DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0324-21**	**Applicant:**	**Mr T Burrows**
Proposal:	Change of Use of Barn to Residential - Re-submission of H16-0040-21		
Location:	South Drove North Spalding		
Terminal Date:	25th May 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

Class Q of Part 3 to Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended).

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	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).

The application is supported by a Flood Risk Assessment, a Structural Appraisal and Phase 1 Desk Study.

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.

H16-0040-21 - PRIOR NOTIFICATION - Change of use from barn to residential dwelling - REFUSED (4th March 2021) for the following reasons:

1) The proposed works fail to satisfy the requirements of paragraphs Q(a), Q.1(g) and Q.1(i) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). This is because the area of residential curtilage beside or around the building would exceed the land area occupied by the agricultural building.

2) 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 in respect of certain matters. In this case, if the development had been permitted under Class Q, prior approval would have been required in respect of contamination given that SHDC's Environmental Protection Officer has requested further information.

Public (1 objection received, summarised)
- Overlooking of a dwelling
- Impact on trees
- Impact of noise
- Incorrect postcode
- Impact of radio interference on occupants

Consultation Responses

LCC Highways & SUDS Support

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

SHDC Environmental Protection

I have reviewed the Goldfinch Environmental Limited report 'PROPOSED RESIDENTIAL DEVELOPMENT SOUTH DROVE NORTH HORSESHOE ROAD SPALDING LINCS. GEOENVIRONMENTAL DESK STUDY Report Ref.: 0761/1' dated March 2021 and request that the following condition be placed on any permission granted: In the event that contamination is found at

any time when carrying out the approved development that was not previously identified it must be reported immediately to Environmental Health. An investigation and risk assessment must be undertaken in accordance with details to be agreed with Environmental Health. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by Environmental Health. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved by Environmental Health.

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.

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.

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.

One of the previous reasons for refusal (application ref. H16-0040-21) was that "The proposed works fail to satisfy the requirements of paragraphs Q(a), Q.1(g) and Q.1(i) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). This is because the area of residential curtilage beside or around the building would exceed the land area occupied by the agricultural building."

This application sets out a reduced curtilage that is much closer to the building, with the exception of the area required for access. It is considered that this is acceptable for the purposes of Class Q of the GDPO.

Paragraph Q.1(i) states that 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). It advises that Class Q assumes that the agricultural building is capable of functioning as a dwelling. It recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. Also, that the right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house. It is not the intention of the permitted development right to include the construction of new structural elements for the building.

In this case the building is of brick construction and a structural appraisal has concluded the the building is capable of conversion. The asbestos roof would be replaced with standing seam zinc panels (grey) as part of a new roof which will sit on the existing steel trusses. Windows would be uPVc & powder coated aluminium (dark grey). It considered, on balance, that the proposal wouldn't include significant new structural elements and that the extent of the works proposed are reasonably necessary for the building to function as a dwellinghouse.

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 - Parking facilities are available on site and LCC Highways does not wish to restrict the grant of permission.

Noise Impacts - There is a dwelling almost immediately adjacent the site, however it is not considered that the use of the building as a dwelling would materially harm the amenity of neighbouring residents in terms of noise. Construction noise is governed by separate environmental legislation/regulations.

Contamination - SHDC Environmental Protection have reviewed the submitted Phase 1 Desk Study and have requested an unexpected contamination condition/note in this case.

Flood Risk - The building to which the application relates is within Flood Zone 2 and within an area designated as "Danger for Some"/"Danger for Most" within the South East Lincolnshire Strategic Flood Risk Assessment (2017). However, the proposal is a conversion so, in accordance with Paragraph 164 of the National Planning Policy Framework, 2019, the proposal should not be subject to the sequential or exception tests. However, it should still meet the requirements for a site-specific flood risk assessment. The submitted flood risk assessment proposes the raising of the internal floor level to 3.25mOD, 0.5m above surrounding ground levels. This would be sufficient based on the depth mapping of the South East Lincolnshire Strategic Flood Risk Assessment (2017).

Location and Siting - The site is located in the countryside and has views across South Drove Drain and fields beyond, as well as to the rear. There are no uses in the immediate vicinity that would adversely impact residential amenity. It is considered acceptable in terms of location and siting.

Design/external appearance - The proposed external works would enhance the current appearance of the building.

Adequate daylight in all habitable rooms - Windows would be installed across a large proportion of the south-western facing elevation and rooflights would be installed on the both roof slopes. A single window would be provided on the south-eastern elevation at ground floor to the study. This would allow adequate daylight to be achieved.

Other matters

An 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 cannot be dealt with via this application.

Planning 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 Class 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 reduced curtilage that is much closer to the building than that previously refused, with the exception of the area required for access. It is considered that this is acceptable for the purposes of Class Q of the GDPO. The proposal meets the provisions of Class Q in all other regards.

Conclusion

It is recommended that the 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.