DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H01-0212-23**	**Applicant:**	**J W E Banks Ltd**
Proposal:	Conversion of existing agricultural buildings to form 1 large dwelling and 4 small dwellings		
Location:	Off Barrier Bank Peak Hill Cowbit		
Terminal Date:	28th April 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

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

CASE OFFICER ASSESSMENT

Proposal

The application is for a change of use of an existing agricultural building into 5 dwellings under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

Site Description

The site is currently an agricultural building that is located off Peak Hill. There is a small number of residential properties along the road, otherwise the character of the area is rural countryside.

History

H01-0593-02 - Proposed telecommunication equipment plus 15 metre high monopole - Approved July 2002

H01-0317-17 - Proposed 2 grain bins to existing storage site - Approved June 2014

H01-0226-14 - Proposed grain storage bins - Non- determination

Consultation Responses

Cowbit Parish Council

The Parish council fully support this application. Up until several years ago there used to be one large house on the site together with a range of farm cottages and so we feel that this will return the site to its former glory and not detract from the area at all.

LCC Highways/SUDS

Recommendation: Approve with conditions

This proposal is for the conversion of existing agricultural buildings to form 1 large dwelling and 4 small dwellings which will utilise the existing access from Main Road which serves the current use. Adequate provision for car parking and turning space has been provided within the limits of the site to enable vehicles to enter and leave in a forward gear and therefore, it is considered that this proposal would not result in an unacceptable impact upon highway safety.

That said, the existing vehicle access crossing is really only appropriate for a agricultural use and has been damaged considerably and therefore, needs to be made up to the County Councils specification within the extent of the public highway appropriate for it's proposed residential use.

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)

I cannot see that the applicant has identified a drainage strategy for the site within their application. We recommend a drainage strategy is provided for the site. If the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3. Please note that we recommend that any discharge 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 watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the site boundary. Whilst not currently proposed, 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

There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw
10 does not apply.

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 cladding construction with a profiled metal roof. The roof will be retained, and the proposed windows and doors will be aluminium. The existing cladding is to be retained and repaired where necessary, with the existing openings to be infilled with matching cladding. 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.

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;

Transport/Highways - An existing vehicular access off Peak Hill would be utilised. LCC Highways consider that the proposal would not have an unacceptable impact upon highway safety. Space for off-road vehicle parking is available.

Noise Impacts - The nearest dwelling is "No.35 Peak Hill" to the north west. No.35 is located some 98 metres away. A residential as opposed to agricultural use would have no significant noise impacts.

Contamination - Due to the former agricultural 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.

Flood Risk - The site to which the application relates is within Flood Zone 3. However, it is within an area of "no hazard" within the South East Lincolnshire Strategic Flood Risk Assessment. Moreover, the proposal is a conversion so, in accordance with Paragraph 167 of the National Planning Policy Framework, 2021, 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.

Location and Siting - The site is relatively isolated. However, it has previously been established that applications such as this cannot be resisted on these grounds. The site has a satisfactory relationship with neighbouring dwellings/development.

Design/external appearance - The external walls would be cladding and the roof profiled metal. The windows would be aluminium. The proposed external works are considered acceptable in terms of design/appearance.

Natural Light - The provision of adequate natural light in all habitable rooms of the dwellinghouses - 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.