DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H07-0583-22**	**Applicant:**	**Mr N Shortland**
Proposal:	Change of use of barn to residential dwelling - previously approved under H07-0244-20		
Location:	West Drove South Gedney Hill Spalding		
Terminal Date:	5th August 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

T & CP (GPD) 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
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 to a 5-bed dwelling under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. It is essentially a modification of H07-0244-20 for a 3-bed dwelling, including a revised layout incorporating an additional first floor and alterations to the fenestration.

Site Description

The building, which is asbestos/fibre cement clad, is part of Windy Nook Nursery located on the western side of West Drove South. Glasshouses are located to the north and west and an associated dwelling to the south. New houses are situated to the east fronting West Drove South.

Planning History

H07-0244-20 - PAA - Change of use of barn to residential - Approved 4 June 2020.

Consultation Responses

Gedney Hill Parish Council

No comments received.

LCC Highways/SUDs

Does not wish to restrict the grant of permission

South Holland IDB

Request drainage strategy. If the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3.

Environmental Protection

Request unexpected contamination condition.

Planning Considerations

Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 indicates that the following is permitted development:
a) a change of use of a building and any land within its curtilage from a use as an agricultural building to use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and
b) building operations reasonably necessary to convert the building referred to in paragraph a) to a use falling within Class C3 (dwellinghouses) of that schedule.

Paragraph Q.1 sets out the circumstances where development is not permitted. The Design and Access Statement indicates that the provisions of criteria (a) - (h) and (j) to (m) have been satisfactorily met. This is accepted in good faith.

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). Paragraph 105 indicates that "it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right".

The guidance of the PPG is therefore clear and accords with the High Court judgement Hibbitt v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council. The latter concludes that Part 3 Class Q of the GPDO allows a "conversion" but does not allow a "re-build" or "fresh build".

In this case the building has a metal frame and it would be re-clad in Weinerberger Kassandra Multi brick slips with a standing seam zinc roof (dark grey). Windows would be uPVc & powder coated aluminium. It is considered that the extent of the works proposed are reasonably necessary for the building to function as a dwellinghouse and that the conversion would not involve building operations beyond those permitted under Class Q.

As such, it is considered that the proposed works satisfy the requirements of paragraph Q.1(i) and PPG. Consequently, the proposal is permitted development under Class Q(b) of the GPDO.

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.

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;

Transport/Highways - The subject building has been in agricultural use for several years and has an existing vehicular access onto West Drove South, which is proposed to be used for the residential dwelling. This access has suitable visibility for the proposed use and the nature of West Drove South. The vehicle movements for the residential dwelling can therefore be offset against those of the historic agricultural use and the vehicular impact of the proposed development, on balance, is neutral. LCC Highways does not wish to restrict the grant of permission.

Noise Impacts - The nearest dwellings are situated to the east. It is considered that use of the building as a dwelling would not materially harm the amenity of neighbouring residents in terms of noise and disturbance. Activities on the remaining horticultural holding are relatively low key so occupiers of the dwelling would have a reasonable level of amenity.

Contamination - Environmental Protection are in general agreement with the findings within the submitted environmental report, and have requested an unexpected contaminated land condition in this case.

Flood Risk - The building to which the application relates is within Flood Zone 1 and within an area designed as "no hazard" within the Strategic Flood Risk Assessment. No objections are raised on flood risk grounds..

Location and Siting - The proposal is considered acceptable in terms of location and siting.

Design/external appearance - The proposed external works would enhance the character/appearance of the building, which presently has a utilitarian appearance.

In terms of impact upon neighbouring residents to the east, the common boundary is de-lineated by 1.8 m fencing. Rooflights are proposed on the south-eastern elevation facing neighbouring property. They should either be 1.7m above floor level or obscure glazed. Overlooking from a rear first floor bedroom window would be oblique. It is considered that the amenity of neighbouring residents would not be materially harmed in terms of overlooking, lack of privacy, etc.

Ecology - The site is currently in horticultural use and is predominantly occupied by a locked building and hardstanding. Presently, therefore, it has low potential in terms of wildlife. Nevertheless, a biodiversity condition is recommended.

Conclusion

That the Class Q prior notification application be approved.

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.