

Recommendation Report for

REF NO: AL/66/14/PD

LOCATION: Sack Lane Dairy
Sack Lane
Lidsey

PROPOSAL: Prior Notification Under Class MB for change of use from agricultural building to 2 No. dwellinghouses (Use Class C3)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Conversion of the existing barn into 1 no. 3 bedroom and 1 no. 2 bedroom dwellings spread over 2 floors. The proposal includes a new fenced curtilage to provide a small area of private garden space, 4 parking spaces (including turning space) and a bin store.

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

- * Roof to be clad with natural slate;
- * New doors/windows; and
- * New conservation type roof lights.

The proposal also involves the removal of the corrugated roof to the existing farm yard/cow shed, the demolition of a lean-to building and the removal of a section of block work wall. However, the existing flint work will be repaired and retained.

SITE AREA

The gross floor area of the building amounts to 145.78m². The external space is broadly the same

RESIDENTIAL DEVELOPMENT DENSITY (NET) 68.59 dwellings per hectare.

TOPOGRAPHY

Predominantly flat

TREES

None of any significance affected by the proposed development.

BOUNDARY TREATMENT

Open to the farm buildings on the southern/eastern side. To the North West there is an existing cowshed covering the site area which is enclosed by block work walls. There is a 1m high metal railing along the western boundary.

SITE CHARACTERISTICS

Existing two storey barn part brick, part flint, part timber pitched roof barn which opens on the east side to existing farm buildings and a large enclosed space. To the western side there is an existing block work & corrugated iron cow shed which will be demolished to create curtilage space. The rear wall of this shed is made from brick and this will be retained as boundary treatment. A further small square shaped lean to building to the west of the cow shed will also be removed.

CHARACTER OF LOCALITY

Farmland with former farm buildings and cottages to the east. The site is accessed from the west by Sack Lane which itself splits into two tracks either side of a drainage ditch.

RELEVANT SITE HISTORY

AL/42/13/	Conversion of barn into 2 no. dwellings. Departure from the Development Plan.	Withdrawn 02-09-2013
AL/73/13/	Conversion of barn into 1No. dwelling. Resubmission following AL/42/13. Departure from the Development Plan.	Refused 14-02-2014

Planning Application Ref AL/73/13 was refused for the following three reasons:-

(1) The proposed conversion to a residential dwelling would, in the absence of evidence to show that the property has been marketed for alternative business uses, be contrary to policies DEV2(i) & GEN3 of the Arun District Local Plan and policy H-DM3 of the emerging Local Plan.

(2) The proposed conversion to a residential dwelling would, by virtue of the large areas of new residential curtilage, be detrimental to the rural character of this site and the surrounding rural area in which it is located and the proposal is therefore contrary to policies DEV2(iii) & GEN3 of the Arun District Local Plan and policy H-DM3 of the emerging Local Plan.

(3) The proposed development would not be sustainable development by reason of its isolated location at the far end of a country lane located off the A29 and will not enhance or maintain the vitality of the rural community in which it is located. It would therefore be contrary to policies GEN2 of the Arun District Local Plan, policies SD-SP1 & C-SP1 of the emerging Local Plan and the National Planning Policy Framework particularly paragraphs 7 and 55.

REPRESENTATIONS

Representations received:

Aldingbourne Parish Council - no response received to either this or the previous applications.

One letter received from the owner of Woodpecker Nursery on Sack Lane: "There appear to be various buildings on site that are not included in the current application, that have in the

past, been used for housing livestock and I have a concern that they could be used again for this purpose. This would give rise to noise and smell pollution together with unacceptable amounts of flies in a close proximity to the proposed conversion. There is still a large liquid slurry tank close to the proposal which cannot be ideal so close to a new residential unit. The current ditch that is proposed to take the treated sewerage water (i.e. between Sack Lane and the private road) would appear to be very heavily contaminated from previous farming activities or sewerage from a different source which I feel should be investigated."

One letter received from Bay Cottage, Sack Lane: "A great set of sympathetic plans to bring back to life a redundant Sussex building, offering local families a choice of accommodation, and enhancing the local environs."

Comments on Representations received:

The plans state that the other existing buildings including the slurry tank will be demolished. Whilst this demolition cannot be controlled, it is considered that the applicant would want to make the houses attractive to buyers and so would want to demolish the other existing buildings.

CONSULTATIONS

WSSC Strategic Planning
Environmental Health

Consultations responses received:

Arun D.C. Environmental Health - As it's a PD I can only advise that chemicals (pesticides etc.) may have been stored onsite.

WSSC Highways - The site has a previous use as a barn used in connection with dairy farming. Having consideration for the potential movements which could be generated by this existing use the proposed change of use into two dwellings would not be likely to result in any highway safety concerns. I have checked the most recently available verified accident records, which reveals there has been no personal injury accidents associated with Sack Lane or the access Sack Lane / Shripney Road (A29). Evidence suggests that developments of this type are unlikely to result in increased access or safety concerns. The application site is served via an existing point of access from Sack Lane. At this point Sack Lane is considered private and not maintained by the Highways Authority.

4 x Vehicle and a cycle parking provision are proposed. It would be anticipated that two dwellings of this size in this location would create the demand for 5 parking spaces. This shortfall of one space is likely to be required for visitor parking and could be accommodated within the hard standing of the site. Although there are no concerns with this proposal from a highway safety perspective, the site is not considered sustainably located, thus any potential residents would be dependent upon the use of the private car. The Planning Authority may wish to consider whether in policy terms the provision of the dwellings outweighs the sustainability issues.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designations applicable to site: Outside Built Up Boundary & No Public Sewer.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

This application falls to be determined under the provisions of Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) 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 (dwellinghouses) 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 (dwellinghouses) of that Schedule.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application falls to be determined under the provisions of Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) 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 (dwellinghouses) 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 (dwellinghouses) of that Schedule.

The principle of the development is not in dispute. Class MB allows for the change of use (and limited building operations) provided that:

- (1) the site was in an agricultural use on 20/03/13;
- (2) that the cumulative floor space within the agricultural unit does not exceed 450m²;
- (3) that the number of dwellings does not exceed 3;
- (4) that the site is not occupied under an agricultural tenancy (unless the consent of both landowner and tenant has been obtained);
- (5) that less than 1 year before development begins, an agricultural tenancy was terminated (unless both the landlord & tenant agreed that the site was no longer required for agricultural use);
- (6) that there has been no recent permitted development in accordance with Part 6 of the GPDO;
- (7) that the development would increase the existing footprint;
- (8) that the building operations are limited to installation/replacement of windows, doors, roofs & walls and services (water, electricity, gas etc) or partial demolition to facilitate these works;
- (9) that the site is not on article 1(5) land, does not form part of (a) a site of special scientific interest, (b) a safety hazard area or (c) a military explosives storage area;
- (10) that the site is not or does not contain a scheduled monument and that the building is not a listed building.

In addition, the curtilage must comply with the interpretation provided at Part 3, Paragraph O of

the GPDO 1995 (as amended):

"curtilage means, for the purposes of Class M, MA or MB 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";

The above criteria have been checked and are considered to have been met.

Class MB (paragraph MB.2 (1)) states that an application must be made to determine whether or not the prior approval of the Council will be required in respect of:

(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; or,

(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 Order also states that the provisions of Paragraph N shall apply in relation to any application and part (8) of paragraph N includes the following:

"(8) The local planning authority shall, when determining an application-

(a) take into account any representations made to them as a result of any consultation under paragraphs (3) or (4) and any notice given under paragraph (6); and, (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application."

This allows the local planning authority to have regard to any representations received and the NPPF but only in relation to the 4 issues stated 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 07/11/14.

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. They do state that the site is not located in a sustainable location. However, it is not considered possible to refuse this application on the grounds of its sustainability as the GPDO makes conversion to a dwelling in principle acceptable even in isolated locations. It is also not possible to impose conditions on this type of application.

Contamination & Noise Risks:

ADC Environmental Health Officers have suggested that there might have been pesticides stored on the site in the past but they have no evidence to confirm this and have not raised any objection. No noise issues have been raised.

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 MB (paragraph MB.2 (1)) also 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 part of an existing farm complex and is near to a slurry tank. One of the neighbouring residents has concerns as to how the relationship between residential dwellings and a working farm will work. In a recent Arun decision concerning a Class MB conversion from a grain store to two dwellings on Stakers Farm in Yapton (Ref Y/77/14/PD), it was considered that the buildings location within a farm complex meant that new dwellings were undesirable. It is considered relevant to mention this because it is important to be consistent across the district.

In this case, the Sack Lane farm complex is disused and has been for some time. The application plans state that the existing buildings will be demolished. Furthermore, it is considered that it is in the applicants interest to demolish these buildings in order to ensure that buyers are attracted to the site. In the case of Stakers Farm, the building was within an operational farm (albeit used for the stabling of horses) and was adjacent to grain stores. The end result would have been new dwellings immediately adjacent to an existing business and there would be the potential for conflict between land users. It is therefore not considered that the Sack Lane site is an undesirable location to provide residential dwellings. It is also noted that there are other residential dwellings to the immediate east of the existing Sack Lane farm buildings and therefore, there is an existing small residential community here.

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 MB 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.

Representations from Local Residents:

It is considered that the representations of neighbouring properties have been considered

elsewhere in the report.

Summary:

It is therefore considered that this conversion is acceptable with regard to the provisions of Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) in that there are no highway issues, no noise or contamination issues, no flood risk and the location is both 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 "Site Plan & Location Plan" Ref 2012/01/11 (Mar 2013) and the "Proposed Plan & Elevations" Ref 2012/01/10 (Mar 2013) as submitted on 15/09/14.
- 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 consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.