

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	242180
Site Address:	Glasspool Farm, Part Lane, Riseley, Wokingham, RG7 1RU
Expiry Date:	18 October 2024
Site Visit Date:	12/09/2024
Proposal: Prior approval submission for proposed partial demolition and change of use of 1 no. agricultural building (Building C) to a hotel (Use Class C1).	

PLANNING CONSTRAINTS/STATUS

Contaminated Land Consultation Zone
Archaeological Sites
Affordable Housing Thresholds
Bat Roost Habitat Suitability
Scale and Location of Development Proposals
Great Crested Newt Consultation Zone
Nuclear Consultation Zone
Landfill Gas Consultation Zone
Landscape Character Assessment Area
SSSI Impact Risk Zones
Thames Basin Heaths SPA Mitigation Zones
PRoW Within WB Consultation Zone
Ordinary Watercourses Consultation Zone
Archaeological Sites Consultation Zone
Ordinary Watercourse
Great Crested Newt Consultation Zone Householder
JCEB Areas of Search for Sand and Gravel
JCEB Mineral Safeguarding Areas
Great Crested Newt Consultation Zone Minor

PLANNING POLICY/LEGISLATION

Town and Country Planning Act 1990 (as amended)

Section 55	Provides that 'development' includes the carrying out of building operations on land, and 'building operations' includes structural alterations or additions to buildings.
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Section 57	Planning permission is needed for all development of land.
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Section 187a	Enforcement for breach of conditions
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The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Section 7	Prior approval applications: time periods for decision
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Article 3	In conjunction with Schedule 2, Part 3 Class R grants planning permission for the change of use of agricultural buildings to a flexible commercial use
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Article 4	Provides that the planning authority may give direction to restrict the effect of Article 3
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PLANNING HISTORY		
Application No.	Description	Decision & Date
TP/2006/6744	Change of use of agricultural land to use for storage / distribution of wood chips (retrospective)	Approved 14/03/2006
152333	Application for prior approval for proposed change of use of three agricultural buildings to dwellinghouses (Use Class C3)	Prior approval approved 14/10/2015
160121	Outline application for the erection of 4no dwellings (all matters reserved)	Refused 16/04/2016
180706	Outline application for the proposed erection of 3 no. new dwellings (all matters reserved)	Refused 01/05/2018
181989	Application for prior approval for the proposed change of use of an existing agricultural building and the land within its curtilage to 5 no. dwelling houses	Prior approval approved 07/09/2018
193385	Prior approval submission for proposed part conversion of 2 no. barns to form 5 no. dwellings.	Prior Approval Refusal 28/01/2020
193386	Prior approval submission for proposed part conversion of barn to flexible use.	Prior Approval Refusal 28/01/2020
200243	Prior approval submission for the conversion of 2 no agricultural buildings to provide 5 no. dwelling houses.	Prior Approval- approved 26/02/2020
200371	Prior approval (Class R) submission for the proposed change of use of 1no. agricultural building to an office use building with ancillary parking.	Prior Approval – approved 15/05/2020
213273	Full application for the proposed erection of one 5 no. bedroom detached dwellinghouse and detached garage following demolition of existing farmhouse and associated outbuildings.	Refused 03/02/2022
214052	Full application for the proposed erection of one 4no. bedroom dwelling.	Refused 07/02/2022
223623	Application for the prior approval of the erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 8.00m, for which the maximum height would be 4.00m and the height of the eaves 2.40m.	Prior Approval- approved 23/01/2023

230260	Prior approval submission for proposed part conversion of 3 no. agricultural barns to form 5 no. dwellings with associated works including partial demolition.	Prior Approval-refused 24/03/2023
230850	Householder application for the proposed raising of the roof with the insertion of 1no. front dormer window and 2no. rear roof lights to create habitable accommodation. Proposed single storey side/rear extension with roof lights and single-storey front extension to create a porch following demolition of existing roof, ground floor utility and bathroom and demolition of chimney on eastern elevation and chimney on northern elevation and changes to fenestration.	Withdrawn 04/08/2023
232273	Change of use of land to residential for the proposed erection of 1 no. detached dwelling and garage following demolition of the existing garage and agricultural outbuilding. (Part retrospective).	Approved 17/05/2024

CONSULTATION RESPONSES

Internal

WBC Environmental Health – No objection subject to conditions
WBC Drainage – No objection subject to conditions
WBC Highways - No objection subject to conditions
WBC CIL – No response received

External

Berkshire Archaeology – Likely archaeological implications on operational development (not a matter considered under Class R).

REPRESENTATIONS

Parish/Town Council	Objection received from Swallowfield Parish Council on grounds of harm to character, unsustainable development location
Ward Member(s)	No comments received.
Neighbours	12 objections have been received from residents on the following grounds: - Harm to highway safety - Unsightly appearance - Lack of demand - Harm to the character and appearance of the area - Lack of amenities/ unsustainable development location - Drainage and flooding

	- The use has not been agricultural for 40 years - Need for hotel facilities - Urbanisation - Noise impact - Harm to neighbouring amenities - Harm to vulnerable road users (walkers and horse riders) - No mains foul drainage system - Parking provision - Inaccurate planning statement - Harm to biodiversity - Harm to adjoining listed building
Officer response	Whilst concerns by residents and the parish concerning harm to character, biodiversity, foul drainage, listed buildings, need, demand and sustainability these are not matters to be considered under Schedule 2, Part 3, Class R of the General Permitted Development Order. In terms of highway safety and parking provision, upon consultation WBC Highways did not object to the application and noted the trip generation and parking provision reflected adopted standards expected for the nature of the development. Concerning the alleged inaccuracies within the planning statement (particularly relating to historic use) Officers note the LPA have previously regarded the site as falling within an agricultural unit. Accordingly, there is no reasonable grounds to deviate from this consistency of approach.

PART R.1 APPRAISAL				
Town and Country Planning Act 1990 (as amended)			Yes	No
1	s.55	Does it constitute development?	✓	
2	s.191	Would it be contrary to an enforcement notice?		✓
3	s.187a Art.3 (4)	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted?		✓
The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)			Yes	No
4	Art.3 (5)	Are the building operations involved in the construction of the original building lawful?	✓	
5	Art.4	Is there an 'Article 4 Direction' in effect for the site?		✓

6	Sch.2 R.	Does it consist of a change of use of a building and land within its curtilage from an agricultural building to a flexible use- (a) falling within one of the following provision of the Use Classes Order (i) Class B2 (general industrial of Schedule 1; (ii) Class B8 (storage and distribution) of Schedule 1; (iii) Class C1 (hotels) of Schedule 1; (iv) Class E (commercial, business or service) of Schedule 2; or (v) Class F.2(c) (outdoor sport or recreation) of Schedule 2; or (b) for the provision of agricultural training?	✓	✓
7	R.1(a)	Was the site not used solely for an agricultural use as part of an established agricultural unit— (i) on 3 rd July 2012, or (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 site which was brought into use after 3 rd July 2012, for a period of at least 10 years before the date development under Class R begins?		✓
8	R.1(b)	Would the floor space of buildings which have changed use under class R within an established agricultural unit exceed 1,000 square metres?		✓
9	R.1(c)	Is the site, or does it form part of, a military explosives storage area?		✓
10	R.1(d)	Is the site, or does it form part of a safety hazard area?		✓
11	R.1(e)	Is the building a listed building or a scheduled monument?		✓

PART R.2 APPRAISAL

Conditions: Class R development is permitted subject to the following conditions set out in R.2:

- (a) (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) (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) (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. (i) “curtilage” has the meaning given in paragraph X (interpretation) of this Part;
 - ii. (ii) any reference to “office building” is to be read as a reference to the building which has changed use under Class R.

- (d) (d) where the site is to be used for general industrial purposes within Class B2, it must only be used for the processing of -
- (i) raw goods, excluding livestock, which are produced on the site and are to be sold on the site, or
 - (ii) raw goods mentioned in paragraph (i) together with goods ancillary to the processing of those raw goods

These conditions are noted.

PART R.3 APPRAISAL

Agricultural unit:

The application site is located within a farm complex known as Glasspool Farm. Further to officer site visit, it was evidenced that the site is no longer in active agricultural use, however, given the site's history and the LPA's previous acknowledgement of the site's agricultural nature, building C's feature within an established agricultural unit is not disputed.

Capability of conversion versus operational development:

The existing building itself is an open ended (east and west elevation) former agricultural building. The flank elevation facing Part Lane features part cinder-block wall that does not connect to eaves level, the existing northern elevation features limited block work and is open.

The applicant quotes the 'Hibbitt' case within the submitted covering letter, however, this case was purely in relation to Class Q permitted development as opposed to Class R. Class Q differs in terms of legislation, as the GPDO permits operational development 'reasonably necessary' to facilitate conversion.

Class R does not include the provisions for operational development required to make a building capable or functional for conversion. Whilst not entirely prescriptive in terms of operational development (given it does not apply to Class R) the amendments to the order concerning Class R does not alter this matter. This fact is well established in case law.

To facilitate the proposed hotel, the applicant would require notable operational development in the form of numerous external walls. Whilst the applicant's agent refers Officers to S55(2) of the TCPA regarding 'internal alterations', numerous external walls, 27 windows and 4 doors, demolition fall within the realm of development that would require planning permission.

Whilst a planning application could be sought for the operational development to facilitate the development, no such permission exists. Accordingly, given the proposals are reliant on notable operational development to facilitate the use, the proposal fails to comply with the provisions of Class R.

Proposed elevation	Existing building
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 SIDE ELEVATION (West)	
 SIDE ELEVATION (East)	

Limited details have been provided on the nature of the operational development required to facilitate the conversion. The proposed elevations show the infill development of the western and eastern flank elevations and the positioning of two windows and two doors. Given the existing building is sited on relatively uneven hardstanding, it would be fully reasonable to expect ground works to facilitate foundation connection to the external wall as well as to house the doorframe. These elements require planning permission that cannot be granted by Class R of the GPDO.

Proposed elevation	Existing building
 FRONT ELEVATION (South)	



REAR ELEVATION (North)



Turning to the front and rear elevations (north and south respectively), the proposal would introduce 27 windows and one door. Whilst the details of the materials have not been submitted to the LPA, the elevations provided do not reflect the existing open nature of the external walls, nor the materials indicated within the plans above. The alterations would constitute development which would require planning permission that is not available under Class R of the GPDO.

Further, the elevations and covering letter seem to suggest an element of demolition of adjoining buildings to carry out the use. The submitted structural survey states *"The rearmost portal frames and infill area are to be removed in order to reflect the proposed building layout"*. The submitted covering letter also states *"This application will be for the partial demolition of Barn C as shown on the block plan and the conversion of that area of the barn retained"*. Demolition is a matter that requires planning permission which is not available under Class R of the GPDO.

Finally, the proposed parking provision (located outside of the building's curtilage) and access to these spaces would require extensive hardstanding being placed on site which is classed as operational development requiring planning permission. This operational development is not available under Class R of the GPDO.

With the above in mind, planning permission is required deliver the proposed operational development required to facilitate the use. No such planning permission exists and therefore, the proposal falls outside of the remit of Class R of the GPDO which only allows the change of use. The proposed operational development is not considered to form 'internal alterations' as suggested by the applicant's agent and therefore the proposed prior notification does not meet the requirements of the GPDO.

Curtilage:

Class R, Schedule 2, Part 3 of the GPDO states that permitted development consists of the change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use. The application redline amasses a significant area that exceeds the curtilage of the building, which includes the proposed parking provision. Paragraph X outlines that curtilage for the purposes of Class R means *"(a) the 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, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser;" The parking provision shown in plan form is not located immediately beside or around the agricultural building, not is closely associated to/ serving the existing building. Accordingly, the wider redline encompassing land outside of Building C's curtilage would not be eligible for a change of use under Class R, Schedule 2, Part 3 of the GPDO and the prior approval is unacceptable on this basis.

Floor space:

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, development under Class R is permitted subject to the developer applying to the local planning authority for a determination as to whether the prior approval of the authority will be required on various matters. The proposal consists of building C which is 900sqm in total (however under 1000sqm as per the GPDO) and therefore the following matters must be assessed:

Transport and highways impacts of the development

Objections have been received from the Parish and neighbours in respect of potential highway safety concerns and inadequate access/parking arrangements. However, the Council's Highways Officer has raised no objection to this proposal as the level of traffic would not have an adverse impact on the wider highway network utilising Borough approved trip rates.

Whilst the Highways officer does not raise objection regarding the level of parking provided, as this accords with the borough's parking standards, officers note that the proposed parking provision is located clearly outside of the building's curtilage which cannot be delivered under Class R. Accordingly, acceptable parking provision has not been shown to be deliverable within the curtilage of the building.

Noise impacts of the development

Objections from neighbours have been received and considered in respect of potential noise disturbance associated with the proposed use. However, by their very nature C class uses are not normally noisy by their very nature and are in fact noise sensitive receptors in their own right. Moreover, the Council's Environmental Health Officer has raised no objection to this proposal on these grounds. As such, it is considered that the noise impacts associated with the development are unlikely to be detrimental to residential amenity and the proposal is therefore acceptable in this respect.

Contamination risks on the site

The proposed development is located within the buffer zone of a former landfill site and within a contaminated land consultation zone. This is shown below in figures 1 and 2 below:

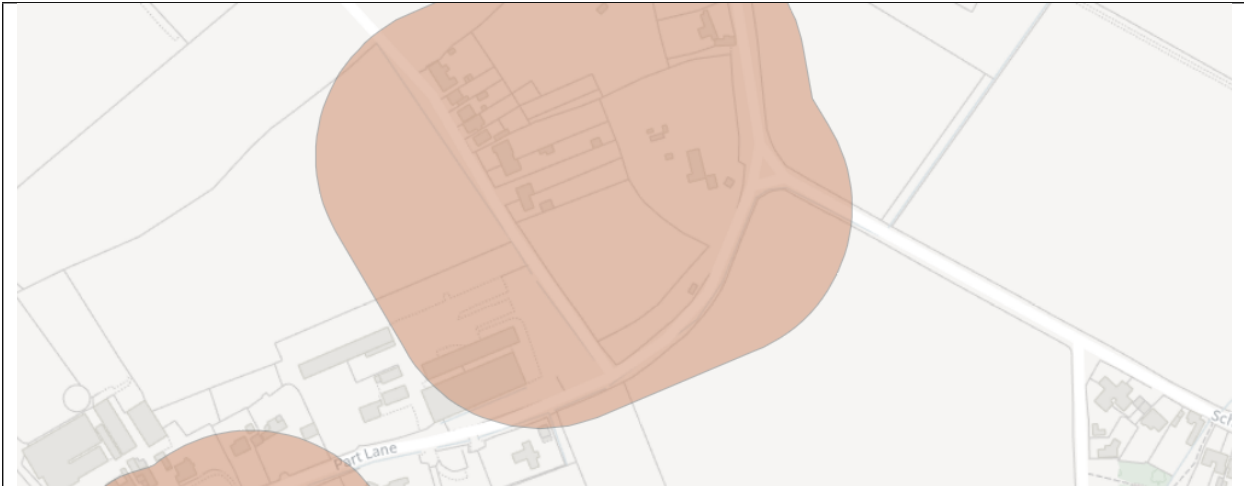


Figure 1 - Potentially contaminated land



Figure 2 - Landfill gas consultation zone

As there is a potential risk of ground gas on the site of the proposed use, the LPA would have expected the applicant to submit a ground gas risk Assessment which would assess the risk of gas ingress on the proposed hotel by way of a desk study. The LPA would further expect a preliminary land contamination assessment, particularly as the proposal seeks permission for a C1 use. Such studies have not been provided, nor acknowledgement that the land is adjacent to a former landfill site and gas risk area.

Whilst the Council's Environmental Health Officer has advised that survey effort could be secured by planning condition for both gas risk and potential contamination, given no information has been submitted and the application is otherwise unacceptable, this is not considered necessary.

In absence of any survey effort or acknowledgment of the site's potentially contaminated and gas risk status, the LPA cannot assess contamination risks as required under Class R and paragraph W(10)©

Flooding risks on the site

The site is within flood zone 1 and therefore at low risk from flooding. The Council's Drainage officer has raised no objection to this proposal. Moreover, given that by the nature of Class R there should be no increase in the footprint of the building and there is already hard standing in place, it is not considered additional flood risk would occur as a result of the change of use.

The provisions of paragraph W (prior approval)

(W.—(1) The following provisions apply where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.

(2) The application must be accompanied by—

(a) a written description of the proposed development, which, in relation to development proposed under Class C, M, N or Q of this Part, must include 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; and

(e) where sub-paragraph (6) requires the Environment Agency(1) to be consulted, a site-specific flood risk assessment,

together with any fee required to be paid.

Paragraph a and e does not apply to the proposal given it is made under Class R of the GPDO and the site is located within flood zone 1. However, paragraphs b,c and d have been satisfied and the correct fee has been paid.

(3) The local planning authority may refuse an application where, in the opinion of the authority—

(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with,

any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.

Please refer to the assessment above.

(4) Sub-paragraphs (5) to (8) and (10) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

(5) Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult—

(a) where the increase or change relates to traffic entering or leaving a trunk road, the highway authority for the trunk road;

(b) the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority; and

(c) the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway.

WBC Highways were consulted on the application and did not raise objection.

(6) Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency(2) where the development is—

(a) in an area within Flood Zone 2 or Flood Zone 3; or

(b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.

Not applicable.

(7) The local planning authority must notify the consultees referred to in sub-paragraphs (5) and (6) specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

Relevant consultation has been published.

(8) The local planning authority must give notice of the proposed development—

(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—

(i) describes the proposed development;

(ii) provides the address of the proposed development;

(iii) specifies the date by which representations are to be received by the local planning authority; or

(b)by serving a notice in that form on any adjoining owner or occupier.

Requisite notice has been served.

(9) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—

(a)assessments of impacts or risks;

(b)statements setting out how impacts or risks are to be mitigated; or

(c)details of proposed building or other operations.

Refer to the assessment above.

(10) The local planning authority must, when determining an application—

(a)take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);

Representations from consultees, residents and the Parish have been acknowledged within the officers report.

(b)have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012(3), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and

Refer to the assessment above. Whilst the site's poor sustainability credentials and location within the countryside are matters considered within the framework that are noteworthy for the scheme, this strays outside of the considerations of Class R.

(c)in relation to the contamination risks on the site—

(i)determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(4), and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(5), and

(ii)if they determine that the site will be contaminated land, refuse to give prior approval.

Refer to assessment above.

(11) The development must not begin before the occurrence of one of the following—

(a)the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or

(c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.

Noted, but not applicable given the prior approval is refused.

(12) The development must be carried out—

(a) where prior approval is required, in accordance with the details approved by the local planning authority;

(b) where prior approval is not required, or where sub-paragraph (11)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (1),

unless the local planning authority and the developer agree otherwise in writing.

Noted, but not applicable given the prior approval is refused.

(13) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

Noted, but not applicable given the prior approval is refused.

Conclusion:

Class R (schedule 2, part 3) of the GPDO applies only to the change of use of buildings and their curtilage. The application requires significant operational development to facilitate the use, which though could be possible through planning permission does not exist at time of determination. Whilst clear in plan form, the operational development required would fall out of the remit of 'internal alterations' and that considered within Class R.

The proposal seeks to change the use of the building and land outside of the curtilage (as defined by paragraph X) of Building C which is not eligible under Class R. The proposed redline, parking provision and associated operational development, in part, falls outside of either Building C or its curtilage and therefore is unacceptable.

The site is located within an area of potentially contaminated land and within a gas risk area. This has not been acknowledged by the applicant, nor has any survey effort been undertaken. The proposal therefore fails to comply with paragraph W(10)(C).

The application for the LPA's prior approval under schedule 2, part 3, Class R is refused for the above reasons.

The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

RECOMMENDATION

Conditions agreed:	Not required
Recommendation:	Prior Notification Refusal
Date:	17 October 2024
Earliest date for decision:	18 September 2024

**Recommendation
agreed by:
(Authorised Officer)**



Date: 17 October 2024