

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H09-0188-22	Applicant:	South Yorkshire Pensions Authority
Proposal:	Conversion of redundant agricultural buildings into 1 dwelling		
Location:	Willow Tree Farm Buildings Lapwater Lane Holbeach St Marks		
Terminal Date:	29th April 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

T & CP (GPD) Order 2015

Permitted Development Rights - Class Q

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	1	0
WARD MEMBER	0	1	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
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 conversion of a range of existing agricultural buildings into a 5 bedroom dwelling (floorspace 260sqm) under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. A large utilitarian section of the buildings would be demolished.

Site Description

The site is located in open countryside on the eastern side of Lapwater Lane approximately 1.6km to the north-east of Holbeach St Marks. It is occupied by a L-shaped range of traditional 19th century farm buildings of brick construction, plus a large contemporary building.

Marshes associated with The Wash (Ramsar wetland site and designated SSSI) are situated approximately 2.6km to the north beyond the Sea Bank. The nearest residential property is Sycamore Farm approximately 500 metres to the south-west.

Recent Planning History

H09-1169-05 - Full - Change of use of agricultural barns to a dwelling - Granted 19 October 2005.

H09-1497-07 - Cond Comp - Details of landscaping, external doors and window frames, design and position of external boxes for gas and electricity (Conditions 3,10,11 and 12 of H09/1169/05) - Approved 19 November 2007.

H09-0056-08 - Cond Comp - Details of external materials (Condition 2 of H09/1169/05) - Approved 8 February 2008.

Consultation Responses

Holbeach Parish Council

No objections.

Cllr. C N Worth

Support. Delighted to see these dis-used farm buildings brought back into life. It has been an eyesore for too long and will make a magnificent and special house and I think the designs do just that. In recent years there have been a spate of Raves using these buildings so will add security to this remote farming area.

LCC Highways/SUDs

Does not wish to restrict the grant to permission.

South Holland Internal Drainage Board

If a 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).

Environmental Protection

Request condition.

Environment Agency

Request condition.

Public

None received.

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".

In this case the buildings are of brick construction with timber roof trusses and timber floors at first floor level. The conversion would not involve building operations beyond those permitted under Class Q. The existing structure is capable to take the loading which carries the proposed external works, as stated in the structural report accompanying the application.

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 and highway impacts - LCC Highways have been consulted and, having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), have concluded that the conversion and the use of this building as a residential property would not be expected to have an unacceptable impact upon highway safety. They therefore do not wish to restrict the grant of permission on highway safety grounds.

Noise Impacts - Marshes associated with The Wash (Ramsar wetland site and designated SSSI) are situated approximately 2.6km to the north beyond the Sea Bank. The nearest residential property is Sycamore Farm approximately 500 metres to the south-west. The present agricultural use of the site could potentially give rise to noise issues. A domestic use would create less impact in this respect, plus the building is divorced from both nearby residential property and also the wildlife marshes. It is considered that neither would be materially harmed by the proposed use.

Contamination risks - Due to the present use of the site Environmental Protection have requested a contamination condition if consent is forthcoming.

Flood risks on the site - The building to which the application relates is within Flood Zone 3 and within an area designed as "Danger for All" within the South East Lincolnshire Strategic Flood Risk Assessment. However, the proposal is a conversion so, in accordance with Paragraph 167 of the National Planning Policy Framework, 2021, it should not be subject to the sequential or exception tests.

However, it should still meet the requirements for a site-specific flood risk assessment and be as safe as possible. In this respect, the Flood Risk Assessment states that due to the constraints associated with using an existing building it is not practical to raise floor levels to be above the flood level. It is therefore proposed that the risk of flooding is mitigated through flood resilient measures. In this instance, having the ground floor at its existing level will enable the dwelling to have two storeys and therefore all sleeping accommodation will be on the first floor and there is a place of safe refuge.

It is also proposed that:

- the ground floor level will remain as existing;
- there is flood resilient construction to a level of +5.0m OD, 0.3m above the predicted flood level of +4.7m OD; and
- there is flood resistant construction (demountable defences) to a height of 0.6m above finished floor level.

The risk is further mitigated as the proposed dwelling will have 2 storeys.

The Environment Agency has been consulted and has raised no objections subject to the aforementioned flood mitigation measures.

Location and Siting - The site is outside a defined settlement limit in open countryside and is rather isolated. However, case law/appeal decisions have established that the principle of the development of the site and the sustainability of a site are not considerations (let alone material considerations) under a prior approval application and therefore any prior approval application does not result in the principle of a residential use of the site or the sustainability of the site being considered. This is the distinct and fundamental difference between development under a Development Order to which policies and guidance do not apply, and development by virtue of a planning permission in accordance with the Development Plan (Local Plan) and the NPPF 2021.

Consequently, the Class Q right does not apply a test in relation to the sustainability of location, recognising that many agricultural buildings will not be in village settlements.

Design/external appearance - The existing buildings would be converted in a sensitive manner and would have a slate roof on the principal element and corrugated metal roof on the single storey element. The doors and windows would be constructed in timber. Additional openings would only be created where necessary. The proposal is considered acceptable in terms of design and external appearance and would not materially harm the character or appearance of the buildings or the rural locality.

Ecology

An initial Preliminary Ecological Appraisal was undertaken by Applied Ecology, a copy of which accompanies this application. There is evidence that the buildings are occupied by Barn Owls. Additional bat surveys were required and undertaken within the appropriate survey window, which have also been submitted. These surveys and subsequent ecology report have identified that two bat boxes and two owl boxes are required at the property.

The proposed design of the conversion includes the two bat boxes. The applicant is willing to accept a condition to ensure these are installed prior to occupation of the building. The applicant is also happy to accept a condition that owl boxes must be installed nearby to the dwelling to mitigate for the loss of habitat. All land in the immediate vicinity is owned by the applicant and so this can be conditioned appropriately.

Subject to compliance with the proposed mitigation measures, the proposal is acceptable in ecology

terms.

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.

Conclusion

That the Class Q prior notification application be approved.