DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H08-0512-24**	**Applicant:**	**Mr D Charlton**
Proposal:	Conversion of existing agricultural buildings to form 3 dwellings		
Location:	Risegate House Farm Hedgefield Hurn Gosberton		
Terminal Date:	2nd August 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

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
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	1

CASE OFFICER ASSESSMENT

Proposal

The application is for a change of use of an existing agricultural building into three dwellings under

Part 3 of Schedule 2, Class Q, of the Town and Country Planning (General Permitted Development) Order 2015.

Site Description

The site is located to the south of Hedgefield Hurn in Gosberton. To the north west of the application site is a neighbouring dwelling, with open fields to the north east, east, south and south west.

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 & Deepings Internal Drainage Board

Further to receipt of the above, I confirm that Welland & Deepings IDB have no comment to make with regard to this application at this stage.

SHDC Environmental Protection Officer

I request a screening assessment form (with photos) be completed and submitted for this location. This can be found at:

https://www.sholland.gov.uk/article/11653/Planning-application-consultations

However if this cannot be submitted I request a standard land contamination condition be applied at this location.

LCC Highway and Lead Local Flood Authority

Recommendation: No objection

This application is for Prior Approval for the change of use of an existing Agricultural Building to form 3no. dwellinghouses which will utilise the 2no. existing access arrangements from Hedgefield Hurn. Sufficient visibility is provided at these locations to allow drivers to judge if it is safe to complete the manoeuvre and enter the highway. 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 therefore, it is considered that this proposal would not result in an unacceptable impact upon highway safety.

That said, the existing vehicle accesses are only appropriate for the previous agricultural use as it is just an unbound gravel material and therefore, they will need to be made up to the County Councils specification within the extent of the public highway appropriate for its proposed residential use. Additionally, the access to serve plots 1 and 2 needs to be as a minimum 4.1metres wide for the first 10 metres to allow two vehicles to pass one another ensuring no vehicles are waiting on Hedgefield Hun to turn in to the access in the interests of highway safety.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

Senior Ecologist

I am writing in regard to the above application to replace an agricultural building with 3 dwellings. Having had a look at google maps, the proposed site plan will impact > 25m^2 of existing habitat, and therefore I believe that the proposal will be required to achieve a 10% biodiversity net gain. Consequently, we will also require the submission of a BNG statement, baseline and post -

development habitat maps, and a copy of the completed small-sites or statutory biodiversity metric showing the baseline and post-development biodiversity units for the site.

SHDC Environmental Health

No Comments

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

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.

Schedule 2, Part 3, Class Q

Part 3, Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), seeks to permit "buildings on agricultural units and former agricultural buildings to dwellinghouses". Class Q details that the following is permitted development:

"a) a change of use of:

(i) a building that is part of an established agricultural unit and any land within that building's curtilage, or
(ii) a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage, to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,

(b) development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or

(c) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building".

Paragraph Q.1 sets out the circumstances where development is not permitted. As expressed above, under the changes to this section of legislation, introduced on 21st May 2024, a transitional period is provided where an application may be assessed under the previous incarnation of the legislation or the updated version (although importantly not both).

In this instance, the proposal is being assessed under the current legislation, introduced on 21st May. The relevant section of legislation is detailed below:

"Development is not permitted by Class Q if:

(a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit -
(i) on 24th July 2023, or
(ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins,

(b) in the case of a site that was (but is no longer) part of an established agricultural unit
(i) the site was part of an established agricultural unit on 24th July 2023,
(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or
(iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose,

(c) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,

(d) the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see paragraph Q.3(2) of this Part) would result in
(i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or
(ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres,

(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 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, other than
(i) extension of the building allowed by paragraph Q.1(i);
(ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i)

(i) the development under Class Q(b) would result in an extension that:
(i) has more than one storey,
(ii) is sited anywhere other than to the rear of the existing building,
(iii) extends beyond the rear wall of the existing building by more than 4 metres,
(iv) has eaves the height of which exceed the height of the eaves of the existing building,
(v) is higher than whichever is the lower of: (aa) the highest part of the roof of the existing building, or (bb) a height of 4 metres above the ground,
(vi) extends beyond a wall that forms a side or principal elevation of the existing building, or
(vii) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and: (aa) the hard surface was not provided on the land on or before 24th July 2023, or (bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before
the date development under Class Q(b) begins,

(j) the development under Class Q(c) would consist of building operations other than
(i) the installation or replacement of: (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(j)(i),

(k) the site is on article 2(3) land,

(l) 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,

(m) the site is, or contains, a scheduled monument,

(n) the building is a listed building,

(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it, or

(p) the building does not have suitable existing access to a public highway."

The information provided by the applicant appears to satisfactorily demonstrate that the provisions of criteria (a) - (h) and (k) to (p) have been met. The proposal does not seek to extend the built form and therefore, the proposal would not be at conflict with criteria (i).

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

Development is not permitted if the development under Class Q(c) 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.

Planning Practice Guidance (PPG) provides advice on the interpretation of Class Q(c). 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".

Two of the buildings are brick built with red roof tiles, with the third building being brick build with metal corrugated roofing. No structural report has been submitted; however, following a site visit and discussion with the applicants agent, it is clear that the conversion could occur without requiring significant redevelopment of the site or the need for a complete structural overhaul.

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(j) 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 barns to three dwellings, with use of two existing access points off Hedgefield Hurn. The Local Highway Authority has raised no objection to this arrangement. It is not considered that the proposal would significantly impact highway safety or traffic in the area.

(b) Noise Impacts - The conversion to a residential property would have no greater impact with regards to noise as opposed to an agricultural use. Ample distance is present to neighbouring dwellings as to ensure that no significant noise nuisance occurs.

(c) Contamination - Due to the former agricultural use of the land and buildings a precautionary contaminated land condition is recommended. Subject to these precautionary conditions, the proposal is considered acceptable in this regard.

(d) Flood Risk - The site to which the application relates is within Flood Zone 3 on the Environment Agency maps. However, it 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.

(e) Location and Siting - The site is outside of any defined settlement. However, it is located within close proximity to dwellings, and as such, a residential property within this area would not appear immediately out of character.

The relationship with the existing dwellings in the area is considered to be adequate. No significant overlooking or overshadowing would occur as a result of the conversion.

(f) Design/external appearance - The building would retain a similar appearance to present, albeit with minor alterations including alterations to the windows. The proposed external works are considered acceptable in terms of design/appearance.

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

Conclusion

The proposal constitutes permitted development and complies with the relevant conditions under Schedule 2, Part 3, Class Q 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.