DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H01-0055-24**	**Applicant:**	**Executors of Mr H Sharman**
Proposal:	Change of use of agricultural barn to one dwelling		
Location:	Barn At Stamford House Farm 24 Peak Hill Cowbit		
Terminal Date:	22nd March 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019
National Guidance **National Planning Policy Framework 2023** **T & CP (GPD) Order 2015** Class Q

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application is for a change of use of agricultural barn to a "small" dwellinghouse (floor area some 71 sqm) under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

Site Description

The building (former packing shed - circa 1950) is one of a group of agricultural buildings located at Stamford House Farm, along with an associated dwelling (No. 24) along the frontage. Access is off Barrier Bank.

Frontage dwellings are situated to the north-west, the nearest being No 23. Frontage dwellings are also situated to the south-west beyond a field, the nearest being No. 25.

Recent Planning History

None.

Consultation Responses

Cowbit Parish Council

Supported.

LCC Highways/SUDs

No objections subject to conditions.

South Holland Internal Drainage Board

If the applicant proposes to discharge surface water or treated foul water to a watercourse, consent would be required under Byelaw 3.

Environmental Protection

Request precautionary contaminated land condition.

LCC Historic Places Team

This application is within an archaeologically sensitive area. Recommend that, if permission is granted, there be an archaeological condition to ensure any archaeology is recorded before its destruction. Recommend that if permission is granted there be a condition for an archaeological scheme of works consisting of archaeological monitoring and recording of all groundworks within the site area.

Public

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Planning Considerations

Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 indicates that the following is permitted development:
a)a change of use of a building and any land within its curtilage from a use as an agricultural building to use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and
b)building operations reasonably necessary to convert the building referred to in paragraph a) to a use falling within Class C3 (dwellinghouses) of that schedule.

Paragraph Q.1 sets out the circumstances where development is not permitted. The information provided by the applicant appears to satisfactorily demonstrate that the provisions of criteria (a) - (h) and (j) to (m) have been met.

Development is not permitted if the development under Class Q(b) would consist of building operations other than i) the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling house; and ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).

Planning Practice Guidance (PPG) provides advice on the interpretation of Class Q(b). Paragraph 105 indicates that "it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right".

The guidance of the PPG is therefore clear and accords with the High Court judgement Hibbitt v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council. The latter concludes that Part 3 Class Q of the GPDO allows a "conversion" but does not allow a "re-build" or "fresh build".

The building is predominantly of brick construction with an asbestos/fibre cement roof. The structural condition of the building appears to be generally good with little or no visible structural defects. It is considered that the conversion could be carried out without subjecting the existing structures to significant additional loadings and that the building structure is suitable for the proposed single storey domestic conversion.

Based on the aforementioned, it is considered that the proposal constitutes a conversion, as opposed to a re-build or fresh build, since it does not involve a substantial rebuilding of the pre-existing structure. As such, it is considered that the proposal satisfies the requirements of paragraph Q.1(i) and PPG.

Paragraph Q.2 indicates that where a proposal is permitted development, it is subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the Authority will be required as to:
(a) Transport and highways impacts.
(b) Noise impacts.
(c) Contamination risks.
(d) Flood risks on the site.
(e) Location and siting.
(f) Design/external appearance.
(g) The provision of adequate natural light in all habitable rooms.

Paragraph W(3) of the GPDO states that an application for prior approval may be refused where it does not comply with any conditions or limitations applicable to Class Q or where there is insufficient information to establish such compliance.

Addressing the above;

(a) Transport/Highways - The proposal is for the change of use of an agricultural barn to one dwelling, with use of an existing access off Barrier Bank. 2 on-site parking spaces have been provided. LCC Highways has indicated that the change of use from agricultural to residential would be a reduction in vehicle movements and so there would be no safety issues with regards to the public highway. However, the access needs to be upgraded. Also, to ensure vegetation within the applicant's ownership is maintained, to provide optimum visibility, the visibility splays should be conditioned.

(b) Noise Impacts - Although the buildings are historically part of a farmyard, it seems unlikely that any of the other buildings would remain in significant agricultural use due to their size and nature.

In terms of amenity generally, an associated dwelling (No. 24) is situated along the frontage. Frontage dwellings are situated to the north-west, the nearest being No 23. Frontage dwellings are also situated to the south-west beyond a field, the nearest being No. 25.

Given the design of the dwelling and separation distance from nearby dwellings it is considered that the amenity of occupiers of neighbouring properties would not be materially harmed in terms of overlooking, lack of privacy, overshadowing, overbearing effect, noise and disturbance, etc.

(c) Contamination - Due to the former agricultural use of the land and buildings a precautionary contaminated land condition is recommended.

(d) Flood Risk - The site to which the application relates is within Flood Zone 1 on the Environment Agency maps. Also, it is outside the area of risk within the South East Lincolnshire Strategic Flood Risk Assessment, 2017. In any case, the proposal is a conversion so, in accordance with Paragraph 174 of the National Planning Policy Framework, December 2023, the proposal should not be subject to the sequential or exception tests.

However, it should still meet the requirements for a site-specific flood risk assessment. In this respect, the proposal is a "more vulnerable development". However, the site is within Flood Zone 1. According to the SE Lincolnshire Standing Advice Matrix, appropriate mitigation is not necessary.

(e) Location and Siting - The site is divorced from a settlement limit. However, it has previously been established that applications such as this cannot be resisted on these grounds.

The existing farmhouse lies to the west. There will be no detrimental impact on the occupation of the resultant dwelling, having regard to the relationship with the existing development. It is proposed to provide foul drainage by way of a package treatment plant and this is shown on the submitted drawings.

(f) Design/external appearance - The building would retain a similar appearance to present, albeit with replacement fibre cement slates and new aluminium windows and doors. The proposed external works are considered acceptable in terms of design/appearance.

(g) The provision of adequate natural light in all habitable rooms - The proposal is satisfactory in this respect.

Ecology - This is not technically a consideration under Class Q. Nevertheless, it is recommended that a note be attached advising of the applicant's obligations under the Wildlife and Countryside Act, 1981.

Archaeology - LCC Historic Places Team has indicated that the site is within an archaeologically sensitive area. They have therefore recommended that if permission is granted there be a condition for an archaeological scheme of works consisting of archaeological monitoring and recording of all groundworks within the site area.

That said, archaeology is not a consideration under Class Q. Consequently, no condition(s) can be imposed.

Conclusion

The proposal constitutes permitted development and complies with the relevant conditions under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order, 2015.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Recommendation

The application can be approved under delegated powers.