

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H16-0040-21 **Applicant:** Mr T Burrows
Proposal: Change of use from barn to residential dwelling
Location: South Drove North Spalding
Terminal Date: 30th March 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

National Planning Policy Framework 2019

Planning Practice Guidance

Permitted Development Rights

T & CP (GPD) Order 2015 (as amended) Class Q

Whether or not the proposal complies with the provision of Class Q of Part 3 to Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended).

The interpretation of Part 3 of the GPDO confirms that for the purposes of Class Q, curtilage means:

(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or
(b) an area immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building,
whichever is the lesser.

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The proposal relates to the change of use of an existing agricultural building and the land within its curtilage into a dwellinghouse. For the proposed development to be permitted it must comply with the provisions set out in the Town and Country Planning (General Permitted Development) Order 2015 (as amended), in particular Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015.

The building has a floorspace of 311 square metres.

The application is supported by a Flood Risk Assessment and a Structural Appraisal.

Site Description

The site lies on South Drove, Spalding and is outside of any Settlement Boundary. The area is a mixture of sporadic development with some dwellings in an open rural landscape. The site falls within Flood Zone 2.

History

H16-0568-19. PRIOR NOTIFICATION. Conversion of agricultural buildings into residential. REFUSED 29th July 2019 for the following reasons:

1 In order for such a proposal to be granted Prior Approval, it is necessary to comply with the requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The agricultural use of the building has not been sufficiently evidenced with any detail of dates as to its last use and when it was last used. Therefore the proposal is not permitted development under Schedule 2, Part 3, Class Q(1)(a) of the GPDO.

2 Insufficient information has been submitted with this particular application with regard to a structural quality and conversion capability as a structural survey has not been submitted to the Local Planning Authority. In addition to this the Council Environmental team would require further information in order to assess the contamination constraints of the site. Therefore the application fails to be fully considered under Schedule 2, Part 3, Class Q of the GPDO due to insufficient information submitted with the application.

Consultation Responses

LCC Highways & SUDS Support

Does not wish to restrict the grant of permission. Request informatives.

SHDC Environmental Health

Have previously requested that a desk study be undertaken at this location prior to determination.

Third Parties

One objector.

Overlooking of a dwelling
Impact on trees
Impact of noise and building noise
Incorrect post code

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.

The application states that the building is vacant and was in used as agricultural on or before 20 March 2013.

The building is not on Article 2(3) land and has no agricultural tenancy.

The floorspace of the building is 311 square metres. The curtilage to be changed is of a reasonable size.

A structural report has been submitted indication that the building could be converted to a dwelling without substantial alteration or structural change.

A Flood Risk Assessment was submitted with the application to deal with the location of the site within Flood Zone 3, and proposes the raising of the internal floor level by at least 300mm to a min of 1.3m AOD.

It is considered that no further information would be required regarding the transport and highways impacts of the development, noise impacts of the development, contamination risks on the site, flooding risks on the site, 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, or the design or external appearance of the building.

The interpretation of Part 3 of the GPDO confirms that for the purposes of Class Q, curtilage means:

- (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or
- (b) an area immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.

The application sets out a curtilage area that shows the extent of garden curtilage land being greater than the interpretation of curtilage for the purposes of Part Q of the GDPO, which is set out above.

Other matters

Objection has been received to the proposal, with basis in the planning merits of the case. This application however is made under the Town and Country Planning (General Permitted Development Order) 2015 (as amended).

For this reason the matters raised as objections are not to be dealt with via this application, as the noise issue mentioned relates to temporary noise during construction and not ongoing residential noise, however informatives can be added relating to impact on trees and wildlife, and notes regarding the impact of building noise during construction and any potential impact on trees on adjoining land, if the development were capable of conversion under Part Q.

BJPlanning Balance

This application seeks prior approval, so is governed by the Town and Country Planning (General Permitted Development) Order 2015, rather than the policies of the SELLP or the broader planning considerations of the NPPF. As this is the case, the balance to be considered relates to the structural integrity of the building and the provisions of Part Q. of the Order. The application is supported by a structural condition report, which concludes that the works can be undertaken.

The application sets out a curtilage area that shows the extent of garden curtilage land being greater than the interpretation of curtilage for the purposes of Part Q of the GDPO, which is set out above. For this reason the development cannot be considered as permitted development under Part Q.

Conclusion

It is recommended that development under Part Q is refused.

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.