CASE OFFICER'S REPORT

Application Reference:	PL/2023/09674
Site Address:	White Hill Barn, White Hill, Pitton, SP5 1DY
Date of Inspection:	N/A
Date site notice posted:	N/A
Consultation Expiry:	07/12/23

RELEVANT POLICIES

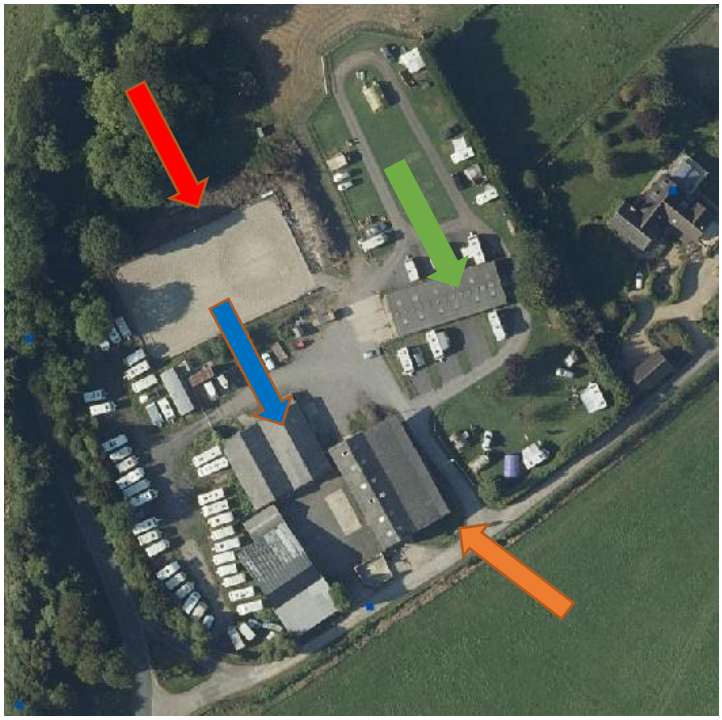
The Town and Country Planning (General Permitted Development) (England) Order 2015, Part 3, Schedule 2 (changes of use), Class Q;

Adopted Wiltshire Core Strategy (January 2015);

The Conservation of Habitats and Species Regulations 2017

SITE DESCRIPTION

The building subject to this application is an existing barn with a lean-to on the existing eastern elevation of the building (denoted by an orange arrow). The application site is known as White Hill Barn set within White Hill Farm to the south of the village of Pitton.



The wider site has an extensive planning history and is made up of a number of buildings. These buildings include a converted toilet and shower block for the use of part of the wider site as a caravan and camping site (denoted by a blue arrow); a menage area to the rear of the site (denoted by a red arrow) and a stable building to the northeast (denoted by a green arrow). The caravan and camping site that allowed for a maximum of 20 touring caravans and 10 tents on the wider site at any one time was approved in 2007 via appeal

(APP/T3915/A/07/2034714) following the refusal of planning permission (S/2006/2077) and is located to the north and south of the stable block and to the northeast of the barn subject to this application.

PROPOSAL

The application is notification for Prior Approval under Class Q of the General Permitted Development Order for the Change of Use of the existing agricultural building to form one dwellinghouse and for Associated Operational Development.

ISSUES

Whether the proposal constitutes Permitted Development under Class Q;
Whether the Prior Approval of the Local Planning Authority is required;
River Test Catchment Area/ The Conservation of Habitats and Species Regulations 2017

RELEVANT POLICY

Permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application. Permitted development rights are subject to conditions and limitations. In some cases the permitted development right will require the local planning authority to approve certain matters (a process generally referred to as “prior approval”).

The Town and Country Planning (General Permitted Development) (England) Order 2015 (“the Order”) amends the Town and Country (General Permitted Development) Order 1995 (“the General Permitted Development Order”) to allow new permitted development rights for change of use.

Class Q of Part 3 of Schedule 2 to the General Permitted Development Order is added to permit agricultural buildings changing to residential use and includes building operations reasonably necessary (including partial demolition) to convert the building to residential use.
In accordance with Class Q, for change of use proposals including building operations, before beginning the development, the applicant is required to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to:

• Transport and highways impacts of the development,
• Noise impacts of the development,
• Contamination risk on the site,
• Flooding risks on the site,
• Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order, and
• The design or external appearance of the building.

And the Council may also request and consider the following information if deemed necessary:

• Assessment of impact or risks
• Statements setting out how impacts or risks are to be mitigated
• Details of proposed operation development

The provisions of paragraph Q.2 of Part 3 of The Town and Country Planning (General Permitted Development)(England) Order 2015 sets out the procedure for applying for approval

and this includes that the Local Planning Authority must have regard to the National Planning Policy Framework so far as relevant to the subject matter of the prior approval, although there is no requirement to have regard to the development plan.

RELEVANT PLANNING HISTORY

S/2005/1818 – CLD for use of the land and buildings for breeding of horses and livery for foaling mares, breaking horses and hacking horses REF 21.11.05

S/2006/0731 – Use of the land for equine breeding business for the horse racing industry A.C 27.07.06

S/2006/2077 – Retrospective application for the retention of a touring caravan and caravan and tents site REF 19.12.06 Allow on APPEAL 25.06.07

S/2008/0561 – Change of use of and alterations to agricultural building to form toilet and shower block and also a new roadway and footway A.C 01.05.08

13/06304/FUL – Erection of six floodlights each a maximum of 6m high above ground to an existing menage A.C 20.01.14

PL/2022/04217 - Notification for Prior Approval under Class Q for the proposed conversion and change of use of agricultural barn into one dwelling house (C3 use class) REF 03.08.22

PL/2022/06928 - Notification for Prior Approval under Class Q for the proposed conversion and change of use of agricultural barn into one dwelling house (C3 use class) A.C 01.11.22

PL/2023/07781 - Removal of condition 2 of PL/2022/06928 restricting the use of Class Q barn conversion in conjunction with the approved agricultural and commercial uses of the site WTD on officer advice 07.11.23

REPRESENTATIONS

Pitton and Farley Parish Council – Objection with comments stating:

We object to the development as the this is a change of use from agricultural to dwelling and this is not a development we approve of (section e).

WC Public Protection - No objection with comments received stating:

Having visited the site recently, I was able to observe ground surrounding the application site includes a camp site and equestrian business. There was no evidence of any intensive farming practices occurring in the vicinity, and there were no cattle or farm animals (other than horses) permanently housed in barns in close proximity to the application site. The campsite was consented in 2007 and allows 20 touring caravans and 10 tents on site at any time. Occupancy of the camp site is likely to be seasonal, and also possibly weather dependent. Noise associated with the use of camp sites can be the source of complaints to this department. There are no planning conditions associated with the operation of the site in relation to management of noise from guests using the site. The campsite is within the blue line on the submitted plans and is therefore within the same ownership as the application site. This department would expect any complaints from future occupants of the proposed dwelling, relating to guests staying on the campsite, to be promptly managed and resolved by the owner.

Any future occupier/ owner of the development site would be aware of the proximity of the camp site and equine business to the dwelling, and should have an expectancy that, from time to time, they may hear noise associated with the use of the surrounding land. However, we do not consider these issues to be so significant that this department would recommend refusal of this application. We therefore have no observation to make regarding this matter but recommend a land contamination condition be attached to any consent.

WC Highways – No objection with comments received stating:

This application in highway terms is the same as application PL/2022/06928 and I therefore reiterate my comments:

The site is located outside of the built up area of the village of Pitton, remote from the community services that occupiers of the dwellings would need. The site is served by a rural road, the C321, it is within the national speed limit and unlit. There is no safe pedestrian access to the village amenities. The proposal would therefore usually attract an adverse highway recommendation on sustainability grounds. I am aware that this proposal is to be determined under the 'Prior Notification' procedure and I am not certain whether sustainability is a valid reason for refusal, I shall be guided by you on this matter. Adequate off street parking is shown for the development. I have no particular concerns with the use of the existing access to serve the proposed development. Therefore should you be minded to support the development, I wish to raise no highway objection.

Third Party Representations – None received

ASSESSMENT OF THE PROPOSAL

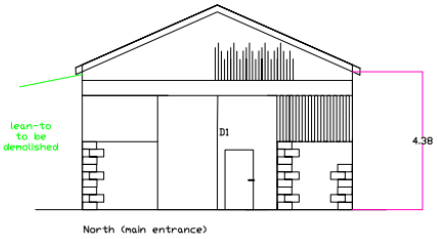
The application site consists of an existing barn located on the outskirts of the village of Pitton. The site is located outside of the settlement boundary, therefore outside of the defined limits of development as defined by the relevant policies of the adopted Wiltshire Core Strategy (WCS) and as such is considered to be within the countryside for the purposes of the local plan.

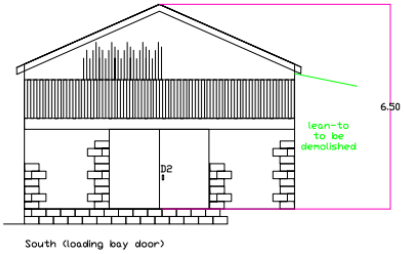
The proposal involves the change of use of the existing building to create one dwellinghouse as shown below by the submitted plan and aerial photograph held on Council records.

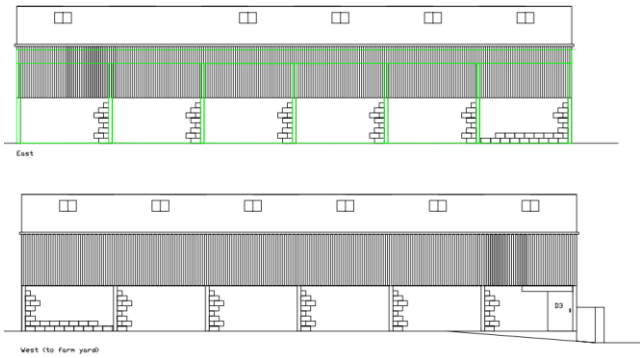




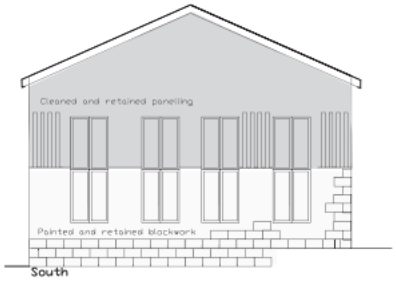
The existing and proposed works to the barn are shown below:

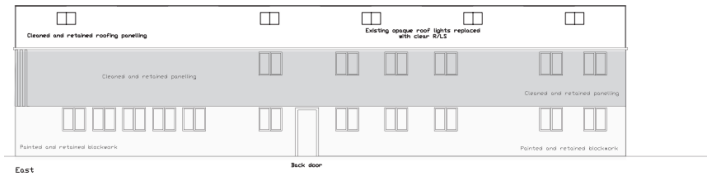


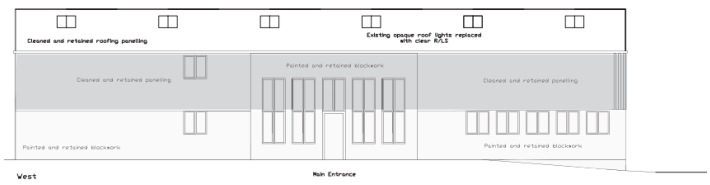












Class Q contains two principal provisions – Q(a) and Q(b), as follows:

Q. Development consisting of—
(a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; or
(b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

In considering Part 3, Class Q of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 the Local Planning Authority (LPA) will have to be convinced that the former agricultural building was used solely for agriculture, as part of an established agricultural unit on 20th March 2013 or 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. Paragraph Q.1. (a) of the legislation states

Development is not permitted by Class Q if

(a) The site was not used solely for an agricultural use as part of an established agricultural unit –

(i) On the 20th March 2013, or
(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 site which was brought into use after the 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;

It is important to note that para Q(b) makes provision for building operations reasonably necessary to CONVERT the building.

Paragraph Q.1.(b) of Class Q in relation to a larger dwelling house, development would not be permitted if the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 450 square metres. The floor space of the existing building (227sqm) does not exceed this limit.

Paragraph Q.1. (c) relates to smaller dwellinghouses – This is not applicable.

Paragraph Q1.d states that development is not permitted if a larger dwellinghouse has more than 465 square meters of floor space. The applicant has confirmed that the proposal does not exceed this floor space as the proposal is for 227sqm.

Paragraph Q.1 (e) states that the site must not be occupied under an agricultural tenancy – this is not applicable as the site is not occupied under an agricultural tenancy.

Paragraph Q.1. (f) states that development is not permitted if less than 1 year before the date development begins, an agricultural tenancy has been terminated – an agricultural tenancy has not been terminated within the last year so this is not applicable.

Paragraph Q.1. (g) states that development is not permitted if development under Class A or Class B of Part 6 of this schedule has been carried out on the established agricultural unit

since 20th March 2013. No such applications have been received by the Local Planning Authority.

Paragraph Q.1. (h) requires the external dimensions of the building to not extend the external dimensions of the existing building at any given point – the proposed plan indicates that the proposed residential use of the converted building would wholly be within the existing building and would involve the removal of an existing lean-to along the eastern façade to facilitate these works.

Paragraph Q.1.(i) of Class Q states development would not be permitted if it would consist of building operations other than—

(i) the installation or replacement of—

(aa) windows, doors, roofs, or exterior walls, or
(bb) water, drainage, electricity, gas or other services,

to the extent reasonably necessary for the building to function as a dwellinghouse; and

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);

The existing barn comprises of a concrete slab and concrete frame approximately 8.6 metres wide and 26.4 meters in depth and 6.5 metres to ridge height with an existing open lean-to extension along the entirety of the eastern façade of the building which is to be removed. Whilst no structural survey has been submitted as part of this proposal, it is considered that the proposed works that include internal operations to include a new mezzanine floor with the utilising of all existing windows and doors do not go beyond what is considered reasonably necessary to convert the building in respect of the Hibbitt case law findings.

Paragraph Q.1.(j) – development is not permitted if it is on article 2(3) land – the site is not on article 2(3) land

Paragraph Q.1.(k) – development is not permitted if the site is or forms part of a site of special scientific interest (SSI), a safety hazard area or a military explosives area – the site is not in any of these areas.

Paragraph Q.1.(l) – development is not permitted if the site is or contains a schedule monument – the site is not and does not contain a schedule monument.

Paragraph Q.1.(m) – development is not permitted if the building is a listed building – the building is not listed.

Paragraph Q.2 of Class Q of the Town and Country Planning (General Permitted Development) Order 2015 states that the conversion of an agricultural building to residential, is considered permitted development subject to the condition that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(a) transport and highways impacts of the development,
(b) noise impacts of the development,
(c) contamination risks on the site,
(d) flooding risks on the site, or

(e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and
f) the design and external appearance.

Transport and Highways

The PPG has clarified that the sustainability of a building's location is not a test that applies to this permitted development right. The site is accessed via a track known as footpath/bridleway PIFA13 via the classified White Hill Road.

The site has an existing access/egress that is proposed to be retained and re-used for this proposal. The submitted plans also demonstrate that there is adequate space around the building for the parking and turning of vehicles.

The Council's Highways Officer has assessed the proposal and considers the scheme proposed to be acceptable and has provided the following comments:

This application in highway terms is the same as application PL/2022/06928 and I therefore reiterate my comments:

The site is located outside of the built up area of the village of Pitton, remote from the community services that occupiers of the dwellings would need. The site is served by a rural road, the C321, it is within the national speed limit and unlit. There is no safe pedestrian access to the village amenities. The proposal would therefore usually attract an adverse highway recommendation on sustainability grounds. I am aware that this proposal is to be determined under the 'Prior Notification' procedure and I am not certain whether sustainability is a valid reason for refusal, I shall be guided by you on this matter. Adequate off street parking is shown for the development. I have no particular concerns with the use of the existing access to serve the proposed development. Therefore should you be minded to support the development, I wish to raise no highway objection.

As such, officers consider that the proposed would not have any significant detrimental impact to highway safety.

Noise Impacts

The building is located in close proximity to a number of other buildings and activities that are in active commercial/agricultural uses within the wider site. The wider site also benefits from consent that allows up to 20 touring caravans and 10 tents on the site at any one time although this activity is considered to be seasonal. Comments received from the Council's Public Protection Team to the previous application, PL/2022/06928 requested that a condition be imposed onto the consent that the use of the building once converted be in conjunction with the adjacent agricultural and commercial business uses occurring within the land, as there was concern that the surrounding commercial/agricultural uses could otherwise have a detrimental impact on the amenities of any future occupiers. A condition to this extent, agreed by the agent at the time was thus imposed onto this previous consent.

A subsequent S73 application, PL/2023/07781 was submitted to the LPA to remove this condition from the Class Q consent. However, this application was withdrawn following discussions with the agent as the granting of the original Class Q consent was a consideration of the permitted development rights under this legislation and not the granting of a planning permission where S73 applications could be applied.

Subsequently, this current application has been submitted and following a site visit by the Public Protection Officer, the following comments have been received to this application which state:

Having visited the site recently, I was able to observe ground surrounding the application site includes a camp site and equestrian business. There was no evidence of any intensive farming practices occurring in the vicinity, and there were no cattle or farm animals (other than horses) permanently housed in barns in close proximity to the application site. The campsite was consented in 2007 and allows 20 touring caravans and 10 tents on site at any time. Occupancy of the camp site is likely to be seasonal, and also possibly weather dependent. Noise associated with the use of camp sites can be the source of complaints to this department. There are no planning conditions associated with the operation of the site in relation to management of noise from guests using the site. The campsite is within the blue line on the submitted plans and is therefore within the same ownership as the application site. This department would expect any complaints from future occupants of the proposed dwelling, relating to guests staying on the campsite, to be promptly managed and resolved by the owner. Any future occupier/ owner of the development site would be aware of the proximity of the camp site and equine business to the dwelling, and should have an expectancy that, from time to time, they may hear noise associated with the use of the surrounding land. However, we do not consider these issues to be so significant that this department would recommend refusal of this application. We therefore have no observation to make regarding this application.

In light of these comments, officers no longer consider it necessary to condition the occupation of the converted building to be used in conjunction with the agricultural and commercial operations within the site.

Contamination Risks

Whilst the Council's Public Protection Team have not provided comments on this aspect of the proposal, previously, as part of the assessment of PL/2022/06928, it was considered reasonable to impose a condition around the need to address any contamination issues that may arise in order to render the development suitable for a residential use. It is considered that the condition is still necessary for the consideration of this current scheme.

Flooding Risks

The proposal would raise no concerns in terms of flooding.

Whether the location or siting of the building makes it otherwise impractical or undesirable

The comments received from the Parish Council on this sub-section of the Class Q legislation are duly noted.

However, the PPG states the following:

"The permitted development right does not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs. Instead, the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house".

It continues to say *"There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power*

source or other services its conversion is impractical. Additionally, the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals."

The site is an agricultural barn located within White Hill Farm on the edge of the village of Pitton accessed via the public right of way known as PIFA3. The site, approximately 30 acres in size, has a mixed use of activities occurring within it that include agriculture, equestrian and caravan and camping uses with these latter uses considered to be seasonal. It is noted that the agricultural barn to be converted is located within the farmyard complex and would be in close proximity to these on-going uses. However, having regard to the comments received from the Public Protection Officer outlined above, it is no longer considered necessary or appropriate to condition the use of the converted building to be in conjunction with the agricultural and commercial uses on-going on the surrounding area.

Whilst the comments from the Parish Council are noted, it is considered that the siting/location of the converted building to a dwellinghouse would not be otherwise impractical or undesirable as stated in Q2 1(e) of the legislation.

<u>The design or external appearance of the building</u>

Criterion Q2 1(f) of Class Q of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015, relates to the external appearance of the building.

The proposal for the design and appearance of the dwelling are shown on the submitted plans within this report. The nature and appearance of the building will not be inappropriate in the setting, and would retain the original agricultural character. The design of the conversion has been carefully considered to enhance the visual appearance of the building by removing the existing lean-to on the eastern facade, maximise the use of the space available and ensure the practicality and usefulness of the living space. Materials used will be of a high quality and works will be carried out to the highest standard, to ensure that the building is well constructed and energy efficient. Existing openings are utilised and new openings are limited.

Officers consider the conversion of the building as outlined to be in accordance with Class Q legislation and will enhance the character and appearance of the immediate area.

<u>River Test Catchment Area/ Conservation of Habitats and Species Regulations 2017 (as amended)</u>

The procedural notes for permitted development, in clause 3 of the GPDO raises a few other matters that are also relevant to this prior notification application:

(1) **Subject to the provisions of this Order and regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (general development orders), planning permission is hereby granted for the classes of development described as permitted development in Schedule 2.**

As is identified above, this site falls within the catchment of the River Test SAC and thus has potential to cause adverse effects, alone or in combination with other developments, through discharge of phosphorus in wastewater. The site is also within the recreational buffer of the New Forest SAC, SPA and RAMSAR sites and thus the creation of a new household in this area has potential to increase pressure on these designations. The provisions of the

Conservation of Habitats and Species Regulations 2017 (as amended) (Habitat Regulations) are therefore relevant to the development, regardless of the outcome of this application.

However as is identified above, the matters of ecology and protected species are not issues that are identified in the Class Q criteria for consideration as part of the prior notification process. It is also not appropriate to insist that the applicant instead applies for planning permission on this matter.

However this part of the overall GPDO makes it clear that permitted development rights do not override the requirements of the Conservation of Habitats and Species Regulations (the Habitats Regs) and that Regulations 75-78 still apply. The Habitats Regs address the requirements for protecting sites that are internationally important for threatened habitats and species (for example, as is relevant in this instance, SACs and SPAs (often referred to as European Sites). This includes a requirement for assessment of 'plans and projects' by 'the competent authority' (e.g., the local planning authority) which are likely to have a significant effect on the sites.

Regulation 75 of the Habitats Regs states that it is a condition of any planning permission granted by the GPDO made on or after 30 November 2017 for development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and which is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77. Essentially the purpose of Regulation 75 is to, therefore, ensure that, when necessary, permitted development is subject to Appropriate Assessment in the same way as development requiring a planning application.

Regulation 77 sets out the process for applying for the written approval of the local planning authority as to whether the development is likely to have an adverse effect upon the integrity of a European Site. It states that an application to the local planning authority for approval, must be made with a relevant fee paid. This process is outside of the Class Q considerations and is undertaken separately to the Class Q Prior Notification Procedure.

This part of the GPDO however confirms that the approved permitted development cannot be lawfully commenced until the application under Regulation 77 of the Habitats Regs has been made and approved by the local planning authority. Therefore, and although a Prior Notification application can be approved without the Appropriate Assessment taking place, the commencement of the development cannot lawfully happen until the separate application under Regulation 77 is approved. An informative on this matter has been added within the recommendation section of this report below.

CONCLUSION

For the reasons as outlined within this report and having consideration for the comments of the Council's Public Protection Officer in respect of the on-going agricultural and commercial activities operating in the wider site, the Local Planning Authority consider that the proposed development complies with all of the criteria set out in Class Q, paragraphs 1 and 2 of the GPDO thereby making it development that benefits from permitted development rights.

RECOMMENDATION:

Prior approval is required and granted subject to conditions

1 The development hereby permitted shall be carried out in accordance with the following approved plans:

DWG No: BEN Q0001 Rev A Site Location Plan Date Received 08.11.23

DWG No: BEN Q2010 Rev A Site Location Plan Date Received 08.11.23

DWG No: BEN Q0012 Proposed Site Layout/Parking Plan Date Received 08.11.23

DWG No: BEN Q0015 Rev C Proposed Floor and Elevation Plans Date Received 08.11.23

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

2 In the event that any land contamination is encountered at any time when carrying out the development hereby permitted, details of the steps taken to remedy this matter undertaken by an appropriately qualified contractor must be submitted to the Local Planning Authority and approved in writing and thereafter in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works to deal with any land contamination the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy to render the development suitable for use.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

INFORMATIVE TO APPLICANT:

1.) The Applicant is reminded that the site is situated within the catchment of the River Test Special Area for Conservation and the 13.8km recreational buffer zone of the New Forest SPA/SAC/RAMSAR site which has potential to have an adverse effect upon the integrity of these European sites. This means that the development hereby assessed as being permitted development cannot be lawfully commenced until the local planning authority, along with the appropriate nature conservation body, has made an Appropriate Assessment of the implications for the European site(s) under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (Habitat Regulations) and has confirmed that the proposals will not adversely affect the integrity of the site(s). It is therefore advised that the Applicant should consult with Natural England about the scheme and following their agreement, submit an application under Regulation 77 of the Habitat Regulations to the local planning authority for consideration and approval.

2.) The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an

Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.

3.) The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) as amended it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.