DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-0663-24**	**Applicant:**	**J H and A J King Farms Limited**
Proposal:	Change of use of agricultural building to a single dwelling		
Location:	Land At Further Old Gate Holbeach Spalding		
Terminal Date:	30th September 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	1	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

CASE OFFICER ASSESSMENT

Proposal

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

Site Description

The application site lies to the northern side of Further Old Gate, within the postal area of Holbeach and comprises an agricultural building.

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.

Beyond this neighbouring built form, the site is relatively isolated in nature.

History

H09-0844-15 - Alterations to existing barn complex to create a single dwelling - Refused 03/11/2015

H09-0539-21 - Change of use of agricultural building to single dwelling - Approved 12/07/2021

H09-0472-23 - Demolition of existing barns (Prior Notification Approval H09-0539-21) and erection of two-storey dwelling - Refused 17/08/2023

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:

Holbeach Parish Council

Unsustainable

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)

I cannot see that the applicant has identified a drainage strategy for the proposed development, however, if there is an existing formal drainage system, I acknowledge that the applicant may intend to utilise this. For the avoidance of doubt, we recommend that the applicant provides a drainage strategy for the site.

On the assumption that the agricultural building has an existing formal surface water drainage system, if this is reliant on infiltration (soakaways), we recommend that you satisfy yourselves that these are in good condition, appropriately sized for the development and therefore can adequately drain the proposed building, as per current building regulations. If the applicant proposes new soakaways alongside any existing soakaways, we recommend as per best practice, that ground investigations are carried out to determine infiltration potential. Following this, we would expect further testing in line with BRE Digest 365 to be undertaken if onsite material is considered favourable for infiltration. If additional soakaways are proposed, we recommend that these are appropriately distanced from both the building, watercourses and any existing soakaways.

If infiltration is not feasible, following the drainage hierarchy, we would expect the applicant to propose to discharge surface water to a watercourse. If this is proposed, consent would be required from the Board under Byelaw 3. Please note that we recommend that any discharge proposed to a watercourse is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate.

Byelaw 3 (Treated Foul Water)

I note that the applicant has not indicated how they propose to dispose of foul water from the development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991

I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) to the west of the site boundary, within the applicant's wider ownership and a Board maintained watercourse (F38 Holbeach Old River) to the east of the site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the riparian watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

Byelaw 10

Whilst not currently proposed, should the applicant's proposals change to include works within 9 metres of the aforementioned Board Maintained (and owned) watercourse, or if works within 9 metres of the watercourse are proposed at any time in the future, consent would be required under Byelaw 10.

In addition to the above, I would like to take the opportunity to note that as the Board owns F38 Holbeach Old River, any works within / across the Board's Land (including watercourses) may require a Deed of Easement to be agreed and entered into with the Board. For further information, please see the following link:
https://www.wlma.org.uk/uploads/WMA_Table_of_Charges_and_Fees.pdf (page 8).

SHDC Environmental Protection Officer

I request a precautionary land contamination condition be applied at this location.

Highway and Lead Local Flood Authority

Recommendation: Approve with conditions

As Highways and Lead Local Flood Authority we assess all Prior Approval applications as to whether or not Prior Approval is required for Transport/Highways impacts and flooding risks on the site. This proposal is for Change of use of agricultural building to a single dwelling, the existing access arrangements will require upgrading to LCC Specification, visibility splays will be required and adequate parking provision is proposed within the limits of the site and the proposal will not impact flood risk. Therefore, it is considered that the proposals would not result in an unacceptable impact of highway safety and flood risk.

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 using The Town and Country Planning (General Permitted Development) Order 2015.

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. 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;

(a) Transport/Highways - The proposal would have 5 bedrooms. 3 Parking spaces are available on site, plus turning facilities. LCC Highways have concluded the following "As Highways and Lead Local Flood Authority we assess all Prior Approval applications as to whether or not Prior Approval is required for Transport/Highways impacts and flooding risks on the site. This proposal is for Change of use of agricultural building to a single dwelling, the existing access arrangements will require upgrading to LCC Specification, visibility splays will be required and adequate parking provision is proposed within the limits of the site and the proposal will not impact flood risk.

Therefore, it is considered that the proposals would not result in an unacceptable impact of highway safety and flood risk."

(b) Noise Impacts - It is considered that the use of the building as a dwelling would not materially harm the amenity of neighbouring residents, including noise impacts. Whilst there may be some noise and general disturbance during the construction phase this would only be temporary.

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

(d) 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 (December 2023, 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.

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

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

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.