

Recommendation Report for

REF NO: WA/61/19/PD

LOCATION: Stoney Brook Farm
Eastergate Lane
Walberton

PROPOSAL: Notification for Prior Approval under Part 3, Class O for change of use from an office (Class B1) to 1 No. dwelling (Class C3).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
SITE CHARACTERISTICS	Modern single storey barn and hardstanding with an office incorporated in southern end.
CHARACTER OF LOCALITY	Rural agricultural barn in a rural area characterised by a mix of horticultural greenhouses, associated structures and residential properties along Eastergate Lane.

RELEVANT SITE HISTORY

WA/27/97	Permanent mobile home for residential occupation	ApproveConditionally 11-02-98
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Planning history noted. Previously a permanent mobile home for residential use had been approved at the site.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Walberton Parish Council

Objection on the following grounds;

- 1) Location plan does not show red line around proposed development.
- 2) Proposed Ground Floor Plan refers to First Floor.
- 3) Previous applications for residential use on the site have been agriculturally tied to the farm property.

No other objections from neighbouring properties were received

COMMENTS ON REPRESENTATIONS RECEIVED:

In response to the Parish Council objections;

- 1) The absence of the red line on the published location plan was as a result of an administrative error at the Planning Portal. The submitted drawing is accepted and a colour copy has been included in the Council's records.
- 2) The labelling of Drawing 4 as a first floor plan was an administrative labelling error. The submitted Drawing 4 is clearly titled Illustrative Proposed Part Ground Floor Plan.
- 3) Permitted Development applications under Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 as amended do not consider planning merits as part of their assessment, See Legislative Background section below for matters that may be considered.

CONSULTATIONS

WSCC Strategic Planning

Environment Agency

Environmental Health

CONSULTATION RESPONSES RECEIVED:

West Sussex County Highways - No objection

Environment Agency - No comment received.

The application site is located within Flood Zone 1 on the Environment Agency 'Flood Map for Planning' and is considered to be a low risk of flooding.

ADC Environmental Health - No objection.

There are no known contamination risks on or near the site.

The use of former horticultural sites in the vicinity of existing horticultural sites is not considered to cause an unacceptable impact on residential properties as a result of nearby commercial activity.

COMMENTS ON CONSULTATION RESPONSES:

The proposal is not considered by WSCC to create a material increase or a material change in traffic in the vicinity of the site.

Flood risk is not considered significant risk at this location.

The are not considered to be significant risks relating to contamination or noise from nearby commercial development.

POLICY CONTEXT

Designation applicable to site:

ADOPTED LOC PLN

CLASS C ROAD

OUTS BUILT AREA

OHED ELECT LINE

DEVELOPMENT PLAN POLICIES

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

POLICY COMMENTARY

The application is determined under the provisions of Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) in respect of a development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order from a use falling within Class B1 (a) (offices) of that schedule.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application falls to be determined under the provisions of Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in respect of a development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order from a use falling within Class B1 (a) (offices) of that schedule.

The principle of the development is not in dispute. Class O allows for the change of use (and limited building operations) but states that development is not permitted if:

- (b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order immediately before 30th May 2013 or, if the building was not in use immediately before that date, when it was last in use;
- (c) the site is or forms part of a safety hazard area;
- (d) the site is or forms part of a military explosives storage area;
- (e) the building is a listed building or is within the curtilage of a listed building; and
- (f) the site is or contains a scheduled monument.

The above criteria are considered to have been met.

Class O (paragraph O.2) 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) contamination risks on the site;
- (c) flooding risks on the site; and
- (d) impacts of noise from commercial premises on the intended occupiers of the development.

The Order also states that the provisions of Paragraph W shall apply in relation to any application and part (10) of paragraph W includes the following:

"(10) 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 subparagraphs (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 2019, 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."

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.

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 AND HIGHWAY IMPACTS

WSCC have responded to the consultation and do not consider that the proposed residential use would create a material increase or a material change in traffic in the vicinity of the site and therefore no objection exist on highway grounds.

FLOOD RISK

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

CONTAMINATION

Environmental health again have not raised any comments or objections with regards to contamination issues. There are no records of the site or nearby sites being contaminated. The proposal is considered to be acceptable on the grounds of contamination.

NOISE AND DISTURBANCE

Environmental Health had no comment to make because nearby horticultural/agricultural uses are not considered to cause a significant adverse impact on the proposed residential use. In addition there have been previous planning permissions for residential use on the site. There are also existing residential dwellings nearby on Eastergate Lane and therefore it is unlikely that the proposed residential use would be significantly adversely affected by nearby existing commercial uses as a whole.

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 following documents submitted on;
Drawing 1- Location Plan submitted on 2nd July 2019 with the office to be converted shown by a lighter coloured line at the southern end of the barn at Stoney Brook Farm.
Drawing 2 - Existing Part Ground Floor Plan.
Drawing 4 - Illustrative Proposed Ground Floor Plan.