

Recommendation Report for

REF NO: AL/31/15/PD

LOCATION: Sack Lane Barn
Sack Lane
Lidsey

PROPOSAL: Prior notification under Class Q for change of use from agriculture to dwellinghouse (Use Class C3)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Conversion of the existing barn into a (single storey) 1 bedroom dwelling. The proposal includes an area of land to the front of the barn equivalent in size to the barn which will provide amenity space and 2 parking spaces.

In addition to the change of use, the following building operations are to take place:

- * 2 no new conservation roof windows in the east elevation;
- * new windows and doors fitted within the existing openings on the western and northern elevations; and
- * a new back painted metal flue.conservaion type roof lights.

The existing flint work walls will be repaired and retained.

SITE AREA

The gross floor area of the building amounts to 70m². The external space is also 70m².

RESIDENTIAL DEVELOPMENT DENSITY (NET) 0.7 dwellings per hectare.

TOPOGRAPHY

Essentially flat but there is a slight slope up to Lidsey Cottage to the west.

TREES

None of any significance affected by the proposed development.

BOUNDARY TREATMENT

Existing 2m high flint wall courtyard on the western side.

SITE CHARACTERISTICS

Existing single storey pitched roof barn with 3 arched and 1 squared off openings on the western elevation. One of the arched openings has been blocked up but the others are open. There is a further blocked up

opening on the northern flank wall. Existing materials are brick, flint and tiles. There is evidence of modern/new roof rafters but externally the building appears to be in its original state.

CHARACTER OF LOCALITY

Rural. Located at the end of a rural lane with few dwellings. There is farm land to the east, south and north.

RELEVANT SITE HISTORY

AL/88/14/PD	Prior notification under Class MB for change of use of agricultural building to (C3) dwellinghouse	Withdrawn 27-01-2015
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N/A.

REPRESENTATIONS

Representations received:

Aldingbourne Parish Council - "The committee resolved by reference to the policies set out in the Neighbourhood Plan that it could not support the application. They voted unanimously to oppose the application"

Comments on Representations received:

It is only possible to refuse the application with regard to the following issues:

- (a) Transport and highways impacts of the development;
- (b) Noise impacts of the development;
- (c) Contamination risks on the site;
- (d) Flooding risks on the site;
- (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 (dwelling houses) of the Schedule to the Use Classes Order, and
- (f) The design or external appearance of the building,

Notwithstanding that the Parish Council do not specify which policies the proposal is contrary to, it is not possible to refer to the policies of the local or neighbourhood plans in determining this application.

CONSULTATIONS

WSCC Strategic Planning
Environmental Health

Consultations responses received:

WSCC Highways - "The site is recognised as having a permitted agricultural use. In considering the change of use, the potential vehicle movements from the permitted use is a material consideration. In light of the scale of the permitted and proposed development, it is not considered that traffic generation would significantly vary between the two. It is therefore not considered that this proposal could be resisted on the basis of traffic generation. No concerns wished to be raised to this application from a highways perspective."

ADC Environmental Health - no response received.

Comments on Consultation responses:

Noted.

POLICY CONTEXT

Designations applicable to site:

Outside Built Up Boundary; and
No Public Sewer.

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
National Planning Practice Guidance

POLICY COMMENTARY

This application falls to be determined under the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 in respect of:

(a) A change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order; and

(b) Building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwelling houses) of that Schedule.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application falls to be determined under the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 in respect of:

(a) A change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order; and

(b) Building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwelling houses) of that Schedule.

The principle of the development is not in dispute. Class Q allows for the change of use (and the associated limited building operations) except where (as set out in Q.1):

(A) the site was not used solely for an agricultural use as part of an established agricultural unit:

(i) on 20th March 2013, or

(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 site which was brought into use after 20th March 2013, for a period of at least

10 years before the date development under Class Q begins;

(C) the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 450 square metres;

(B) the cumulative number of separate dwelling houses developed under Class Q within an established agricultural unit exceeds 3;

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

(E) 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;

(F) 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-

(i) since 20th March 2013; or

(ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;

(G) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

(H) the development under Class Q (together with any previous development under Class Q) would result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order;

(I) 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 dwelling house; and

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);

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

(K) 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;

- (L) the site is, or contains, a scheduled monument; or
- (M) the building is a listed building.

In addition, the curtilage must comply with the interpretation provided at Part 3, Paragraph X of the GPDO 2015 which states: "curtilage means, for the purposes of Class Q, R or S only-

- (i) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or
- (ii) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building,

.... whichever is the lesser";

It is considered that the proposal complies with the above criteria.

Where a proposal is permitted development in accordance with the above, Class Q (paragraph Q.2 (1)) states that an application must be made to determine whether or not the prior approval of the Council will be required. The Council can only have regard to the following impacts:

- (a) Transport and highways impacts of the development;
- (b) Noise impacts of the development;
- (c) Contamination risks on the site;
- (d) Flooding risks on the site;
- (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 (dwelling houses) of the Schedule to the Use Classes Order, and
- (f) The design or external appearance of the building,

The Order also states that the provisions of Paragraph W shall apply in relation to any application. Part (10) of paragraph W includes the following: "The local planning authority must, when determining an application-

- (a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);
- (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012(a), so far as relevant to the subject matter of the prior approval, as if the application were a planning application;"

It is considered that this allows the local planning authority to have regard to any of the representations received and also to the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) but only in respect of the 6 issues set out above. Advice has been received from the DCLG which confirms that it is not possible to refuse prior approval on the basis of an issue/impact not listed above. The Local Planning Authority has 56 days to provide its comments to the applicant's agent or it is deemed that they have no objection. This period expires on 08/06/15.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise

than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

Transport & Highway Impacts:

The Highway Authority do not consider that the change to C3 would have an adverse impact on the local highway network. Although the site is not a sustainable location, it is not considered possible to refuse this application on the grounds of its sustainability as the GPDO only allows for location to be considered in terms of practicality and desirability.

Contamination & Noise Risks:

ADC Environmental Health Officers have not responded to the consultation request and this application must be determined within the statutory 56 day period. However, it is not considered that the use of the barn would result in any noise pollution to nearby residents and nor that there are any existing external noise sources which might impact on future residents.

Flood Risk:

The site lies in Flood Zone 1 and therefore there are not considered to be any flood risk issues to consider.

Suitability of the Site:

Class Q (paragraph Q.2 (1)) advises that these applications can be determined with regard to whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a residential use.

The building in question is not part of an existing farmyard/complex where public safety might be considered an issue. Furthermore, the nearest land uses are all residential and as such although rural, this area is predominantly characterised by existing residential development and there is a small residential community in the area.

It is not considered that the sustainability of a site can be used to make a case for it being undesirable. It is considered that the aim of Class Q was to make the conversion of agricultural buildings to residential acceptable in principle even in isolated locations and that the desirability/practicality argument should be restricted to amenity and site specific issues.

Design & External Appearance:

No objections are raised to the design or external appearance which utilises existing openings and only proposes two new small windows.

Representations from Local Residents:

There have not been any representations from local residents. Furthermore, the Parish Council response does not make reference to any of the above issues.

Summary:

It is therefore considered that this conversion is acceptable with regard to the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 in that there are no highway issues, no noise or contamination issues, no flood risk issues, no design issues and that the location is considered to be practical and not undesirable.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

NO OBJECTION

- 1 For the avoidance of doubt the approved details are the two drawings entitled "Block Plan & Location Plan" both referenced 2014/04/03; "Proposed Plans and Elevations" Ref 2014/04/06; "Proposed Plans and Elevations" Ref 2014/04/02; and "Existing Plans and Elevations Ref 2014/04/01 all submitted on 10/04/15.
- 2 **INFORMATIVE:** This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological

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consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.