

Prior approval notification for the demolition and change of use and external alterations of an existing agricultural building to form 1 no dwelling

Report Item No  
A8

Clock Mill Swebstone Road Measham Swadlincote Derby  
DE12 7HS

Application Reference  
16/01397/PDNATR

Applicant:  
Colin A Roberts

Date Registered:  
6 December 2016  
Consultation Expiry:

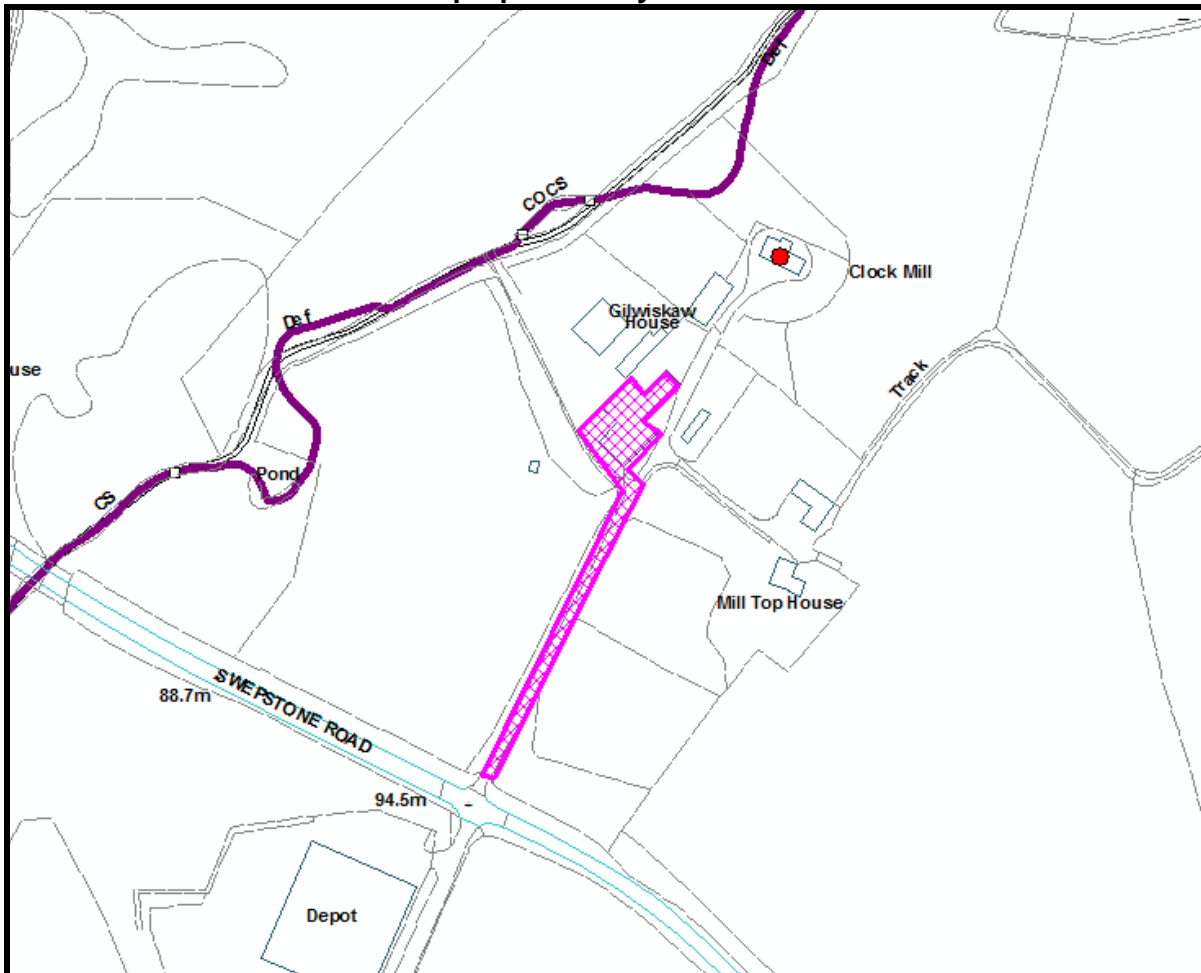
Case Officer:  
Ebony Mattley

2 January 2017  
8 Week Date:  
31 January 2017

Recommendation:  
PERMIT

Extension of Time:  
None Agreed

Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Reasons for Approval**

### **Reason for Call In**

The application is reported to the Planning Committee, at the request of Councillor Blunt on the grounds of highway safety, at the junction where the drive joins the main road,

### **Proposal**

This is an application for prior notification under Part 3 Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the conversion of an existing agricultural barn to form 1 no. residential dwelling and external alterations including demolition, at 'Clock Mil', Swepstone Road, Measham.

### **Consultations**

Members will see from the main report below that there is one letter of representation received (jointly by two neighbours) objecting to the scheme. There are no other objections raised from statutory consultees.

### **Planning Policy**

The application site is located outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan ("adopted Local Plan").

### **Conclusion**

The submission has been assessed against the criteria set out under Part 3 Class Q of the General Permitted Development (England) Order 2015 and has been found to comply with them all. The proposals would be acceptable with regard to noise implications and flood risk, and considered to be acceptable subject to the imposition of conditions in relation to highway safety and contamination risks. Furthermore, the location is considered to be appropriate and the scheme does not give rise to any significant material impacts upon the designs of the building or the appearance of the site. Accordingly it is therefore recommended that prior approval be granted, subject to the imposition of planning conditions.

**RECOMMENDATION - NO OBJECTIONS, subject to no new significant material objections being received prior to the expiry of the consultation period on 2 January 2017 and the imposition of conditions**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

This is an application for prior notification under Part 3 Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the conversion of an existing agricultural barn to form 1 no. residential dwelling and external alterations and demolition at 'Clock Mil', Swepstone Road, Measham.

The General Permitted Development (England) Order 2015 grants permitted development rights to allow for certain types of development without the need for planning permission. However, in cases such as this it is necessary to seek prior approval from the Local Planning Authority as to whether specified elements of the development are acceptable before work can proceed. The assessment criteria for prior notification applications are strictly limited to those defined in the General Permitted Development (England) Order 2015; the specifics of which have been identified in the detailed report. The Local Planning Authority may grant prior approval either unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. If a decision does not reach the applicant within the 8 week expiry date from the date of receipt of the application by the Local Planning Authority then the development would be permitted by default.

#### Recent Planning History:-

16/00592/PDNATR - Prior approval notification for the change of use and external alterations of existing agricultural building to form 3 no. dwellings - Refused - 16.06.2016.

Applications between 2001 and 2003, including that reference below, for the conversion of a barn to a dwelling is not the same building as that seeking conversion within this application.

03/00969/FUL - Conversion of barn to one dwelling and alterations to access - Approved - 12.09.2003.

### 2. Publicity

4 Neighbours have been notified.  
Site Notice displayed 12 December 2016.

### 3. Summary of Consultations and Representations Received

The following summary of representations is provided:

#### Statutory Consultees

**Natural England** raises no objection, subject to the imposition of conditions.

**Leicestershire County Council - Highways** raises no objection, subject to the imposition of a condition.

**NWLDC Environmental Protection - Land Contamination** raises no objection, subject to the imposition of conditions.

**NWLDC Environmental Protection** has no environmental observations.

### Third Party Representations

One letter of objection has been received (jointly by the owners of Milltop House and Clock Mill) raising the following concerns:-

- the application is invalid - the present authorised use of the site is not agricultural and the site has benefit of planning permission for residential use ref: 03/0969 and the planning permission has been implemented;
- the conversion would neither be practical nor desirable;
- the size of the building is inappropriate for a single dwelling and twice the size of a large four bedroom house;
- the access from Swebstone Road to the proposed development is owned by Clock Mill and the applicant has access only via a narrow single trackway;
- the entrance and access off Swebstone Road is owned by Clock Mill;
- the applicant has no say in the width of the entrance, surfacing, visibility splays. Signage cannot be erected, the gates open both ways;
- the applicant has never contacted us within regards to the access;
- the applicant's access along the driveway does not permit any passing places and any cars meeting only have the option of reversing onto the highway;
- proximity to Gilwiskaw Brook and impact upon the SSSI;
- the conversion is a metal and tin shed with internal girders;
- approval will set a precedent for all tin sheds; and
- details of demolition have not been included on the plans.

All responses from statutory consultees and third parties are available for Members to view on the planning file.

#### 4. Relevant Planning Policy

Town and Country Planning (General Permitted Development) (England) Order 2015 Part 4, Class Q of Schedule 2.

##### *National Planning Policy Framework (NPPF)*

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the NPPF. The closer the policies in the development plan to the policies in the NPPF, the greater weight they may be given.

Save where stated otherwise, the policies of the adopted Local Plan as listed in the section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 17 (Core planning principles)
- Paragraph 57 (Requiring good design)
- Paragraph 59 (Requiring good design)
- Paragraph 60 (Requiring good design)
- Paragraph 61 (Requiring good design)

Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 118 (Conserving and enhancing the natural environment)

### **Adopted North West Leicestershire Local Plan (2002)**

The following adopted Local Plan policies are relevant to this application:

Policy S3 - Countryside

Policy E3 - Residential Amenity

Policy E4 - Design

Policy T3 - Highway Standards

Policy T8 - Parking

### **Submitted North West Leicestershire Local Plan**

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. The weight to be attached by the decision maker to this submitted version should be commensurate to the stage reached towards adoption.

S3 - Countryside

D1 - Design of New Development

D2 - Amenity

EN2 - River Mease Special Area of Conservation

CC2 - Water - Flood Risk

IF7 - Parking Provision and New Development

### **Other Guidance**

National Planning Practice Guidance - March 2014.

The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System.

River Mease Water Quality Management Plan - August 2011.

River Mease Water Quality Management Plan - Developer Contribution Scheme June 2016.

### **6Cs Design Guide (Leicestershire County Council)**

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new development.

## **5. Assessment**

The site lies outside Limits to Development, as defined in the adopted Local Plan and outside Limits within the publication version local Plan, however the principle of the development is only subject to assessment criteria identified in the General Permitted Development (England) Order 2015.

Therefore the principle of and the need for the proposed dwelling (Policy S3 of the adopted Local Plan) does not need to be considered as part of this prior notification application.

The General Permitted Development (England) Order 2015 makes it clear that, where a development falls under Part 3 Class Q of Schedule 2 of the Order, the Local Planning Authority can only determine whether prior approval will be required in relation to 6 specific matters. Those matters that fall for consideration are:-

- 1) Transport and highways impacts of the development
- 2) Noise impacts of the development
- 3) Contamination risks on the site
- 4) Flooding risks on the site
- 5) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwelling house
- 6) The design or external appearance of the building

The Local Planning Authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The General Permitted Development (England) Order 2015 also imposes some standard conditions on any development that is classified as general permitted development under Part 3, Class Q of Schedule 2.

This report, below therefore refers only to those six matters, identified above.

### **1) Highways**

The previous application for prior notification ref: 16/00592/PDNATR for 3 dwellings was refused on the grounds of highway safety.

The scheme has been considered by the County Highway Authority (CHA) who confirm that whilst they have the same concerns with the site access, the individual circumstances surrounding each planning application must be taken into account in order to assess the merits of the application. In this case the CHA are of the opinion that the change of use of an agricultural building to one residential dwelling would potentially reduce the number of larger slower moving vehicles visiting the site and so consider this to be betterment, in highway terms.

The CHA conclude that on balance, the scheme is acceptable from a highway point of view and recommend that a condition be imposed in respect of providing and hard surfacing the parking spaces.

In relation to 'betterment' for the avoidance of doubt, the site could be continued to be or brought back into an agricultural use, at any time.

Therefore, it is not considered that the proposal would conflict with Saved Policies T3 and T8 in the adopted Local Plan or IF7 of the submitted Local Plan.

### **2) Noise impacts**

The Council's Environmental Protection Officer has no objection to the proposal and has not raised any concerns regarding noise implications. Therefore it can be concluded that the proposed dwelling will have an acceptable level of residential impact in accordance with Saved Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.

### **3) Contamination**

The Council's Environmental Protection Officer has advised that it is necessary to attach conditions in relation to land contamination.

### **4) Flood Risk**

The site is not within flood zones 2 or 3 and therefore no concerns are raised with regards to flood risk.

### **5) Location**

The location of the proposal must be considered to ensure it would not be impractical or undesirable for the building to change from an agricultural building to one dwelling.

The wider site forms part of a farm, but this building is isolated from the main farm house. The nearest agricultural buildings are not considered to cause any impact upon future residential amenity.

The nearest building received consent for conversion to a residential use ref: 03/00969/FUL and documentation confirms that the Local Planning Authority is satisfied that development commenced. Accordingly the closest building also affords residential status.

### **6) Design**

The scheme proposes render and cedar cladding with anthracite grey roof sheets and grey windows and doors. The scheme proposes large expanse of glazing to the south west, north east and north-west elevations. The window and glazing proportions to the mass of the building are considered acceptable and the use of the materials are considered to complement the scheme.

The proposals are therefore considered to respect the character of their surroundings in terms of scale, design, density, height, massing and materials of construction and as such would be compliant with Saved Policy E4 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

### **Other Matters**

#### **Structural Integrity**

Paragraph 105 of the NPPG states that the PD right allows for the installation or replacement of windows, doors, roofs exterior walls, water, drainage, electricity, gas or other services to the extent reasonable necessary for the building to function as a dwellinghouse.

#### **River Mease SAC/SSSI**

The site lies within the catchment area for the River Mease Special Area of Conservation (SAC). Whilst the impact of the buildings on the SAC cannot be taken into account when determining this submission, the applicant is required to obtain prior approval before undertaking something that is deemed permitted development that might have a likely significant effect on the SAC. Natural England can be requested to provide an opinion as to the likelihood of a development having a likely significant effect. A note to applicant should therefore be imposed advising the

applicant of this matter.

It is also noted that Natural England have recommended conditions be imposed and a contribution under the River Mease DCS may be applicable. However, as this type of prior notification cannot consider foul drainage and the SAC, it would not be possible to attach conditions relating to foul drainage or a contribution under the River Mease DCS, in this instance.

### **Letter of Representation**

The building was included within the application site of application ref: 03/00969/FUL and the plans show an annotation for the barns to be demolished, however no conditions were imposed in relation to demolition. Whilst the adjacent barn has consent for conversion, this barn, subject to this application does not have any residential status. Notwithstanding the requirement to satisfy a series of other criteria under the General Permitted Development (England) Order 2015, in relation to the previous use of the building, providing that the last use has been agricultural and there has been no intervening use, then it is acceptable for a prior approval notification to be submitted.

Accordingly it is not considered that this prior approval notification application is invalid. It is the last use of the building that is required to be agricultural and there is no reason to suggest from visiting the site that it has been used for anything else. It does not have any residential status and was not the building subject to consent ref: 03/00969/FUL for conversion.

With regards to size, a prior approval application can be made up to the floor area of 450 square metres and therefore on this basis, it is likely the size of a residential property would be large for a modern agricultural conversion.

The concerns raised by the neighbours with regards to the access and highway matters have been considered by the County Highway Authority.

The implications upon the River Mease SAC/SSSI have been addressed above.

### **Conclusion**

The submission has been assessed against the criteria set out under Part 3 Class Q of the General Permitted Development (England) Order 2015 and has been found to comply with them all. The proposals would be acceptable with regard to noise implications and flooding risk and considered to be acceptable, subject to the imposition of conditions in relation to highway safety and contamination risks. Furthermore, the location is considered to be appropriate and the scheme does not give rise to any significant material impacts upon the designs of the building or the appearance of the site. Accordingly it is therefore recommended that prior approval be granted, subject to the imposition of planning conditions.

**RECOMMENDATION - NO OBJECTIONS, subject to no new significant material objections being received prior to the expiry of the consultation period on 2 January 2017 and the following conditions:-**

- 1 The development shall be completed before the expiration of three years from the date of this permission.



*Reason: To comply with the requirements of Class Q, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.*

- 2 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission: 'Amended Site Layout Plan' and 'Proposed Elevations & Floor Plans. Design Section A/A' Drawing No. HMD/PD/0370/01 received by the Local Planning Authority on 6 December 2016.

*Reason: To determine the scope of this permission.*

- 3 In relation to Condition 2, the proposed development does not include any balcony projecting beyond the exterior walls of the dwelling, hereby approved.

*Reason: For the avoidance of doubt and to determine the scope of this permission.*

- 4 Before first occupation of the dwelling hereby approved, the section of the agricultural building shall first be demolished.

*Reason: To ensure the residential amenity of future occupiers is maintained.*

- 5 The external materials to be used in the development hereby permitted shall be in strict accordance with those specified in the application details, unless alternative materials are first agreed in writing with the Local Planning Authority.

*Reason: To ensure a satisfactory standard of external appearance.*

- 6 No development (except the demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- a) BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
- b) BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs); and
- c) CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- d) Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:
- e) CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004; and
- f) BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings
- g) The Verification Plan shall be prepared in accordance with the requirements of:
- h) Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- i) CLR 11 Model Procedures for the Management of Land Contamination,

published by The Environment Agency 2004.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

*Reason: To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.*

7 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- a) Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- b) Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- c) Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- d) Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- e) Demonstrate the effectiveness of the approved Remedial Scheme; and
- f) Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

*Reason: To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.*

8 Before first occupation of the dwelling hereby approved, car parking shall be provided, hard surfaced and made available for use in accordance with the submitted details: 'Amended Site Layout Plan' (Scale 1:500) received by the Local Planning Authority on 6 December 2016. The parking spaces so provided shall thereafter be permanently so maintained.

*Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.*

### **Notes to applicant**

1 The site lies within the catchment area for the River Mease Special Area of Conservation (SAC)/SSSI. Contact Natural England (0300 060 3900) for an opinion as to whether the proposed building is likely to have a significant effect on the special features of the SAC/SSSI. If this is considered to be the case then written prior approval from the Local

## **PLANNING APPLICATIONS- SECTION A**

Planning Authority will be required before the development can be carried out. If you do not consult Natural England first regarding this matter, you will need to make an application direct to the Local Planning Authority for written prior approval of the development.