

Delegated Report

Planning Ref: 23/00563/P3CR

Applicant: Hilmarco Ltd

Ward: Markfield, Stanton and Fieldhead

Site: Hilmarco, Thornton Lane, Markfield



Hinckley & Bosworth
Borough Council

Proposal: Change of use of agricultural building to storage use (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 is an application for prior notification under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of agricultural building to B8 storage use

3. Description of the site and surrounding area

- 3.1. The application site is located to the North of Thornton Lane. The site consists of a number of agricultural buildings including a store and manure store. The site also hosts the dwelling Hilmarco, located to the West of the site.

4. Relevant planning history

19/01140/CLUE

- Certificate of (existing) lawful development for the erection of an agricultural building
- Certificate of Lawful Existing Use
- 20.12.2019

5. Publicity

- 5.1. The application has been publicised by posting a site notice within the vicinity of the site.

- 5.2. No responses have been received.

6. Consultation

- 6.1. Markfield Parish Council: No comments received.
- 6.2. LCC Highways: Additional information requested and delivered regarding trip generation. No objections.

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) (2021)
- Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. The main considerations in respect of this application are whether the proposed change of use meets the criteria for permitted development of Class R of the Town and Country Planning (General Permitted Development) Order 2015, which relates

to development consisting of a 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 B8 (storage or distribution) of Schedule 1; Class C1 (hotels) of Schedule 1; or Class E (commercial, business or service) of Schedule 2.

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

- (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 building was constructed prior to 3rd July 2012 and has remained in agricultural use as part of the agricultural unit since construction.

- (b) *the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 500 square metres*
- (c) *the site is, or forms part of, a military explosives storage area;*
- (d) *the site is, or forms part of, a safety hazard area; or*
- (e) *the building is a listed building or a scheduled monument.*

The proposal does not have a cumulative floorspace that exceeds 500 square metres, nor are there any other buildings which have changed use under Class R within the agricultural unit. The site is not, and does not form part of, a military explosive storage area, a safety hazard area or a Listed Building or 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 G 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 information required has been provided by the Applicant 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 total combined floor space in the buildings changed to a flexible use under this Permitted Development Right exceeds 150 square metres.

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

It has been confirmed that as a result of changes to regulations the unit will cease to be used for egg production, and the applicant, following a request for Leicestershire County Council Highways has confirmed that the level of trips from the proposed change would be significantly reduced.

As part of the application, the Applicant is proposing to amend the access; the LHA have reviewed the above and find the proposals to be in accordance with Figure DG20 (Access width and control radii), Table DG4 (Visibility) of Part 3 of the Leicestershire Highway Design Guide (LHDG), a copy of which can be found at:

<https://resources.leicestershire.gov.uk/sites/resource/files/field/pdf/faq/2022/3/18/Part-3-design-guide-interim.pdf>

The LHA have reviewed its Personal Injury Collision (PIC) data for the most recent 5-year period. This shows there has been two recorded PIC's within 500m within either direction of the access. Both PIC's were to the northeast of the access and classed as slight in severity. Given the proposals would likely lead to a reduction in 2-way trips to the site, it is not anticipated that the proposed development would exacerbate any highways safety issues.

Whilst the Applicant has not provided any off-street car parking space details, the LHA are satisfied there is adequate parking and turning within the site in accordance with LHDG standards for the expected quantum of vehicles likely to use the site.

- ii) Noise impacts of the development**

Given the existing nature of the site and the number of visitors, when considering the change to storage, the noise impacts created through activities on the site and visitors is not considered to increase detrimentally.

iii) Contamination risks on the site

None of the site is located within a safety hazard area, and there are no known contamination risks.

iv) Flooding risks on the site

The site is located out of any known flood zone and therefore there are highly limited flood risk impacts.

(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 application meets the conditions of Class R of Schedule 2, Part 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 the General Permitted Development Order (2015) (as amended).

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. If this development proceeds under Schedule 2, Part 3, Class R, it must be completed within a period of 3 years starting with the Prior Approval date (given on this Decision Notice).

Reason: For the avoidance of doubt and in accordance with The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3, Class R, Condition R.3(2).

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

- Application form received 03/07/2023
- Site Location Plan received 03/07/2023
- Block Plan received 03/07/2023
- Access Plan received 03/07/2023
- Proposed Access received 08/09/2023
- Proposed Visibility received 08/09/2023
- Swept Path Analysis received 08/09/2023

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).

3. The development hereby permitted shall not be brought into use until such time as the parking and turning facilities have been implemented in accordance with Site Location Plan, received on 3 July 2023. Thereafter the onsite parking and turning provision shall be kept available for such use 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

Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

Notes

1. The Applicant is advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained.
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.