

Delegated Report

Planning Reference 26/00332/CLP
Applicant(s) Cooks Midlands Ltd
Ward Ratby, Bagworth and Thornton



Hinckley & Bosworth
Borough Council

Application Site Land South of Retreat Farm, Whittington Lane, Thornton

Proposal Certificate of proposed lawful development for the change of use of an agricultural building to Class B8 (storage and distribution)

1. Recommendations

1.1. Grant Certificate of Lawful Proposed Development

2. Planning Application Description

2.1. The application seeks a Certificate of proposed lawful development for the change of use of an agricultural building to Class B8 (storage and distribution).

3. Description of the Site and the Surrounding Area

3.1. The building is located to the west of Whittington Lane, approximately 1km to the north east of Thornton and 350m to the west of Thornton reservoir.

3.2. The building is a single storey, steel portal framed building which is clad in steel profiled sheeting to the walls and with a fibre cement profile sheeting roof. There is a ground bearing concrete slab to the floor which extends to a small concrete apron to the front of the building. The building has been used for the storage of agricultural equipment.

3.3. The building is set back approximately 140m from Whittington Lane from which it is accessed via a field access with gravelled access track.

3.4. The extent of the agricultural unit is small and limited to the 4.75 acres field which surrounds the barn. The surrounding field is bounded by a mature but low hedgerow to the roadside boundary to the east as well as the southern boundary. The northern and western boundaries contain a number of trees which provide better screening from these views.

4. Relevant Planning History

24/01048/P3CQ

Notification to determine if prior approval is required for the change of use of an agricultural building to a dwellinghouse (Class C3)

GDO Prior Approval Given
20.05.2025

5. Publicity and Consultation

- 5.1. There is not a statutory requirement to consult third parties on an application for a lawful development certificate. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is a good reason to believe they possess relevant information about the content of a specific application.
- 5.2. Notwithstanding this, views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question are irrelevant when determining the application.
- 5.3. In this instance, no consultation was conducted.

6. Policy

- 6.1 Section 192 of the Town and Country Planning Act 1990.
- 6.2 Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

7. Appraisal

- 7.1 Section 192 of the Town and Country Planning Act 1990 enables any person with the opportunity to ascertain whether any proposed use of buildings or other land, or any operations proposed to be carried out in, on, over or under land would be lawful.
- 7.2 The statutory framework covering, 'lawfulness,' for lawful development certificates is set out in Section 191(2) of the Town and Country Planning Act 1990. Section 191(2) of the Town and Country Planning Act 1990 confirms that uses and operations are lawful at any time if:
- (a) No enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
 - (b) They do not constitute a contravention of any of the requirements of any enforcement notice then in force.
- 7.3 Paragraph 55(1) of the Town and Country Planning Act 1990 defines, 'development' as the carrying out of building, engineering, mining, or other operations in, on, over, or under land, or the making of any material change in the use of any buildings or other land.
- 7.4 In accordance with National Planning Practice Guidance (NPPG), the applicant is responsible for providing sufficient information to support an application.

- 7.5 In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable to a local planning authority to understand exactly what is involved. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate. However, this does not preclude another application being submitted later on if more information can be produced.
- 7.6 The NPPG confirms that a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is, or would be, lawful. Planning merits are not relevant at any stage in this particular application.
- 7.7 This certificate relates to the change of use of an agricultural building to 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) ('GPDO'), referred to within this report as 'Class R' for brevity.
- 7.8 Class R confirms that development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use, (a) falling within one of the following provisions of the Use Classes Order:-
- i. Class B2 (general industrial) of Schedule 1;
 - ii. Class B8 (storage or distribution) of Schedule 1;
 - iii. Class C1 (hotels) of Schedule 1;
 - iv. Class E (commercial, business or service) of Schedule 2; or
 - v. Class F.2(c) (outdoor sport or recreation) of Schedule 2; or
- 7.9 Within Class R it outlines the criteria in which development is not permitted.
- 7.10 Development is not permitted 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
- 7.11 It is confirmed that the last use of the building has been for agriculture as part of an established agricultural unit, within the above timeframes.
- 7.12 Development is also not permitted where the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 1,000 square metres – this proposal is less than 1000 square metres.
- 7.13 Development is also not permitted where, the site is, or forms part of, a military explosives storage area; the site is, or forms part of, a safety hazard area; or, the

building is a listed building or a scheduled monument – none of which apply to the development site.

7.14 Section R3 of Class R confirms that 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;

7.15 As part of this Certificate application, the above have all been provided to the local planning authority.

7.16 Given the above, it is considered that the proposal would fall within the criteria set out in both Class R, of Schedule 2, Part 3 of the GPDO, and as such would not require planning permission.

8. Equality Implications

8.1 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; and
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.2 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.

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

8.4 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).

9. Conclusion

9.1 The proposed change of use of the agricultural building to B8 is considered to be in accordance with the criteria set out within both Class R of Schedule 2, Part 3, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

9.2 This conclusion is made on the basis of details provide by the Applicant, and as shown on the following documents received by the Local Planning Authority:

- Application Form
- Covering Letter
- Existing Elevations Drawing No. 9412-01-02
- Site Location Plan Drawing No. 9412-01-01 Rev A

Received by the Local Planning Authority 09/04/2026

10. Recommendation

10.1 **Grant Certificate of Proposed Lawful Development**