DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H05-0698-24**	**Applicant:**	**G Geerlings & Son**
Proposal:	Conversion of an existing agricultural barn building to form a new dwelling house		
Location:	Gables Nursery New Fen Drove Gedney Hill		
Terminal Date:	15th October 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	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

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

Site Description

The building is part of Gables Nursery, located off New Fen Drove in Gedney Hill. The barn is brick built with a corrugated roof. The immediate area is characterised by mainly open countryside with a small number of dwellings scattered along the road and a number of commercial buildings towards the north-east. The site is within the Environment Agency flood zone 1.

History

H05-0410-22 - Outline - Erection of House & Garage - Refused 15.06.2022

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:

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)

As there is no increase in impermeable area created by the proposed barn conversion, we assume that the applicant will be utilising the existing drainage system. However, if new soakaways are proposed, we would advise that these are appropriately distanced from any existing soakaways and that infiltration testing in line with BRE Digest 365 (or equivalent) is undertaken to determine its efficiency.

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. In this case, 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. A surface water development contribution is likely to be payable as a condition of any consent granted under Byelaw 3 in line with the WMA's Development Control Charges and Fees.

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 western 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 not any Board maintained watercourses within the red line boundary. Therefore Byelaw 10 does not apply.

Within the wider ownership boundary, the nearest Board maintained watercourses are E13 Drurys Drain South (DRN196P1303) which lies approximately 45 metres to the west of the site, adjacent to New Fen Drove and E15 Fleet Drain (DRN196P1503), adjacent to the eastern site boundary.

SHDC Environmental Protection Officer

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

Historic Environment Officer

Thank you for consulting us on this. Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application.

LCC Highway and Lead Local Flood Authority

Recommendation: No objection

As Highways and Lead Local Flood Authority we assess all Prior Approval applications as to whether or not Prior Approval is required for Transport/Highways impacts and flooding risks on the site. This proposal is for Conversion of an existing agricultural barn building to form a new dwelling house, the access meets the guidelines set out in Manual for Streets, adequate parking provision is proposed within the limits of the site and the proposal will not impact flood risk. Therefore, it is considered that the proposals would not result in an unacceptable impact of highway safety and flood risk.

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.

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.

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, no letters of representation have been received.

Key Planning Considerations

The Town and Country Planning (General Permitted Development) Order 2015 was amended, in respect of Part 3, Class Q, in May 2024. Amongst other matters, the amendments to the legislation included (in short) an increase in the number of dwellings permitted under Class Q, a reduction in the extent of floor space permitted per dwelling to a maximum of 150sqm, and an allowance for extensions, comprising specific scales, to be permitted.

However, Article 10 of the 'Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024', which came into force on 21st May 2024, introduced a 'Transitional Period'.

This 'Transitional Period' allows the submission of Class Q proposals, until May 2025, under the amended legislation (i.e. that of 21st May 2024) and that of the prior legislative requirements (i.e. that as of 20th May 2024). As such, during this 'Transitional period', proposals can be submitted with a view to applying the amended or previous Class Q limitations.

It is worth noting that, the 'Transitional period' does not allow for a mix of both legislative criteria.

Given that the proposal would comprise an extension, the proposal must be assessed under the amended Order of May 2024.

The remainder of the report will assess the proposal under the relevant Class Q limitations for that individual proposal.

Schedule 2, Part 3, Class Q

Part 3, Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), seeks to permit "buildings on agricultural units and former agricultural buildings to dwellinghouses". Class Q details that the following is permitted development:

"a) a change of use of:

(i) a building that is part of an established agricultural unit and any land within that building's curtilage, or
(ii) a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage, to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,

(b) development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or

(c) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building".

Paragraph Q.1 sets out the circumstances where development is not permitted. As expressed above, under the changes to this section of legislation, introduced on 21st May 2024, a transitional period is provided where an application may be assessed under the previous incarnation of the legislation or the updated version (although importantly not both).

In this instance, the proposal is being assessed under the current legislation, introduced on 21st May. The relevant section of legislation is detailed below:

"Development is not permitted by Class Q if:

(a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit -
(i) on 24th July 2023, or
(ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins,

(b) in the case of a site that was (but is no longer) part of an established agricultural unit
(i) the site was part of an established agricultural unit on 24th July 2023,
(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or
(iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose,

(c) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,

(d) the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see paragraph Q.3(2) of this Part) would result in
(i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or
(ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres,

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained,

(f) less than 1 year before the date development begins
(i) an agricultural tenancy over the site has been terminated, and
(ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use,

(g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit during the period which is 10 years before the date development under Class Q begins,

(h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point, other than
(i) extension of the building allowed by paragraph Q.1(i);
(ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i)

(i) the development under Class Q(b) would result in an extension that:
(i) has more than one storey,
(ii) is sited anywhere other than to the rear of the existing building,
(iii) extends beyond the rear wall of the existing building by more than 4 metres,
(iv) has eaves the height of which exceed the height of the eaves of the existing building,
(v) is higher than whichever is the lower of: (aa) the highest part of the roof of the existing building, or (bb) a height of 4 metres above the ground,
(vi) extends beyond a wall that forms a side or principal elevation of the existing building, or
(vii) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and: (aa) the hard surface was not provided on the land on or before 24th July 2023, or (bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before
the date development under Class Q(b) begins,

(j) the development under Class Q(c) would consist of building operations other than
(i) the installation or replacement of: (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse, and
(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(j)(i),

(k) the site is on article 2(3) land,

(l) the site is, or forms part of:
(i) a site of special scientific interest;
(ii) a safety hazard area;
(iii) a military explosives storage area,

(m) the site is, or contains, a scheduled monument,

(n) the building is a listed building,

(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it, or

(p) the building does not have suitable existing access to a public highway."

The information provided by the applicant appears to satisfactorily demonstrate that the provisions of criteria (a) - (h) and (j) to (p) have been met. However, the proposal is at conflict with criteria (i).

Schedule 2, Part 3, Class Q - Extensions

The Town and Country Planning (General Permitted Development) Order 2015 was amended, in respect of Part 3, Class Q, in May 2024. Amongst other matters, the amendments to the legislation included an allowance for extensions, comprising specific scales, to be permitted. Extensions are

only permitted if they are located to the rear.

This proposal includes an extension to the southern elevation projecting from the existing building by 3.45m. However, it is of the opinion of the Local Planning Authority that the northern elevation is the principal elevation of the building. Therefore, making the southern elevation the side elevation and not the rear elevation of the building.

The term 'principal elevation' is not defined in the GPDO. However, although not directly comparable, when viewing
the Permitted development rights for householders: Technical Guidance (the Technical Guidance) September 2019 published by the Ministry of Housing, Communities and Local Government does provide some assistance with the interpretation of the term.

The Technical Guidance states that the principal elevation will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house and that usually, but not exclusively, the principal elevation will be understood to be the front of the house.

In this respect, albeit the building is not a residential property and the detail is not entirely comparable, it is viewed that the western elevation faces the highway; however, this is a blank elevation with no main architectural features. The front door and windows are located on the northern elevation and not the western elevation, therefore the Local Planning Authority are of the opinion that the northern elevation is the principal elevation, meaning the proposed extension on the southern elevation would comprise a side extension.

As such, it is considered that the proposed works fail to satisfy the requirements of paragraphs Q.1(i). Consequently, the proposal is not permitted development under Class Q of the GPDO.

Schedule 2, Part 3, Class Q - Prior Approval Considerations

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 a dwelling, with use of existing access points off New Fen Drove. The Local Highway Authority has raised no objection to this arrangement. It is not considered that the proposal would significantly impact highway safety or traffic in the area.

(b) Noise Impacts - Two Hoots (neighbouring dwelling) is located to the south west, with The Gables Mill located to the north. Open land is located to the south and west). It is considered that the amenity of occupiers of neighbouring properties would not be materially harmed given the separation distances.

(c) Contamination - Due to the former agricultural use of the land and buildings Environmental Protection have requested a precautionary contaminated land condition in this case.

(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 NPPF, 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 outside of any defined settlement. However, it is located within close proximity to dwellings, and as such, a residential property within this area would not appear immediately out of character.

Wo Hoots (neighbouring dwelling) is located to the south west, with The Gables Mill located to the north. The development has a satisfactory relationship with neighbouring dwellings/development. The amenity of neighbouring residents would not be materially harmed in terms of overlooking, lack of privacy, etc, given the design of the properties and/or the separation distances involved.

(f) Design/external appearance - No material schedule was submitted with the application; the Local Planning authority are therefore unsure on the finished materials. The proposed elevation drawings indicate a cladded finished with heavy glazing to the west (side) elevation. The building is currently brick. The windows and door to the northern elevation (front) are to be significantly altered, all new window designs are proposed on the southern (rear) and eastern (side) elevation. The Local Planning Authority are unsure on the roof materials and the elevation finishes.

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

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.

Conclusion

When assessing all of the above it is concluded that given the proposed extension is to be located on the side elevation and would not form an extension to a rear elevation, the conversion of an existing agricultural barn building to form a new dwelling house is not permitted by Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused under Delegated Authority.