

Recommendation Report for Prior Notification

REF NO: K/3/26/PD

LOCATION: Potato Barn
Kingston Lane
East Preston
BN16 1RS

PROPOSAL: Prior approval under Schedule 2, Part 3, Class Q for the conversion of existing barn into 3 No. dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE CHARACTERISTICS	The site consists of a single storey, open plan, concrete frame agricultural storage barn with profiled roof and corrugated cement fibre cladding. Outside the building is a predominantly flat grass and hardstanding area to the north. The site benefits from a grass/hardcore access track that runs up from the south, connecting the barn to the section of Kingston Lane serving Meadow House and Orchard Cottage.
CHARACTER OF LOCALITY	The site is in an area of open farmland in a countryside location. There are sporadic and historic agricultural dwellings, both purpose built and converted found to the south.

RELEVANT SITE HISTORY

K/9/25/PD	Prior approval under Schedule 2, Part 3, Class Q for the conversion of existing barn into 4 No dwellings.	No Object'n + Conds 01-07-25
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Planning history noted.

REPRESENTATIONS

Kingston Parish Council (KPC)- Objection.

- The size of each unit is shown as 149.5sqm, which is only just under 150sqm.
- The barn may be within the curtilage of a listed building.
- The proposal does not comply with Q(p) as it does not provide suitable access to a highway. The road which meets the access track is a Public Right of Way (PROW).
- No BRE report has been submitted to establish whether sufficient natural light has been provided to all rooms.
- No ecology information has been provided, and wildlife is likely to be present on site
- Environment Agency (EA) flood mapping shows the site within future flood zone 2/3, accounting for climate change. A Flood Risk Assessment should therefore be provided in accordance with footnote 63

of the NPPF.

- There is a drainage ditch to the south of the site, it is important this should not be interrupted.
- Will sewage disposal be accommodated within the curtilage of the barn.
- The current application proposes more alterations to the exterior of the barn, and may conflict with Q(j).
- The red edge has been extended outside the curtilage of the barn, and includes gardens and hardstanding, which arguably is not covered by Class Q. These features have an urbanising impact.
- Concerns regarding fire safety.

20 No. objections were received from nearby occupiers, raising concerns regarding:

- Impact on users of the PROW.
- Impact on the character of the area.
- Potential for improved access road to make way for more development.
- Impact on protected wildlife and habitats.
- Limited benefits in terms of addressing housing need.
- The barn is situated within the "green gap".
- Proximity to Ferring Rife, which is a Site of Nature Conservation Importance.
- Increased noise and light pollution would disturb wildlife.
- Access and parking is inadequate.
- Setting precedents for further conversions and development.
- Drainage issues.
- Lack of amenity space for future residents.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. The application is for an agricultural conversion under Class Q of the GPDO, and therefore the application has been assessed against the criteria set out under this part. Relevant comments are addressed in the conclusions section.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WEST SUSSEX COUNTY COUNCIL HIGHWAYS - No objection

ENVIRONMENTAL HEALTH - No objection subject to conditions.

- Conditions recommended regarding unexpected contamination and EV charging.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Designation applicable to site:
Outside Built Up Area Boundary

DEVELOPMENT PLAN POLICIES

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's

Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Permitted development

Q. Development consisting of -

(a) a change of use of -

(i) a building that is part of an established agricultural unit and any land within that building's curtilage, or

(ii) a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage,

...to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,

(b) development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or

(c) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building.

Development not permitted

Q1. Development is not permitted by Class Q if

(a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit

(i) on 24th July 2023, or

(ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins,

(b) in the case of a site that was (but is no longer) part of an established agricultural unit

(i) the site was part of an established agricultural unit on 24th July 2023,

(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or

(iii) since ceasing to be part of an established agricultural unit, the site has been used for any non agricultural purpose,

(c) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,

(d) the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see paragraph Q.3(2) of this Part) would result in

(i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or

(ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 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 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,
- (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 during the period which is 10 years before the date development under Class Q begins,
- (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, other than
 - (i) extension of the building allowed by paragraph Q.1(i);
 - (ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i),
- (i) the development under Class Q(b) would result in an extension that
 - (i) has more than one storey,
 - (ii) is sited anywhere other than to the rear of the existing building,
 - (iii) extends beyond the rear wall of the existing building by more than 4 metres,
 - (iv) has eaves the height of which exceed the height of the eaves of the existing building,
 - (v) is higher than whichever is the lower of
 - (aa) the highest part of the roof of the existing building, or
 - (bb) a height of 4 metres above the ground,
 - (vi) extends beyond a wall that forms a side or principal elevation of the existing building, or
 - (vii) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and
 - (aa) the hard surface was not provided on the land on or before 24th July 2023, or
 - (bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before the date development under Class Q(b) begins,
- (j) the development under Class Q(c) 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 dwellinghouse, and
 - (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(j)(i),
- (k) the site is on article 2(3) land,
- (l) 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,
- (m) the site is, or contains, a scheduled monument,
- (n) the building is a listed building,
- (o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described

space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it, or

(p) the building does not have suitable existing access to a public highway.

Conditions

Q2.-(1) Where the development proposed is development under Class Q(a) together with development under Class Q(c), 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,
 - (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 (dwellinghouses) of Schedule 1 to the Use Classes Order,
 - (f) the design or external appearance of the building, and
 - (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses,
- ...and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(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 sub-paragraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Where the development proposed includes development under Class Q(b), the developer must also apply, as part of the application under sub-paragraph (1) or (2) (as the case may be), for a determination as to whether the prior approval of the authority will be required as to the impact of the proposed extension on the amenity of any adjoining premises.

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

Interpretation of Class Q

Q3.-(1) For the purposes of Class Q, "curtilage" means the lesser of

(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be), closely associated with and serving the purposes of that building, and

(b) an area of land immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be) no larger than the land area occupied by that building.

(2) For the purposes of Class Q.1(d), "the original limits of an established agricultural unit" means

(a) in the case of an established agricultural unit which ceased to exist prior to 24th July 2023, all the land which comprised the established agricultural unit at the time it came into existence;

(b) in the case of an established agricultural unit which exists on 24th July 2023, all the land which comprised the established agricultural unit at the time it came into existence;

(c) in any other case, all the land which comprises the established agricultural unit at the time it comes into existence.

ANALYSIS OF PERMITTED DEVELOPMENT RESTRICTIONS:

This application is for the change of use of an agricultural building to 3 No. dwellings and it therefore, falls to be determined under Schedule 2, Part 3 Class Q of the Town & Country Planning (General Permitted Development) Order 2015 (as amended).

Q1:

- (a) The site remains part of an agricultural unit and was in agricultural use until September 2024.
- (b) NA
- (c) The development proposed consists of 3 units, and these do not exceed 150sqm as shown on the submitted plans.
- (d) The number of dwellings on site would not individually or cumulatively exceed 10, nor would it exceed 1000sqm.
- (e) The site is occupied under an agricultural tenancy, and express consent has been obtained from the landlords and tenant. Statutory declarations have been submitted to demonstrate this.
- (f) The planning statement indicates that the applicant will comply with this requirement.
- (g) Complies.
- (h) No extensions are proposed, the proposed works do not exceed the existing external dimensions by more than 0.2m.
- (i) No extensions are proposed.
- (j) A structural survey has been submitted with the application states that the building is suitable for conversion without the need for extensive structural alteration. Whilst the comments from KPC note that the proposed works to the building are more extensive than proposed under the previous application, these remain largely related to the insertion of windows and doors, and are not considered to go beyond what is "reasonably necessary"

There are concerns about the extent of development taking place around the building. These works include the provision of fencing and hardstanding including parking provision and works to the access road. Hardstanding and fencing are not listed under the acceptable works under (j), however it is accepted that some level of hardstanding could be provided in the immediate area around the building, provided that such works are "de minimis". The proposed works go beyond this, and are not considered to be reasonably necessary for the building to be used as a dwellinghouse.

- (k) The site is not on article 2(3) land.
- (l) The site is outside of any of these areas.
- (m) There are no scheduled monuments on site.
- (n) The barn is not listed. The comments of KPC in relation to the proximity of the building to nearby listed buildings at East Kingston House and The Old Cottage are noted. However, whilst the building may be situated within the curtilage of East Kingston House, the building itself is not curtilage listed, as the barn was constructed post-1948. For the purposes of Class Q, it is whether or not the building itself is listed that affects whether the development complies with Class Q.
- (o) The buildings are capable of complying with the Nationally Described Space Standards.
- (p) The building has a suitable existing vehicular access to the public highway.

Assessment of whether the prior approval of the Local Authority is required as to the issues raised in Q2 is contained within the conclusions.

The permitted development under Class Q that this application relates to is:

- (a) a change of use of -
- (i) a building that is part of an established agricultural unit and any land within that building's curtilage,

Q.3 provides further interpretation, and address the question of curtilage under Q.3(1). The location plan red edge for this application covers a larger area than that of the previous application, and includes the provision of garden areas to the south of the bounding, parking and landscaping.

The garden areas to the south of the building are on the opposite side of a ditch which runs to the south of the property. Information has been provided which indicates that there is a tree line and boundary fence to the south of the ditch, which forms the boundary of the building's curtilage in this instance. Whilst this line may form the boundary of the field to the south of the trees, this does not necessarily mean that all of the area to the north is within the curtilage of the building. The area between the the boundary of the field to the south both contains the ditch, and is densely vegetated, with several large trees. It is difficult to see how this area could serve any function associated with the former storage building, and the ditch forms a natural boundary on this side of the building. The inclusion of the area to the south of the ditch as the curtilage of the property therefore conflicts with Q.3(1)a, which states that the curtilage of the building but be an area of land "closely associated with and serving the purposes of that building".

The area of curtilage exceeds the area of the building, in conflict with Q.3(1)b. The applicant has provided a plan which illustrates their interpretation of the curtilage, which falls below the limit allowed by Q.3(1)b. However, this does not include the parking spaces associated with the dwellings, or the areas of landscaping to the north and east of the site. If all of the associated works including hardstanding and car parking are included within the red edge, the area of the curtilage would be approx. 848m, compared to a building area of 387.5m. Taking a more conservative interpretation of the curtilage, which would exclude the access road and car parking to the east, the area of the curtilage would be approx. 581sqm. This would still exceed the permitted area, and would not encompass all of the proposed external works.

The site plan shows that the parking spaces would be surfaced, and that the access road would be widened, with further parking spaces created to the east of the access road. On the basis of the curtilage as proposed by the applicant, this area would fall outside of the curtilage of the building, and so any development taking place within this area, or any area falling outside the curtilage of the building, would not be permitted under Class Q.

The area of the curtilage of the proposed conversion would exceed 387.5sqm, and would therefore conflict with Q.3(1)b.

SUMMARY

The application does not comply with the requirements of Schedule 2, Part 3, Class Q of the GPDO, as a result of conflict with Q.3(1). An objection is raised to the application on this basis. The associated works within the curtilage of the building are also not considered necessary for the building to function as a dwelling, and would not be permitted under Class Q(j).

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

CONDITIONS Q.2

Conditions

Q2.-(1) Where the development proposed is development under Class Q(a) together with development under Class Q(c), 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,
 - (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 (dwellinghouses) of Schedule 1 to the Use Classes Order,
 - (f) the design or external appearance of the building, and
 - (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses,
- ...and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(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 sub-paragraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Where the development proposed includes development under Class Q(b), the developer must also apply, as part of the application under sub-paragraph (1) or (2) (as the case may be), for a determination as to whether the prior approval of the authority will be required as to the impact of the proposed extension on the amenity of any adjoining premises.

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

TRANSPORT AND HIGHWAYS

Access to the building is via an existing rural track, which is surfaced with hardcore. Despite its character, the road is suitable for multiple dwellings and poses no safety concerns. WSCC Highways have been consulted on the proposals and have raised no objection. No recorded accidents have been identified.

Local residents have raised concerns regarding the shared use of Kingston Lane by cars and users of the PROW. The potential increase of up to six vehicles is not considered a material intensification of use. Given the low traffic speeds, no harm is anticipated to users of the shared footpath.

The site also provides sufficient space for parking.

NOISE IMPACTS AND CONTAMINATION

The proposed residential use would be expected to generate less noise than the former agricultural use. The building's former use as storage does not raise concern regarding contamination. Environmental Health have been consulted on the application and have raised no objection, but recommended a standard condition regarding unexpected contamination, which has been attached to the permission.

FLOODING

The site is within Flood Zone 1, and is at future risk of flooding from rivers and sea according to EA mapping. The Council's recently published SFRA shows the site not to be at risk of flooding in the future accounting for climate change. Recent communication with the EA indicates that there known issues which climate change modelling in the Arun area as shown on the Flood Risk Map for Planning, and that the Council's SFRA should be relied upon to understand whether a site is at risk of flooding in the future accounting for climate change. On this basis, the site would not be considered at future risk of flooding.

There are areas of surface water flood risk which are in the vicinity of the site. These do not encroach within the building footprint, although they are located immediately adjacent to the building at points. An FRA has been submitted which provides an overview of flood risk on site, although this document does not appear to make any meaningful recommendations in light of the flood risk situation it identifies. Nevertheless, given that the site is not at risk of flooding from rivers and sea as identified in the Council's SFRA, and the surface water flood risk does not encroach within the building footprint, there is no opposition to the application on grounds of flood risk.

SUITABILITY OF THE SITE

Planning Practice Guidance (PPG) give further clarification on the interpretation of this section of Class Q, stating that "Impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".

Q.2(e) does not apply a test as to the sustainability of the location. The site is located outside of the Built Up Area Boundary, and it is likely that occupiers would require private vehicle in order to access employment and services. However, the location is not impractical, as access to the site is achievable and the site is within proximity of other rural dwellings, and there are no logistical constraints preventing conversion in terms of provision of basic services to the building.

VISUAL IMPACT

The dwelling would be in a rural location, which would be visible from the nearby PROW. The conversion would alter appearance of the building and the wider site, due to the insertion of fenestration and cladding, and the parking which would be associated with residential use of the building. Whilst the change of use would be visually apparent from the rear and the PROW, which turns north alongside the rife when it reaches the end of Kingston Lane, the location of the barn is not so isolated or so prominent that this alteration would result in harm to the visual amenity of the area which would justify refusal of this permission.

DESIGN AND EXTERNAL APPEARANCE

No extensions to the building are proposed. The proposals include the introduction of glazing and openings, which are permitted under the legislation and necessary to ensure adequate natural light for future occupants. The fenestration includes standard window in addition to large patio doors on the ground floor and a feature window at first floor level. While these features may contrast with the rural setting, they are acceptable within the scope of the permitted development rights.

In the context of a conversion, and for the purposes of the prior approval, the design and external appearance of the unit would be satisfactory. An appropriate choice of materials can be secured via condition.

NATURAL LIGHT

The proposals include the insertion of fenestration, and all bedrooms and habitable rooms have a window. The proposed dwellings would have sufficient natural light.

SUMMARY

The proposal is considered acceptable in accordance with the considerations set out in Q.2. However the proposal does not comply with the requirements under Class Q of the GDPO. In light of this, it is recommended that an objection be made to the application.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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

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.

CIL DETAILS

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

OBJECTION

- 1 The proposal fails to accord with Q.3(1) in that the curtilage of the proposed dwellings includes land to the south of a ditch which is not closely associated with and serving the purposes of the building, in conflict with Q.3(1)(a) and the area of the curtilage of the proposed dwellings exceeds the area occupied by the building in conflict with Q.3(1)(b).
- 2 The proposal includes extensive hardstanding and fencing within the proposed curtilage, including the widening of the access road. These works go beyond those which are reasonably necessary for the building to function as a dwelling and are not identified as permitted works under Q.1(j). The proposals are therefore in conflict with Q.1(j).