Recommendation Report for

REF NO: Y/54/19/PD

LOCATION: Rookery Farm Barn
Rookery farm
Hoe Lane
Flansham Lane

PROPOSAL: **Prior approval for a propsed change of use of agricultural building to dwelling house (C3) and associated operational development under Schedule 2, Part 3, Class Q.**

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Change of use of existing agricultural metal sheet clad barn into a four bedrooms dwelling house. The footprint and form of the existing barn would remain with the roof tiled; six roof-lights would be inserted to the south-eastern roof plane and two to the north-western. The wall would be clad in timber, two windows (serving to a utility room and a bedroom are proposed on the south-eastern elevation, entrance door with side French window and one window would serve to an entrance hallway and another two to a toilet and an office on the north-western elevation. The door leading to the car port and two windows (serving to an office and a dog room) are proposed on the south-western elevation and bi-folding doors, one narrow French window and casement window (serving a kitchen/dining area) are proposed on the north-eastern elevation at the ground level and a large glazed are at the first floor level' roof area (serving bedroom ensuite). The submitted plans do not clearly indicate garden areas but there is space to the front of the dwellings which would serve such a purpose.
SITE AREA	Not identified.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat. The land is up slightly from the road level.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Mature hedging and tree boundary along the A259 and Hoe Lane.
SITE CHARACTERISTICS	The site is farmland. South west of the site is a chicken farm. Further west are residential properties on Hoe Lane.
CHARACTER OF LOCALITY	Rural farmland.

RELEVANT SITE HISTORY

Y/44/09/	The installation consists of a two 11kw Gaia turbines, mounted on free-standing 18m lattice masts on 5m2 concrete bases. The turbines are of twin-bladed design and are manufactured as a single composite unit 13m in diameter	Refused 04-11-09
		Appeal: Allowed+Conditions 18-10-10
FP/180/05/	Outline Application for residential development comprising 96 dwellings, including affordable housing, open space, structural landscaping and associated works (Departure from the Development Plan)	Refused 15-11-05
		Appeal: Dismissed 03-05-06
FP/186/99/	Residential development comprising 90 no. 1, 2, 3 & 4 bedroom flats and houses together with access road, public open space and play areas and demolition of Mow Cottage (Departure from Development Plan).	Refused 18-08-00
Y/32/99/	Improvements to farm access & crossover	ApproveConditionally 19-08-99
Y/27/92	Change of use of existing redundant farm buildings to warehousing/storage (Use Class B8)	Refused 04-11-92

Noted.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

None from local residents.

The Parish Council has not commented proposal

COMMENTS ON REPRESENTATIONS RECEIVED:

N/A

CONSULTATIONS

WSCC Strategic Planning

Environmental Health

Environment Agency

CONSULTATION RESPONSES RECEIVED:

ADC DRAINAGE ENGINEERS:
The application is within the Lidsey Catchment and is for a change of use, but it does not appear that any positive surface water drainage system is currently in place and this will be required. Therefore, please apply the following condition: PCENGD2 and related INFORMD.

WSCC Comments:
In principle the existing Barn could generate vehicular trips of a similar quantity to that of the proposed Residential Dwelling. It is therefore accepted that the proposed will not result in a material intensification of use of the existing access track or access point onto the maintained highway network at Horsham Road.
An inspection of data supplied to WSCC by Sussex Police over a period of the past five years reveals that there has been a recorded injury collision within the vicinity of the site; this however was not considered to have been caused by the presence of the existing access or road layout. Therefore there is no evidence to suggest that the New/Existing access is currently operating unsafely.
Under WSCC Parking Guidance (adopted August 2019), the LHA would anticipate that 2 parking spaces would be sufficient for a dwelling of this size and location. The applicant has demonstrated this.
The applicant has demonstrated cycle parking with in line with the WSCC Sustainability Policy. This will be located in a shed located adjoining the property.
The highway authority does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal. No objection subject to conditions.

ENVIRONMENTAL HEALTH: No response

ENVIRONMENTAL AGENCY: No response

COMMENTS ON CONSULTATION RESPONSES:

Comments noted; no objections raised from consultees, subject to suggested conditions.

POLICY CONTEXT

Designation applicable to site:

Outside Built Up Area Boundary;
Class A Road;
Special Control of Adverts;
Flood Zone 1
No Public Sewer; and
Lidsey Treatment Catchment Area.

DEVELOPMENT PLAN POLICIES

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PERMITTED DEVELOPMENT BACKGROUND:

This application falls to be determined under the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in respect of:

(a) A change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order; or

(b) Development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

The principle of the development is not in dispute. Class Q allows for the change of use (and the associated limited building operations) except where (as set out in Q.1):

(A) the site was not used solely for an agricultural use as part of an established agricultural unit:
(i) on 20th March 2013, or
(ii) 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, or
(iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;

(B) in the case of -
(i) a larger dwellinghouse (100m2-465m2), within an established agricultural unit
(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or
(bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;

(C) in the case of -
(i) a smaller dwellinghouse (less than 100m2), within an established agricultural unit
(aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or
(bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;

(D) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following -
(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3(dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

(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 -
(i) since 20th March 2013; or
(ii) where development under Class Q begins after 20th March 2023, 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;

(I) the development under Class Q(b) 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 dwelling house; and
(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(I)(i);

(J) the site is on article 2(3) land;

(K) 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;

(L) the site is, or contains, a scheduled monument; or

(M) the building is a listed building.

In addition, the curtilage must comply with the interpretation provided at Part 3, Paragraph X of the GPDO 2015 which states that: "curtilage means, for the purposes of Class Q, R or S only-

(i) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or
(ii) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building,

.... whichever is the lesser";

Where a proposal is permitted development in accordance with the above, Class Q (paragraph Q.2 (1)) 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:

(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 (dwelling houses) of the Schedule to the Use Classes Order, and
(f) The design or external appearance of the building,

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); and,
(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 NPPF and National Planning Practice Guidance (NPPG) but only in respect of the 6 issues set out above. Advice has previously been received from the DCLG which confirmed that it is not possible to refuse prior approval on the basis of an issue/impact not listed within the Order. 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 27 August 2019.

NOTE ON BUILDING WORKS:

As noted above, Q.1 (I) allows for the installation or replacement of walls and roofs. Q.1 (I) (ii) also allows for partial demolition in order to facilitate the building operations allowed by Q.1 (I) (i). It is also noted that section 55(2)(a) of the Town and Country Planning 1990 Act provides that the carrying out, for the maintenance, improvement or other alteration of any building, of works which affect only the interior of the building, or do not materially affect the external appearance of the building, are not to be taken for the purposes of the Act to involve development of the land.

It is also noted that paragraph 105 (Reference ID: 13-105-20180615) of the Government's online Planning Practice Guidance (PPG) states that:

"Building works are allowed under the right permitting agricultural buildings to change to residential use. However, the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right."

And that:

"Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q."

Therefore, new walls & roofs, windows and doors can be added to the structure and this would still be considered a conversion It is also possible to carry out purely internal works and these would not amount to development under the Act provided that the completion of those works does not in itself

constitute a material change of use. This being the case, it is considered that the structure of the building could be strengthened to better facilitate conversion and that this would be outside the scope of development control.

ANALYSIS OF PERMIITTED DEVELOPMENT RESTRICTIONS:

(A): The land is known to have previously been in use a poultry farm with the application site containing the barn. It was last used as a Machinery storage before 20/03/13.

Section 336 of the Town and Country Planning Act 1990 defines agriculture as including "horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly".

(B) - (D): The development proposed consists a "Larger dwelling house" and it does not exceed the maximum floorspace of 465 square metres; the proposed floor space would be approximately 260 square metres.

(E) - (F): The site is not occupied under any agricultural tenancy and has not had a tenancy on it within the last year.

(G): No development under class A or B of the GPDO has taken place on the site

(H): The proposed works to the exterior do not exceed the existing external dimensions.

(I): The proposal includes new doors, windows, timber clad walls and new roofing.

The application confirms that the services for water, electric, drainage and all other facilities are already in situ and these will be and relocated as required. The barn is intended for the use of the farm so will not be divided off separately.

(J): The site is not on article 2(3) land.

(K): The site is outside of any of these areas.

(L): There are no scheduled monuments on site.

(M): The building is not listed.

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:

The Highway Authority do not consider that the change to a C3 dwelling would have a material increase

or a material change on the character of traffic in the vicinity of the site. Therefore, it would not be possible to sustain a refusal on highway grounds.

CONTAMINATION & NOISE:

ADC Environmental Health Officers have not responded to the consultation therefore it is not possible to comment on contamination issues. In respect of noise, there are existing dwellings nearby and therefore, the typical noise associated with a dwelling would not be harmful to the character of the area and is unlikely also to adversely affect any of the existing dwelling.

FLOOD RISK:

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

SUITABILITY OF THE SITE:

Class Q (paragraph Q.2 (1)) advises that these applications can be determined with regard to whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a residential use.

Guidance within the Governments online Planning Practice Guidance is as follows:

Paragraph 108 (Reference ID: 13-108-20150305): "The permitted development right does not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs. Instead, the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house."

Paragraph 109 (Reference ID: 13-109-20150305):

"Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".

When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.

There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical. Additionally the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the

design is of exceptional quality or innovative, are unlikely to be relevant."

The site lies within a small cluster of agricultural buildings with some residential to the west. It is not considered that the proposed residential use would conflict with the proposed use or vice versa. It is not considered that the location is impractical or undesirable.

DESIGN & EXTERNAL APPEARANCE:

It is considered that the external appearance is constrained to be similar to the existing and would be of a good design and the proposed materials are considered to be appropriate for this rural location and therefore no objection is raised.

ECOLOGY:

The applicant has not supplied any surveys relating to bats or say barn owls but it is not possible to consider ecology under the remit of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Although wildlife could enter the building, it is not considered that it would be an ideal location for a roost due to the exposed nature of the interior. It is therefore considered that the building would have negligible potential for bats or owls. Informatives will be included to alert the applicant to their obligations under the Wildlife and Countryside Act 1981.

SUMMARY:

It is therefore considered that this conversion is acceptable with regard to the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in that there are no highway issues, no noise or contamination issues, no flood risk issues, no design issues and that the location is not considered to be impractical or undesirable.

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

1 Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage. No building / No part of the extended building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to implement the surface water drainage system prior to commencing any building works.

2 No part of the development shall be first occupied until the car parking spaces have been constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority. These spaces shall thereafter be retained at all times for their designated use.

Reason: To provide car-parking space for the use in accordance with policy T SP1 of the Arun Local Plan.

3 No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with policies T DM1 of the Arun Local Plan.

4 informative: For the avoidance of doubt the approved details are the Dwg 1803_001 Rev P01; Dwg1803_002 'Access; Dwg 1803_101 'Existing Ground Floor Plan'; Dwg 1803_102 'Existing Roof Plan; Dwg 1803_103 'Existing Long Elevations'; Dwg 1803_104 'Existing Short Elevations and Sections'; Dwg 1803_201 RevP01 'Proposed Ground Floor Plan'; Dwg 1803_202 'Proposed First Floor Plan' ; Dwg 1803_203 'Proposed Roof Plan; Dwg 1803_204 'Proposed Long Elevations' ;Dwg 1803_205 'Proposed Short Elevations'; Dwg 1803_206 'Proposed Section A'; and Dwg 1803_207 'Proposed Section B'; submitted on 02/07/2019. Revised Dwgs and Dwg1803_002 'Access received on 13/08/2019.

5 INFORMATIVE: Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The percolation tests must be carried out in accordance with BRE365, CIRIA R156 or a similar approved method and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway, and the base of the structure. It must also have provision to ensure that there is capacity in the system to contain below ground level the 1 in 100 year event plus 40% on stored volumes, as an allowance for climate change. Adequate freeboard must be provided between the base of the soakaway structure and the highest recorded annual groundwater

level identified in that location. Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. The applicant is advised to discuss the extent of groundwater monitoring with the Council's Engineers.
Supplementary guidance notes regarding surface water drainage are located here https://www.arun.gov.uk/surfacewater on Arun District Councils website. A surface water drainage checklist is available here https://www.arun.gov.uk/drainagechecklist on Arun District Councils website, this should be submitted with a Discharge of Conditions Application.

6 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.

7 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.