DELEGATED REPORT

Application Reference:	PL/2023/06466
Application Type:	Prior Approval
Site Address:	NEWLEAZE FARM, LONDON ROAD, CHIPPENHAM, SN15 3RB
Proposal:	Notification for Prior Approval under Class R for a Proposed Change of Use of Traditional Steel Portal Framed Agricultural Building to Storage of Caravans and Trailer
Recommendation:	Prior Approval be GRANTED

SITE DESCRIPTION AND PROPOSAL

The application site comprises a modern barn set within the southern area of a farmstead known as Newleaze Farm. The building has an open sided southern elevation that faces into the existing, hard-surfaced yard. The northern and west elevations of the building adjoins other similar agricultural buildings. There are no landscape, ecology or heritage designations affecting the site.

It is accessed via a single lane private track which also serves Hardens Farm, properties 1 & 2 Hardens Farm and a number of dwellings at Newleaze Farm including The Hollies, Limes Barn, The Barn and Newleaze Farmhouse. Public Rights of Way CHIP36 & BREM39 traverse the track with CHIP14, CHIP107 & CHIP111 connecting.

The proposal seeks to change the use of the building into a flexible commercial use, under the provisions of Schedule 2, Part 3, Class R of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

PLANNING LEGISLATION

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

CONSULTATIONS

Wiltshire Council Highways: No objection

The access is adequate for a low level of movements by longer, towed vehicles. I would recommend a limit be set on the total number of caravans to be stored and/or a time limit of 3 years in order to assess the applications upon re-submission.

Public Rights of Way: No objection

Wiltshire Council Public Protection: No objection

Chippenham Town Council: No objection

Bremhill Parish Council: Support

REPRESENTATIONS

The application was advertised with two site notices. One at the entrance to the access track and one at the entrance to Newleaze Farm.

One response to the public consultation were received . The following concerns were raised –

Lane to farm is narrow with no passing places, it is used by walkers, dog walkers and cyclists as well as cars vans and tractors. If caravans are towed down lane concerned for safety of pedestrians and cyclists, especially if they or other vehicles have to reverse a long way to pass other vehicles

ASSESSMENT

Permitted development considerations

Article 3 paragraph 1 of the GPDO grants planning permission for the classes of development described as permitted development (PD) within Schedule 2 of the order. Article 3 paragraph 2. Goes on to confirm that any permission granted by paragraph (1) is subject to any relevant exception, limitation or condition specified in Schedule 2.

Schedule 2, Part 3, Class R sets out the provisions, limitations and conditions of the permitted development right relevant to this proposal. Permitted development is as follows:

> *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 falling within one of the following provisions of the Use Classes Order—*
>
> *(a) Class B8 (storage or distribution) of Schedule 1;*
> *(b) Class C1 (hotels) of Schedule 1; or*
> *(c) Class E (commercial, business or service) of Schedule 2.*

Article R.1 sets out the limitations to the PD right.

> *R.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;

(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.

Evidence available to the local planning authority (LPA) confirms the building in question complies with criterion a-e.

Prior approval

Article R.3 sets out the requirements that must be undertaken by both the applicant and LPA before a change of use under Class R can occur. The building in question occupies a footprint of approximately 362sq.m. Paragraph R.3(b) is relevant to the current proposal, requiring the following:

(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…

GPDO para. W confirms the following:

(3) The local planning authority may refuse an application where, in the opinion of the authority—
(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions…limitations or restrictions specified in this Part as being applicable to the development in question…

(13) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval…

Para. W also sets out a number of procedural requirements for both the applicant and the LPA to be satisfied have been met (i.e submission of certain details by the applicant and LPA consultations/display of a site notice).

As such, as the report must now assess whether prior approval is required and, if so, whether it can be granted (subject to conditions or not) or should be refused. Para. W states that LPAs must have regards to the National Planning Policy Framework insofar as it is relevant to the subject matter of the prior approval.

Transport and highways impacts

The broad principle of the change of use of the building in question is considered to be granted by the PD right under Class R. As such, sustainability matters related to the site location are not considered to be able to be a factor in the determination of prior approval. The matters that can be considered by the LPA relate predominantly to site specific matters.

In this case, the wider site has a vehicular access from the public highway at London Road, a main road with a 30mph speed limit. The existing access point and track serve a number of dwellings and two farms. The Highways Engineer states that the access is adequate for a low level of movements by longer, towed vehicles and recommends a limit be set on the total number of caravans to be stored and/or a time limit of 3 years in order to assess the applications upon re-submission.

In this case, the change of use relates only to the building outlined in the location plan. As the applicant explains in their submission the caravans or trailers are to be stored undercover and can only be arranged in single line. The building is approximately 41m long and arranged over 8 bays. With an approximate typical caravan width of 2.3m it could be theoretically possible to fit 16 caravans at two per bay. In reality, more space is likely to be allowed between each caravan for access and manoeuvring. In this case, it is clear that the intensity of use in terms of number of caravans/trailers being stored is self-limiting. On that basis, it is not considered necessary to use a condition.

Representations have been received raising concern in relation to the safety of walkers and cyclists who also use the track. It is relevant to consider that the public footpaths CHIP36 and 111 and BREM39 run along parts of the track.

The nature of use being proposed at this scale is unlikely to lead to a significant increase in the number of daily vehicle movements as caravans a likely to be stored for prolonged periods when not in use away from the site. The Public Rights of Way team have confirmed no objection to the proposal noting that the site is accessed via an existing farm track and that the use appears unlikely to generate large amount of traffic movements. On balance, it is not considered that the change in the nature and amount of traffic would pose an unacceptable risk to any users of the track. There are already two farms accessed via the track and so large vehicles should already be expected.

Class R2 explains that a after a site has changed use under Class R the site is to be treated as having a sui generis use. R3 sets out that a subsequent change to Class C1 (hotel) or Class E (commercial, business or service) would need to be subject to a new prior approval application where the specific impacts could be considered by the LPA.

It is relevant to consider that the permitted development right allows for a Class B8 (storage or distribution) use. Any subsequent change to Class C1 (hotel) or Class E (commercial, business or service), or indeed any other use within Class B8, would need to be subject to a new prior approval application where the specific impacts could be considered by the LPA.

Whilst the caravan/trailer storage would be acceptable, the LPA does not consider that the existing access track is suitable to serve an unrestricted B8 use that would generate a significant increase traffic, particularly HGV's. The track is single lane with limited space for passing and it is considered that unrestricted B8 use would result in an unacceptable risk of conflicting vehicle movements to the detriment of all users of the track. There is a risk that vehicles may need to reverse for significant distances and wait on the public highway before entering the track. This would be particularly severe for HGVs most likely to be linked to a B8 (storage and distribution) use but would be equally problematic for smaller vehicles having to slow down or wait in the main road to enter the site.

In light of the above concerns, it is considered necessary to limit the use specifically to the caravan and trailer storage being proposed and not any other B8 use.

NPPF paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification. It is recognised that the Government's intention within the GPDO is to make it easier for existing agricultural buildings to be used efficiently and put to flexible use where appropriate. There will still remain situations where restrictions on the specific use within a proposed Permitted Development Class will be justified based on the site specific circumstances. In this case, where the access track is narrow with limited space for passing a condition to limit the use specifically for the storage of caravans and trailers is justified.

Subject to the recommended condition, it is considered that the transport and highways impacts of the development can be managed. As such, prior approval is required and is granted subject to conditions.

Noise impacts of the development

The existing buildings have potential to generate noise from day-to-day use. The majority of the uses permitted by Class R would be likely to generate less noise so the flexible use permitted is considered to be broadly acceptable. The applicant has confirmed the intended use would be to store caravans and trailers falling within Class B8 (storage and distribution).

The closest residential dwelling and its private garden area is set approximately 25 metres from the building (The Hollies). Lime Barn, The Barn and Newleaze Farmhouse are also arranged around the farm yard and all are over 25m away from the application building.

Taking into account the separation distances and the specific use being proposed the LPA is satisfied that the change of use would not have potential to result in unacceptable harm to neighbouring residential amenities by reasons of noise. A different use falling in Class B8 (storage or distribution) could have potential to introduce a significant increase in vehicle movements and activity, noise from loading and unloading as well as noise generating activity within the building. It is not considered that the site would be appropriate located for this type of activity. However, subject to a condition restricting the use to the caravan and trailer storage as proposed, the noise impacts would be acceptable.

Subject to the recommended condition, it is considered that the noise impacts of the development can be managed. As such, prior approval is required and is granted subject to conditions.

Contamination risks on the site

The building has been within an agricultural use over recent years. The applicant has confirmed the intended use would be to store caravans and trailers falling within Class B8 (storage and distribution). As the building could have been used for the storage/processing of potentially harmful material a precautionary approach is generally advisable. A condition could be applied to the permission to ensure that a preliminary risk assessment is undertaken to demonstrate that the site is either suitable for the intended end use or (should any potential contamination be identified) that a scheme of remediation can be implemented to make the site safe. This would be necessary for hotel or office/commercial use which involved habitable accomodation. In this case, as the proposal relates to caravan and trailer storage only this is not considered necessary. The Council Public Protection Team confirm no objection to the proposed use for caravan and trailer storage therefore it would not be necessary for further investigation in respect of potential contamination. Prior approval is not required as to the contamination risks in this case.

Flood Risk

The site is within Flood Zone 1 (the area at lowest risk of river flooding) and records available to the LPA confirm the site is at very low risk of surface water flooding and low risk of groundwater flooding.

The uses permitted may have the potential to result in a greater number of visitors to the site (from customers) but, due to the low risk of flooding (from all sources) it is concluded that prior approval is not required for matters relating to Flood Risk.

CONCLUSION

The proposed change of use complies with the provisions and limitations of the permitted development right provided by Schedule 2, Part 3 Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Prior approval is required in relation to the transport and highways, and noise impacts relating to the development. Prior approval should be granted.

RECOMMENDATION: that Prior Approval be GRANTED subject to the following conditions:

1. The development hereby approved shall be implemented in accordance with the details of approved plan numbers:

   Site Location Plan (received 16 August 2023)

   REASON: for the avoidance of doubt and in the interests of proper planning.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any future order revoking or reenacting that order, the site shall be used for the storage of caravans and trailers and for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

   REASON: To ensure the traffic and highways impacts of the development are appropriate to the individual circumstances of the site and to prevent harm to highways safety in the locality.

INFORMATIVES

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required, it will be necessary for the applicant to obtain the landowner's consent before such works commence. Nor does the permission authorise the commencement of any use that may require a license, permit or any other such permission to be granted by other authorities.

The applicant's attention is drawn to the standard conditions set out within Schedule 2, Part 3 Class R and paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The change of use granted planning permission under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) relates only to the use of the building and does not confer any permission for the carrying out of building, engineering, mining or other operations (required to convert the building into the flexible commercial use) in, on, over or under land as defined by Section 55 of the Town and Country Planning Act. 1990 (as amended).