

Delegated Report

Planning Ref: 24/01122/P3CR

Applicant: Mr Will Oliver

Ward: Barlestone, Nailstone and Osbaston



Hinckley & Bosworth
Borough Council

Site: Osbaston House Farm, Lount Road, Osbaston

Proposal: Notification to determine if Prior Approval is required for the change of use of an existing agricultural barn into a fitness facility (Class E)

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 is for the change of use of an existing agricultural building to a flexible use in the form of a Class E fitness facility 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 development site comprises an agricultural building associated with Osbaston House Farm. The building is a skillion roof building of a wooden and metal construction with blockwork walls, profiled metal sheeting and wooden boarding.
- 3.2. Osbaston House Farm is located in the open countryside to the west of the village of Barlestone. It forms part of an agricultural unit that also has existing use for glamping, dog walking and commercial storage.
- 3.3. The site at Osbaston House Farm gains access from Lount Road to the north. Lount Road is an adopted unclassified road subject to the national speed limit (60km/h).
- 3.4. The development site is located directly west of an existing agricultural building on the site, both of which are sited 22 metres south of Lount Road and are visible from the highway when viewed from the eastern approach. The western approach is well screened by an existing hedgerow.
- 3.5. Immediately to the east of the development site are residential buildings associated with Osbaston House Farm. To the south are agricultural buildings and beyond that, commercial storage and distribution buildings. To the west is open countryside.
- 3.6. Beyond Osbaston House Farm to the east are dwellings fronting Lount Road, the closest of which is approximately 70 metres from the development site. To the north of Lount Road is open countryside and a dwelling known as Badgers Holt. Further south is Osbaston Lodge Farm.

4. Relevant planning history

None relevant.

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. No response was received from Osbaston Parish Council.

6.2. HBBC Environmental Services (Pollution) have requested a condition requiring the applicant to submit and have approved a noise attenuation scheme prior to commencement of the development.

6.3. LCC Highways requested that the original red line development site be increased to include all access and car parking areas, and that the Applicant ensure 15-minute gaps between each class to ensure the staggering of cars entering and leaving the site. Following submission of visibility splay details, a Vehicle Count Report, and the amendments as previously outlined, the Local Highway Authority (LHA) is satisfied that the impact of the development on highway safety would not be unacceptable. 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 building was constructed prior to 3rd July 2012 and has remained in agricultural use as part of the agricultural unit since that time.

- (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 building does not have a cumulative floor space that exceeds 1,000 square metres, nor are there any other buildings which have changed use under Class R within the agricultural unit.

- (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 building is not a listed building 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 building does 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 onto Lount Road, located west of the junction between Lount Road and Ashby Road/Barton Road.

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 no recorded PIC's within approximately 350 metres to the east of the access to the junction of Lount Road/Ashby Road and 500 metres to the west of the site access.

Vehicle access to the development site is proposed via the existing farm access and internal access drive. A new one-way section is to be added to the existing internal drive, connecting to the existing drive to the north and west. The one-way drive will provide access to the on-site car parking area which provides fourteen car parking spaces including one accessible parking space.

The Applicant has provided a timetable for the gym confirming that a minimum interval of 15 minutes will apply between scheduled classes. The LHA are satisfied that this demonstrates reasonable time for cars from the previous session to depart the site before cars for the following session begin to arrive, thus allowing sufficient car parking availability.

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

Considering the existing mix of uses on the site and the use of surrounding buildings for agricultural and commercial storage purposes, it is not considered that the noise impacts created through the proposed use of the building would unduly impact upon other uses forming part of the wider Osbaston House Farm site.

The nearest residential building to the development site is Badgers Holt which is separated by a distance of approximately 35 metres, between which there are intermittent sections of hedgerow. The applicant has stated that the proposal would involve insulation works that will reduce potential sound impacts.

HBBC Environmental Services Pollution have reviewed the proposed development and are satisfied with the use subject to the imposition of a condition requiring the applicant to submit a noise attenuation scheme prior to commencement of development.

It is therefore 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.

iv) Flooding risks on the site

The site is not located within any known flood zone and it is therefore considered that the potential for flood risk impacts is limited.

(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 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:

- Site Plan received 6 May 2025
- Parking Plan OSBAST-PS25-1 received 22 April 2025
- Access Details IP/AHO/04 received 31 January 2025
- Class Schedule received 21 May 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 development shall not commence until a scheme for protecting nearby dwellings from noise from the proposed development has been submitted to and approved by the Local Planning Authority. All works which form part of the scheme shall be completed before the permitted development first comes into use.

Reason: To ensure that the proposed use does not become a source of disturbance to nearby residents in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 187 and 198 of the National Planning Policy Framework (2024).

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 Parking Plan drawing number OSBAST-PS25-1. 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 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.