

Planning Committee 27<sup>th</sup> September 2022

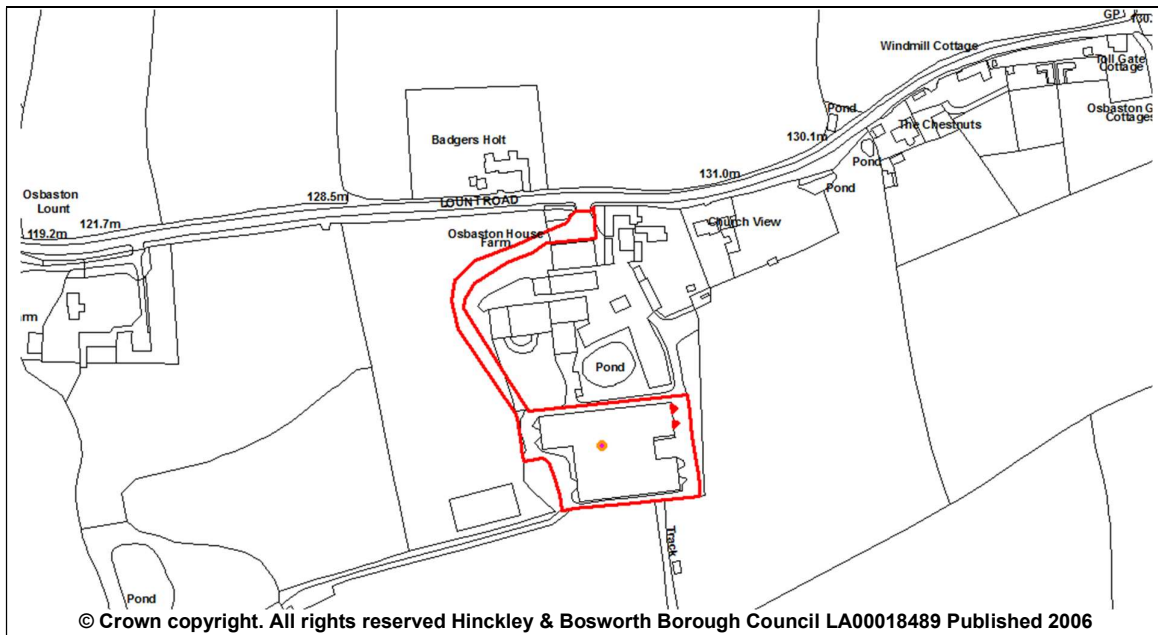
Planning Ref: 22/00152/FUL  
Applicant: Mr William Oliver  
Ward: Barlestone, Nailstone and Osbaston



Hinckley & Bosworth  
Borough Council

Site: Osbaston House Farm, Lount Road, Osbaston, Nuneaton

Proposal: Change of use of agricultural buildings to B8 storage and distribution.



## 1. Recommendation

### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

## 2. Planning application description

2.1. The application seeks retrospective planning permission for the Change of Use of agricultural buildings to B8 Use (storage and distribution).

2.2. The original application, as submitted, sought a Change of Use for B2 use also but this has since been removed from the application description and the application is to be assessed on a proposed B8 Use only.

2.3. The change of use relates to 3 agricultural buildings and the total floor area amounts to 3513.7 square metres approximately. External alterations are not proposed as part of this application.

2.4. The change of use application also includes the provision of adjacent hardstanding areas for access, parking and turning of vehicles, and the construction of a new access road which bypasses the existing farm buildings to access the B8 units. The application details state that the access road measures 130m in length and 5m in width approximately. It is sited to the west of Osbaston Farm House and utilises the existing farm entrance point off Lount Road.

### **3. Description of the site and surrounding area**

- 3.1. Osbaston House Farm is a (61 hectare) agricultural holding. The farm includes 57 hectares of arable cropping, and 4 hectares of permanent grassland which is utilised for grazing of cattle. The farm also includes a diversified glamping business which is known as 'The Dandelion Hideaway'.
- 3.2. The farm has previously been used as a goat dairy farming unit, however, the application details state that this use ceased in September 2020. The livestock buildings which previously housed the goats and milking parlour have recently been used for storage and distribution purposes (as of July 2022) and the applicants are seeking to regularise the use and are applying for planning permission for change of use of agricultural buildings to storage and distribution (Use Class B8). The application site is located directly to the south of Osbaston House Farm and to the south of Lount Road.
- 3.3. The application details state that the buildings are being used to store pallets of PPE equipment (face masks etc); and some pallets of electrical equipment.

### **4. Relevant planning history**

- 4.1. Various planning history on site including permissions for agricultural buildings and extensions to agricultural buildings and also the following:

#### **07/00391/COU**

- Change of use of agricultural land for the siting of 5 tents with shower block and associated parking
- Planning Permission
- 30.05.2007

#### **09/00625/CONDIT**

- Variation of Condition 5 of 07/00391/COU to increase the number of tents from 5 to 9
- Planning Permission
- 05.11.2009

### **5. Publicity**

- 5.1. The application has been publicised by the erection of a site notice in close proximity to the site and by sending out letters to local residents.
- 5.2. 9 letters of objection have been received and the concerns are summarised below:
- 1) Lount Road is a narrow country lane where the access for this development is situated. Its width is not sufficient to allow a lorry and a car pass each other – this will be a major problem when two lorries try to pass.
  - 2) The lane is frequently used by pedestrians, cyclists and horse riders which would put them in danger.
  - 3) The nearby crossroads see many near misses and accidents.
  - 4) The application states that there was a milk tanker that used the lane every day which is not true; it was every other day and it wasn't as big as an articulated lorry.
  - 5) Not supportive of B2 use on site. Should be B8 use only (storage).

- 6) A speed limit of 40mph maximum and better signage along the road and other measures should be put in place to make the road safer for all users.
- 7) The number of lorries should be limited and the hours of trade to be restricted e.g. 7am - 6pm (Mon to Fri) and restrictions on weekend use.
- 8) Deliveries should only be in one direction – i.e. from the main A447 NOT from the west.
- 9) Sufficient parking should be provided so that there is not an issue with vans, lorries parking on the road.
- 10) General industrial units could be anything - this needs to be re-applied for with more details so that comments can be made appropriately.
- 11) The application is factually incorrect as work has already started despite not having planning permission.
- 12) Adequate signage needs to be in place.
- 13) As a resident I have no issue with diversification of farms but strongly believe the road network to the site is not suitable for B2 use and only suitable for B8 use.
- 14) The application would increase traffic, noise and disturbance for local residents.
- 15) The 200 HGV figure stated in the application details is concerning.
- 16) There should be a restriction for no 'counter sales' at the site.
- 17) There is no supporting evidence to justify a change of use to B2 or B8.

## **6. Consultation**

- 6.1. No objection has been received from:
  - HBBC Drainage
  - HBBC Waste Management (Condition on bin storage and collection required)
  - LCC Highways (Conditions)
- 6.2. Carlton Parish Council – requests a condition that all heavy goods vehicles be required to access the site from the A447, and that no HGVs be permitted to enter that part of Lount Road to the west of the site entrance. This is to protect the amenity of local residents by preventing hgv's from passing through the weight restricted area between the A447 and the A444 which includes the village of Carlton and narrow lanes.
- 6.3. Osbaston Parish Council – comments as follows:
  - Requests that B2 general industrial is removed and that a separate planning application is submitted if required providing more detail.
  - Concerns that Lount Road is not suitable for this type of development as the road is not wide enough and the speed of vehicles is excessive.
  - Would support a speed limit of 40mph maximum and better signage along the road and other measures put in place to make the road safer for all users.
  - That any planning permission granted restricts the number of lorries accessing the development to a realistic limit that can be quantitatively monitored by residents / Parish Councillors.
  - Restrict the hours of trade to Monday to Friday 7am – 6pm
  - Explicitly permit access for deliveries only in one direction. This should be from the main A447 only.
  - Sufficient parking is provided so that there is not an issue with vans, lorries etc parking on the road or reversing causing noise and traffic disruption
- 6.4. HBBC Environmental Services Team - have concerns relating to noise associated with potential B2 use. The operations stated in the design and access statement appear to be B8 use and would not foresee a significant impact from that use.

What is the reasoning for applying for B2 use? What are the proposed hours of use for the site?

## **7. Policy**

### 7.1. Core Strategy (2009)

### 7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the countryside and settlement separation
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

### 7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

### 7.4. Other relevant guidance

- Good Design Guide (2020)

## **8. Appraisal**

### 8.1. Key Issues

- Principle of development
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flood risk and drainage
- Planning Balance

Principle of development

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. Where planning applications conflict with an up to date plan, permission should not usually be granted unless other material considerations indicate otherwise.

8.3. The current development plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).

8.4. The Emerging Local Plan for 2020-39 has been out for consultation at Regulation 19 draft stage (February to March 2022). The LDS anticipates that the Plan will be submitted in spring/summer 2022, and an estimated date for examination of late summer/autumn 2022. This will increase the weight to be afforded to the new Local Plan. The LDS will be updated following a decision at Full Council on 6<sup>th</sup> September.

- 8.5. The application site is located within open countryside and therefore Policy DM4 of the SADMP is applicable. Policy DM4 states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
  - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
  - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
  - It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
  - It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation
- and:
- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
  - It does not undermine the physical and perceived separation and open character between settlements; and
  - It does not create or exacerbate ribbon development
- 8.6. The site seeks to change the use of existing buildings, provides job creation and diversifies a rural business. As such, the proposal meets the criteria of Policy DM4 of the SADMP and is acceptable in principle subject to the assessment of material considerations.
- 8.7. Paragraph 84 of the NPPF states that planning decisions should enable the development and diversification of agricultural and other land based rural businesses. Paragraph 85 goes on to state that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. It is important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
- 8.8. The Design and Access Statement submitted by the applicant refers to Policy DM15 of the Site Allocations and Development Management Policies DPD 2016 as being applicable for this application. Policy DM15 relates to redundant rural buildings and states that development will be supported outside the settlement boundary where the applicant demonstrates the building is no longer viable in its current use and the applicant has adequately demonstrated that the building is capable of conversion. It is acknowledged that the buildings which are the subject of this application consist of modern steel portal framed structures and that the use of the building as a goat milking unit has ceased due to viability issues but the application provides no viability information in this regard. As such it is the opinion of the local planning authority that this policy is not applicable as the details relating to viability have not been submitted and the buildings are being used (retrospectively).
- Design and impact upon the character of the area
- 8.9. Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing,

adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.

- 8.10. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.11. This an application for a change of use of existing buildings on site and the details state that no external changes or alterations are proposed. The key change in this instance is the new access for the B8 use which is located to the west side of the farm. It is approximately 5 metres wide and 130 metres in length. It is not considered that this access has a negative impact on the existing character and appearance of this site given the siting of an existing access in close proximity and the backdrop to the new proposed access of the existing buuildings. Therefore, it is considered that in design terms the change of use and associated works would not impact on the intrinsic value, beauty and open character of the countryside to a greater extent than the existing situation.
- 8.12. Overall the scheme is considered to be acceptable and in compliance with Policy DM4 and Policy DM10(c), (d) and (e) of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.  
  
Impact upon neighbouring residential amenity
- 8.13. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities with in the vicinity of the site.
- 8.14. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.15. Local residents have raised objections in relation to amenity – specifically they have raised concerns about the use of the buildings for general industry purposes e.g. B2 uses which could have noise and disturbance implications. The HBBC Environmental Services Team also raised concerns relating to noise associated with potential B2 use. As set out above, the scheme has subsequently been revised to omit the B2 use and now only seeks permission for a B8 use (storage and distribution). Environmental Services do not raise issues about the B8 use.
- 8.16. Hours of use has also been flagged by local residents and HBBC's Environmental Services Team. The revised application details state that the hours of use for this development would be 0900 – 1700 Monday to Friday. This is considered to be acceptable in amenity terms and it is considered that this could be imposed as a condition if members are minded to approve the application.
- 8.17. It is considered by virtue of the countryside location relative to the nearest neighbouring properties that a B8 use will not have an adverse impact with respect to noise and disturbance and a reason for refusal could not be upheld on residential amenity grounds in this instance.

8.18. Subject to an hours of use condition this application is considered to be acceptable in amenity terms and in compliance with Policy DM10 a) and b) of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.

Impact upon highway safety

8.19. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).

8.20. Policy DM10 (g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.

8.21. Paragraph 111 of the NPPF (2021) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

8.22. The local highway authority have been consulted on the application and in response to their initial observations dated 7 April 2022 regarding the access, the applicant provided further information. The application details state that the change of use is now for B8 use only and the B2 use been removed. Given the application is now retrospective the applicant has provided current trip rate usage. The details states that the use is generating a maximum of 1 x HGV (2 movements) per day, so 5 x HGV (10 movements) per week. Given that all duties associated with the proposals are to be undertaken by current staff and given the site's previous agricultural use the local highway authority consider that there is likely to be a reduction in trips to the site overall.

8.23. The application includes the construction of a new internal road within the site creating a loop road. This would mean that vehicles visiting the site would be able to access and egress the site without involving any complex turning manoeuvres. Whilst this is welcomed by the local highway authority it is to be noted that the road would be over Public Right of Way (PRoW) S54. As such, conditions are recommended to ensure that any works on site do not affect the existing PRoW route and do not pose danger to users of the route.

8.24. Whilst local objections include concerns over highway safety, the local highway authority are of the opinion that the proposal would not lead to a severe impact on the highway contrary to paragraphs 110 and 111 of the National Planning Policy Framework (NPPF) 2021. As such they do not object to the proposals subject to conditions.

8.25. The proposal is therefore considered to satisfy policy DM17 and DM10(g) and the requirements of the NPPF with respect to highway safety considerations.

Flood Risk and Drainage

8.26. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.

- 8.27. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.28. The HBBC Drainage Officer has raised no objections to the proposals and does not propose conditions. The development will therefore satisfy Policy DM7 of the SADMP and the NPPF.

#### Planning Balance

- 8.29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.30. The proposal is considered to be acceptable when taking into account all of the material considerations set out above. There are no adverse impacts associated with this change of use to warrant refusal of this application. Therefore this application is recommended for approval subject to conditions set out below.

#### 9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

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.
- 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. Recommendation

- 10.1 **Grant planning permission** subject to:

Planning conditions outlined at the end of this report



## 10.2 Conditions and Reasons

1. The development hereby approved relates to the following details:  
Revised Site Location Plan received 6 September 2022  
Revised Proposed Site Plan received 6 September 2022  
Revised Application Form received 7 September 2022  
  
**Reason:** To ensure the development hereby approved accords with the approved plans.
2. Hours of opening for the B8 use hereby permitted shall be limited to the following hours:  
Monday – Friday 0900 - 1700 hours only  
No working on Saturday, Sundays or Bank Holidays  
  
**Reason:** To protect residential amenity and limit noise disturbance in accordance Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.
3. Within 3 months of the date of this decision a scheme which makes adequate provision for waste and recycling storage of containers and implementation for collection across the site shall be submitted to and approved in writing to the local planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided to facilitate collection of waste via a registered waste carrier.  
  
**Reason:** To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).
4. Within 3 months of the date of this decision a scheme for the installation of electric vehicle charging points shall be submitted to and approved in writing by the local planning authority. The scheme shall identify the number of electric charging points, together with full details of the location and fitting of the units. The approved details shall be installed within 6 months of the date of this decision.  
  
**Reason:** To ensure that the proposals meet the requirements of Policy DM10 (g) of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 112 (e) of the National Planning Policy Framework.
5. Within 3 months of the date of this decision a scheme for the treatment of the Public Right of Way shall have been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include provision for their surfacing, width, structures, signing, landscaping, and management during construction, in accordance with the principles set out in the Leicestershire County Council's Guidance Notes for Developers. The approved works shall

be implemented within 6 months of the date of this decision and retained as such thereafter.

**Reason:** to protect and enhance Public Rights of Way and access in accordance with Paragraph 100 of the National Planning Policy Framework 2021.

6. Prior to construction/treatment of the Public Right of Way works, measures on site should be taken to ensure that users of the Public Right of Way are not exposed to any elements of danger associated with construction works.

**Reason:** to ensure the Public Right of Way is safe and available during the period of construction in the interests of protecting and enhancing Public Rights of Way and access in accordance with Paragraph 100 of the National Planning Policy Framework 2021.

## INFORMATIVES

The Public Right of Way must not be re-routed, encroached upon, or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.

The Public Rights of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.

If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to [networkmanagement@leics.gov.uk](mailto:networkmanagement@leics.gov.uk) at least 12 weeks before the temporary diversion is required.

Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.

No new gates, stiles, fences, or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way, and the County Council may be obliged to require its immediate removal.

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application and this has resulted in the approval of the application. The Local Planning Authority has therefore acted proactively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).