

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H06-0868-23 **Applicant:** Broadgate Nurseries

Proposal: Change of use of agricultural building into 2 dwellings with associated works

Location: Broadgate Nursery Broadgate Gedney

Terminal Date: 29th November 2023

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019****National Guidance****National Planning Policy Framework 2023**

Class Q of Part 3, Schedule 2 of the Town & Country (General Permitted Development) Order 2015 (as amended).

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

Application to determine if prior approval is required for a proposed for the Change of Use of an Agricultural Building to two number 'larger' Dwellinghouses (Use Class C3), at Broadgate Nurseries, Gedney Broadgate, Spalding.

The application is for the conversion and change of use of one agricultural building into two residential dwellinghouses under the permitted development rights of Class Q of Part 3, Schedule 2 of the Town & Country (General Permitted Development) Order 2015.

Site Description

Broadgate nurseries is located approximately 2 km to the southwest of Long Sutton. There are a number of buildings on the site, close to the access is a brick built barn that benefits from an extant permission to convert into a dwelling, this was approved under H06-0286-23, this included the removal of a cold store and caravans.

The application site naturally is located within the open countryside and outside of any defined settlement boundary. The site is located within Flood Zone 3 of the Environment Agency's Flood Maps and the South East Lincolnshire SFRA indicates that the site is within an area designated as a low hazard area.

History

H06-0286-23- Full - Conversion of agricultural building into residential dwelling including the removal of cold store building and static caravans. Approved 23-05-23.

Consultation Responses

IDB

The Board's Officers have reviewed the documents submitted in support of the above planning application. Officers have noted works which may 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.

Highways & LLFA

No objection: The proposal is to convert an existing, portal-framed agricultural building within the established Broadgate Nursery site into two new dwellings. Access to the proposed dwellings would be from Broadgate Nursery's existing entrance on Cade Drove. This is a wide entrance with suitable visibility for this classification of this road, the volume of traffic travelling along this road and the number of vehicle movements that would be expected to accrue from the two proposed dwellings. The entrance has served the commercial use of the Nursery and there is therefore no cause to consider that it would not be possible for the proposed dwellings to be safely accessed from this entrance. The site is remote from any settlement boundary and is not served by existing footways. However, given the site's remoteness, it is likely that residents would undertake most of their journeys by motor vehicle.

In view of the above and 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 and therefore does not wish to object to this planning application.

Environmental Protection

I request a standard contaminated land condition be applied at this location.

Conservation Officer

The proposal site could be considered to be within the context of the Grade II listed Pulvertoft Hall to the North of the site. However, being situated some 230m from the listed building at its closest point, It is not considered that a development of this sort would have any material or appreciable impact on the value or significance of the heritage asset.

Historic Places Team
No archaeological input required

Planning Considerations

Permitted development

Class Q of part 3 allows for development consisting ofâ??

(a) 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 (dwellinghouses) of the Schedule to the Use Classes Order; and or

(b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development is not permitted by Class Q ifâ??

(a) the site was not used solely for an agricultural use as part of an established agricultural unitâ??

(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;

(b) in the case ofâ??

(i) a larger dwellinghouse, within an established agricultural unitâ??

(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;

(c) in the case ofâ??

(i) a smaller dwellinghouse, within an established agricultural unitâ??

(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;

(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 followingâ??

(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;

(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 beginsâ??

(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 unitâ??

(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;

(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;

(i) the development under Class Q(b) would consist of building operations other thanâ??

(i) the installation or replacement ofâ??

(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);

- (j) the site is on article 2(3) land;
- (k) the site is, or forms part of a??
- (i) a site of special scientific interest;
- (ii) a safety hazard area;
- (iii) a military explosives storage area;
- (l) the site is, or contains, a scheduled monument; or
- (m) the building is a listed building.

The applicant has confirmed within the application form that the last use of the building (prior to 20th March 2013) was solely for an agricultural use and that no works under permitted development rights for the erection, extension or alteration of the building (for the purposes of agriculture) have taken place. Furthermore, there are no extensions to the external dimensions of the barns proposed, this is evidenced within the proposed elevation and floor plans.

The building is not located within a conservation area an SSI, safety hazard area, the site does not contain a scheduled monument nor relates to a listed building. The site is not subject to an agricultural tenancy agreement nor has one been terminated within the last 12 months, prior to this submission.

The proposal is for 2 number larger dwellinghouses with a total floor space below 465sqm.

Conditions

Class Q is also subject to certain conditions, they are:

(1) Where the development proposed is development 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??

- (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, and
- (f) the design or external appearance of the building,, and
- (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Where the 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 (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

Evaluation under Condition Q.2.

Transport and Highways Impact of the development

The application site is already served by an access which has been suitable for commercial purposes associated with Broadgate Nurseries. There is also an internal track/drive that extends to the application site. The plans show that a sufficient area to the south west of the barn would be given over to residential amenity, which is also likely to provide a sufficient amount of capacity for off-street parking provision.

The Highway Authority have been consulted and have stated that they have no objections to the proposal. The access is capable of absorbing this development safely and sufficient parking capacity exists on site.

However, it is not clear where the applicant intends to propose parking provision. Whilst it is accepted that there is sufficient space for sufficient provision to be provided on site, the location of parking needs to be understood in respect of firstly how it would be absorbed into each planning unit, so as not to jeopardise the wider site in safety terms, and secondly so the parking can be conditioned to be retained for the lifetime of the development, providing future residents with access

to off-street parking spaces that would accord with the requirements of Appendix 6 of the SELLP 2019. Therefore a condition requiring these details to be submitted to the LPA and agreed in writing prior to the first occupation will be attached.

The proposal therefore in terms of the transport and Highways Impacts of the development are considered acceptable.

Noise Impacts of the Development

Whilst the wider area is farmed and greenhouses still exist on site (used for nursery purposes, which is likely to be of low noise) the conversion of a frontage agricultural barn for residential purposes has been approved under planning application H06-0286-23.

The noise environment therefore is likely to be the same for the proposal as the approved dwelling, which has been considered acceptable. With this in mind the Environmental Protection Team have not raised any objections on noise grounds, nor provided any information that complaints relating to noise from the neighbouring dwelling have been received.

Therefore in noise terms the proposal is considered acceptable.

Contamination Risks on the Site

The applicant states that existing agricultural building is used for "storage of agricultural machinery for the applicant's agricultural business. The building has partly brick and partly corrugated steel sheeting walls with a corrugated sheet fiber roof."

Environmental Protection have been consulted and have stated that they have no objections subject to the attachment of standard land contamination conditions. These would require the submission of a phase 1 and 2 desk top study along with a remediation strategy for prior agreement with the LPA, following this a verification report would be required to reaffirm that steps taken in the remediation strategy were followed.

Therefore subject to this mitigation (for the protection against contaminants to the new use) the proposal in terms of land contamination is considered acceptable.

Flooding Risks on the site

The application site is located within Flood Zone 3 in accordance with EA Maps for planning. The hazard flood maps show that the area is categorised as a 'low hazard' with depths less than 0.75m, on this basis the standing advice (in relation to non-major more vulnerable development) states that the following must occur:

- An FRA submitted along with the application
- Improving flood performance of new buildings - Flood Resilience construction DCLG 2007
- Finished Floor Levels set at 300mm above external ground levels for 2 storey proposals.

The applicant has provided an FRA carried out by RM Associates. It shows finished floor levels at 3.2mAOD, the external land levels close to the building fluctuate between 2.92mAOD and 2.76mAOD to the northeastern elevation, this is slightly higher to the south west, but this in part is due to a layer of stone to allow for ramped access to be gained into the barn. It is considered that at 3.2mAOD the finished floor levels are likely to be 300mm above the average ground level external to the barn and so in conformity with the standing advice.

The FRA also confirms a list of resilience measures in respect of water, electricity and gas metres, solid concrete floor without voids, sealing of all entry point and insulation types that allow for moisture take up will be implemented. These are based upon "Improving the flood performance of new buildings" CLG (2007) which again are methods in line with the standing advice.

The requirement for a sequential and exceptions test (demonstration of sustainability element) are not required, given this proposal is for a change of use and permitted development allowances are set for such changes.

Surface Water

The IDB have been consulted and state that The IDB have stated that "the applicant has indicated that surface water will utilise the existing outlets, with the addition of a water butt, but has not detailed the system that is in place. If the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3".

Given the form is already in situ the attachment of a surface water drainage conditions would be unreasonable, furthermore any discharge into an IDB watercourse is covered by Bye Law 3. In the event that the surface water is discharged into a Riparian watercourse (should the applicant's drainage proposals change to include works to alter the 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). The issue of surface water is therefore sufficiently mitigated by external legislation especially given that there would not be a net increase in surface water created as the building is already in situ.

Foul Water

The IDB have stated that ""I note that the applicant intends to treat foul waste using a package treatment plant, however I cannot see that the applicant has indicated how they intend to dispose of treated foul water from this development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3."

Again, the disposal of foul waste if directed to a water course is governed by Byelaw 3' a planning condition would again be unreasonable if attached as it would duplicate already existing mitigation. Building Regulations Approved Document H 'drainage and waste disposal' covers off the standard technical requirements relating to the disposal of waste water and further reinforces that a foul drainage condition would be 'unnecessary' in planning terms in this instance.

As regards flood risk then the proposal subject to a condition linking the development to the levels and resilience measures set out within the Flood Risk Assessment is considered acceptable.

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

For this section of the assessment, it is taken that Impractical means that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".

It is of material weight to consider that a recently approved dwelling is located in close proximity to the application site. The application site is served already by a private road infrastructure (the one which serves the approved dwelling) and so services and utilities if not already present, would need to be for the purposes of that approval, the internal driveway is already concreted.

The works required to allow the barn to be accessed by vehicles are limited and the availability of utilities (whether already present or made available as part of implementing planning approval H06-0286-23) means that it would not be impracticable to connect then to these dwellings. This proposal along with the dwelling approved under H06-0286-23 result in a 'cluster' of form, this form already exists and so not harmful upon the characteristics of the open countryside. Furthermore if approved the converted barn would be of a sufficient distance to retain sufficient amenity standards for both these properties and existing neighbouring dwelling.

The location of the development then is considered not to be impractical or undesirable.

the design or external appearance of the building

The proposal would retain the architectural form of the barn. This building is well-established and has informed the character of the open countryside since the late 1970s. With the exception of openings and some repair works the external envelope would still be retained. Pulvertoft Hall which is a Grade II listed building is located circa 250m away.

The architectural features of the barn would remain legible, and the plans shows no change to the facing brick, steel station of sheeting that currently clad the building.

The barn is also at a sufficient distance from the nearest listed building not to give rise to setting impacts that may result in the requirement for assessment through a full planning application.

Limited information has been presented in relation to the erection of boundary treatments. Poorly designed boundary treatments would have potential to have an unacceptable impact upon the open countryside. Therefore, a condition requesting that prior to their erection a scheme of boundary treatments shall be submitted to and agreed in writing with the LPA. They shall be then installed prior to the first occupation and retained thereafter.

It is therefore considered that subject to the aforementioned mitigation that the external appearance

of the proposal is acceptable.

the provision of adequate natural light in all habitable rooms of the dwellinghouses
All rooms that require it are served with adequate natural light. A first-floor gallery level also allows light to infiltrate the first floor from both north and south aspects. The proposal in these terms is considered acceptable.

Conclusion

The proposal is considered to accord with the parameters and limitations set out under Class Q (of Part 3) and therefore represent permitted development. An assessment has also been made in respect of a determination as to whether the prior approval of the authority will be required and subject to conditions relating to compliance with the FRA, land contamination, provision of parking and details of boundary treatments the proposal is considered acceptable; and prior approval is not required.

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.