DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H01-1082-23**	**Applicant:**	**J W E Banks Ltd**
Proposal:	Erection of 4 dwellings and garages, demolition of existing agricultural building and change of use of land from agricultural to residential.		
Location:	Barrier Bank Peak Hill Cowbit		
Terminal Date:	13th February 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
28	The Natural Environment
30	Pollution
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed and beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
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
OTHER STATUTORY BODIES	0	0	0	2

CASE OFFICER ASSESSMENT

Proposal

Erection of 4 dwellings and garages, demolition of existing agricultural building and change of use of land from agricultural to residential.

The proposal involves the demolition of the existing building and the erection of 4 number link dwellings. The concrete apron to the fore is retained and parking provision is projected to the front, the dwellings are linked by garaging.

The ground floor of these dwellings is made up of a red facing brick and upper floors including roof are made of a standing seam metal sheeting system. To the rear two storey gable 'wings' are proposed which extend into the open countryside. Windows are aluminium frames and garage doors are timber.

The rear amenity areas are bounded by hedging and beyond a dry pond area where it is likely surface water is intended to be directed toward. A passing place is shown along the private drive to allow two vehicles to safety access/egress the site.

Site Description

The application site is located south of Cowbit and in the open countryside for policy purposes. The application site is access from a private drive that attaches to Peak Hill. It is located south of a row of properties that front Peak Hill (Barrier Bank). The A16 is located to the east, though no access point exits connecting the site, Wheat Mere Drain runs parallel and South Holland Main Drain is located further east. The building itself is a former agricultural barn, that is made up of sheet metal, there is a concrete apron to the fore with silos and a brick built agricultural building located in close proximity (this is being considered under a separate planning application). There is also a mast located in close proximity. The building that makes up this application has an extant permission to convert into 5 number dwellings, this was achieved under prior approval.

History

H01-0212-23 - Prior Approval Application - Conversion of existing agricultural buildings to form 1 large dwelling and 4 small dwellings. Approved 06-04-23

Consultation Responses

Natural England
No objections

Cowbit Parish Council
The PC supports this application

Highways

The access needs to be upgraded to Lincolnshire County Council Specification and a note should be added to the proposed site plan. A shared drive should measure at least 4.1m for the first 10m thereafter it shall measure 3.7m. As this is a long driveway if this measurement cannot be achieved a passing place should be considered.

Environmental Protection
I request a precautionary land contamination condition to be applied at this location

IDB
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 to clarify their drainage proposals for both surface water and treated foul water. I note that the applicant has selected both 'existing watercourse' and 'soakaway' for the disposal of surface water in their application forms, as well as stating that foul water will be processed in a package treatment plant, however they have no specified how treated foul water will be disposed of. If the applicant intends to dispose of water via soakaway, we recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse.

Lincolnshire Wildlife Trust
Lincolnshire Wildlife Trust would like to register a holding objection on this application pending the inclusion of a 30-year management and monitoring plan, as per Biodiversity Net Gain legislation. We are pleased to see that Biodiversity Net Gain (BNG) has been considered in the designing of this project; though we would like to highlight that while the BNG Assessment states in paragraph 3.7.3: "Additional measures proposed, including faunal enhancements such as bat roost boxes, bird nest boxes, and new refuge features for hedgehogs, will bring forward considerable additional biodiversity net gains that are unable to be reflected within the DEFRA 4.0 biodiversity calculator." These measures are not considered to be BNG, which is additional to environmental regulations such as National Planning Policy Framework (NPPF) which legislate such things as bat boxes etc

Planning Considerations

The application site already benefits from a residential planning permission to allow for 5 dwellings (1 larger dwelling house and 4 smaller). This application sees an extension to that red line boundary, the extension is southerly and is proposed to be made up of 'modified grass land' tree planting and used for infiltration/SuDS. It is not market out for residential curtilage.

A material consideration not only relates to the established residential permission but also the conditions attached to that permission. These include finished floor levels being 300mm above existing ground level, the submission of a foul and surface water drainage strategy and land contamination. It is of note that Lincolnshire Wildlife Trust whilst happy with the BNG created have issues a holding objection as regards the submission of a 30 year management plan.
The following issues are relevant to this assessment:

Principle of Development
Character, Design and Landscaping
Ecology/BNG
Residential Amenity
Flood Risk
Highway Safety
Land Contamination

Principle of Development

SELLP Policy 1 sets out the overarching spatial strategy for the district, The application site is located outside of any defined settlement boundary and within eth open countryside. Of these areas policy 1 states:
In the Countryside development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

NPPF Paragraph 12 is relevant, it states that "The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for

decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed." NPPF Paragraph 47 reaffirms this by stating:

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.
Permission for the conversion of this building was achieved under application H01-0212-23 for the 'conversion of existing agricultural buildings to form 1 large dwelling and 4 small dwellings.' And this was approved on 06-04-23.
It is therefore considered that the general principle of residential development is already established across much of the site. The extension to the red line boundary that was previously allowed is shown to be taken up by biodiversity and SuDS measures, the area is not given over to residential, conditions will also control this, on this basis it is considered that the extant permission is sufficiently material to warrant a departure from SELLP Policy 1.

Character, Design and Landscaping

Policy 2 of the SELLP states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

Policy 3 sets out the 'Design of new development' in part it states that "Design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable"
NPPF Paragraph 180b is also relevant stating *Planning policies and decisions should contribute to and enhance the natural and local environment by 'recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland*

The proposal attempts to retain much of the same for of the building its seeks to replace, with the exception of two storey gable form that extends from the rear elevation, this provides a rear glazed balcony for the inhabitants of bedroom 1. The palate of materials are listed on the proposed elevation plans and are a mix of seam metal cladding on upper walls and roofs and red facing brick across ground floor.

The plans also show that mixed native hedging will treat the rear amenity areas and beyond modified grass land, tree planting is located and this area is used for infiltration/SuDS as well as habitat creation.

It is considered that given the footprint largely remains intact, with the exception of the rear two storey form and that the use of materials is commensurate with the appearance of the existing building (as well as those approved under H01-0212-23) the proposals are considered acceptable. The scheme is softened by appropriate landscaping and the wider visual impact (given the comparable volume) would be limited. The applicant also retains the concrete apron to the fore which gives the development an agricultural feel and the use of SuDS areas and habitat creation also work to soften and allow the development to be more easily absorbed into this environment.

It also considered that give the open nature of the site that justification exits to remove permitted development rights for extensions and outbuildings. This would protect the wider landscape from improper development and accord with policies 2 and 3 of the South East Lincolnshire Local Plan.

Overall when considering the scheme allowed under H01-0212-23, this proposal does represent a betterment, offering a richer environment for habitats, an appropriate palate of materials and a volume of form that is in-keeping with the existing building on site. Whilst the proposed materials are acceptable the colour finish of the metal cladding is not described, therefore a condition requiring this information will be applied through planning condition. Also landscaping will be reinforced through condition.

On this basis it is considered that the proposal would accord with SELLP Policies 2 and 3 as well as NPPF Paragraph 180b and is considered acceptable.

Ecology/BNG

SELLP Policy is concerned with the Natural Environment, the previous approval did not apply any conditions in relation to protected species however the applicant has provided a protected species report. SELLP Policy 28 point 2 considered the impacts upon protected species and is relevant.

The findings state of this building (annoted as building B3) in relation to bats "Building B3 is an expansive modern agricultural barn of 2-3 storeys in height, comprising a steel-frame structure clad with a combination of corrugated metal sheet, Perspex and concrete (likely asbestos), supporting a pitched corrugated concrete (likely asbestos) roof covering. The barn is open-sided on its eastern and western aspects, allowing internal access to faunal species, albeit is subject to high internal light levels as a result, and was recorded to be draughty at the time of survey. No enclosed voids or potential bat roosting opportunities were recorded internally. No evidence of historic or current roosting bat activity was recorded associated with the building, and the bat roosting potential category is assessed to be 'negligible."

In relation to barn owls the report states *Evidence of occasional Barn Owl roosting was identified within building B3, comprising 5 scattered pellets and areas of faecal splashing. Access to the building for Barn Owl is readily available, albeit given the nature of its construction, no nesting opportunities are present.* AND

No evidence of nesting behaviour by Barn Owl was recorded associated with building B3, albeit Barn Owl presence is confirmed. Based on the extent of evidence identified, building B3 is assessed to comprise an occasionally used likely Active Roost Site (ARS). As such, proportionate measures are proposed at Section 6, in order to fully safeguard Barn Owl during the proposed works.

The mitigation includes B3, it is recommended that artificial nest boxes (one per building impacted) be installed an adjacent on a nearby tree within the Applicant's control. This will provide an immediate alternative suitable roosting location for Barn Owl prior to removal of the existing feature. The sooner this feature is installed, the greater the likelihood is that Barn Owl may find and potentially occupy it in advance of the existing roosting location being removed. The other mitigation measures outlined under section 6 are considered acceptable. Any permission will be linked to the recommendations set out within this document.

SELLP Policy 3 is concerned with addressing gaps in the ecological network. In part it details conserving and enhancing the biodiversity of land. S90A of the Town and Country Planning Act 1990 (as amended) inserts that Schedule 7A (Biodiversity gain in England) has effect. Part 7A is implanted through the DPPO 2015 (as amended).
The applicant has provided a bio-diversity net gain assessment showing that the required increase is achieved, this includes a gain to habitat units of 78.14% and hedgerow units of 100%.

Lincolnshire Wildlife trust have stated "We agree in principle with the BNG proposals submitted with this application, and would like to see planning conditional on the implementation of these environmental enhancements, but BNG requires a 30-year management and monitoring plan."

In accordance with the DMPO sections 37B states that these must be:

no earlier than the day after the day on which formal notification is given of the decision to grant planning permission

It is therefore considered that as the BNG is agreed the habitat management and monitoring plan template does not need to be submitted and agreed prior to determination, rather this can be secured conditionally prior to any above ground works taking place.

It is therefore considered that in respect of protected species a condition will be applied linking the development to the recommendations set out within the ecological assessment. In respect of biodiversity the net gain plan will also be condition and a 30-year habitat management and monitoring plan will be required and secured through planning condition.

On this basis it is considered that the proposal would accord with SELLP Policy 28.

Residential Amenity

Policy 2 and of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

The proposal are for a row of linked dwellings and would provide future residents with an adequate amount of internal and external space, resulting in a high level of amenity. All opening are located in appropriate positions not to encourage unacceptable overlooking. The external gardens are proportionate to the size of the dwellings and would also provide a patio area. They are treated on their southern boundary with hedging offering a soft interface that is commensurate with the countryside setting. In between boundary treatments provide a sufficient level of screening to retain sufficient privacy.

There are no other dwellings within close proximity that are likely to be unduly affected, given the separation distances involved. An application to convert the brick barn to the east is still pending, however given its orientation should this be approved there is no reason the two developments could not coexist is terms of having an acceptable relationship with regards to amenity.

On this basis the proposal is considered to align with policies 2 and 30 of the SELLP.

Flood Risk

SELLP Policy 4 sets out the districts approach to flood risk. The application site is located is within Flood Zone 3 in accordance with EA Mapping systems. However, it is within an area of "no hazard" within the South East Lincolnshire Strategic Flood Risk Assessment.

Given that the previous application was for a conversion the sequential test was not applied. Moreover give a fall back to convert the building is extant then residential development in flooding terms is considered acceptable.

The application has shown on plan that the proposed surface water drainage strategy is through ground infiltration, this is top of the SuDS hierarchy. However the applicant has ticked (in the application form) that the strategy is 'soakaway' and to divert to an existing water course. It is considered that this may be based on the lack of information surrounding infiltration rates. That said, either method would be acceptable (though infiltration if feasible would be preferred). Therefore a condition will be applied that prior to the commencement of development a drainage strategy for the disposal of surface water shall be submitted to and agreed in writing with the detailed LPA.

Foul Sewage is proposed to be through package treatment plan. This is considered appropriate given the location of the application site. Its technical details are mitigated by building regulations requirements and therefore conditions in respect of foul water are not required.

On this basis it is considered that the proposal would accord with SELLP Policy 4.

Highway Safety

SELLP Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation.

SELLP Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

SELLP Policy 36 is concerned with Vehicle and Cycle Parking it states that "All new development, including change of use, should provide vehicle and cycle parking, in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (in Appendix 6).

The applicant shows that the dwellings would be served through a private road attached to Peak Hill. Highways have requested that either the access is widened or a passing place is provided. Subsequently the applicant has amended the site plan to show that a passing place will be created. This will be conditioned to be in place prior to the first occupation of the dwellings. Whilst highways have not officially commented upon the amended plan under this application they did under pending application H01-1094-23 which shows the same passing place, they had no objections.

The applicant also proposes a sufficient amount of parking provision for each of the dwellings, which are 3-bedroom properties. The provision meets with the standards set out within the plans. On this basis it is considered that the proposal would accord

Land Contamination

SELLP Policy 30, it states *Development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon... land quality and condition*

Environmental Protection have requested a condition for land contamination to be applied. No information has been supplied as regards contamination, the application site has an agricultural planning history and there is potential that the shed could have been used in a manner that may required further investigation of it ground conditions prior to providing a location for residential development.

Therefore subject to a land contamination condition the proposal is considered to accord with SELLP Policy 30.

Conclusion

The proposed scheme represents a betterment to what has been previously approved under Class Q. The design of the building along with the palate of materials are appropriate reflecting the scale and siting of the existing building and commensurate with the open countryside location.

Two pre-commencement conditions which have been agreed relate to land contamination and the submission of a surface water drainage strategy. A Habitat management and monitoring plan will also be conditioned, this will be prior to above ground works. There is also requirement to confirm the finish colour of the metal cladding.

On balance the proposal is considered to stay true to the permission granted under Class Q in retaining a footprint and scale comparable. The proposal is considered acceptable.

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.