
Site Address:	Northwood Farm, Northwood Lane, Hayling Island, PO11 OLR		
Proposal:	Change of use from agricultural building to 3No. dwellinghouse(s) subject to prior approval.		
Application Type:	Full Planning Permission		
Application No:	APP/23/00003	Expiry Date:	15/02/2023
Applicant:	Mr S Wilson		
Agent:		Case Officer:	Tina Pickup
Ward:	Hayling West		

Recommendation: Wrong Application type for recommendation code

1 Site Description

- 1.1 The collection of farm buildings known as Northwood Farm is located at the eastern end of Northwood Lane, outside the defined urban area, surrounded by agricultural fields. The farm yard comprises a mix of both older smaller barns, and some newer larger barns to the east. The first small older barn at the entrance to the farm yard, The Dairy, has been converted to residential use under prior notification APP/16/00042. It is noteworthy that this prior approval was for a single residential unit, but internally a dividing wall has been erected and the barn is currently occupied as two separate units of accommodation, by farm staff.
- 1.2 The application site relates to the two adjacent barns in this group - the southern barn appears to be of more traditional construction of brick with some narrow window openings in its southern elevation, beneath a pitch roof. It is longer and lower than the adjacent northern barn which is larger and higher and appears to be largely of block construction. Both barns have gable ends with openings in their eastern elevations. At the time of the site visit the southern barn appeared to be largely vacant and empty, whilst the northern barn was used for the storage of farm machinery and products.
- 1.3 Prior approval was granted for the conversion of the southern barn to 2No dwellings on 31 May 2016 under reference APP/16/00338. However this was not implemented or completed within 3 years, and has now lapsed.
- 1.4 Further to the east, but within the same group of buildings are also some larger buildings and stores with a newly erected poultry store to the north (APP/16/01301). Planning permission was also granted on 2 June 2021 for a grain store, extending the buildings to the south east, under reference APP/21/0022. This has not yet been commenced, and is subject to a condition prohibiting noisy construction works from taking place between 1st October and 31st March due to the adjacent over wintering bird fields.

- 1.5 The land and buildings at Northwood Farm are farmed by the applicant, Sam Wilson, as one of the partners of Stoke Fruit Farm. He has explained that Stoke Fruit Farm Partnership manages the farm shop on the Havant Road, the potato packing facility and the farming of pumpkins and sweet corn and is responsible for the packing of eggs. Stoke Fruit Farm Ltd operate the arable enterprise and farm the majority of land at Northwood Farm. The applicant also owns Antrims Barn on St Peter's Road, including a recently erected barn in the field behind. This barn at Antrims was subject to a prior approval application APP/20/00424 made by Sam Wilson in the company name of "Stoke Fruit Farm", with the size of the agricultural unit stated at the time as 100.ha and the justification for the barn provided on the application form stated:

"Stoke Fruit Farm, is one of the few farming companies in the borough of Havant it conducts its operations across a variety of sites and holdings, all within the borough. Due to the increased demand for local and seasonal produce in which Stoke Fruit Farm specialize there is a need for more intense farming to meet demands. Stoke Fruit Farm has committed to meet the increased demand by planting more vegetables and high value crops that require more upkeep and Stoke Fruit Farm have a program in place for improving infrastructure on the farm to achieve this. The building will be used for storage of tools and machinery including tractors and irrigation equipment which need to be stored undercover, it will also store packaging and produce harvested from the adjacent field before being transferred to wholesalers."

- 1.6 The land surrounding the application site is generally flat open fields with sporadic trees marking field boundaries. A Public Right of Way (PROW) runs adjacent the eastern edge of the farm buildings and heads east across the field, it does not cross the farm yard. The field to the north of the farm buildings is identified as a Secondary Support Area in the Solent Waders and Brent Goose Strategy (site H60L); and the field to east of the farm buildings is a 'Core Area' (site H60N).
- 1.7 The site falls outside any current flood zone site, but within the future flood zone.

2 Planning History

03/54468/001 - Application to determine whether prior approval is required for the erection of a 464.5 sq m grain store., PARP,12/01/2004

APP/16/00042 - Prior notification for change of use from agricultural building to C3 residential use subject to prior approval covering flooding, highways and transport issues, noise and contamination. (approved 22/03/16).

Request to discharge condition No/s 1 and 3., PAYA,22/03/2016

APP/16/00338 - Prior Notification for Change of use from agricultural buildings (milking parlour and cattle stalls) to 2No. Residential Dwellings (Class C3) subject to prior approval covering flooding, highways and transport issues, noise and contamination. PAYA,31/05/2016

APP/16/01301 - Erection of poultry unit., PERM,10/02/2017

APP/21/00007 - Application to determine whether prior approval is required for a grain store style building., PAY,04/02/2021

APP/21/00222 - Erection of grain store., PERM,02/06/2021

3 Proposal

- 3.1 Change of use from agricultural building to 3No. dwellinghouse(s) subject to prior approval.
- 3.2 This application seeks a determination as to whether the prior approval of the Local Planning Authority (LPA) is required in relation to the proposed change of use of the buildings to 3No. dwellinghouses and associated building operations. From the plans submitted, particularly Drawing Numbers CON04 and CN03 Rev A, it is apparent that the proposal would involve the conversion of the southern barn into 3 dwellings - one 2bed unit, and two 1bed units; and the conversion of the north western half of the larger northern barn for covered car parking serving the units.

4 Policy Considerations

The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended:

Schedule 2, Part 3, Class Q - Agricultural buildings to dwellinghouses

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

County Ecologist

Whilst I would not expect the proposals to result in significant ecological impacts, I do consider that the existing agricultural building may offer suitable habitat for protected species. It is not clear whether the existing roof structure will be affected by proposed works: if so, then there may be features suitable for roosting bats affected.

In this instance I would be willing to review good quality recent photographs of the existing building. These should clearly show all areas to be affected, with views of roof tiles, ridge/hip tiles, soffit/fascia and any voids within. Following a review of photographs it may be possible for me to determine that further assessment is not required. If photos do show the presence of suitable features for bat species, or if the images are of insufficient quality, then I would have to recommend that ecological assessment is carried out. In that case I would recommend that the applicant commissions a preliminary ecological assessment of the site: this should include an assessment of the potential for the site to support protected habitats and species, to be provided by a qualified ecologist. The Chartered Institute of Ecology and Environmental Management (CIEEM) (www.cieem.net) holds a database of suitably qualified ecologists.

A preliminary ecological assessment will determine whether there is any evidence of protected habitats or species, and whether the proposed works are likely to result in impacts to those habitats or species. Unless the qualified ecologist is able to conclude that there is no reasonable likelihood of protected habitats or species being present (due to negligible potential) or that if present they are not to be impacted by the works, it is likely that further ecological survey work (Phase 2 survey) will be required prior to determination of the application. The results of any further surveys should be used to provide an assessment of the likely ecological impacts of the proposed works and to inform any mitigation, compensation and enhancement measures.

NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, require that planning decisions are based on full, up-to-date ecological information and it is essential that all necessary survey, assessment and mitigation information is available to the LPA prior to determination, particularly in the case of protected species, which are a material planning consideration. This will enable the LPA to determine the application on the basis of full knowledge about the ecological impacts of the proposal and to ensure that any impacts can and will be mitigated, and are acceptable.

Environment Agency

No formal advice received

Environmental Health

Thank you for consulting the Environmental Management team on this prior approval application. In the absence of information about the nature of the adjoining uses we are unable to provide any comment in relation to this application. If the proposed dwellings are surrounded by active agricultural or commercial activities they may be impacted by noise and/or odour. A professional assessment of the potential noise and/or odour may be required depending on the use(s). Our complaint records show that we have previously received a complaint about the burning of manure at this establishment. I also note there is a waste exemption registered against this address on the Environment Agency's public register.

Hampshire Highways

Due to the scale of the proposal, being 5 dwellings or less, and that there is no change to the vehicular access, HCC's standing advice should be referred to in the first instance. As a result, the Highway Authority will not provide detailed comments on this planning application.

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: 4

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 1

Comment	Officer Comment
No problem with small amount of houses being built on the farm. As there is a public right of way through farm I however would be concerned with the amount of asbestos in the current building and roof. Will it be professionally removed by an approved asbestos company. Kind regards	No public right of way through farm yard; disposal of any asbestos would be a Building Regs and Health & Safety Executive issue, not a planning matter

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 Core Support Area and a Secondary Support Area for Solent Waders and Brent Geese, and the disturbance from 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 Therefore the relevant considerations in the determination of this application are:

- (i) Criteria of Schedule 2, Part 3, Class Q of the GPDO
- (ii) Prior Approval for 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

- 7.4 Class Q Permitted Development is stated as:

Q. Development consisting of—

- (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; or
- (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

- 7.5 It is for the LPA to assess whether the proposal meets the criteria of Class Q1. to be considered permitted development. In this instance the criteria of Q.1. can be assessed as follows:

Development not permitted

Q.1 Development is not permitted by Class Q if—

(a) the site was not used solely for an agricultural use as part of an established agricultural unit—

(i) on 20th March 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or

(iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;

Whilst no evidence has been submitted to demonstrate the lawful agricultural use on/since March 2013 of both the buildings proposed for conversion, it is acknowledged that the farm complex of buildings comprises an active farm currently in use for agricultural purposes. Despite the southern barn being largely vacant and appearing unused in January 2023, it is nevertheless likely that it was used for agricultural purposes in March 2013.

7.6 *(b) in the case of—*

(i) a larger dwellinghouse, within an established agricultural unit— (NB larger dwellinghouse defined as more than 100sqm and no more than 465sqm)

(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or

(bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;

The submitted floor plans of the southern barn conversion indicate that Unit 1 of the proposed units would have a floor space of 103sqm, making it over 100sqm and as such a 'larger dwellinghouse'. The other 2 units would each have a floor space of 84sqm, ie would be 'smaller dwellinghouses', such that the total floor space of this southern barn conversion would be 271sqm. No dimensions or floor space figures have been submitted of the adjacent building that has already been converted 'The Dairy' - but it is thought that it comprises 2 small dwellinghouses having a total floor space in the region of 145sqm. As such these do not comprise 'larger dwellinghouses' and can be excluded from the cumulative total of number of larger dwellinghouses. Therefore, considering the southern barn in isolation, the proposal would only result in 1 'larger dwellinghouse' and meet both criteria (aa) and (bb).

However, the plans also show the conversion of the western half of the larger northern barn for car parking. This would form a covered and enclosed area akin to a shared garage, and as such this would constitute part of the residential C3 curtilage of the resultant residential units. Notably that part of the barn would be converted to an ancillary Class C3 residential use, and would be taken out of agricultural use and no longer available for agricultural purposes. Therefore it is considered that the floor space of the parking area should also be included in the cumulative calculations set by clause (b), which requires the cumulative floor space of the existing buildings changing to a larger dwellinghouse under Class Q to be taken into account.

The plans indicate that this parking area would amount to some 168sqm. Simply adding this to the southern barn floor space amounts to a total building conversion of 439sqm, which is acknowledged as complying with the threshold of 465sqm and criteria (bb). But it must also be acknowledged that this parking area is to be shared and should a third of the parking floor space (56sqm) be attributed to each of the 3 units, then unit 1 would have a floor space of 159sqm; and units 2 and 3 would have a floor space of 140sqm each, making them all 'larger dwellinghouses'. This is however again acceptable, as criteria (b)(i)(aa) allows for a total of 3 larger dwellinghouses.

- 7.7 *(ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres*

This clause clarifies that any single dwellinghouse converted under Class Q cannot exceed 465sqm. In this case, none exceed this amount.

- 7.8 *(c) in the case of—*
(i) a smaller dwellinghouse, within an established agricultural unit— (NB smaller dwellinghouse defined as no more than 100sqm) (aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or
(bb) 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;

As noted above the proposed conversion of the southern barn in isolation would result in 2 small dwellinghouses, and 1 larger one, with the 2 existing conversions at The Dairy being small dwellings. This would result in 4 small dwellinghouses (and 1 larger one) which is within the limit of 5 smaller dwellings set by criteria (aa). If the shared parking area is attributed to each of the units, then there would be 3 larger dwellinghouses and 2 smaller ones on the site, still meeting the criteria.

- 7.9 *(d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—*
(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

If the southern barn conversion is considered in isolation, then the only 'larger' dwellinghouse would be unit 1 having a floor space of 103sqm, which would comply with clause (d)(i). If the parking area is shared then all 3 units become 'larger dwellings', but nevertheless the cumulative floor space of these 3 larger dwellings would still only amount to 439sqm, still complying with clause (d)(i). And the total number of dwellings on the established agricultural unit would be 5, which would comply with clause (d)(ii).

- 7.10 *(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

- 7.11 (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

- 7.12 (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—*
 (i) *since 20th March 2013; or*
 (ii) *where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;*

The assessment of this criteria revolves around what constitutes the "established agricultural unit". Whilst the postal address of the site is Northwood Farm, the applicant, Sam Wilson, farms the land at Northwood Farm as part of Stoke Fruit Farm Ltd. The LPA are of the opinion that Stoke Fruit Farm Ltd, Stoke Fruit Farm Partnership and the barn at Antrims are inextricably linked and function as one enterprise.

It is noteworthy that the barn at Antrims was erected following a prior approval application made under Part 6, Class A (a) in 2020. It is noted that the LPA failed to provide written notice within 28 days and therefore under clause A.2. (2) (d) (iii) the development could be begun. As such, although no decision notice was issued, the barn as erected was done so under Part 6, Class A (a).

It is also noteworthy that the justification for this barn was to serve Stoke Fruit Farm, and provide a store for tools and machinery for the farming practices undertaken by Stoke Fruit Farm. The applicant has confirmed that the land at Northwood Farm is farmed by Stoke Fruit Farm Ltd, and he provided the County Parish Holding Number and Single Business Identifier numbers of Stoke Fruit Farm Ltd, Northwood Farm, Northwood Lane, PO11 0LR. He also provided a map of the land currently associated with that holding number of Stoke Fruit Farm. The LPA have considered the map provided but it is on an aerial photograph and considered to be incomplete - it is truncated where the piece of paper ends, and does not show the remaining parts of fields to the south.

Whether the barn erected under Part 6, Class A (a) at Antrims, is part of the same "established agricultural unit" or not is key to whether this criteria (g) of Class Q is complied with or not. Past Inspectors have found that an agricultural unit may comprise more than one planning unit, and that two parcels of land with a historic sharing of activities for agricultural purposes can result in a single agricultural unit. Another Inspector found that two farms under the same operator would function together as a larger agricultural unit. And an appeal in Tewksbury is considered particularly relevant because the justification for an earlier barn was based on the needs of the appellants agricultural unit.

It is the opinion of the LPA that the matter revolves around how the land is used and functions, not by holding numbers or companies. It is considered that Stoke Fruit Farm Ltd that farms the land at Northwood Farm, is so intertwined with Stoke Fruit Farm Partnership, and Antrims barn, that in land use planning terms, together they farm the land and make up the applicants farming practices as a whole. The linkage is considered so great, with each business dependent on the other, with a clear sharing of machinery and staff, that it is the opinion of the LPA that Stoke Fruit Farm is a single agricultural unit that happens to farm land at Northwood Farm.

Therefore it is considered that the barn at Antrims was erected by and for Stoke Fruit Farm, under Part 6 Class A (a) since March 2013 on the same established agricultural unit as the current application site, and therefore the proposed development fails to meet the requirement of clause (g).

For completeness, it is also noted that Prior Approval under Part 6, Class A (a), was also granted for a barn at Stoke Fruit Farm, behind the farm shop on the Havant Road, on 19 August 2022 under ref APP/22/00461. This was to store crops and vegetables and associated machinery for Stoke Fruit Farm. At the time of writing this report (end of February 2023) this approved development has not yet been carried out and for the purposes of assessing clause (g) of the current proposal, this recent approval APP/22/00461 has not therefore been taken into consideration. However once constructed, this barn would also represent a Part 6, Class A (a) barn on the same established agricultural unit.

7.13 *(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;*

The plans submitted indicate no external additions to the existing building. The conversion is considered to comply with clause (h).

7.14 *(i) the development under Class Q(b) 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(i)(i);

Whilst no structural engineers report has been submitted to demonstrate that the building is structurally sound and capable of conversion, it does however appear intact and largely watertight. The proposed plans indicate that largely internal and minimal and reasonable building operations would be involved in the conversion. The existing openings would be largely re-used, although window proportions would be enlarged by lowering the cill heights. Overall it is considered that clause (i) would be complied with.

7.15 *(j) the site is on article 2(3) land;*

The site is not on Article 2(3) land

7.16 (k) *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

7.17 (l) *the site is, or contains, a scheduled monument; or*

It does not

7.18 (m) *the building is a listed building.*

It is not

7.19 Therefore, the LPA consider that the proposed development fails criteria (g) and as such would not comply with one of the specified limitations in Class Q.1. The proposed change of use to 3No dwellings is therefore not considered to benefit from permitted development rights under Class Q.1.

(ii) 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

7.20 Given the conclusions above that the development fails Q 1, then it is considered un-necessary to consider whether prior approval would be required for any of the relevant issues. It should be noted that the site falls 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.

(ii) Habitats Regulations Assessment

7.21 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 the key consideration in the determination of this application is what constitutes the "established agricultural unit". The LPA considers that the applicant's various farming businesses, and their practises and holding numbers are so interlinked that they essentially provide a single farming enterprise with shared buildings, staff and machinery, known as Stoke Fruit Farm. Having regard to previous Inspectors comments, it is considered that this would comprise a single agricultural unit and as such the existence of another Prior Approval barn constructed under part 6, Class A (a) since March 2013 on the same agricultural unit, would result in the proposed development failing to meet the requirements of clause (g) of Q. 1.

9 RECOMMENDATION:

That the Head of Planning be authorised to refuse planning permission for application APP/23/00003 for the following reason

- 1 The proposed change of use of agricultural barns to 3No dwellings and associated parking is not considered to represent permitted development under the Town and Country Planning (General Permitted Development Order) 2015 (as amended). The development does not meet with 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 the change of use does not meet the following tests:

(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—

(i) since 20th March 2013; or

(ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;

Part 6 Class A(a) relates to the erection of agricultural buildings on units of 5 ha or more. It is considered that the barn erected at Antrims, St Peters Road, under Part 6, Class A (a), under prior approval reference APP//20/00424, (i.e. since March 2013), is on land that forms part of the same established agricultural unit as the application proposal. Therefore the above criteria would not be met.

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