

Delegated Report

Planning Ref: 25/00495/P3CR

Applicant: Mr R Davies

Ward: Twycross, Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: Holly Lodge Farm, Twycross Road, Sheepy Magna

Proposal: Notification to determine if Prior Approval is required for the change of use of agricultural barns to storage and distribution (Class B8)

1. Recommendations

1.1. Prior approval required and granted subject to:

- Conditions outlined at the end of this report

2. Planning application description

- 2.1. This application relates to a change of use of existing agricultural buildings to a flexible use in the form of Class B8 storage and distribution under Schedule 2 Part 3 Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

3. Description of the site and surrounding area

- 3.1. The application site comprises a cluster of agricultural buildings associated with Holly Lodge Farm, which was previously known as Trout Ponds Farm. The agricultural buildings are attached and interconnected but of varied construction dates and styles with an irregular layout.
- 3.2. Holly Lodge Farm is located within the designated open countryside adjacent to the settlement boundary of Sheepy Magna. Existing access to the farm is via Rodney Gardens, a private road with recently constructed dwellings, which is located within the settlement boundary.
- 3.3. The Holly Lodge Farm site contains a farmhouse dwelling, attached and intermittently interconnected agricultural buildings and former stables buildings to the north of the dwelling, medieval fish ponds, and is otherwise surrounded by open agricultural fields.
- 3.4. There is existing access gained from Twycross Road to the south-east via Rodney Gardens. Twycross Road is an adopted and classified 'B' road with a speed limit of 30mph. Rodney Gardens is an unadopted, privately managed road.
- 3.5. The application site includes the existing access drive and two sections of the existing cluster of agricultural buildings. The buildings are not readily visible from areas within the settlement boundary.
- 3.6. To the south and south-east of the application site is land within the Sheepy Magna settlement boundary including dwellings located on Rodney Gardens as well as further dwellings along Twycross Road on the north-eastern edge of the village.
- 3.7. To the north and west of the development site is land within the open countryside, comprising ponds, small, forested areas, and agricultural fields.

4. Relevant planning history

- 4.1 **25/00542/FUL**

Proposed change of use of existing livery buildings and hardstanding to storage and distribution (Class B8)
Pending Consideration

5. Publicity

- 5.1. The application has been publicised by posting a site notice within the vicinity of the site and sending letters to neighbours.
- 5.2. No responses have been received.

6. Consultation

- 6.1. Hinckley & Bosworth Borough Council (HBBC) Drainage have advised that the site is in Flood Zone 1 and is at low risk of flooding. The principle of development is therefore acceptable.
- 6.2. HBBC Environmental Services (Pollution) initially held concerns over potential contamination at the site given the Phase II Assessment identified contamination on site without conclusions as to further works or remediation. The Applicant clarified that the Phase II Assessment concluded that the identified risks were to residential users and thus no further conclusions had been provided given the proposed use under this application is not residential.

HBBC Pollution requested details from the applicant with regard to site operating hours, number of employees, whether maintenance/repairs would be carried out on site, and whether any changes to lighting on the site were proposed. The Applicant clarified that the working hours of operation would be Monday to Friday 8:00am to 6:00pm, referred to the transport note for employee numbers and movements, confirmed no maintenance or repairs would be carried out on site, and that no changes were proposed to lighting of the site.

HBBC Pollution thereafter had no further concerns regarding contamination or lighting. It has been recommended with regard to noise management that two conditions be applied limiting the hours of operation and limiting the use of the site to the Applicant's business.

The Planning Officer notes that further discussion on the relevance of the second suggested condition to this type of development is discussed further in a later section of this report.

- 6.3. The Local Highway Authority (LHA) have advised that they are satisfied that the trip generation details provided indicate the change of use would reduce trips and therefore would not represent an intensification of the use. The existing access arrangements are considered satisfactory. The LHA have noted that the proposed 8 car parking spaces are in shortfall of the requirements of Table 29(a) of the LHDG but are satisfied that the shortfall can be accommodated within the site.

The LHA have requested a condition requiring the Applicant not to occupy the facility until the parking and turning facilities have been implemented.

7. Policy

- 7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class R
- 7.2. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2024)

- Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. It is necessary to determine whether the proposed change of use meets the criteria for permitted development under Class R of the Town and Country Planning (General Permitted Development) Order 2015.
- 8.2. Class R relates to development that consists of the change of use of a building and any land within its curtilage from an agricultural use to a flexible use falling within one of the following provisions of the Use Classes order:
- Class B2 (general industrial) of Schedule 1;
 - Class B8 (storage or distribution) of Schedule 1;
 - Class C1 (hotels) of Schedule 1;
 - Class E (commercial, business or service) of Schedule 2; or
 - Class F.2(c) (outdoor sport or recreation) of Schedule 2; or
- to a use for the provision of agricultural training.

R.1. – (1) Development is not permitted by Class R if–

- (a) *the building was not used solely for an agricultural use as part of an established agricultural unit—*
- (i) *on 3rd July 2012;*
 - (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 building which was brought into use after 3rd July 2012, for a period of at least 10 years before the date development under Class R begins;*

The buildings were constructed prior to 3rd July 2012 and the Applicant states that they were in agricultural use as part of an agricultural unit at that time and have been since. The information available to the Local Planning Authority (LPA) does not dispute this and therefore it is accepted that the buildings satisfy R.1(a).

- (b) *the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 1,000 square metres;*

The cumulative floor space of the application buildings is 974.13 square metres and there are no other buildings within the agricultural unit which have changed use under Class R.

- (c) *the site is, or forms part of, a military explosives storage area;*

The site is not, and does not form part of, a military explosives storage area.

- (d) *the site is, or forms part of, a safety hazard area; or*

The site is not, and does not form part of, a safety hazard area.

- (e) *the building is a listed building or a scheduled monument.*

The buildings are not listed buildings and the site is not, nor does it form part of, a scheduled monument.

R.2 Development is permitted by Class R subject to the following conditions—

- (a) *a site which has changed use under Class R may, subject to paragraph R.3, subsequently change use to another use falling within one of the use classes comprising the flexible use;*
- (b) *for the purposes of the Use Classes Order and this Order, after a site has changed use under Class R the site is to be treated as having a sui generis use;*
- (c) *after a site has changed use under Class R, the planning permissions granted by Class E of Part 7 of this Schedule apply to the building, subject to the following modifications—*
 - (i) *“curtilage” has the meaning given in paragraph X (interpretation) of this Part;*
 - (ii) *any reference to “office building” is to be read as a reference to the building which has changed use under Class R.*

Note to Applicant.

R.3 (1) *Before changing the use of the site under Class R, and before any subsequent change of use to another use falling within one of the use classes comprising the flexible use, the developer must—*

- (a) *where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit does not exceed 150 square metres, provide the following information to the local planning authority—*
 - (i) *the date the site will begin to be used for any of the flexible uses;*
 - (ii) *the nature of the use or uses; and*
 - (iii) *a plan indicating the site and which buildings have changed use;*

The cumulative floor space of the buildings exceed 150 square metres. This information has been provided to the Local Planning Authority.

- (b) *where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit exceeds 150 square metres, apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to—*
 - (i) *transport and highways impacts of the development;*
 - (ii) *noise impacts of the development;*
 - (iii) *contamination risks on the site; and*
 - (iv) *flooding risks on the site,*

and the provisions of paragraph W (prior approval) apply in relation to that application.

The cumulative floor space of the proposal does exceed 150 square metres.

- (i) *Transport and highways impacts of the development*

The Applicant proposes to utilise the existing farm access from Twycross Road via Rodney Gardens. The existing access drive is to provide access to an existing area of gravel and hardstanding to the east of the buildings, which is to be used for on-site car parking.

The Local Highway Authority (LHA) have reviewed Personal Injury Collision (PIC) data for the most recent 5-year period. This has shown

that there have been four PIC's within 500 metres of the access to Twycross Road. All four have been slight in severity with no patterns considered likely to be exacerbated by the proposal.

The proposed car parking area to the east of the buildings is accessed from the existing farm access drive and currently being used for temporary storage of groundcover. The blocks being used to maintain storage in this area are movable and would be relocated to facilitate the use.

The parking area would provide 8 spaces. The LHA have noted that this is a shortfall of 2 parking spaces when assessed against the requirements of Table 29(a) of the LHDG, which requires 1 space per 100 square metres of B8 floor space (up to 2,500 square metres). Notwithstanding this, the LHA have stated that they are satisfied the site can accommodate the parking shortfall.

It is therefore considered that the Applicant has demonstrated the highways impacts of the development would not be unacceptable.

ii) Noise impacts of the development

The application buildings are located within a cluster of buildings historically in agricultural and private equestrian use, located away from the boundaries of the wider site. The nearest residential unit to the application buildings is approximately 250 metres to the south-east.

HBBC Environmental Services Pollution have reviewed the proposed development and have recommended the addition of two conditions to mitigate impacts of the development. These conditions relate to hours of operation and the limitation of the site to use for the Applicant's business.

Planning Practice Guidance (PPG) states that planning conditions must be necessary, relevant to planning, relevant to the development permitted, enforceable, precise, and reasonable in all other respects. The type of application must therefore be taken into consideration; this being an application for Prior Approval under Part 3 Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 as a change of use from agricultural building to a flexible commercial use.

It is considered that restricting the opening hours of the premises is necessary to manage noise impacts of the development and is therefore relevant to planning and the development to be permitted. This condition will be imposed.

Conversely, it is not considered by the Planning Officer that limiting the use to only the Applicant's business is necessary to manage noise impacts. It is also not considered that this condition would be relevant to any other Prior Approval matter relevant to the consideration of this development. Further, such a condition is not considered to be reasonable in the context of the permission being sought, that of a flexible commercial use (B8 storage or distribution). As such, this condition will not be imposed.

In summary, it is considered that any detrimental noise impacts arising from the proposal can be adequately managed.

iii) Contamination risks on the site

There are no known contamination risks to the site for a use of this type.

iv) Flooding risks on the site

The site is located within Flood Zone 1 and is therefore considered at low risk of flooding.

(2) Subject to sub-paragraph (3), development under Class R of the type described in paragraph R.3(1)(b) must begin within a period of 3 years starting with the prior approval date.

Note for Applicant.

(3) Where, in relation to a particular development under Class R of the type described in paragraph R.3(1)(b), planning permission is granted on an application in respect of associated operational development before the end of the period referred to in sub-paragraph (2), then development under Class R must begin within the period of 3 years starting with the date that planning permission is granted.

Note for Applicant.

(4) For the purposes of sub-paragraph (3), “associated operational development” means building or other operations in relation to the same building or land which are reasonably necessary to use the building or land for the use proposed under Class R.

Note for Applicant.

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and

family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1. The proposal meets the criteria of Class R of Part 3 of Schedule 2 of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is considered that the application is acceptable and is in accordance with the conditions and the provision of Paragraph W of R.3 of Part 3 of Schedule 3 of Article 3 of the General Permitted Development Order (2015) (as amended).

10.2. In light of the Prior Approval matters to be considered under R.3(1)(b) for Class R, it is considered that the proposal has adequately addressed these matters subject to the relevant conditions. The proposal is therefore considered reasonable with regard to transport and highways impacts, noise impacts, contamination risks on the site, and flooding risks on the site. It has been determined that prior approval is required and should be granted.

11. Recommendation

11.2 **Prior approval required and granted** subject to:

- Conditions outlined at the end of this report

11.3 Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Application Form
 - Site Location Plan, Drg No. 2023-1043-CR-001C
 - Proposed Site Plan, Drg No. 2023—1043-CR-200C
 - Proposed Floor Plans – Barns, Drg No. 2024-1043-CR-201A
 - Existing, Proposed Elevations 1 – Barns, Drg No. 2024-1043-B-102
 - Existing, Proposed Elevations 2 – Barns, Drg No. 2024-1043-B-103
 - Supporting Letter
 - Highways & Transport Technical Note
- All submitted 19.05.2025.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. The use hereby approved shall be restricted to the following opening hours:

Monday to Friday – 08:00 to 18:00

Reason: To protect the amenity of occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policies DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Proposed Site Plan, drawing number 2023-1043-CR-200C. Thereafter the onsite parking and turning provision shall be kept available for such uses in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with the National Planning Policy Framework (2024).

Notes

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at building.control@blaby.gov.uk or call 0116 272 7533.
2. For the purposes of the Use Classes Order and the General Permitted Development Order (2015), after a site has changed use under Class R the site is to be treated as having a sui generis use (GPDO, Schedule 2, Part 3, Class R, Condition R.2(b)).
3. The applicant is reminded of the following Schedule 2, Part 3, Class R, R.3 Conditions which apply to the development:

(3) Where, in relation to a particular development under Class R of the type described in paragraph R.3(1)(b), planning permission is granted on an application in respect of associated operational development before the end of the period referred to in sub-paragraph (2), then development under Class R must begin within the period of 3 years starting with the date that planning permission is granted.

(4) For the purposes of sub-paragraph (3), "associated operational development" means building or other operations in relation to the same building or land which are reasonably necessary to use the building or land for the use proposed under Class R.