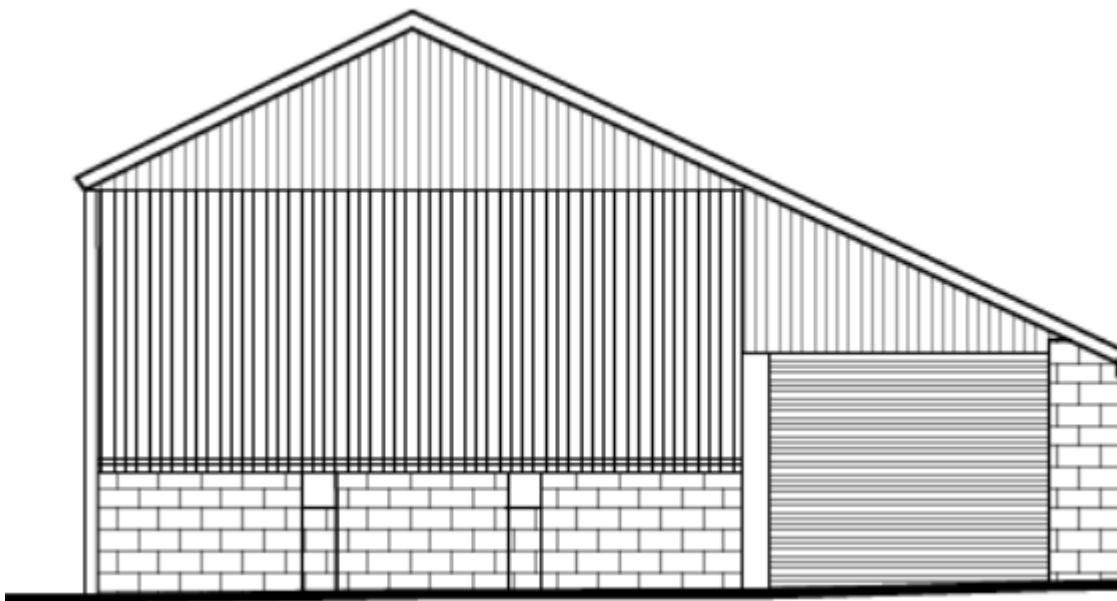




**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015  
(As Amended)**

**PRIOR NOTIFICATION, CLASS R (FLEXIBLE COMMERCIAL USES)**

## **PLANNING STATEMENT**



**CHANGE OF USE OF AGRICULTURAL BARN TO DANCE HALL  
HILL FARM, HUGGINS LANE, STOKE ASH, SUFFOLK IP23 7ER**

**FOR HILL FARM PARTNERSHIP**

**JULY 2022**

# CONTENTS

1.0 INTRODUCTION

2.0 THE SITE

3.0 THE PROPOSED DEVELOPMENT

4.0 COMPLIANCE WITH CLASS R - PARAGRAPH R1

5.0 COMPLIANCE WITH CLASS R - PARAGRAPHS R2 & R3

6.0 SUMMARY AND CONCLUSIONS

## 1.0 INTRODUCTION

1.1 This statement has been produced by Springfields Planning and Development Limited for the applicant to support a Prior Notification Application pursuant to Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by subsequent legislation) (*the Order*).

1.2 The effect of the Order at 'Class R' (which concerns "agricultural buildings to a flexible commercial use") is that planning permission is not required, subject to certain limitations and conditions, for:

*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 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.*

1.3 The proposal subject of this Prior Notification application is the change of use of an agricultural barn and land within its curtilage to a 'Dance Hall'. In this respect it will be noted that a 'Dance Hall' used to fall within Class D2 (Assembly and Leisure) of the Use Classes Order (UCO) but following amendments to the UCO in 2020, Use Class D2 no longer exists and a Dance Hall is specifically cited therein as 'sui generis'.

1.4 Notwithstanding the alterations to the UCO, the Government introduced transitional provisions to the Order which allow a Class R Prior Notification application to be made by 31 July 2022, as if Use Class D2 still existed. Therefore, given these 'Protected Development' arrangements, it is currently still possible to make this application for a Dance Hall on the basis of its D2 Use Class categorisation in the preceding UCO.

1.5 The Order at Class R, Paragraph R1 sets out potential restrictions ('Development not permitted') which would bar Class R permitted development. The criteria are assessed later in this statement, in order to demonstrate that there are no restrictions under Paragraph R1 which would prevent the proposed development.

1.6 At Class R, Paragraphs R2 and R3 set out a list of 'Conditions' which apply. Paragraph R3 requires the developer to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to a specified range of technical matters. These are addressed later in this statement, with reference to submitted professional reports and technical information.

1.7 Paragraph R3 also states that the provisions of Paragraph W (Schedule 2, Part 3) of the Order will apply. This sets out the procedure for applications for prior approval under Part 3. Clause W (2) states that an application must be accompanied by:

- (a) a written description of the proposed development which must include in the same application any building or other operations.
- (b) a plan indicating the site and showing the proposed development;
- (c) the developer's contact address;
- (d) the developer's email address if the developer is content to receive communications electronically;

(e) where sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment, together with any fee required to be paid.

1.8 Accordingly, relevant information relating to the Paragraph W matters is submitted with this application, as set out in the application form, statement, drawings and other supporting documents. Note that Paragraph W (e) is not relevant given the circumstances of this application.

1.9 This application follows on from a recent Prior Approval application (pursuant to Class R of The Order), under reference DC/21/06054, which also proposed to use the subject building as a Dance Hall. This application was refused by the LPA on 23 December 2021. The reasons for refusal have been considered and this revised application submission provides a response to the matters identified in the LPA's decision. Furthermore, the refused application is currently subject of a Section 78 appeal submitted to the Planning Inspectorate which challenges the council's decision and its reasonableness.

1.10 The applicants are of the view, based on the information provided in this (now revised) application submission and having regard to the provisions of the Order, that

- the proposals to change the use of the agricultural building and land within its curtilage from agricultural to a 'Dance Hall' would comprise 'Permitted Development' under the provisions of the Order and;
- further Prior Approval should not be necessary based on the information provided

## 2.0 THE SITE

- 2.1 The application site comprises an agricultural building (the subject barn) and part of its curtilage, as shown edged red on the Site Location Plan, Drawing 2130/09B and in greater detail on the Proposed Block Plan, Drawing 2130/05C.
- 2.2 The site lies within a long standing established agricultural unit at Hill Farm, Stoke Ash, which comprises farmland, buildings and hard surfaces.
- 2.3 The subject barn lies within a complex of buildings at the farm, located approximately 0.75km east of the main built-up part of the village. The village of Thorndon lies at an even further distance from the site, circa 1km to the east.
- 2.4 Hill Farm is located in Huggins Lane (part of which is also known as Grasshopper Lane). This is a dead-end road which leads east from Roman Way (accessed off the A140). In addition to Hill Farm, the lane also serves Huggins Farm and Hill Farm Cottages. The nearest dwelling (where not in the applicant's control) lies circa 180m north-west of the subject building. Huggins Lane is a mixture of both adopted highway and private road. The section from Roman Way heading east at approximately the entrance to Huggins Farm is adopted highway. East of that entrance, Huggins Lane is privately owned, in control of the applicant, being part of the Hill Farm estate.
- 2.5 The subject building is a substantial agricultural barn of post war origin, being constructed at some stage after 1957 but before 1977, according to the submitted historic maps (contained within the submitted Phase 1 Geo-Environmental Desk Study and Preliminary Risk Assessment). It is primarily constructed of breeze blocks in the lower walls and vertical timber slats or corrugated sheet materials to the upper walls, with a pitched roof comprising sheet material laid upon a timber roof frame. Metal roller shutter doors are situated on both the western and eastern sides, with a wooden door in the north-eastern corner. The floor of the building is constructed in concrete.
- 2.6 The barn is essentially rectangular in plan form. It has maximum external measurements of approximately 32.9m in width and 14.2m in length. The gross existing internal floorspace area is calculated as 453.35 sqm, as stated on submitted Drawing 2130/04B.
- 2.7 The subject building, which has access points for farm machinery/vehicles and personnel at each end, is served by concrete hardstandings around the front (west) and rear (east) of the barn, with an adjacent access track laid to hardcore to its northern and north eastern sides. These surfacing arrangements are shown on the submitted Drawing 2130/10C (Existing Block Plan). As these surface areas comprise a *"piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building,"* they would comply with The Order's definition of Curtilage, as set out at Schedule 2, Part 3, Paragraph X at definition '(a)'.
- 2.8 However, the described Curtilage areas are larger than those which are allowable under the Order in relation to the proposed use. Paragraph X clarifies that the curtilage for this application should be whichever is the lesser of definitions '(a)' or '(b)'. Definition '(b)' states curtilage as, *"an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building"*. Therefore, as the Curtilage area in this case under definition '(a)' significantly exceeds that under definition '(b)', then definition '(b)' must be the applicable Curtilage area in relation to the proposed use in this application.

- 2.9 Accordingly, a Curtilage area around the subject building is shown on Drawing 2130/06C (Curtilage Plan as Proposed). This includes land immediately beside or around the agricultural building. It shows that the Curtilage area would be 405sqm which is less than the area of land occupied by the agricultural building (shown at 469.6sqm).
- 2.10 A PROW runs close to the subject barn on its west side, but is outside of the red line application site area. The line of the PROW, as interpreted from the Definitive Plan and information received from Suffolk County Council, is plotted on Drawing 2130/10C (Existing Block Plan), as well as Drawing 2130/05C from where its corridor can be understood in relation to the nearby application site area.
- 2.11 There are various other agricultural buildings within the farm complex. These include, inter alia, an agricultural barn to the west and a series of other barns to the south of the subject building.
- 2.12 To the south/south west of the complex are The Bothy and The Bull Pen which are holiday cottages, approved by the LPA under application refs: W/10728 and 2259/11. South of these is the farmhouse at Hill Farm, within the control of the applicant.
- 2.13 Land further southwest of the application site is used for 8 no. glamping tents, as part of the further diversification of the farm approved by the LPA under application ref: DC/19/02353.
- 2.14 Photographs of the subject building and its context are found in other reports accompanying this application (listed in the next Chapter).

## 3.0 THE PROPOSED DEVELOPMENT

### General

- 3.1 Pursuant to *The Order* at Schedule 2, Part 3, Class R, the application proposes a change of use of an agricultural building and land within its curtilage to a Dance Hall within Use Class D2 (Assembly and Leisure) and seeks the LPA's opinion as to whether further Prior Approval is required.
- 3.2 Note that this application follows on from two previous applications set out below.
- 3.3 Prior Notification application ref: DC/21/06054, which concerned the change of use of an agricultural building to a Dance Hall, was refused on 23 December 2021 for the following reason:
- Prior Approval is required for the change of use of the barn to Flexible Use (Dance Hall) under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) due to the mitigation measures which are required being beyond the curtilage of the building, or require operational development which is beyond the scope of these regulations.*
- 3.4 Those reasons for refusal have been addressed in the current application and take in to account what the applicants interpret the reasons to be (in the absence of suitable clarification being forthcoming from the LPA). Furthermore, the previous consultation responses have also informed the preparation of this application.
- 3.5 Prior Notification application ref: DC/21/04091, which was withdrawn, sought a change of use of the agricultural building to an events/wedding venue under Class R of the Order. Whilst that application was withdrawn, the consultation responses again informed the preparation of this application (and application ref: DC/21/06054 for a Dance Hall), noting the similarity of use to the previously applied for events/weddings venue, in terms of operation and effects (eg noise and transport/highways).

### Documents and Drawings

- 3.6 The documents and drawings submitted as part of the application include the following:
- Application Form
  - Drawing 2130/04B – Indicative Floor Plan as Proposed
  - Drawing 2130/05C – Block Plan as Proposed
  - Drawing 2130/06C – Curtilage Plan as Proposed
  - Drawing 2130/07D – Parking Layout Plan as Proposed
  - Drawing 2130/08B – Passing Place Layout Plan as Proposed
  - Drawing 2130/09B – Location Plan
  - Drawing 2130/10C – Block Plan as Existing
  - Planning Statement, July 2022 (Springfields Planning and Development)
  - Phase 1 Geo-Environmental Desk Study & Preliminary Risk Assessment, June 2022 (Sue Slaven)
  - Assessment of Highways and Transport Effects, 9 June 2022 (GH Bullard & Associates)
  - Noise Assessment, 17 June 2022 (Sharps Redmore)
  - Acoustic Mitigation Systems, 1 November 2021 (Direct Acoustics)
  - Noise Management Plan 1 November 2021 (Direct Acoustics)
  - Flood Map for Planning, 18 July 2022 (Environment Agency)

## Change of Use

- 3.7 The change of use proposed would create a 'Dance Hall' falling squarely within Use Class D2 of the previous UCO (although as explained this use is still a relevant 'Protected Development' for the purposes of this Prior Notification application). The use would provide a private venue where dancing events would take place as part of an assembly and leisure activity.
- 3.8 Due to the nature of the use, it is expected that a Dance Hall would operate no more than one event per day, with these events most likely occurring at weekends or evenings. As such, the nature of traffic visiting and departing the site would be 'tidal' in nature (as a consequence of the start and finish times of the event) as opposed to steady flows (in two directions) throughout the course of the day.
- 3.9 As ancillary elements to the Dance Hall, the subject building would accommodate a lobby, toilets, storage and changing rooms, along with a bar, kitchen and tables allowing dancing participants and observers to enjoy refreshments and food. The indicative internal arrangements are shown on Drawing 2130/04B.
- 3.10 Within the curtilage area of the subject building, space would be provided for parking in relation to the proposed use. Such curtilage area is shown on Drawing 2130/06C. This is a materially different arrangement than was proposed under the refused application ref: DC/21/06054, which showed a potential extended parking area further north-west, adjacent another building (and beyond the curtilage of the subject building).
- 3.11 Drawing 2130/07D shows that an area would be made available within the site for 24 cars to be parked, to meet requisite SCC parking provision for the proposed use. All spaces are stated to measure 2.5m by 5.0m, except for 2 of the 24 spaces which would be provided as disabled parking spaces measuring 2.9m by 5.5m. Within the site, space is shown reserved for secure cycle parking.



#### 4.0 COMPLIANCE WITH CLASS R - PARAGRAPH R1

4.1 In the Order, Paragraph R1 of Class R, includes the criteria where the permitted development rights do *not* apply (“Development not permitted”).

4.2 The criteria of Class R, Paragraph R1 are set out below in full, along with the applicant’s comment:

*Development is not permitted by Class R if—*

*(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;*

Applicant’s Comment:

As at 3<sup>rd</sup> July 2012, the subject building was solely in agricultural use as part of the established agricultural unit at Hill Farm (and currently remains as such). The criterion is complied with.

*(b) the cumulative floor space of buildings which have changed use under Class R within an established agricultural unit exceeds 500 square metres;*

Applicant’s Comment:

The proposed building provides 453.39 sqm gross internal floorspace. There are no other buildings on the established agricultural unit which have changed use under Class R. The 500sqm limitation is not breached. The criterion is complied with.

*(c) the site is, or forms part of, a military explosives storage area;*

Applicant’s Comment:

The site is neither, nor forms part of, a military explosives storage area. The criterion is complied with.

*(d) the site is, or forms part of, a safety hazard area; or*

Applicant’s Comment:

The site is neither, nor forms part of, a safety hazard area. The criterion is complied with.

*(e) the building is a listed building or a scheduled monument.*

Applicant’s Comment:

The building is not a listed building or a scheduled monument. The criterion is complied with.

4.3 Based on the above assessment, there are no restrictions to the permitted development criteria at Paragraph R1 of Class R.

4.4 It will be noted that in application ref: DC/21/06054 the officer’s report agreed with the applicant’s assessment regarding compliance with the Paragraph R1 (a) to (e) criteria. Moreover, the decision notice did not cite any non-compliance with the same. Again, compliance should not be in dispute.

## 5.0 COMPLIANCE WITH CLASS R – PARAGRAPHS R2 & R3

5.1 This chapter addresses the ‘conditions’ of Class R, Paragraphs R2 & R3 of the Order.

5.2 Paragraph R2 states that 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.*

5.3 There is no breach of the above (Paragraph R2) conditions and indeed no breach was alleged by the LPA when deciding application ref: DC/21/06054. The only change from the previous application is that the current scheme shows a ‘curtilage’ area, pursuant to Paragraph X. The Curtilage area has been explained at Chapter 2 of this statement and has been evidenced to comply with Paragraph X. Accordingly, there should be no dispute regarding compliance with Paragraph R2.

5.4 At Paragraph R3 (1), the Order states 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—*

*(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.*

5.5 The above criteria apply in this case, as the floor space of the building changing use under Class R exceeds 150 square metres. Accordingly, this application provides additional reports and information to assist the LPA in a determination as to whether further “Prior Approval” is required for the development in relation to those matters cited at Paragraph R3(1), (b), (i) to (iv) inclusive.

- 5.6 At this juncture it is important to note that the scope of matters to be considered under the Class R Prior Approval process is strictly limited by the Order. It is only the matters listed at Paragraph R3 (1), (b), (i) to (iv) inclusive which can be considered. The Government’s PPG clarifies that,

*Prior approval means that a developer has to seek approval from the local planning authority that specified elements of the development are acceptable before work can proceed. The matters for prior approval vary depending on the type of development and these are set out in full in the relevant Parts in Schedule 2 to the General Permitted Development Order. A local planning authority cannot consider any other matters when determining a prior approval application.*

Paragraph: 026 Reference ID: 13-026-20140306

Revision date: 06 03 2014

- 5.7 A useful legal commentary on this subject is provided by solicitor Martin Goodall in the third edition of his book (October 2019) entitled, ‘A practical guide to permitted changes of use under the General Permitted Development Order’. This states that:

*‘any request for further information must be confined to the matters that are specified for approval in relation to the Class of development in question’ [14.1]; and*

*‘it is clear both from current ministerial practice guidance and from decisions by the Planning Inspectorate in determining appeals against the refusal of prior approval applications, that a robust approach is being taken in strictly limiting the consideration of planning issues to those that are within the confines of the matters prescribed as the subject of the prior approval application in respect of the relevant Class of permitted development’ [14.4.6]*

- 5.8 Therefore, ‘other’ professional reports, for example concerning heritage, trees or ecology matters (as may normally be relevant to support an application for ‘planning permission’) do not apply in the case of a Prior Notification application under Class R of the GPDO.
- 5.9 The technical issues under Class R, Paragraph R3 (1), (b), (i) to (iv) inclusive are assessed in the headings further below. In considering these ‘subject matters’, it is also relevant to refer to consultation responses provided to the LPA in respect of the previous applications, ref: DC/21/06054 (Dance Hall) and ref: DC/21/04091 (events/weddings venue). These have relevance, especially for the purposes of consistency, so have been taken in to account in preparing information to support the current application.
- 5.10 The remaining parts of Paragraph R3, at (2) to (4) are set out below. These provide at: (2) details of time limits for the development; (3) that the time limit is extended where planning permission is granted for associated operational development; and (4) a definition of operation development, these being reasonably necessary for the Class R use. In the context of the previous refusal of Prior Approval, it is important to understand that whilst a Class R application only concerns ‘use’, there is an interplay between the provisions of the Order and any ‘associated operational development’.

*(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.*

### **Transport and Highways Impacts of the Development**

- 5.11 The application is accompanied by a letter entitled, **Assessment of Highways and Transport Effects concerning proposed Dance Hall use** (9 June 2022, GH Bullard & Associates).
- 5.12 The Assessment firstly highlights the planning history. It cross refers to information that was previously submitted to the LPA and Highway Authority regarding Prior Notification applications ref: DC/21/06054 and ref: DC/21/04091 made pursuant to Class R for a Dance Hall and an events/weddings venue respectively. Information was provided regarding matters pertinent to transport and highways issues, including the local road network, passing places and accident/collision history. Details were also provided how such venue(s) would not have increased the likelihood of accidents at the A140 junction with Roman Way (which leads to Huggins Lane for the site).
- 5.13 A response dated 11 November 2021 to the most recent application (ref: DC/21/06054) from Suffolk County Council (SCC) as the Highway Authority is set out at Appendix 3 of the Assessment. This evidences that the Highway Authority was satisfied that the proposals for use of the subject building as Dance Hall would not be detrimental to safety of users of the highway, subject to the proposed highway improvements (eg passing bays). SCC recommended the imposition of conditions, including details of:
- Off site highway mitigation works (ie passing bays on Huggins Lane)
  - Areas for the provision of manoeuvring and parking of vehicles
  - Submission of details for secure cycle storage and Electric vehicle charging infrastructure
- 5.14 The Highway Authority had made a similar recommendation in its consultation response dated 12 August 2021 concerning the (withdrawn) application for use of the subject building as an events/weddings venue (ref: DC/21/04091). This is set out at Appendix 2 of the Assessment.
- 5.15 The Assessment notes the reasons for the LPA’s refusal of Prior Approval in relation to application DC/21/06054 included the required mitigation measures being beyond the curtilage of the building, or because operational development was required beyond the scope of the regulations. To address those reasons in the current scheme and to support the proposals in terms of transport and highway impacts, the Assessment states,

*The application site identified by red line has been updated. The updated red line allows the inclusion of the proposed parking within the curtilage of the subject building. This revision addresses the LPA’s concern that related to previous application DC/21/06054 where parking proposed was previously shown outside of the application site.*

*The traffic flows relating to the proposed Dance Hall use remain likely to result in 'tidal' traffic. The proposal is highly unlikely to cause two-way passage of cars, as Dance Hall attendees would be arriving/departing at the same time.*

*The passing bay mitigation is still offered, refer Appendix 4, drawing 2130-08B and SCC standard detail DM06, which shows SCC's only standard for passing place details. The applicant proposes to provide highway mitigation in the form of passing bays. Indicative locations for up to five passing places have been identified adjacent to the carriageway of Huggins Lane and a private road, where land is available within the applicant's control (refer to blue line land, shown on Location plan drawing 2130-09B, Appendix 4). The applicant anticipates that a condition will be imposed by the LPA requiring, before first beneficial use of the building as a Dance Hall, either the implementation of the proposed passing bays as shown, or otherwise as may be agreed following the submission of further details, once SCC's position and requirements are known.*

*The proposed Dance Hall will involve the use of the same agricultural building that was previously considered for use as an events/weddings venue, with 453.35sqm internal floor area and a footprint of 469.6sqm. The proposed parking, within the red line curtilage of the building (refer Block plan 2130-05C at Appendix 5) provides for 24 car spaces, including two for disabled use. This complies with SCC guidance which requires 1 car space per 20m<sup>2</sup>. The development proposes to make provision for secure cycle storage, to provide transport options. Note also the applicant currently intends to install electric vehicle charging points.*

*Also, given the nature of the use, it is likely that private hire, minibus operators will be used by some attendees, especially attendees in small groups or four-somes, for drop-offs before and pick-ups after the dance event. The operator commits to providing attendees with details of available private hire minibus companies when taking bookings, or to advertise similar in the Dance Hall venue.*

5.16 In its Summary, the Assessment notes NPPF policy at paragraph 111 which states:

*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

5.17 The Summary continues as follows:

*It is considered that this is a safe location for this barn conversion to form a Dance Hall. Huggins Lane, which forms a cul-de-sac, is used to access only Hill Farm, Hill Farm Cottages and Huggins Farm, thus it is lightly trafficked. Huggins Lane has a narrow carriageway, which is not wide enough for two cars to pass. Nevertheless, the section of Huggins Lane which is adopted highway does contain a number of unofficial and long standing passing spaces on the grass verge and field accesses. The proposal is highly unlikely to cause two-way passage of cars as Dance Hall attendees would be arriving/departing at the same time.*

*The development also proposes secure cycle storage and parking, to provide transport options. The operator commits to providing attendees with details of available private hire minibus operators when taking bookings, or to advertise similar in the Dance Hall venue.*

*Furthermore, the applicant proposes to provide highway mitigation in the form of passing bays. Indicative locations for up to five passing places have been identified adjacent to the carriageway of*

*Huggins Lane and a private road, where land is available within the applicant's control. The applicant anticipates that a condition will be imposed by the LPA requiring, before first beneficial use of the building as a Dance Hall, either the implementation of the proposed passing bays as shown, or otherwise as may be agreed following the submission of further details, once SCC's position and requirements are known.*

*Moreover, following the comments by SCC as Highway Authority, the review of accidents on the A140 in the vicinity of Roman Way confirmed the scarcity of injury accidents as a result of the Roman Way junction (previously submitted letter 149/2021/02, application reference DC/21/04091). Only one had occurred in the most recent 5 year period and was the result of M/C rider (aged 83) failing to look properly when (allegedly) a temporary road sign obstructed the view.*

*There is no evidence to suggest that this proposal will result in unacceptable impact on highway safety. I believe that the proposed development is acceptable in transport and highways terms and meets the highway design standards and policy. Accordingly, there should be no need for the LPA to require further Prior Approval for the development in terms of transport and highway effects.*

5.18 Accordingly, based on the conclusions of the Assessment, it is anticipated that the Highway Authority will be satisfied that the proposals are acceptable, subject to recommended conditions. The applicants suggest conditions would be appropriate to secure the following:

a) off site works, to provide suitable passing places along Huggins Lane (as shown on Drawing 2130/08B and the SCC standard details for passing places) prior to use commencing;

b) parking/manoeuvring areas (as shown on the submitted Drawing 2130/07D) prior to use commencing;

c) secure cycle storage (as shown on the submitted Drawing 2130/07D) prior to use commencing.

5.19 Such conditions could be imposed where they meet planning tests (necessary, reasonable, etc) and meet the terms of Schedule 2, Part 3 Paragraph W.(13) of the Order (see below). Whilst the applicant intends to provide electric vehicle charging points as stated on the plans, evidence from appeals indicates that a condition requiring provision of such infrastructure might not meet the relevant 'tests'.

5.20 In the officer report for application DC/21/06054, planning officers noted that the submission of details of off-site highway improvements (passing places) as well as provision of areas for manoeuvring and parking of vehicles,

*"The provision of these improvements and spaces are necessary for the operation of the use but are beyond the red line of the site. They cannot be conditioned or controlled as part of this Prior Approval application".*

5.21 The LPA therefore explicitly accepts that parking spaces and off site highway improvements (passing places) are 'necessary', such that if they are provided there would be no objection in terms of transport and highway impacts. Accordingly, details of how these measures would be provided are set out in the application.

- 5.22 The requisite parking measures to meet standards are contained within the red line of the application site, all being within the 'Curtilage' (as defined by the Order) of the subject building. This overcomes the LPA's previously expressed concern as the parking provision is no longer beyond the red line of the site (unlike the proposal in the previous application).
- 5.23 Necessarily, the suggested improvements along Huggins Lane to provide passing places are beyond the red line of the application site, given that the red line has to be restricted to meet the terms of the Order. However, the LPA took the view – *incorrectly* – that off site works “cannot” be conditioned or controlled as part of the Prior Approval.
- 5.24 The LPA's assertion squarely *conflicts with the Order*. A power to impose conditions upon the proposed Class R development arises under Schedule 2, Part 3 Paragraph W.(13) of the Order, which states:
- “The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.”*
- 5.25 The scope of that power is that prior approval may be given unconditionally or subject to conditions “reasonably related” to the “subject matter” of the prior approval. Given that a subject matter concerns ‘transport and highway impacts’ (as well as noise, contamination and flood risk) and such impacts may need to be mitigated outside of the application site's red line, then conditions which require passing bays along Huggins Lane would be within the scope of the Order, subject to being the “reasonably related” test.
- 5.26 There is no provision in the Order which states conditions cannot be imposed regarding a subject matter beyond the application site/red line boundary. The assertion in the officer report is without foundation or compliance with the Order (sic) and conflicts with the LPA's approach elsewhere.
- 5.27 Indeed, in another Prior Approval scheme, an ‘off site’ passing place was required to be provided via condition imposed by the LPA, which is entirely contrary to the approach it took in application DC/21/06054 where it opined that off site works for passing places could not be conditioned. The LPA has been taking an inconsistent approach. However, the doctrine of consistency is a material planning consideration and applicants should expect fairness.
- 5.28 Furthermore, in his book “*A practical guide to permitted changes of use*”, acknowledged planning lawyer Martin Goodall outlines that it is generally accepted that an access need not, and should not, be included in the prior approval application, although details of the highway access may be required as further information with the consideration of any highway impacts of the development (see paras 5.2.9 and 13.5, Third Edition). This is with the view that conditions, pertaining to access/highways improvements, can be imposed which by their very nature will be outside of the application site/red line boundary.
- 5.29 Accordingly, the ‘necessary’ (sic) off site highway measures to provide passing places (along with requisite parking on site) as may be secured by conditions subject to tests, would overcome issues identified by the LPA in the previous application and would be fully within the scope of the Order's provisions.
- 5.30 It is therefore anticipated that no further Prior Approval concerning Transport and Highways impacts should be necessary.

## Noise Impacts of the Development

5.31 The application is accompanied by the following technical reports and information:

- **Noise Assessment**, 17 June 2022 (Sharps Redmore)
- **Acoustic Mitigation Systems**, 1 November 2021 (Direct Acoustics)
- **Noise Management Plan**, 1 November 2021 (Direct Acoustics)

5.32 The Noise Assessment contains an assessment of likely music noise and other noise sources associated with the proposed venue. It sets out (at Chapter 2.0) its assessment methodology and criteria, taking account of planning policy and other noise related policies or guidelines. A Noise Assessment is then set out (at Chapter 3.0). This considers measures to mitigate music and external noise related to the proposed use. The Noise Assessment considers the effect on the nearest noise sensitive property (where not controlled by the applicant), which lies circa 180m distant to the north-west. The effect on the garden area to the rear of this property is also considered and the noise monitoring position (as used at the boundary of the property) reflects this.

5.33 The Noise Assessment Conclusions (Chapter 4.0) are set out as follows:

*Noise emissions from music and external activity at the venue have been assessed, with the following results:*

- *Subject to certain physical mitigation and management measures, such as a directional Zone Array speaker system, internally applied boarding to three internal walls (including the western entrance) of the building and an acoustically lined marquee, music noise breakout can be controlled to meet strict thresholds at the nearest property, such that there would be no significant impact from this source of noise. A music noise level of up to 34 dB LAeq at the boundary, including the garden of the nearest noise sensitive premises, has been discussed and agreed with Mid Suffolk DC EHO during the consultation process for the recently withdrawn Prior Notification application (ref: DC/21/04091) and subsequent discussions with Susan Lennard, Mid Suffolk DC EHO for the Change of Use Application 21/06054. There were no objections to the proposal subject to certain conditions. The consultation comments and suggested conditions are shown at Appendix C.*
- *Noise from external activity in the garden area, based on 100% use of the area during an event, would be well within the guideline values at the nearest property and well below the existing noise climate, such that there would be no significant impact from this source of noise.*
- *Therefore, on all methods of assessment, that there would be no significant adverse noise impact from the venue. The following recommendations and mitigation measures will be implemented:*
  - *Internal music noise limit in the premises of a maximum of 95 dB LAeq, 5mins.*
  - *Perimeter noise monitoring to be undertaken to ensure no excessive noise at the boundary.*



- *A noise management plan is to be provided by the applicants outlining control measures which provide practical measures that can be employed to reduce the risk of unacceptable noise.*
- *It is concluded that the venue can operate given the measures outlined above, without causing nuisance or significant impact from noise or detriment to the amenity in accordance with all relevant standards, National Planning Policy and local aims.*

5.34 The Noise Assessment's conclusions are subject to various physical and mitigation measures. Further information is supplied to demonstrate such measures:

- A Zone Array directional speaker system would be employed. The Acoustic Mitigation Systems document provides specification details. It states that, "The Zone Array is a modular speaker system, enabling hundreds of small directional speakers to be installed across a single plane. Due to the alignment and orientation of the speakers, the system becomes highly directional. Through this directionality, it is possible to control acoustic temperatures and volume levels within specific areas".
- An acoustically lined marquee would sit inside the building. The Acoustic Mitigation Systems document provides details of a suitable soundproofing specification (MAL22).
- The barn itself would be provided with acoustic insulation boarding within the building, to the inside of three of its walls (north, east and west sides) including the inside of the pedestrian entrance. These works are indicated on Drawing 2130/04B and as internal works would not need planning permission. The Acoustic Mitigation Systems document provides details of a suitable acoustic boarding (12mm concrete board).
- Internal doors will be robust. If required by the Local Planning Authority, self-closing acoustic doors could be provided between the lobby and the dance hall, although these are not required to meet the SoundPLAN modelling noise attenuation.
- A Noise Management Plan (as submitted) would provide the management procedures and practical measures for mitigation of noise, also arising from external activity as well as from the building.

5.35 The Noise Assessment has concluded that the venue can operate, subject to the identified measures, without causing nuisance or significant impact from noise or detriment to amenity, in accordance with all relevant standards, National Planning Policy and local aims.

5.36 Accordingly, the applicants invite the LPA to control, via planning conditions, the noise aspects of the development, based on the Noise Assessment, Acoustic Mitigations Systems and Noise Management Plan.

5.37 In the previous application ref: DC/21/06054, the council's Environmental Health Officer was satisfied with the proposals for sound mitigation subject to conditions including:

- Noise mitigation measures to be implemented in accordance with the submitted noise reports (specifically the use of the highly directional modular speaker system eg Zone Array) as well as the demonstration of the achievement of sound levels
- Restrictions on sound levels, hours of operation, speakers outside the building
- Installation of a sound limiting device
- No fireworks or Chinese lanterns
- Submission of a site specific noise management plan

5.38 However, the LPA refused Prior Approval. The officer's background report stated that, *"The building or other operations required to achieve the sound mitigation will need to be the subject of a planning application and cannot be conditioned or controlled as part of this Prior Approval application"*.

5.39 Subsequently, the LPA was directly asked what the operational development it had envisaged needed planning permission but the LPA did not provide any specificity regarding its vague and general contentions.

5.40 The applicants are not aware that any part of their proposals in respect of noise mitigation would involve building or other operations which would require the specific grant of planning permission. The works involved in providing sound mitigation include the installation of acoustic boarding to the inside of the walls of the subject building and would not materially alter the external appearance of the building. In such circumstances, those works are not construed as 'Development' under the s.55(2)(a) of The Town and Country Planning Act. Accordingly, they would not need planning permission.

5.41 Notwithstanding the above, even *if* operational development is required to control, or otherwise mitigate, the escape of noise then the Class R Permitted Development Right ('Paragraph R3') – as explained earlier in this statement - anticipates this possibility, such that a subsequent planning application could, or should, be made if the use as a Dance Hall is acceptable subject to suitable conditions, etc.

5.42 The LPA's previous refusal on noise grounds was therefore flawed on two counts, as:

- (1) there is no operational development required, as alleged and;
- (2) even if there was, this is not a reason for refusing Prior Approval as the Order envisages that operational development (and requisite planning permission) may be required to implement a Class R use.

5.43 On the above basis, it is therefore anticipated that further Prior Approval is not required concerning the noise impacts of the development.

#### Contamination Risks on the site

5.44 A **Phase 1 Geo-environmental Desk Study and Preliminary Risk Assessment** (June 2022, Sue Slaven) is submitted with the application.

5.45 The Assessment states the Report Objectives as follows:

*'This report presents the findings of a desk-based study and site walkover survey with regards to potential ground contamination from historical and/or current uses of the site and surrounding area.'*

*A preliminary risk assessment has been carried out relating to ground conditions in respect of the proposed redevelopment of the site to a leisure use has been prepared.'*

5.46 The Executive Summary of the Phase 1 Preliminary Risk Assessment states:

*'Based on the history and walkover survey of the site and immediate vicinity, no significant on- or off-site sources of contamination have been identified. Therefore, as no significant sources of contamination have been identified and the site is covered with concrete hardstanding, which is to remain, no pathways can be established and the potential risk to receptors is considered to be negligible'.*

5.47 The Executive Summary of Recommendations are stated as follows:

*'No intrusive investigation is considered necessary at this time. It is recommended that a watching brief for visual and olfactory signs of contamination is kept during groundworks, and if identified, work should stop, and a risk assessment be carried out'.*

5.48 In the consultation response (dated 15 November 2021) to the previous application ref: DC/21/06054, the council's Senior Environmental Management Officer stated:

*I can confirm that I have no objection to the proposed development from the perspective of land contamination. I would only request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.*

5.49 The LPA's officer report then went on to confirm in respect of contamination risk that, "The application is acceptable on this part". The refusal of application ref: DC/21/06054 was not based on contamination risk.

5.50 Note that similar responses from this consultee (dated 4 August 2021) were also made in respect of the withdrawn application ref: DC/21/04091.

5.51 Accordingly, based on (a) the conclusions of the Phase 1 Geo-environmental Desk Study and Preliminary Risk Assessment and (b) the previous, consistent, consultation responses, it is therefore anticipated that further Prior Approval concerning Contamination Risks on the site is not required.

### **Flooding Risks on the site**

5.52 The application is accompanied by a **Flood Map for Planning**, 18 July 2022 (Environment Agency). This demonstrates that the site does not lie within the Zone 2 (Medium) or Zone 3 (High) categories of Flood Risk. It lies in a Zone 1 Flood Risk Zone which, as the document states, is a location with "a low probability of flooding".

5.53 The document confirms that a flood risk assessment is required where: development is larger than 1 hectare; in an area of critical drainage problems as notified by the Environment Agency; identified as being at increased flood risk in future by the local authority's strategic flood risk assessment; or at risk from other sources of flooding and its development would increase the vulnerability of its use. These circumstances do not apply in this case.

- 5.54 The LPA's officer report for the previous Class R application ref: DC/21/06054 cited that, "*The site is located within Flood Zone 1, where there is limited potential for flooding and a limited history*". The refusal of that application was not based on flood risk impacts.
- 5.55 It is therefore anticipated that further Prior Approval concerning flooding risks on the site is not required.

## 6.0 SUMMARY AND CONCLUSIONS

- 6.1 The proposed change of use of the agricultural building to a Dance Hall meets the relevant permitted development criteria such that the development is capable of occurring without the need for planning permission.
- 6.2 An assessment has been made against Class R, Paragraph R2 criteria. This statement concludes, based on the plans and particulars submitted, that the development is acceptable in respect of the four technical issues which form part of the prior approval process ie transport and highways impacts, contamination risks, noise impacts and flooding.
- 6.3 Furthermore, the additional information in this submission addresses the reasons for refusal in the previous application for the following reasons:
- The curtilage of the barn is to be used for parking area to serve the development and this is within the red line of the application site
  - The highway mitigation works include off site passing places along Huggins Lane, on the applicant's land, which are able to be secured via conditions (consistent with similar approaches taken by the LPA)
  - The noise mitigation works do not involve other operations which would require planning permission. Even if such works were required they could be subject of conditions
- 6.4 Accordingly, it is requested that the LPA confirm that the proposals comply with 'permitted development' criteria and that no further prior approval is required, subject to appropriate conditions.