

## Delegated Decision

### Sign off Sheet

|                                              |                                                                                                                                            |                                        |              |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|--------------|
| <b>Ref. No:</b>                              | DM/24/2936                                                                                                                                 | <b>Case Officer:</b>                   | Hamish Evans |
| <b>Application Type:</b>                     | Prior Not. - Agricultural to Dwelling                                                                                                      |                                        |              |
| <b>Proposal:</b>                             | Prior Notification application for Change of use of agricultural building to form 3 no. dwellings with associated operational development. |                                        |              |
| <b>Site:</b>                                 | Springfield Farm, Lewes Road, Scaynes Hill, Haywards Heath, West Sussex, RH17 7NG, ,                                                       |                                        |              |
| <b>Validation Date</b>                       | 4 Dec 2024                                                                                                                                 | <b>Overall Expiry Date:</b>            | 31 Dec 2024  |
| <b>Pre-Commencement Conditions Required:</b> |                                                                                                                                            | <b>Pre-Com Conditions Date Agreed:</b> |              |
| <b>Recommendation:</b>                       | Prior Approval is Refused                                                                                                                  | <b>Recommendation Date:</b>            | 28 Jan 2025  |
| <b>Target Date:</b>                          | 29 Jan 2025                                                                                                                                | <b>Recommending Officer Signature:</b> | Hamish Evans |

|                                                        |  |                               |   |
|--------------------------------------------------------|--|-------------------------------|---|
| <b>Date Legal Agreement Completed: (if applicable)</b> |  | <b>No of Representations:</b> | 0 |
|--------------------------------------------------------|--|-------------------------------|---|

|                              |                 |              |             |
|------------------------------|-----------------|--------------|-------------|
| <b>Signed and Agreed By:</b> | Stephen Ashdown | <b>Date:</b> | 29 Jan 2025 |
| <b>Comments:</b>             |                 |              |             |

## **MID SUSSEX DISTRICT COUNCIL**

**DM/24/2936**

**Springfield Farm, Lewes Road, Scaynes Hill, Haywards Heath, West Sussex, RH17 7NG,  
Prior Notification application for Change of use of agricultural building to form 3 no. dwellings  
with associated operational development.  
Mr D Chewter**

### **SUMMARY OF REPRESENTATIONS**

No third-party representation letters have been received in respect of this application.

### **SUMMARY OF CONSULTEES**

#### **WSCC Highways**

Acceptable in highway terms.

#### **MSDC Flood Risk and Drainage**

No information has been provided.

#### **MSDC Contaminated Land**

No objection, subject to conditions.

#### **MSDC Street Name and Numbering**

Recommend informative.

### **INTRODUCTION**

This application is a prior notification application to establish whether prior approval is required for the change of use of an agricultural building to three residential dwellings at Springfield Farm Lewes road Scaynes Hill RH17 7NG.

### **RELEVANT PLANNING HISTORY**

13/03625/AGRDET. Proposed feed store and implement shed. Permission.

### **SITE AND SURROUNDINGS**

The site is located within the countryside, with the built-up area boundary of Scaynes Hill located some 970 metres to the north of the site. The application building was permitted as an agricultural building in 2013. It is a two-storey building which is characterised by horizontal timber clad walls on a bare brown brickwork plinth, brown clay roof tiles and a mixture of timber and uPVC window and door frames. The building has been partitioned into multiple rooms by internal walls and flooring. It appears to be insulated and includes internal wiring throughout the building. The building has hardstanding to the south, west and north of the building and a timber closed board fence of some 1.8 metres height and an area of grass is located to the east of the building.

Lewes Road is located to the north and east of the site. There are a significant number of single storey metal containers to the north and west of the existing building. A mixture of residential and commercial properties are located to the south of the existing building. Access to the site is located to the south and north of the existing building which leads to Lewes Road to the north and east of the site.

## APPLICATION DETAILS

The application is a prior notification application to establish whether prior approval is required for the change of use of an existing barn to three residential dwellings. Unit one would consist of a sitting, dining and kitchen area, a utility room, study and toilet room at ground floor and a landing area, bathroom and three bedrooms, one with an en-suite. Unit two would consist of a sitting, dining and kitchen area, a utility room, study and toilet room at ground floor and a landing area, bathroom and three bedrooms, one with an en-suite. Unit three would consist of a sitting, dining and kitchen area, a utility room, a bedroom and shower room at ground floor and a landing area and two bedrooms with en-suites. The proposal would include two porches for unit one and two along the east facing elevation of the building and one porch on the west facing elevation for unit three. The gross floor area of unit one and two would be some 125.6 sqm each and unit 3 would be some 126.1 sqm.

The proposal includes four ground floor windows, two ground floor doors and six first-floor windows to the north-east elevation and four ground floor windows, one ground floor door, one first-floor window, two dormer windows and two rooflight to the north-west elevation. It also includes two ground floor, three ground floor doors, three first-floor windows and two first-floor Juliet balconies to the south-western elevation and one dormer window to the south-eastern elevation.

Details of the proposed external materials have not been provided, however the submitted design and access statement states that the appearance of the building will remain. The proposed garden spaces for unit one and two will be located to the west of the existing building and the proposed garden space for unit three will be located to the north of the existing building. Four parking spaces have been shown to the east of the existing building and two spaces to the west. Cycle storage has also been shown within the gardens of the buildings units.

## LEGAL FRAMEWORK

As this is an application to establish whether prior approval is required and is not an application for planning permission, the application falls to be assessed against Part 3, Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, which states:

### *"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,*

#### *Q.1. 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 201564 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*

*Q.2.—(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*

*Q.3.—(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.*

*Class X of Part 3 is also deemed relevant:*

## *Interpretation of Part 3*

*X. For the purposes of Part 3—*

*"agricultural building" means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business; and "agricultural use" refers to such uses;*

*"agricultural tenancy" means a tenancy under—*

- (a) the Agricultural Holdings Act 1986; or*
- (b) the Agricultural Tenancies Act 1995;*

*"curtilage" means, for the purposes of Class Q, R or S only—*

- (a) 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*
- (b) 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;*

*"established agricultural unit" means agricultural land occupied as a unit for the purposes of agriculture—*

(a) for the purposes of Class R, on or before 3rd July 2012 or for 10 years before the date the development begins; or  
(b) for the purposes of Class Q or S, on or before 20th March 2013 or for 10 years before the date the development begins;  
"habitable rooms" means any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms;"

## **ASSESSMENT**

It is necessary to begin this assessment with reference to Article 3(4) of this legislation (The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)), which states:

*'Nothing in this Order permits development contrary to any condition imposed on any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order'.*

There do not appear to be any restrictive conditions on this building.

### **Development not permitted**

Taking each element of the 'Development not permitted' section in turn:

*"(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,"*

The building was permitted as an agricultural building under application reference 13/03625/AGRDET in 2013. In response to that application the Council's Agricultural Consultant advised that the applicant intended to introduce a breeding flock of 100 ewes and also to graze cattle and Alpaca on the land. They also advised that a pond was located on the site that provided private fishing for the applicant, family and friends and that it supports a number of ducks and geese. No evidence of these agricultural practices taking place have been provided.

No evidence of an agricultural use at the building has been provided and no details have been included with the current application to demonstrate that the site formed part of an established agricultural unit on the 24th July 2023 or at any point before that. A holding number for the site has been provided however no other evidence has been submitted regarding the use the building following it's construction in 2013. It should be noted that the holding number is an aquatic holding number and does not on its own prove that the barn is used as part of an agricultural unit.

During the course of this application a site visit was undertaken and there was no evidence that the building was being used for agricultural purposes. There was also no evidence of an agricultural use being undertaken at the wider site. During the site visit evidence of non-agricultural storage within the existing building and surrounding the buildings in single storey metal containers was found. These containers were located within the proposed garden space of unit three and to the west of the building. From satellite imagery these containers have been in-situ since August 2020. The existing building has been partitioned to provide separate rooms, it includes a significant amount of internal wiring, and it is also internally insulated. These elements are not considered to be common within an agricultural building. It should also be noted that within Google Maps a construction company's address and location pin are located within the curtilage of the proposed residential units.

Insufficient evidence has been included with the application to demonstrate that the building has been used for the purposes of agriculture and that the building forms part of an established agricultural unit on 24th July 2023. Therefore the proposal fails to comply with criteria Q.1(a) as listed above.

The proposal appears to accord with the criteria listed under (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p), and the Local Planning Authority has no evidence to suggest anything to the contrary.

Overall, criteria (a) is not considered to have been met.

## Conditions

Conditions as stated under Part Q.2 require the local planning authority to assess whether prior approval is required in respect of transport and highways impacts of the development, noise impacts of the development, contamination risks on the site, flooding risks on the site, whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change to a C3 residential use and the design and external appearance of the building together with the provision of adequate natural light in all habitable rooms of the dwellinghouses. These considerations are detailed below:

### ☐a) Transport and highways impacts of the development

West Sussex County Council Highway Authority has been consulted on this application, and have provided the following comments:

*"In summary, the movements associated with agriculture have done so safely with no known safety highways concerns, and C3 residential uses are considered less intensive. West Sussex County Council in its role as LHA has therefore considered the proposal on that basis. In principle, the current GPDO gives limited ability to consider wider highway and transport impacts beyond those set out. The prior approval is therefore considered acceptable in highway terms."*

In accordance with these comments, it is not considered that the proposal would cause any transport or highways impacts. The prior approval is therefore considered acceptable in highway terms.

### ☐b) Noise impacts of the development

The proposal seeks to convert the entirety of the building and the area marked as curtilage to a residential use. There are several single storey shipping containers to the north and west of the existing building which appear to be used for commercial and industrial storage. The agent has confirmed that these would be removed to facilitate the development. There are several residential properties to the south of the existing building however they are the southern side of the access road to the application building. There does not appear to be any agricultural use being undertaken on the site.

Taking into account the above, there are not considered to be any noise impacts from the proposal that would justify withholding approval.

### ☐c) Contamination risks on the site

The Council's Contaminated Land Officer has been consulted on the application and raised no objections subject to the imposition of conditions.

### ☐d) Flooding risk on the site

The site does not fall within a Flood Zone area. On this basis, there are not considered to be any flooding risks as a result of this proposal.

### ☐e) Practicality of change of use

In determining these applications DCLG Planning Practice Guidance website (revised 05.03.2015) states:

*"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."*

There are several single storey shipping containers to the north and west of the existing building which appear to be used for commercial and industrial storage. The agent has confirmed that these would be removed to facilitate the development. There are several residential properties to the south of the existing building however they are the southern side of the access road to the application building. There does not appear to be any agricultural use being undertaken on the site.

The highways access to the site will utilise an existing access off Lewes Road and the existing track to the application building. As such there is no reason to conclude that the proposal would be undesirable.

☐f) The design or external appearance of the building

The proposed plans and elevations show that the scale and form of the existing building will be retained which is considered acceptable.

It is acknowledged that there are to be changes to the existing openings on the building with new windows and doors / different size openings. However, Part 3, Class Q allows for building operations necessary to convert the building including replacement of roofs, exterior walls and the installation of windows and doors. The proposed dormer windows will also comply with this element of Class Q. The external appearance is considered to be acceptable for the proposed use. Therefore no concerns are raised in this respect.

☐g) the provision of adequate natural light in all habitable rooms of the dwellinghouses

Proposed plans and elevations submitted show that all habitable rooms will be served by windows and roof lights, providing adequate levels of natural light.

## **CONCLUSION**

To summarise as this is not a planning application, the policies contained within the Mid Sussex Local Plan, District Plan and Neighbourhood Plan are not relevant. For the reasons that have been outlined above it is considered that the prior approval process cannot be utilised in this case because the development fails to comply with the provisions of Q.1(a) of Class Q, Part 3, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015. Therefore, it is considered that this application for prior approval should be refused.

Decision: Prior Approval is Refused

Case Officer: Hamish Evans