CASE OFFICER'S REPORT

Application Reference:	PL/2024/00381
Application Type:	Prior approval Part 3 Class R: Agricultural buildings to a flexible commercial use
Consultation ends:	15th February 2024
Case officer:	James Repper

Site Address:	LAWN FARM, GRANGE LANE, MALMESBURY, SN16 0EP
Proposal:	Change of use of an agricultural building to a flexible commercial use.
Recommendation:	Prior Approval Not Required

Schedule 2, Part 3, Class R, Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

KEY ISSUES
Whether the proposed development complies with the conditions, limitations or restrictions specified in the Order
Transport and Highway impacts
Noise impacts
Contamination risks
Flooding risks

REPRESENTATIONS:

Highways: No Objection

- There is existing access with the public highway which would remain unaltered.

The barn is currently used as agricultural storage and it is proposed to convert this to a commercial unit with floorspace of 397sqm. This area does not meet any thresholds for traffic impact assessment for commercial uses.

There would be a requirement to provide vehicle parking in line with the maximum standards at a rate of 1 space per 30sqm, which roughly equates to a maximum of 13 spaces within the curtilage. It has been indicated that there would be available space for parking in the surrounding curtilage of the barn.

The existing access with Grange Lane, a C classified section of public highway, is suitable for the purpose of the change of use. The estimates on vehicular movements may be slightly lacking when you consider the maximum vehicle parking permitted for the development, however, I would not feel that there would be a detrimental impact on the surrounding highway network in relation to vehicular movements associated with the proposed use.

I would not consider that the residual impact of the change of use would have a severe or significant impact on the immediate or surrounding public highway network and therefore would not wish to raise an objection to the proposals.

Public Protection: No Comment

SITE DESCRIPTION:
The application site forms part of an agricultural holding located just over a mile to the southeast of the market town of Malmesbury outside of any settlement boundaries but within the Malmesbury Community Area.

Relevant planning history
No relevant planning history on the site.

THE PROPOSAL

This application seeks a determination as to whether the prior approval of the local planning authority will be required for the change of use of the barn in question to a flexible commercial use (Class B8, C1 or E under the Use Classes Order).

ASSESSMENT

Class R of the Order (as amended) allows for the change of use of an agricultural building and land in its curtilage to a 'flexible commercial use', that is, to a use falling *"within one of…"* Use Classes B8 (storage and distribution), C1 (hotels) or Class E (commercial, business or service). Such a change of use is permitted development subject to restrictions, limitations and conditions. One such condition requires the Applicant to submit an application to the local planning authority to determine whether Prior Approval 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.

Paragraph W of Part 3 sets out the process by which such an application will be determined. As well as considering the above matters, the local planning authority may also refuse an application where it does not comply, or where insufficient information has been provided to determine whether the development complies, with the identified conditions, limitations and restrictions. If prior approval is to be granted, this may be either unconditional or subject to conditions reasonably related to the subject matter of the prior approval. In any event, approval (or indeed a determination that prior approval is not required), will remain conditional upon those conditions set out in the Order.

Referred to within the Order as a flexible use, once a building enters one of the specified uses under this Class it will be held to fall into a *sui generis* use for the purposes of the Use Classes Order. In practice this means that building may then change use between the Use Classes without the need for express planning permission, however, there will remain a requirement for a further application to determine whether the local planning authority's Prior Approval would be required for any subsequent change between the respective Class R flexible uses.

Whether the proposed development complies with the conditions, limitations or restrictions specified in the Order

Development is not permitted under this Class where:

"(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 in question is agricultural in nature, and is understood to have been in agricultural use since its believed construction in 1989. Whilst the owners are not totally sure when the barn was constructed, clear aerial photography exists of the building from 1999

"(b) the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 500 square metres;"

No development is known to have taken place under Class R on the agricultural unit. The proposed floor space totals 396.91 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 affect any of these assets or designations.

The application does not fall foul of any of the limitations or restrictions set out in the Order.

PRIOR APPROVAL MATTERS

Transport and Highway impacts
The application has been reviewed by the Highways Department of Wiltshire Council and it has been concluded that the proposals would not have a detrimental impact on the highway network.

Noise impacts
The application has been reviewed by the public protection team who have raised no concerns regarding the application. Due to the relatively isolated nature of the building it is considered that the proposals would not result in excessive noise impacts.

Contamination risks on the site
Public Protection has raised no concerns relating to contamination issues given the commercial nature of the proposals.

Flooding risks on the site
The site is not located within an area known to flood and is not located within flood zones 2 or 3. The site is, however, within an area of high risk of groundwater flooding. The proposal includes an appropriate flood risk assessment and details of an existing attenuation pond. The site has no history of flooding and has been a successful grain store throughout its life, a task requiring dry conditions.

Conclusions
The proposal is concluded to comply with all of the criteria set out in Class R of the GPDO as amended, thereby making it a development that benefits from permitted development rights. Furthermore, it is considered that the application meets the provisions of paragraph W (prior approval) of that of which apply in relation to this application. Paragraph X relates to the permissible curtilage and following assessment, this is considered to be acceptable and within the limitations set out in the legislation.

RECOMMENDATION:
The Local Planning Authority has determined that its prior approval is not required in respect to the noise impacts of the development, contamination risks on the site, transport and highways matters and flood risks.

Informatives: (1)

1 The Applicants' attention is drawn to the condition at Paragraph R.2(b) that clarifies that, once the site has changed use under Class R, the site is to be treated as having a sui generis use, and any subsequent change of use (besides those others falling within the flexible uses set out within Class R, which will require a further determination as to whether prior approval is required) will therefore require express planning permission notwithstanding any permitted development rights that might be applicable to Class E uses.