

WYLDE GOOSE FARM CLASS R

MR T HINE

PLANNING STATEMENT

DATE: JANUARY 2024

REFERENCE: 1499/J230118

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1 INTRODUCTION

1.1 This planning statement has been prepared on behalf of Mr Tom Hine. It accompanies an application under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for prior approval of the change of use of an agricultural building to a C1 use (hotel) as aparthotel accommodation.

1.2 The application relates to an agricultural building situated on Wylde Goose Farm, the site is accessed via a private track southeast of Ashbourne Road in Bradnop village, Leek, ST13 7LZ. The location of the farm buildings are shown below.



Figure 1: Site location

2 SITE CONTEXT

2.1 The application building is shown with respect to its wider context in the image below.



Figure 2 Site context

2.2 Site photographs are shown below.



Figure 3 Application Building



Figure 4 Application Building



Figure 5: Application Building

PROPOSED SITE

2.3 The proposed site plan is shown below, this indicates the application building with its curtilage edged red.

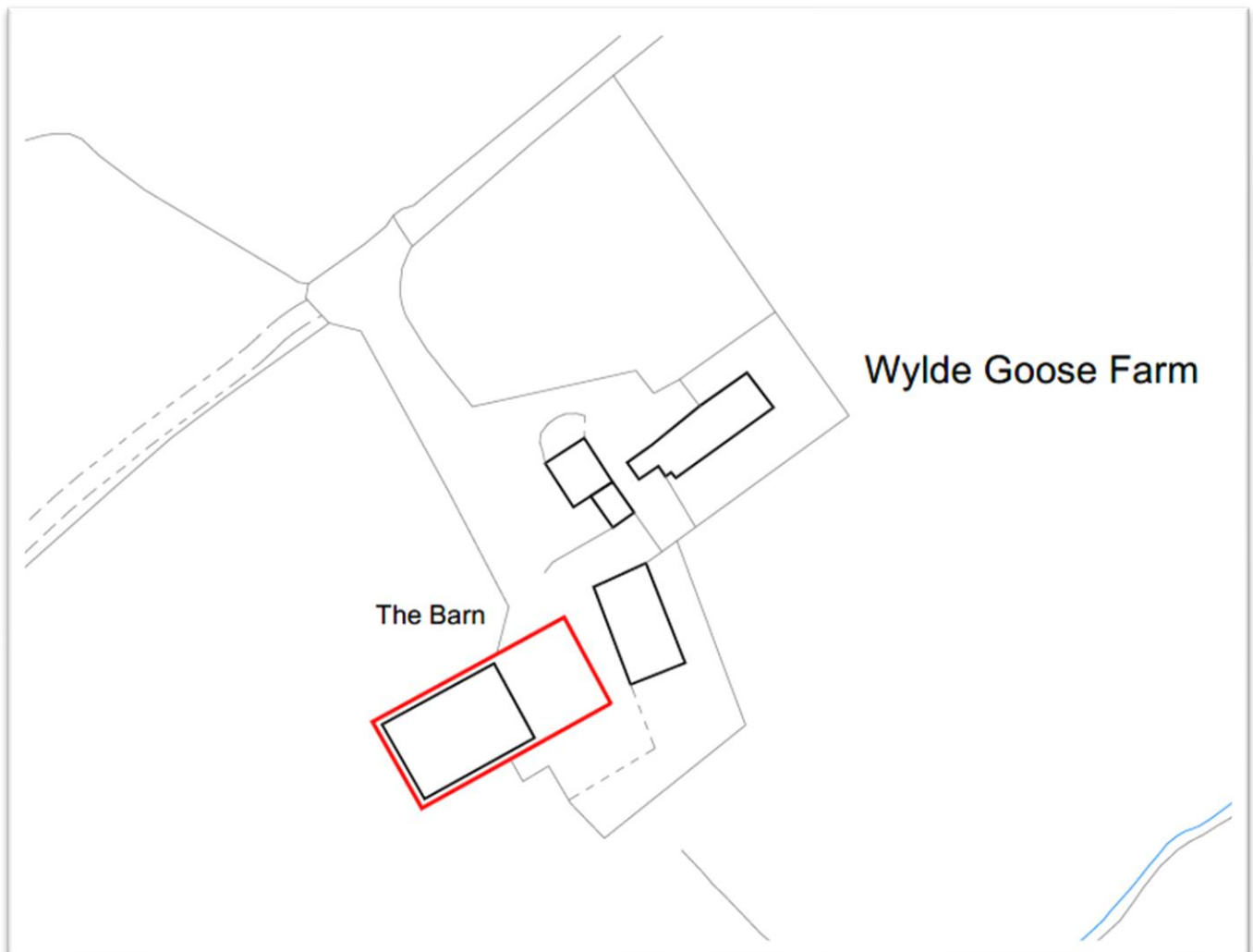


Figure 6: Proposed site plan

2.4 The location plan is shown below. This indicates the application building with its curtilage, along with land under the ownership of Mr T Hine edged blue. This confirms that the applicant owns the surrounding fields.



Figure 7: Location plan

3 LEGAL FRAMEWORK

STATUTORY LAW

3.1 Section 58(1)(a) of the Town and Country Planning Act 1990 (as amended) (hereinafter referred to as '*the Act*') states that planning permission may be granted by a development order.

3.2 The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereinafter referred to as '*the Order*') sets out the development permitted under the Order.

3.3 The Order sets out the development permitted under Part 3 Class R, as:

R. 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 falling within one of the following provisions of the Use Classes Order—

(a) Class B8 (storage or distribution) of Schedule 1;

(b) Class C1 (hotels) of Schedule 1; or

(c) Class E (commercial, business or service) of Schedule 2

3.4 Article 2 of the Order defines a building as:

"building"—

(a) includes any structure or erection and, except in Class F of Part 2, Classes P and PA of Part 3, Class B of Part 11, Classes A to I of Part 14, Classes A, B and C of Part 16, Class T of Part 19 and Class ZA of Part 20 of Schedule 2, includes any part of a building; and

(b) does not include plant or machinery and, in Schedule 2, except in Class F of Part 2 and Class C of Part 11, does not include any gate, fence, wall or other means of enclosure;

3.5 Schedule 2, Part 3, paragraph X of the Order defines an agricultural building as:

"agricultural building" means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business; and "agricultural use" refers to such uses;

3.6 Schedule 2, Part 3, paragraph W of the Order sets out the provisions for prior approval.

4 CHANGE OF USE

4.1 Class R of the Order only permits the change of use of the building and no associated operational development. Associated operational development is required to be obtained by the grant of planning permission in a separate application. The change of use of the building is subject to a number of criteria being met, which are set in the table below.

CLASS R – AGRICULTURAL BUILDINGS TO A FLEXIBLE COMMERCIAL USE	
R.1 Development is not permitted by Class R if:	
(a) the building was not used solely for 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 ten years before the date development under Class R begins	COMPLIES
(b) the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 500 square metres;	COMPLIES
(c) the site is, or forms part of, a military explosives storage area;	COMPLIES
(d) the site is, or forms part of, a safety hazard area; or	COMPLIES
(e) the building is a listed building or a scheduled monument.	COMPLIES
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;	OBSERVED

(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;	OBSERVED
(c) after a site has changed use under Class R, the planning permissions granted by Class E 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.	OBSERVED
R.3— (1) 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;	N/A
(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.	OBSERVED

R.3 – (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.	OBSERVED
R.3 – (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.	OBSERVED
R.3 – (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.	OBSERVED

AGRICULTURAL USE

4.2 In relation to paragraph R.1(a)(i) of the legislation, on the 3rd July 2012 the application building was used solely for agricultural use as part of an established agricultural unit.

4.3 Aerial photography from Google Earth dated 2006 and 2013 shows the farmstead and the surrounding fields in use for agriculture. These fields are in the ownership of the applicant, grass is grown here and turned into silage at a farm within the agricultural unit. The application building was specifically used for the storage of agricultural machinery, trailers, implements and hand tools, in addition to fertilizers which are used on the surrounding land.



Figure 8: Agricultural activity in 2006



Figure 9: Agricultural activity in 2013

5 PRIOR APPROVAL

5.1 Condition 1 of Class R development requires an application to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to the transport and highway impacts, noise impacts as well as contamination and flooding risks associated with the proposals. These are considered separately below.

TRANSPORT AND HIGHWAYS IMPACTS OF THE DEVELOPMENT

5.2 The agricultural use of the site has allowed the unrestricted use of this entrance for many years by large agricultural vehicles without any impacts to highway safety. The site entrance has good visibility in both directions and is considered adequate to meet the needs of the proposed use.

5.3 The change of use of the building is considered to have a negligible effect on the character and number of vehicles accessing the network. There is sufficient space within the site for off-street car parking provision.

NOISE IMPACTS OF THE DEVELOPMENT

5.4 The occupation of the building as an aparthotel is not considered to present a risk of adverse impacts to the surrounding area from an increase in noise levels. The farm is winding down its operations and notwithstanding this, there are no existing sources of noise pollution that would present a risk of adverse impacts to the occupants of the proposed building use. It is noted that the farmhouse is sited approximately 30m away from the application building. Noise mitigation measures are not considered necessary for the proposed development.

CONTAMINATION RISKS ON THE SITE

5.5 The site has not been used for the storage of chemicals or fuel. There are no apparent sources of contamination that would give rise to potential harm to the occupants of the building. As such, there is considered to be a negligible risk from contaminants and a suitable planning condition can adequately deal with any unexpected contamination.

FLOODING RISKS ON THE SITE

5.6 The application site lies outside flood risk zones 2 & 3 as shown in the figure below taken from the Environment Agency website. The site is not within an area of Flood Zone 1 that has been notified to the Local Authority by the Environment Agency as having critical drainage problems. The proposal is therefore not considered to be at risk of flooding on the site.

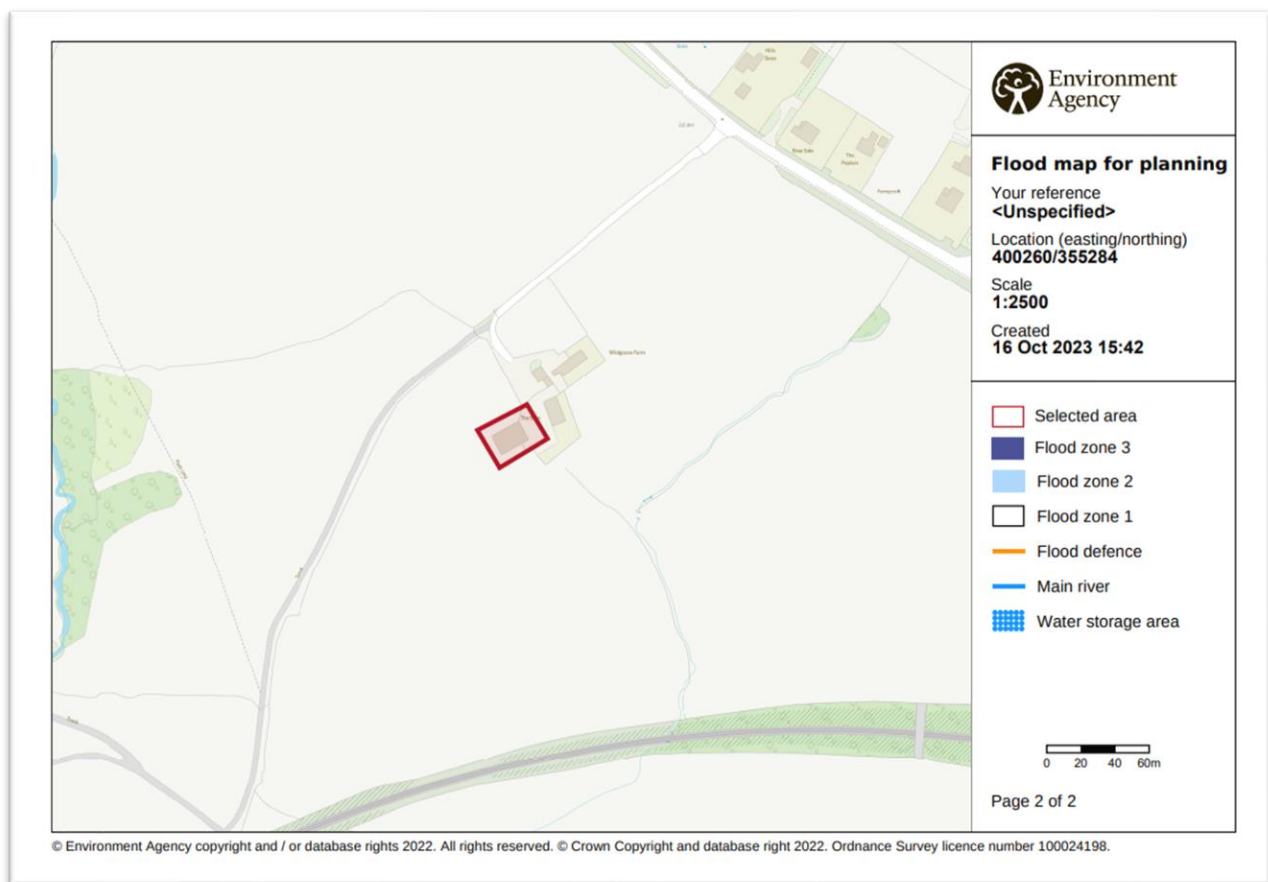


Figure 10: Flood risk map

ECOLOGY

5.7 An ecological report was undertaken by Leigh Ecology and this is submitted in support of the application.

6 RELEVANT APPEALS

3145599 SOUTH EAST BLOCK, HIGH HOUSE NURSERY, WAREHORNE ROAD, KENARDINGTON, KENT

6.1 The appeal at High House Nursery concerned the change of use of part of an existing glasshouse. The application sought approval for the change of use of part of an agricultural glasshouse to a flexible commercial use, specifically a Class C1 use.

6.2 The appeal was considered under the same Order as this application. The appeal related to a building that was less complete than the application building.

6.3 The Inspector records that the Council refused the prior notification application ‘*because it was not satisfied that the physical works required to implement the change of use were building works reasonably necessary to convert the building.*’

6.4 The Inspector confirms the matters that should be taken into account for the prior approval under Class R:

*‘Before any change of use is implemented, Part R.3(1)(b) requires the developer of a building of the size proposed here to apply for a determination as to whether prior approval is required. The only concerns that can be taken into account in such an application are **those in respect of transport, highway, noise, contamination and flooding risks** matters.’ (authors emphasis)*

6.5 The Inspector went on to outline that the purpose of Class R was for the change of use of the building:

‘Class R allows only for a change of use and not for any associated operational development. In this application, the developers have made clear that they are seeking only to establish the acceptability in principle of the change of use. It is recognised that any associated operational development that affects the external appearance of the building would also require a separate grant of planning permission to authorise it. This is referred to in Parts R.3(3) and (4) of the GPDO.’

6.6 The Inspector concluded that there were no grounds to refuse the application, stating that any building works would be considered through other means:

'Therefore, I find no reason to refuse the application on the grounds set out by the Council, or any other grounds. This finding makes no reference to the suitability of the building for conversion, or the extent of the work needed to achieve this and whether they would be 'reasonably necessary' for the conversion. These are matters that would be covered by other applications, either for planning permission or building regulations approval.'

3254577 TRERAVEL FARM, ST ERVAN, WADEBRIDGE, PL27 7RS

6.7 The appeal at Treravel Farm concerned the change of use under Class R of the agricultural buildings to hotel use as an aparthotel. The existing building was an open-fronted agricultural barn with a concrete frame and a fibre cement sheeted roof.

6.8 The main issue was that the Council considered the proposed work to use the building as a hotel would be of such magnitude as to be a rebuild and therefore fall beyond the scope of the permitted development rights under Class R. However, the Inspector stated:

*The permitted development right under Class R is restricted to the change of use and, if agreed, any subsequent **physical works are then subject to a planning application.***

6.9 The Council drew reference to Class Q, and the findings in Hibbitt and another v Secretary of State for Communities and Local Government and another (2016) EWHC 2853 (Admin), and whether a proposal would be considered as a rebuild or a conversion. The Inspector makes the following assessment:

*References to Class Q are not directly relevant to the considerations in this appeal. The permitted development rights under Class Q can specifically allow the change of use of the building together with building operations reasonably necessary to convert the building (my emphasis added). Consequently, an analysis regarding whether a proposal would be a conversion (or a rebuild) is appropriate when considering a Class Q proposal. **However, this is not the case when considering purely the change of use aspects under Class R where there is no conversion issue to consider.** I therefore attribute limited weight to the Council's analysis, derived largely from the approach to Class Q cases, when considering the issues with this Class R proposal.*

6.10 The Inspector concluded that there were no grounds to refuse the application, stating that the building is capable of accommodating alternative use under Class R:

*In this case, the appeal structure is clearly a building. **It is in reasonable condition and capable, as a matter of principle, of accommodating an alternative use.** I consider that this allows the building to be considered under Class R. The evidence indicates, in particular, that the **building has been in longstanding agricultural use** and that there has been no other buildings within the established agricultural unit that have changed under Class R. I am satisfied that these and the other permitted development limitations under paragraph R.1.(a)-(e) are all met.*

CONCLUSION ON APPEALS

These appeals confirm that the matters to be considered by the Local Planning Authority are those set out in the legislation, and they should have no regard to any physical works required to carry out the change of use. Furthermore, the matters to be considered are constrained to transport/highways, noise, contamination, and flooding risks.

7 CONCLUSION

7.1 The applicant, Mr Hine is seeking an alternative use for the application building. He is, therefore, seeking prior approval from the Local Planning Authority under Class R of the Order for change of use from agriculture to flexible use, specifically, C1 (hotel) use to provide aparthotel accommodation.

7.2 Class R of the Order confirms that prior approval is sought for the change of use only, and physical building operations to carry out the change of use require planning permission. The appeal at High House Nursery and Treravel Farm confirmed that the change of use of the building is the only matter to be considered under Class R.

7.3 The matters that require prior approval are considered to be adequately addressed. The proposal is considered to meet all the relevant tests enabling planning permission to accrue under the Order. It is, therefore, respectfully suggested that prior approval is not required and can be granted without delay.