DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-1260-21**	**Applicant:**	**Seagate Homes**
Proposal:	Change of use of agricultural building to dwelling		
Location:	Land At Tudor Lodge Fen Road Holbeach		
Terminal Date:	31st January 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

T & CP (GPD) Order 2015 - Class Q

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	1	0
WARD MEMBER	0	0	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	1	0

CASE OFFICER ASSESSMENT

Proposal

Prior Approval Application. The proposed development comprises the conversion of an agricultural building to a residential property under Schedule 2, Part 3, Class Q(a) and Q(b) of GPDO.

Site Description

Agricultural building within a paddock.

The site is described by the applicant as part of a large agricultural holding (King Farms) mostly related on livestock activities and growing of high value vegetables. To the east, there is a residential property, with a Motor Dealer further north. The wider area is mostly described as open agricultural land.

History

None relevant to this building.

Consultation Responses

Holbeach Parish Council

No objections.

SHDC Environmental Protection Officer

No comments or objections.

LCC Highways & SUDS Support

Does not wish to restrict the grant of permission.

This proposal will have no impact on the highway or surface water flood risk.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage 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 drainage proposals for this planning application.

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

Environment Agency

The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.

The development shall be carried out in accordance with the submitted flood risk assessment (FRA) (ref: ECL0525-2/SEAGATE HOMES) dated November 2021 and the mitigation measures detailed in section 5.2.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

South Holland Internal Drainage Board

In order to avoid conflict between the planning process and the Board's regulatory regime and consenting process please be aware of the following:

We note the presence of a Board Adopted watercourse (F38 Holbeach Old River) adjacent to the site boundary. Whilst not currently proposed, should the applicant's proposals change to include any

works within 9 metres of this watercourse (for example, the laying of any pipe runs for surface water or treated foul water discharge, see below, or fencing/planting of hedges etc.), consent would be required to relax Byelaw 10 (no works within 9 metres of the edge of drainage or flood risk management infrastructure).

- We note that the applicant has not provided a sufficiently detailed drainage strategy to support the proposed change of use. If surface water is to be disposed of via infiltration, the viability of this method needs to be evidenced. We would recommend that the proposed strategy is supported by ground investigation to determine the infiltration potential of the site and the depth to groundwater. If on-site material were to be considered favourable then we would advise infiltration testing in line with BRE Digest 365 (or equivalent) to be undertaken to determine its efficiency. 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). Any consent granted will likely be conditional, pending the payment of a Surface Water Development Contribution fee, calculated in line with the Board's charging policy.

- If surface water is to be discharged directly to a watercourse, then the applicant will need to apply for land drainage consent in line with the Board's byelaws (specifically byelaw 3). Any consent granted will likely be conditional, pending the payment of a Surface Water Development Contribution fee, calculated in line with the Board's charging policy

- We note that the applicant's Planning Statement submitted 07/12/2021, section 6.13, states that there are full services to the site however, no details have been provided about the disposal of foul waste from a dwellinghouse. If the applicant wishes to discharge treated foul water to a watercourse then this proposal will require land drainage consent in line with the Board's byelaws (specifically byelaw 3).

- There are watercourses which have not been adopted by the Board (riparian watercourses) within the site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter any riparian watercourse, consent will be required under the Land Drainage Act 1991 (and byelaw 4).

Whilst the consenting process as set out under the Land Drainage Act 1991 and the aforementioned Byelaws are separate from planning, the ability to implement a planning permission may be dependent on the granting of these consents. As such, we strongly recommend that the required consent is sought prior to determination of the planning application.

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.

In this case the building comprises a U-shaped traditional barn/hovel, of single storey construction of brick, timber cladding and metal sheet roofing. The site has existing electricity and water utilities as well as a minor drainage system.

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 - LCC Highways does not wish to restrict the grant of permission in terms of using the existing highway access to the site.

Noise Impacts - The general relationship to nearby dwellings is considered to be such that the proposed use would not harm the amenity of neighbouring residents to a significantly greater degree than at present, including noise impacts, given that residential use is proposed.

Contamination - SHDC Environmental Protection make no comments or objections to the proposal as submitted.

Flood Risk - A Flood Risk Assessment accompanies this application which confirms that the site is located within Flood Zone 3. The assessment suggests that floor level is a minimum of 0.1 m above level with 0.3 m of flood resilient construction above finished floor level. The report concludes that, subject to mitigation measures, the development passes the Sequential Test and Exception Test and is therefore suitable for the proposed location.

Location and Siting - The building is appropriately located and is not in proximity to harmful uses.

Design/external appearance - The elevation drawings show how the aesthetic of the agricultural barn has been enhanced within the limitations of the Class Q requirements.

The applicant has responded to the IDB response, as follows:

I note the comments in relation to the above application received from the Drainage Board which raised a few queries in relation to surface water discharge and foul waste. Firstly, in terms of foul & sewage, these matters are not material in assessing the Prior Approval application (Class Q). Regardless, every effort will be made to ensure full compliance with the Board's byelaws, where appropriate. In terms of surface water, this will be achieved via the existing soakaways.

Conclusion

That the Class Q prior notification application be approved.

The condition request of the Environment Agency has been included within this recommendation as a condition.

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.