Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/24/1711
Oakridge House, The Street, Thakeham, Pulborough, West Sussex, RH20 3EP

DESCRIPTION:

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

RELEVANT PLANNING HISTORY:

DC/19/1928	Erection of an agricultural building for the storage of hay and machinery	Application Permitted on 12.12.2019

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. dwelling.

RELEVANT PLANNING POLICIES

National Planning Policy Framework

Town and Country Planning (General Permitted Development) (England) Order 2015 – Schedule 2, Part 3, Class Q

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:
Environmental Health: Comment: -

The application details the conversion of a barn constructed in 2020 that has been used for the storage of hay and machinery. Although the recent construction and short life span of the barn would lower the risk of contamination, there is still potential for contamination of the proposed dwelling arising from the storage of machinery, fuels oils and other chemicals. To demonstrate the site is suitable for residential sue it is recommended that a Preliminary Environmental Risk Assessment is provided which includes a site walkover.

The application details that rainwater is to be used to supply water for sanitary purposes and therefore full details of the rainwater harvesting system and treatment required to ensure the water supply is safe and sufficient should be provided. However, this matter cannot be made subject to condition for an application for prior approval.

It is noted that the proposed dwelling will require a waste water treatment system and it is important this is located away from the tanks and infrastructure associated with rainwater harvesting system.

WSCC Highways: 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. In principle, the current GPDO gives limited ability to consider wider highway and transport impacts beyond those set out. The prior approval is therefore considered acceptable in highway terms.

Southern Water: No objection.

Parish Comments: Objection: -

The Class Q required that it was from a farm. The land and property were not agricultural farmland – but an equine facility where hay was stored in the barn.

There was no haymaking undertaken on the property – just storage to feed the occupants horses.
As a facility for equine uses, the land and property was not used to farm animals.

The Parish ask HDC to investigate the usage to confirm whether previous equine usage constitutes agricultural usage. Also, if established, then the loss of equine facilities would be against applicable policies with the HDC Local Plan.

Furthermore, the development is outside of the built up area and not compatible with policy 9 of the Thakeham Neighbourhood Plan.

The Parish also objects on the grounds of Water Neutrality. A new property is being created and as the Barn was used to store Hay, there would have been little or no water usage to derive accurate water statistics from. As this will be a new enlarged dwelling and the existing property will still be in place – TPC believes that there is insufficient water supply to offset the needs of the new multi bedroomed property.

Representations:
One (1) comment has been received from one (1) address objecting the application on the following grounds:

- The site not used for agricultural purposes
- The barn was built in 2020 and there is no explanation about where hay and equipment will be stored
- Visible from neighbouring property
- Sporadic development in the countryside
- Impact on public footpath
- Impact on Conservation Area
- Adjacent Article 4 Direction
- Accuracy of water neutrality figures
- Visibility concerns at access

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.

The barn subject of the application was permitted under planning reference DC/19/1928. Condition 4 of this permission stated:

Regulatory Condition*: The building 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 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.

Article 3 (4) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended states that *"Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order"*.

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 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,

The Planning Statement outlines that the barn is connected to agricultural land to the south of Oakridge House, where the land has been used for hay making. An objection has been received which states that the land is not associated with a farm, albeit that it recognises that the site is used for the grazing of horses. The Council hold no evidence to suggest that the building and site has not been used for agricultural purposes as part of an established agricultural unit on the relevant date. As such, it is considered that the proposal complies with Q.1(a).

(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 outlines that the barn is connected to agricultural land located to the south of Oakridge House, where the land has been used for haymaking.

(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,

The proposed dwelling would measure to a floor space of 157.56sqm. This would exceed that permitted under Q1(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 cumulative floor space of the dwellinghouses would be 157.56 sqm, which would not exceed the 1,000 sqm allowed under Class Q. The proposal would therefore be in accordance with 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 result in the unit being extended by approximately 4m to the rear, in line with the parameters set out within Paragraph Q.1.

(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 planning permission referenced DC/19/1928 granted an area of hard surfacing to the south of the building only, with the red line of the development site extending along the northern perimeter of the building.

Aerial photography provided through Google Earth indicates that the subject building and associated hard surfacing was constructed sometime between April 2021 and March 2022. These photographs show that hard surfacing has been provided to the north of the building, outside of the development site as defined by the red line under planning permission reference DC/19/1928. The evidence available suggests that the building operations to construct the subject building and associated hard surfacing was carried out sometime between April 2021 and March 2022. The hard surfacing to the north of the subject building, outside of the area permitted under the relevant planning permission has therefore been in situ

for a period of, at most, 3 years. This hard surfacing is not therefore outside of the period for enforcement action and is not therefore considered to be lawful by virtue of time.

Notwithstanding that the hard surfacing to the north of the building has been present since the relevant date of 24 July 2023, this hard surfacing is not considered lawful nor outside of enforcement action. This hard surfacing has not been provided on the land by virtue of any development granted planning permission, where this hard surfacing would have required consent. It is not therefore considered that this could be relied upon for the purpose of Q.1(h).

(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 soundness of the structure was assessed. It is considered limited works would be needed to convert the building into residential use.

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

This 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 dwelling would measure to 157.56sqm which would meet the nationally described space standard for a 2-bed dwelling, including appropriate 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 Dukes Hill. The existing access is suitable to serve the proposed 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 the existing access from Dukes Hill, which has served the building since its completion. Following consultation with WSCC Highways, no objection to the proposal has been raised, where it is noted that the change of use from agricultural to residential would generate a reduction in movements to and from the site. Therefore, although the nature of movements would change, the frequency would likely not exceed that of the current use.

For these reasons, there is no reason to resist the proposal on the grounds of transport and highways impact.

(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 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 located at a distance from the nearest residential properties, where there is considered to be no adverse noise impacts resulting from the development. For this reason, there is no reason to resist the proposal on the grounds of noise impacts of the development.

(c) Contamination risks on the site

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.

No contamination reports have been submitted to support this application. The planning statement states that the barn was used for the storage of hay and agricultural equipment and therefore it is unlikely for contaminants to be present. While this information is required, it is considered that the additional information could be secured by way of condition which would be considered sufficient to render the development acceptable in relation to Q.2(1)(c).

(d) flooding risks on the site

The site is not located within a surface water flood risk zone.

(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 subject building is located in close proximity to residential dwellings, and approximately 250m from the built-up area of Thakeham. Given this context, the residential conversion is generally considered commensurate to surrounding uses and acceptable in this regard.

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

The proposed conversion would include the installation of doors and windows to all elevations. These openings would be of varying sizes and proportions and are considered to provide visual interest while maintaining the character and characteristics of the host building.

As such, there is no reason to resist the proposal on the grounds of the design or external appearance of the building.

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

Each habitable room will be served by a window to provide natural daylight and ventilation into the dwelling. The proposal is therefore considered to meet the requirements of (g).

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

The proposed curtilage is considered to comply with the relevant definition.

Other Matters

<u>Water Neutrality</u>

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 proposal has been considered in relation to all relevant conditions, limitations, and restrictions of Class Q in Part 3. As reasoned in detailed above, the proposed development is not considered to comply with Q.1 of Class Q of Part 3 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Recommendation: Application Refused

Reason(s) for Refusal:

1 The building is subject of condition 4 of planning permission ref: DC/19/1928, 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. 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 The proposal would result in a dwelling with a floor space in excess of 150sqm. The proposal would not therefore be permitted by Class Q, Q.1(c) of Part 3 within Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015, as amended.

3 It has not been demonstrated to the satisfaction of the Local Planning Authority that the building operation to provide hard surfacing to the north of the building, on which the extension is proposed, is lawful through any grant of planning permission nor the passage of time. It cannot therefore be concluded that the development would be permitted by Class Q, Q.1(h) of Part 3 within 3 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/24/1711
Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Elevation & Floor plan	Existing Site	2212 - HRA - V1 - 00 - DR - A - P000 - A	11.11.2024
Elevation plan	Site Plan & Elevations	2212 - HRA - V1 - 00 - DR - A - P001 - A	11.11.2024
Floor plan	Floor Plans & Section	2212 - HRA - V1 - 00 - DR - A - P002 - A	11.11.2024
Location & Block plan	Block and Location Plan	2212 - HRA - V1 - 00 - DR - A - P100	04.11.2024

DELEGATED

Case Officer sign/initial Tamara Dale Date: 30.12.2024

Authorising Officer sign/initial Guy Everest Date: 30.12.2024