

**DECISION DELEGATED TO HEAD OF PLANNING****DECISION DELEGATED TO HEAD OF PLANNING**

**Application No:** H14-0681-23      **Applicant:** Mr M Yould

**Proposal:** Proposed change of use from agricultural building to single dwelling

**Location:** East Barn Shetland Cottage Mill Green Road

**Terminal Date:** 3rd October 2023

**Planning Policies****South East Lincolnshire Local Plan - Adopted: March 2019****National Guidance****National Planning Policy Framework 2023**

Part 3, Class Q of the The Town and Country Planning (General Permitted Development) (England) Order 2015.

**Representations:**

|                                              | Object | Support | No Obj. | Comments |
|----------------------------------------------|--------|---------|---------|----------|
| PARISH COUNCIL                               | 0      | 0       | 0       | 0        |
| WARD MEMBER                                  | 0      | 0       | 0       | 0        |
| HIGHWAYS & SUDS SUPPORT                      | 0      | 0       | 0       | 1        |
| WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD | 0      | 0       | 0       | 1        |
| SHDC INTERNAL                                | 0      | 0       | 0       | 3        |
| OTHER STATUTORY BODIES                       | 0      | 0       | 1       | 0        |

**CASE OFFICER ASSESSMENT**

## PROPOSAL

This is a prior approval application at East Barn, Shetland Cottage, Mill Green Road, Pinchbeck for the proposed change of use from agricultural building to a single dwelling. The proposal would not comprise an external enlargement to the existing built form; however, alterations would occur. The conversion seeks to demolish an attached glasshouse and brick lean to. At ground floor level a living area, wc and combined kitchen / dining are to be provided. Three bedrooms, an en-suite, cupboard and a bathroom are to be provided at first floor level. No new openings are to be provided on the building. The existing render will be removed with the existing red brickwork retained. The existing slate roof cover will also be retained. A site visit was conducted on 09 August 2023.

The submitted plans have been amended to reduce the amenity space to ensure that does not exceed the footprint of the barn to be converted.

## SITE DESCRIPTION

The site is in the open countryside and the surrounding area is predominately rural, characterised by non-nuclearised linear development of varying ages and designs. The site is in Environment Agency Flood Zone 3 and is not subject to increased flood hazard or flood depth on the 2115 South Holland Strategic Flood Risk Mapping.

## RELEVANT HISTORY

H14-0682-23 - West Barn

Prior Approval - Proposed change of use from agricultural building to single dwelling - Undecided as of 02 October 2023.

## CONSULTATION RESPONSES

Lincolnshire County Council - County Highways & SUDS Manager

*"This proposal is for prior approval for the change of use from agricultural building to single dwelling and it does not have an impact on the Public Highway or Surface Water Flood Risk.*

*Vehicles will utilise the existing access from Mill Green Road which serves the current use and has sufficient visibility, adequate provision for car parking and turning space within the limits of the site to enable vehicles to enter and leave in a forward gear. Therefore, it is considered that this proposal would not result in an unacceptable impact upon highway safety.*

*That said, the existing vehicle access is only appropriate for the previous use as it is just an unbound gravel material and therefore it will need to be made up to the County Councils specification within the extent of the public highway appropriate for it's proposed residential use. Additionally, the dimensions of the existing access are not adequate to enable two cars to pass in opposing directions and therefore, the access will need to be widened to 4.1 metres as a minimum for the first 10.0 metres to ensure calling vehicles can manoeuvre off the highway without causing any cueing in the interests of highway safety.*

*Note to planners*

*Please can you condition that the existing access is widened to 4.1 metres as a minimum for the first 10.0 metres from the nearside edge of Mill Green Road for the safe passage of two way vehicular movements."*

They also request a new / updated access informative.

Lincolnshire County Council - Historic Places Team

*"No archaeological input required"*

South Holland District Council - Conservation Officer

*"I write to confirm that I wish to raise no objections to this proposal upon heritage conservation grounds.*

*This property is neither listed, nor within a conservation area, and as such, Policy 29 of the SELLP does not apply in the strictest sense. As such, it is important to assess this barn conversion via the relevant policy (23) of the SELLP. I can confirm that, in accordance with Sections 2, 4, and 5 of that Policy, that I consider the subject building to be of architectural and historic merit, and that the proposed design is sensitive and sympathetic to its host and would improve the appearance of the immediate setting.*

*The case officer should, therefore, continue to consider the application in accordance with all relevant planning policy and guidance considerations."*

South Holland District Council - Environmental Protection

Requests a precautionary contaminated land condition.

Welland & Deepings Internal Drainage Board

No comment.

## **EVALUATION**

Relevant provisions of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended)

The Town and Country Planning (General Permitted Development) Order, 2015, within Class Q of Schedule 2 Part 3, provides that development as described below is permitted:

Q. Development consisting of:

- (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; or
- (b) development referred to in paragraph (a) together with 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. This details that development would not be permitted by Class Q if:

- (a) the site was not used solely for an agricultural use as part of an established agricultural unit: (i) on 20th March 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;
- (b) in the case of: (i) a larger dwellinghouse, within an established agricultural unit: (aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or (bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;
- (ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;
- (c) in the case of: (i) a smaller dwellinghouse, within an established agricultural unit: (aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or (bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;
- (d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following: (i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; (ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;
- (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: (i) since 20th March 2013; or (ii) where development under Class Q begins after 20th March 2023, 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;

(I) the development under Class Q(b) 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(i)(i);

(j) the site is on article 2(3) land;

(k) 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;

(l) the site is, or contains, a scheduled monument; or

(m) the building is a listed building.

Furthermore, para Q.2 provides that development is only permitted under Class Q subject to the following conditions: Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted 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 of the development,

(b) noise impacts of the development,

(c) contamination risks on the site,

(d) flooding risks on the site,

(e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order,

(f) the design or external appearance of the building, and

(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses,

and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Where the development proposed is development under Class Q(a) only, development is permitted 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 the items referred to in sub-paragraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(3) Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.

Para Q.3 provides an interpretation of Class Q and states that: For the purposes of Class Q "larger dwellinghouse" means a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; "smaller dwellinghouse" means a dwellinghouse developed under Class Q which has a floor space of no more than 100 square metres having a use falling within Class C3 (dwellinghouses) of the schedule to the Use Classes Order.

Para W of Part 3 sets out the procedure for prior approval where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required. Para W also provides under section W.3 that:

The local planning authority may refuse an application where, in the opinion of the authority:

(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with,

any conditions except for conditions in paragraph G.1(d)(iv), paragraph M.2(1)(f), paragraph MA.2(2)(f), paragraph N.2(1)(e), paragraph O.2(1)(e), paragraph PA.2(1)(v), or paragraph Q.2(1)(g),

limitations or restrictions specified in this Part as being applicable to the development in question.

#### Assessment - Buildings Use

Paragraph Q.1 states that such development is not permitted by Class Q if -

(a) the site was not used solely for an agricultural use as part of an established agricultural unit: (i) on 20th March 2013, (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins.

The submitted application form answers the large extent of questions raised as a result of the requirements of Class Q. The application form indicates that the building is in agricultural use and outlines that, in respect of the above, the application site fulfils the requirements outlined.

Having visited the site there was no evidence that the use identified by the applicant within their submission is incorrect. On the balance of probability, it is therefore considered that the Local Planning Authority have no justifiable reason to dispute the use of the site being agricultural.

#### Assessment - Class Q

The information provided by the applicant appears to satisfactorily demonstrate that the provisions of criteria (a) - (h) and (j) to (m) have been met.

As outlined above, the 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 proposal would result in the insertion of windows and doors, with work that is suitably required to enable the conversion being demonstrated. It is considered that the extent of the works proposed are reasonably necessary for the building to function as a dwelling 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.

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.

In respect of paragraph Q.2 and paragraph W(3) as detailed above, the following can be considered in respect of addressing the requirements:

Transport/Highways - An existing vehicular access exists off Mill Green Road, which would be utilised. LCC Highways consider that the proposal would not have an unacceptable impact upon highway safety and the site can accommodate off-road vehicle parking. They do observe that "the

*dimensions of the existing access are not adequate to enable two cars to pass in opposing directions and therefore, the access will need to be widened to 4.1 metres as a minimum for the first 10.0 metres to ensure calling vehicles can manoeuvre off the highway without causing any cueing in the interests of highway safety."*

Noise Impacts - The application site lies adjacent existing residential properties. Whilst there is likely to be a level of noise associated with development during the development phase of the conversion, the resultant development is not considered to give rise to significant noise impacts.

Contamination - Due to the former agricultural use of the land and buildings it would be considered appropriate to adopt a precautionary approach and as such it is recommended that a contamination condition be attached to any consent from this application.

Flood Risk - The site is in Environment Agency Flood Zone 3 and is not subject to increased flood hazard or flood depth on the 2115 South Holland Strategic Flood Risk Mapping. There is not a requirement to raise finished floor levels in this location to address flood risk. Overall, this is therefore considered to be a suitable flood zone for development to occur.

Location and Siting - The site is located adjacent existing residential properties, with further residential properties immediately neighbouring the site to the east. The site has a satisfactory relationship with neighbouring dwellings/development.

Design/external appearance - The existing render will be removed with the existing red brickwork retained. The existing slate roof cover will also be retained. It is considered that the proposed materials will maintain an agricultural character and all the building that remain in keeping with the other buildings in the vicinity of the site. The Conservation Officer has stated that *"the proposed design is sensitive and sympathetic to its host and would improve the appearance of the immediate setting."*

Natural Light - There is acceptable level of adequate natural light in all habitable rooms of the proposed dwelling. No new fenestration openings are proposed.

## CONCLUSION

The proposal constitutes permitted development and complies with the relevant conditions under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order, 2015.

## RECOMMENDATION

This application is recommended for delegated approval..

## 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.