

DECISION DELEGATED TO HEAD OF PLANNING

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Application No: H05-0989-24 **Applicant:** Groom Bros Limited
Proposal: Proposed change of use of agricultural building to 4 dwellings
Location: Primrose Farm Maisdyke Lane Fleet
Terminal Date: 20th January 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks consent to establish if a prior approval application is required for the conversion

of an agricultural building into four dwellings. Consent is sought under Schedule 2, Part 3, Class Q Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended). It has been established that prior approval is required, and as such it is necessary to assess whether prior approval should be granted.

Initially the proposal was for two dwellings, however, the floorspace of the proposed dwellings would have exceeded the allowances of the Class Q permitted development right. As such, the proposal was amended to propose four smaller dwellings.

Site Description

The application site comprises land at Primrose Farm, Maisdike Lane, Fleet. The site is located approximately 1.4km to the south of Fleet. The site features an agricultural building and an existing vehicular access from Maisdike Lane, which is to the east of the site. There are however dwellings located to the north of the site, including Red Robin Lodge, Primrose Farm and Marsett.

Relevant Planning History

No planning applications have previously been submitted within the site. A separate prior approval application is pending determination under reference H05-0991-24 for one dwelling. This separate application is located on land to the south-east and this partly overlaps with the current application site where the access is proposed.

The following applications have been submitted on land to the north of the site and are considered to be relevant:

H05-0632-15: (Full Application) Proposed conversion of barn to dwelling - approved 25 August 2015

H05-0131-17: (S73 Application) Proposed conversion of barn to dwelling - approved under H05-0632-15 - Modification of Condition 2 to allow amendments to previously approved plans - approved 16 March 2017

H05-0373-19: (S73 Application) Proposed conversion of barn to dwelling - approved under H05-0131-17. Modification of Condition 2 to allow amendments to previously approved plans (part retrospective) - approved 5 June 2019

H05-1021-19: (Discharge of conditions) Details of windows, doors, rooflights, etc - approved 23 December 2019

Consultation Responses

Responses have been received from the below referenced consultees. The responses are summarised below, however, the responses can be viewed in their entirety on South Holland District Council's website.

South Holland Internal Drainage Board: 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. 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. I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the eastern boundary outlined blue in the site plans. There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

Fleet Parish Council: Looking at the application planning permission is not thought necessary on the basis that the proposed development would seem to conform to the provisions set out in the Town and Country Planning (General Permitted Development) Order 2015. This application is merely a change of "use" from agricultural to residential use (two residential properties). The existing footprint of the building will not materially change. However, full compliance with the Drainage Boards recommendations is essential if this application is to move forward and be granted first. There is currently "no drainage strategy" regarding "surface water" discharge or of "treated foul water". There also needs to be compliance with Sec23 of the Land Drainage Act 1991 and Local Byelaw 10. Therefore, if a drainage strategy is forthcoming and is approved by the Drainage Board should this planning application be approved.

Highways and SUDS Support: A note should be added to the proposed site plan to say the access will be upgraded to Lincolnshire County Council specification.

Environmental Protection:

First Response (18 December 2024): I request a screening assessment form be completed (with photographs) for this site.

Second Response (13 January 2025): After reviewing the screening assessment form and site photos dated 19th December 2024 I request a standard land contamination condition be applied at this location.

Cllr P S Barnes: No response received.

Public Representations

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. The main points raised within the representation are set out below:

- Maisdyke Lane is a single land which is not well maintained and farm vehicles often leave mud on the road.
- The telephone lines and broadband connection are not consistent due to wind and rain.
- Presumably wildlife surveys will be undertaken and the impact on species should be taken into consideration.

Planning Assessment

Whether the Proposal Comprises Permitted Development

It is first necessary to consider whether the proposed works comprise permitted development.

Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), allows for the conversion of agricultural buildings to residential dwellings. This is however subject to certain conditions and restrictions, including the requirement for applicants to apply to the local planning authority to determine if a prior approval application is necessary.

The Class Q permitted development right was updated on 21 May 2024. There is however a transitional period in place which allows applicants to submit Class Q prior notification until 20 May 2025 if they choose to do so. The current application has been submitted on the basis of the pre-May legislation. The application has therefore been determined based on the older legislation.

Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to residential use (Use Class C3). Class Q allows for any building operations 'reasonably necessary' to convert the building.

Paragraphs a) to m) of Class Q specify the circumstances under which development is not permitted. It is considered that the existing agricultural building, the site and the proposed dwellings as converted, would not fail any of these limitations as set out below:

*"a) the site was not used solely for an agricultural use as part of an established agricultural unit
(i) on 20th March 2013, or
(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or
(iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins"*

- According to the application form, the site was used for agricultural purposes on 20 March 2013.

*"b) in the case of
(i) a larger dwellinghouse, within an established agricultural unit"*

(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or
(bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;
(ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;

- The proposed dwellings would not be considered as larger dwellings as each dwelling features 94.57sqm of internal floorspace.

"c) in the case of

(i) a smaller dwellinghouse, within an established agricultural unit

(aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or

(bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres"

- Four dwellings are proposed which would each feature 94.57sqm, therefore not exceeding the 100sqm allowance. As set out previously, a separate prior approval application is pending determination under reference H05-0991-24. This application seeks consent for an additional dwelling within the agricultural unit. With this additional dwelling, the total number of dwellings would not exceed 5.

"d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following

(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5"

- As set out above, four dwellings are proposed under the current application and an additional dwelling is proposed under application H05-0991-24. This does not exceed the above referenced allowances.

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

- According to the application form, the site is not occupied under any agricultural tenancy agreements.

"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"

- According to the application form, no agricultural tenancies relating to the site have been terminated in the last year.

"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 -

(i) since 20th March 2013; or

(ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins"

- According to the application form, no previous dwellings have been created using the Class Q permitted development right within the agricultural unit.

"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"

- The proposals would not result in the external dimensions increasing.

*"j) the development under Class Q(b) 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(i)(i)*

- No extensions are proposed and as such the external dimensions of the building would not increase based on the proposals. Part of the building is proposed to be demolished. New window and door openings are proposed, and the facades are proposed to feature cladding. Whilst National Planning Practice Guidance and case law make it clear that the development should not be so extensive as to amount to a 're-build,' the works proposed would appear to retain the existing structural elements. It is therefore considered that the existing structure can cope with the proposed alterations and that the works are allowed under part i).

"j) the site is on article 2(3) land"

- The site is not on article 2(3) land.

*k) 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"*

- The site is not within a site of special scientific interest, a safety hazard area or a military explosives area.

"l) the site is, or contains, a scheduled monument"

- The site is not, nor does it contain a scheduled monument.

"(m) the building is a listed building"

- The building within the site is not listed.

As the proposed development is considered to comprise permitted development, it is subsequently necessary to assess the application against the requirements of the conditions of Class Q, as specified within paragraph Q.2.

Paragraph Q.2 (1) states that where the development proposed is permitted under class Q(a) together with development under Class Q(b), development is permitted 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 of the development,
- b. noise impacts of the development,
- c. contamination risks on the site,
- d. flooding risks on the site,
- e. whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order,
- f. the design or external appearance of the building, and
- g. the provision of adequate natural light in all habitable rooms of the dwellinghouses.

These matters are therefore assessed in turn below. As set out below, it was considered that prior approval would be required due to the site's location within Flood Zone 3, and the need to ensure contamination risks are appropriate mitigated.

a. Transport and Highways Impact

The proposed access to the site is from Maisdyke Lane to the east of the site. There is an existing access to the site which would continue to be used. Lincolnshire County Council's (LCC's) highways team have not raised any concerns with the proposed visibility splays. The team have however

requested that the access is upgraded to LCC's specification. This note is not considered to be necessary as a planning condition is proposed which would require the submission of the proposed surfacing within the site. As such, the access surfacing details will be secured when the condition is discharged. The proposed development is therefore acceptable in terms of highway safety.

b. Noise Impacts

The site is mostly surrounded by agricultural land, however, there are existing dwellings located to the north of the site. The council's environmental health team have not set out any objections to the proposals on the basis of noise disturbance. The site is not located in an area that is likely to be subject to adverse levels of noise. It is therefore considered that future occupants would not be subject to an unacceptable degree of noise disturbance.

c. Contamination

The council's environmental health team have requested a condition which would require the submission of a contamination assessment in order to identify and mitigate any pollution risks. This has been agreed with the applicant's agent.

d. Flood Risk

The site lies within Flood Zone 3, as is most of the district of South Holland. The site is not however within a hazard area, as identified by the South East Lincolnshire Strategic Flood Risk Assessment (SFRA).

The application is accompanied by a Flood Risk Assessment (FRA). The FRA concludes that the probability of this development flooding from localised drainage systems is low. Failure of Sutton Bridge Outfall Sluice could lead to an increased level of risk at the site. The FRA sets out recommendations to help mitigate the risk of flooding within the site such as setting the finished ground floor levels at a minimum of 300mm above the existing ground level. It is considered appropriate to include a condition requiring compliance with the recommended mitigation outlined within the submitted FRA.

The FRA sets out that the site already drains naturally through a soakaway. It is unclear how foul water is proposed to be discharged. It is presumed that the proposed conversion would either apply to connect to the public sewerage system or apply for a foul treatment plant. The applicant would need to apply separately to connect to the public sewerage system as this is not covered by the planning process.

It is therefore considered that the proposed development would have an acceptable impact in terms of flood risk. It is recommended that a condition be included to require the development to accord with the recommendations of the submitted FRA.

e. Whether the Conversion is Impractical / Undesirable

This consideration is not specifically defined, however Planning Practice Guidance sets out at Paragraph 109 (reference ID: 13-109-20150305) that impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".

The nearest dwelling to the site is Red Robin Lodge. There would be approximately 9m between the eastern elevation of the building within the site, and the nearest elevation of Red Robin Lodge. There is a close boarded timber fence located between the buildings, which provides some screening between the properties. There are some windows on the first floor of Red Robin Lodge that would look onto the eastern elevation of the building within the site. The proposed building would not feature a first floor and as such the first-floor windows at Red Robin Lodge would not face directly onto windows within the building that is proposed to be converted. The proposed conversion is therefore not expected to result in an unacceptable degree of overlooking.

Although the site is relatively isolated as it is not within walking distance of key services and facilities, the site is next to a road and as such there is an existing access to the site. It is therefore not considered that the proposed conversion would be impractical or undesirable.

f. External Appearance

It is proposed to demolish part of the ends of the building. As set out previously, this is considered to be allowed under Class Q.

It is proposed to install larch vertical cladding, a zinc standing seam roof, grey aluminium windows and doors and black metal rainwater goods. The proposed larch cladding would add a rural element to the appearance and would respect the existing form of the building and its rural setting. The proposed external alterations would therefore not appear overly domestic, or out of character with the surrounding area. It is however considered appropriate to include a condition to secure further details relating to the exact materials to ensure they are of an appropriate quality and appearance. The conversion to residential use is therefore not considered to have an adverse impact on the character and appearance of the rural landscape.

g. Natural Light Provision in Habitable Rooms

The proposed plans show that all habitable rooms are provided with natural light and ventilation given the location of windows on the building.

Conclusion

Taking the above considerations into account, it is considered that prior approval should be approved with recommended conditions. The proposed development has been assessed against the relevant prior approval criteria, and it is considered that the proposed conversion would have an acceptable impact on the area.

Recommendation

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

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.