

CLASS R PERMITTED DEVELOPMENT RIGHTS ON FARMS

**THE CHANGE OF USE
OF AGRICULTURAL
BUILDINGS TO
A FLEXIBLE
COMMERCIAL USE**



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INTRODUCTION

This guide provides information on the Class R permitted development right under the Town and Country Planning (General Permitted Development) Order 2015 for the change of use of agricultural buildings to a flexible commercial use.

This book is intended to act as an easy to read and follow guide to explain how you can utilise this permitted development right on your farm. You should always obtain independent planning advice for any project as there are always implications that one application can have over another.

Here at Foxes Rural Consultants we will work anywhere over the UK and we have developed unique systems and operational procedures for your planning application or permitted development requirements.

We pride ourselves on our proactive approach, attention to detail, and speed of our planning service, which in turn is fed through our company ethics to our clients. We offer a unique guarantee of having any agricultural permitted development application submitted within 28 days of being formally instructed.





The Class R Permitted Development Right

The Class R permitted development right is likely to be available to you on your farm. You can change the use of up to 500 sq.m cumulatively of agricultural buildings (and land within its curtilage) on your farm subject to you meeting the necessary criteria.

Class R only allows for the change of use of agricultural buildings and not new commercial buildings. New commercial buildings would require full planning permission and subject to a business case being presented, it is possible to achieve new commercial buildings on farms.

3 July 2012 -

Date to be eligible for Class R

The building must have been in agricultural use on 3 July 2012 or have been in agricultural use for the preceding 10 year period.

Development of less than 150 sq.m of existing floor space

Changes of use that measure less than 150 sq.m of existing floor space do not require a formal application to the Local Planning Authority ('LPA'). For developments of this size you still need to notify the LPA but there is no public consultation on the application and assuming you comply with the Class R requirements, the LPA are unable to refuse the notification.





For building(s) where the cumulative floor space (to be converted) does not exceed 150 sq.m the local authority following need to be advised (in writing) as follows:-

1. the date the site will begin to be used for any flexible use
2. the proposed nature of the use or uses
3. a plan indicating the site and which buildings have changed use

For cumulative development of floor areas up to 150 m², on buildings that fit the criteria, there is no requirement to

wait (from the date of submission) before development or use can start. Therefore for buildings of this size there is no timescale for the application. The submission of this documentation has deemed compliance with the development.

This is quite an innovative way of achieving some commercial development on your farm, without requiring a planning application.

It is always advisable that you achieve a notification or letter of acknowledgement from the LPA and for absolute certainty on the development you may wish to submit a Lawful Development Certificate (LDC) confirming that your submission is lawful. In the majority of cases a LDC is excessive, but it could be useful for a site that may have a contentious planning history or previously had difficulty in achieving commercial planning consents.



Development of 151 sq.m to 500 sq.m of existing floor space

Where the cumulative, existing floor area to be changed exceeds 150 sq.m but does not exceed 500 sq.m, you must submit a Class R prior notification to the LPA.

There are only four reasons why prior approval may not be given by the LPA. The LPA cannot take any other reasons into account and Class R is not assessed against wider planning policy.

1. Transport and highway impacts of the development

The transport and highway impacts of the proposal need to be carefully assessed. You need to ensure that the building utilises the existing farm access where possible as this will have a historic use to the character of that access.

Uses that generate a lot of traffic movements or heavy goods vehicles may not comply with Class R, especially if the farm is in a remote location.

Buildings may only be accessible by a private track and a use such as a hotel or educational institution may require passing bays.

Usually transport impacts can be assessed and mitigated with a traffic survey or an accompanying highway statement.

2. Noise impacts of the development

The noise impacts of the proposals will be most relevant based on the intended user and the proximity of that use to surrounding land uses. If the agricultural is close to residential dwellings that are not part of the farm, then there could be a requirement for a noise survey to accompany the application.

3. Contamination risks on the site

If the site has a presence of contamination then an application may need to be accompanied by a contamination survey. Examples of contamination could include, diesel tanks, spray stores or close proximity to one, broken asbestos or records of contamination.



4. Flood risk

The flood risk zone of your farm will influence whether there is a requirement for a flood risk assessment to accompany your application. If you are in Flood Zone 1 then this is outside of any area at risk from flooding. Flood Zone 2 is a moderate risk and Flood Zone 3 is a high risk or flooding. In Flood Zones 2 and 3 your application will require a flood risk assessment.

As the application relates to a change of use, the covered floor area remains unchanged in any flood zone. The main factor for consideration is that if the use is a hotel then this will be of a higher flood risk compared to a storage use where there is no accommodation.

Permitted Uses

You are permitted to change the use of agricultural buildings to the following commercial uses. The changes of use can all be under the same use classes or a mixture of the use classes.

B8 – Storage or distribution

C1 - Hotels

Class E - See below

Unfortunately, the B2 use class for heavy industrial is not included under Class R and would require a full planning application. A lot of commercial tenants on farms will fall under the use class B2, so when preparing your Class R application you should be mindful of which end user may be best suited to this permitted development right.

CLASS E USE CLASS

The Class E use class was introduced on 1 September 2020 and amalgamated some of the former use classes. Uses under Class E now include:

E(a) Display or retail sale of goods, other than hot food

E(b) Sale of food and drink for consumption (mostly) on the premises

E(c) Provision of:

E(c)(i) Financial services,

E(c)(ii) Professional services (other than health or medical services), or

E(c)(iii) Other appropriate services in a commercial, business or service locality

E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms)

E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)

E(f) Creche, day nursery or day centre (not including a residential use)

E(g) Uses which can be carried out in a residential area without detriment to its amenity:

E(g)(i) Offices to carry out any operational or administrative functions,

E(g)(ii) Research and development of products or processes

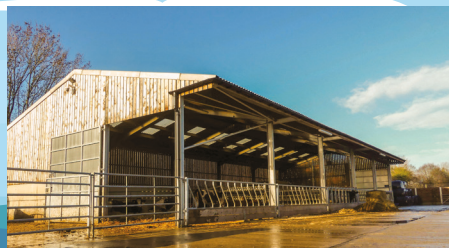
E(g)(iii) Industrial processes"

What Use Class do you have Following an Approval

Class R is a unique determination in that instead of changing the use of the building to a specific use class, any completed conversion will be treated as 'Sui Generis'. This means the permitted use will not fall into any specific use class. This means that any future changes to C3 residential for example will require full planning permission.

Redundant Buildings

Agricultural buildings do not need to be redundant to benefit from Class R and can be in active agricultural use.



Structure of the Building

The structure of the building must be capable of accommodating the change of use. Alterations to the building is restricted to internal alterations. Any rebuilding or structural alterations will require a full planning application.

Application Timescale

The timescale for the application of 151 sq.m to 500 sq.m is a set 56 days without extensions. If the LPA miss the 56 day deadline then you can issue a default notice and proceed with the change of use.

The development must occur within 3 years from the date of the approval otherwise the approval will expire.



Business Rates

Assuming you achieve an approval notice, the building will become liable for business rates, upon implementation of the change of use.



Consultation on the Application

The application will only go out for consultation on the 4 main criteria for assessment:

1. Transport and highway impacts of the development
2. Noise impacts of the development
3. Contamination risks on the site
4. Flood risk

This is a significantly reduced number of consultees compared to a full planning application which may require ecological surveys, bat surveys, drainage and engineering reports etc.



External Alterations

Any external alterations that were not undertaken agriculturally prior to the change of use application, will require a full planning application alongside Class R.

Historic or Existing Planning Permissions on the Farm

None of the historic or existing planning permissions (including commercial planning consents) will impact on the Class R permitted development right, unless you have previously submitted a Class R application.

National Parks and Areas of Outstanding Natural Beauty

These rights do exist if your farm is in a National Park or Area of Outstanding Natural Beauty (AONB).

Listed Buildings

The Class R right does not apply to a listed building, nor a building that is a curtilage listed building. In some circumstances, an application may require a heritage statement where it is unclear whether an agricultural building is curtilage listed. Sometimes, the opinion of a curtilage listed building can be a subjective opinion of the local conservation officer.

Scheduled Monument

If your building is a scheduled monument it does not comply with Class R.

Other Exclusions

Class R does not apply for an agricultural building which

- forms part of a (or be located within) a safety hazard area
- forms part of an explosives storage area

Surrounding Uses

The surrounding uses to the building subject to a Class R application are critical to the success of such an application. This may include a close proximity to residential dwellings or adjoining agricultural uses which conflict with the intended end use.

As an example, you are permitted to apply for a change of use to a shop and this cannot occur amongst a cattle breeding building which may contain a bull as members of the public will be attending. Another example is where the building may border a third party residential dwelling or a similar sensitive surrounding use.



The Foxes Rural Top Tips

1. Do not merge your farm holdings together when you make a submission. By submitting applications under Class R for different farm holdings, you benefit from the 500 sq.m cumulative threshold for each farm yard.
2. Undertake any repairs to the building agriculturally prior to making any submission to ensure that the agricultural building is fit for a change of use.
3. Try and use Class R over a full planning application for achieving commercial development on your farm because the application process is far simpler and requires significantly less consultation compared to that of a full planning application.
4. The Class R permitted development right does not offset an agricultural or residential permitted development right and vice versa. This means the Class R right can be used in isolation.





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