Site Address:	Meadow Farm Nursery, Woodgaston Lane, Hayling Island, PO11 0RL		
Proposal:	Prior Approval for Change of use from agricultural building to 2No. dwellinghouses.		
Application Type:	Prior App'val C of U Agricultural to C3		
Application No:	APP/24/00615	Expiry Date:	27/09/2024
Applicant:			
Agent:	Mr S Jupp	Case Officer:	Tina Pickup
Ward:	Hayling West		

Recommendation:

1 Site Description

1.1 The red lined application site relates to a timber clad building within the wider blue lined Meadow Farm Nursery located on the eastern side of Woodgaston Lane. The nursery site extends to some 2.25 acres and until Covid was used for the growing of plants with sales to the public. As a horticultural business the use comprised an agricultural use. In 2003 planning permission was granted for a dwelling in the south east corner of the site, (now Saltings Cottage) which was tied via a Section 106 Agreement to be occupied by person(s) who are currently working or employed at the adjoining business premises known as Meadow Farm Nursery (02/56431/003). Recently a Certificate of Lawfulness has been granted for the occupation of the dwelling by persons not employed in agriculture - see APP/23/00532.

1.2 A Certificate of Lawfulness was also granted for the use of a building within the site, to the north of Saltings Cottage, as a single residential dwelling in April 2018 (see APP/17/01315). Additionally permission has been granted for land in the south-western corner of the site to be used as a scaffold yard by Mr P Newell whilst he lives at the nursery site (under APP/18/01263). The scaffold yard was then proposed to be relocated under APP/19/00785, and although permission was granted, this does not appear to have been implemented.

1.3 However the horticultural use of the site ceased in December 2020 and the site currently appears vacant and un-used. The building the subject of this prior approval application was originally used as a germination room, sales area, staff room and offices, toilet and store. The current submission confirms that the building was taken out of agricultural use in October/November 2012 for refurbishment and acknowledges that the building was then used as a tea room between June 2013 and March 2020. The LPA are of the opinion that the tea room was a Class E use forming a new planning unit on the site, and did not operate as an ancillary agricultural use. The tea room and cafe was a destination in its own right with a large area of outside seating for customers.

1.4 The site lies outside of the defined built up area and therefore within the non-urban area of Hayling Island where more restrictive rural policies apply in terms of housing. The site lies outside Flood Zones 2 and 3 but within the Future Flood Zone. There are some protected trees on the sites boundaries, and the fields immediately to the east are designated 'secondary support' areas and 'low use' land for the Solent Waders and Brent Goose Strategy.

2 Planning History

APP/15/00427 - Change of use from agricultural building to a flexible commercial use (within class B8, Storage and Distribution) subject to prior approval covering flooding, highways and transport issues, noise impact and contamination risks on the site., WD,15/05/2015

APP/17/01315 - Application for certificate of lawful existing use relating to use of building as a single dwellinghouse, PERM,05/04/2018

APP/18/01263 - Continuation of use of land in south west corner of nursery as a scaffold yard., PERM,14/03/2019

APP/19/00320 - Raise ridge height of roof to incorporate living accommodation at first floor level to include 3No. dormers., PERM,22/05/2019

APP/19/00785 - Re-siting of scaffold yard approved under planning permission APP/18/01263., PERM,23/10/2019

APP/23/00324 - Prior Approval for Change of use from agricultural building to 1No. dwellinghouse. PAY REFUSED 20/06/2023

3 Proposal

3.1 Prior Approval for Change of use from agricultural building to 2No. dwellinghouses.

3.2 Since the submission and determination of APP/23/00324, which was also a Class Q Prior Approval application for the same building on the same site, the GPDO in relation to Part 3 Class Q has been amended. It now includes reference to 'former agricultural buildings' and hence the agent contends that the proposal now meets the tests of the new Class Q and has resubmitted the application, this time to divide the building into 2 units - one 1 bed 1 person unit; and one 3 bed 5 person unit.

4 Policy Considerations

The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended:
Schedule 2, Part 3, Class Q - Buildings on agricultural units and former agricultural buildings to dwellinghouses

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Environmental Health
None received

Hampshire Highways
The Highway Authority previously recommended no objection to a proposal for the conversion of the building to provide a single dwelling (APP/23/00324). The current proposal relates to the conversion to provide two dwellings which would use the existing established access to Woodgaston Lane.

An initial review of the latest available 5 years of Personal Injury Collision Data shows no recorded incidents at the site access or on Woodgaston Road.
The Highway Authority are satisfied that the current proposal would not result in a significant impact on the operation and safety of the local highway network and would therefore recommend - no highway objection

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 12

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 2

Comment	Officer Comment
This application should not be passed under an agricultural change of use and should be subject to a full transparent planning application.	See assessment below
The site plans are misleading and incorrect as they fail to show all buildings on site, particularly along the eastern boundary. They do not show the current development on the southern boundary.	Noted but does not affect the determination of this application
Please Note: Meadow Farm nursery is not farm and has never been a farm. It was a summer grazed field originally bought from a farm by the parents of the applicant Mrs Newell as a garden extension for the growing of vegetables keeping a few chickens and some goats for personal use.	These are all agricultural uses
The Northern part of the building in question was originally a shed that over the course of time has been added onto with out planning consent and left unchallenged by HBC planning department despite being notified of such.	Enf enquires made at the time - agricultural uses have permitted development rights

The shed was first converted to house the cash registers for the nursery business, where a few pots plants and seeds were housed for retail. The first addition onto this shed was for an office area. This was extended over the years to a fully functioning kitchen and a seated cafeteria. I do not believe this constitutes an agricultural building.	This history concurs with agents statement; cafe considered a Class E use - see section 7
No planning/change of use was submitted for any of this even though the council were made aware!	Noted, no record of any change of use to cafe application
Clearly form the surveyor's report, that states it is adequate to be converted, then this has been the long term plan for the site. The surveyors report also states there are no significant trees in close proximity to the building, however, there is an established Oak right behind it.	Trees not part of the statutory considerations under a Class Q Prior Approval application
I again suggest that the planning department review this change of use application thoroughly. Have the applicant submit plans that are accurate to the site and that this is applied for under a full planning application and not a back door method.	Noted - but prior approval must be determined as submitted
Local concern is that establishing a linear development allows for the site to be divided and part sold off for development. The single track road and infrastructure could not cope with a significant increase of development of this site.	Noted
When this land was given building permission originally, it was only on the proviso that it only ever be used for agricultural purposes; not residential accommodation.	Noted
I note that a similar application was declined in 2023.	APP/23/00324 for 1 dwelling

This application is for accommodation for 6 additional residents. There are already too many residents on the Island for the utility infrastructure, road access and amenities eg Doctor's surgeries. There are a lot of properties on the Island, where either residential accommodation is being built in the back garden, business / agricultural premises are being changed to residential use or where existing residential accommodation is being converted/replaced to house more people. I would like to think that a tally is being kept of the permissions given for these types of build so that there is a more accurate picture of development, and increase in population, on the Island. The equivalent of a housing estate is being built by stealth.	Principle of development not a relevant consideration under Class Q Prior Approval applications Every application considered on its merits according to application type

7 Planning Considerations

7.1 Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) sets out that any permitted development is subject to the provisions of Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (Habitats Regs). In turn the Habitats Regs sets out at Reg 75:

"*75. It is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which—*

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
(b) is not directly connected with or necessary to the management of the site,
must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77 (approval of local planning authority)."

7.2 Since this site is close to the Chichester & Langstone Harbours SPA/Ramsar sites then this prior approval development which would result in a net gain of overnight accommodation, could have the potential to have a significant effect on the integrity of those sites, from both recreational disturbance and water quality issues. In addition the site is close to both a Secondary Support Area (site H58A) and Low Use Area (site H58B) for Solent Waders and Brent Geese, and the disturbance from any associated construction works would have the potential to have an adverse effect on the function of this land.

Therefore, Regulation 77 requires a Habitats Assessment to be undertaken and the LPA to consult with Natural England and take into account any representations made by Natural England; the LPA can only approve a development after having ascertained that the proposal will not adversely affect the integrity of the site. Development cannot be begun until this process is completed.

7.3 In this case no Habitats Regulations Assessment has been undertaken to date.

7.4 Notwithstanding this, the other relevant considerations in the determination of this application are:

(i) Criteria of Schedule 2, Part 3, Class Q of the GPDO
(ii) Prior Approval criteria in relation to Transport and Highways Impacts; Noise Impacts of the Development; Contamination Risks; Flooding Risks; whether Location makes the change of use Impractical or Undesirable; Design & External Appearance; and Natural Light for Habitable rooms
(ii) Habitats Regulations Assessment

(i) Criteria of Schedule 2, Part 3, Class Q of the GPDO

7.5 Class Q is now entitled: "buildings on agricultural units and former agricultural buildings to dwellinghouses"

Permitted Development *is stated as:*
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.

7.6 The submission is made on the basis of compliance with Q (a) (ii).

7.7 However the LPA do not consider the proposal meets the tests of clause (a) (ii) as the red lined application 'site' ie the building and its immediate curtilage was last in use as a Class E tea room and cafe, and the scale of the use was not ancillary to the agricultural unit but constituted a separate planning unit. Therefore the land outlined red on the submission documents was not part of an established agricultural unit but comprised a separate Class E unit. It is considered that the former agricultural building had been severed from the agricultural use of the remainder of the land outlined in blue on the submission documents. It is clear that the red lined application site was not last used for agricultural purposes and therefore its lawful use is considered to be Class E, not agriculture. As such clause Q (a) (ii) cannot apply.

7.8 This opinion is reinforced if the relevant criteria of what is not permitted by Class Q is further considered:

Development not permitted

Q1. 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,

7.9 It is the opinion of the LPA that **criteria Q1. (b) (iii) is failed -** the red lined application 'site' has, since ceasing to be used for agricultural purposes in October/November 2012, been used for Class E tea room and cafe purposes. Despite assertions from the agent that the use was ancillary to the nursery, the LPA are of the opinion that the scale of the tea rooms and cafe and its outside seating area became a busy and popular tea room that was a destination in its own right, making it a separate Class E use. Recent site visits in May 2023 and August 2024 show the building still has the entrance door glazing advertising "Meadow Farm Nursery Tea Room, Open daily" and internally the customer counter is still piled with crockery etc, and much of the kitchen equipment, is still inside. This provides clear evidence that the last use of the red lined application site was a large scale tea room and cafe i.e. a non-agricultural use. Therefore it is considered that criteria (b) (iii) is failed.

7.10 *(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,*

The submitted plans indicate that unit one would have a floorspace of 46.8 sqm and unit two would be 132.6sqm. Each are less than 150sqm and therefore comply with clause (c)

7.11 *(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,

The site has two other dwellings, but neither were change of uses under Class Q. The building to be converted has a floorspace of about 180 sqm, less than the threshold of 1,000 sqm, and therefore both sub clauses above are met.

7.12 *(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained,*

The site is not occupied as an agricultural tenancy

7.13 *(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,

Not relevant, no agricultural tenancy

7.14 *(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,*

In this case the "established agricultural unit" comprises the former nursery land outlined blue on the application documents. There have been no Part 6 Class A or Class B agricultural buildings erected on the agricultural unit in the last 10 years, and therefore clause (g) is complied with.

7.15 *(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),

There are no extensions to the building proposed resulting in the external dimensions being extended and therefore clause (h) is complied with.

7.16 *(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,

No extensions are proposed and the application is not submitted under Class Q (b) and therefore this is not relevant.

7.17 *(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),

The application has been submitted under Class Q (a), not Class Q (c) so this is not relevant.

7.18 *(k) the site is on article 2(3) land,*

The site is not on Article 2(3) land

7.19 *(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;
It is not

7.20 *(m) the site is, or contains, a scheduled monument; or*
It does not

7.21 *(n) the building is a listed building.*
It is not

7.22 (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

The proposed layout plans indicate that the internal conversion would meet the Nationally Described Space Standards and therefore clause (o) is complied with.

7.23 *(p) the building does not have suitable existing access to a public highway.*

The site utilises the former access off the highway that served the nursery, which is considered adequate and therefore clause (p) is complied with.

7.24 Therefore, the LPA consider that the proposed development fails criteria Q. 1. (b) (iii), as since ceasing to be part of an established agricultural unit the site has been used for an alternative non-agricultural use, namely a Class E tea room. The proposed change of use to 2 dwelling units is therefore not considered to benefit from permitted development rights under Class Q.1.

(ii) <u>Prior Approval for Transport and Highways Impacts; Contamination risks; Noise Impacts, Flooding risks; whether Location makes the change of use Impractical or Undesirable; Design & External Appearance; and Natural Light for Habitable rooms</u>

7.25 Given the conclusions above that the development fails Q 1, then it is considered un-necessary to consider Q 2 and whether prior approval would be required for any of

the relevant issues. However it should be noted that whilst the site falls outside current day Flood Zones 2 and 3, it does fall within a Future Flood Zone, and whilst a Sequential Test is not necessary for the change of use of a building, a site specific Flood Risk Assessment would be needed and has not been submitted as part of this application. Without a FRA the application would not be able to progress.

(ii) Habitats Regulations Assessment

7.26 Similarly, in light of the conclusions above, this application has not progressed to undertaking a Habitats Regulations Assessment. To do so a Nitrogen Budget calculator, occupancy calculator and CEMP would all need to first be submitted.

8 Conclusion

8.1 It is the opinion of the LPA that because the building the subject of this application and outlined in red on the submitted plans, has, since ceasing to be part of the established agricultural unit, been used for a non-agricultural purpose, ie a Class E tea room and cafe, then development is not permitted by virtue of Q 1. (b) (iii). Therefore, the proposed development would not be considered to be permitted development.

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9 RECOMMENDATION:

That the Head of Place be authorised to refuse consent for application APP/24/00615 for the following reason:

1 The proposed change of use of the former agricultural building to 2No. dwellinghouses is not considered to represent permitted development under the Town and Country Planning (General Permitted Development Order) 2015 (as amended). The development is not considered to meet the following criteria and is therefore not able to be carried out under permitted development and would require formal planning permission.

Under Schedule 2, Part 3, Class Q, paragraph Q.1 (b) the change of use does not meet the test of sub-clause (iii):

(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,

Since ceasing to be used for agricultural purposes in October/November 2012, the red lined application site has been used as a separate Class E tea room

and cafe under the Town and Country Planning (Use Classes) Regulations 2020. The scale of the tea room and cafe are such that it was not ancillary to the agricultural nursery use and therefore the site has been used for non-agricultural purposes since ceasing to be part of the established agricultural unit.

It is therefore considered that the change of use of the building to 2No. dwellinghouses would not meet the requirements of Schedule 2, Part 3, Class Q, paragraph Q.1 (b) (iii) and therefore under the Town and Country Planning (General Permitted Development) (England) Order 2015 the works proposed would require formal planning permission.