DECISION DELEGATED TO DEVELOPMENT MANAGER

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| **Application No:** | **H09-0539-21** | **Applicant:** | **J H & A J King Farms Ltd.** |
| **Proposal:** | Change of use of agricultural building to single dwelling | | |
| **Location:** | Land Off Further Old Gate Holbeach Spalding | | |
| **Terminal Date:** | 13th July 2021 | | |

**Planning Policies**

**South East Lincolnshire Local Plan - Adopted: March 2019**

**National Guidance**

**National Planning Policy Framework 2019**

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 |
| RESIDENTS | 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.

## Site Description

The building, which is part brickwork, blockwork and corrugate iron, is located on the northern side of Further Old Gate some 50 metres from the junction with fen Road. A care home ("Three Chestnuts") is situated approximately 30 metres to the north-east on the opposite side of a drain.

## Planning History

H09-0844-15 - Full - Alterations to existing barn complex to create a single dwelling - Refused 3 November 2015.

## Consultation Responses

Holbeach Parish Council

No comments received.

LCC Highways/SUDs

Does not wish to restrict the grant of permission

South Holland IDB

If (following testing) a strategy wholly reliant on infiltration is not viable and 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 contaminated land condition.

Public

Comments received (summarised):
Request boundary fencing.

## 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.

Paragraph Q.1(i) states that 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). It advises that Class Q assumes that the agricultural building is capable of functioning as a dwelling. It recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission,

should be permitted. Also, that the right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house. It is not the intention of the permitted development right to include the construction of new structural elements for the building.

The application is accompanied by a structural survey which concludes that although the building has been neglected over the years it is fit for purpose and structurally sound. It is considered that it can be converted without significant structural alteration, to include building operations to the extent reasonably necessary to the building to function as a dwelling. Existing brickwork would largely remain exposed and zinc standing seam cladding used for the walls and roof.

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 would have 5 bedrooms. 3 Parking spaces are available on site, plus turning facilities. LCC Highways have concluded that the amended scheme, which includes a reduction in the height of the existing frontage hedge, would not be expected to have an unacceptable impact upon highway safety.

Noise Impacts - A care home ("Three Chestnuts") is situated approximately 30 metres to the north-east on the opposite side of a drain. It is considered that use of the building as a dwelling would not materially harm the amenity of neighbouring residents, including noise impacts. This is subject to satisfactory boundary screening. Whilst there may be some noise and general disturbance during the construction phase this would only be temporary.

Contamination - Due to the former agricultural use of the land and buildings Environmental Protection have requested a full contaminated land condition in this case.

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 sequential test 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. This is considered acceptable.

Location and Siting - The proposal is relatively close to Holbeach, via Fen Road. It is considered acceptable in terms of location and siting.

Design/external appearance - The proposed external works would enhance the current character/appearance of the building.

## 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.