



Appeal Decision

Site visit made on 10 June 2025

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 July 2025

Appeal Ref: APP/M1595/W/24/3358166

Brewers Farm, Brentwood Road, Orsett, Thurrock RM16 3HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Diana Oprea, JDR Transport Ltd against the decision of Thurrock Borough Council.
 - The application Ref is 24/00730/PAGF.
 - The development proposed is for a flexible use including storage and distribution use to provide on site facilities to store container goods on site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. No documents in support of the appeal were submitted by the Council. The appellant has provided a copy of the officer's report, to which I have had regard. In the absence of any evidence from the Council, I have used the Council's website as a means of accessing consultation responses and third-party comments. The main parties were advised of my approach, and I do not consider any party has been prejudiced as a result.
3. The principle of development is established by the General Permitted Development (England) Order 2015 (as amended) (GPDO), and the relevant provisions do not require regard be had to the development plan. I have only had regard to the referenced development plan policies insofar as they are material considerations relevant to the matters before me.

Background and Main Issues

4. Article 3(1) and Schedule 2, Part 3, Class R of the GPDO enables as permitted development, the change of use of agricultural buildings to a flexible commercial use subject to certain conditions and limitations. Class R sets out various uses, including Class B8, storage or distribution, which is the proposed use sought by this appeal.
5. Development is not permitted by Class R, under limitation R.1(a) if the building was not used solely as an agricultural use as part of an established agricultural unit (i) on 3 July 2012, (ii) in the case of a building which was in use before that date, when it was last in use, or (iii) in the case of a building which was brought into use after 3 July 2012, for a period of at least 10 years before the development under Class R begins.

6. The Council determined that prior approval was required and refused. In doing so, they determined that 'Building B' was a new building that was brought into use after 3 July 2012, and it had not been in use for at least 10 years before the development under Class R would begin. The appellant has acknowledged this and seeks the appeal to be determined on the basis that Building B no longer forms part of the proposal.
7. Additionally, development is not permitted by Class R if under R.1(b) the floorspace of the buildings exceeds 1000 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 scheduled monument. It is common ground between the parties that the buildings are within the floorspace restriction and are outside any of the designations listed.
8. R.3.- (1) requires certain events to happen 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. At R.3.-(1)(b)-, the developer must, where the cumulative floorspace 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 regarding several considerations. This includes transport and highways impacts of the development, amongst other matters.
9. Pursuant to the above, the Council determined that the transport and highways impacts of the development would be harmful to highway safety.
10. In light of the above, the main issues are:
 - whether the proposal would be permitted development with particular regard to the limitations set out in R.1(a); and,
 - if so, whether the prior approval details relating to transport and highway impacts would be acceptable.

Reasons

Whether Permitted Development

11. The appeal site comprises a rectangular parcel of land, bounded by open metal fencing which separates the appeal site from surrounding grazing land. The site is served by a vehicular access off the A128 Brentwood Road. The land is generally flat, although there is a small bund across part of the site frontage to Brentwood Road, along with conifers planted along some of the front boundary. A static caravan is stationed in the north-east corner of the site, and the western half of the site contains 3 barns, 3 shipping containers and a shed. The site plan labels the barns as Building A, Building B and Building C.
12. The planning history set out by the appellant lists a planning application for a 'change of use of land to transport/haulage yard' (reference 22/01535/FUL). A quotation from the officer's report is provided, which in reference to the barns on site, confirms that the Council considered them to be in agricultural use at the time of writing the report. In the officer's report for the application the subject of this appeal, there is no indication that Buildings A and C were not considered to have agricultural

use, with the report focussing on Building B not meeting the qualifying criteria set out in R.1(a) due to it being relatively recently re-built following a fire.

13. I have no substantive evidence before me to contradict the findings of the officer's report regarding Building B or to dispute that Buildings A and C have been in agricultural use for at least 10 years. As such, based on the substantive evidence before me, I consider that Buildings A and C comprise agricultural buildings that can benefit from permitted development rights under Schedule 2, Part 3, Class R of the GPDO. Had the appeal otherwise been allowed, as Building B forms an entirely separate entity, I would consider whether it could be removed from the scheme through the use of conditions.

Highway Safety

14. The A128 Brentwood Road has an average speed limit of 50mph. It comprises a single carriageway in each direction, with the carriageways separated by hatched lines. There are several other accesses off the road near the appeal site, including to the Dog and Partridge pub to the north and Ongar Hall Farm opposite.
15. Alteration to the existing access is proposed, including an arrangement of left in/left out. To enforce this, there would be a new island in the junction bell-mouth to direct vehicles to the left when exiting the appeal site. A central traffic island opposite the junction in place of the hatching would help to physically prevent southbound traffic turning right to enter the appeal site. A 'no right turn' sign would be installed south of the pub access.
16. I acknowledge that the physical arrangements proposed to restrict the junction to a left in/left out principle, along with the location of the 'no right turn' sign would address the issues identified by the Stage 1 safety audit accompanying the original submission. However, the required junction improvement works are not on the same building or land that the prior approval relates to. The proposed works would be necessary to ensure the safety of traffic entering and leaving the site. However, works to land outside the curtilage, which would include modifying a junction, would not be covered under Class R. This is set out in R.3.- (4) which restricts operational development to "building or other operations in relation to the same building or land which are reasonably necessary to use the building or land for the proposed use under Class R". As the junction improvement works are outside the building and land subject of the application, they are not on the same building or land, so would go beyond the limitations of Class R. As such, it would not be reasonable to secure these by planning condition.
17. In terms of visibility splays, when exiting the appeal site, the submitted drawings show a 4.5m x 160m visibility splay to see northbound traffic would be achievable. This would comply with the 'desirable minimum' as set out in the Design Manual for Roads and Bridges (DMRB). The visibility splay could be achieved on land leased by the appellant, land owned by the freeholder and public highway. I am satisfied that this arrangement would achieve the appropriate visibility splay looking south.
18. In the view to the north, the DMRB 'desirable minimum' would not be achieved. As set out in the road safety audit, the maximum achievable splay would be 4.5m x 120m. However, this would be on the basis that some cutting back of planting and a boundary fence to the pub garden could be achieved. Without any cutting back here, a 4.5m x 110m splay could be achieved. This would fall some way short of the 160m standard set out by the DMRB.

19. There is no guarantee before me that the landowner of the adjacent site would undertake the necessary cutting back or fence removals to improve visibility at the left turn. Whilst I acknowledge this would not be the primary viewpoint given that the junction would be left turn only, drivers turning left would still need good visibility to see what traffic is approaching from the north to enable them to assess the safety of their left turn.
20. For HGVs, the swept path of the left turn shows that vehicles would run over the hatched area between carriageways, close to any oncoming traffic. There would be the potential for conflict in the hatched area from southbound traffic entering it to overtake. Overtaking would be possible as the proposed central island opposite the junction could not be secured under Class R as set out above.
21. Based on the evidence provided, I consider that the arrangement would not achieve an appropriate level of highway safety. Even if the works referred to above to secure the north visibility splay were undertaken on the third-party land, the benefits to visibility would still be insufficient to achieve the 'desirable minimum' visibility as set out in the DMRB. I consider that neither outcome would result in a junction which would achieve an adequate standard of highway safety in connection with the proposed operation.
22. Having had the benefit of a site visit, I do not find there is any substantive evidence that the site would not be able to accommodate sufficient and safe parking for the HGVs and the private vehicles of the HGV drivers and other employees. I do not therefore find that the proposal would conflict with Policy PMD8 of the Thurrock Core Strategy and Policies for the Management of Development (2015) (Core Strategy) regarding parking standards.
23. Nevertheless, the access onto Brentwood Road needs to be safe. I cannot be satisfied that this could reasonably be achieved from the scheme before me based on the visibility splay to the north and the reliance on physical measures to enforce the 'left turn only' approach. As such, as the works would be outside the scope of Class R, the proposal without those works and without appropriate visibility splays, would be harmful to highway safety. Insofar as it is a material consideration, the proposal would conflict with Policy PMD9 of the Core Strategy. This policy sets out that the increased use of existing accesses will be permitted where, amongst other matters, the development makes a positive contribution to road safety or that road safety is not prejudiced.
24. Whilst the Council refer to Core Strategy Policy PMD2 in their reason for refusal, I do not consider it directly relevant since the policy primarily relates to design and this is not a specific matter referred to for consideration under Class R of the GPDO.

Conclusion

25. For the reasons given above the appeal should be dismissed.

L Francis

INSPECTOR