

Report to be read in conjunction with the Decision Notice.								
Signed:	Officer:	AR	Date:	14/04/26	Manager:	LH	Date:	17/4/26

Application Ref:	3/2026/0081			 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected:	N/A	Site Notice:	N/A	
Officer:	AR			
DELEGATED ITEM FILE REPORT:				REFUSAL

Development Description:	Certificate of Lawfulness to confirm the existing use class as a combination of Class E(c)(iii) and a Sui Generis for the provision of 40 weddings per year.
Site Address/Location:	The Outbarn Clough Bottom Rabbit Lane Talbot Bridge Bashall Eaves BB7 3NA

CONSULTATIONS:	Parish/Town Council
N/A	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
LCC Highways:	
N/A	
CONSULTATIONS:	Additional Representations.
N/A	

RELEVANT LEGISLATION AND SITE PLANNING HISTORY:
Town and Country Planning Act 1990, Sections 55, 57 and 191 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 National Planning Practice Guidance – Lawful Development Certificates
Relevant Planning History: 3/2024/0758 - Change of use from a mixed use within Class F1(a) and Sui Generis use as a Wedding Venue for up to 40 days a year to Sui Generis use as a Wedding Venue for up to 100 events a year (Refused). 3/2023/0448 – Proposed construction of ten holiday lodges, woodland path and landscaping (Approved). 3/2018/1067 - Erection of new building to provide eight-bedroom holiday accommodation in connection with existing wedding/training venue business (Approved). 3/2018/0368 – Application for the variation of condition 3 and 4 from planning permission 3/2016/0243 to vary the hours of operation and to allow 40 weddings per year (Approved). 3/2017/0367 – Discharge of condition 7 (one way system) from planning permission 3/2016/0243 (Approved).

3/2016/0243 – Change of use from Class D1 to a mixed use within Class D1 and D2 to allow D2 use as a wedding venue for up to 40 days per year (Approved).

3/2012/0490 - Alterations and extensions to existing training barn (Approved)

ASSESSMENT OF PROPOSED DEVELOPMENT:

Site Description and Surrounding Area:

The application relates to a site known as The Out Barn at Clough Bottom, located to the east of Bashall Eaves, approximately 1.5 miles west of the village boundary of Waddington. The application site is located in an elevated and isolated position and is associated with a larger complex of former agricultural buildings at Clough Bottom. The application site is located within the Forest of Bowland National Landscape (formerly Area of Outstanding Natural Beauty).

Proposed Development for which consent is sought:

This is an application for a Certificate of Lawfulness to confirm the existing use class as a combination of Class E(c)(iii) and a Sui Generis use for the provision of 40 weddings per year.

Assessment:

Section 191 of the Town and Country Planning Act 1990 states:

‘Certificate of lawfulness of existing use or development.

(1)If any person wishes to ascertain whether—

(a)any existing use of buildings or other land is lawful;

(b)any operations which have been carried out in, on, over or under land are lawful; or

(c)any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter’.

In this instance, the applicant seeks to establish the lawfulness of the existing Use Class as a combination of Class E(c)(iii) and a ‘Sui Genesis’ use for the provision of 40 weddings per year.

Section 55 of the Town and Country Planning Act 1990 states “development” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

The following operations shall not be taken for the purpose of this Act to involve development of the land...(f) “in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.”

Section 57 of the Town and Country Planning Act 1990 directs that all operations or work falling within the statutory definition of ‘development’ require planning permission.

In this instance, the applicant is seeking confirmation that the property's existing use class is a combination of Class E(c)(iii) and a Sui Generis use for the provision of 40 weddings per year.

The property had planning permission granted (application 3/2016/0243) for a change of use from Class D1 to a mixed use within Class D1 and D2 to allow D2 use as an event venue for up to 40 days per year. This application was varied by 3/2018/0368 which amended condition 3 and 4 to allow 40 weddings per year. The LPA considers that these permissions were implemented and they established the lawful use of the building.

Prior to the 2016 permission, condition 6 on 3/2012/0490 states:-

The development hereby permitted shall be used for the purposes of a Training centre and no other purpose (including any other purpose in Class D1 of the schedule to the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking that Order with or without modification).

Reason: To safeguard nearby residential amenity and in the interest of highway safety and to comply with Policy G1 of the District wide local plan.

This permission was superseded by permission 3/2016/0243 and this did not impose the same restrictive condition because the nature of the permitted mixed use whereby the uses shared facilities and would not occur on the same day meant that the permitted use was Sui Generis.

The venue is considered to be one planning unit and a Sui Generis use. Therefore the D1 use element is now consumed by the Sui Generis Use rather than being considered an independent use.

Even if the applicant successfully argued that this is not the case and the two uses formed two separate planning units, the Council does not agree that the D1 use falls to be considered within the new Class E Use Class as proposed for the following reasons:-

Since the 2016 and 2018 permissions, there has been a change in legislation with the introduction of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. Paragraph 2 revokes Use Class D, stating:

'In relation to England—

(a) Parts A and D of the Schedule to the Use Classes Order are revoked, and

(b) Part B of that Schedule is modified by regulation 10(3), save to the extent required to give effect to regulations'

Paragraph 7 further states:

'For the purposes of the Use Classes Order, if a building or other land is situated in England, and is being used for the purpose of one of the following classes which were specified in Part A or B of the Schedule to that Order on 31st August 2020, as—

(a) Class A1 (Shops),

(b) Class A2 (Financial and professional services),

(c) Class A3 (Restaurants and cafes), or

(d) Class B1 (Business),

that building or other land is to be treated, on or after 1st September 2020, as if it is being used for a purpose specified within Class E (Commercial, business and service) in Schedule 2 to that Order'.

The Outbarn, prior to 2020, was permitted as D1 and D2 uses and therefore even if the D1 use was agreed as a separate planning unit, it does not benefit from the Class E arrangements in Paragraph 7 above.

The Town and Country Planning (Use Classes) Order 1987 (As amended) Schedule 2 Part A further clarifies what can be classed as Class E:

'Class E. Commercial, Business and Service

Use, or part use, for all or any of the following purposes—

(a)for the display or retail sale of goods, other than hot food, principally to visiting members of the public,

(b)for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,

(c)for the provision of the following kinds of services principally to visiting members of the public—

(i)financial services,

(ii)professional services (other than health or medical services), or

(iii)any other services which it is appropriate to provide in a commercial, business or service locality,

(d)for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,

(e)for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,

(f)for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,

(g)for—

(i)an office to carry out any operational or administrative functions,

(ii)the research and development of products or processes, or

(iii)any industrial process,

being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.'

The permitted 2016 application was clear that the training facility was to continue. As stated in statutory declarations, the inception of corporate training services at the farm dates back to 1991. Focus Experiential Training Ltd operated continuously, providing corporate training from 1998 to 2020, where the newly formed Out Barn Ltd consolidated all of Focus Management Development Ltd.'s trading activity. Section 5 further states 'there has been no material change in the character of the use during that period other than the introduction of wedding functions following the issue of planning consent in 2016'.

It is therefore necessary to consider whether, in the event that the applicant was to successfully argue that it formed one planning unit, this could now reasonably fall into the Class E(c)(iii) use class as claimed by the applicant, which is 'For the provision of the following kinds of services principally to visiting members of the public... any other services which it is appropriate to provide in a commercial, business or service locality' (emphasis added).

The meaning of 'visiting members of the public' has previously been discussed in appeals in the context of Class A1 and A2. By Analogy, the following factors were found to be relevant when deciding whether a D1/D2 use would become a Class E use: membership requirements, prior registration requirements, and

limitations to a particular group. It should be considered whether the main purpose of the use involves a steady flow of visits by members of the public; if people have to undergo specialist consultation or registration processes before accessing goods/services, as this may indicate that the use does not fall within Class E.

APP/U5360/C/23/3326271 discusses the points of 'visiting members of the public' with the inspector stating there is 'no evidence that members of the public visit, and the layout does little to accommodate such visits; with no reception in the lobby, and the duty office located on the mezzanine level, away from the entrance' and 'the use is a private one' in regards to why the appeal fell under Class F rather than Class E. Whilst The Outbarn does contain a reception area, the use is private one; there is no evidence that members of the public can freely visit with their website stating to book a show round/showcase/private viewing to access the premises. The 'Statutory Declarations' written by Alexandra Backhouse, Henry Backhouse (junior), and Henry (Harry) Backhouse also state 'client companies book the site together with professional training staff', which is not a characteristic of Class E.

In addition it is also relevant to consider the meaning of 'commercial, business or service locality'. The Reform of the Use Classes Order (Impact Assessment); a secondary piece of legislation states 'that other uses, such as gyms, nurseries and health centres, which fell within the former D1 Non-residential and D2 Assembly and leisure use classes, are also included in this class (E), as are other uses which are suitable in town centres'. This suggests a narrow interpretation that such a locality relates to town centres which aligns with the wider reform of the 2020 Use Classes Order to support high streets and town centres and boost economic recovery by introducing a new 'commercial, business and service' Use Class.

Even if a wider interpretation was made, The Outbarn is located within the Forest of Bowland National Landscape, to the east of Bashall Eaves and approximately 1.5 miles west of the village boundary of Waddington. It is in an elevated, isolated position and is associated with a larger complex of former agricultural buildings at Clough Bottom, therefore the purpose of Class E(c)(iii) is not to include this location.

The Town and Country Planning (Use Classes) Order 1987 (As amended) Schedule 2 Part A further clarifies what can be classed as Class F:

Class F.1 Learning and non-residential institutions

Any use not including residential use—

- (a)for the provision of education,*
- (b)for the display of works of art (otherwise than for sale or hire),*
- (c)as a museum,*
- (d)as a public library or public reading room,*
- (e)as a public hall or exhibition hall,*
- (f)for, or in connection with, public worship or religious instruction,*
- (g)as a law court.*

Therefore, in the event that the applicant was to successfully argue that this former D1 use formed a separate planning unit to the wedding venue, this is considered to be the relevant use class for that use. Notwithstanding the lack of a restrictive condition, a change from Class F.1 to Class E would not fall within the same use class and would amount to a material change of use. Therefore it would meet the statutory definition of works considered to be development under provisions of section 55(2) of the Act and as such is not considered lawful on the basis that planning permission would not be required for its implementation.

Sui Genesis

As stated above, the venue is considered to be one planning unit and the mixed use nature of the venue means that it is now a Sui Generis use. Therefore the permitted wedding venue (former D2 use element) is now consumed by this Sui Generis Use rather than being considered an independent use.

Even if the applicant successfully argued that this is not the case and the two uses formed two separate planning units, then the former D2 use now falls to be considered within the Sui Generis Use Class as proposed for the following reasons:-

As per application 3/2016/0243, the Outbarn was granted permission for a change of use from Class D1 to mixed use within Classes D1 and D2, allowing D2 use as a wedding venue for up to 40 days per year. Application 3/2018/0368 superseded this application allowing for the variation of condition 3 and 4 from planning permission 3/2016/0243 to vary the hours of operation and to allow 40 weddings per year.

However, in 2020, these use classes were superseded as stated earlier. Whilst some uses within the former D2 use class would now fall under the F2 use class 'local community', in the event that the applicant was to successfully argue that the wedding venue formed a separate planning unit then The Outbarn's use as a wedding venue would not fall within any of the subclasses within F2; therefore, it would fall under Sui Genesis.

Observations/Consideration of Matters Raised/Conclusion:

The venue is considered to be one planning unit and a Sui Generis use. Even if the applicant successfully argued that this is not the case and the two uses formed two separate planning units, the Council does not agree that the former D1 use now falls to be considered within the new Class E(c)(iii) Use Class as proposed. As such, for the above reasons and having regard to all material considerations and matters raised, the application is recommended for refusal.

RECOMMENDATION:

That a Certificate of Lawfulness be refused for the following reason(s).

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| 01: | The venue is considered to be one planning unit and the mixed wedding venue / training facility uses/activities permitted makes this a Sui Generis use. Even if it were successfully argued that the two uses formed two separate planning units, the Council does not agree that the former D1 use now falls to be considered within the new Class E(c)(iii) Use Class as proposed. |
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