

DECISION DELEGATED TO DEVELOPMENT MANAGER
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Application No:	H06-0829-19	Applicant:	C R Cunnington & Son Ltd
Proposal:	Change of use of agricultural building into dwelling		
Location:	Land Off: Green Dyke Gedney Dyke Spalding		
Terminal Date:	17th October 2019		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

T & CP (GPD) Order 2015
Permitted Development Rights - Class Q.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	1	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

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

It is a re-submission of application H06-1026-18.

Site Description

The site is located on the eastern side of Green Dyke and was until recently an agricultural machinery and general store. Access is via a track off Green Dyke. An airfield used for the flying of microlights and model aircraft is situated to the east.

Site History

H06-1026-18 - PAA - Change of use of agricultural building to dwelling - Refused 10 December 2018.

Consultation Responses

Gedney Parish Council - Object and consider that previous reasons for refusal still apply.

LCC Highways - Request condition re: improvements to access roadway.

Environmental Protection - Recommend full contaminated land condition.

Environment Agency - Requested revised Flood Risk Assessment. The Environment Agency will only support like-for-like vulnerability classification uses and may not support proposals, including ground floor habitable accommodation as is the case in this situation.

Public - Resident comments (main points summarised):

No objection to the change of use re: the agricultural building into a dwelling, subject to the permission having a condition removing any right of objection to the Airfield's users and various clubs regarding their use at the airfield re noise etc. both now and in the future to save any problems.

Planning Considerations

Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 allows development involving a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouse) (Class Q(a) development). In addition, Class Q(b) permits building operations that are reasonably necessary to convert the dwelling to a Class C3 use (Class Q(b) development. Paragraph Q1 identifies the specific circumstances under which development is not permitted and Paragraph Q2 lists the conditions applying to Q(a) and Q(b) development.

The conditions in paragraph Q.2 set out where development proposed is development under Class Q(a) only, 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 the items referred to in sub- paragraphs Q.2 (1) (a)-(e). 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. In considering whether the proposal meets the requirements set out in Paragraph Q1 for the development to be permitted under Class Q(a) consideration of the criteria (a)-(m) in paragraph Q.1 is required.

With regards to Q.1, information provided by the applicant appears to demonstrate that the provisions of criteria (a) - (h) and (j) to (m) have been met.

Paragraph Q.1(i) states that development is not permitted if the development under Class Q(b)

would consist of building operations other than i) the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling house; and ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).

Planning Practice Guidance (PPG) provides advice on the interpretation of Class Q(b). It advises that Class Q assumes that the agricultural building is capable of functioning as a dwelling. It recognises that for the building to function as a dwelling "some" building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. Also, that the right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house. It is not the intention of the permitted development right to include the construction of new structural elements for the building.

The supporting statement indicates that the conversion scheme would utilise the existing metal building frame with new clad walls where necessary as well as new windows and doors. The roof sheeting would also be replaced. The metal frame appears to be structurally sound. In light of appeal decisions submitted with the application it is now considered that the works fall within the scope of works that could be considered reasonably necessary for the building to function as a dwellinghouse.

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 is 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.

Transport/Highways - The site has access to a public highway, albeit via a long driveway. LCC Highways has raised no objections in principle subject to improvements to the driveway entrance.

Noise Impacts - The site is approximately 200 metres from Wingland Airfield to the east, which is used for the flying of microlight and model aircraft. An enforcement appeal (Ref APP/A2525/C/10/2133906) was allowed on 18 April 2011 for a change of use from airfield use for microlight aircraft to a mixed use being (i) airfield use for microlight aircraft and (ii) for the flying of model aircraft. This was subject to a condition limiting the use of the airfield for the flying of model aircraft solely to those powered by electric motors. No other restrictions were imposed; for example, operating hours.

Micro light aircraft can potentially be noisy and the site has a history of complaints from residents within the locality. It is still considered that the proximity of the proposed dwelling to the airfield is such that the amenity of future occupiers of the proposed dwelling may well be adversely affected by means of noise and general disturbance. The proposal does not therefore comply with paragraph Q.2(1)(b) of the GDPO.

Contamination - Environmental Protection has indicated that further consideration of land contamination issues is required at this location. A quick look at readily available historical mapping shows that it was once part of a larger complex of farmyard buildings, and images from google maps show skips and other onsite waste storage, although the images are not clear.

The applicant has submitted a screening assessment form, however it does not contain sufficient information to further clarify the situation at this location. No photos or descriptive text were included. There is therefore insufficient information to establish compliance with paragraph Q.2(1)(c).

Flood Risk - The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. Applications for barn conversions in such an area require a flood risk assessment and flood risk reduction measures, but not a sequential test or exception test.

The Environment Agency's Flood Maps have been created as a tool to raise awareness of flood risk

with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences. Also, large parts of the South Holland District lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017).

Notwithstanding the amended plans the Environment Agency has objected on grounds that the submitted Flood Risk Assessment (FRA) does not adequately assess the flood risks posed by the development. The FRA is for a 2-storey dwelling whereas the plans supporting the application are for a single storey dwelling with ground floor sleeping accommodation.

The Environment Agency has indicated that it will only support like-for-like vulnerability classification uses and may not support proposals including ground floor habitable accommodation, as is the case in this situation. The FRA should aim to identify mitigation measures in line with those required for new build development of the same type, as far as this is practicable.

The Prior Determination Statement dated August 2019 acknowledges the previous refusal (ref: H06-1026-18) and advises that the flood risk objection has been addressed by the appeal decision at Appendix 1 - ref: APP/G2245/W/16/3143027.

The above appeal decision and the advice given is for a site in Edenbridge, Kent. In responding to this application, the Environment Agency would have used data available for the river catchment it is located. The appeal decision document states that the Environment Agency confirmed that the finished floor level would need to be increased by a minimum of 600mm if ground floor sleeping is proposed. The appeal decision site is located in a different river catchment and the mitigation measures proposed are insufficient for this prior approval application given the predicted flood depths the site may experience following a breach in the defences.

Environment Agency advice is given on the scale, nature, type and location of the development and utilises the best available data (fluvial / tidal modelling) they have to complete their response. For the area of Gedney Dyke, Spalding this is the tidal hazard mapping.

The proposal does not therefore comply with paragraph Q.2(1)(d) of the GDPO; namely, that the development would not result in a risk of flooding.

Conclusion

The proposal does not satisfactorily comply with criterion Q.2(1)(b, c and d). Consequently the development does not constitute permitted development under Class Q and therefore prior approval for the proposed change of use cannot be granted.