

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
PLANNING COMMITTEE**

MAIDENHEAD DEVELOPMENT CONTROL PANEL

23 November 2016

Item: 1

Application No.:	16/01884/VAR
Location:	Bears Copse Plough Lane West End Waltham St Lawrence Reading RG10 0NN
Proposal:	Erection of an agricultural barn (retrospective) as approved under planning permission 11/00341 (allowed on appeal) without complying with condition 1 (use as agricultural purpose only) to remove the condition
Applicant:	Mr Hall
Agent:	Mr T Rumble
Parish/Ward:	Waltham St Lawrence Parish/Hurley And Walthams Ward
If you have a question about this report, please contact: Susan Sharman on 01628 685320 or at susan.sharman@rbwm.gov.uk	

1. SUMMARY

- 1.1 This application was deferred at the October Panel for one cycle to assess the appeal decision in respect of application 14/01113.
- 1.2 The Council's solicitor advice remains unchanged, that based on the particular evidence available, there are no site-specific factors that constitute 'exceptional circumstances' that would make it necessary and reasonable to impose condition 1 requiring the barn to be used solely for agricultural purposes.

It is recommended the Panel grants planning permission.

2. REASON FOR PANEL DETERMINATION

- At the request of Councillor M. Hunt if the application is to be recommended for approval at the request of the Parish Council with regard to the appeal decision. The condition was imposed by the Inspector and accepted by the applicant. Environmental impact concern regarding use of narrow rural Green Belt lane.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site is located to the south-west of the residential property of 'Bears Copse'. The area is characterised by open countryside with sporadic residential development.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Ref.	Description	Decision and Date
14/01113/PRA	Prior approval application for the change of use of the agricultural barn to B1 (business).	Prior approval required and refused. 02.06.14. Appeal dismissed. 27.04.15.
11/00341/FULL	Erection of an agricultural barn (retrospective).	Refused 06.04.11 Appeal allowed 05.03.12.
09/01356/AGDET	Notification of change of use from residential curtilage to agriculture and to determine whether prior approval is required to relocate an existing barn.	Approved 04.08.09.

- 4.1 The application seeks to remove condition 1 (use for agricultural purposes only) of 11/00341 (allowed on appeal).

5. EXPLANATION OF RECOMMENDATION

5.1 This application was deferred at the October Panel for one cycle to assess the appeal decision in respect of application 14/01113 (appeal reference 2226041). The Council's solicitor has provided the following advice:

5.2 "As part of the appeal in 2015 (reference 2226041), that Inspector concluded at paragraph 17 as follows:

'The provisions of Class R (and formerly Class M) were not in force at the time that condition 1 was written in March 2012. Had they been then matters might be otherwise, but I am considering the appeal before me with the condition as written and in relation to the statutory provisions in force at this time. Whether or not this condition should be changed in the light of the provisions of Class R is not before me'.

5.3 The implication of this paragraph is that, if there was a form of permitted development in existence analogous to the aforementioned Class R at the time of the restrictive condition being put in place in March 2012, the condition may not have been imposed. This is because the existence of Class R indicates an intention by Central Government to allow 'a freedom from detailed control which will be acceptable in the great majority of cases' (as outlined in the revoked Circular). It is expressly intended that agricultural buildings can, generally, be changed to A1, A2, A3, B1, B8, C1 and D2. The legal and regulatory framework has changed significantly in the time since the original 2012 decision.

5.4 I can appreciate the disquiet at the potential for this barn to be changed to a form of business. However this is a natural consequence of the changes to permitted development rights, and I do not consider that this application is the appropriate venue for an argument about the merits of those changes.

5.5 The existence of Class R has an effect on the consideration of this application. However my view is that this only assists the applicant. Because the format of the condition is to restrict all other uses, and this is not specific, the introduction of new uses which may be applicable or acceptable serves to highlight the difficulty with imposing blanket conditions.

5.6 There are no site-specific factors which justify the imposition of a condition restricting permitted development rights (and which would pass the test for necessity). I would therefore suggest that, on balance, it is more reasonable to conclude that exceptional circumstances are not made out."

6. CONSULTATIONS CARRIED OUT

6.1 As per section 6 of the October Panel report in Appendix A.

7. APPENDICES TO THIS REPORT

- Appendix A - Copy of October Panel report for 16/01884 with appendices.
- Appendix B - Copy of appeal decision in respect of 14/01113.

Documents associated with the application can be viewed at <http://www.rbwm.gov.uk/pam/search.jsp> by entering the application number shown at the top of this report without the suffix letters.

8. NO CONDITIONS ARE RECOMMENDED

1 No conditions.