



Appeal Decision

Site visit made on 1 December 2025

by **C Walker BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th December 2025

Appeal Ref: APP/J1535/W/25/3373562

Lakeside Nursery, Paynes Lane, Nazeing, Waltham Abbey, Essex EN9 2EU

- 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) (GPDO).
 - The appeal is made by Mr Salvatore Cuffaro against the decision of Epping Forest District Council.
 - The application Ref is EPF/1403/25.
 - The development proposed is described as 'partial change of use of areas of glasshouse to flexible commercial use.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note the representations submitted by interested parties in respect of the validity of the proposal. The Council determined the planning application on the basis of the information submitted to it, and in the absence of substantive evidence to demonstrate otherwise, I shall determine the appeal accordingly.
3. A revised Transport Statement (TS) (dated September 2025) has been submitted with the appeal. As the Council and other interested parties have had the opportunity to comment on it, I accept it and return to it in my reasoning.
4. Class R of the GPDO does not permit any operational development associated with the change of use. Thus, a planning application is required for associated operational development to enable the change of use of the building granted by Class R (defined in paragraph R.3(4) as buildings or other operations in relation to the same buildings or land which are 'reasonably necessary' to use the building or land for the use proposed). The evidence before me does not point to planning permission having been granted in relation to operational development associated with this appeal scheme.

Background and Main Issues

5. Under the GPDO, Class R allows the change from agricultural buildings to a flexible commercial use falling within one of the following provisions of the Use Classes Order; Class B2 (general industrial), Class B8 (storage or distribution), Class C1 (hotels), Class E (commercial, business or service), Class F.2(c) (outdoor sport or recreation) or for the provision of agricultural training.
6. The appellant's application was not clear which of the flexible uses within Class R it was seeking permission for, noting that the permitted development right within it

relates to a singular use and does not extend to a mix of uses between those specified. However, the appellant has since clarified that they would be content to accept a condition restricting the proposed use to fall within Class B8. Therefore, I proceed on that basis.

7. As an established agricultural unit exceeding 150 square metres in floor space, Paragraph R.3 (1) of the GPDO requires that developers must apply for a determination as to whether prior approval will be required for a number of matters. These comprise (i) the transport and highway impacts of the development, ii) the noise impacts of the development as well as (iii) contamination risks and (iv) flooding risks. The Council refused prior approval in respect of two of these matters. Therefore, I shall formulate the main issues accordingly.
8. In light of the above, the main issues are whether or not prior approval should be granted having regard to the:
 - transport and highway impacts of the proposal; and
 - noise impacts of the proposal.

Reasons

Transport and highway impacts

9. The appeal site comprises part of a horticultural nursery, containing a large glasshouse. It is accessed from Paynes Lane in Nazeing, which is largely a single width lane with parts of it unsurfaced and bound by ditches, that provides vehicular access for a number of commercial businesses and residential dwellings. It is also a public right of way no. 26 (PROW) extending from the public highway to the north, allowing pedestrian access to Lee Valley Regional Park, a recreational ground.
10. Despite some evidence suggesting to the contrary, the plans show the appeal access to the south of the building. Owing to the distance from its junction with the adopted highway to the north, it is highly likely that vehicles frequenting the appeal premises would meet other vehicles on the lane. This is because there are other commercial premises and dwellings which use Paynes Lane that are outside the control of the appellant. As there are no formal passing places, drivers on this narrow lane would be forced to reverse, potentially for some distance, depending on where they meet, to a space wide enough to allow them to pass. My observations on site indicate this would likely rely on the use of entrances of third-party land and given that parts of the narrow lane are bound with ditches, some drivers are likely to find such manoeuvres difficult. Pedestrians and cyclists using the PROW would be particularly vulnerable in such circumstances.
11. I acknowledge that this situation already exists, but notwithstanding the appellant's assertions that the proposal would reduce the number of vehicles frequenting the site, there is little evidence to demonstrate this. A horticultural business is likely to be busier during the growing season with fewer vehicle movements in the winter months as opposed to a general B8 use which is likely to have daily vehicle movements associated with staff members and deliveries. Consequently, I cannot be certain that the volume of traffic would not place additional pressures on the lane and consequently increase the risks of conflicts between highway users.

12. The appellant asserts that as a fully operational horticultural business, the site has historically accommodated regular trips by large articulated heavy goods vehicles (HGV's) and that this proposal would generate equal or fewer trips. However, this has not been substantiated by the evidence which lacks comparative analysis such as trip generation between the established use and that proposed.
13. A storage and distribution use falling under Use Class B8 is likely to generate larger vehicles which would find two-way passage on the lane more difficult. Whilst the appellant indicates a condition to restrict vehicle sizes could be imposed, I am not persuaded that this would be possible on a private road. Even if I were satisfied that such a condition met the six tests set out in the National Planning Policy Framework (the Framework), this would not fully mitigate the harm I have identified.
14. I acknowledge that as a horticultural business large vehicles would likely frequent the site. However, little evidence has been provided to indicate the vehicular movements associated with the existing use and I attribute this limited weight.
15. The swept path analysis for a 7.5t box van, submitted alongside the revised Transport Statement, indicates that a vehicle of this size could enter, turn, and exit the site in a forward gear. However, this scenario relies on land outside of the appeal site boundary to the north. Therefore, there is no certainty that the northern access point could be secured. Moreover, given the angle of the southern access I am not satisfied that this would be able to accommodate the types of vehicles that are likely to frequent it, without a swept path analysis to adequately demonstrate it.
16. The proposal depends on the demolition of the majority of the glasshouse to create sufficient space for parking and turning. It would also likely require significant interventions such as enclosing the elevations facing the exposed internal turning area, as well as the laying of hardstanding over the existing grassed access to the south. Despite my reservations regarding whether the flimsy glasshouses are capable of withstanding such significant structural changes, giving the appellant the benefit of the doubt on this matter, I am mindful that there is currently no certainty that the proposed and necessary turning and parking area could be achieved. However, had I been minded to allow the appeal, a negatively worded condition could have been imposed that prohibits the use from being brought into use until such time that the parking and turning area had been provided.
17. Whilst acknowledging that the Local Highways Authority raised no objection on highway safety grounds, I am not bound by its advice, particularly in light of the concerns identified. Drawing the above together, based on the evidence before me, I am not satisfied that the proposal would deliver a safe and suitable access or avoid harmful highway and transportation impacts that could increase user conflicts and compromise highway safety. Therefore, it should not be approved having regard to paragraph R.3(1)(b)(i) of the GPDO and prior approval is not granted in this regard. It would also be contrary to the Framework insofar as it seeks new development to be safe and accessible.

Noise effects

18. The building sits amongst a context of other glasshouses of an industrial scale as well as residential properties. The closest dwelling lies west and immediately adjacent to the appeal site. Despite suggestion elsewhere within the submission

that it is owned and occupied by the nursery owner and tied to it to avoid severance, this has not been evidenced.

19. The appeal is accompanied by an Acoustic Assessment¹ that was before the Council at the time of their decision. The scope of this report is limited to storage and distribution uses falling within Use Class B8. This concludes that the operational noise arising from storage usage would be below background noise levels, that intermittent noise from loading/unloading within the open area would not be distinctive, and that internal noise levels would be inaudible. Overall, it concludes there would be a low noise impact with no mitigation required. Whilst I generally agree with these conclusions, the Acoustic Assessment falls short of considering traffic noise associated with vehicles serving the development, relying on the TS assumptions that traffic volume would be no greater or less than the current situation.
20. Therefore, I have some concerns that the Acoustic Assessment has not fully grappled with the noise impacts associated with traffic serving the development and its proximity to residential properties. However, if I were minded to allow this appeal, noise impacts could have been mitigated to a satisfactory degree through conditions to limit the use to storage and distribution only, and through limiting delivery hours, a matter I would have explored with the parties.
21. Therefore, based on the evidence before me, this proposal would unlikely result in harmful noise impacts that would significantly adversely affect nearby residential properties. With conditions, it could meet the requirements of paragraph R.3(1)(b)(ii) of the GPDO. It follows that I have found no conflict with the Framework insofar as it expects new development from contributing to unacceptable levels of noise pollution and avoiding noise that gives rise to significant adverse impacts on health and the quality of life.

Other Matters

22. Local residents have raised a range of other concerns, including waste disposal, light pollution and privacy. However, the provisions of the GPDO confine the considerations to those outlined in my paragraph 8 of this decision. Consequently, these matters raised cannot be addressed through the prior approval provisions set out in the GPDO.

Conclusion

23. Whilst I have found no unacceptable impacts from noise, I am not satisfied that the impacts in respect of transport and highways would be acceptable. Therefore, for the reasons given above, the appeal should be dismissed.

C Walker

INSPECTOR

¹ by Ned Johnson Acoustic Consultants Ltd (version 102526 Rev A) dated 26 August 2025.