

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: WA/6/19/CLP

LOCATION: Farplants Sales Ltd
Lake Lane
Barnham
PO22 0AL

PROPOSAL: Lawful development certificate for a proposed Anti-Vandal Open Plan unit.

DESCRIPTION OF APPLICATION

Lawful development certificate for a proposed Anti-Vandal Open Plan unit to provide a staff rest area.

One letter in support of the application from Walberton Parish Council.

Legal consultation:

If lawful use falls within Horticulture then Part 6 Class B would be the relevant section of the GPDO. The history of the application and site would suggest the use is for horticulture, as such Part 6 Class B will be the section this application is assessed against. This application requires a legal determination where planning merits play no part.

RELEVANT SITE HISTORY

WA/67/17/PL	Extension to existing agricultural storage building	ApproveConditionally 26-02-18
WA/51/16/AG	Application for prior approval under Part 6 Class A for storage building.	No Objection 08-08-16

REPRESENTATIONS

Representations Received:

CONSULTATIONS

Consultations Responses Received:

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

In this instance the proposed works will be assessed against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- Part 6 Class B, which pertains to agricultural development on units of less than 5 hectares.

Provided the proposed works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the proposed works will constitute Permitted Development and would not require planning permission. If the works fail to accord with the criteria then planning permission will be required for them to take place.

CONCLUSION

Class B - agricultural development on units of less than 5 hectares

Permitted development

B. The carrying out on agricultural land comprised in an agricultural unit, of not less than 0.4 but less than 5 hectares in area, of development consisting of-

- (a) the extension or alteration of an agricultural building;
- (b) the installation of additional or replacement plant or machinery;
- (c) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus;
- (d) the provision, rearrangement or replacement of a private way;
- (e) the provision of a hard surface;
- (f) the deposit of waste; or
- (g) the carrying out of any of the following operations in connection with fish farming, namely, repairing ponds and raceways; the installation of grading machinery, aeration equipment or flow meters and any associated channel; the dredging of ponds; and the replacement of tanks and nets, where the development is reasonably necessary for the purposes of agriculture within the unit.

Development not permitted

B.1 Development is not permitted by Class B if-

- (a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 0.4 hectares in area;
- (b) the external appearance of the premises would be materially affected;
- (c) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;
- (d) it would consist of, or involve, the carrying out of any works to a building or structure used or to be used for the accommodation of livestock or the storage of slurry or sewage sludge where the building

or structure is within 400 metres of the curtilage of a protected building;

(e) it would relate to fish farming and would involve the placing or assembly of a tank on land or in any waters or the construction of a pond in which fish may be kept or an increase (otherwise than by the removal of silt) in the size of any tank or pond in which fish may be kept; or

(f) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit.

B.2 Development is not permitted by Class B(a) if-

(a) the height of any building would be increased;

(b) the cubic content of the original building would be increased by more than 10% 20%;

(c) any part of any new building would be more than 30 metres from the original building;

(d) it would consist of the extension or provision of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 (changes of use) of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class B(a) begins;

(e) the development would involve the extension, alteration or provision of a dwelling;

(f) any part of the development would be carried out within 5 metres of any boundary of the unit; or

(g) the ground area of any building extended by virtue of Class B(a) would exceed 465 square metres 1,000 square metres.

B.3 Development is not permitted by Class B(b) if-

(a) the height of any additional plant or machinery within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;

(b) the height of any additional plant or machinery not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;

(c) the height of any replacement plant or machinery would exceed that of the plant or machinery being replaced; or

(d) the area to be covered by the development would exceed 465 square metres 1,000 square metres calculated as described in paragraph D.1(2)(a) of this Part.

B.4 Development is not permitted by Class B(e) if the area to be covered by the development would exceed 1,000 square metres calculated as described in paragraph D.1(2)(a) of this Part.

Conditions

B.5- (1) Development permitted by Class B and carried out within 400 metres of the curtilage of a protected building is subject to the condition that any building which is extended or altered, or any works resulting from the development, is not used for the accommodation of livestock except in the circumstances described in paragraph D.1(3) of this Part or for the storage of slurry or sewage sludge, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler or system, or for housing a hydro-turbine.

(2) Development consisting of the extension or alteration of a building situated on article 2(4) land or the provision, rearrangement or replacement of a private way on such land is permitted subject to-

(a) the condition that the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building as extended or altered or the siting and means of construction of the private way; and

(b) the conditions set out in paragraphs A.2(2)(ii) to (vi) of this Part.

(3) Development is permitted by Class B(f) subject to the following conditions-

(a) that waste materials are not brought on to the land from elsewhere for deposit unless they are for use in works described in Class B(a), (d) or (e) and are incorporated forthwith into the building or works in question; and

(b) that the height of the surface of the land will not be materially increased by the deposit.

(4) Development is permitted by Class B(a) subject to the following conditions-

(a) where development consists of works for the significant extension or significant alteration of a building and-

(i) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which the development was substantially completed; and

(ii) planning permission has not been granted on an application, or has not been deemed to be granted under Part 3 of the Act, for development for purposes other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased, then, unless the local planning authority have otherwise agreed in writing, the extension, in the case of development consisting of an extension, must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer;

(b) where an appeal has been made, under the Act, in relation to an application for development described in paragraph (a)(ii), within the period described in that paragraph, that period is extended until the appeal is finally determined or withdrawn.

(5) Where development is permitted by Class B(a), within 7 days of the date on which the development is substantially completed, the developer must notify the local planning authority in writing of that fact.

The proposed development is not considered to comply with relevant sections (B.1, B.2, B.3, B.4, B.5) and is not considered to be 'Permitted Development' as the works described are not considered to fall under any of the relevant sections of the GPDO. As such does require the submission of an application for full planning permission.

RECOMMENDATION

PP REQUIRED

The Arun District Council hereby certify that on 23/05/2019 the development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the following reason:

- The proposed development does not comply with the limitations of Schedule 2 Part 6 Class B of the General Permitted Development Order 2015.

FIRST SCHEDULE

Lawful development certificate for a proposed Anti-Vandal Open Plan unit. As illustrated in the following

plans:

- Location Plan
- Block/ Site Plan
- Floor Plan - FPSSW-1
- Proposed Elevation Plan - FPSSW-2

SECOND SCHEDULE

Farplants Sales Ltd, Lake Lane, Barnham, PO22 0AL

EXTENT OF USE

Lawful development certificate for a proposed Anti-Vandal Open Plan unit.

WA/6/19/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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