DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H13-1041-22**	**Applicant:**	**Mr S Healing**
Proposal:	Change of use of barn to residential dwelling		
Location:	Bridge Farm Gull Bank Whaplode Drove		
Terminal Date:	27th December 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

T & CP (GPD) Order 2015 (As amended)

Class Q

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	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 (As amended).

Site Description

The site is within the curtilage of Bridge Farm and is of a red brick construction, with an asbestos roof. It can be accessed off of Gull Bank. There are a small number of residential properties in the immediate vicinity, otherwise the character of the area is rural countryside.

History

No relevant planning history.

Consultation Responses

Moulton Parish Council

- Is there any open play area for assumed residents to use?
- If there were a fire in the West end of property, how would the emergency services gain access?
- Are there any areas for main services to be located i.e. sewerage etc?

Local Highway and Lead Local Flood Authority

Does not wish to restrict the grant of permission.

The proposed dwelling would be accessed from an existing farmyard gateway that has served the farmyard for many years. The highway verge here is wide and therefore the visibility is good in both directions for drivers entering the highway at this point. The site is considerably outside any settlement boundary but this Application is for the conversion of a barn that is where it is.

Planning Considerations

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

The building is of brick construction with a corrugated asbestos roof. The roof will be replaced with corrugated fibre cement sheeting in black. The proposed windows and doors will re-use the existing openings and be stained timber, with black metal rainwater goods. The gable wall to the east will have the corrugated cladding removed and replaced with reclaimed bricks to match the existing brickwork. No additional walls are required internally. It is considered that the extent of the works proposed are reasonably necessary for the building to function as a dwellinghouse and that the conversion would not involve building operations beyond those permitted under Class Q.

As such, it is considered that the proposed works satisfy the requirements of paragraph Q.1(i) and PPG. Consequently, the proposal is permitted development under Class Q(b) of the GPDO.

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;

Transport/Highways - An existing vehicular access off Gull Bank would be utilised. LCC Highways consider that the proposal would not have an unacceptable impact upon highway safety. Space for off-road vehicle parking is available.

Noise Impacts - The nearest dwelling is "Bridge Farm" to the south. Holland Bridge Cottage is located some 90 metres to the north. A residential as opposed to agricultural use would have no significant noise impacts.

Contamination - The application has not supplied a contamination report. Considering the surrounding area has several outbuildings which were used for a mixture of agricultural and mechanical uses. It would be considered appropriate to adopt a precautionary approach to recommend that a contamination condition be attached to any consent from this application.

Flood Risk - The building to which the application relates is within Flood Zone 1. 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, 2021, the proposal should not be subject to the sequential or exception tests.

Location and Siting - The proposal is in open countryside and is approx. 2.2km away from the village of Whaplode Drove. However, case law has established that applications such as this cannot be resisted for this reason.

Design/external appearance - The building presently has a agricultural and farm storage use and appearance, with what appears to be stables doors to the north elevation. The proposed external works would enhance its appearance and enhance the existing look as it currently stands.

Natural Light - The main open plan living areas (lounge, dining and kitchen) will have adequate levels of natural light, given there is a large patio door opening to the rear elevation of the proposal. Both of the proposed bedrooms will also capture sufficient natural light from the windows proposed.

Other Considerations

The Parish Council express concerns over the lack of amenity space. This is not a requirement for Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (As amended) and therefore does not carry any weight towards the recommendation of this application.

Another comment included concerns over access for fire services on the west section of the boundary. The Highway Authority have raised no concern over access arrangements.

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.