

**Planning Committee 12th March 2024
Report of the Head of Planning**

**Planning Ref: 24/00005/P3CR
Applicant: B And V Sutton
Ward: Cadeby, Carlton, M Bosworth and Desford**



Hinckley & Bosworth
Borough Council

Site: Buildings Rear Of, Sycamore Farm, 29 Main Street, Barton In The Beans

Proposal: Change of use from agricultural storage to warehouse (Class B8)



1. Recommendations

1.1. Grant prior approval subject to:

- Planning conditions outlined at the end of this report.
- The Planning Manager be given powers to determine the final detail of planning conditions.

2. Planning application description

2.1. This is an application for prior notification under Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class R (as amended). This application seeks to change of use from agricultural storage to warehouse (Class B8).

2.2. The following documents were submitted in support of this application;

- Application Form
- Site Location Plan
- Block Plan
- Access Plan
- Parking Plan

3. Description of the site and surrounding area

3.1. The application site is located south of Main Street, Barton In The Beans. The building was a former and the last of the pig buildings relating to the previous use. Many of the former buildings have been converted or demolished. The proposed change of

use site is located amongst a cluster of existing units. The units have a range of uses includes storage for agricultural purposes such as tractor/vehicles and fertilizer.

4. Relevant planning history

10/00504/GDO

- ERECTION OF AN AGRICULTURAL BUILDING
- General Development Order
- 04.08.2010

13/00978/COU

- Use of land for flying model aircraft and use of derelict building for shelter
- Planning Permission
- 18.03.2014

15/01171/CONDIT

- Variation of conditions 5 and 7 of planning permission 13/00978/COU to alter flying times and restrictions on silent flight times
- Planning Permission
- 07.03.2016

21/00110/AGDO

- General purpose agricultural building
- General Development Order
- 26.02.2021

5. Publicity

- 5.1. The application has been publicised by a notice posted within the vicinity of the site.
- 5.2. No comments were received.

6. Consultation

- 6.1. LCC Highways: No comments received.
- 6.2. 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
- 7.1. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. Key Issues:
- 8.2. 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 (GPDO), 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.

- 8.3. As the application is not an application for planning permission, the matters to be considered are narrowed and relate only to the criteria and prior approval matters contained within the GPDO. This report outlines the permitted development criteria in italics, followed by the assessment in bold:

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, and the previous change of uses at the site have not been changed under Class R but through formal planning permissions for change of use. 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.*

The above are recommended as notes 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) Following confirmation from Leicestershire County Council Highways, they are satisfied that the existing traffic to the site consists of agricultural traffic such as tractors and HFV's to remove grain from the farmstead. The proposed change confirms that the movements would be reduced by 25% given that 25% of the buildings have been/will be converted. Resulting in a reduction of approximately 10 movements a day. The intended end user of the building would use small lorries, not exceeding 7.5 tons, and an expected movements of one lorry per day in and out and two cars per day in and out, between Monday to Friday.**

LCC Highways have confirmed they are satisfied with the information provided and that the impacts on transport and highways are not to be significant. It was also confirmed that no impacts would be seen relating to the public footpath.

- (ii) Noise impacts**

When considering the significant distance between the proposal site and Main Street, Barton In The Beans, including any residential development, it is considered that there would be no further detrimental noise impacts as a result of the proposed change of use under this notification.

- (iii) Contamination risks**

The proposal when considering its proposed used as storage from its former use as agricultural – there are no anticipated contamination risks as part of this notification.

(iv) Flooding risks

The proposal site is not located within an area of high flood risk and as such it is not considered that this change of use would exacerbate flood risk within the site.

(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 in the consideration of this application. The Committee must also ensure the same when determining this planning 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 criteria of Class R of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). With regards to the prior approval matters these have been assessed, with further information being required from LCC highways. Ultimately the impacts on highways, contamination, flooding and of noise are judged to be acceptable. Therefore, 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

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

- Planning conditions outlined at the end of this report.

11.2 That the Planning Manager be given powers to determine the final detail of planning conditions.

12.4. 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
- Block Plan
- Access Plan
- Parking 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).

12.5. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.

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

- (d) 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;
- (e) 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;
- (f) 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—
 - (iii) “curtilage” has the meaning given in paragraph X (interpretation) of this Part;

- (iv) any reference to “office building” is to be read as a reference to the building which has changed use under Class R.
- 3. 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.
- 4. 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.
- 5. 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.