

**Recommendation Report for**

**REF NO:** Y/100/13/PD

**LOCATION:** Building 1 - Drovers Farm  
Drovers Lane  
Yapton

**PROPOSAL:** Prior Notification under Class M (Flexible Uses) for change of use from agricultural to B1 (Business)

**SITE AND SURROUNDINGS**

**DESCRIPTION OF APPLICATION**

This application falls to be determined under the provisions of Class M of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) in respect of a development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Use Classes Order.

The principle of the development is not in dispute. Class M (paragraph M.3 (b)) itself states that in respect of buildings within an original agricultural unit where the cumulative floorspace exceeds 150m<sup>2</sup> but is less than 500m<sup>2</sup>, an application must be made to determine whether or not the prior approval of the Council will be required in respect of:

- (i) transport & highway impacts of the development;
- (ii) noise impacts of the development;
- (iii) contamination risks on the site; and
- (iv) flooding risks on the site.

In the case of this agricultural unit, three applications have been submitted and the cumulative floor area is 494m<sup>2</sup> with this application concerning a building with a floor area of 110m<sup>2</sup>.

The Order also states that the provisions of Paragraph N shall apply in relation to any application and part (8) of paragraph N includes the following:

"(8) The local planning authority shall, when determining an application-

(a) take into account any representations made to them as a result of any consultation under paragraphs (3) or (4) and any notice given under paragraph (6); and, (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application."

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. This period expires on 29/01/14.

The proposal seeks to change the use of an existing agricultural building at Drove Farm to a B1 use. During the course of the application, the agent wrote to advise that traffic movements would most likely be "Most likely 2 to 4 cars/day and 1 to 3 light good vehicle (panel van) visits per day. No articulated units over 7.5t are anticipated".

**SITE AREA**

The gross floor area of the building amounts to 110m2.

**TOPOGRAPHY**

Predominantly flat.

**TREES**

None of any significance affected by the proposed development.

**BOUNDARY TREATMENT**

1m high stone wall to the front of the site (facing Drovers Lane).

**SITE CHARACTERISTICS**

The building is located within an existing farm complex comprising of a mix of traditional brick & tile and corrugated roofed buildings. Whilst some of the buildings are empty or underused, the complex does form part of an active farm and there is also an existing B1 workshop type business within the site.

**CHARACTER OF LOCALITY**

Rural area accessed by Drovers Lane which connects with the B2233 far to the east. In addition to the farm buildings, the farmer's house is located on the opposite side of Drovers Lane.

**RELEVANT SITE HISTORY**

|             |                                                                                                       |                                    |
|-------------|-------------------------------------------------------------------------------------------------------|------------------------------------|
| Y/102/13/PD | Prior Notification under Class M (Flexible Uses) for change of use from agricultural to B1 (Business) | No Objection<br>28-01-2014         |
| Y/101/13/PD | Prior Notification under Class M (Flexible Uses) for change of use from agricultural to B1 (Business) | No Objection<br>28-01-2014         |
| Y/2/48      | Erection of dutch barn                                                                                | ApproveConditionally<br>07-09-1948 |
| Y/2/48/A    | Grain dryer                                                                                           | Approve<br>03-05-1950              |
| Y/30/71     | Extension to dutch barn                                                                               | Permit'd Devel<br>21-09-1971       |
| Y/9/72      | Building for storage of implements combines grain etc                                                 | Permit'd Devel<br>15-03-1972       |

None.

## **REPRESENTATIONS**

### **Representations received:**

Four objections including one from the tenant farmer. The grounds of objection are as follows:

- \* The building is part of a core range of working buildings fundamentally sited and essential to the productivity of the farm. It has never been redundant. It contains grain bins and equipment for loading grain in and out;
- \* The building must be redundant to qualify for the permitted development rights;
- \* Should the use of this building be lost then the tenant farmer will be put to considerable personal disadvantage which, in keeping with the case law in R v Vale of Glamorgan District Council is reason alone to deny consent.
- \* Should permission be granted this would almost certainly mean the splitting up of the storage of hay and straw off the farm premises. This would cause considerable disruption to the farmer;
- \* There are bats roosting in and around the farmyard and a survey would be needed as bats are legally protected;
- \* Drove Lane (a single lane) is part of a network of public footpaths that cross over the farm and are very popular and well used by families, ramblers, dog walkers, runners etc. In places the lane is low lying with high banks and sharp bends giving restricted visibility. Further development of the farm will inevitably generate more traffic and with no restriction on speed and lack of vehicle passing areas, would raise serious issues of safety to the public;
- \* During the winter months Drove Lane is subject to severe flooding making it impassable by most vehicles. The area around the farmyard becomes a flowing torrent from water draining from the surrounding fields which in turn causes the ditches to overflow, sending it all into the lane. The lane is not suited to increased volumes of traffic;
- \* Increase in noise to the farm; and
- \* Parking of private/commercial vehicles in the area surrounding the farmyard entrance and in Drove Lane itself.

**Comments on Representations received:**

The objections are noted but unfortunately the Council's statutory consultees have not raised any objections on the grounds of flooding, noise, traffic or parking. Furthermore, there is no requirement through the permitted development application process to request bat surveys but we will attach an informative raising bats as potentially being present on the farm to the decision letter. There is also no requirement for the building to be empty - the GPDO is clear as to which issues can be considered.

**CONSULTATIONS**

WSSC Strategic Planning  
Environmental Health  
Environment Agency

**Consultations responses received:**

Environment Agency - "According to our maps and records Building 1 is located in Flood Zone 1. Therefore this development proposal falls outside our current working arrangements and we have no comments to make on the proposal as submitted."

WSSC Highways - No objection. Do not consider that there would be material impact even if the traffic movements were higher than as suggested by the agent.

Environmental Health - "Environmental Health have no comment to make with regard to contaminated land, or noise for this application."

**Comments on Consultation responses:**

No objections are raised.

**POLICY CONTEXT**

Designations applicable to site: Outside the Built Up Area Boundary.

**DEVELOPMENT PLAN POLICIES**

Arun District Local Plan:

**PLANNING POLICY GUIDANCE**

NPPF

National Planning Policy Framework

**POLICY COMMENTARY**

This application falls to be determined under the provisions of Class M of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) in respect of a development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Use Classes Order.

**DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

This application falls to be determined under the provisions of Class M of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) in respect of a development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the

Schedule to the Use Classes Order.

The principle of the development is not in dispute. Class M of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) states that the only aspects that can be considered with regard to this prior approval application are transport & highway impacts, noise impact, contamination risks and flooding risks. The Act also states that the provisions of Paragraph N shall apply in relation to any application and part (8) of paragraph N includes the following:

"(8) The local planning authority shall, when determining an application-

(a) take into account any representations made to them as a result of any consultation under paragraphs (3) or (4) and any notice given under paragraph (6); and, (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application."

However, the local planning authority is only able to have regard to the NPPF and representations in terms of the 4 issues stated above.

#### **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 & Highway Impacts:

Following the receipt of additional information relating to likely vehicle movements, West Sussex County Council has revised their initial response (where they requested more information) and now offer no objection.

Contamination & Noise Risks:

The site is not considered to be contaminated land and the proposed change of use of the building would have no associated contamination risks. Environmental Health have not raised any objection. It is noted that there is an existing light industrial business operating on the site.

Flood Risk:

The Environment Agency have not raised any objections.

Representations from Local Residents:

Objections have been received which do concern highway, noise and flooding impacts but these are considered to be overruled by the responses of consultees. On this basis, it is not necessary to assess the proposal against the National Planning Policy Framework and it is recommended therefore that prior approval be granted.

#### **RECOMMENDATION**

**NO OBJECTION**

1 For the avoidance of doubt the approved details are the general location plan, the 1:2500

report

location plan annotated to show the building in question (in red) and the annotated aerial photograph (also showing the building in red) all as received as part of the Prior Notification submission on 29 November 2013.

- 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. Members of the public have reported that bats are present in the area and may roost within the existing farm buildings or nearby trees. If you are aware that bats are roost in any buildings or trees where work is proposed, 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.