

Hales Barn Farm, Norton

Class PA Application for Prior Approval –
Change of Use from Class B1(c) (Light
Industrial) to Class C3 (Dwellinghouse).



Planning Statement

APRIL 2020

APPLICANTS: MR & MRS SHUREY

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Contents

<u>1</u>	<u>INTRODUCTION</u>	<u>1</u>
<u>2</u>	<u>SITE CONTEXT</u>	<u>2</u>
<u>3</u>	<u>CLASS PA – ASSESSMENT OF PROPOSED DEVELOPMENT</u>	<u>2</u>
	CLASS PA.1 REQUIREMENTS:	2
	CLASS PA.2 - CONDITIONS	4
	PA.2 (B)	4
	PARAGRAPH W	5
	INTERPRETATION OF CLASS PA	7
<u>4</u>	<u>CONCLUSIONS</u>	<u>7</u>

Appendices

- 1 Letter dated 18th January 2001 from previous owner confirming commercial, non-agricultural, use
- 2 Applicants letter dated 30th March 2020 confirming use as carpentry workshop

Schedule of Drawings

Drawing 1	Location and Block Plan
Drawing 2	Proposed Site Plan
Drawing 3	Existing and Proposed Floor Plans

1.0 INTRODUCTION

- 1.1 Please find enclosed on behalf of my clients, Mr and Mrs Shurey, an application for Prior Approval of Proposed Change of Use of an existing building in use for Class B1(c) (light industrial) purposes to a dwellinghouse (Use Class C3) under Part 3, Class PA of The Town and Country Planning (General Permitted Development) (England) Order 2015 which was inserted by SI 2016 No 332 came into force on 6th April 2016.
- 1.2 In accordance with the Fee Regulations, the fee, due to the absence of building operations, is £96.
- 1.3 The changes of use permitted under Part 3 include the current proposal, namely:

Class PA – premises in light industrial use to dwellinghouses

Permitted development

P. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.

- 1.4 It is relevant to note that unlike many other of the provisions for changes of use of buildings to residential, this class does not include building operations. On this basis the application is for an in-principle change of use. Any building operations necessary to facilitate such a change of use will be subject to a formal planning application. They **CANNOT** be considered at this stage.
- 1.5 Accordingly, it is plain beyond peradventure that the design approach is **not** a matter for consideration at this stage and accordingly whilst there is a plan showing the proposed layout there is a clear note on the drawing that the external changes will be subject to a subsequent planning application.

2.0 SITE CONTEXT

- 2.1 Hales Barn Farm is a large converted barn located a short distance to the south of the A27(T), approximately a mile west of the village of Fontwell.
- 2.2 The land holding comprising Hales Barn Farm is some 10.52 hectares [26 acres] in size with the main dwelling and fields to the north of the central east-west track and a long linear parcel of land south of the track.

- 2.3 The building the subject of this prior approval application lies on the south side of the access track and to the west of the larger atcost barn.
- 2.4 The building has been in non-agricultural use since at least 1990, first for the repair of classic cars and then since 1997 as a carpentry workshop.

3.0 CLASS PA – ASSESSMENT OF PROPOSED DEVELOPMENT

CLASS PA.1 REQUIREMENTS:

- 3.1 Class P.1 sets out a number of scenarios and thresholds (a) – (j) whereby development is not permitted under this Part.
- 3.2 In order to assure the Council that the proposal is permitted development in this context, I have assessed the proposal against all of these criteria.
- 3.3 I consider each of the relevant criteria in turn below.
- 3.4 In this regard the GPDO provisions make clear that Development is not permitted if:

(a) An application under paragraph PA.2(1) in respect of the development is received by the local planning authority on or before 30th September 2017;

- 3.5 The application is clearly being submitted after this date.

(b) The building was not used solely for a light industrial use on 19th March 2014 or 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;

- 3.6 On 19th March 2014 the building subject to this Prior Approval application was located on a site solely in use for light industrial purposes and the building was being used for light industrial purposes on this date. As a matter of evidence, the light industrial use has been carried out for a long time. A letter from the previous owner, dated 18th January 2001 is attached at Appendix 1 which confirm use of the building as a workshop for car restoration and repairs. At Appendix 2 is a letter dated 30th March 2020 from the current owner, Mr Shurey, which confirms his historic use – from 1997 until the end of the 2014/5 tax year [March/April 2015] - of the building as a carpentry workshop.
- 3.7 Both uses clearly comprise a B1(c) use.

3.8 Accordingly, the building was in sole use for light industrial purposes on 19th March 2014.

(c) The prior approval date falls on or after 1st October 2020;

3.9 The application will be due for determination in the middle of June 2020.

(d) the gross floor space of the existing building exceeds 500 square metres;

3.10 The gross floor area of the building, subject to this notification, is 160sq m.

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

3.11 There is no agricultural tenancy.

***(f) less than 1 year before the date the 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 this Class,
unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural purposes;***

3.12 As set out in 3.11 above, there is no agricultural tenancy.

***(g) The site is, or forms part of:
(i) a site of special scientific interest;
(ii) in a safety hazard area;
(iii) in a military explosives storage area;***

3.13 The site is not located in a SSSI, safety hazard area or military explosives storage area.

(h) the building is a listed building or is within the curtilage of a listed building;

3.14 The building is not listed nor is it within the curtilage of a listed building.

(i) the site is, or contains, a scheduled monument

- 3.15 The site is not a scheduled monument.

CLASS PA.2 - CONDITIONS

- 3.16 Class PA.2 (1)(a) makes clear that Class PA development is permitted subject to the condition that before beginning the development, the developer shall submit a statement accompanying an application under P.2 (b) which sets out the evidence that is relied upon to demonstrate that the building was used solely for a light industrial use on the date referred to in paragraph P.1(b).
- 3.17 The evidence required to be submitted under PA.2(a) is set out above and in the attached letter from the applicant.
- 3.18 The conditions set out in PA.2(b) are as follows:

PA.2 (b) 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

- 3.19 The proposal is for 1no three bedroomed dwelling which will give rise to minimal traffic movements on local roads.
- 3.20 This use will generate less vehicle movements than that which could arise under the historic Class B1 use.
- 3.21 There will be no new access, the existing access being utilised, and the dwelling will be provided with 2no parking spaces to the front of the property along with space for 1no refuse bin and 1no recycling bin. A shed for the secure parking of 3no cycles will also be provided in part of the existing building.
- 3.22 On the issue of sustainability, Government advice on the portal at Reference ID: 13-108-20150305 is relevant. It states:
- "The permitted development right does not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs. Instead, the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house."*
- 3.23 On this basis the issue of whether or not the site is in a sustainable location is irrelevant.

(ii) Contamination risks in relation to the building

- 3.24 Historically the building has been in use for light industrial purposes. The building has a concrete slab with no evidence of contamination. As such there is no record of any activities that are likely to have generated contamination. No remediation measures proposed or required.

(iii) Flooding risks in relation to the building

- 3.25 The barn is located in flood zone 1 and is not at risk of flooding.

(iv) where the authority considers the building to which the development relates is located in an area that is important for providing industrial services or storage or distribution services or a mix of those services(which includes, where the development relates to part of a building, services provided from any other part of the building), whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services,

- 3.26 There is no evidence that the site is within an area that the LPA consider to be important for providing industrial services or storage or distribution services. Indeed, this is the only building used for light industrial purposes in this location.

PARAGRAPH W

PA.2(2) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

- 3.27 Part W sets out the procedure for applications for prior approval under Part 3.
- 3.28 Paragraph W(1)(ba) requires the application to be submitted by a statement specifying the net increase in dwellinghouses proposed by the development. In this case I can confirm that the net increase in dwellinghouses is 1.
- 3.29 Paragraph (10) of Part W makes clear that when determining an application, they must –

(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 Ministry of Housing, Communities and Local Government in February 2015, so far as relevant to the

subject matter of the prior approval, as if the application were a planning application; and

(c) in relation to the contamination risks on the site—

(i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(b), and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(c), and

(ii) if they determine that the site will be contaminated land, refuse to give prior approval.

- 3.30 The provisions of W (10) (b) do not enable LPAs to rely upon the issue of 'sustainable' development.
- 3.31 It my professional judgement it is the words "*so far as relevant to the subject matter of the prior approval*" that are critical.
- 3.32 When determining a prior approval application, the LPA must also have regard to the National Planning Policy Framework v3 *in so far as relevant to the subject matter of the prior approval*, as if the application were a planning application. The words in italics were added to the GPDO with effect from 6 April 2014.
- 3.33 This amendment became necessary because, when determining prior approval applications under Class J, LPAs had been interpreting paragraph N, including the words "as if the application were a planning application", as giving them a wide discretion to take into account other policy considerations in addition to the short list of criteria set out in Class J. The amendment makes it clear that the only policies in the NPPF that can be taken into account in determining an application for prior approval are those that are relevant to the strictly limited criteria set out in respect of the specified class of development. This has been confirmed and reinforced by appeal decisions, where inspectors have been robust in excluding considerations that go outside those parameters.
- 3.34 This point has been further reinforced by the amendment to the government's on-line Planning Practice Guidance, which points out that this procedure was amended in April 2014 to make clear that the local planning authority must only consider the NPPF to the extent that it is relevant to those matters on which prior approval is sought, for example, transport, highways, noise etc.
- 3.35 Accordingly, it is plain beyond peradventure that that the words within (10) (b) require reference back to those matters which the LPA are able to consider under the PNO procedure, In the case of the recently modified

Order they are as set out in P.2.

- 3.36 I have addressed all of these issues above. On this basis it is clear that there is no justification to resist the scheme under Part W.

Interpretation of Class PA

- 3.37 **PA.3 For the purposes of Class PA – “curtilage” (except in paragraph PA.1(h)) means –**
 (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the building in light industrial use, closely associated with and serving the purposes of that building, or
 (b) an area of land immediately beside or around the building in light industrial use no larger than the land area occupied by the building, whichever is the lesser;
- 3.38 In this regard criteria (b) is relevant. The red line indicates solely the application site and has to include land forming the parking area and access to the front door. The extent of the actual curtilage to the dwelling is indicated on the submitted ‘Proposed Site Plan’ [Drawing 3] by cross-hatching and I can confirm that the curtilage does not exceed the footprint of the building, as clearly indicated on this drawing.
- 3.39 The approach of excluding the parking area from the curtilage has been accepted numerous times by various LPAs along the South Coast and is now common practice. A 1m high post and rail fence will be erected to define the extent of the curtilage.

4.0 CONCLUSIONS

- 4.1 The detailed assessment which I have undertaken above confirms that the proposed development complies with the criteria and conditions as set out in **Class PA – PA.1, PA.2 and PA.3** of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
- 4.2 It is stated Government policy that LPAs should take a pro-active approach to such applications in order to foster economic growth and to meet the needs of an acute national housing shortage.
- 4.3 I trust that officers will adopt a pro-active approach to this application which, I submit, clearly falls within the provisions of Class 3, Part PA and is reasonable on all counts.
- 4.4 Prior Approval under Part 3, Class PA should therefore be granted.

APPENDIX 1

Letter dated 18th
January 2001 from
previous owner
confirming
commercial, non-
agricultural, use

Abstract

1998

APPENDIX 2

Applicants letter
dated 30th March
2020 confirming use
as carpentry
workshop

R P SHUREY
**GENERAL BUILDING MAINTENANCE – KITCHEN &
BATHROOM SPECIALIST**

**HALES BARN FARM NORTON CHICHESTER
WEST SUSSEX**

30th March 2020

Dear Sir,

Workshop, Hales Barn Farm

I have been a builder all my working life. In 1997 my wife and I purchased Hales Barn Farm which included 2 workshops.

The workshop, which is the subject of this application, I believe was originally used as a farm shop by the then owners George and James Rusbridger. From 1990 until 1997 the property was owned by Mr Christopher Horsley who used the building to house and repair vintage classic cars. He employed Mr Ian McKinnell of Thatched Cottage, PO18 0JX as his mechanic, see attached letter.

From March 1997 till March/April 2015 I used the building as a carpentry workshop, my main trade being Kitchens, Bathrooms and built-in Bedroom furniture. I retired from cabinet making and large building projects at the end of the financial year 2014/15 and the building ceased to be used as my workshop.

Yours faithfully,

Richard Shurey