

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1945	Case Officer:	Stefan Galyas
Application Type:	Prior Not. - Agricultural to Dwelling		
Proposal:	Prior approval for the change of use of an agricultural building to become a two bedroom residential unit.		
Site:	Five Oaks Lodge, Pomper Lane, Hurstpierpoint, Hassocks, West Sussex, BN6 9LJ, ,		
Validation Date	1 Aug 2025	Overall Expiry Date:	27 Aug 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Prior Approval is Refused	Recommendation Date:	25 Sep 2025
Target Date:	26 Sep 2025	Recommending Officer Signature:	<i>Stefan Galyas</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	25 Sep 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1945

**Five Oaks Lodge, Pomper Lane, Hurstpierpoint, Hassocks, West Sussex, BN6 9LJ,
Prior approval for the change of use of an agricultural building to become a two bedroom
residential unit.**

Mr John Houlton

SUMMARY OF REPRESENTATIONS

There were no letters of representation received in response to the proposed development.

SUMMARY OF CONSULTEES

WSCC Highways

No objection.

MSDC Contaminated Land

Recommended both a phased contaminated land condition and discovery condition.

MSDC Environmental Protection

No objection.

MSDC Street Naming and Numbering

Recommend informative.

Flood Risk and Drainage

'Due to the very low flood risk and type of development the flood risk and drainage team have no objection to the development.'

TOWN/PARISH COUNCIL OBSERVATIONS

Parish Council: *'The committee recommends that MSDC grant permission.'*

RELEVANT PLANNING HISTORY

DM/15/1597 - Application for determination as to whether prior approval is required for the change of use of an agricultural building to become 1 residential unit. This application does include building operations necessary to convert the buildings to residential use. Prior approval granted 11.06.2015.

SITE AND SURROUNDINGS

The application relates to Five Oaks Barn, a traditional Dutch barn positioned to the southern side of Pomper Lane and set nearby the residential dwelling at Five Oaks Lodge to the west. The existing barn is of a utilitarian appearance, featuring a high dome shaped roof. The existing building features a steel framed construction with corrugated steel sheets to both the walls and the roof. There is an existing single storey brick built lean to element to the southern side of the barn which also features corrugated steel sheets to the roof. The existing barn is served access through a gravelled driveway which leads off from the highway to the north and is shared with the nearby lodge to the west. Nearby to the west, the remains of an old nursery can be observed as well as what appears to be a sand school.

With regard to the sites locality, Pomper Lane is characterised by mature hedgerow abutting the roadside edge and providing a verdant rural character to the area. There are some other residential dwellings sporadically placed exclusively to the southern side of the road.

The site is not located within any defined built up area boundary and is positioned within the open countryside.

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 two storey, two bedroom residential dwelling. The proposed layout would feature an upside down living arrangement with an open plan lounge, dining and kitchen area at ground floor as well as two bedrooms and a bathroom at first floor level. In total, the gross internal area would measure at 84m². With regard to external materials, the proposal would utilise the existing steel frame and re-clad the unit in Ecoscape vertical composite cladding in a 'silver birch' colour, Ecoscape vertical composite cladding in a 'golden oak' colour, Ecoscape slatted composite cladding in a 'midnight' colour and exposed steel columns painted black to the walls, a zinc or standing seam roof and dark grey aluminium windows and doors. It is noted that car parking would be offered on the existing gravelled surface.

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 nonagricultural 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 2015 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,'

Five Oaks Lodge to the west of the barn was previously converted under a Class Q conversion (DM/15/1597) where it was determined on the balance of probabilities that the existing building was used for the purpose of storing agricultural machinery. However, the test of when the site was part of an agricultural unit was taken from 20th March 2013. The current application must demonstrate that the barn has been used as part of an established agricultural unit before 24th July 2023.

During the site visit conducted by the Case Officer, it was observed that horses were being kept within the field to the south which is shown on the site location plan as being within the blue line boundary. Moreover, there were what appear to be existing timber-built field shelters used for the horses within this area. It is also considered that there is an existing sand school to the west of the barn within the blue line boundary with an associated stable building. Google streetview photography shows that both in March 2024 and June 2023 that a horse box was stored within the barn subject to the current application. Further information has been provided by the Applicant to show that the same horse box was being kept within a nearby barn at Little Park Farm and the prior notification (DM/19/2344) under class Q was permitted. Whilst this was not outlined within this previous approval, the horse box is only shown in a singular time stamp image and it is considered that each application is assessed on a case-by-case basis.

The term 'agriculture' is defined in section 336(1) of the Town and Country Planning Act 1990 as:

'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 [...].'

It was clarified within the further evidence provided by the Applicant that the horse box is used in association with stud breeding of polo ponies. Furthermore, 19 names of various foals from 2013 to 2023 have been provided. An appeal decision under APP/C1570/W/17/3193177 concluded the following:

'In my experience it is a long-standing principle that horses are only considered to constitute agriculture in planning terms if they are used to farm agricultural land; are farmed for meat or hides; or are grazed purely on the land. Other equestrian uses such as livery stables or a stud farm are considered to be non-agricultural purposes falling outside the definition of agriculture s336(1) TCPA.'

It is considered that the area immediately behind the barn features domesticated features such as a trampoline and mowed lawn. Upon further review, historic google aerial photography shows the trampoline on site going back to 2020. It is therefore considered that these domestic features would not be considered under an agricultural use. Furthermore, at the time of the Case Officers site visit there was a dog kennel within this parcel immediately to the south which is considered to contribute further to the domestic nature of this land.

The Applicant contests that this parcel of land should not be considered under the current application as this parcel of land is now residential as approved under the nearby class Q conversion under DM/15/1597. However, the revised block plan intersects the existing shared access to the north and this parcel of land is still considered to be associated with the barn.

On balance, it is therefore not considered that the barn has been used for the purposes of agriculture and that the building did not form part of an established agricultural unit on 24th July 2023. Accordingly, the proposal fails to comply with criteria Q.1(a) as listed above.

The application seeks to convert the existing barn to a dwellinghouse and therefore must prove that the barn is capable of conversion. As established within *Hibbitt, and Another v Secretary of State for Communities and Local Government*, and *Rushcliffe Borough Council* [2016], the proposed works must fall within the realm of what may be considered a 'conversion' and not require substantial building works. The proposal has not been supported by a structural survey and the Planning Statement notes that the barn is 80-90 years of age. It is therefore considered that the Applicant has failed to demonstrate that the existing barn is capable of conversion.

The proposal appears to accord with the criteria listed under Q.1 (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 Q.1(a) is not considered to have been met. Moreover, the application has not demonstrated whether the barn is capable of conversion and therefore cannot be considered under Q(b).

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 impact of the development

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

' The property is located in a rural location and Pomper Lane is a rural lane with no footways. Access into the site will be from the lane via the existing access driveway which is shared with an existing residential dwelling. This access is gated and provides good visibility in and out of the site.

Parking is available on the site, whilst not formally marked out there is plenty of space for parking and turning.

Due to the rural location there is no footway, bus or rail service nearby so the reliance on the private car will be high. Nevertheless, the site is already in use as a residence and as such a precedence has already been set. The barn will also generate very few traffic movements potentially up to 4 a day so there would not be any capacity impacts as a result of the changes, and there would be a reduction movements from heavy machinery as the barn will no longer be in use for this purpose.

WSSCC raise no objection.

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

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

c) Contamination risk 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.'

The existing barn has been used for the storage of a horse box over time and the nearby fields are used for the keeping of horses with a nearby sand school and stables also present. On balance, the barn does not appear to be used for agricultural purposes.

The highways access to the site will utilise an existing access off Pomper Lane. 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, 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(b) and 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: Stefan Galyas