

Change of use from agricultural building to two C3 residential dwellings and associated works.

**Land to the north of Sunnyside Cottages
Yapton Road
Barnham
PO22 0AZ**

This application is presented to be assessed under Part 3 Class Q of the GPDO 2015 as amended by The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018.

The application proposes the changes of use and associated works of an existing agricultural building (glasshouse) to two residential dwellings falling within use class C3.

The site sits to the north of Yapton Road on the outskirts of Barnham village and outside of the defined settlement boundary.

The site has historically been used as a nursery but areas surrounding the site now include B8 storage for caravans and motor homes and Sui Generis Campsite use which were granted a lawful development certificate under application BN/22/16/CLE.

The site (the subject of this application) fell outside of this area granted a lawful development certificate and so has not undergone any lawful change of use in recent years.

Class Q of the GPDO 2015 (as amended by the 2018 order) states as follows, comments on each criteria are made in red.

Class Q – agricultural buildings to dwellinghouses

Permitted development

Q. Development consisting of—

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

(b) development referred to in paragraph (a) together with 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 not permitted

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

- (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;

The application site comprises part of a former farm holding known as Highfield and Sunnyside Nursery. The building is a steel framed agricultural building – namely a glasshouse.

The land has been historically used as a horticultural nursery but ceased much of its trading on a large scale in the 1980s when much of the land around the site became used for storage of caravans and as a caravan park.

Many of the glasshouses on the site were pulled down during the 1970s and 1980s but the current building was retained and used for smaller scale growing.

The use of buildings for horticulture falls within the definition of agriculture and it is clear from planning history that Highfield and Sunnyside Nursery was an established agricultural unit.

Section 336 of The Town and Country Planning Act 1990 defines agriculture as including

“horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for

woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly”

A number of recent decisions by Chichester District council have accepted that glasshouses used for horticulture fall within the definition of agricultural building, these include Windward Nursery (SI/15/00747/PA3Q) Jamic Nursery (17/00943/PA3Q) and Orchid Answers (E/15/01472/PA3Q)

The building was in horticultural use in March 2009 as illustrated in the below Google Streetview image but ceased being used some time after this in 2010/11



Image capture: Mar 2009 © 2018 Google

It is clear therefore that the building was not in use on 20th March 2013, and as such the relevant test is the use of the building ‘when last in use’ as can be seen from the photograph above and the history of the site it is clear that this use was horticultural and therefore falls within the definition of an agricultural use.

Article 5 of the GPDO states that

The permission granted by Schedule 2 does not apply if—

- (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful;
- (b) in the case of permission granted in connection with an existing use, that use is unlawful.

It is clear therefore that the relevant use is the last lawful use of the site (in this case agricultural), any other use of the building since its cessation for horticulture that may be claimed would be de minimis and in any event would not be lawful having not occurred for a period in excess of 10 years.

(b) in the case of—

(i) a larger dwellinghouse, within an established agricultural unit—

(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or

(bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;

(c) in the case of—

(i) a smaller dwellinghouse, within an established agricultural unit—

(aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or

(bb) the floor space of any one separate smaller dwellinghouse having a use falling

within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;

(d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—

- (i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
- (ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

The development proposed consists of a “smaller dwellinghouse” with a floor space under 100m² and a “larger dwellinghouse” with a floor space of more than 100m² but less than 465m². The development would result in a total footprint of 304.82m² and an internal floor space of 287.9m² resulting in a total of two dwellinghouses.

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

The site is not occupied under any agricultural tenancy

(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 site has not been the subject of any agricultural tenancy within the previous year

(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—

- (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;

No development under class A or B of the GPDO has taken place on the site

(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;

The external dimensions of the building would not be exceeded at any point, this is detailed in the accompanying plans showing the wall and roof build up required

(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

The accompanying plans show the extent of new doors, windows, exterior walls and roofs. The approach taken is similar to the three cases permitted by Chichester District Council (SI/15/00747/PA3Q, 17/00943/PA3Q and E/15/01472/PA3Q) although unlike these cases results in no demolition of the structure and so is less substantial building operations than these three precedents.

The structure is a substantial steel frame and is capable of being converted and of taking loadings from the new materials. It sits atop a blockwork plinth wall on solid foundations.

PPG paragraph 104 was recently updated to state that

“Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q.”

It is clear therefore that the building operations fall within the scope of the above criteria

(bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and

The application proposes the connection of drainage and gas to the building. The building already benefits from water and electricity.

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

No demolition of the building is proposed

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

The site is not 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;

The site is outside of any of the above

(l) the site is, or contains, a scheduled monument; or

There are no scheduled monuments on site

(m) the building is a listed building.

The building is not listed

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 impacts of the development,

WSCC Highways were consulted regarding an application to develop the site under application BN/13/17/PL and raised no objection on highways grounds. The site has a well-established access and it is not considered that there are any highways objections to be raised to this proposal.

(b) noise impacts of the development,

The site is in a semi-rural area away from any industrial activity or continued intensive farming activities, there are no close by sources of noise that would lead to potential harm to future occupants and so it is considered that there are no objections to be raised on noise grounds

(c) contamination risks on the site,

The site has been used as horticultural glass house as part of an established agricultural unit, there have never been commercial operations on site and as such it is not considered that there is any contamination risk on site. The applicant would be willing to accept a standard contamination survey condition should the council see this as necessary.

(d) flooding risks on the site,

The site falls within flood zone 1 as highlighted on the Environment Agency mapping and is therefore outside of any flood zone and presents no flood risk

(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, and

Government guidance published on 5th March 2015 states that

“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.

Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would “not be sensible or realistic”, and undesirable reflects that it would be “harmful or objectionable”.

When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is **not** a sufficient reason for refusing prior approval.

There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical. Additionally the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant.”

It is clear from this guidance that there are no circumstances that would make the location impractical or undesirable and accordingly it is considered that prior approval should be granted.

- (f) the design or external appearance of the building, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

The application proposes a simple conversion of the building which will continue to reflect its rural character and as such the design and external appearance are considered to be acceptable.

(2) Where the development proposed is development under Class Q(a) only, 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 the items referred to in subparagraphs (1)(a) to (e) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

The application is for development under both Q(a) and Q(b)

(3) Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.

Interpretation of Class Q

Q.3. For the purposes of Class Q—

“larger dwellinghouse” means a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

“smaller dwellinghouse” means a dwellinghouse developed under Class Q which has a floor space of no more than 100 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

CONCLUSION

The above detailed assessment confirms that the proposed development complies with the criteria and conditions as set out in **Class Q (a) and (b)** of The Town and Country Planning (General Permitted Development) (England) Order 2015(as amended by the 2018 order)

As such prior approval should be granted for the development.