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**Prior approval notification for change of use from agricultural building to a residential dwelling**

**Report Item No  
A6**

**Lowlands Farm Measham Road Oakthorpe Swadlincote  
Leicestershire DE12 7RF**

**Application Reference  
15/00749/PDNATR**

**Applicant:  
Redfern Bros**

**Date Registered  
27 July 2015**

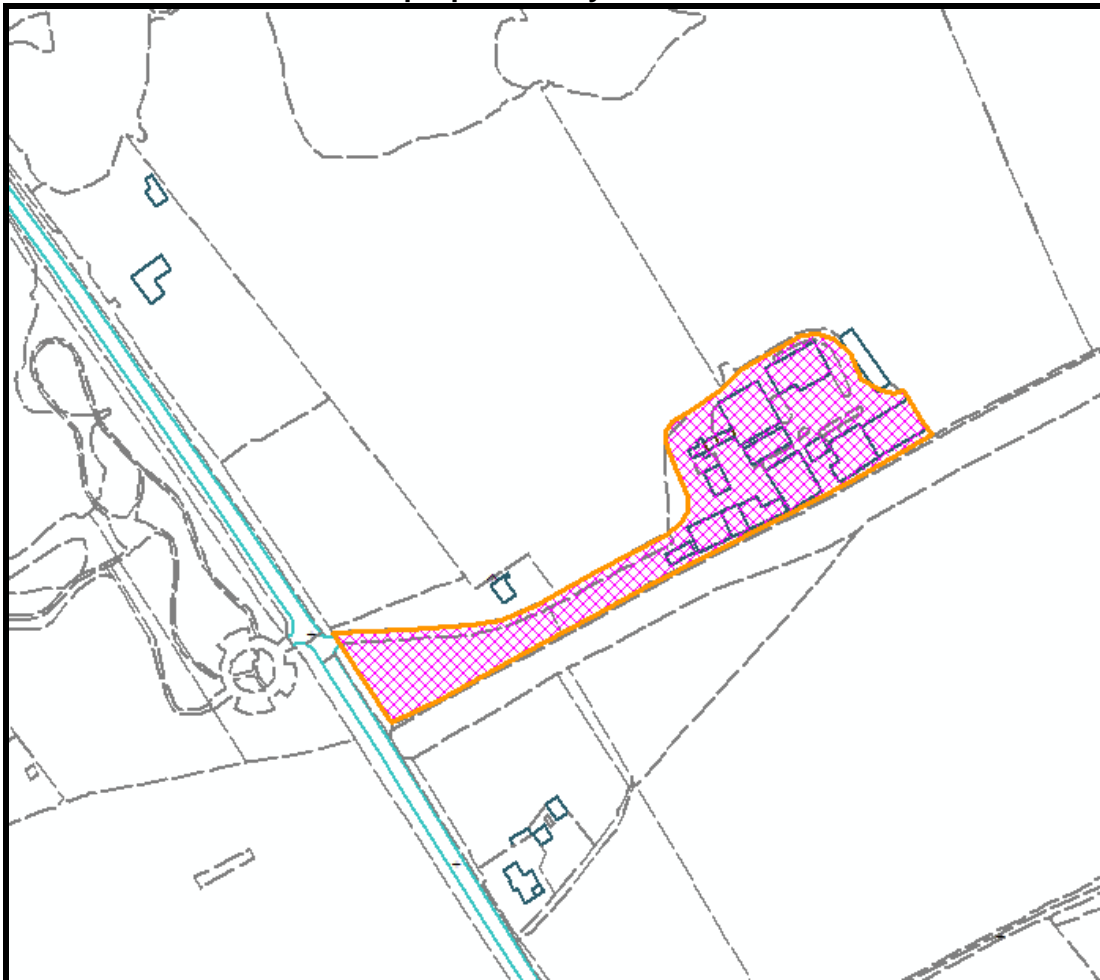
**Case Officer:  
Sarah Booth**

**Target Decision Date  
7 September 2015**

**Recommendation:  
NO OBJECTIONS**

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**Site Location - Plan for indicative purposes only**



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## **Executive Summary of Proposals and Recommendation**

### **Call In**

The application falls to be determined by the Planning Committee as the agent is related to Cllr Richard Blunt.

### **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 change of use of an existing agricultural building to create a new dwelling. The barn is a former mill that is currently used for a combination of agricultural storage, a workshop and kennels for working dogs. The building is attached to the original farm house and is located within the main farming unit at Lowlands Farm.

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 Order 2015; the specifics of which have been identified in the detailed report. The local planning authority may grant prior approval 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 then the development would be permitted by default.

### **Consultations**

No letters of representation to the application have been received from third parties, to date, and no adverse comments have been received from statutory consultees. Any relevant comments received following the publication of the Planning Committee Agenda will be reported to members on the Committee Update Sheet.

### **Planning Policy**

It is considered that the development would accord with Town and Country Planning (General Permitted Development) (England) Order 2015, all relevant policies of the North West Leicestershire Local Plan and the general principles of the National Planning Policy Framework (NPPF).

### **Conclusion**

The scheme does not give rise to any significant material impacts upon the design of the building or the appearance of the site. The proposal would be acceptable with regard to highway safety, noise implications, contamination risks on the site (subject to conditions) and flooding risks on the site. Furthermore the Location is considered to be appropriate given that there are existing residential properties on site including the existing attached farmhouse. The development would accord with the criteria set out in the General Permitted Development Order 2015, advice within the NPPF and Policies E3, E4, T3 and T8 of the Local Plan. It is therefore recommended that this prior notification application be allowed.

## **RECOMMENDATION:- NO OBJECTION SUBJECT TO 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 prior notification application seeks permission for the conversion of an existing barn to a residential dwelling. The existing building is a former mill that is currently used for a combination of agricultural storage, a workshop and kennels for working dogs. The barn in question adjoins the north eastern wall of the existing farmhouse and is situated at least 200 metres from the nearest highway. The next neighbouring dwellinghouse is located some 115 metres to the south west of the development.

The site lies outside limits to development as defined in the North West Leicestershire Local Plan however the principal of the development is only subject to assessment criteria identified in the General Permitted Development Order 2015. Therefore the principle of and the need for the proposed dwelling (Policy S3 of the Local Plan) cannot be considered as part of this prior notification application.

The General Permitted Development 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:-

- Transport and highways impacts of the development
- Noise impacts of the development
- Contamination risks on the site
- Flooding risks on the site
- 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
- The design or external appearance of the building

The LPA may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Order 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 therefore refers only to those 6 matters identified above.

### Relevant Planning History:-

No relevant planning history.

### 2. Publicity

2 Neighbours have been notified

Site Notice displayed 4 August 2015

### 3. Consultations

Oakthorpe & Donisthorpe Parish Council consulted  
County Highway Authority  
Environment Agency  
Severn Trent Water Limited  
Head of Environmental Protection  
Natural England-

#### 4. Summary of Representations Received

The following summary of representations is provided.

##### Statutory Consultees

**Oakthorpe & Donisthorpe Parish Council** - No response received at the time of writing this report but should any comments be received they will be reported to Members via the Update Sheet.

**Leicestershire County Council Highways** - On the basis of the Highway Authority's site visit, conducted on the 18th August 2015, the Highway Authority find that it is reasonable to suggest that this proposal will not cause a severe impact on the highway network, has acceptable visibility splays and existing access. Therefore the Highway Authority has no further comment to make.

##### Advisory Note to Applicant

The proposal is situated in excess of 45 metres from the highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.

**Environment Agency** - Have reviewed the application and have no comments to make.

**Severn Trent Water Ltd** - No objection to the proposal.

**NWLDC Environmental Protection** have recommended a land contamination condition due to the history of the site.

**Natural England** - have raised no objection to the proposal but have recommended conditions to be attached if permission is granted relating to the River Mease Special Area of Conservation (SAC).

No third party letters of representation have been received at the time of writing this report.

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

#### 5. Relevant Planning Policy

##### National Policies

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

##### *National Planning Policy Framework*

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 Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Save where stated otherwise, the policies of the North West Leicestershire 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 173 (Ensuring viability and delivery)  
Paragraph 203 (Planning conditions and obligations)  
Paragraph 204 (Planning conditions and obligations)

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

The application site is within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy E3 - Residential Amenity  
Policy E4 - Design  
Policy T3 - Highway Standards  
Policy T8 - Parking

#### **Other Policies**

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

#### **Submission Core Strategy**

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

### **6. Assessment**

#### **Highways**

The site is accessed off Measham Road in Oakthorpe from a 160 metre long track road. It is considered that the proposed new dwelling will only give rise to minimal increase in traffic movements. The development will have acceptable visibility splays from the existing access and the County Highway Authority has determined that it is reasonable to suggest that this proposal will not cause a severe impact on the highway network. Therefore, it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the Local Plan or the advice in the NPPF.

The County Highways have suggested an advisory note to applicant regarding adequate access for emergency vehicles. It is recommended to include this advice should the application be approved.

### **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 Policy E3 of the Local Plan.

### **Contamination risks on the site**

The Council's Environmental Protection Officer has advised that it is necessary to attach a condition regarding decontamination of the land should permission be granted.

### **Flooding risks on the site**

The site is not within a flood zone and no objections have been raised by the Environment Agency.

### **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 a dwelling. Immediately adjoining the subject property is Lowlands Farmhouse which is occupied as a dwelling. The proposal also lies in close proximity to a cluster of other agricultural buildings including an agricultural corn storage building to the north east. It is intended that the barn conversion would be occupied by a farm worker therefore it is not considered that the close proximity of agricultural buildings would be a concern.

The site is located approximately 170 metres from the main highway and is not visible from a public vantage point. The area immediately beyond the farming unit consists mostly of open countryside but also includes a residential bungalow part way along the access track to the farm, which is some 120 metres away from the proposal. Given that there are other residential properties on site, including the attached farm house, it is considered that the location of the building is acceptable in this regard.

### **Design**

This proposal consists of the conversion of an existing red brick agricultural building which would not significantly alter externally other than some minor fenestration alterations. The submitted plans show that the proposal will be sympathetically converted and that this will have a positive visual impact on the surrounding area with the barn being properly maintained. The proposal is therefore considered to respect the character of its surroundings in terms of scale, design, density, height, massing and materials of construction and as such would be compliant with Policy E4 of the Local Plan and section 7 of the NPPF.

### **River Mease**

The site lies within the catchment area for the River Mease Special Area of Conservation. Whilst the impact of the building 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 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 noted that Natural England have recommended conditions should the application be allowed. However, as this type of prior notification cannot consider the SAC it would not be possible to attach conditions relating to the River Mease in this instance.

**Other**

The proposed development lies within an area which could be subject to risks or hazards resulting from past coal mining. Whilst this is not a material consideration for this notification application it is recommended that an informative note to applicant is included if permission is granted.

**Conclusion**

There have been no objections to the proposed development. 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 all of them. The size of the building would not increase and would be of a similar character and appearance to the existing structure on the site. It is therefore considered that the proposal would not have any significant detrimental impact on the character and appearance of the building or the site as a whole. As such the proposal would accord with Section 7 of the NPPF and Policy E4 of the Local Plan. The proposal would not have detrimental impacts on noise in accordance with Policy E3 of the Local Plan. Land contamination issues are considered to be acceptable subject to conditions and no concerns have been raised in relation to flooding. The County Highway Authority has raised no objections to the development and the proposal will not be detrimental to highway safety. This would therefore comply with policies T3 and T8 in the Local Plan and the advice in the NPPF.

There are no other relevant material planning considerations that indicate the application should not be granted prior approval. The proposed development accords with the planning policies stated above and it is therefore recommended that prior approval be granted.

**RECOMMENDATION - NO OBJECTIONS, subject to conditions**

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

*Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).*

- 2 The proposed development shall be carried out strictly in accordance with the following amended plans, unless otherwise required by a condition of this permission:

Proposed Plans drawing number Low.PRE.002 received by the Local Planning Authority on 27 July 2015

Proposed Elevations drawing number Low.PRE.004 received by the Local Planning Authority on 27 July 2015

Site Location Plan received by the Local Planning Authority on 27 July 2015

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

- 3 All external materials used in the development hereby permitted shall be of the same type, texture and colour as those used in the existing building, unless otherwise agreed in writing by the Local Planning Authority.

*Reason- to ensure a satisfactory standard of external appearance.*



- 4 No development 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:
- o BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
  - o BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
  - o BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
  - o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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:

- o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

The Verification Plan shall be prepared in accordance with the requirements of:

- o Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

The development shall be carried out in accordance with the agreed Remedial Scheme and Verification Plan.

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.*

- 5 Prior to occupation of the building hereby approved, a Verification Investigation shall be undertaken in line with the agreed Verification Plans for any works outlined in the Remedial Schemes 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:
- o Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;

- o Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- o 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;
- o Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- o Demonstrate the effectiveness of the approved Remedial Scheme; and
- o 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.*

### Notes to applicant

- 1 The site lies within the catchment area for the River Mease Special Area of Conservation (SAC)/SSSI. I would suggest that you 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 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.
- 2 The proposal is situated in excess of 45 metres from the highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 3 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:
  - Collapse of shallow coal mine workings.
  - Collapse of, or risk of entry into, mine entries (shafts and adits).
  - Gas emissions from coal mines including methane and carbon dioxide.
  - Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
  - Transmission of gases into adjacent properties from underground sources through ground fractures.
  - Coal mining subsidence.
  - Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues

may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)