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TOWN AND COUNTRY PLANNING ACT 1990
PRIOR NOTIFICATION

Reference: H14-0654-24 **Date of Decision:** 25th September 2024

Applicant: Mr K Whincup
Unit B Junction Mills
Kirkby Folly Road
Sutton In Ashfield
Notts
NG17 5HN

Location: Barn On Land On South Side Of Glenside South Pinchbeck Spalding Lincolnshire

Description: Conversion of agricultural building to 1 dwelling

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

1 Paragraph 9A of Part 3 "Permitted Development" of the General Permitted Development Order, 2015 states that
"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 floor area of the building is 13.7sqm (although once building works are complete, this figure may be lower). In any event, this falls far below the 37sqm threshold outlined within Paragraph 9A(a) and the nationally described space standards.

Moreover, the floor area of the proposed bedroom is approximately 3.2sqm and only

approximately 1.85 metres in width. Both these measurements fall far below the required 7.5sqm of floor space and 2.15 metres width outlined within the nationally described space standards.

The proposal therefore fails to adhere to the provisions of Part 3, Paragraph 9A and 9B of the General Permitted Development Order, 2015; and therefore, permission cannot be granted under the provisions of Schedule 2 of the General Permitted Development Order, 2015.

2 Notwithstanding the above reason for refusal, it is not considered that the building or plot it is within conform to the definition of agriculture outlined with Section 336 Town and Country Planning Act (1990). The site does not appear to have been used for agriculture in the conventional sense, being overgrown and showing no association with an agricultural business. Furthermore, it does not appear to have been used for commercial fruit growing, as evidenced by the scale and state of the orchard and the lack of clear infrastructure associated with fruit harvest. Moreover, the site cannot be said to be woodland ancillary to the farming of land for agricultural purposes as no such relationship to an agricultural unit exists. The rear boundary to the field is obstructed via a fence, overgrowth and a drainage dyke, all of which demonstrate no clear functional relationship. The submitted design and access statement states that the site has largely been vacant for the last 50 years, adding to this conclusion that the site is not agricultural in nature.

Therefore, the proposal cannot be considered permitted development under Schedule 2, Part 3, Class Q of the General Permitted Development Order, 2015.

3 Notwithstanding the above reasons for refusal, the building is not considered to be capable of being converted to a residential use without building operations that would be so extensive as to go well beyond the scope of the operations permitted by Class Q and would amount either to substantial rebuilding of the pre-existing structure or, in effect, the creation of a new building. A structural survey has not been submitted to demonstrate evidence to the contrary.

As such, it is considered that the proposed works fail to satisfy the requirements of paragraphs Q.1(j) National Planning Practice Guidance. Paragraph Q.1(j) accords with the High Court judgement Hibbitt v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council. The latter concludes that Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) allows a "conversion" but does not allow a "re-build" or "fresh build". Consequently, the proposal is not permitted development under Class Q of the General Permitted Development Order, 2015.

4 Notwithstanding the above reasons for refusal, 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 0.5 metres. It is proposed that finished floor levels are raised internally within the bedroom by 0.5 metres, while the living room would be raised by 0.15 metres. As a result, in the event of a flood, the vast majority of the dwellinghouse (approximately 75%) would be inundated with water. Despite it being possible for residents to obtain safe refuge in the bedroom, the tangible impacts of any flooding would be severe and unacceptable. In addition to this, the Environment Agency have objected to the proposal on the grounds of flood risk.

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As such, the proposal fails to conform to the conditions outlined under Paragraph Q2 of Schedule 2, Part 3, Class Q of the General Permitted Development Order, 2015.

Notes:

The determined plans are:

Application Form
PLANNING DRAWING 2 (PROPOSED SITE PLAN)
PLANNING DRAWING 3 (BUILDING)
Flood Risk Assessment, dated July 2024, prepared by Ellingham Consulting Ltd
Design and Access Statement, prepared by Peter Humphrey Associates



Phil Norman
Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

https://www.gov.uk/appeal-householder-planning-decision

https://www.gov.uk/appeal-planning-decision

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.