

Brooklyn Farm Buildings



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DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/20/2600

Brooklyn Farm, Bonnetts Lane, Ifield, West Sussex, RH11 0NY

DESCRIPTION:

Prior approval for the change of use of existing out buildings into commercial units.

RELEVANT PLANNING HISTORY:

DC/15/1555	Proposed change of use from agricultural land to long term airport parking for a temporary 5 year period	Application 26.11.2015	Refused	on
DC/16/1240	Proposed change of use of the existing site for long term airport parking site for a temporary 5 year period	Application 26.07.2016	Refused	on

SITE AND SURROUNDINGS:

The application site is located to the east of Bonnetts Lane, outside any defined built-up area boundary. The site is therefore within a countryside location in policy terms. The site comprises several dilapidated buildings laid out within a 'U' shape which are oriented around a central courtyard.

From undertaking a site visit, it would appear that the northern and southern buildings appear to be used to store various items including a car, dumpster, building materials, machinery, tyres, and other paraphernalia. Scrap vehicles are located to the entrance of the southern building, along with other paraphernalia including car parts, plastic chair, and cement mixer.

The wider site to the east is laid to hardstanding with a number of scrap vehicles and other items placed on the land.

DETAILED DESCRIPTION:

This notification seeks prior approval under Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 to convert 3no. buildings to flexible commercial use. The subject buildings measure to a total floor area as follows:

- Northern Building – 70sqm approx.
- Southern Building – 48sqm approx..
- Western Building – 36sqm approx..

RELEVANT PLANNING POLICIES

National Planning Policy Framework

REPRESENTATIONS AND CONSULTATIONS RESPONSES

Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Consultations:

HDC Environmental Health: Should permission to be granted properties within the locality may be adversely affected by development and operation activity. In order to address these and other potentially adverse environmental impacts from the development, the applicant will need to exercise suitable controls.

The proposal will bring customers with vehicles to the site to load and unload items which is likely to increase noise due to vehicle movement, idling vehicles, car doors slamming and impact noise associated with loading and unloading directly adjacent to existing residential dwellings.

WSCC Highways: Access to site will presumably be utilised through the existing access arrangement onto Bonnets Lane to the south side of the site. This has not been included within the proposed plan. The application form states that the site current use is agricultural, however details regarding the proposed commercial use have not been provided. Details of this need to be provided, including the total proposed floor space area.

The applicant is requested to clarify the amount of vehicle trips generated by the site at present by the existing use and any additional trips generated by the proposal. This will enable the LHA to assess whether this application poses a material intensification.
An additional fire hydrant would also be required.

Southern Water: No Comment

Parish Comments:

None received

Representations:

One letter of objection was received, and this can be summarised as follows:

- Number of vehicle movements
- Safety of access
- Detract from the setting of nearby Listed Building

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

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 R of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Permitted development

R. *Development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Use Classes Order.*

Development not permitted

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

- (a) the building was not used solely for an agricultural use as part of an established agricultural unit—
- (i) on 3rd July 2012;
 - (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or

(iii) in the case of a building which was brought into use after 3rd July 2012, for a period of at least 10 years before the date development under Class R begins;

The application site has been subject of previous compliance investigations relating to the use of the buildings and wider site, and this provides some information regarding the previous uses of the building. In particular, the site is subject of an Enforcement Notice reference E0021 served on 29 January 1962 relating to the reconditioning, and/or storage, and/or repair, and/or parking of motor vehicles. The Enforcement Notice required the land to be returned to its agricultural use, and permitted only incidental storage, repair, reconditioning of vehicles (ie. works to vehicles that were linked to the agricultural undertaking). A later Compliance Investigation under reference E1226 was carried out following the consideration of planning application reference RS/49/99. At this time, the buildings were found to not be in use for agriculture, but were rather in unauthorised use for a car business. This investigation was however closed in September 2002 when it was confirmed that most of the vehicles and parts had been removed from the land, albeit that some sporadic parts remained.

Subsequent compliance investigations in 2013 (references EN/13/0136 and EN/13/0414) again raised questions about the use of the buildings and the wider site, specifically relating to the use of the buildings for the storage of banger cars and the use of the wider agricultural land for motorcycle racing. From site visits dated 30 April and 25 September 2013, the subject buildings were being used to store banger cars, and this was noted to be in breach of the Enforcement Notice on the site. While this investigation took place after the relevant date, it does indicate that the buildings were being used for non-agricultural purposes some 14 months after the relevant date. This does therefore draw into question whether the buildings were in use for agricultural purposes on 3rd July 2012.

Notwithstanding the above, information received during the investigation included Declarations from site users, including a signed and dated declaration. These declarations, while specific to the use of the wider agricultural land, does suggest that a non-agricultural had been undertaken prior to the relevant date, and this raises further questions in regard to whether the subject buildings were being used in association with an agricultural holding on the relevant date.

Of particular note, a Declaration of Paul Breakspear (undated) outlines that he first visited the site in 2009 where his son was able to ride his motorcycle. When the site was first visited, it consisted of open fields covered in grass, and throughout 2009 the site was gradually improved to create a track. It was arranged to rent the fields so they could be used for motorcycling. A Statutory Declaration of David Dyer dated 6th January 2014 stated that the contact details of the land owner were first passed to him on 3rd December 2012 and he visited the site on 8th December 2012. At this time there was a motorcycle track on the wider land which covered approximately one third of the fields within the farm. The Declaration outlined that it was assumed that the track had existed for some years, and that at times, the land had been used for grazing livestock. A Declaration of Michelle Coker (undated) indicates that the site was first visited in 2010 where motorcycle activity was taking place, and that the site was visited several times each year where the same activity continued.

This information suggests that a motorcycle track was being operated on part of the agricultural land from 2009, with this further formalised some time in 2012 (albeit after the relevant date). While no reference to the use of the buildings is noted in these declarations, it is understood that an informal racing track was in place prior to 2009, and was likely used for the racing of banger vehicles, as later indicated by the compliance investigation site visit. Given this evidence, there is doubt whether the buildings were being used for agricultural purposes on the relevant date of 3rd July 2012.

No information has been provided by the Applicant in regard to the use of the building on the relevant date, with the aforementioned compliance history drawing into question the use of the buildings on the relevant date. Notwithstanding this, following a recent site visit, it appears that the buildings are in use for the storage of various items including cars, car parts, machinery, tyres, and building materials. Given their physical condition, it is likely that these items have been in situ for a period of time. On the balance of the evidence, it is unclear whether the subject buildings were used for agricultural purposes on the relevant date, and it is not therefore considered that there is specific and unambiguous information available to determine that the site was used for agricultural purposes on 3rd July 2012.

- (b) the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 500 square metres;**

From the information available, the cumulative floor space of buildings which would change use would amount to approximately 154sqm. The proposal would therefore comply with (b).

- (c) the site is, or forms part of, a military explosives storage area;**

The site is not, and does not form part of, a military explosives storage area. The proposal therefore complies with (c).

- (d) the site is, or forms part of, a safety hazard area; or**

The site is not, and does not form part of, a safety hazard area. The proposal therefore complies with (d).

- (e) the building is a listed building or a scheduled monument.**

The building is not a Listed Building or Scheduled Monument. The proposal therefore complies with (e).

R.2 Development is permitted by Class R subject to the following conditions—

- (a) a site which has changed use under Class R may, subject to paragraph R.3, subsequently change use to another use falling within one of the use classes comprising the flexible use;**
(b) for the purposes of the Use Classes Order and this Order, after a site has changed use under Class R the site is to be treated as having a sui generis use;
(c) after a site has changed use under Class R, the planning permissions granted by Class G of Part 7 of this Schedule apply to the building, subject to the following modifications—
(i) “curtilage” has the meaning given in paragraph X (interpretation) of this Part;
(ii) any reference to “office building” is to be read as a reference to the building which has changed use under Class R.

R.3 (1) Before changing the use of the site under Class R, and before any subsequent change of use to another use falling within one of the use classes comprising the flexible use, the developer must—

- (a) where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit does not exceed 150 square metres, provide the following information to the local planning authority—**
(i) the date the site will begin to be used for any of the flexible uses;
(ii) the nature of the use or uses; and
(iii) a plan indicating the site and which buildings have changed use;

From the information available, the cumulative floor space of buildings which would change use would amount to approximately 154sqm. The proposal would therefore be subject of (b) below.

- (b) where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit exceeds 150 square metres, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—**

- (i) transport and highways impacts of the development;**

The proposal would utilise the existing access to the public highway. Following consultation with WSCC Highways as the Highways Authority, no objection to the proposal has been raised. The proposal is not considered to result in harm to the function or safety of the public highway network.

- (ii) noise impacts of the development;**

Paragraph 109 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 123 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 application site is located immediately to the south of a residential dwelling known as Highcroft, with the residential dwelling of Olde Bonnetts Cottages located approximately 40m to the south. The residential property of Highcroft is located to the rear of the northern building at a distance of approximately 10m, and is separated by a detached garage.

From the information available, it is unclear what the proposed uses of the buildings are. Class R permits the change of use of agricultural buildings to uses falling within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure). While some of these uses may generally be considered acceptable within a residential area, certain uses could lead to a level of activity and subsequent noise that may detract from the amenities and sensitivities of neighbouring properties.

Following consultation with Environmental Health, it is recognised that the proposal would likely result in vehicle movements to load and unload items, and this is likely to increase noise due to vehicle movement, idling vehicles, car doors slamming and impact noise associated with loading and unloading directly adjacent to existing residential dwellings. A number of conditions have been suggested by the Environmental Health Officer to overcome these concerns.

No information has been provided regarding the intended uses of the buildings, but it is recognised that conditions may be imposed on Prior Approval where necessary. Should the application be approved, conditions would be imposed in order to address potential amenity issues.

(iii) contamination risks on the site; and

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 information in respect of Contamination Risk has been submitted in support of the application. While it would be beneficial to provide this information up front, it is considered that a suitably worded condition could be imposed if the application were approved.

(iv) flooding risks on the site,

The application site is located within Flood Zone 1 and is not therefore considered to be subject of flooding.

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. At the time of drafting this report the proposal involves the following:

Use Description	Proposed	Existing	Net Gain
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All Other Development	154	154	0
		Total Gain	0
		Total Demolition	0

Please note that exemptions and/or reliefs may be applied for up until the commencement of a chargeable development.

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

Recommendation: Prior Approval Require and Refused

Reason(s) for Refusal:

- 1 It has not been demonstrated to the satisfaction of the Local Planning Authority that the buildings subject of this application were solely in agricultural use on or before 3rd July 2012. It is considered, therefore, that the proposal would not comply with paragraph R.1(a) of Class R of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended).

Plans list for: DC/20/2600

(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
Block plan		NONE	29.12.2020

DELEGATED

Case Officer sign/initial Tamara Dale Date: 28/01/2021

Authorising Officer sign/initial Guy Everest Date: 01.02.2021



Mrs Helyn Clack
Beenleigh
Russ Hill
Charlwood
Horley
RH6 0EL

Our ref: DC/20/2600
Your ref:
Email: planning@horsham.gov.uk
Direct Line: 01403 215166
If Calling Please ask for: Tamara Dale
Date: 1st February 2021

Dear Sir/Madam,

**Town and Country Planning Act 1990 (as amended)
Town and Country Planning (General Permitted Development) (England) Order 2015
Application for Prior Approval under Schedule 2, Part 3, Class R**

Prior approval for the change of use of existing outbuildings into commercial units.

Brooklyn Farm Bonnetts Lane Ifield West Sussex

Further to the above notification which was received on 29 December 2020, I am writing to confirm that **prior approval is required and refused** for the following reason(s):

- 1 It has not been demonstrated to the satisfaction of the Local Planning Authority that the buildings subject of this application were solely in agricultural use on or before 3rd July 2012. It is considered, therefore, that the proposal would not comply with paragraph R.1(a) of Class R of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended).

Schedule of plans/documents.

The following plans and document were considered when making the above decision:

Plan Type	Description	Drawing Number	Received Date
Block plan		NONE	29.12.2020

Planning permission is therefore required for the proposed development.

Note to Applicant – Community Infrastructure Levy (CIL):

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

CIL is a mandatory financial charge on development. To avoid additional financial penalties, the requirements of CIL must be managed before development is commenced (including in the event of any successful appeal).

Payment must be made in accordance with the requirements of the CIL Demand Notice issued.

Yours faithfully



Barbara Childs
Director of Place

NOTIFICATION

Appeals to the Secretary of State

If you are aggrieved by the decision to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

You must appeal within 12 weeks of the date of this decision notice for a 'minor commercial' (shop front) application, and within 6 months for most other types of planning applications. There are different timescale – usually 28 days – if an enforcement notice is/has been served for the same (or very similar) land and development. Please note, only the applicant possesses the right of appeal.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are at <https://www.gov.uk/government/collections/casework-dealt-with-by-inquiries>.