DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H14-0308-25**	**Applicant:**	**Mr Smith**
Proposal:	Proposed Barn Conversion		
Location:	Adj 4 Clay Drove Spalding Lincolnshire		
Terminal Date:	23rd May 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
23	The Reuse of Buildings in the Countryside for Residential Use
28	The Natural Environment
29	The Historic Environment
31	Climate Change and Renewable and Low Carbon Energy
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1

SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	2
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Description of Proposal

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

Site Description

The site is outside of any of the settlement boundaries outlined within the South East Lincolnshire Local Plan, 2019, and as such, can be considered to be within the open countryside. Despite this, the site is located within a strip of linear residential development along the north side of Clay Drove. Dwellings here are chiefly bungalows, contained within large plots.

The existing building is a reasonably sized structure located at the end of a well maintained grassed area. It features a green metal roof and clad walls. While the roof appears to be in a fairly good state, the walls appear more dilapidated. There is no driveway to the building.

Relevant History

No relevant history

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:

Natural England

"No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes"
Proceed to provide links to generic standing advice.

Environment Agency

EA Position:
In accordance with Policy 4 of the South East Lincolnshire Local Plan 2011-2036, we object to this application, due to the proposed development posing an unacceptable risk to life and property from flooding.

Reasons:
The site lies within Flood Zone 3a, which is land defined by the planning practice guidance as having a high probability of flooding. The site also has a future hazard classification of 'danger for most' (includes the general public) and could experience flood depths of 1-2 metres arising from a breach in the defences during a flood that has a 0.1% chance of occurring in any one year up to 2115.

Notwithstanding the mitigation measures proposed, in line with the South East Lincolnshire flood risk advice matrix found in your Strategic Flood Risk Assessment, the risk to life and property from tidal inundation would be unacceptable if the development were to be permitted. Policy 4 of the Local Plan is clear that a change of use that would result in self-contained ground floor residential accommodation in areas of hazard rating 'danger for most' will not be supported.

In addition, the flood risk assessment (FRA) dated January 2025, ref: 'ECL1435/SWANN EDWARDS ARCHITECTURE', prepared by Ellingham Consulting Ltd does not propose adequate flood risk mitigation to keep people safe for the lifetime of the development. Policy 4 states for change of use applications in areas of danger for some/most/all: 'In these areas unrestricted access to a habitable room above the flood level and an emergency evacuation plan will be required.'

Overcoming our objection:
To overcome our objection, the applicant should submit evidence to demonstrate that the proposal will not pose a risk to life and property as highlighted above. If this cannot be achieved, we are likely to maintain our objection"

Environmental Protection

"No comments regarding land contamination or environmental protection."

Welland and Deepings Internal Drainage Board

"Further to receipt of the above, I confirm that Welland & Deepings IDB have no comment to make with regard to this application at this stage."

"Thank you for consulting us on this. Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application. It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request"

Pinchbeck Parish Council

"In keeping with the street scene"

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, 2 letters of objection have been received.

These can be summarised as:

- The building is not a barn
- Building is in worse state than the drawings show
- Proposal would not meet building regulations
- Concern that if the conversion was approved, it would be replaced with a larger dwelling
- No access shown
- Building is not suitable for conversion
- Conversion would fail to meet requirements to be safe from flooding

Key Planning Considerations

The Town and Country Planning (General Permitted Development) (England) Order 2015, Article 3 Permitted Development

The introductory text of the Permitted Development Order outlines generic provisions, applicable to the Order. Paragraph 9A of Article 3 "Permitted Development" reads as follows:

" Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse (a) where the gross internal floor area is less than 37 square metres in size; or (b)

that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015"

This is expanded upon by 9B, which states:

"The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it"

The Nationally Described Space Standards outlines that for a one storey dwelling, with three bedrooms and four bedspaces, a minimum floor space of 74sqm is required. In order to provide 1 bedspace, a single bedroom must have a floor area of at least 7.5sqm and must be at least 2.15m wide. To provide 2 bedspaces, a room must have a floor area of at least 11.5sqm. 1 double (or twin bedroom) must be at least 2.75m wide and every other double (or twin) bedroom must be at least 2.55m wide

The total floor area of the building is 77sqm. Bedroom one has a floor space of 12.6sqm, with a room width of 2.9m. Bedroom two has a floor space of 10.5sqm, with a width of 3.15m. Bedroom three has a floor area of 6.2sqm, measuring 3.1m by 2m. All measures contained in this paragraph are approximate. Nevertheless, bedroom three is clearly below the 7.5sqm threshold.

The proposal therefore fails to adhere to the provisions of Article 3, Paragraph 9A and 9B of the General Permitted Development Order. As such, regardless of the below assessment, permission cannot be granted under this Order for the change of use of the building, as it fails to comply with the limits of Permitted Development outlined under the GPDO.

Overall, the development is therefore not permitted under Article 3 of the General Permitted Development Order.

Notwithstanding that the development cannot be permitted under Class Q for the above reason, for the sake of completeness, the below assessment has been provided in any event.

Schedule 2, Part 3, Class Q - Context

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.

Given that the proposal would comprise an extension, the proposal must be assessed under the amended Order of May 2024.

The remainder of the report will assess the proposal under the relevant Class Q limitations for that individual proposal.

Schedule 2, Part 3, Class Q - Assessment

Part 3, Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), seeks to permit "buildings on agricultural units and former agricultural buildings to dwellinghouses". Class Q details that the following is permitted development:

"a) a change of use of:

(i) a building that is part of an established agricultural unit and any land within that building's curtilage, or
(ii) a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage, to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order,

(b) development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a), or

(c) development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building".

Paragraph Q.1 sets out the circumstances where development is not permitted. As expressed above, under the changes to this section of legislation, introduced on 21st May 2024, a transitional period is provided where an application may be assessed under the previous incarnation of the legislation or the updated version (although importantly not both).

In this instance, the proposal is being assessed under the current legislation, introduced on 21st May. The relevant section of legislation is detailed below:

"Development is not permitted by Class Q if:

(a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit -
(i) on 24th July 2023, or
(ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins,

(b) in the case of a site that was (but is no longer) part of an established agricultural unit
(i) the site was part of an established agricultural unit on 24th July 2023,
(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or
(iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose,

(c) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres,

(d) the development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see paragraph Q.3(2) of this Part) would result in
(i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or
(ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres,

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained,

(f) less than 1 year before the date development begins
(i) an agricultural tenancy over the site has been terminated, and
(ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use,

(g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit during the period which is 10 years before the date development under Class Q begins,

(h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point, other than
(i) extension of the building allowed by paragraph Q.1(i);
(ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph

Q.1(j)(i)

(i) the development under Class Q(b) would result in an extension that:
(i) has more than one storey,
(ii) is sited anywhere other than to the rear of the existing building,
(iii) extends beyond the rear wall of the existing building by more than 4 metres,
(iv) has eaves the height of which exceed the height of the eaves of the existing building,
(v) is higher than whichever is the lower of: (aa) the highest part of the roof of the existing building, or (bb) a height of 4 metres above the ground,
(vi) extends beyond a wall that forms a side or principal elevation of the existing building, or
(vii) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and: (aa) the hard surface was not provided on the land on or before 24th July 2023, or (bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before
the date development under Class Q(b) begins,

(j) the development under Class Q(c) would consist of building operations other than
(i) the installation or replacement of: (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse, and
(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(j)(i),

(k) the site is on article 2(3) land,

(l) the site is, or forms part of:
(i) a site of special scientific interest;
(ii) a safety hazard area;
(iii) a military explosives storage area,

(m) the site is, or contains, a scheduled monument,

(n) the building is a listed building,

(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it, or

(p) the building does not have suitable existing access to a public highway."

The definition relevant to the assessment under the relevant sub-paragraph is found within Section 336 of the Town and Country Planning Act (1990) which states the following:

""agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;"

The building does not clearly display any link to an existing agricultural use. The building instead shows stronger association with the nearby dwelling and grassed area than any other parcel of land. No evidence is immediately visible that agricultural machinery or goods are stored within the building. No evidence has been provided that the site has been used in conjunction with grazing. Accordingly, there is reasonable doubt as to whether the building is truly agricultural in nature.

Turning to Point O, as has been established previously, the submitted floor plans show that one bedroom falls below the required space standards. As such, while a reorientated scheme may be able to conform this criterion, the details presented here conflict with Point O.

Point P requires suitable access to a public highway. It has been stated that access will be via an existing access for 4 Clay Drove; however, no provisions to extend the access, which terminates to

the front of 4 Clay Drove, have been provided. As such, occupants could not reasonably access the parking spaces provided, as they would have to drive over a grassed area. If the chosen route of access being within the curtilage of 4 Clay Drove, then the access to the Class Q site would not be within the property's boundaries, resulting in the subsequent dwelling essentially being an island.

Should this be rectified via the creation of a new access to lead to the Class Q site, this access would have to be located outside of the defined curtilage of the building and would potentially require assessment under a separate application. As such, the proposal would involve development outside of the defined curtilage of the dwelling. irrespective of such, the proposal fails to demonstrate adequate access to the proposed building and site in its current form; thereby exceeding the limits of Class Q. The proposal therefore fails to adhere to criterion P.

That being said, the proposal conforms to points C, D, E, F, G, H, I, K, L, M and N.

As such, it is not considered that the proposal would conform to the requirements of Q.1, and therefore, the proposal fails to adhere to the provisions of Class Q.

In the interest of completeness, the report continues to assess against the prior approval topics set out under part 3 of Class Q; such as to review the matters should the proposal had met the requirements outlined above.

Schedule 2, Part 3, Class Q - Conversion vs Rebuild

Development is not permitted if the development under Class Q(c) 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.

Planning Practice Guidance (PPG) provides advice on the interpretation of Class Q(c). 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 conclusion of the submitted structural survey is that the building is capable of conversion. The existing frame is considered solid and should be retained in its entirety to enable the conversion. All other works required, such as the creation of new openings, are judged to meet the provisions of the PPG and Class Q, and so can be considered reasonably necessary without constituting a rebuild.

Schedule 2, Part 3, Class Q - Prior Approval Considerations

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:

(a)Transport and highways impact - Due to the small scale of the proposal, it is unlikely that the works would have a significant detrimental impact upon the existing highway infrastructure of the area. This has been confirmed by the response from the Highway Authority.

That being said, it has not been demonstrated how access to the dwelling itself would be secured. While an access point to the adjacent site is shown, it does link to the building itself. To connect to the site, building works outside of the curtilage would be required, thereby exceeding the limitations of Class Q. The proposal is therefore considered unacceptable on this point, with no other evidence having been provided or demonstrated to the contrary.

(b)Noise Impacts - Due to the relatively low number of dwellings in the area, and the distance between these dwellings, it is unlikely that the introduction of a dwelling here would have a significant detrimental impact with regards to noise pollution.

(c) Contamination - Due to the nature of the site and the development, it is not considered that there is a significant risk of contamination. The site is not within an area identified as at risk of contamination. The response from the Environmental Health department has reaffirmed this view.

d) Flood Risk - The site is within Flood Zone 3. Within the South East Lincolnshire Strategic Flood Risk Assessment, 2017, the site is labelled as "danger for most" with flood depths expected to reach at least 2 metres. It is proposed that finished floor levels are raised by 0.3m, with 0.6m of flood resistant and 1.0m of flood resilient construction above finished floor level also recommended by the submitted floor risk assessment. It should be noted at this time that the development is a single storey property.

The level of flood mitigation proposed is considered to be wholly inappropriate given the onsite flood risk. No evacuation plan has been proposed, and no area of refuge is provided. As a result, the impacts of a flood event upon the property would be significant and entirely unacceptable. The proposal is therefore unacceptable from a flood risk perspective, even with the level of mitigation proposed in mind.

The submitted flood risk assessment recommends flood resilient construction to a height 1m metre above finished floor level. It is not clear as to how this would proceed and the level of works or construction which would be required. There is the possibility that these works would result in rebuilding which exceeds the limits of Class Q.

(e) Location and Siting - The site is outside of any defined settlement. However, the PPG is clear that location outside of settlement boundaries cannot be considered inappropriate in the case of a Class Q conversion.

The site would be no more impractical than neighbouring dwellings, and is considered to be acceptable in this regard.

(f) Design/external appearance - The building would retain a similar appearance to present, albeit with alterations such as new windows. The features of the building would remain legible, and it would still appear to pay homage to its former use.

(g) The provision of adequate natural light in all habitable rooms - The proposal is satisfactory in this respect.

Other Matters

Discussions were held with the relevant bodies regarding the potential for an amending scheme. However, due to the extent of amendments which would have been required in order to overcome the points raised above, it was considered to be inappropriate to pursue this route further.

Outstanding Matters from Representations

It was raised in the comments neighbour consultation exercise that, in the event this application was approved, a follow up betterment application would be submitted. Such considerations cannot be made at this time, and it would be improper to resist this application on the basis that a subsequent application may be forthcoming.

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

The proposal does not constitute permitted development under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order, 2015.

The scale of the proposed bedrooms falls under the nationally described space standards, to which conformity is required under Paragraph 9A of 3 (Permitted Development) of the Permitted Development Order; and therefore, the proposal cannot be considered permitted development. The proposal also falls short of Q.1(o) in this respect.

Notwithstanding the above, the building is not considered to have suitable access to a public highway, as no access connecting the site to the road has been provided. Accordingly, either the laying of a new access outside of the curtilage of the building would be required, which would itself exceed the parameters of Class Q, or residents would have to cross land not in their ownership, and either drive across grass or share parking with a neighbouring; neither option is considered appropriate.

In addition to the above, the site is within a significant flood risk area. Flood depths are anticipated to reach two metres in height on the site. Seeing as all accommodation would be on the ground floor, the proposal is considered wholly unsafe and at undue risk of the impacts of flooding. The development therefore conflicts with Paragraph Q.2(d).

For these reasons, the proposal is considered unacceptable and fails to meet the requirements for a Class Q conversion.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused under Delegated Authority.