

Parish: Earnley	Ward: East Wittering
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E/18/00578/FUL

Proposal Change of Use from Agriculture to 2no Dwellings - Amendments to Part 3, Class Q Prior Approval permission - E/17/03461/PA3Q - Changes to fenestration; insertion of rooflights; proposed canopy porches and insertion of flues.

Site 113 Second Avenue Almodington Earnley PO20 7LF

Map Ref (E) 482449 (N) 98315

Applicant Mr J Strachan

RECOMMENDATION TO DEFER FOR SECTION 106 THEN PERMIT



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1.0 Reason for Committee Referral

1.1 Parish Objection - Officer recommends Permit.

2.0 The Site and Surroundings

2.1 The site is located on the southern side of Second Avenue, at its western end. It is within the Parish of Earnley and is located on an existing agricultural holding. The area is characterised by a mixture of residential and horticulture development. Access to the site is directly from Second Avenue via a gated entry point and drive, leading to glasshouses and an existing dwelling beyond.

2.2 The building subject of this application is an existing glasshouse that benefits from permission to be converted to two residential dwellings (17/03461/PA3Q), through the prior approval process.

3.0 The Proposal

3.1 This application seeks to provide an alternative conversion scheme to that previously approved. This is due to the limitations on changes that can be made through the prior approval process. The changes are to the external appearance of the building. These include the provision of porch canopies over the front doors on the west elevation and the provision of rooflights and wood burning stove within each unit and the associated external flue. It has previously been established that the building is structurally sound and can be converted.

4.0 History

15/01472/PA3Q	ARG106	Change of use of Agricultural Building from Agricultural to 2 no, Dwellings (C3 Use Class).
17/03461/PA3Q	YESPAP	Class Q Application for Prior Approval - Change of Use of Agricultural Building from Agriculture to 2 no. Dwellings (C3 Use Class) - Amended scheme to E/15/01472/PA3Q.

5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	YES
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	
- Flood Zone 2	NO
- Flood Zone 3	NO

6.0 Representations and Consultations

6.1 Parish Council

This application to replace the glasshouse glass with plywood and plasterboard walls is beyond a conversion and is a rebuild and irrespective of the E/1703461/PA3Q permission Earnley Parish Council consider this rebuild of a greenhouse should not be allowed and object on these grounds.

6.2 Third Party Representations

None received.

7.0 Planning Policy

The Development Plan

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029. There is no made Neighbourhood Plan at this time.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 33: New Residential Development

Policy 39: Transport, Accessibility and Parking

Policy 40: Carbon Reduction Policy

Policy 45: Development in the Countryside

Policy 46: Alterations, Change of Use and/or Re-use of Existing Buildings in the Countryside

Policy 48: Natural Environment

Policy 49: Biodiversity

Policy 50: Development and Disturbance of Birds in Chichester and Langstone Harbours Special Protection Areas

Policy 51: Development and Disturbance of Birds in Pagham Harbour Special Protection Area

National Policy and Guidance

7.3 Government planning policy now comprises the National Planning Policy Framework (NPPF), paragraph 11 of which states:

At the heart of the NPPF is a presumption in favour of sustainable development,

For decision-taking this means:

a) approving development proposals that accord with an up-to-date development plan without delay; or

b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.4 Consideration should also be given to sections 4 (Decision-Making), 9 (Promoting Sustainable Transport), 12 (Achieving well-designed places), and 15 (Conserving and enhancing the natural environment), in particular which are also relevant to this case.

Other Local Policy and Guidance

7.5 The following documents material to the determination of this planning application:

- o Planning Obligations and Affordable Housing SPD
- o CDC PGN3: Design Guidelines for Alterations to Dwellings and Extensions
- o CDC Waste Storage and Collection Guidance

7.6 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Encourage and support people who live and work in the district and to adopt healthy and active lifestyles
- Support communities to meet their own housing needs
- Support and promote initiatives that encourage alternative forms of transport and encourage the use of online services
- Promote and increase sustainable, environmentally friendly initiatives in the district
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 The main issues arising from this proposal are:

- i. Principle
- ii. Design, impact on visual amenity and character of the area
- iii. Neighbour Amenity
- iv. Highway Safety
- v. Other Matters
- vi. Ecological Considerations

Assessment

i) Principle

8.2 In May 2013 the Town and Country Planning (General Permitted Development Order) 1995 was amended to include a revised Use Class Order, which included under Schedule 2, Part 3, Class MB (now Class Q), where subject to obtaining prior approval from the Local Planning Authority, the change the use of a building in agricultural use to residential could be sought. This was subject to complying with a set of limitations and obtaining prior approval on matters relating to highways, contaminated land, flooding, noise and design issues. At this time there was no guidance provided by government about the amount of works able to be carried out and the very wording of the legislation, which set out that walls, roof, windows and doors could be replaced, meant that it appeared as though a building could be stripped back to its steel or timber structure and all walls, roofs and windows could be replaced.

- 8.3 In March 2015 The Town and Country Planning (General Permitted Development Order) 1995 (As amended) (GPDO) was replaced in its entirety and this included revisions to Schedule 2, Part 3 to include Class Q, formally Class MB change of use of agricultural buildings to residential.
- 8.4 Following this update, prior approval application E/15/01472/PA3Q was submitted on the application site for the conversion of the steel frame glasshouse to two residential units. It was concluded that the glasshouse was in use for agricultural purposes, met the relevant 12 criteria and the 6 prior approval matters. At this time there was still limited guidance about the conversion of buildings and substantial rebuilding. The officers report concluded that 'In terms of the method of construction, and the suitability of the building structurally for conversion, whilst unorthodox, the works appear plausible...'. A later application (17/03461/PA3Q) was submitted in November 2017 which also granted prior approval for conversion of the building in to two dwellings.
- 8.5 The proposal seeks the Change of use from agriculture to 2no. dwellings including - changes to fenestration, insertion of rooflights, porches and insertion of flues. The changes sought are ones which would not have met the limitations set out within the GPDO because they would have exceeded the existing dimensions of the building. The proposed fenestration changes would however be limited, with a flue per property, a small canopy porch over each front entrance to the properties and rooflights providing light to internal bathroom spaces. No other changes are proposed to the siting, size and curtilage changes, of the proposed 2 dwellings from that approved under application E/17/03461/PA3Q.
- 8.6 The Parish Council raise concern that that the application would be beyond a conversion and is a rebuild and irrespective of the E/17/03461/PA3Q permission. However the existing building benefits from prior approval and this is a material consideration in considering an alternative application. Of Particular note are the officer's comments on application E/15/01472/PA3Q, where it was concluded that it was 'plausible to convert the building'. The previous case officer's views and the extant consent afforded by the prior approval procedure constitutes a fallback position which must be given weight in the determination of this application.
- 8.7 The residential use of the building under application E/17/03461/PA3Q could be implemented without the need for any further permission from the Council as the Local Planning Authority. This is a material consideration and carries weight in the assessment of the current application, which only seeks minor fenestration amendments and no changes to the footprint, scale, utilising the existing glasshouse frame and curtilage.
- ii) Design and Impact on Visual Amenity and Character of the Area
- 8.8 The proposal seeks to convert part of the glasshouse to form the two residential dwellings. Two bays to the east would be demolished; one to the north and to the south would be removed. The proposed dwellings would be single storey and semi-detached, with roof form following the staggered pitch of the existing glasshouse. The walls would be finished in horizontal cladding, with windows and doors inserted. The proposed materials and finishes would be appropriate to the rural character of the area.

8.9 The minor fenestration changes, to include the canopy porches and rooflights in the pitched roof, would not result in harm to the character and form of the property, or the rural character of the area. The two proposed flues, subject to a matt finish, which could be conditioned, would also be acceptable within the rural setting.

8.10 Overall the proposal would not result in harm to the visual amenity and character of the area and would therefore accord with local plan policy 48 which seeks to ensure that new development would respect and enhance the local landscape character and sensitively contribute to its setting and quality.

iii) Impact on Neighbouring Amenity

8.11 Policy 33 of the CLP include requirements to protect the amenities of neighbouring properties. The proposal due to the distance, orientation, low level nature of the proposal and boundary treatments, there would not be an unacceptable impact on the amenities of neighbouring properties, in particular to their outlook, privacy, available light or noise generated by the development, which is residential in nature. The proposal would therefore accord with policy 33.

iv) Highway Safety

8.12 Policy 39 of the CLP seeks to ensure that new development does not create residual impacts which are severe and that proposals have safe and adequate means of access and internal circulation/turning arrangements for all modes of transport. The proposal would utilise an existing access point onto Second Avenue, with the access drive as existing on site. Each property would be provided with off road parking for two cars, although there would be capacity for additional vehicles if necessary. Turning is not proposed within the red line area, however due to the low speeds and visibility of the access road, this arrangement would be acceptable. WSCC Highways commented on the prior approval applications, raising no objection to the proposal on highway safety grounds. Overall the proposal is considered to accord with local and national development plans which relate to highway safety matters.

v) Other Matters

8.13 The proposal seeks connections to the existing main sewer which runs along Second Avenue. Surface water would be discharged to soakaways, which would be subject to building regulations and would be an approach that would be acceptable in this location.

vi) Ecological Considerations

8.14 The application site lies within the 5.6km zone of influence for the Chichester and Langstone Harbours Special Protection Area (SPA) and the 3.5km Zone of Influence for the Pagham Harbour (SPA) therefore the proposal is likely to have a significant impact upon the SPA as a result of recreational disturbance. The LPA have screened the proposal in, undertaken an appropriate assessment as required, and concluded that subject to a contribution towards the Bird Aware Solent and the Pagham Harbour, it is secured the scheme the proposal would not have an adverse impact on the Integrity of the European protected site.

- 8.15 Policy 50 of the Chichester Local Plan acknowledges the collective impact which all new dwellings within 5.6km of the Harbour have on the ecology of areas designated within the Solent area under European Species and Habitat Directives and the derived UK Regulations. It adopts the approach, recommended by Natural England, that a contribution is made on a per bedroom basis towards a mitigation project 'Solent Disturbance Mitigation Project'. In April 2018 the scale of charging altered to following a sliding scale contribution based on the number of bedrooms, which is used to fund a package of wardens, education, green infrastructure improvements and monitoring. Policy 51 of the Chichester Local Plan acknowledges the collective impact on the Pagham Harbour and flat contribution is required per dwelling. On the advice from Natural England, where development falls into the area where the zone of influence overlaps, only one contribution will be required per dwelling, whichever is the higher of the two contributions.
- 8.16 The applicants have agreed to enter into a S106 planning obligation to pay the necessary financial contribution to mitigate the impact of the development. On completion of the agreement and payment, the proposal would comply with policy 50 and 51 within the CLP.

Significant Conditions

- 8.17 As the application derives from a prior approval application, whereby the building has no permitted development rights, it is considered proportionate to remove permitted development rights in this regard. In addition, the conditions contained attached to the decision for the prior approval have been included as part of this recommendation

Section 106 Agreement

- 8.18 This development is liable to pay the Council's CIL charge as the application results in the formation of one new dwelling. As set out in vi) above, it would also be liable to a contribution with reference to Recreational Disturbance.

Conclusion

- 8.19 Based on the above assessment and the material considerations relating to the fallback positions that exist on the application site, it is considered the proposal complies with development plan policies and therefore the application is recommended for approval.

Human Rights

- 8.20 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to refuse/permit is justified and proportionate.

RECOMMENDATION

DEFER FOR SECTION 106 THEN PERMIT subject to the following conditions and informatives:-

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall not be carried out other than in accordance with the approved plans: 2A, 3A, and 6.

Reason: To ensure the development complies with the planning permission.

3) **No part of the development hereby permitted shall be first occupied** until the vehicle parking and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development.

4) **No part of the development hereby permitted shall be first occupied** until covered and secure cycle parking spaces have been provided in accordance with plans and details that shall first have been submitted to and approved by the Local Planning Authority. Thereafter the cycle parking shall be retained for that purpose in perpetuity.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

5) **No part of the development hereby permitted shall be occupied** until refuse and recycling storage facilities have been provided in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the refuse and recycling storage facilities shall be maintained as approved and kept available for their approved purposes in perpetuity.

Reason: To ensure the adequate provision of onsite facilities in the interests of general amenity and encouraging sustainable management of waste.

6) Prior to first occupation of the dwelling(s) hereby permitted the associated boundary treatments shall be provided in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include;

- (a) scaled plans showing the location of the boundary treatments and elevations, and
- (b) details of the materials and finishes.

Thereafter the boundary treatments shall be maintained as approved in perpetuity.

Reason: In the interests of protecting the amenity of neighbours.

7) The development hereby permitted shall not be constructed other than in accordance with the materials specified within the application form and plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that a harmonious visual relationship is achieved between the new and the existing developments.

8) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. development shall not be first occupied until;

- i) An investigation and risk assessment has been undertaken in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority, and
- ii) where remediation is necessary a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Any remediation shall be fully implemented in accordance with the approved scheme before the development is brought into use, and
- iii) a verification report for the remediation shall be submitted in writing to the Local Planning Authority before the development is first brought into use.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of contaminated land in accordance with local and national planning policy

9) The proposed hard surface/s hereby permitted shall either be made of porous materials or provision shall be made to direct run-off water from the hard surface/s to a permeable or porous surface within the site and thereafter shall be maintained as approved in perpetuity.

Reason: To ensure adequate provision for surface water drainage and avoid discharge of water onto the public highway.

10) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no building, structure or other alteration permitted by Class A-E of Part 1 Schedule 2 shall be erected or made on the application site without a grant of planning permission.

Reason: In the interests of protecting the amenity of neighbours and the surrounding area.

11) Notwithstanding the provisions of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking, re-enacting or modifying that Order) no fence, wall or other means of enclosure shall be erected, constructed or established on any of the Open Space or Amenity Areas shown on the approved plans.

Reason: To secure the long term retention of the open/amenity areas.

12) The flues hereby approved shall be of a matt finish.

Reason: In the interests of the visual amenity of the rural area.

For further information on this application please contact Caitlin Boddy on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P57XBVERJ8100>