

APPLICATION FOR PRIOR NOTIFICATION – PART 3

CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/02091
APPLICATION TYPE:	Prior approval Part 3 Class R: Agricultural buildings to a flexible commercial use
SITE ADDRESS:	Crudwell Court Farm, Crudwell, Malmesbury, SN16 9EW
DEVELOPMENT DESCRIPTION:	Prior Approval Under Class R For The Change Of Use Of An Agricultural Building To A Commercial Use (Class E)
RECOMMENDATION:	That Prior Approval is required and GRANTED

SITE DESCRIPTION

The application site comprises an existing modern agricultural storage building located to the northern edge of the farmyard serving Crudwell Court Farm. The building occupies a footprint of approximately 350 sq.m and is a modern steel portal frame building, clad in timber above sleeper walls.

Crudwell Court Farm is a well-established mixed arable/livestock enterprise which extends to some c. 165 hectares of owned land. The farmyard is located close to the northern settlement boundary of the 'large village' of Crudwell¹.

PROPOSAL

Prior approval is sought under the provisions of Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for a change of use of the agricultural storage building into a commercial use in association with the Applicant's marquee business, which currently operates across several other buildings within the wider site. The LPA has agreed with the Applicant that the intended use would be B8 (storage and distribution).

RELEVANT LEGISLATION, POLICY AND GUIDANCE

This application is assessed under Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which grants planning permission for certain types of development described in Schedule 2 of the Order. The grant of permission is subject to the limitations, conditions, and provisions set out within the relevant Classes of permitted development.

Under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), certain changes of use and associated operations may be permitted subject to prior approval from the Local Planning Authority.

RELEVANT PLANNING HISTORY

None relevant

CONSULTATIONS

¹ As defined by Core Policy 13 (Malmesbury Community Area) of the Wiltshire Core Strategy.

Wiltshire Council Highways Officer: No objection subject to conditions

Wiltshire Council Public Protection Officer: No objection

Crudwell Parish Council: No objection

ASSESSMENT

This application seeks prior approval under Part 3, Class R, which allows for:

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—

(a) falling within one of the following provisions of the Use Classes Order—

- (i) Class B2 (general industrial) of Schedule 1;*
- (ii) Class B8 (storage or distribution) of Schedule 1;*
- (iii) Class C1 (hotels) of Schedule 1;*
- (iv) Class E (commercial, business or service) of Schedule 2; or*
- (v) Class F.2(c) (outdoor sport or recreation) of Schedule 2; or*

(b) for the provision of agricultural training

Does the Proposal Qualify as Permitted Development?

Development under Class R is subject to a number of conditions and limitations set out within para. R.1. Development is not permitted by this class if any of the specified restrictions apply. These are set out within this report at Appendix 1 below. Subject to compliance with these criteria the proposed development would be permitted development.

Having completed the detailed checklist at Appendix 1, it is concluded that the proposed development qualifies as permitted development under Class R of the GPDO.

Conditions and Prior Approval

GPDO Schedule 2, Part 3, Para. R.3 sets out the conditions of the PD right. Crucially to the assessment stage, for buildings of over 150 sq.m floorspace it requires that:

(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.

Para. W sets out a number of requirements for both the developer (in terms of the application submission) and the LPA (relating to consultations and advertisement of the application). Para. W(10) states that:

*The local planning authority must, when determining an application—
(a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);*

(b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019 July 2021, so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and

*(c) in relation to the contamination risks on the site—
(i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990, and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012, and
(ii) if they determine that the site will be contaminated land, refuse to give prior approval*

Para. W(13) allows LPAs to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

In this case, the building exceeds 150 sq.m floorspace so the LPA must consider the CoU against the prior approval criteria.

Transport and highways impacts of the development

Paras. 115 of the NPPF seeks to ensure that new development prioritises sustainable transport modes, safe and suitable access to the site can be achieved for all users, the design of a development reflects current national guidance and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated. Para. 116 states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

In terms of locational considerations, the LPA is unable to consider whether the open countryside location is sustainable or not (in terms of access to services, employment etc.). As such, the main matter to consider is highway safety relating to the site access and local highway network.

The Applicant has confirmed the intended use is for storage and distribution associated with an existing marquee rental/supply business. The local highway authority has reviewed the proposed use in line with the Applicant's description and offers no objection. However, there are highway safety concerns with the existing site access being used in conjunction with a more intensive commercial use of the building. As such, the LHA has requested that a condition limit the use of the building to only be in association with the marquee business. Limiting the use to a named business is not considered to be reasonable in planning terms. However, limiting the use to a B8 (storage and distribution) only use is considered to be.

As confirmed above, para. W allows LPAs to grant prior approval applications subject to conditions reasonably related to the subject matter of the prior approval. The LHA's requested condition is

directly related to a prior approval matter (to ensure safe access and to limit wider adverse impacts on highway safety in the locality) the LPA considers it is a reasonable condition to apply with the limitation restricted to B8 use. The size of the building and its yard will limit any significant increase to the intensity of the site use, should the building be put into a separate B8 use in the future.

Without such a condition, a use could be established under the wider list of uses granted by Class R that could give rise to significantly more vehicle movements at the access of the farmyard onto the A429. In this location, there is concern that additional vehicle movements cannot be safely accommodated by the existing access due to the width, visibility and likely vehicle speeds on the A429. As such, the restrictive use condition is accepted as being necessary.

Subject to the recommended condition, the change of use would comply with the aims of NPPF paras. 115 and 116 and prior approval is therefore required, but is granted.

Noise impacts

Para. 187(e) of the NPPF states that decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Para. 198(a) further advises that new development should be appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, mitigating potential adverse impacts resulting from noise from new development – and avoiding noise giving rise to significant adverse impacts on health and the quality of life.

In this case, the building is located within a wider farmyard environment that will give rise to some noise from day-to-day operations. The majority of the closest buildings to the site are within agricultural/storage uses and are not expected to be sensitive to the levels of noise that could be generated by the proposed commercial use. There are residential properties further to the south, within the nearby village. In any case, the proposed use is reasonably unlikely to generate any harmful impacts over and above that of the existing situation across the wider farmyard.

The council's Public Protection Team has reviewed the proposal and has no objections or suggested conditions.

Prior approval in relation to noise matters is not required.

Contamination risks

Para. 196 of the NPPF states that planning decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

In this case, limited information has been submitted about the historic use(s) of the building and potential for contamination to be present. However, the change of use from agricultural storage to

commercial storage is highly unlikely to result in any contamination issues and no building operations are permitted that could uncover previously unexpected contamination.

Prior approval is therefore not required for matters relating to contamination risks.

Flooding risks

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

The site and its access to the public highway are located in areas at the lowest risk of river and surface water flooding. As such, whilst there are known issues within the wider village of Crudwell, the LPA is satisfied that prior approval in relation to flooding risks of the site is not required in this case.

Conclusion

The proposed building conversion has been assessed against the limitations of GPDO Schedule 2, Part 3, Class R, para. R.1 and the LPA is satisfied the proposal complies with the limitations. As such, the proposed change of use is permitted development.

The LPA has considered the proposals against the prior approval matters set out within GPDO para. R.3(1)(b) and it has been concluded that prior approval is required for matters relating to highways is granted subject to the conditions recommended throughout the report.

Prior approval is not required for the flooding risks of the site.

RECOMMENDATION

That prior approval is granted subject to the following conditions.

CONDITIONS

1. Use limitation – B8 only;

The use of the building hereby permitted shall be for B8 (storage and distribution) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose (including any other purpose permitted by Class R of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

REASON: To ensure the level of traffic generated by the use is appropriate to the site access design and location in the interests of preventing adverse impacts on the safety and operation of the public highway in the locality.

INFORMATIVE NOTES

1. In addition to the conditions of this prior approval consent, the Applicant's attention is drawn to the conditions of Schedule 2, Part 3, Class R, as set out within paragraphs R.2, R.3 and W(12) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

APPENDIX 1 – PERMITTED DEVELOPMENT CHECKLIST CLASS R

Class R – agricultural buildings to a flexible commercial use

		Yes / No
R.	Permitted Development Note: <i>If the answer is "Yes", proceed to assessment under R.1. If the answer is "No", the proposal does not qualify as permitted development under this class.</i>	
	Does the development consist 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— (a) falling within one of the following provisions of the Use Classes Order— (i) Class B2 (general industrial) of Schedule 1; (ii) Class B8 (storage or distribution) of Schedule 1; (iii) Class C1 (hotels) of Schedule 1; (iv) Class E (commercial, business or service) of Schedule 2; or (v) Class F.2(c) (outdoor sport or recreation) of Schedule 2; or (b) for the provision of agricultural training.	Yes
R.1	Development is not permitted by Class R if - Note: <i>If the answer to any of the questions below is "Yes", the proposed development would not constitute permitted development under this class</i>	
(a)	Was the building not used solely for an agricultural use as part of an established agricultural unit: (i) on 3rd July 2012? (ii) if not in use on that date, when it was last in use before that date? (iii) if brought into use after 3rd July 2012, for a continuous period of at least 10 years before the date development under Class R begins?	No
(b)	Has the cumulative floor space of buildings that have changed use under Class R within the established agricultural unit exceeded 1,000 square metres?	No
(c)	Is the site, or does it form part of, a military explosives storage area?	No
(d)	Is the site, or does it form part of, a safety hazard area?	No
(e)	Is the building a listed building or a scheduled monument?	No

