

**Farm buildings at Manor Farm Main Street
Wendlebury Bicester OX25 2PS**

19/01490/R56

Case Officer: Michael Sackey

Recommendation: Refuse

Applicant: Mr A Bonner

Proposal: Change of use of agricultural buildings to flexible use (B1)

Expiry Date: 26 September 2019

Extension of Time:

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is within the open countryside, located approx. 100m south of Wendlebury, 2.4km east of Weston on the Green, c.2km south of Chesterton and c.2km north-west of Merton. The application relates to two single storey steel portal framed agricultural storage buildings.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The application seeks consent under Schedule 2, Part 3, Classes R of The Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of the building from use as agricultural buildings to a flexible use falling within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage and / or distribution), Class C1 (hotels), Class D2 (assembly and leisure)
- 2.2. The current application is specifically for the change of use of the existing agriculture buildings (Building 1, 2 and 3) to Class B1 offices. The proposed B1 use relates to office uses other than those that fall within A2, such as research and development of products and processes and light industry which are considered appropriate in a residential area.
- 2.3. The application submission is the same as that for 19/00372/R56 other than the submission of three statutory declarations.

3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
19/00372/R56	Change of use of agricultural buildings to a flexible use, in this case B1	Application Refused

- 3.2. Insufficient information has been provided to demonstrate that the site is solely in agricultural use. The proposed development is therefore not permitted under Class R of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
18/01563/Q56	Change of use of buildings to two dwellings	Application

- 3.3. (1) Insufficient information has been submitted to demonstrate that the existing buildings are capable of being converted in accordance with criterion (i) of Class Q.1 of the Town & Country Planning (General Permitted Development) (England) Order 2015. The application is therefore refused in accordance with paragraph W. (3) (b). In the absence of any supporting information, the Council concludes that the existing building structures are incapable of conversion in accordance with paragraph Q.1 (i) of Class Q, Part 3, and that the works proposed are so extensive as to constitute a rebuilding of the existing buildings, which is not permitted under Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).

(2) Insufficient information has been provided which demonstrates that the proposal meets the criteria of paragraphs Q.1a; Q.1b, Q.1c, Q.1d or Q.1g (the full extent of the agricultural holding has not been identified); and Q.1e or Q.1f (no information on ownership). In the absence of a complete site plan, it has not been possible to establish whether the proposal meets all of the criteria of Class Q (as required in the procedure for applications - Paragraph W3(b) of Part 3).

(3) Insufficient information has been provided to demonstrate that the site is solely in agricultural use. The proposed development is therefore not permitted under Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).

(4) It has not been demonstrated that the location of the buildings would not make them impractical or undesirable for the buildings to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application discussions have taken place with regard to this proposal

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **18 September 2019**, although comments received after this date and before finalising this report have also been taken into account.

- 5.2. No comments have been raised by third parties

6. RESPONSE TO CONSULTATION

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

WENDLEBURY PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. Objections - The site should be continued to be for agricultural use, but it is not clear how any future business use could be compatible with farming activities. The Parish Council felt very strongly that the conversion to B1 business use would not be

appropriate for the agricultural setting and could result in inappropriate development in rural countryside.

The Parish Council did not agree with the observations of OCC Highways, as the access road to and from the site means that any vehicle exiting the site will approach the Oxford Road, where there is a very sharp bend with poor visibility; this is a safety hazard due to the considerable traffic currently using the road as a 'rat run' through the village.

However, if you are mindful to approve the application, the Parish Council requested that one of the Conditions should be that the buildings may not be converted to residential use at a future date.

STATUTORY CONSULTEES

- 6.3. Local Highways Authority – No objections subject to plan for car parking and cycle provision

NON-STATUTORY CONSULTEES

- 6.4. Building Control – No comments
- 6.5. Environmental Health – Consulted on the (30.08.2019) no comments received

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. As this is a Prior Notification application (as per above), the provisions of Part 3 of Schedule 2 of the General Permitted Development Order 2018 ("GPDO") are considered most relevant.

- 7.2. Under Part 3 Class R of the GPDO, development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage and / or distribution), Class C1 (hotels), Class D2 (assembly and leisure) does not require Prior Approval, provided that (1) it meets the tests of Class R.

(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.

- 7.3. And (2) subject to the following conditions:

(a) a site which has changed use under Class R may, subject to paragraph R.3, subsequently change use to another use falling within one of the use classes comprising the flexible use;

(b) for the purposes of the Use Classes Order and this Order, after a site has changed use under Class R the site is to be treated as having a sui generis use;

(c) after a site has changed use under Class R, the planning permissions granted by Class G of Part 7 of this Schedule apply to the building, subject to the following modifications—

- (i) “curtilage” has the meaning given in paragraph X (interpretation) of this Part;
- (ii) any reference to “office building” is to be read as a reference to the building which has changed use under Class R.

7.4. Before changing the use of the site under Class R, and before any subsequent change of use to another use falling within one of the use classes comprising the flexible use, the developer must:

(a) where the cumulative floor space of the building or buildings which have changed use under Class R within an established agricultural unit does not exceed 150 square metres, provide the following information to the local planning authority—

- (i) the date the site will begin to be used for any of the flexible uses;
- (ii) the nature of the use or uses; and
- (iii) a plan indicating the site and which buildings have changed use;

(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.

(2) Subject to sub-paragraph (3), development under Class R of the type described in paragraph R.3(1)(b) must begin within a period of 3 years starting with the prior approval date.

(3) Where, in relation to a particular development under Class R of the type described in paragraph R.3(1)(b), planning permission is granted on an application in respect of associated operational development before the end of the period referred to in sub-paragraph (2), then development under Class R must begin within the period of 3 years starting with the date that planning permission is granted.

(4) For the purposes of sub-paragraph (3), “associated operational development” means building or other operations in relation to the same building or land which are reasonably necessary to use the building or land for the use proposed under Class R.

8. APPRAISAL

8.1. The key issue for consideration in this case is whether or not the Class R criteria are satisfied.

8.2. When assessing the current application using the Local Authority mapping system, it shows the buildings to which this application relates were in situ in July 2012. In view of the building type, size and location and with regards to the observations on site, I have no reason to doubt that the buildings subject of this application were being put to some agricultural use on the 3rd July 2012.

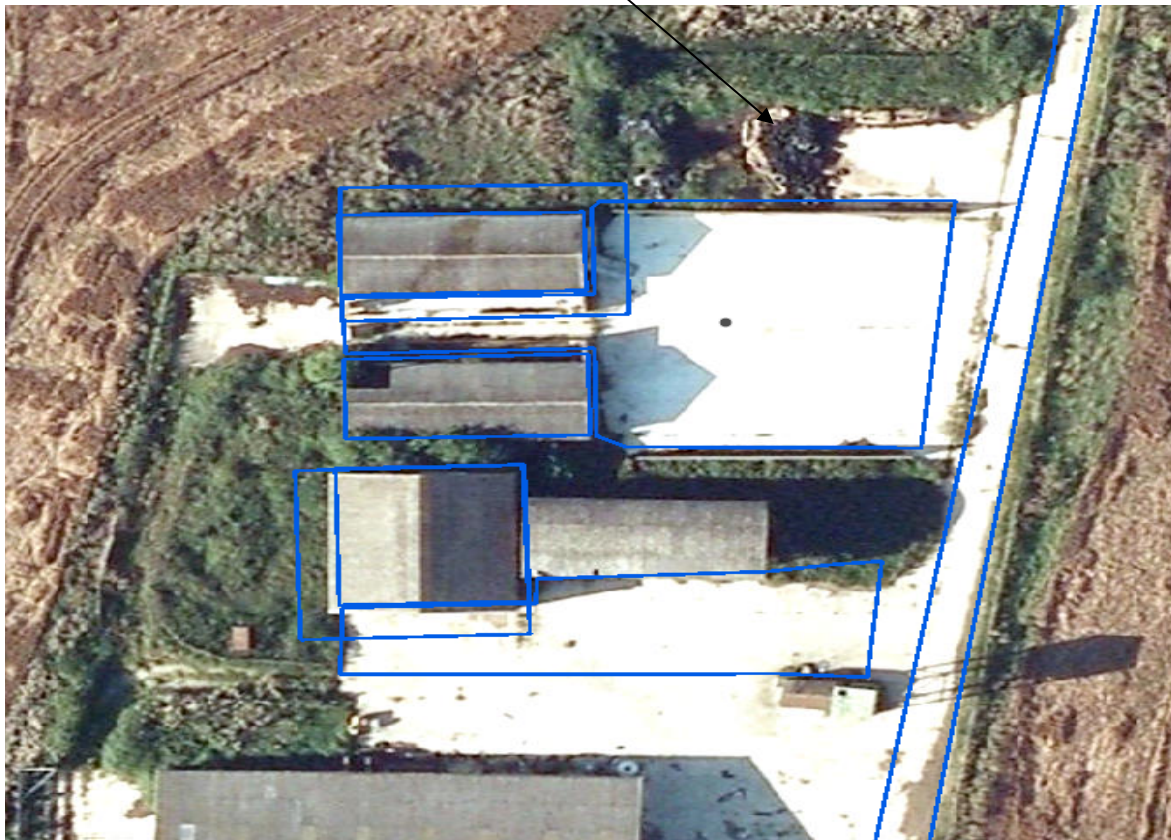
- 8.3. New evidence has been submitted with this application in the form of three statutory declarations.
- 8.4. The statutory declarations refer to “the land and buildings edged red on Plan 1 [having] only ever been used for agricultural purposes incidental to the agricultural land use of Manor Farm, Main Street, Wendlebury”. Two of the three, those from Mr A Bonner and Mr J Bonner, say “that at no point on, or since 2013, have the land or buildings edged red on Plan 1 been used for any other purposes”.
- 8.5. Officers note the date referred to. Firstly it is imprecise, i.e. specifying no more than the year 2013. Secondly, Class R requires the buildings to have been used solely for an agricultural use as part of an established agricultural unit (i) on 3rd July 2012 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 building which was brought in to use after 3rd July 2012, for a period of at least 10 years before the date development under class R begins.
- 8.6. These two statutory declarations do not therefore assist the applicant, do not demonstrate that Class R criteria (a) does not apply and do not overcome the reason for the refusal of the previous application reference (19/00372/R56).
- 8.7. The statutory declaration from Mr Shouler is more useful, omitting the reference to 2013 and confining itself to the former statement that the land and buildings edged red on Plan 1 have only ever been used for agricultural purposes incidental to the agricultural land use of Manor Farm.
- 8.8. However, the three statutory declarations are all imprecise in terms of dates, and do not elaborate on the extent of the agricultural use.
- 8.9. During the officer’s site visit, the horseboxes which were present on previous site visits (at the time of applications (19/00372/R56) and (18/01563/Q56)) had been removed but the old vehicle tyres which had been noted in the previous application remained in situ, to the front of one of the buildings. Aerial photography retained by the Council shows the tyres to have been in situ for some considerable time. Given the passage of time and the number and condition of the tyres, they clearly exceed an agricultural use and instead constitute a storage use.



- 8.10. The fact that the horseboxes have been removed from the site does not address what was observed on previous site visits and the assessment of the current proposal in relation to Class R criteria (a). Given officers’ observations regarding the tyres, and the lack of clarity or detail in the statutory declarations, officers are not

satisfied that it has been demonstrated that the site was not being solely used for agricultural purposes at July 2012 as required by Class R.

(Aerial photograph from the Cherwell District Mapping system from 2009, showing vehicle tyres been kept partly within the site)



- 8.11. The cumulative floor space of the application buildings is 457 square metres and is therefore within the 500 square metre limit; thus criterion (b) is satisfied.
- 8.12. The site does not form part of a military explosives storage area or a safety hazard area and the building is not listed nor is it a scheduled ancient monument and therefore criteria (c), (d) and (e) are satisfied.
- 8.13. However, the proposal does not meet all the requirements for permitted development under Part R relating to criteria (a), as it has not been demonstrated that the subject buildings were used solely for an agricultural use as part of an established agricultural unit, as observed on the (05.04.2019) and (25.09.2019). The previous application reference (18/1563/Q56) and (19/00372/R56) were both refused for similar reasons, namely that the buildings and/or the site were not solely in agricultural use. Apart from the statutory declarations no further information has been provided in the current application to address this issue and at the time of the most recent officer site visit undertaken (29.09.2019) there remained evidence that the site to which this application relates was not solely in agricultural use.

- 8.14. Notwithstanding the above, it is considered prudent to also assess the proposal in terms of transport and highways impact, noise impacts, risk of contamination and risk of flooding.

Highway Impacts

- 8.15. An assessment needs to be made as to whether or not the proposal is likely to result in a material increase or material change in the character of the traffic in the vicinity of the site. The site is large, and it is considered able to accommodate sufficient parking within the curtilage of the site as indicated on the submitted drawings. The Local Highways Authority has raised no objections to the proposal subject to two conditions, relating to a plan for car parking provision and cycle parking provisions, which are considered reasonable to impose given the nature of the proposed development.
- 8.16. If the development was considered acceptable in all other respects, it is considered the conditions could be imposed to require an acceptable access and parking provision.

Noise Impacts

- 8.17. The application site and buildings subject to this application are relatively well set away from its neighbouring residential dwellings and the proposed use would not cause any undesirable noise impacts to the local population greater than currently experienced.

Land Contamination

- 8.18. Environmental Health were consulted (09/08/2019) but no comments have been received. Having regards to the site and previous comments of the Council's Environmental Protection Officer, it is considered that the proposal is acceptable in terms of land contamination.

Flood Risk

- 8.19. The site is not within any Flood Zones. The proposal is considered acceptable in this regard.

Other matters

- 8.20. Wendlebury Parish Council's objections are noted in relation to the consideration that the site should continue to be for agricultural use, compatibility of the proposal with regards to farming activities. The parish also stated that "the conversion to B1 business use would not be appropriate for the agricultural setting and could result in inappropriate development in rural countryside".
- 8.21. It is also noted that the Parish Council does not agree with the local highway authority's observations. However, given the Highways Officer's comments, the proposal is considered acceptable in highway safety terms and it would be unlikely that any objection on this basis could be sustained at appeal.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The proposed development accords or is likely to accord with criteria R.1 (b) – (e), and conditions R.2 and R.3. However, the information submitted to show the proposal complies with criteria (a) of R.1 is considered to be insufficient given its indefinite, brevity and lacks the required details to fully satisfy R1 criteria (a). It is

noted that agricultural use continues at the site, with an existing livestock building adjacent to the three proposed for conversion, but it is also noted that the site appears to have been previously used for equine purposes and currently storage for purposes, i.e. is not solely in agricultural use.

- 9.2. Therefore, on the basis of the information submitted, it is not reasonable for the LPA to issue a positive decision on this application.

10. RECOMMENDATION

That permission is refused, for the following reasons:

1. Insufficient information has been provided to demonstrate that the site is solely in agricultural use. The proposed development is therefore not permitted under Class R of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Case Officer: Michael Sackey

DATE: 26.09.2019

Checked By: Nathanael Stock

DATE: 26.09.2019
