Acorus Rural Property Services Ltd
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IP33 3AA

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TOWN AND COUNTRY PLANNING ACT 1990
PRIOR NOTIFICATION

Reference: H06-1026-18 **Date of Decision:** 10th December 2018

Applicant: C R Cunnington & Son Ltd
White House Farm
Main Street
Gedney Dyke
Spalding Lincs
PE1 0AJ

Location: Land Off Green Dyke Gedney Dyke Spalding

Description: Change of use of agricultural building to dwelling

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

1 It has not been satisfactorily demonstrated that the development could be carried out without involving new structural elements. Moreover, the proposed building operations are considered extensive and tantamount to the construction of a new building within the confines of the present structure, rather than operations reasonably necessary for the building to function as a dwelling house. It is considered that the works go well beyond the scope of works that could be considered reasonably necessary for the building to function as a dwellinghouse. This is consistent with a recent High Court judgement (Hibbitt & Anr v Secretary of State for Communities and Local Government & Anr). As a consequence, the proposal fails to satisfy paragraph Q.1(i) and is not permitted development under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

2 The site is approximately 200 metres from Wingland Airfield to the east, which is used for the flying of microlight and model aircraft. The proximity of the site to the airfield is such that the amenity of future occupiers of the proposed dwelling would be adversely affected by means of noise and general disturbance generated by activity associated with the

airfield. The proposal therefore fails to comply with paragraph Q.2(1)(b) and is not permitted development under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

3 The site is located within Flood Zone 3 of the Environment Agency's Flood Maps and within an area identified as "Danger for Some" within the South East Lincolnshire Strategic Flood Risk Assessment (2017). The proposal includes bedrooms on the ground floor and is a vulnerable use. There are alternative sites within the district that are at a lower risk of flooding. Consequently, the proposal fails to satisfy the sequential test. The proposal therefore fails to comply with paragraph Q.2(1)(d) and is not permitted development under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

4 The site was once part of a larger complex of farmyard buildings. Further consideration of land contamination issues is therefore required at this location. As a consequence, there is insufficient information to establish compliance with paragraph Q.2(1)(c).

Notes:

The determined plans are:
Greendyke-01;
Greendyke-02;
Greendyke-03;
Greendyke-04;
Supporting Statement by Acorus Rural Property Services Ltd dated September 2018;
Contamination Assessment: Screening Assessment Form dated 7 November 2018;
Flood Risk Assessment by Geoff Beel Consultancy (ref. GCB/Acorus) dated March 2017.



Phil Norman
Planning and Building Control Manager
South Holland District Council

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

All appeals must be made using an Appeal Form which you can get from The Planning Inspectorate at Temple Quay House, 2 The Square, Bristol, BS1 6PN (tel: 0303 444 5000) or you can submit your appeal online at:

http://www.planningportal.gov.uk/planning/appeals/online/makeanappeal

The Secretary of State can allow a longer period for giving notice of an appeal but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the

provisions of the development order and to any directions given under the order. In practice the Secretary of State does not refuse to consider appeals solely because the Local Planning Authroity based its decision on a direction given by him.

For detailed information on appeals, appeal types and guidance on the appeals process please visit:

http://www.planningportal.gov.uk/planning/appeals/planningappeals

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.