DECISION DELEGATED TO HEAD OF PLANNING

| | | | |
|---|---|---|---|
| **Application No:** | **H01-1094-23** | **Applicant:** | **J W E Banks Ltd** |
| **Proposal:** | Proposed conversion of brick barn to 1 residential dwelling, demolition of existing silo and change of use of agricultural land to residential garden land | | |
| **Location:** | Barrier Bank Peak Hill Cowbit | | |
| **Terminal Date:** | 13th February 2024 | | |

**Planning Policies**

**South East Lincolnshire Local Plan - Adopted: March 2019**

| | |
|---|---|
| 02 | Development Management |
| 03 | Design of New Development |
| 04 | Approach to Flood Risk |
| 23 | The Reuse of Buildings in the Countryside for Residential Use |
| 28 | The Natural Environment |
| 29 | The Historic 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 |
| HIGHWAYS & SUDS SUPPORT | 0 | 0 | 0 | 1 |
| SOUTH HOLLAND | 0 | 0 | 0 | 1 |

| | | | | |
|---|---|---|---|---|
| INTERNAL DRAINAGE BOARD | | | | |
| SHDC INTERNAL | 0 | 0 | 0 | 1 |
| OTHER STATUTORY BODIES | 1 | 0 | 0 | 1 |

CASE OFFICER ASSESSMENT

**Proposal**

The proposal is for the conversion of the existing barn to form a single dwelling.

The proposal seeks to convert the existing brick-built barn into a 5-bedroom dwelling, with living accommodation across two floors. Alterations include the installing windows into openings, replacement of some structural elements such as lintels. The building envelope remains on the whole intact.

**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 brick built barn, it appears to have been originally used as a threshing barn and records show that it has been in situ for some time, informing the character of the open countryside. The building is 'patched up' in places with clear evidence that supporting brick work has been used to support the structure over its lifetime. There is also some strapping. There are number of openings, most of which are boarded up however there are some that are not allowing access into the building, this is also true of the roof tiles. The applicant has provided both a preliminary ecological appraisal as well as a bat survey and it is clear that there is a presence of bats in this building.

Close to the site a building which is a former agricultural barn, that is made up of sheet metal, has a concrete apron to the fore with silos (this is being considered under a separate planning application). There is also a mast located in close proximity.

**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

H01-1082-23 - Full - Erection of 4 dwellings and garages, demolition of existing agricultural building and change of use of land from agricultural to residential. Approved

**Consultation Responses**

IDB
The Board's Officers have reviewed the documents submitted in support of the above planning application. Officers have noted works which require Land Drainage Consent from the Board as

outlined in the table below and detailed overleaf. Please be aware of the potential for conflict between the planning process and the Board's regulatory regime. As Land Drainage Consent is required, the Board strongly recommends that this is sought from the Board prior to determination of this planning application. The Board will only consider the proposals in detail on receipt of an application for Land Drainage Consent. The annexe at the end of this letter outlines the Board's regulatory function and how to apply for Land Drainage Consent.

Highways and SuDS
No Objections
Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Comments: The proposal is for the proposed conversion of brick barn to 1 residential dwelling, demolition of existing silo and change of use of agricultural land to residential garden land. The access is to be upgraded to Lincolnshire County Council specification and the parking is acceptable. The Plot is well away from public highway - the access width has been shown to an acceptable width and a passing place has been included due to the long narrow nature of the access track. 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.

Lincolnshire Bat Group
No objections to the development. A European Protected Species licence will have to be obtained if the application is approved, so further surveys will be needed. A condition relating to bat boxes is recommended.

Environmental Protection
I request a precautionary land contamination condition be applied at this location, as follows:
In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority (LPA). An investigation and risk assessment must be undertaken in accordance with details to be agreed with the LPA. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the LPA.

Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved by the LPA. No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.

Parish
The PC has no objection to this application.

## Planning Considerations

SELLP Policy 23 is a bespoke policy when considering The Reuse of Buildings in the Countryside for Residential Use. The report will therefore assess the application against the points contained within the policy. An assessment on amenity as well as ecology is also required as it's the effect of highway safety, parking provision, drainage and land contamination. The following topics will therefore be considered as part of this report:

-The Reuse of Building for residential
-Amenity Impacts
-Ecology
-Highway Safety
-Flooding and Drainage

-Land Contamination

The Reuse of Building for residential

SELLP Policy 23 sets out a list of requirements that should be met by developers when converting countryside buildings to form a residential use. The policy states "Proposals for the conversion of existing buildings which are located outside defined settlement boundaries to residential use will be permitted provided that:
1. the building is structurally sound and capable of conversion without the need for significant extension, alteration or rebuilding;
2. the building is of architectural or historic merit or makes a positive contribution to the character of the landscape, to justify conversion to ensure retention;
3. the proposal is in keeping with its surroundings;
4. the design is sympathetic to the character and appearance of the building in terms of architectural detailing and materials of construction; and
5. development leads to an enhancement of the immediate setting of the building Where permission is granted, Permitted Development Rights may be removed in order to control future alterations or extensions that may impact on the appearance and character of the surrounding area."

This application is accompanied by a Structural Engineers Inspection, carried out by Peter Cole in December 2023, having reviewed the roof, the masonry and the ground floor, the engineer makes the following comments:
*Notwithstanding the fact that this building has suffered general exposure and deterioration over a period of time, it is apparent that the external walls are in satisfactory condition and display no obvious evidence of major structural movement, except where affected. The roof structure is in good condition and is of an unusual form that is worth retaining within a suitably designed conversion.*
On the basis that there is no evidence to refute that the report reaches a solid conclusion the proposal would meet with point 1 of SELLP Policy 23. One point of note is the comment 'except where affected', this assessment is weighted heavily on the basis that it is an adaptive reuse of a potential NDHA. It is fully expected that any structural issues can be resolved through conversion works in order to achieve the proposal.
Historic maps indicate the existence of a barn at this location and of identical proportions in 1887. It appears as part of Bellesmere Farm and appears to have formed part of an enclosed farmyard. The building displays inherent characteristic from this period despite some dilution from patch up works. Given the building has informed the character of the countryside for so long and is of a sufficient merit to be retained then point 2 of SELLP Policy 23 is also met.

The proposal would seek only external alterations and internal works in order to be converted. The character of the building is therefore retained and in so would accord with the requirements of points 3 and 4 of policy 23 of the SELLP.
Given the location of the building within the open countryside and the existing merits of the building it is considered that justification exits for the removal of permitted development rights to protect the open countryside and architectural merit of the building itself.

On the above basis it is considered that the proposal would accord with SELLP Policy 23.

Amenity Impacts

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.

Key to the amenity assessment is H01-1082-23 which recently approved 4 number link dwellings (this was a betterment application). This proposal is located perpendicular to the barn on this application site.
The proposal shows some hard standing located around the barn conversion with the rest of the red line boundary laid to grass, it is not clear whether this would represent domestic curtilage. If it does whilst a large area is proposed, it is not uncommon for countryside dwellings to have large associated areas. Much of the area to the west of the barn will be visible from the upper openings of the link dwellings, however more private areas do exist on the site to the south and east of the building. The impact therefore is considered acceptable as a sufficient amount of private outdoor

space is retained. Pd Rights as discussed will be removed which would include the erection of any domestic structures would also mitigate, both in amenity terms as well as to protect the wider open countryside character.

All openings are proposed in appropriate location and only limited impacts from visual intrusion would therefore follow, these are acceptable. Sufficient internal space standards are also achieved for future residents.
On this basis it is considered that the proposal would accord with SELLP policies 2 and 30.

Ecology

SELLP Policy is concerned with the Natural Environment, point 2 considered the impacts upon protected species and is relevant. The applicant has provided a protected Species Report as well as a bat survey.
Lincolnshire Bat Group have confirmed that given the presence of bats the applicant would require a European Protected Species licence to be obtained if the application is approved.

European protected species (EPS) have full protection under The Conservation of Habitats and Species Regulations 2017. Protected species licensing requirements are in addition to the requirements for planning permission. Licences are subject to separate processes and specific policy and legal tests.
From the comments received from both LWT and LBG the LPA are satisfied that a licence could be granted. Therefore only conditions linking the development to the submitted documents is required. This is based on the following 3 tests:

*Test 1*
the activity is for a certain purpose, for example it's in the public interest to build a new residential development.
The LPA are of the view that it is in the publics interest that this building is given an adaptive reuse. The building has informed this part of the open countryside since the 1800s and despite not being listed has some heritage significance.
The proposal would only meet this test if a conversion were provided. The loss of this building (and replacement with new form is not in the public's interest).

*Test 2*
There's no other satisfactory solution that will cause less harm to the species
The alternative is only for the building to remain as existing and continually degrade. A conversion is the most effective and 'mild' approach to retaining it for future generations. A complete demolition would be unsatisfactory.

*Test 3*
The development does not harm the long-term conservation or survival of any population of the licensed species.
The applicant has shown that new roosting habitats will be provided. At present these are located in tress but may be more pertinent to be attached to the external of the complete barn itself.

On the basis that the additional legislative mitigation for the protection of bats exist and that the applicant has a duty to acquire an EPS licence the proposal in terms of protected species is considered acceptable.

SELLP Policy 28 point 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).
However at this stage BNG for such a proposal in not mandatory and only a 'net gain' is required by policy. It is clear without having data of the existing base line scenario for BNG that due to the industrialised nature off the site that a net gain can fairly be achieved on site. Therefore a condition requiring a bio-diversity plan which show methods for encouraging bio-diversity and how it will be managed is to be agreed in writing with the LPA.
On this basis the proposal would accord with SELLP Policy 28.

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. The applicant has amended to show a passing place and subsequently highways have removed their objection.

The proposal would provide sufficient parking and a safe access/egress to the site and would also have sufficient space to provide cycle storage provision. On this basis the proposal would accord with SELLP Policies 2, 3 AND 36.

Flooding and Drainage
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 "low or medium but reliant on protection by flood defences for this standard" within the South East Lincolnshire Strategic Flood Risk Assessment, residual risk extent. The EA have not therefore been consulted in line with the standing advice matrix.

Given that the application is for a conversion the sequential test is not applied. The applicant has not provided an FRA, but does include comments within the application form that surface water will be disposed of by soakaway or diversion to a watercourse. The latter would require consent from the IDB, in terms of the former no information has been provided on whether infiltration is feasible. However with that said the is no additional form proposed and the net increase therefore in surface water creation is negligible. On this basis there is no justification to attach a surface water drainage condition. Should water be directed to a watercourse then the IDB will oversee the consenting process. In terms of foul water, a package treatment plant will need to adhere to building regulations standards.
On this basis it is considered that the proposal would accord with SELLP Policy 4.

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. However given given the scale of the proposal full condition in this instance may be unreasonable and a condition requiring that should any contamination be found during construction the applicant is to stop works and report would suffice for such a development. Further mitigation relating to radon barriers exists within the remit of building regulations.

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

Conclusion

The proposal would give an adaptive reuse to a well-established brick barn that has informed the open countryside for some time, it would therefore accord with SELLP Policy 23. The applicant would be required to obtain an EPS licence. The proposal in terms of its effects on amenity, highway safety and drainage is considered acceptable.

Should the building be found unsound for conversion it is unlikely that the LPA would suggest that

the first test for EPS licencing could be met. The demolition of the building (and erection of a new dwelling in its place) would affect the consideration as to whether this proposal would be in the public interests

## 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.