

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

20/00009/R56

Case Officer: Michael Sackey

Recommendation: Approval

Applicant: Mr A Bonner

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

Expiry Date: 12 March 2020

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 use. The proposed B1 use relates to Business use.

2.3. The uses under Class B1 (Business) relates to use as an (a) as an office other than a use within Class A2 (financial and professional services), (b) for research and development of products or processes, (c) for any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash and dust of grit.

3. RELEVANT PLANNING HISTORY

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

Application: 18/01563/Q56	Application	30 November 2018
	Refused	

Change of use of buildings to two dwellings under Class Q(a)

Application: 19/00372/R56	Application	29 April 2019
	Refused	

Change of use of agricultural buildings to a flexible use, in this case Class B1

Refusal reason: 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).

Application: 19/01490/R56 Application 26 September 2019
Refused

Change of use of agricultural buildings to flexible use (B1).

Refusal reason: 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).

Application: 19/02426/R56 Application 20 December 2019
Withdrawn

Change of use of agricultural buildings to flexible use (B1 & B2)

Was to have been refused on the basis that Class R allows only for a single use and not for a mixed use (which B1 and B2 would have resulted in)

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, by advertisement in the local newspaper, 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 **26 February 2020**, 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. Objects to the current proposal on the grounds of inappropriate development, safety hazard in terms of highways but recommends a condition for the buildings not to be converted to residential uses if the LPA are mindful to approve the application.

OTHER CONSULTEES

- 6.3. Local Highways Authority - No objections subject to conditions on access details and turning area and car parking provision
- 6.4. Building Control – Development would require a building regulations application
- 6.5. Environmental Health – No objections

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 was 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. [Statutory declarations were submitted with the previous two applications but those submitted with this application are different to, or contained additional testimony to, those in those two previous applications.]
- 8.4. The statutory declarations refer to the land and buildings edged red on plans reference (Class R Application) having only ever been used for agricultural purposes incidental to the agricultural land use of Manor Farm, Main Street, Wendlebury”. Responding to issues raised with the previous applications, two of the three statutory declarations - those from Mr A Bonner and Mr J Bonner - state “...*that at no point on or in our ownership which dates back to beyond 1972, has the land or buildings edged red on Plan 1 been used for any other purposes*” and, “*the tyres described in a previous visit by Cherwell District Council are agricultural as they are utilised as weights on the sheet on top of a silage sheet*”.
- 8.5. 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.
- 8.6. 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.
- 8.7. The proposal meets the requirements for permitted development under Part R. The following conditions of Class R development also apply:

R.2 Development is permitted by Class R 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

8.8. Class R development is permitted subject to a condition that, 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—

(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 the following matters:

The application building has a cumulative floor space of approximately 457 square metres, i.e. which exceeds 150 square metres, and would need to be assessed in terms of its transport, highways impacts and noise impacts, and the risk of contamination and risk of flooding on the site.

Highway Impacts

8.9. 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 Highway Authority has raised no objections to the proposal subject to two conditions, relating to the access to the site, and turning and parking area, which are considered reasonable to impose given the nature of the proposed development and the concerns raised by Wendlebury Parish Council.

Noise Impacts

8.10. The application site and buildings subject to this application are relatively well set away from neighbouring residential dwellings, and it is considered that the proposed use would not cause any undesirable noise impacts to the local population greater than currently experienced.

Land Contamination

8.11. Having regards to the site and comments of the Council's Environmental Protection Officer, it is considered that the proposal is acceptable in terms of land contamination.

Flood Risk

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

Other matters

8.13. 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 indicates that "the conversion to B1 business use would not be appropriate for the agricultural setting and could result in inappropriate development in the rural countryside". Its concerns are noted in this regard. However, the proposal is assessed against Part 3 of Schedule 2 of the General Permitted Development Order 2018 ("GPDO"), which allows for certain changes of use, including the currently proposed use for B1 business purposes, subject to compliance with the requirements of Class R.

8.14. It is also noted that the Parish Council raises concerns with regards to the highways impact. 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 proposals accord with the Criteria contained within Schedule 2, Part 3, Class R of The Town and Country Planning (General Permitted Development) (England) Order 2015 and therefore Prior Approval and permission should be granted.

10. RECOMMENDATION

That permission is granted, subject to the following conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall not be carried out otherwise than in complete accordance with the approved plans: "Class R Application" (site location plan).

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. Prior to the commencement of development hereby approved, the first 15 metres of the means of access between the land and the highway shall be widened to 5.5 metres and shall be formed, laid out and constructed strictly in accordance with details which shall have firstly been submitted to and approved in writing by the local planning authority. The development shall be retained as such thereafter.

Reason: In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved, full

specification details of the turning area and parking spaces within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Thereafter, and prior to the first occupation of the development, the turning area and car parking spaces shall be constructed in accordance with the approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.

Reason: In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

Case Officer: Michael Sackey

DATE: 05.03.2020

Checked By: Nathanael Stock

DATE: 10.03.2020
