Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1943
Peacocks Farm, Peacocks Lane, Goose Green, Pulborough, West Sussex, RH20 2LS

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

RELEVANT PLANNING HISTORY:

DC/21/2297	Erection of a general-purpose agricultural building and creation of hardstanding.	Permitted on 16.02.2022.

SITE AND SURROUNDINGS:
The application building is on the west side of Peacocks Lane, approximately 360m from the public highway. The application site is well screened from buildings by a dense hedgerow and access is via a made track, leading off Peacocks Lane. The application site is not located within a Flood 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.

The agricultural building has been used for agricultural storage, primarily for agricultural and forestry machinery, tractor, trailers, sheep hurdle storage, together with feed and fodder for livestock. The proposal seeks to create 1no residential dwelling with 2 bedrooms, kitchen, living, dining area and bathrooms, no changes are proposed to the existing footprint.

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: -

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.

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.

WSCC Highways: Comment: -

This proposal is for prior approval for the change of use from an agricultural building to 1no dwellinghouse (C3 Use Class). The site is located on Peacocks Lane, an unclassified road subject to national speed limit in this location.

Under the current General Permitted Development Order (GPDO), it is permitted development to change use from agricultural to residential (Class C3) subject first to prior approval being granted. As part of the prior approval process, there are a number of matters to be considered. This includes matters relating to highways and transport. However, the GPDO is quite clear as to what highway matters can be considered, namely whether the proposal is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site.

Generally, the change of use from agricultural to residential 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 the potential of the 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 site. 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 indicates that a dwelling 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. In addition, the extended drive can be used for onsite turning allowing vehicles to exit the site in a forward gear.

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. Consequently, no highway concerns would be raised.

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 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 –
- **(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 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 the Schedule or to extend that building.

Prior approval consent is sought to convert the existing agricultural building into 1no dwelling under Q(a) as above.

The existing barn building was originally granted planning permission under application ref: DC/21/2297. This permission included the following condition (no. 4): -

> ***Regulatory Condition:*** *The building hereby permitted shall be used solely for agricultural purposes, as defined in Section 336(1) of the Town and Country Planning Act 1990, and for no other purposes.*
>
> *Reason: The site lies in an area where, in accordance with Policy 26 of the Horsham District Planning Framework (2015) development unrelated to an essential rural activity would not normally be permitted.*

The condition states that the building shall be used for agricultural purposes only. This condition explicitly states that the building shall only be used for a specified purpose and has the effect of removing permitted development rights under any other change of use. As such, the proposal would be in conflict with Article 3(4) of the GPDO.

Notwithstanding the above, for completeness the submission has been considered against the limitations and conditions of Class Q, as set out below: -

Development not permitted:

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

(a) in the case of a site that is part of an established residential agricultural unit—
- **(i) on 24th July 2023**
- **(ii) where the site became part of an established agricultural unit after 24th July 2023, 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 Class Q permitted development rights was updated in May 2024, with the ten-year clock reset to 24th July 2024. The planning statement submitted states that the agricultural barn was approved planning permission (ref: DC/21/2297) in February 2022 and the building was constructed and implemented by April 2023. The applicant has provided an invoice of materials from August 2022 and some dated photographs from July 2022 and October 2022 of the building under construction. Therefore, the application building was part of an established agricultural unit on 24th July 2023. Since construction, the agricultural building has been used for agricultural storage, primarily for agricultural and forestry machinery, together with feed and fodder for livestock.

On the basis of the above, it is therefore considered that the proposal would adhere to the above criteria, and it is considered that the limits at Q.1(a) are not exceeded in this instance.

(b) in the case of a building that was (but is no longer) part of an agricultural unit —
- **(i) the site was part of an established agricultural unit on 24th July 2023,**
- **(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or**
- **(iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose.**

The planning statement states that the agricultural building subject of the application was part of the established agricultural unit on 24th July 2023 and is used for agricultural storage.

(c) the floor space of any dwellinghouse under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,

One dwellinghouse is being developed under Class Q, with the resultant floor space of 88sqm which would not exceed 150sqm. 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 the original limits of an established agricultural unit (see Paragraph Q.3(2) of this Part) would result in –
- **(i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or**
- **(ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres.**

The total number of dwellings provided within the agricultural unit would be one. The proposal is considered to 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:

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;

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 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) or 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, other than—
- **(i) extension of the building allowed by paragraph Q.1(i);**
- **(ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i),**

The proposal would not result in the external dimensions of the building being extended.

(i) the development under Class Q(b) would result in an extension that—
- **(i) has more than one storey,**
- **(ii) is sited anywhere other than to the rear of the existing building,**
- **(iii) extends beyond the rear wall of the existing building by more than 4 metres,**
- **(iv) has eaves the height of which exceed the height of the eaves of the existing building,**
- **(v) is higher than whichever is the lower of—**
  - **(aa) the highest part of the roof of the existing building, or**
  - **(bb) a height of 4 metres above the ground,**
- **(vi) extends beyond a wall that forms a side or principal elevation of the existing building, or**
- **(vii) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and—**
  - **(aa) the hard surface was not provided on the land on or before 24th July 2023, or**
  - **(bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before the date development under Class Q(b) begins,**

The proposal does not propose any extension to the existing building, all works will be confined within the existing footprint.

(j) 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 that 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 building's structure was assessed and it was considered limited works would be needed to convert the building into residential use. As the agricultural building was built recently – 2023 - the conversion will be carried out within the extent of the existing building. The existing cladding and roof would be retained. The insertion of doors and windows would be kept to a minimum, with the design sought to emulate the original barn. The external structure would remain the same dimensions as existing, and there is no evidence to suggest that the building is unsuitable for conversion in its current state.

The subject building would therefore appear capable of conversion in its own right. 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.

(k) the site is on article 2(3) land;

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

(l) 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.

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

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

(n) the building is a listed building

The building is not a listed building.

(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it, or

The building measures 88sqm, which would meet the nationally described space standards for 2-bedroom dwellings, with the appropriate number of bed spaces (persons) and additional provision of built-in storage. The dwelling would therefore provide adequate living and storage space in accordance with national space standards.

(p) the building does not have suitable existing access to a public highway.

The site is accessed off Peacocks Lane which is a public highway, and the existing access is suitable to accommodate a new residential dwelling.

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 impact of the development

The proposal would utilise an existing access onto Peacocks Lane, an unclassified road which leads to the B2133. Following consultation with WSCC, as the Highways Authority, no objection to the proposal has been raised. The parking demand calculator indicates that a dwelling of this size, in this location, would require at least two car parking spaces, there does appear to be space within the site to accommodate this parking demand. The proposal is therefore not considered to result in harm to the function or safety of the public highway network.

(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 policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

The subject building is not located close to other residential buildings, the closest residential dwelling is 100m away. The planning statement states that the proposal would not result in any unacceptable noise impacts that are likely to result in material harm to the surrounding uses as any noise impacts in relation to residential use on the site would be likely to be less than the existing agricultural activity with its associated vehicle movements. There are no intensive of noisy agricultural uses in proximity to the site. Given this context, it is not considered that the proposed development itself would result in demonstrable harm to the amenities of nearby residential properties.

(c) Contamination risks on the site

Commercial and agricultural buildings and land can be subject to significant contamination risks arising from their use, previous land uses, construction and storage of machinery, equipment, fuels, or other chemicals. Potentially hazardous materials may also be incorporated in made ground, yards, and hard standings. Risks arising from the use therefore require evaluation by the applicant.

No contamination reports have been submitted to support this application. The planning statement states that the site is not believed to have any contamination issues. The agricultural building has been used for agricultural storage, primarily for agricultural and forestry machinery, together with feed and fodder for livestock. Whilst this information is required, it is considered that the additional information can be secured by way of a condition which would be sufficient to render the development acceptable in relation to Q.2(1)(c).

(d) flooding risks on the site

The site lies outside any area subject to flood risk. No concerns in respect of flooding are therefore raised.

(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

The building is suitably located in the site and easily accessible. There would be no issues relating to siting or location that would make the conversion of the building to residential impractical or undesirable.

(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 conversion of the building would utilise the existing openings, with the creation of limited new openings within the building. The proposed elevations illustrate that the external appearance of the building would be retained as far as possible. The proposed material palette is deemed appropriate to a rural setting and would reflect the existing utilitarian character and its surrounding. No objections are therefore raised in regard to design or external appearance.

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

Each habitable room would have windows or doors that provide natural light. Adequate natural light would therefore be provided to all habitable rooms within the dwellinghouse.

Other Matters

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 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 to be submitted, and development subject of this Prior Approval application cannot be carried out until a decision of such application has been made.

Conclusion

The existing barn is subject of condition 4 of planning permission ref: DC/21/2297, which restricts the use of the building to agricultural purposes only. The development would be contrary to the condition imposed by this planning permission. The proposal would not therefore constitute permitted development under Article 3(4) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Recommendation: Prior Approval Required and REFUSED

Reason:

1. The existing barn is subject of condition 4 of planning permission ref: DC/21/2297, which restricts the use of the building to agricultural purposes only. The development would be contrary to the condition imposed by this planning permission. The proposal would not therefore constitute permitted development under Article 3(4) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Plans list for: DC/24/1943
(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
Floor plan	Existing and Roof	PN2-01	13.12.2024
Elevation plan	Existing	PN2-02	13.12.2024
Floor plan	Proposed and Roof	PN2-03	13.12.2024
Elevation plan	Proposed	PN2-04	13.12.2024
Block plan		PN2-05	13.12.2024
Location plan		PN2-00	13.12.2024
Supporting Docs	Planning Statement	NONE	13.12.2024

DELEGATED

Case Officer sign/initial Bethan Tinning Date: 05.02.2025

Authorising Officer sign/initial Guy Everest Date: 06.02.2025