
Prior Approval - Agricultural buildings to a flexible commercial use - Class R, Part 3, Schedule 2

The Town and Country Planning General Permitted Development Order 2015 (As amended) allows, subject to specific land designations and prior notification to the local planning authority, the change of use of an agricultural building and any land within its curtilage 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 or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Use Classes Order.

Prior notification process

The change of use from agricultural buildings to C3 (residential) is subject to the condition that before beginning the development,

Where the cumulative floor space of the building does not exceed 150 sqm, the following information shall be provided 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

The developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to:

- Transport and highways impacts of the development,
- Noise impacts of the development
- Contamination risks on the site
- Flooding risks on the site

To determine any prior approval application, the developer/applicant is required to submit details of the proposal, site and any other information deemed necessary for the local planning authority to assess the potential transport and highway impacts of the development, the flooding and contamination risks; and the impacts of noise from commercial premises on future occupiers.

On receipt of all necessary information, the local planning authority will notify adjoining occupiers / owners or display a site notice; and consult the relevant highway authority (to assess transport and highway impacts); the Council's Contamination Land Officer (to consider the contaminations risks); the Environment Agency (for any sites within Flood Zones 2 and 3, and critical drainage areas within Flood Zone 1); and Environmental Health to consider the suitability of a residential use in this location taking account of impacts of noise. This consultation process will not be less than 21 days.

The applicants are advised the development shall not be begun before they have received:

- Written notice from the local planning authority that prior approval is not required,
- Written notice from the local planning authority giving their prior approval, or
- The expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.

The development must be carried out in accordance with the details approved (where prior approval is required), or in accordance with the detail provided with the notification submission within 3 years starting with the prior approval date.

The Local Planning Authority may refuse an application where, in the opinion of the authority, the proposed development does not comply with or insufficient information has been submitted to enable the authority to establish whether the scheme complies with Class R conditions and limitations.

What information do I need to provide?

Before beginning the development, the applicant/developer shall provide the following information to the local planning authority.

1. Developer's Contact Details

- Name
- Contact address (house number, street name, town, county, post code)
- Contact phone number
- Email address (if the developer is content to receive communications electronically)

2. Written description of the proposed development

3. Detail /plan of site and development

If the local planning authority considers the information submitted is insufficient to assess this impact, they may ask for more information or refuse the application. To avoid any possible delays or refusals, it is recommended you submit the following information at this initial notification stage:

- A plan which identifies the land to which the application relates drawn to an identified scale and showing the direction of North.
- Existing and proposed floor plans to include dimensions of rooms, locations of windows and walls.
- Existing and proposed elevations to include location/size of windows (e.g at a scale of 1:100 or 1:50)

4. Assessment of impacts

Given the local planning authority has only **56 days** to determine such applications, it is imperative to ensure all necessary information is submitted with the original submission to enable the local planning authority assess the potential highway, contamination and flooding risks; and impact of noise from commercial premises. Any application should be supported with an assessment of the impacts or risks; and include a statement setting out how impacts or risks are to be mitigated.

Highways risks

Depending on the scale of the development and its location, this may include:

- Travel Plan
- Transport statement
- Unilateral undertaking to remove car parking permits in controlled parking zones which are already over-subscribed
- Parking surveys
- Unilateral undertaking to secure contribution towards transport infrastructure - refer to the [Borough CIL and planning obligations](#).

Flooding risks

Applicants/developers are encouraged to use the following website links and flood risk standing advice to identify information requirements. If you are still in doubt as to the status of your site and what information is necessary for the prior notification submission, please contact the Development Control Team.

If your site falls within Flood Zone 2 or 3, or is sited within a Critical Drainage Area, the application must be accompanied with a site specific flood risk assessment.

Is your property within a Critical Drainage Area?

The Environment Agency has not notified us of any critical drainage problems within the Borough.

Is your property within flood zone 2 or 3?

Flood zone maps are produced by the Environment Agency with a nationally consistent delineation of “high” (flood zone 3) and “medium” (flood zone 2) flood risk. In addition, the Borough’s Strategic Flood Risk Assessment sub-delineates zone 3 into “high probability” (zone 3a) and the “functional floodplain” (zone 3b). Applicants need to use both flood maps to identify the flood risk to their site.

What is needed to be included in a Flood Risk Assessment?

The Flood Risk SPD 2016 sets out what needs to be included in the Flood Risk Assessment.

Flood Emergency Plan

- In addition to a Flood Risk Assessment, a flood emergency plan may be required to ensure the proposed use is safe and to reduce the risk to life, mitigate damage and enable a safe and well organised evacuation of occupants of premises during a flood event. This is particularly necessary where the change of use would lead to a higher flood risk vulnerability.

Local planning authorities are required to have regard to the [National Planning Policy Framework \(NPPF\)](#) when determining an application. Therefore applicants are advised to refer to chapter 10 'Meeting the challenge of climate change, flooding and coastal change' within the NPPF, as well as to the [Technical Guidance to the NPPF](#), and address within their submission an assessment of impacts or risks, and how the impacts or risks are to be mitigated.

Contamination risks

Changes in land use, for example from office to residential or industrial to office, introduce more sensitive end users to the site. This is particularly important if the development site has had a potentially contaminative past land use as there may be increased risks to those living or working on the site from land contamination. In line with the National Planning Policy Framework, where a site is affected by contamination, responsibility for securing safe development and ensuring that the site is suitable for use rests with the developer and/or landowner. In view of the potential for, and likely variations in required work, it is advised that the applicant contacts the Environmental Health team in order to discuss the site further, prior to the submission of a 'notification for a change of use'.

Definition of Contaminated Land: Section 78A(2) of the Environmental Protection Act 1990: "contaminated land" is any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land that – (a) significant harm is being caused or there is a significant possibility of such harm being caused; or (b) significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused.

Our [Land Contamination page](#) provides further information including the Council's Contaminated Land strategy as well as guidance for developers.

Impacts of noise

Scope

With regard to noise, LPAs can only consider noise impacts from existing commercial premises on the proposed residential development and cannot consider general transportation noise impact. (However, if there is traffic noise associated to a commercial actively it is considered that this can be taken into account).

With regard to commercial noise impact, the following general areas should be considered by the applicant:

- Noise generating plant and equipment associated with existing commercial uses i.e. air conditioning, refrigeration, kitchen extraction systems etc. which impact on amenity space areas and internal spaces
- Any structural noise transmission associated with adjoining commercial business (not B1)
- Any permitted delivery noise associated with existing commercial uses
- Music/Entertainment noise breakout and structure borne noise impact
- Builders merchants/yards with significant external noise impacts
- Regard to use outside normal office hours

Information required

If the applicant considers that there will be no adverse impacts of noise from commercial premises on the intended occupiers of the development they should provide a written (short description of the situation) /photographic evidence to justify this opinion.

Where any of the above situations may impact negatively on the proposed residential development a noise assessment will be required to determine the extent of the impact and detail measures which will mitigate and reduce to a minimum any adverse impacts on health and quality of life.

Noise Assessments

The assessment of noise is a complex task requiring specialist training, experience, techniques and equipment. Consequently, noise surveys, impact assessments, mitigation design and report writing is best carried out by suitably qualified persons with appropriate knowledge, skills and experience.

5. From 1 October 2013, a fee of £80

6. Community Infrastructure Levy (Applicants advice)

Applicants are advised that development commenced under a Prior Approval under Class Q of the General Permitted Development Order (as amended) is liable to pay the Community Infrastructure Levy. If you intend to commence development under general consent you must submit a Notice of Chargeable Development to the local authority before you commence this development. If the development is CIL liable, work should not commence until the relevant notice has been served and the applicable CIL rate has been paid.

Deductions in respect of change of use only apply where the existing building has been in continuous lawful use for at least six months within the 3 years prior to the Notice of Chargeable Development being submitted.

The failure of the liable parties to submit the appropriate notice before the commencement of development will result in a surcharge of the lower of 20% of the chargeable amount or £2,500 being applied. The right to pay by instalments will be lost if commencement starts on site without the prior submission of the appropriate

commencement notice. The right to apply for exemptions e.g. for charitable or social housing would also be lost.

Development is not permitted if the site is in a safety hazard area, a military explosives storage area, the site is or contains a listed building or a scheduled monument.