

Delegated Decision

Sign off Sheet

Ref. No:	DM/24/2913	Case Officer:	Hamish Evans
Application Type:	Prior Not. - Agricultural to Dwelling		
Proposal:	Prior Notification application for the change of use of a building from agricultural use to residential (C3) with associated operational development		
Site:	Pellings Barn, Mill Lane, Sayers Common, West Sussex, , , ,		
Validation Date	28 Nov 2024	Overall Expiry Date:	3 Mar 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Prior Approval is Refused	Recommendation Date:	25 Feb 2025
Target Date:	23 Jan 2025	Recommending Officer Signature:	Hamish Evans

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
--	--	-------------------------------	---

Signed and Agreed By:	Stephen Ashdown	Date:	25 Feb 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/24/2913

**Pellings Barn, Mill Lane, Sayers Common, West Sussex, , ,
Prior Notification application for the change of use of a building from agricultural use to
residential (C3) with associated operational development
Mrs Sarah Harvey**

SUMMARY OF REPRESENTATIONS

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

SUMMARY OF CONSULTEES

MSDC Drainage Engineer

In principle objection.

WSCC Highways

The prior approval is therefore considered acceptable in highway terms.

MSDC Contaminated Land

No objection.

MSDC Street Name and Numbering

Recommend informative.

PARISH COUNCIL OBSERVATIONS

Hurstpierpoint and Sayers Common Parish Council

Recommend refusal, as full application should be submitted to assess flood risk and surface water drainage.

INTRODUCTION

This application is a prior notification application to establish whether prior approval is required for the change of use of an existing barn to a residential dwelling at Pellings Northend Lane Sayers Common BN6 9HL.

RELEVANT PLANNING HISTORY

HP/004/93. The re-erection of Berryland barn on the site occupied by Pellings barn and conversion to office use b1(a) and (b). Refused.

AP/93/0019. The re-erection of Berryland barn on the site occupied by Pellings barn and conversion to office use b1(a) and (b). Dismissed.

HP/032/95. Repair of barn and re-erection of traditional barn for agricultural machinery storage. Permission.

DM/24/0965. Notification for Prior Approval for a Change of Use of Agricultural building into a Dwelling.
Prior Approval is Refused.

SITE AND SURROUNDINGS

The site is located within the countryside, with the built-up area boundary of Sayers Common located some 900 metres to the south-west of the site. The site is located within an area of increased surface water flood risk including 1:30 flood extent. The application site has a footprint of some 194 metres squared and is located some 410 metres to the north of the main farmstead, Newhouse Farm. The planning statement that has been submitted confirms that the existing barn has been used as an agricultural building in association with Newhouse Farm. The site consists of a barn and an access track. There is a pond to the east of the existing barn, and there are several trees and hedgerows to the north, east and west of the barn. The existing barn is characterised by timber clad walls on a bare brown brick plinth, brown clay roof tiles and timber window and door frames. The existing track connects the barn to Northend Lane to the north of the site. Northend Lane, hedgerows and a tree line is located to the north of the site, open countryside is located to the south of the site, a pond, hedgerows and trees are located to the east of the site and hedgerows and tree lines are located to the west 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 a residential dwelling. The proposed dwelling would consist of a three-bedroom property with three bedrooms on the first-floor. One of the bedrooms will have an en-suite bathroom and a bathroom will be provided at first-floor level. At ground floor level the proposal will provide a sitting room, dining room, kitchen, two utility rooms, toilet, covered outdoor area and garage. The gross floor area of the proposed dwelling would be some 238.4 sqm and as such constitute a larger dwellinghouse for the purposes of Class Q.

The external appearance of the building will be altered with new windows and door openings being proposed to each elevation, with seven rooflights proposed to the main roof. The proposed external works consist of insertion of door and window and the installation of rainwater pipes and gutter. The proposed windows and door frames will be characterised by a mixture of timber frames and black aluminium. The proposed rainwater goods will be black.

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 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;
"pay day loan shop" has the meaning given in the Use Classes Order⁷³;
"prior approval date" means the date on which—
 (a) prior approval is given; or
 (b) a determination that such approval is not required is given or the period for giving such a determination set out in paragraph W(11)(c) of this Part has expired without the applicant being notified whether prior approval is required, given or refused;
"registered nursery" means non-domestic premises in respect of which a person is registered under Part 3 of the Childcare Act 2006⁷⁴ to provide early years provision;
"site" means the building and any land within its curtilage;
"state-funded school" means a school funded wholly or mainly from public funds, including—
 (a) an Academy school, an alternative provision Academy or a 16 to 19 Academy established under the Academies Act 2010⁷⁵;
 (b) a school maintained by a local authority, as defined in section 142(1) of the School Standards and Framework Act 1998⁷⁶; and
"sui generis use" means a use for which no class is specified in Schedule 1 or 2 to the Use Classes Order."

It should be noted that the above legislation sets out the provisions contained within the Act in January 2025. The Act was amended in April 2024 to remove the previously allowed larger dwellinghouse allowance which stated that development was not permitted if:

- '(a) In the case of:
 (i) A larger dwellinghouse within an established agricultural unit:
 - The cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or
 - The cumulative floorspace of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres.
 (b) In the case of
 (i) A smaller dwellinghouse, within an established agricultural unit
 - The cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or
 - 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.'

This element of the Act was removed through the April 2024 amendment and came into effect on the 21st May 2024. However, transitional provisions were also set in place which state that the above allowance is still in place for application that are submitted before 20th May 2025. As this application was submitted prior to this date the application is required to comply with the above provision.

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:

As set out in the applicant's Planning Statement, the proposal appears to accord with the criteria set out in the most up-to-date legislation listed under (a), (b), (ba), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l) and (m), and the Local Planning Authority has no evidence to suggest anything to the contrary:

- (a) The planning history of the site shows the application building was in use as an agricultural building in 1995. As such it was in use prior to 24th July 2023.
- (b) The internal floor space of the proposed dwelling measures some 238.4 sqm, so would be classed as a larger dwellinghouse. No other applications under Class Q at the site have been received.
- (c) N/A
- (d) The internal floor space of the proposed dwelling measures some 238.4 sqm, so would be classed as a larger dwellinghouse. No other applications under Class Q at the site have been received.
- (e) the site is not occupied under an existing formal agricultural tenancy;
- (f) nor has an agricultural tenancy been terminated within the last 12 months.
- (g) no development utilizing agricultural permitted development rights has been undertaken on the unit since 20 March 2013.
- (h) the development would not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.
- (i) the building operations listed earlier comply with this part.
- (j) the site is not on article 2(3) land.
- (k) the site does not form part of a SSSI, safety hazard area or military explosives storage area.
- (l) the site is not, and does not contain, a scheduled monument.
- (m) the building is not a listed building.

Taking into account the above the proposal is therefore considered to comply with Q1.

Furthermore, it is noted that Class X of Part 3 of the GPDO relates to interpretation and advises that for the purposes of Class Q, R or S only, "curtilage" means:

*"(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;"*

The submitted block plan provided includes a proposed curtilage of the building which would be located to the south and east of the building. As the proposed conversion would have a floorspace larger than the proposed curtilage it is considered that the proposal would meet the requirement of Class X.

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:

"This proposal seeks prior approval for the change of use from agricultural building to residential to form a single dwelling (C3 Use). The site is located on Mill Lane, an unclassified road subject to national speed limit in this location.

Under the current General Permitted Development Order (GPDO), it is permitted development to change use from agricultural to residential (Class C3) subject first to prior approval being granted. As part of the prior approval process, there are a number of matters to be considered. This includes matters relating to highways and transport. However, the GPDO is quite clear as to what highway matters can be considered, namely whether the proposal is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site.

Generally, the change of use from agricultural to residential dwelling would generate a reduction in material use at the site. The existing use would create a certain number of movements throughout the day, whereas the movements associated with residential use would be anticipated within network peaks. Therefore, although the nature of trips would change, the frequency would likely not exceed that of the potential of the current use.

An inspection of collision data supplied to WSCC by Sussex Police over a period of the past five years reveals there have been no recorded collisions within the vicinity of the access on Mill Lane. Therefore, there is no evidence to suggest the existing access is operating unsafely or that the proposal would exacerbate an existing safety concern.

The WSCC Car Parking Demand Calculator indicates that a dwelling of this size and location would require three car parking spaces. From inspection of the plans, there appears to be space within the site to accommodate this parking demand. In addition, there exhibits suitable space for on-site turning to be achievable, allowing vehicles to exit the site in a forward gear.

Regarding cycles, there appears to be suitable storage space on-site that can accommodate bicycles in accordance with WSCC Parking Standards.

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.

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.

☐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. Any future agricultural uses surrounding the site would be set away from the dwelling. The existing boundary treatment around the site is considered to be relatively significant and would mitigate any surrounding noise pollution from the agricultural fields and the road to the north. It should also be noted that there are existing residential properties to the northeast of the proposed dwelling.

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.

☐d) Flooding risk on the site

The submitted application documents state that the site is located within Flood Zone 1. However, Council records show that the site is located within an area of increased surface water flood risk, including the 1:30 flood extent. The Council's Drainage Engineer has objected to the proposal as the Planning Practice Guidance states that all flood risk must be considered in line with fluvial flood assessment methodology, and the site is therefore considered to be located within the functional floodplain, flood

zone 3b equivalent. Annex 3: Flood risk vulnerability classification of the National Planning Policy Framework advises that buildings used for dwelling houses are classified as "More vulnerable".

Table 2: Flood risk vulnerability and flood zone "incompatibility" of the Planning Practice Guidance states that where an application is for "More vulnerable" development and is located within flood zone 3b it should not be permitted. The Council's Drainage Engineer objects to the proposal on flood risk grounds, and the lack of evidence that the development and site users could be kept safe for the lifetime of the development.

It is noted that the applicant has provided additional flood risk information and mitigation measures since the original application under reference DM/24/0965. However, taking into account the above assessment and the Council's Drainage Engineer's comments this information and the mitigation measures are not considered to overcome the concerns raised.

Taking into account the above the proposal is not considered to be acceptable in respect of flood risk issues at the site.

☐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."

The application site is located at the northern boundary of the existing agricultural unit and there are residential properties to the north of the existing barn. The highways access to the site will utilise an existing access off Northend Lane and an existing track to the barn. 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 proposal will retain the existing rural character and appearance of the building.

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 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.

ASSESSMENT

To summarise as this is not a planning application, the policies contained within the Mid Sussex District Plan and Hurstpierpoint and Sayers Common Neighbourhood Plan are not relevant to this determination. It has been accepted that the building on this site is an agricultural building, on an established agricultural unit, for which evidence of related agricultural use is accepted.

However, for the reasons that have been outlined above it is considered that the prior approval process cannot be utilised in this case as the proposed change of use would result in a "more vulnerable" form of development as defined by Annex 3 of the NPPF and the site is located within an area of flood risk which is equivalent of flood zone 3b. As such the PPG states that development of this type should not be permitted. The Council's Drainage Engineer objects to the proposal on flood risk grounds and the lack of evidence that the development and site users could be kept safe for the lifetime of the development. Therefore, it is considered that this application for prior approval should be refused.

Decision: Prior Approval is Refused

Case Officer: Hamish Evans