DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H01-0098-24**	**Applicant:**	**Harrison Homes Ltd**
Proposal:	Conversion of Barn to Dwelling		
Location:	Engine Shed Mill Drove South Cowbit		
Terminal Date:	24th April 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

The Town and Country Planning (General Permitted Development) (England) Order 2015

Class Q

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	0	1	0	0

CASE OFFICER ASSESSMENT

Proposal

The application is for a change of use of an existing agricultural building into one dwelling under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

Site Description

The application site, to the west of Mill Drove South, forms part of a wider area of brownfield land, formerly used as a railway yard associated with the defunct line that ran through the site.

The land has been left unused for a number of years. The site of the proposed development is within Flood Zones 1 as shown on the Environment Agency's Flood Zone maps.

History

H01- 0871-18 - Outline - Residential development - up to 45 dwellings, including re-alignment of Mill Drove to Stonegate Road junction - Approved 15.03.2019

H01-1170-22 - Outline - Residential Development - Approved 16.03.2023

H01-0509-23 - Full - Proposed Residential Development of Four Detached Dwellings - Approved 22.11.23

H01-0076-24 - Condition Compliance - Details of written scheme of archaeological investigation, verification report & construction management (Conditions 4, 12 & 17 of H01-0509-23) - Approved 26.03.2024

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Cowbit Parish Council

The Parish Council has no objection to this application, as long as the original building remains intact and is not demolished

Environment Agency

Environment Agency position We have reviewed the application for Engine Shed, Mill Drove South, Cowbit with regard to the protection of controlled waters only. Based on the available information, we consider that the site poses low risk to controlled waters due to the unproductive superficial deposits and bedrock in the vicinity of the site. We have no objections to the grant of planning permission subject to the condition set below.

The previous use of the proposed development site including an engine shed, means there could be potential for land contamination to be present, so we recommend the following condition:

Condition
If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason
To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 180 of the National

Planning Policy Framework and Policy 30 of the South East Lincolnshire Local Plan (2011-2036).

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)
I cannot see that the applicant has identified a drainage strategy for the proposed new impermeable area within their application, however, if there is an existing formal drainage system, I acknowledge that the extension's surface water will likely be disposed of via this existing system. For the avoidance of doubt, we recommend that the applicant provides a drainage strategy for the site.

On the assumption that the engine shed has an existing formal surface water drainage system, if this is reliant on infiltration (soakaways), we recommend that you satisfy yourselves that these are in good condition, appropriately sized for the development and therefore can adequately drain the proposed building, as per current building regulations. If the applicant proposes new soakaways alongside any existing soakaways, we recommend as per best practice, that ground investigations are carried out to determine infiltration potential. Following this, we would expect further testing in line with BRE Digest 365 to be undertaken if onsite material is considered favourable for infiltration. If additional soakaways are proposed, we recommend that these are appropriately distanced from both the building, watercourses and any existing soakaways.

If infiltration is not feasible, following the drainage hierarchy, we would expect the applicant to propose to discharge surface water to a watercourse. If this is proposed, consent would be required from the Board under Byelaw 3. Please note that we recommend that any discharge proposed to a watercourse is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate.

Byelaw 3 (Treated Foul Water)

I note that the applicant has not indicated how they propose to dispose of foul water from the development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991

I note the presence of a piped Board Maintained watercourse (DRN193P2801- B28 Parsons Dyke) running adjacent to (and partially within) the eastern site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

The nearest riparian watercourse that I am aware of lies to the west of the site. Whilst unlikely, should the applicant's proposals change to include works to alter the riparian watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

Byelaw 10

From the information provided in support of this application, it is unclear whether the applicant proposes any works within 9 metres of the aforementioned piped watercourse, B28 Parsons Dyke. For the sake of clarity, any works proposed above or below ground within 9 metres of the piped watercourse will require the Board's prior written consent under Byelaw 10. This would include any surfacing (e.g. gravel), services within/crossing the watercourse and fencing. For further guidance on the Board's regulatory regime, specifically Byelaw 10, please see section 5.3 the Board's Planning and Byelaw Strategy.

SHDC Environmental Protection Officer

I request a standard land contamination condition be applied at this location.

LCC Highway and Lead Local Flood Authority

Recommendation: Approve with conditions

The application is for prior approval for the conversion of a Barn to Dwelling. It is not acceptable to

deal with the access on a separate application as access to the barn is a crucial element of this proposal. A condition is required to ensure that the access details are submitted and constructed to Lincolnshire County Councils Specification. There is sufficient space within the site for the parking and turning of calling vehicles. The proposal will not
have an adverse impact on the public highway.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, one letter of representation has been received.

-Support this application

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 of brick construction with a tiled roof. The roof will be retained, with proposed replacement windows and doors. All the existing openings are to be retained. It is considered that the extent of the works proposed are reasonably necessary for the building to function as a dwellinghouse and that the conversion would not involve building operations beyond those permitted under Class Q.

As such, it is considered that the proposed works satisfy the requirements of paragraph Q.1(i) and PPG. Consequently, the proposal is permitted development under Class Q(b) of the GPDO.

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.

(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 Mill Drove South. The change in use from agricultural to residential would not result in any material issues regarding highways or transportation. LCC requested further information stating that parking, turning and access should be demonstrated as well as visibility being demonstrated.

The requested information has now been demonstrated on the plan. The proposal therefore in terms of the transport and Highways Impacts of the development are considered acceptable.

(b) Noise Impacts - 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 use of the land and buildings it would be considered appropriate to adopt a precautionary approach to recommend that a contamination condition be attached to any consent from this application.

(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 and the guidance provided by Environment Agency and in line with the 'Matrix' identifies that no mitigation is required.

(e) Location and Siting - The site located to the north and to the west has been subject to permission for residential development. The site has a satisfactory relationship with neighbouring dwellings/development, including those approved under the aforementioned permissions.

(f) Design/external appearance - The building would retain a similar appearance to present, albeit with replacement 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.

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.