

Delegated Report

Planning Ref: 23/00371/P3CR

Applicant: Mr Tim Sinnott

Ward: Cadeby, Carlton, M Bosworth & Shackerstone

Site: Ivy House Farm, Bilstone Road, Congerstone



Hinckley & Bosworth
Borough Council

Proposal: Prior approval for change of use of agricultural building to B8 storage use

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 to the south of Bilstone Road, Congerstone and consists of a main dwelling, and a series of existing agricultural buildings alongside a number of converted units which are used as storage. The development site consists of a disused agricultural unit.

4. Relevant planning history

18/00826/FUL

- Storage building for fodder and general agricultural equipment
- Planning permission granted
- 29.10.2018

20/00997/FUL

- Proposed self storage facility (Use Class B8) and access road
- Planning permission granted
- 09.07.2021

21/01433/AGDO

- Extension to existing agricultural building
- Not determined
- 18.11.2022

22/00321/HOU

- Single storey rear extension
- Planning permission granted
- 18.05.2022

22/00437/DISCON

- Application to discharge conditions 6 (Landscaping), 9 (Materials) and 10 (Construction Traffic Management Plan) attached to planning permission 20/00997/FUL
- Discharged
- 05.07.2022

22/01174/FUL

- Change of use, including partial reconstruction, and refurbishment of existing barn to Class C1 holiday let use including provision of ancillary hardstanding
- Planning permission granted
- 20.04.2023

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. Shackerstone Parish Council: No comments received.

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 (Ivy House Farm) 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. 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) *flooded 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.

As part of the full planning permission for the Class B8 open storage use on land to the south-east of Building 5 (20/00997/FUL), the width of the access road that serves existing development at Ivy House Farm has recently been increased to 3.5 metres and a passing bay has been created which increases the width to 5.5 metres at that point. It is considered that these increases in width already implemented are sufficient to safely accommodate all road users, including existing vehicles, those vehicles associated with the proposed Class B8 use of Building 5, and pedestrians utilising the PROW which runs the entire length of the access road.

It is also considered that the vehicle movements associated with the proposed Class B8 use of Building 5 would not generate a requirement for the existing visibility splays of 43.0m to the east and west at the junction with Bilstone Road to be increased.

Access arrangements would remain as existing and are considered to be suitable for the proposed Class B8 use. Vehicle access/loading would be via the existing opening on Building 5's eastern elevation (shown at Figure 3) which has been used continually by existing large farm vehicles to load and unload items for storage.

When considered cumulatively with other developments, the trips associated with a Class B8 use of the existing agricultural building is unlikely to lead to a severe impact on the road network.

Building 5, together with surrounding barns and structures in the farm building cluster, have been used for agricultural purposes for many years, and as such there is already noise generated by farm operations, including the use and manoeuvring of large farm vehicles and machinery. The commercial operations associated with the use of the adjacent container storage facility also form part of the baseline noise level.

When assessed in this context, it is not considered that the change of use of Building 5 from agricultural to a Class B8 storage would lead to a detrimental noise impact.

Moreover, as the site is within an existing farm, the application is not considered to create significant adverse noise impacts to the site or the amenity of neighbouring occupiers. There are no contamination risks within the site and the site is not within an area at risk of flooding. The application complies with the provisions of Paragraph W (prior approval).

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

- Application form
- Planning Statement
- Site Location Plan
- Block Plan

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).