

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H07-0604-22 **Applicant:** Deljon Properties Ltd.

Proposal: Change of use of barn to residential dwelling - re-submission of H07-0908-21

Location: The Poplars North Road Gedney Hill

Terminal Date: 10th 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
KINGS LYNN INTERNAL DRAINAGE BOARD	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 essentially a modification of H07-0908-21, including a change of roofing materials and

alternative windows and doors.

Site Description

The building, which is of brick and asbestos construction, is located at the rear of The Poplars and is the eastern section of a range of outbuildings. A drain is located to the east. The building is accessed off Mole Drove to the south.

The nearest residential dwelling, other than The Poplars, is Northolme some 100 metres to the north.

Planning History

H07-1259-07 - Full - Two 2-storey extensions, alteration and renovations to dwelling - Granted 14 November 2007.

H07-0035-08 - C/C - Details of landscaping scheme (Condition 7 of H07/1259/07) - Approved 21 January 2008.

H07-0050-08 - C/C - Details of windows (Condition 4 of H07/1259/07) - Refused 6 February 2008.

H07-0140-08 - C/C - Details of external doors (Condition 3 of H07/1259/07) - Approved 19 February 2008.

H07-0190-08 - C/C - Details of external doors (Condition 3 of H07/1259/07) - Approved 21 February 2008.

H07-0081-15 - Full - Extension & Alterations - Granted 1 April 2015

H07-0055-21 - Full - Proposed extension and alterations - Granted 15 March 2021.

H07-0908-21 - PAA - Change of use of barn to residential dwelling - Approved 25 October 2021.

H07-0617-22 - PAA - Change of use of barn to residential dwelling - Under consideration.

Consultation Responses

Gedney Hill Parish Council

No comments received.

LCC Highways/SUDs

No objections subject to informatives.

South Holland IDB

If surface water discharge is proposed to a watercourse, then the proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3).

Public

No response.

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

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".

The building has a metal main frame with solid timber purlins. It would be re-clad in Cedral Horizontal Cladding (CO5 Grey) with slate effect tiles (grey). Windows and doors would be aluminium (Anthracite). 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 proposal includes a large parking/turning area and an existing vehicular access off Mole Drove would be utilised. LCC Highways consider that the proposal would not have an unacceptable impact upon highway safety.

Noise Impacts - The nearest dwelling is "The Poplars", which is presently associated with the barn. Northolme is located some 100 metres to the north. A residential as opposed to agricultural use would have no significant noise impacts.

Contamination - The application is accompanied by a Geo-Environmental Desk Study which indicates that there are no readily identifiable sources of contamination. Made ground was not noted to be present and soft cover does not appear to be included in the proposed development of the site. A Phase 2 intrusive investigation is therefore considered unwarranted. Adopting the precautionary approach it is nevertheless recommended that an unexpected contamination condition be attached to any consent.

Flood Risk - The building to which the application relates is within Flood Zone 3. However, it is within an area of "no hazard" within the Strategic Flood Risk Assessment. Moreover, the proposal is a conversion so, in accordance with Paragraph 164 of the national Planning Policy Framework,

2019, the proposal should not be subject to the sequential or exception tests. However, it should still meet the requirements for a site-specific flood risk assessment.

The flood risk assessment accompanying the application recognises that the proposal is a more vulnerable development. Consequently, it recommends that floor levels be 300mm above existing ground level and that floor resistant/resilient construction be incorporated.

Location and Siting - The proposal is in open countryside and divorced from the village of Gedney Hill. However, case law has established that applications such as this cannot be resisted for this reason.

Design/external appearance - The building presently has a utilitarian appearance. The proposed external works would enhance its appearance.

It is noted that an extension is currently being erected on the eastern side of "The Poplars" (ref. H07-0055-21) and that it includes a balcony on its eastern elevation. However, the proposed layout is such that the main entrance is set back and no windows are situated on the remainder of the southern elevation. It is considered that use of the building as a dwelling would not materially harm the amenity of neighbouring residents, subject to boundary screening.

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.