



DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/26/0122
Windacres Farm, Church Street, Rudgwick, West Sussex, RH12 3EG

DESCRIPTION:

Removal of Condition 2 of previously approved application DC/20/0549 (Retrospective application for the retention of a lean-to agricultural storage building) which restricts use of building to agricultural purposes only.

RELEVANT PLANNING HISTORY:

DC/17/2605	Proposed siting of a container as temporary residential accommodation for a 36 month period	Application Refused on 16.08.2028
DC/18/0256	Prior notification for the creation of a new agricultural access track and re-surfacing of existing track.	Prior Approval Not Required on 02.03.2018
DC/20/0550	Retrospective application for the retention of an agricultural storage building	Application Permitted on 13.05.2020
DC/20/0549	Retrospective application for the retention of a lean-to agricultural storage building	Application Permitted on 13.05.2020
DC/20/0596	Prior Notification for the erection of a tractor shed	Prior Approval Required and PERMITTED on 19.05.2020
DC/20/1071	Prior notification for the erection of an agricultural tractors and implements shed with hardstanding	Prior Approval Required and PERMITTED on 08.07.2020
DC/20/1458	Change of use from an agricultural building into a residential dwelling (C3 use) with agricultural occupancy condition.	Application Refused on 09.10.2020
DC/20/1524	Relocation of stationing container as temporary residential accommodation for 12 months (see application DC/20/1458)	Decline to Determine on 28.08.2020
DC/21/0185	Erection of a detached two storey rural workers dwelling.	Application Refused on 14.05.2021
DC/21/1200	Temporary stationing of residential cabin.	Application Refused on 08.09.2021
DC/25/0093	Prior Notification for Change of Use of Agricultural Building to a single dwellinghouse.	Prior Approval Required and REFUSED on 17.03.2025

DESCRIPTION OF THE SITE

Windacres Farm comprises a total of 33ha of land, and is located to the northeast of Rudgwick village, outside the Built-up Area Boundary. The application site is located approximately 400m to the east of Church Street and the Rudgwick Conservation Area, and approximately 100m to the east of a new

housing development of 55 units which is contained within the defined Built-up Area Boundary of Rudgwick. The commercial premises of Rudgwick Metals is located approximately 170m to the west of the application site.

The application site is located to the south of an existing access track which connects Rudgwick Metals and the Berkeley Homes site to the agricultural fields to the east. The wider site comprises undulating open fields which slope gently in a southerly direction.

Background

The site has extensive planning history, as confirmed within the above section. The subject building, a lean-to structure, was granted retrospective consent under the application reference DC/20/0549. This lean-to structure is connected to an adjoining agricultural storage building, (approved under application DC/20/0550). The lean-to measures 31.1m x 13m (404.3m²) and comprises 5 bays each measuring 6.02m x 13m (78.2m²). The lean-to has an eaves height of 3.7m and a ridge height of 6.2m. The building is of typical design and construction for its proposed agricultural location and use, comprising a sloping roof, steel framing, concrete internal flooring, and clad in olive green corrugated steel sheeting. The 2 enclosed bays of the lean-to are used as a workshop area and farm office, and the 3 open bays are used for the storage of grain and corn handling equipment as well as hay/straw associated with the agricultural activities on owned land at Windacres Farm and rented land elsewhere.

DESCRIPTION OF THE APPLICATION

This application seeks the removal of Condition 2 of the approved application, reference DC/20/0549, which states:

‘Regulatory Condition: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), the premises hereby permitted shall be used for agricultural purposes only, as defined in Section 336(1) of the Town and Country Planning Act 1990 and for no other purposes whatsoever without express planning consent from the Local Planning Authority first being obtained.

Reason: The site lies in an area where, in accordance with Policy 26 of the Horsham District Planning Framework (2015) development which cannot be justified as essential to the needs of agriculture or forestry would not normally be permitted’.

The submitted documentation details that the applicant wishes to change the use of this building from agriculture to an alternative use, however, no further details of uses are alluded to within the submitted Planning Statement or application form.

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 4 - Strategic Policy: Settlement Expansion

Policy 10 - Rural Economic Development

Policy 24 - Strategic Policy: Environmental Protection

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

Policy 26 - Strategic Policy: Countryside Protection

Policy 31 - Green Infrastructure and Biodiversity

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Policy 35 - Strategic Policy: Climate Change

Policy 40 - Sustainable Transport
Policy 41 - Parking

Rudgwick Neighbourhood Development Plan RNP1 – Spatial Strategy

Paragraph 33 of the NPPF requires that all development plans complete their reviews no later than 5 years from their adoption. Horsham District Council is currently in the process of reviewing its development plan however at this stage the emerging policies carry only limited weight in decision making. As the HDPF is now over 5 years old, the most important policies for the determination of this application must be considered as to whether they are 'out of date' (NPPF paragraph 11d). This includes, for applications involving the provision of housing, whether the Council can demonstrate a five year supply of deliverable housing sites (NPPF footnote 8).

The Council is currently unable to demonstrate a five year supply of deliverable housing sites, with the supply currently calculated as being 1 year. The presumption in favour of development within Paragraph 11d) of the NPPF therefore applies in the consideration of all applications for housing development within the District (unless footnote 7 or Paragraph 14 applies to relevant applications), with Policies 2, 4, 15 and 26 now carrying only moderate weight in decision making.

All other policies within the HDPF as itemised above have been assessed against the NPPF and are considered to be consistent such that they continue to attract significant weight in decision making.

Horsham District Local Plan (2023-40) (Regulation 19):

Strategic Policy 1: Sustainable Development
Strategic Policy 2: Development Hierarchy
Strategic Policy 3: Settlement Expansion
Strategic Policy 6: Climate Change
Strategic Policy 7: Appropriate Energy Use
Strategic Policy 8: Sustainable Design and Construction
Strategic Policy 9: Water Neutrality
Strategic Policy 10: Flooding
Strategic Policy 11: Environmental Protection
Strategic Policy 13: The Natural Environment and Landscape Character
Strategic Policy 14: Countryside Protection
Strategic Policy 17: Green Infrastructure and Biodiversity
Strategic Policy 19: Development Quality
Strategic Policy 20: Development Principles
Strategic Policy 23: Infrastructure Provision
Strategic Policy 24: Sustainable Transport
Policy 25: Parking
Policy 31: Rural Economic Development
Policy 32: Conversion of Agricultural and Rural Buildings to Commercial, Community and Residential Uses

Supplementary Planning Guidance:

Planning Obligations and Affordable Housing SPD (2017)
Community Infrastructure Levy (CIL) Charging Schedule (2017)

Rudgwick Parish Design Statement

Planning Advice Notes:

Shaping Development in Horsham District
Biodiversity and Green Infrastructure

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 Team: Comment

There is no indication of the uses sought by the applicant, with the Planning Statement only making reference to an alternative use. The site is accessed via recent residential development and therefore the activity at the site has the potential to impact this new residential estate. Simple removal of the condition may prejudice the amenity of neighbouring residents. Further information on the uses the applicant is seeking should be provided.

OUTSIDE AGENCIES

WSCC Highways: Comment

The LHA understand that a change of use prior approval application would still require submission to HDC and in which the LHA would be consulted as statutory consultee on any potential highways' safety and capacity impact. The LHA raised no objection to application DC/26/0093, but the application and subsequent appeal was refused. Nevertheless, if the applicant wishes to change use it is understood such an application would still be required to be submitted and on this basis no objection to the removal of condition from highway point of view is raised.

PUBLIC CONSULTATIONS:

Representations:

7 letters of Objection have been received from 7 addresses, objecting to the application on the following grounds:

- Potential uses of the building may compromise the natural beauty and wildlife of the area
- Changes of use may give rise to light pollution and have an impact on nearby residential properties
- Concerns raised regarding future impacts on non-agricultural uses
- DC/20/0549 was approved under the strict condition that the building remains in an agricultural use
- Any proposed use should be declared and subject to a full planning application, an unrestricted use undermines policies
- Highway safety will be compromised as a result of developing the site
- The condition was imposed to protect the rural character of the area and to supporting agricultural activities
- No evidence supported to demonstrate the building is genuinely redundant for agricultural purposes
- Granting consent would allow the circumvention of the planning process, not allowing necessary environmental, traffic or amenity assessments

2 letters of Support have been received from 2 addresses, supporting the application on the following grounds:

- Those raising objections cannot reasonably see the site from their properties
- Applicant should be afforded consent of this application
- Granting consent would allow diversification of the farm, in line with Permitted Development Rights.

Parish Comments:

Rudgwick Parish Council: Objection

If the condition is not retained it could lead to a change of use via permitted development. In the event or desire to change the usage, RPC would wish to see a full planning application coming forward which would then be able to receive proper scrutiny by both RPC and HDC.

Member Comments:

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

Policy 26 of the HDPF, Countryside Protection, states that outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. Any proposal must be essential to its countryside location, and in addition meet one of the following criteria:

1. Support the needs of agriculture or forestry;
2. Enable the extraction of minerals or the disposal of waste;
3. Provide for quiet informal recreational use; or
4. Enable the sustainable development of rural areas.

In addition, proposals must be of a scale appropriate to its countryside character and location. Development will be considered acceptable where it does not lead, either individually or cumulatively, to a significant increase in the overall level of activity in the countryside, and protects, and/or conserves, and/or enhances, the key features and characteristics of the landscape character area in which it is located.

This application seeks the removal of Regulatory Condition 2 of the approved consent (DC/20/0549) which restricts the use of the building for agricultural purposes only. The submitted documentation details that the applicant wishes to change the use of this building from agriculture to an alternative use, however, no further details of uses are alluded to within the submitted Planning Statement or application form.

As part of the application process, discussions between the Council and the applicant were undertaken, relating to potential agreeable uses of the application building. No agreeable conclusion was reached as part of this process, and so the application has proceeded on the grounds that proposed development would result in a nil use.

Within the submitted Planning Statement, the applicant refers to the 'Conclusion' section of the Officer's Delegated Report for application reference DC/26/0093. This previous application sought a prior notification for the change of use of the subject building to a single dwellinghouse (Class Q). In concluding the application, the following statement is made; *'The proposal has been considered in relation to all relevant conditions, limitations, and restrictions of Class Q in Part 3. As reasoned in detailed above, it is considered that the proposal would comply with all relevant limitations of Class Q, with no individual considerations that would warrant the refusal of prior approval, subject to the conditions listed below'*. It is clear from reviewing the report that this statement is an oversight, given

the remainder of the report is clear and suffice in that the development would not accord with the conditions set out under Class Q and therefore would not be permitted under Class Q of Part 3 within Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Whilst the applicant makes reference to another building on the site not being restricted by such a regulatory condition, reference DC/20/1071, it is noted that this building was permitted under a Prior Approval route. In line with condition A.2 (5) of Class A, Part 6, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, agricultural buildings permitted under this Prior Approval Route are constrained in such that if the agricultural use of the building stops within 10 years and no alternative use is secured by means of planning permission, the developer is required to remove the building (or extension) and restore the land to its original condition. With this in mind, no such regulatory condition is required in these instances.

The applicant states that this condition is no longer necessary, referring to paragraph 54 of the National Planning Policy (NPPF), which states that *'conditions should not be used to restrict national permitted development rights unless there is clear justification to do so'*. Furthering this, the applicant refers to Paragraph 17 of the Use of Planning Conditions Guidance, of the Planning Practice Guidance, which states *'conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity'*. No justification or reasoning is provided with regard to why, from the applicant's perspective, the condition is no longer necessary or reasonable.

In considering this application, it is necessary to assess whether the removal of the condition meets the statutory and policy tests for planning conditions, as set out within the NPPF and PPG; namely whether the condition remains necessary, reasonable and relevant to planning.

In this instance, the condition restricts the use of the building to agriculture, ensuring that it aligns with Policy 26 of the HDPF, which seeks to protect the rural character and undeveloped nature of the countryside. The building was originally justified and permitted based on an agricultural need and without this need, there is no reasonable requirement for the building in this location.

The removal of the condition, with no further defined alternative use, would result in a building with a 'nil' use, without a planning purpose. As part of the original consent for this lean-to structure, it was demonstrated that the building was reasonably required to serve the agricultural activities of the associated holding, and that its size was justified by the associated need. The structure's use, in providing storage for the workshop and farm office area, as well as machinery and hay/straw storage, was found acceptable, due to the other suitable buildings being demolished as part of the new housing estate to the west. Given that there is no evidence before the council that suggests this arrangement is no longer the case nor that this need has now ceased, it is concluded that this condition still serves a planning purpose. Furthermore, in permitting this application, it would introduce the potential for the building to be used for purposes that would conflict with Policy 26, in that development in the countryside must be essential to its location and appropriately controlled in terms of its impacts.

While the applicant has referred to the condition restricting permitted development rights, it is considered that there is a clear justification in retaining the condition. It is therefore considered that the imposed condition continues to serve a necessary and reasonable planning purpose, and its removal would be contrary to the objectives of Policy 26 of the HDPF.

Water Neutrality:

Given no details of a proposed use have been supplied, it has been determined that the development will not result in any increase in mains water demand at this stage and therefore will not lead to adverse effects on the integrity of the Arun Valley SAC, SPA or Ramsar sites, either alone or in combination. The proposal can therefore be screened out at the HRA Stage 1 Screening and does not require progression to Appropriate Assessment. On this basis, the development is considered acceptable in ecological terms and compliant with Policy 31 of the HDPF and paragraph 193 of the NPPF.

Other Matters:

Biodiversity Net Gain (BNG):

Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) mandates that every development must achieve at least a 10% Biodiversity Net Gain (BNG) (unless the development qualifies as exempt under the Biodiversity Gain Requirements (Exemptions) Regulations 2024) and that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the condition that development must not be begun unless a Biodiversity Gain Plan has been submitted to the planning authority and the planning authority has approved the Plan.

The Biodiversity Gain Plan must show how the development will achieve the required minimum 10% BNG using the statutory biodiversity metric tool and must demonstrate how the habitats will be managed and maintained for 30 years, starting from the date the development is completed. Off-site gains (on unregistered sites) and significant on-site enhancements will be secured over this period by way of a Legal Agreement.

The Applicant has demonstrated that the development is exempt from the requirement to achieve a minimum 10% BNG by reason of:

- The original planning permission to which this section 73 planning application relates was made or granted before 12th February 2024 (in respect of major development), or before 2nd April 2024 (in respect of non-major development) under Regulation 3 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024

Conclusions:

The agricultural use condition continues to serve a clear and necessary planning purpose, and its removal would allow unjustified development in the countryside without a defined or policy compliant use. As such, the proposal is considered contrary to Policy 26 of the Horsham District Planning Framework (2015) and the application is recommended for refusal.

Recommendation: Application Refused

Reason(s) for Refusal:

- 1 Condition 2 of planning permission reference DC/20/0549 continues to serve a necessary planning purpose, where its removal would allow uncontrolled and unjustified activities within the countryside, which have the potential to lead to non-essential development and an unacceptable increase in the level of activity within the countryside. The removal of the condition would therefore be contrary to Policy 26 of the Horsham District Planning Framework (2015).

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/26/0122

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

Schedule of plans/documents **not approved:**

