

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H08-0465-24	Applicant:	Mr Parker
Proposal:	Change of use from agricultural building to 2 residential dwellings		
Location:	G & M Tomlinson Farm Buildings Cheal Road Gosberton		
Terminal Date:	30th July 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Schedule 2, Part 3, 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
RUBEN LOPEZ, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	3	0	0	0

CASE OFFICER ASSESSMENT

Description of Proposal

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

Site Description

While there are a few dwellings within the wider area, the site lies beyond any settlement boundaries outlined within the South East Lincolnshire Local Plan, 2019. Despite these sporadic dwellings, the area is characterised by agricultural uses.

The building itself is a typical large barn. It is constructed of a concrete base with sheet metal walls above approximately 1 metre of blockwork. An asbestos roof is present. The barn is well worn, although still appears to be structurally sound.

Relevant History

No relevant planning history

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Welland and Deepings Internal Drainage Board

Both the existing surface water and proposed surface water provisions should be confirmed to the Board. Proposed foul water provisions should also be confirmed

Environmental Protection

"I request a screening assessment form be completed and submitted (with photos) for this location. But if this not possible then I request a standard land contamination condition be applied at this location"

Historic Environment Officer

"Thank you for consulting us on this. Having reviewed the application documents and the updated available Historic Environment information for this application, The proposal is on the site of a non-designated heritage asset recorded in the HER: MLI122539 - Ebenezer House, Gosberton. This is a partially extant 19th century farmstead. However, the proposal is unlikely to have a direct or indirect impact on significant archaeological remains (including the farmstead). Consequently, no further archaeological input is necessary for this application"

Highway and Lead Local Flood Authority

"This proposal is for Change of use from agricultural building to 2 residential dwellings, that will utilise the existing access from Cheal Road. Adequate provision for car parking and turning space can be provided within the limits of the site to enable vehicles to enter and leave in a forward gear and sufficient visibility is available to allow drivers intending entering the highway to judge if it is safe to complete the manoeuvre. Therefore, it is considered that this proposal would not result in an unacceptable impact upon highway safety.

Cheal Road is lightly trafficked and it is considered that any traffic generated by the proposed scheme would be more suitable in nature (i.e. cars as opposed to large articulated vehicles associated with everyday agricultural activities) and the relinquishment of potential greater movements associated with farming activities would represent a net gain in terms of highway safety.

The proposed development affects Gosberton Public Footpath no.6. Unfortunately, this is a situation

where the legal alignment and the walked route on the ground are slightly different. In this instance, the legal alignment is affected by the boundary treatments on the northerly plot. This situation could be remedied by realigning the proposed hedge and post and rail fencing and relocating the bin storage area."

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, four letters of objection have been received.

These can be summarised as:

- Site is outside of settlement boundaries
- Occupants would be reliant on private vehicles
- Harmful to the rural character of the area
- Application would encourage a precedent
- Semi-detached dwellings would be out of keeping with area
- Increase in noise and disturbance
- Concerns re site traffic during development
- Potential harm to wildlife
- Building is not suitable for conversion
- Development is not consistent with the Local Plan
- Additional strain on infrastructure

Key Planning Considerations

The Town and Country Planning (General Permitted Development) Order 2015 was amended, in respect of Part 3, Class Q, in May 2024. Amongst other matters, the amendments to the legislation included (in short) an increase in the number of dwellings permitted under Class Q, a reduction in the extent of floor space permitted per dwelling to a maximum of 150sqm, and an allowance for extensions, comprising specific scales, to be permitted.

However, Article 10 of the 'Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024', which came into force on 21st May 2024, introduced a 'Transitional Period'.

This 'Transitional Period' allows the submission of Class Q proposals, until May 2025, under the amended legislation(i.e. that of 21st May 2024) and that of the prior legislative requirements (i.e. that as of 20th May 2024). As such, during this 'Transitional period', proposals can be submitted with a view to applying the amended or previous Class Q limitations.

It is worth noting that, the 'Transitional period' does not allow for a mix of both legislative criteria.

The remainder of the report will assess the proposal under the relevant Class Q limitations for that individual proposal. As the proposed dwellings would both exceed a floor space of 150sqm, the application is to be assessed under the previous legislation.

Schedule 2, Part 3, Class Q

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. In this instance, the proposal is being assessed against the previous legislation, which reads as follows:

- (a) the site was not used solely for an agricultural use as part of an established agricultural unit;
- (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 of
- (i) a larger dwellinghouse, within an established agricultural unit
- (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 of
- (i) a smaller dwellinghouse, within an established agricultural unit
- (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 following
- (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 begins
- (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 unit
- (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;
- (j) the site is on article 2(3) land;
- (k) the site is, or forms part of
- (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 information provided by the applicant appears to satisfactorily demonstrate that the provisions of criteria (a) - (h) and (j) to (m) have been met.

Schedule 2, Part 3, Class Q - Conversion vs Rebuild

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 is primarily constructed of sheet metal, with a concrete/ blockwork base. The building features an asbestos roof. The submitted structural report says that there is minor damage to the building, including sunlight being visible through the roof. That being said, while Class Q does not allow for a complete rebuilding of a structure, it does enable alterations in order to enable conversion. This extends to the reasonable replacement of materials etc. The submitted structural report states that the building is capable of conversion and that the frame is in reasonable condition. Based upon this information, it is considered that the building is suitable for conversion.

While demolition works are needed to reduce the footprint of the structure to achieve the requirements of Class Q, it is not considered that the extent of the demolition proposed would exceed the limits outlined in the PPG.

Based on the aforementioned, it is considered that the proposal constitutes a conversion, as opposed to a re-build or fresh build, since it does not involve a substantial rebuilding of the pre-existing structure. As such, it is considered that the proposal satisfies the requirements of paragraph Q.1(i) and PPG.

Schedule 2, Part 3, Class Q - Prior Approval Considerations

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.
- (g) The provision of adequate natural light in all habitable rooms.

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;

(a) Transport/Highways - The proposal is for the change of use of an agricultural barn to two dwellings. The relevant consultee from the Highway Authority has raised no objections to the proposal, stating that the works may reduce the levels of heavy vehicle traffic; and therefore, represents an improvement.

(b) Noise Impacts - The conversion to a residential property would have no greater impact with regards to noise as opposed to an agricultural use. While the proposed site is located in close proximity to the neighbouring dwelling, it is considered that the change of use would not significantly increase noise levels when compared to the previous use.

(c) Contamination - Due to the former agricultural use of the land and buildings a precautionary

contaminated land condition is recommended.

(d) Flood Risk - The site to which the application relates is within Flood Zones 1 and 3 on the Environment Agency maps. That being said, the bulk of the site is within Flood Zone 1, with only a minor area in the north-west site being within Flood Zone 3. That being said, the site is outside the area of risk within the South East Lincolnshire Strategic Flood Risk Assessment, 2017. In any case, the proposal is a conversion so, in accordance with Paragraph 174 of the NPPF, 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. In this respect, the proposal is a "more vulnerable development". However, the tangible flood risk on the site is low, and as such, the requirement for significant adaptation is minimal.

(e) Location and Siting - The site is outside of any defined settlement. However, it is located within a small grouping of dwellings, and as such, a residential property within this area would not appear immediately out of character. The PPG is clear that location outside of settlement boundaries cannot be considered inappropriate in the case of a Class Q conversion.

Windows have been positioned as to minimise overlooking. As the proposal would not increase the height of the structure, there would be no additional overshadowing created.

(f) Design/external appearance - The building would retain a similar appearance to present, albeit with alterations. The architectural features of the barn would remain legible, and the materials whilst contemporary would be appropriate. As the same general aesthetic of the unit would be maintained, the relative impact is low. The alterations to the materials would represent an improvement, neatening the site and removing lower quality materials.

(g) The provision of adequate natural light in all habitable rooms - The proposal is satisfactory in this respect.

Response to Representation

The responses from the consultation exercise (summarised above) have been mostly addressed in the above report. That being said, addressing the main points raised, the following is considered:

-In response to Welland and Deepings IDB comments, a condition is recommended on any potential decision requesting details of foul and surface water drainage prior to commencement.

-In response to the comments of the Environmental Protection department, a standard contaminated land condition is recommended on any potential decision

-To remedy the concerns raised by the Highway Authority re Gosberton Public Footpath no.6, an amendment was sought to realign the relevant border to ensure that no interference with the footpath would occur.

-Turning to public representations, while the site is outside of any defined settlement boundaries, the PPG is clear that this should not count against an application for a class Q conversion. Barns will be located primarily outside of settlements, and therefore, resisting on this basis would be inappropriate.

-Similarly, while future occupants would be reliant on a private vehicle due to the positioning of the dwellings, it is not considered that this outweighs the factors discussed above. Reliance on a private vehicle would not result in the location being considered so impractical as to contradict Q2 (1e)

-As discussed above, Class Q conversions are commonplace, and therefore, the impact upon the character of the area would not be significantly detrimental.

-As the application is a prior-approval decision, it cannot be said that an approval would encourage a precedent.

-While semi-detached dwellings are not prevalent in the area, they are not uncommon throughout the district, particularly in rural areas such as this. Semi-detached rural housing is typical of the 20th Century Council House building schemes prevalent in the district.

-It is considered that the proposed change of use would create no greater noise disturbance than the existing agricultural use. The reduction in larger vehicles and heavy machinery, in addition with better insulation as a result of the proposed alterations, may in fact reduce noise pollution

-The concerns re site traffic are noted; however, it is considered that adequate space can be provided on site to enable these vehicles to park safely without causing disruption to the local highway network

-Barns are often used by species for roosting and nesting. Therefore, a condition is recommended to ensure that if any species are found on the site, the building work ceases and appropriate provisions are made.

-The comments regarding the suitability of the building have been addressed above

-As a prior approval application, the proposal does not need to be consistent with the Local Plan.

-The potential additional strain on infrastructure is not a consideration within a Class Q application.

Conclusion

The proposal constitutes permitted development and complies with the relevant conditions under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order, 2015.

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.