



DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/18/2357

Annies Baskets Limited, Henfield Road, Albourne, Hassocks, West Sussex, BN6 9JJ

DESCRIPTION:

Removal of condition 3 of planning application DC/06/0522 and condition 4 of planning application DC/06/0520 relating to the demolition of the greenhouse and barn should they ceased to be used for agricultural purposes

RELEVANT PLANNING HISTORY:

DC/17/1327	Proposed erection of twinspan polytunnel and timber canopy	Application Permitted on 03.08.2017
DC/16/0673	Erection of detached garage with rear store	Application Permitted on 23.05.2016
DC/13/1554	Erection of agricultural workers dwelling	Application Permitted on 09.10.2013
DC/13/1403	Erection of extension to greenhouse, polytunnel and water storage tank	Application Permitted on 20.09.2013
DC/11/2067	Erection of 8m x 16m polytunnel	Application Permitted on 28.11.2011
DC/09/0852	Siting of mobile home for agricultural worker for a temporary period of 3 years (resubmission of DC/09/0367)	Application Refused on 13.07.2009 Allowed on Appeal on 09.06.2010
DC/09/0367	Siting of mobile home for agricultural worker for a temporary 3 year period	Application Refused on 01.05.2009
DC/06/0522	Erection of a greenhouse	Application Permitted on 25.07.2006
DC/06/0520	Erection of agricultural barn, construction of new vehicular access and closure of existing vehicular access	Application Permitted on 25.07.2006

SITE AND SURROUNDS

The application site lies to the east of Henfield Road, outside of any designated built up area boundary. The site is surrounded by open countryside and includes an agricultural workers dwellings related to the garden nursery business on the site. The site consists of an agricultural barn to the north, with polytunnels positioned to the east, with the agricultural dwelling separated by hardstanding. The site is set back from the public highway, and is bound by post and rail fencing.

DETAILED DESCRIPTION

The application seeks the removal of condition 3 of planning application DC/06/0522 and condition 4 of planning application DC/06/0520 relating to the demolition of the approved greenhouse and barn and re-instatement of the land within two months should they ceased to be used for agricultural purposes.

RELEVANT PLANNING POLICIES

The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):

Policy 1 - Strategic Policy: Sustainable Development

Policy 2 - Strategic Policy: Strategic Development

Policy 3 - Strategic Policy: Development Hierarchy

Policy 24 - Strategic Policy: Environmental Protection

Policy 25 - Strategic Policy: The Natural Environment and Landscape Character

Policy 26 - Strategic Policy: Countryside Protection

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Neighbourhood Plan: The site lies within the Parish of Woodmancote. The Parish was designated as a Neighbourhood Plan Area on the 17th February 2017. The Woodmancote Parish Neighbourhood Development Plan to 2031 was 'made' on 22nd June 2017 and is a material consideration in the determination of this planning application. The policies that are considered to be relevant to this application include Policy 1: A Spatial Plan for the Parish.

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:

INTERNAL CONSULTATIONS

HDC Environmental Health: No Comment

OUTSIDE AGENCIES

WSCC Highways: No Objection

The existing visibility splays are acceptable. Any change of use of the barn would be subject to a separate application and assessed on its own merits at the time of submission.

Southern Water: No Objection

Parish Comments:

Woodmancote Parish Council: Objection, as this was originally passed as part of this business venture. However, council would consider the time span being increased to twelve months rather than two.

Representations:

None received

Member Comments:

None received

HUMAN RIGHTS

Article 8 (right to respect of a private and family life) and Article 1 of The First Protocol (protection of property) of the Human Rights Act 1998 are relevant to the application. Consideration of human rights is an integral part of the planning assessment set out below.

PLANNING ASSESSMENT

Background:

The applicant purchased the agricultural holding in 2005 as a bare field site comprising about 4.2ha of grassland and now runs a horticultural business from the land, comprising the growing of plants to provide stock predominantly for filling hanging baskets and troughs.

Permission was sought under planning reference DC/06/0520 in 2006 for the erection of agricultural barn, construction of new vehicular access and closure of existing vehicular access. The barn was required to store machinery associated with the agricultural/horticultural land, in particular a machinery, equipment and packaging materials. At the same time in 2006 permission was sought under planning reference DC/06/0522 for the erection of a greenhouse which would be used for horticultural purposes in order to expand an existing horticultural enterprise which was owned by the Applicant's parents. Both applications were approved by the Planning Committee on the 18th July 2006 and planning consents for both applications were issued on 25th July 2006. Condition 3 of planning application DC/16/0522 and condition 4 of planning application DC/15/0520 stated:

'In the event of the building(s) hereby permitted ceasing to be used for agricultural purposes as defined by Section 336(1) of the Town and Country Planning Act 1990 it/they shall be demolished (to include the removal of foundations to a level) and all resultant materials removed from the site and the land reinstated to open grassed area within 2 months of the cessation of such use or within such extended time as may be agreed in writing with the Local Planning Authority.'

The justification for the condition was that the site *'...lies in an area where, in accordance with policy CS1 of the Horsham District Local Plan 1997 development which cannot be justified as essential to the needs of agriculture or forestry would not normally be permitted.'*

The Committee Report for both applications states that there were concerns about the sustainability of the new horticultural business as the horticultural business was only at this point being in the early stages of being established. In order to make the development acceptable in planning terms conditions 3 and 4 were imposed requiring the buildings to be demolished should their agricultural use cease and the land reinstated within 2 months of the cessation of their use.

Assessment:

The National Planning Policy Framework (NPPF) requires planning conditions to satisfy 6 tests. Paragraph 206 states that *'Planning conditions should only be imposed where they are:*

1. Necessary
2. Relevant to planning
3. To the development permitted;
4. Enforceable
5. Precise and;
6. Reasonable in all other respects

Since 2006 the planning history of the site reveals that the horticultural business has grown significantly with planning permission granted for the erection of associated polytunnels, an extension to the green house and a water tank. A two storey agricultural workers dwelling, permitted under application DC/13/1554 also now resides on the site close to the barn and greenhouse. The supporting statement confirms that the barn and greenhouse are still being used in conjunction with the horticultural business.

Taking into account, the now established nature of the horticultural business on the site and the number of permanent buildings erected on the site in conjunction with the business, it is no longer considered necessary, relevant to the development or reasonable to require these conditions to be maintained in respect of the barn and greenhouse buildings. The requirement to demolish the buildings should they cease being used for horticultural/agricultural purposes would also place an unnecessary and unreasonable financial burden on any owner.

It is therefore considered that the imposition of condition 3 on planning application DC/16/0522 and condition 4 of planning application DC/15/0520 does not meet with the six tests within the National Planning Practice Guidance and there are no grounds to resist their removal.

It is considered necessary that conditions should still be imposed on this consent which require the buildings to be used for agricultural purposes as per condition 2 on DC/06/0522 and condition 3 on

DC/06/0520. This will restrict the use of the buildings to agricultural use only and would not enable the change of use of the buildings to C3 (dwelling house) under permitted development rights which would result in isolated dwellings within the countryside. Any future proposed change of use of the barn or green house would be subject to separate planning applications which would be assessed on their own merits at the time of submission.

Recommendation: Application Permitted

Conditions

1. Approved Plans List
2. **Regulatory Condition:** The buildings hereby permitted shall be used for agricultural purposes only, as defined in Section 336(1) of the Town & Country Planning Act 1990

Reason: Permission would not normally be granted for such development in this location under Policy 33 of the Horsham District Planning Framework (2015) but in granting permission exceptionally the Local Planning Authority have had regard to the particular circumstances relating to the proposal.

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/18/2357

(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	Planning Statement	NONE	07.11.2018
Location & Site plan	Barn Location & Site Layout	NONE	24.02.2006
Elevation & Floor plan	Barn Floor Plan & Elevations	NONE	24.02.2006
Location plan	Green House Location Plan	NONE	24.02.2006
Block plan	Green House Block Plan & Site Layout	NONE	24.02.2006
Elevation & Floor plan	Green House Floor Plan & Elevations	NONE	24.02.2006

DELEGATED

Case Officer sign/initial Rebecca Tier Date: 01.02.2019

Authorising Officer sign/initial Guy Everest Date: 01.02.2019



DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/25/1240

Annies Baskets Limited, Henfield Road, Albourne, Hassocks, West Sussex, BN6 9JJ

DESCRIPTION:

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

RELEVANT PLANNING HISTORY:

DC/20/1435	Prior notification for the erection of a building for horticultural storage.	Prior Approval Not Required on 25.08.2020
DC/18/2357	Removal of condition 3 of planning application DC/06/0522 and condition 4 of planning application DC/06/0520 relating to the demolition of the greenhouse and barn should they ceased to be used for agricultural purposes	Application Permitted on 01.02.2019

SITE AND SURROUNDINGS:

The application site comprises an agricultural barn associated with Annie's Baskets nursery, previously permitted under DC/06/0520. The wider nursery ceased operations in August 2024 following voluntary liquidation. Access is via an established track off Henfield Road. The barn is of timber frame construction with weatherboarding and a tiled roof. The surrounding land remains in former nursery use.

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 conversion of the barn to a single 2-bedroom dwellinghouse. The conversion involves infilling the open entrance and installing windows and doors. No structural rebuilding is required. The proposed dwelling would have a Gross Internal Area of 83.8 sqm. Parking for two vehicles and cycle storage would be provided.

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: No Objection

The proposed dwelling is located very close to existing agricultural or commercial buildings, which may be subject to increased future activity. This could lead to noise and disturbance, potentially affecting the amenity of future residents. The applicant must provide further evidence that nearby uses will not negatively impact the dwelling.

Additionally, due to the nature of commercial/agricultural sites, there may be contamination risks from past or present use, including hazardous materials in the ground or stored on-site. A preliminary risk assessment, including a site walkover, is required to confirm the site's safety and suitability for residential development.

Lastly, the applicant must also supply information on measures to address water neutrality.

WSCC Highways: Comment

Changing the use from agricultural to residential (Class C3) is permitted development under the GPDO, subject to prior approval. The GPDO limits highway considerations to whether the proposal would cause a material increase or change in the character of traffic.

The site is accessed from Henfield Road (a B-road with national speed limits). Typically, residential use would generate fewer and more predictable vehicle movements than agricultural use, which can be more varied throughout the day. The proposal provides two car parking spaces and secure, covered cycle storage, meeting local requirements.

There are no known highway safety concerns with the current agricultural use, and residential use is considered less intensive. West Sussex County Council, as the Local Highway Authority, finds the proposal acceptable in highway terms, as the GPDO restricts the scope of transport impacts that can be considered.

Southern Water: Comment

Parish Comments:

No Objection - Woodmancote Parish Council supported the application. However, if Horsham District Council is minded to approve it, Members request a condition requiring that exterior lighting, including floodlights, be downward-facing and fitted with sensors to help reduce light pollution.

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 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 barn subject of the application was permitted under planning reference DC/06/0520. Condition 3 of this permission stated:

Regulatory Condition: *The buildings hereby permitted shall be used for agricultural purposes only, as defined in Section 336(1) of the Town and Country Planning Act 1990.*

Reason: The site lies in an area where, in accordance with CS1 of the Horsham District Local Plan 1997, 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. The use of the word “only” is unequivocal and must be given its ordinary and natural meaning, which is synonymous with “for no other purpose”. On a plain reading, the condition positively restricts the building to agricultural use and excludes all other uses.

Although planning permission DC/18/2357 subsequently removed the requirement to demolish the barn on cessation of agricultural use, the restriction that the building must be used for agricultural purposes only was expressly reimposed. This demonstrates the Council's clear and continued intention that the building should remain confined to agricultural use and that alternative uses should not occur without express planning consent.

The applicant argues that certain legal cases (like *Trump International Golf Club Scotland Ltd v Scottish Ministers* [2016] and *Dunnett Investments Ltd v SSCLG* [2017]) mean that permitted development (PD) rights can only be removed if very specific wording is used such as “for no other purpose whatsoever” or “without the express consent of the LPA.” However, these cases don't require exact phrases or “magic words”. Instead, they say that planning conditions should be interpreted in a sensible and practical way, based on their context.

In this case, if Condition 3 is not seen as excluding Class Q rights, then its purpose becomes meaningless. The building would be restricted to agricultural use under the permission but could still be converted to residential use (Class C3) without needing further approval, undermining the condition's intent. Following the approach in the *Trump International* case, the Council should interpret the condition in a way that gives it proper effect limiting the use to agriculture only.

Condition 3 clearly states that the building can only be used for a specific purpose. This effectively removes any PD rights for other uses. According to Article 3(4) of the GPDO, PD rights cannot override an existing planning condition.

Therefore, the proposal conflicts with Condition 3 of permission DC/06/0520 (as confirmed in DC/18/2357) and cannot proceed under Class Q.

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 agricultural unit, the site was not part of the established agricultural unit—**
 - (i) on 24th July 2023, or**
 - (ii) where the site became part of the 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 application building is a timber-framed barn erected pursuant to permission DC/06/0520 for nursery use. Evidence from the applicant confirms it remained in agricultural/nursery use until August 2024, when the wider Annie's Baskets enterprise ceased trading, albeit that the barn is still being used to store stock from the business. No information is held to suggest any non-agricultural use. The proposal therefore complies with Q.1(a).

- (b) in the case of a site that was (but is no longer) part of an established 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,**

N/A

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

The proposal would result in a floor area of 84sqm and would comply with (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,**

No other dwellings have been permitted under Class Q within this agricultural unit, and is considered to comply with (d).

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

There is no evidence before the LPA that the land is, or was, subject to an agricultural tenancy. The proposal therefore meets Q.1(e)–(f).

- (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,

There is no evidence before the LPA that the land is, or was, subject to an agricultural tenancy. The proposal therefore meets Q.1(e)–(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,**

Recent prior notification on the site under reference DC/20/1435 for a horticultural storage building. It does not appear that the development permitted under reference DC/20/1435 was completed. No other development under Part 6 has been carried out since 2013 that would restrict Class Q.

- (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 submitted floor and elevation plans confirm that the conversion would not extend beyond the existing building's footprint or envelope. Only insertion of doors, windows and infilling of the open frontage are proposed. The scheme complies with Q.1(h).

- (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,

N/A

- (j) the development under Class Q(c) 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(j)(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 proposed works, which involve the insertion of windows and doors, are considered acceptable. Therefore, the proposal complies with the limitations of paragraph Q.1(j).

- (k) the site is on article 2(3) land,

The site is not within 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 does not form part of any of these areas.

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

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 2015⁶⁴ as read with the notes dated 19th May 2016 which apply to it, or**

The proposal would accord with the nationally described space standard for a 2 bed, 4 person dwelling. The proposal therefore accords with (o).

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

The building benefits from suitable access to the public highway and accords with (p).

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 site is accessed via an existing track from Henfield Road. WSCC Highways raise no objection, noting that residential use would generate fewer and more predictable vehicle movements than the former nursery use. Two car parking spaces and cycle storage are provided. The scheme is acceptable under Q.2(1)(a).

- (b) noise impacts of the development,**

Paragraph 187 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 198 of the NPPF continues 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, among other things, mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Given the nature of the proposed development, which would result in a less intensive level of activity than the previous use, it is not considered that the proposed development would result in adverse noise impacts. The proposal would therefore accord with Q.2(1)(b).

- (c) contamination risks on the site,**

Paragraph 187 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 196 of the NPPF continues 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. This includes any proposals for mitigation including land remediation, as well as potential impacts on the natural environment arising from that remediation.

Given the historic nursery use, there is a potential risk of contamination from horticultural chemicals or asbestos. Environmental Health recommend a pre-commencement condition requiring a preliminary risk assessment and further investigation/remediation if necessary. Subject to condition, the scheme complies with Q.2(1)(c).

(d) flooding risks on the site,

The site lies within Flood Zone 1 (low risk). No surface water flood risk has been identified. The development is therefore acceptable under Q.2(1)(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

The building has safe vehicular access and would be positioned at a distance from the nearest residential properties.

However, the subject barn is located to the south-west of a cluster of agricultural buildings. It is noted that an existing residential dwelling, subject to an agricultural tie condition, is located to the south of these agricultural buildings. While the agricultural operations have currently ceased on the site, there would be no barriers or restrictions in place for agricultural activities to start again, with no limitations to the intensity of the associated activity. Any future occupiers would have no control over the agricultural activities taking place, where such activities could result in noise and disturbance that would adversely impact the amenities of the residential occupiers.

For this reason, the proposed development would fail against Q.2(1)(e).

(f) the design or external appearance of the building,

The conversion would involve minimal external change, retaining the agricultural form while inserting domestic openings. The design is considered to retain the overall agricultural and rural character and of the building, and would be acceptable in this rural context. The development is therefore considered to accord with Q.2(1)(f).

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

It is considered that each habitable room would benefit from sufficient natural light, in accordance with Q.2(1)(h).

and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

For the purposes of Class Q, "curtilage" means the lesser of –

- (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be), closely associated with and serving the purposes of that building, and
- (b) an area of land immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be) no larger than the land area occupied by that building.

The red line as shown on the submitted Location Plan is considered to represent the curtilage of the development. This area would be larger in area than the land occupied by the building. The proposal would therefore fail to comply with the defined area of curtilage permitted under 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	84	84	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: Application Refused

Reason(s) for Refusal:

1. The building is subject of condition 3 of planning permission reference DC/06/0520 and later reaffirmed in planning permission reference DC/18/2357, which restricts the use of the building to agricultural purposes only. The proposed development would be contrary to the condition imposed by the planning permission granted, and 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.
2. Given the location and siting of the building, there is the potential for the future occupiers of the dwelling to be adversely impacted by any agricultural activities being undertaken on the wider site by reason of noise and general disturbance associated with these activities. As such it is considered that the location and siting of the building makes it undesirable to change to residential use, contrary to the requirement of Q.2 (1)(e) of Class Q of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
3. The proposed curtilage would exceed the area permitted under Q.3(1) 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/25/1240

(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
Location plan	Location Plan	DRAWING 1	25.07.2025
Block plan	Block Plan	DRAWING 2	25.07.2025
Site plan	Proposed Site Plan	DRAWING 3	25.07.2025
Elevation & Floor plan	Existing	4	25.07.2025
Elevation & Floor plan	Proposed	4	25.07.2025
Supporting Statement	Planning Statement	NONE	25.07.2025

DELEGATED

Case Officer sign/initial Shazia Penne Date: 22.09.2025

Authorising Officer sign/initial Tamara Dale Date: 23.09.2025



Appeal Decision

Site visit made on 10 December 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th January 2026

Appeal Ref: APP/Z3825/W/25/3374401

Annies Baskets, Henfield Road, Albourne, Hassocks BN6 9JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr and Mrs P Smith against the decision of Horsham District Council.
 - The application Ref is DC/25/1240.
 - The development proposed is described as “prior notification for change of use of an agricultural building to 1no. dwellinghouse (C3 Use Class)”.
-

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for change of use of an agricultural building to 1no. dwellinghouse (C3 Use Class) at Annies Baskets, Henfield Road, Albourne, Hassocks BN6 9JJ in accordance with the application DC/25/1240 and the details submitted with it, including Drawing Nos 3 (Proposed Site Plan) and 4 (Elevations and Floor Plan), and subject to the conditions set out in the Schedule to this decision.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO, planning permission is granted for development consisting of a change of use of a building that is part of an established agricultural unit and any land within that building’s curtilage to a use falling within Class C3 (dwellinghouses) together with building operations reasonably necessary to convert or extend the building. Limitations to the development permitted under Class Q are set out in GPDO paragraph Q1.
3. As the appellant did not complete an application form, I have taken the address from the appellant’s planning appeal form. I have omitted surplus information from the description of development, as follows: “Change of use of an agricultural building to 1no. dwellinghouse (C3 Use Class)”.

Main Issues

4. The Council refused prior approval on the basis that the development would be contrary to a condition attached to permissions DC/06/0520 and DC/18/2357 which restricted the use of the building to agricultural purposes only. It considered that as a result the proposal did not constitute permitted development.
5. The Council further considered that the building’s location and siting made it undesirable to be used as a dwelling because of the potential for future occupiers

to be adversely impacted by noise and disturbance associated with agricultural activities; and that the building's curtilage was larger than the building itself and thus exceeded the limitation imposed by the GPDO.

6. Consequently, the main issue in this appeal is whether the proposal constitutes permitted development; and, if it does, whether it would be granted planning permission by Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO, with particular reference to the limitations at paragraphs Q2(1)(e) and Q3(1).

Reasons

Whether the proposal constitutes permitted development

7. The GPDO grants planning permission for various classes of development, subject to the limitation at paragraph 3(4) that "Nothing in this Order permits development contrary to any condition imposed by a planning permission granted or deemed to be granted under Part 3 or Part 13 of the Act otherwise than by this Order". Local planning authorities have the ability, when granting planning permission, to remove "permitted development" rights for specific categories of development such that, notwithstanding the GPDO's provisions, planning permission must be obtained from the local planning authority.
8. Subsequent case law has confirmed the right of local planning authorities to impose conditions to exclude the operation of the GPDO, provided the wording of such conditions is clear and unequivocal¹. In broad terms, conditions should indicate which use(s) are acceptable, explicitly exclude other uses, and confirm that express consent must be obtained from the local planning authority to change the use. The interpretation of such conditions is an objective exercise which must have regard to the natural and ordinary meaning of the relevant words, the overall purpose of the consent, and common sense².
9. The condition attached to permissions DC/06/0520 and DC/18/2357 stated: "The buildings hereby permitted shall be used for agricultural purposes only, as defined in Section 336(1) of the Town and Country Planning Act 1990". It clearly defined the use to which the building could be put and explicitly limited the use to only this. However, the condition did not explain that express consent needed to be obtained from the local planning authority for uses other than agriculture. As the original permission was granted in 2006, eight years before Class Q permitted development rights were introduced, the condition could not have removed such rights.
10. The Council has argued that by reimposing the condition in 2019, when permission was granted to remove a different condition from the original permission, the condition encompassed the removal of Class Q permitted development rights, which were by then in existence. However, the Council did not amend the condition to refer to Class Q rights or to confirm that express consent was required for a change of use to a dwelling. The condition remained as it had been worded prior to Class Q rights coming into existence.
11. Since it did not refer to the GPDO or state that express consent must be obtained from the local planning authority to change the use, the wording of the condition

¹ Dunoon Developments v Poole BC [1992] JPL 936, Royal London Mutual Insurance Society Ltd v SSCLG [2013] EWHC 3597, Dunnett Investments Ltd v SSCLG [2017] EWCA Civ 192.

² Trump International Golf Club Scotland Limited v Scottish Ministers [2015] UKSC 74; [2016] 1 WLR 85.

was not clear and unequivocal, and would not therefore prevent the use of Class Q permitted development rights.

12. Consequently, the proposal is not precluded by paragraph 3(4) of the GPDO. I therefore find that the proposal constitutes permitted development.

Noise and disturbance

13. The building is sited next to a number of buildings and glasshouses which were used until recently for horticultural purposes. It is located adjacent to the site's main access and the yard serving the buildings. Next to the yard and buildings is an existing dwelling.
14. Whilst currently not in use, the yard and buildings could be used for horticultural or agricultural purposes in the future, which would involve activity and therefore a degree of noise and disturbance. Whilst there is already a house next to the yard and buildings, it is occupied by the former operators of the horticultural business, who would have had the ability to control the activities of the business to ensure appropriate living conditions.
15. However, there is nothing to indicate that the site would generate noise beyond that which would typically be associated with an agricultural or horticultural use, and no evidence has been presented to indicate a potential level of disturbance that would be harmful to future living conditions. Moreover, the existence of Class Q permitted development rights indicates that there is a degree of compatibility between residential and agricultural/horticultural uses.
16. I have noted the appeal decision at Moor Farm³ in which an Inspector concluded that, although future occupiers could potentially be affected by farming activities, it would not render the siting and location of the proposal impractical and undesirable for the purposes of Class Q. Whilst the circumstances in that case differed in some respects, I have afforded it moderate weight.
17. I conclude that noise and disturbance associated with agricultural activities would not adversely impact on the living conditions of future occupiers, and consequently the location and siting of the building do not make it undesirable for it to change from agricultural use to a dwellinghouse. The proposal accords with paragraph Q2(1)(e) of the GPDO.

Size of the curtilage

18. Class Q rights apply to a building that is part of an established agricultural unit and any land within that building's curtilage. The GPDO defines the curtilage as an area of land immediately beside or around the building no larger than the land area occupied by that building.
19. The appellant's plans included a red line, showing an area of curtilage the same size as the building. The red line also included the entrance to the site, which the appellant advised they were required to do in order to demonstrate access to the public highway. Because the access is shared with the horticultural business and the existing dwelling, I consider that it is not within the building's curtilage. In this respect, I have had regard to the appeal at Robinsons Farm⁴, where an Inspector

³ PINS reference APP/J1860/W/24/3344968

⁴ PINS reference APP/U2370/W/24/3342103

concluded that the site access did not form part of a building's curtilage for the purposes of Class Q.

20. On the basis that the appellant's plans identified a curtilage around the building no larger than the building itself, the limitation imposed by the GPDO is not exceeded. Consequently, the proposal accords with paragraph Q3(1) of the GPDO.

Conclusion and conditions

21. Paragraph Q.2(4) of the GPDO requires that development must be completed within a period of three years from the date of this decision.
22. Paragraph W(12)(b) of the GPDO requires that the development must be carried out in accordance with the details provided in the application.
23. I have attached a condition to deal with potential contamination. In view of the fact that the building is modern and I have not been advised that contaminants have been used within it, the condition requires that appropriate action be taken in the event that contaminants are found.
24. To prevent light pollution in the countryside, I have attached a condition requiring details of external lighting to be submitted for approval.
25. For the reasons given above, I conclude that the appeal scheme falls within Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO, and the appeal should be allowed.

J Heppell

INSPECTOR

Schedule of Conditions

- 1) In the event that contaminants are found during construction, work shall cease and the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to, and approved in writing by, the local planning authority:
 - a) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.The following aspects (b) - (d) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.
 - b) An intrusive site investigation scheme based on (a), to provide information for a detailed risk assessment of the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site and, unless otherwise agreed in writing by the local planning authority,
 - c) Full details of the remediation measures required and how they are to be undertaken based on the results of the intrusive site investigation (b) and an options appraisal.
 - d) A verification plan providing details of the data that will be completed in order to demonstrate that the works set out in (c) are complete, and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required.The scheme shall be implemented as approved, any changes to the components must be agreed with the local planning authority.
- 2) Prior to occupation, details of external lighting shall be submitted to and approved by the local planning authority. No external lighting other than that which has been approved shall be installed.

End of schedule