 representations received, 1 commenting on the application and the other objecting to the proposal.

Reason for objection:

- Highway Access and Parking
- Loss of General Amenity
- Other
- Trees and Landscaping

HUMAN RIGHTS AND EQUALITY:

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING ASSESSMENT

The main issue is whether prior approval is required for the proposed change of use and conversion of the existing agricultural building to provide a single dwelling under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Permitted development

Q. Development consisting of—

(a) a change of use of—

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

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

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

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

The plans submitted indicate that Building A and Building B would benefit from separate residential curtilages, where the red line is considered to define the planning unit. To this effect, both buildings could be occupied independently of one another, with no mechanism available to secure that one building (namely Building B) is associated and used ancillary to Building A.

The permitted development right outlines that development consisting of a change of use of a building that is or was part of an established agricultural unit and any land within that building's curtilage, to a use falling with Class C3 (dwellinghouses).

There is no definition of "dwellinghouse" within the Town and Country Planning Act 1990 (TCPA) but reference is made within other relevant planning legislation.

Part C of the Use Classes Order 1987, as amended, defines Class C3 as "dwellinghouses" and refers to "use as a dwellinghouse (whether or not as a sole or main residence) by –

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where no care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4)."

Article 2(1) of the Town and Country Planning (General Permitted Development) Order 2015 as amended defines a "dwellinghouse" and states:

"…except in Part 3 (Changes of Use), Part 12A (development by local authorities and health service bodies) and Part 20 (construction of new dwellinghouses) of Schedule 2 to this Order, does not include a building containing one or more flats, or a flat contained within such a building."

A "Flat" is defined within the Article as "flat, except in the expression "flat roof", means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally".

Given the absence of a definition within the TCPA, case law has sought to clarify the meaning. In Gravesham BC v SSE and O'Brien [1983] JPL 306, it was accepted that the primary characteristic of a dwellinghouse is its ability to provide the facilities required for day-to-day existence. Grendon v FSS and Cotswold DC [2006] EWHC 1711 (Admin) considered it necessary to determine whether the building is physically capable of being a dwellinghouse, has the attributes of a dwelling and is used as such. Specifically, it is outlined that "as the cases under this Act and its predecessors have emphasised the question is to have regard, to an appropriate degree in each case, to both the physical state of the premises and their user, actual, intended and/or attempted." This is supported in R (oao Gore) v SSLG and Dartmoor NPA [2008] EWHC 3278 (Admin) where it was concluded that "it is a matter of fact and degree whether or not any particular use of a building (for example, for occasional overnight sleeping) does or does not amount to a residential use of that building."

From the above cases, it is clear that a building can be defined as a C3 residential dwelling if it affords all of the facilities necessary to live independently. It is common practice that such facilities include bedroom, kitchen, bathroom, and living space.

As outlined above, Building A and Building B are defined by separate and independent red outlines, where the red outline defines the residential curtilage of the subsequent dwelling, as directed by Paragraph W. The plan submitted in reference to Building B indicates that the accommodation would comprise a Home Office and Ensuite. Based upon the definitions above, the building would not consist

of all the facilities necessary to live independently and would not therefore fall within the definition of a C3 residential dwelling. The conversion of Building B would not therefore represent permitted development under Class Q(a) of Class Q of Part 3 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Conclusion

The proposal has been considered not meet the relevant conditions, limitations, and restrictions of Class Q. As reasoned in detailed above, it is considered that the proposal would not comply with all relevant limitations of Class Q.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Horsham District Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule which took effect on 1st October 2017.

It is considered that this development constitutes CIL liable development.

Use Description	Proposed	Existing	Net Gain
District Wide Zone 1	88.4	88.4	0
		Total Gain	
		Total Demolition	

Please note that the above figures will be reviewed by the CIL Team prior to issuing a CIL Liability Notice and may therefore change.

Exemptions and/or reliefs may be applied for up until the commencement of a chargeable development.

In the event that planning permission is granted, a CIL Liability Notice will be issued thereafter. CIL payments are payable on commencement of development.

Recommendation: Prior Approval Required and REFUSED

Reason(s) for Refusal:

1. The proposed conversion of Building B, within it's own planning unit and defined curtilage, would comprise a level of accommodation that would fail to represent a C3 (dwellinghouse). The proposed development would not therefore be permitted by Q.1(a) of Class Q 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/24/1834
(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
Elevation & Floor plan	Stable B Proposed Floor Plans & Elevations Block Plan	1532 P 006	27.11.2024
Elevation & Floor plan	Stable A Proposed Floor Plans & Elevations Block Plan	1532 P 005	27.11.2024
Elevation & Floor plan	Stable A Existing Floor Plans & Elevations Block Plan	1532 P 003	27.11.2024
Elevation & Floor plan	Stable B Existing Floor Plans & Elevations Block Plan	1532 P 004	27.11.2024
Block plan	Block Plan	1532 P 007	27.11.2024
Plans	Access Plan	008	27.11.2024
Location plan	Location Plan	1532 P 000	27.11.2024

DELEGATED

Case Officer sign/initial JBurrowes Date: 17/01/2025

Authorising Officer sign/initial TDale Date: 21/01/2025