

Recommendation Report for

REF NO: BN/33/15/PD

LOCATION: Land to the rear of The Flint Barn
Yapton Road
Barnham

PROPOSAL: Prior approval for change of use from storage (Class B8) to dwellinghouse (Class C3)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Conversion of the existing single storey storage building into a 1 bedroom dwelling. The proposal includes an area of land surrounding the building equivalent in size to the building itself.

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

- * Altered door/windows on the northern & southern elevations; and
- * Six velux style windows in the roof.

SITE AREA

The gross floor area of the building amounts to 34.4m². The external space is also 34.4m².

RESIDENTIAL DEVELOPMENT DENSITY (NET) 291 dwellings per hectare.

TOPOGRAPHY Predominantly flat.

TREES None affected by the proposed development.

BOUNDARY TREATMENT The site is bordered to the west by a part 1.8m high fence/part 3-4m high mature hedge, to the east by a 3m high hedge and to the south by the afore mentioned 4m high mature hedge. To the north there is a metal fence with an access track beyond and then a 2m high manicured hedge to the caravan park.

SITE CHARACTERISTICS The site lies within an enclosed piece of land which is currently used for the storage of around 10 caravans. In addition to the caravans there is a shipping container, a curved roof storage building (the subject of this application) and a small timber shed.

CHARACTER OF LOCALITY The area is semi-rural in character being set back from the main road and bordering a

caravan park and a small horticultural nursery site. The closest residential property, The Flint Barn, was as its name implies a former barn conversion.

RELEVANT SITE HISTORY

BN/3/14/CLE	Application for a Lawful Development Certificate for existing use for the storage of caravans and undercover and open air ground storage.	Approve 06-03-2014
BN/38/14/CLE	Application for certificate of lawfulness for an existing use as residential garden ground	Approve 07-01-2015

The building and the site on were previously subject to BN/3/14/CLE which confirmed that the land had a lawful storage use. The description included both undercover and open air ground storage and the decision notice made reference to the various buildings on the site.

REPRESENTATIONS

Representations received:

One letter of objection. Grounds being:

1. A dwelling house will produce more pressure on the drains and sewers. We are at the end of the run and we have already experienced blockages twice in the short time we have lived at Highfield House.
2. The land in question is prone to flooding.
3. Another dwelling house will cause parking problems as the proposed dwelling house is in a narrow lane.
4. As the Flint Barn is currently for sale we cannot understand the logic of requesting change of use.
5. Additionally we are led to believe that the land in question is agricultural land.

Comments on Representations received:

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

- (i) impacts of air quality on the intended occupiers of the development;
- (ii) transport and highways impacts of the development;
- (iii) contamination risks in relation to the building;
- (iv) flooding risks in relation to the building;
- (v) noise impacts of the development; and
- (vi) where the authority considers it necessary to retain the B8 use.

In respect of (iii), the site lies in Flood Zone 1 and therefore is at a very low risk of flooding.
In respect of (ii), the site is considered to provide sufficient space for car parking.

CONSULTATIONS

Consultations responses received:

None.

Comments on Consultation responses:

Unfortunately in this case, none of the consultation requests were sent out and it is now too late to seek a response from them.

POLICY CONTEXT

Designations applicable to site:

Outside Built Up Area;
Class C Road;
Lidsey Treatment Area; 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 Part 3, Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015 in respect of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) of the Schedule to the Use Classes Order 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 P of the Town and Country Planning (General Permitted Development) (England) Order 2015.

The principle of the development is not in dispute. Class P allows for the change of use except where (as set out in P.1):

- (a) the building was not used solely for a storage or distribution centre 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;
- (b) the building was not used solely for a storage or distribution centre use for a period of at least 4 years before the date development under Class P begins;
- (c) the use of the building falling within Class C3 (dwellinghouses) of that Schedule was begun after 15th April 2018;
- (d) the gross floor space of the existing building exceeds 500 square metres;
- (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
- (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;

(g) the building is within:-

- (i) an area of outstanding natural beauty;
- (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(a);
- (iii) the Broads; or
- (iv) a National Park;
- (v) a World Heritage Site;

(h) 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;

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

(j) the site is, or contains, a scheduled monument.

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

Where a proposal is permitted development in accordance with the above, Class P (paragraph P.2 (b)) 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:

- (i) impacts of air quality on the intended occupiers of the development;
- (ii) transport and highways impacts of the development;
- (iii) contamination risks in relation to the building;
- (iv) flooding risks in relation to the building;
- (v) noise impacts of the development; and
- (vi) where the authority considers the building to which the development relates is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, 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.

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 07/10/15.

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

Principle:

The previous Certificate of Lawfulness application had followed an earlier 2013 enforcement case regarding the alleged unauthorised use of the land. It is noted that the Planning Contravention which was provided to the Council by the applicants stated with respect to the structure, the subject of this application, "... is a moveable storage shelter erected in 2008. It is used for undercover storage purposes". This would suggest that the structure is not actually a building.

However, the applicants have now stated that this statement was made in error. They have provided a brochure for the structure in questions which suggests that there are two variants - one is movable by way of an attached metal frame and the other is permanent. It is clear that the structure in question does not have the necessary metal frame so as to allow it to be movable. The applicant also confirmed that the building was assembled on site (i.e. constructed) rather than being delivered as a single structure.

Furthermore, it is noted that the decision notice for BN/3/14/CLE did not specifically refer to a movable structure but to 'a small storage unit'. It is therefore considered that the subject of this application is actually a building and it therefore does benefit from the permitted development regime.

Air Quality Impacts:

The caravan storage use is not considered to result in any air pollution which would be to the detriment of the occupiers of the dwelling.

Transport & Highway Impacts:

Although the site is not in a sustainable location, it is considered that there is adequate visibility at the junction of the site access with Yapton Road and that there is sufficient space on site to allow for off-street parking.

Contamination & Noise Risks:

The caravan storage use is not considered to result in any noise pollution which would be to the detriment of the occupiers of the dwelling. The building has only ever been used for storage and as such it is not considered that there are any contamination risks.

Flood Risk:

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

Need to Retain the B8 Use:

It is not considered that the retention of this site is important in respect of ensuring a satisfactory level of B8 storage land across the district. It is also not considered that the change of use will have a detrimental impact on the use of the remainder of the site for the storage of caravans.

Representations from Local Residents:

The objection made have been dealt with elsewhere in the report.

Summary:

It is therefore considered that this change of use is acceptable with regard to the provisions of Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015.

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 SUBJECT TO CONDITIONS

- 1 For the avoidance of doubt the approved details are Drawings 1889.S.A & 1889.1.A as submitted on 11-08-15.
- 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 consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.