

Delegated Report

Planning Reference
Applicant
Ward

25/00431/P3CR
Mr William Naylor
Cadeby, Carlton, M Bosworth &
Shackerstone



Hinckley & Bosworth
Borough Council

Application Site

Fox Covert Farm, Main Street, Congerstone

Proposal

Notification to determine if Prior Approval is required for the change of use of an agricultural building to a Use Class B2 use

Case Officer

Sullivan Archer (Senior Planning Officer)

1. Recommendations

1.1. Prior Approval Required and Refused

2. Planning Application Description

- 2.1. This application seeks to confirm whether prior approval is required for the change of use of the southern-most agricultural building to a commercial Use Class B2 use at Fox Covert Farm, Main Street, Congerstone via Class R of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO').

3. Description of the Site and the Surrounding Area

- 3.1. The application site is located adjacent to the eastern settlement boundary of the rural village, Congerstone, in the designated open countryside and partially within the Congerstone Conservation Area. The site consists of an existing vehicular access onto Main Street to the north of the site and a large, 5.2m high dairy building that is constructed with blockwork and vertical timber boarded cladding. The dairy building is the southern-most structure associated with the Fox Covert Farm complex. The Fox Covert Farm complex is bordered by open countryside to the east and south, and the wider built form of Congerstone to the north and west.
- 3.2. The wider Fox Covert Farm complex is within the blue line boundary of the application site and features a historic farmhouse that is formed around a hard surfaced courtyard, which features Use Class E commercial offices and Use Class C3 residential units.

- 3.3. There are also four large agricultural buildings to the east of this historic farmhouse, and the eastern most structure, which was extended via 21/00913FUL, has been converted into a Use Class B1 use via 20/00495/P3CR and is accessed via the vehicular access to the north of the Fox Covert Farm complex onto Main Street.

4. Relevant Planning History

- 4.1 **26/00371/FUL** Permitted (determined: 17.06.2026)
Replacement of existing asbestos roof
- 4.2 **22/00529/FUL** Permitted (determined: 18.11.2022)
Change of use of agricultural barns to Class E (offices)
- 4.3 **21/00913/FUL** Permitted (determined: 19.08.2022)
Extension to side of building
- 4.4 **21/00345/FUL** Permitted (determined: 17.06.2021)
External alterations to building, electrical store
- 4.5 **20/00834/FUL** Permitted (determined: 05.11.2020)
External alterations to building
- 4.6 **20/00495/P3CR** Prior Approval Given (determined: 17.08.2020)
Change of use of agricultural building to a flexible commercial use (B1)

5. Publicity and Consultation

- 5.1 In accordance with Clause 8 of Paragraph W of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO'), the Local Planning Authority must give notice of the proposed development by site notice for not less than 21 days, and by serving notice on any adjoining owner or occupier, and any owner or occupier of the other part or parts of the building.
- 5.2 Therefore, the application has been publicised by sending out letters to local residents, and a site notice was also posted within the vicinity of the site. No responses have been received.
- 5.3 In this instance, the Council's Drainage and Environmental Health Departments were consulted on the application proposal as well as Leicestershire County Council as the Local Highway Authority ('LHA'). Their responses to the application are included within the Appraisal Section of this Report.

6. Policy

- 6.1 The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO').
- 6.2 National Planning Practice Guidance ('PPG')

7. Appraisal

- 7.1 Development consisting of a change of use of a building and any land within its curtilage from a use an agricultural building to a flexible use commercial use such as within Use Class B2 (General Industrial) can be considered to represent Permitted Development, subject to the proposal meeting the limitations and conditions of Class R of Part 3 of Schedule 2 the GPDO.

Development Not Permitted by Class R of Part 3 of Schedule 2 of the GPDO

- 7.2 It is considered that the application structure has been solely used for the purposes of agricultural for a period of 10 years before the date development Class R shall begin. Therefore, the proposal would be in accordance with Paragraph R.1 of Class R of Part 3 of Schedule 2 of the GPDO.
- 7.3 The cumulative floorspace of the building which has the changed use under Class R would not exceed 1,000 square metres in accordance with Paragraph R.1(b) of Class R of the GPDO. The scheme would also not be for, and would not form part of, a military explosive storage area or a safety hazard area, and the agricultural building within the proposed development is not a Listed Building or a Scheduled Monument. Therefore, the proposal would comply with limitations of Paragraph R.1(c), (d), and (e) of Class R of the GPDO.
- 7.4 By virtue of the above, the proposal would be considered to comply with the limitations of Paragraph R.1 of the Class R.

Conditions of Class R of Part 3 of Schedule 2 of the GPDO

- 7.5 As the cumulative floor space of the building which is proposed to be changed in use under Class R would exceed 150 square metres, the Applicant was required to apply to the Local Planning Authority for a determination as to whether the prior approval of the Authority would be required for the development's transport and highways impacts, and noise impacts, contamination risks and flooding risks within the site.

- 7.6 Where prior approval is required, Paragraph W(11)(b) of Part 3 of Schedule 2 of the GPDO confirms that development must not begin before the receipt by the applicant from the local planning authority of a written notice giving their prior approval.
- 7.7 On 15 September 2026, the Case Officer undertook a further inspection following reports that some development had been carried out. The Case Officer identified that the proposed works had already been undertaken on site, and the structure was occupied by a metal work fabrication company.
- 7.8 As a result, the application would not comply with the prior approval procedure required by Class R or Paragraph W of Part 3 of Schedule 2 of the GPDO and would therefore not represent permitted development in these site-specific circumstances.

Transport and Highways Impacts

- 7.9 The application has been supported by swept path analysis of the site access, an automatic traffic count, and a Transport Technical Note. These details have been reviewed by Leicestershire County Council as the Local Highway Authority ('LHA') who advised that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe, subject to planning conditions that secure the proposed access arrangements and associated visibility splays, and an appropriate provision of off-street vehicle parking for the development.

Noise Impacts

- 7.10 The Applicant has submitted a Noise Impact Assessment, which has been assessed by the Council's Environmental Health Department. The Council's Environmental Health Department raised no objections to the proposed development, subject to the recommended mitigation measures at Section 4 of the Noise Impact Assessment and the limitation of hours of operation being secured via planning condition. In light of the above, the proposal would not be considered to result in any noise impacts that would result in any significant adverse impacts to neighbouring residential amenity, subject to planning conditions.

Contamination Risks within the Site

- 7.11 No concerns were raised by the Council's Environmental Health Department regarding land contamination risks within the site.

Flooding Risks within the Site

- 7.12 According to the Environment Agency's Flood Map for Planning, the application site is within Flood Zone 1 and is considered to be at low risk from flooding from rivers and surface water. Therefore, it is not considered that there is any flooding risks associated with the site.

8. Equality Implications

- 8.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; and
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 8.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

- 8.3 There are no known equality implications arising directly from this development.

- 8.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

9. Conclusion

- 9.1 The proposal for the change of use of the southern-most agricultural building to a commercial Class B2 use at Fox Covert Farm, Main Street, Congerstone would require Prior Approval from the Local Planning Authority.

9.2 As development associated with the proposed works has already commenced on site and the application structure is already occupied for the proposed use, the application would not comply with the Prior Approval procedure required by Class R or Paragraph W of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and would therefore not represent permitted development in these site-specific circumstances. As a consequence of this, it is recommended that Prior Approval is required and refused in these site-specific circumstances.

9.3 This conclusion is made on the basis of details provide by the Applicant, and as shown on the following documents received by the Local Planning Authority:

- Application Form (submitted: 28.04.2025)
- Automatic Traffic Count (17655) (submitted: 20.01.2026)
- Existing Plans and Elevations Drg No: 103B (submitted: 28.04.2025)
- General Arrangement Plan (P05) (submitted: 07.07.2026)
- Noise Impact Assessment (A453CN) (submitted: 12.08.2026)
- Proposed Site Access (P03) (submitted: 28.04.2025)
- Proposed Site Plan (102B) (submitted: 26.09.2025)
- Transport Technical Note (submitted: 26.09.2025)
- Swept Path Analysis (25-03) (P02) (submitted: 23.07.2026)
- Visibility Calculations (002) (submitted: 20.01.2026)

10. Recommendation

10.1 Prior Approval Required and Refused