DECISION DELEGATED TO DEVELOPMENT MANAGER

| | | | |
|---|---|---|---|
| **Application No:** | **H16-0568-19** | **Applicant:** | **C Slooten Ltd** |
| **Proposal:** | Conversion of agricultural buildings into residential | | |
| **Location:** | Agricultural Buildings: South Drove Spalding Lincs | | |
| **Terminal Date:** | 29th July 2019 | | |

**Planning Policies**

**South East Lincolnshire Local Plan - Adopted: March 2019**

**National Guidance**

**National Planning Policy Framework 2019**

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).

**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), in particular Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015.

The cumulative floor area of the building which is proposed to change the use of is 168 square metres, over one floor, and the cumulative area of land within its curtilage which is proposed to change the use of is 290 square metres.

## 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

No relevant site history to this application

## Consultation Responses

One Local Representation which can be summarised as follows:
- this is not a residential area
- additional dwelling adversely affect amenity of existing dwellings
- new dwelling will interfere with audio equipment
- loss of privacy

Environmental Protection
- "I request that a desk study be undertaken at this location prior to determination".

Highway Authority and Lead Local Flood Authority
- No objection with Conditions.

## Planning Considerations

The proposal seeks to change the use of an existing agricultural building and the land within its curtilage into a single storey dwellinghouse under permitted development rights and seeks confirmation that it constitutes permitted development afforded by the provisions of Article 3, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. This Order has subsequently been amended by the Town and Country Planning (General Permitted Development) (Amendment) (Order) 2016 and the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (Order) 2016 (and subsequent amendments), although the provision of Class Q itself has not been amended.

In order to determine whether or not the proposal would be permitted development, the following steps are to be followed:

1. To determine if any previous planning permissions imposed planning conditions preventing the proposal;

2. To determine whether there are any Article 4 Directions covering the site;

3. To establish whether or not the proposed development complies with the Town and Country Planning (General Permitted Development) Order 2015 (as amended), Article 3, Schedule 2, Part 3, Class Q.

Planning conditions preventing the proposal:

There are no conditions on planning permissions for this site that would prevent the proposal.

Article 4 Directions:

There are no Article 4 Directions.

Compliance with the General Permitted Development Order 2015:

The main consideration is whether the change of use complies with Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. Class Q relates to the change of use of agricultural buildings to a dwellinghouse and associated operational development.

Development is permitted where it consists 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; 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 agent in the supporting statement states that the "last use of the building would have been of a general agricultural nature". No other evidence on the last use of the building as agricultural has been submitted and although the building looks like and agricultural building there is not sufficient detail of the history of use of the site in order to satisfy this requirement. For example a use of a different user class would essentially 'break' the last use as agriculture and insufficient information has been provided to evidence the last use and dates of such use.

It is not considered that the information supplied is detailed enough to meet the definition of an agricultural building sufficiently and additional evidence and detail is required.

Q.1 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, 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;

AS STATED ABOVE THE APPLICATION DOES NOT STATE IN ANY DETAIL THAT THE BUILDING WAS IN USE AS AGRICULTURAL ON 20TH MARCH 2013. THIS ELEMENT IS NOT SUFFICENTLY PROVED AND FAILS TO COMPLY WITH THIS SECTION OF THE LEGISLATION.

(b) the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 450 square metres;

THE APPLICATION FORM STATES THAT THE FLOORSPACE OF THE EXISTING BUILDING THAT IS PROPOSED TO CHANGE USE, IS 168SQM AND THAT THE AREA OF LAND WITHIN ITS CURTILAGE WHICH IS PROPOSED TO CHANGE USE, CUMULATIVELY CREATES AN AREA OF 290SQM. THE PROPOSED DRAWING SUBMITTED SHOWS A ONE STOREY DEVELOPMENT AND DOES NOT APPEAR TO PROPOSE ANY MEZZANINE FLOOR.

AS A RESULT, BASED ON THE ABOVE, THE PROPOSAL COMPLIES WITH THIS ELEMENT.

(c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds 3;

THERE IS NO HISTORY OF SUCH CHANGES OF USE UNDER CLASS Q WITHIN THE AGRICULTURAL UNIT PROVIDED, THEREFORE, THE PROPOSAL WOULD COMPLY WITH THIS PART GIVEN THAT IT IS FOR ONE DWELLINGHOUSE.

(d) the site is occupied under an agricultural tenancy, unless the express consent of both the

landlord and the tenant has been obtained;

THE APPLICATION FORM ADVISES THAT THE SITE IS NOT OCCUPIED UNDER AN AGRICULTURAL TENANCY AGREEMENT, THEREFORE THE PROPOSAL WOULD COMPLY WITH THIS PART.

(e) 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;

THE APPLICATION FORM ADVISES THAT AN AGRICULTURAL TENANCY AGREEMENT HAD NOT BEEN TERMINATED WITHIN THE 12 MONTHS TO THE DATE OF THE APPLICATION, THEREFORE, THE PROPOSAL WOULD COMPLY WITH THIS PART.

(f) 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;

THERE IS NO RECORD THAT DEVELOPMENT UNDER CLASS A(a) OR CLASS B(a) OF PART 6 OF THE SCHEDULE HAD BEEN CARRIED OUT ON THE LAND WITHIN THE ESTABLISHED AGRICULTURAL UNIT SINCE 20TH MARCH 2013. THE PROPOSAL WOULD, THEREFORE, COMPLY WITH THIS PART, HOWEVER EVIDENCE OF ITS LAST USE IS STILL REQUIRED.

(g) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

THE SUBMITTED PLANS ILLUSTRATE THAT THE DEVELOPMENT WOULD NOT RESULT IN THE EXTERNAL DIMENSIONS OF THE BUILDING EXTENDING BEYOND THE EXTERNAL DIMENSIONS OF THE EXISTING BUILDING. AS A RESULT, THE PROPOSAL COMPLIES WITH THIS ELEMENT.

(h) the development under Class Q (together with any previous development under Class Q) would result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

THE PROPOSAL IS FOR A SINGLE STOREY DWELLING SO THE FOOTPRINT WOULD REMAIN AS EXISTING AND THERE ARE NO OTHER BUILDINGS THAT HAVE BEEN GRANTED PRIOR APPROVAL UNDER THIS PROCESS TO CREATE A DWELLING. AS A RESULT, THE PROPOSAL COMPLIES WITH THIS ELEMENT GIVEN THAT THE BUILDING IS TO REMAIN SINGLE STOREY.

(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);

THE EXISTING AGRICULTURAL BARN IS SINGLE STOREY BUT COULD POTENTIALLY EQUATE TO A TWO-STOREY RESIDENTIAL DWELLING WITH THE CONVERSION OF THE ROOF SPACE.

BUILDING WORKS ARE ALLOWED UNDER THE CHANGE TO RESIDENTIAL USE. THE PERMITTED DEVELOPMENT RIGHT UNDER CLASS Q ASSUMES THAT THE AGRICULTURAL BUILDING IS CAPABLE OF FUNCTIONING AS A DWELLING. HOWEVER, IT RECOGNISES THAT FOR THE BUILDING TO FUNCTION AS A DWELLING SOME BUILDING OPERATIONS, WHICH WOULD AFFECT THE EXTERNAL APPEARANCE OF THE BUILDING, THAT WOULD OTHERWISE REQUIRE PLANNING PERMISSION, SHOULD BE PERMITTED. 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 DWELLINGHOUSE; AND PARTIAL DEMOLITION TO THE EXTENT REASONABLY NECESSARY TO CARRY OUT THESE BUILDING OPERATIONS. IT IS NOT THE INTENTION OF THE PERMITTED DEVELOPMENT RIGHT TO INCLUDE THE CONSTRUCTION OF NEW STRUCTURAL ELEMENTS FOR THE BUILDING. THEREFORE, IT IS ONLY WHERE THE EXISTING BUILDING IS STRUCTURALLY STRONG ENOUGH TO TAKE THE LOADING WHICH COMES WITH THE EXTERNAL WORKS TO PROVIDE FOR RESIDENTIAL USE THAT THE BUILDING WOULD BE CONSIDERED TO HAVE THE PERMITTED DEVELOPMENT RIGHT. IF THIS IS NOT THE CASE THEN AN APPLICATION FOR FULL PLANNING PERMISSION WOULD BE REQUIRED FOR CONSIDERATION.

NO STRUCTURAL REPORT APPEARS TO HAVE BEEN SUBMITTED WITH THIS APPLICATION. THE BUILDING IS IN THE MAIN PART SOLID BRICK WALLS WITH ROOF CLADDING AND STEEL ROOF TRUSSES. HOWEVER, THE REAR VIEW OF THE BUILDING SHOWS AN OPEN ELEMENT THAT LEADS TO THE CREW YARD ALONG WITH 2 LARGE STEEL ROLLER DOORS. THIS IS LIKELY TO RESULT IN EXTENSIVE WORKS IN ORDER TO CONVERT THE BUILDING INTO A DWELLING. IN ALL OTHER RESPECTS THE STRUCTURE VISUALLY APPEARS TO BE A SOLID STRUCTURE, BUT A BUILDING SURVEY WOULD BE EXPECTED TO ACCOMPANY AN APPLICATION SUCH AS THIS ONE.

THE AGENT CONFIRMS IN THE SUPPORTING STATEMENT THAT "ON VISUAL INSPECTION THE MAIN BUILDING APPEARS GENERALLY TO BE OF GOOD STRUCTURAL QUALITY WITH PREVIOUS REMEDIAL WORKS APPARENT TO PROLONG THE LIFE OF THE BUILDING. SOME AREAS OF BRICKWORK AND ROOF CLADDING ARE IN NEED OF REPAIR, BUT OVERALL THE STRUCTURAL CONDITION IS CONSIDERED TO BE CAPABLE OF CONVERSION."

THE AGENT HAS CONFIRMED THAT A STRUCTURAL SURVEY WILL BE CARRIED OUT PRIOR TO CONVERSION. HOWEVER, THIS IS CONSIDERED ESSENTIAL AT THIS STAGE IN ORDER TO DETERMINE WHETHER OR NOT THE BUILDING IS CAPABLE OF CONVERSION RATHER THAN A RE-BUILD WHICH FALLS OUTSIDE OF CLASS Q. THE COUNCIL CANNOT GRANT A CLASS Q BASED ON JUST THE 'APPEARANCE' OF GOOD STRUCTURAL QUALITY WHICH IS TO BE CONFIRMED PRIOR TO CONVERSION BUT AFTER THE GRANTING OF PRIOR APPROVAL.

The PPG makes it clear that it is not the intention of permitted development right to allow new structural elements and it is only when the building is structurally strong enough to take loading as part of the conversion, would the building be considered to have the permitted development right. Moreover, the proposal must only involve building operations reasonably necessary to convert the building.

THEREFORE INSUFFICIENT INFORMATION HAS BEEN SUBMITTED IN THIS RESPECT AND THE APPLICATION FAILS IN THIS REGARD.

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

THE SITE IS NOT ON ARTICLE 2(3) LAND, THEREFORE COMPLIES WITH THIS PART.

(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;

THE SITE IS NOT, NOR FORMS PART OF, ANY OF THE TYPES OF LAND ABOVE, THEREFORE COMPLIES WITH THESE PARTS.

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

THE SITE IS NOT, NOR FORMS PART OF, A SCHEDULED MONUMENT, THEREFORE COMPLIES WITH THIS PART.

(m) the building is a listed building.

THE SITE IS NOT A LISTED BUILDING, THEREFORE COMPLIES WITH THIS PART.

Conditions Q.2-(1) 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,

THE HIGHWAY AUTHORITY ADVISED CONDITIONS TO BE IMPOSED IF GRANTED.

(b) noise impacts of the development,

NO COMMENTS HAVE BEEN RECIVED HOWEVE . IT IS CONSIDERED THAT THE NOISE EMANATING FROM THE SITE WILL FALL WITHIN ACCEPTABLE PARAMETERS, WITH THE MAJORITY OF NOISE OCCURRING DURING THE BUILDING WORKS.

(c) contamination risks on the site,

THE NATIONAL PLANNING PRACTICE GUIDANCE PROVIDES DETAILS IN CONNECTION WITH CONTAMINATION RISKS. ENSURING CONTAMINATION IS DEALT WITH ADEQUATELY IS IMPORTANT AS FAILING TO DO SO COULD CAUSE HARM TO HUMAN HEALTH, PROPERTY AND THE WIDER ENVIRONMENT, PREVENT DEVELOPMENT AND UNDERMINE COMPLIANCE WITH EUROPEAN DIRECTIVES. THERE ARE ALSO OTHER REGIMES IN DEALING WITH LAND THAT MAY BE AFFECTED BY CONTAMINATION. AS A RESULT, THE CONTAMINATED LAND REGIME UNDER PART 2A OF THE ENVIRONMENTAL PROTECTION ACT 1990 PROVIDES A RISK BASED APPROACH TO THE IDENTIFICATION AND REMEDIATION OF LAND WHERE CONTAMINATION POSES AN UNACCEPTABLE RISK TO HUMAN HEALTH OR THE ENVIRONMENT. THE REGIME DOES NOT TAKE INTO ACCOUNT FUTURE USES, WHICH MAY REQUIRE PLANNING PERMISSION. TO ENSURE A SITE IS SUITABLE FOR ITS NEW USE AND TO PREVENT UNACCEPTABLE RISK FROM POLLUTION, THE IMPLICATIONS OF CONTAMINATION FOR A NEW DEVELOPMENT IS TO BE CONSIDERED BY THE LOCAL PLANNING AUTHORITY TO THE EXTENT THAT IT IS NOT ADDRESSED BY OTHER REGIMES.

ALTHOUGH CONTAMINATION IS MORE LIKELY TO ARISE IN FORMER INDUSTRIAL AREAS, OTHER LOCATIONS, INCLUDING THE COUNTRYSIDE, MAY ALSO BE LIKELY.

THE COUNCILS ENVIRONMENTAL PROTECTION OFFICER HAS RESPONDED TO THE APPLICATION WITH THE FOLLOWING:

"I request that a desk study be undertaken at this location prior to determination"

THERFORE ON THIS BASIS INSUFFICIENT INFORMATION HAS BEEN PROVIDED IN ORDER TO PROVIDE THE REQUIRED ASSESSMENT AND THE APPLICATION FAILS ON THIS POINT.

(d) flooding risks on the site,

NO SUBSTANTIVE RESPONSE HAS BEEN RECEIVED FROM THE ENVIRONMENT AGENCY.

THE APPLICANT HAS SUBMITTED A FLOD RISK ASSESSMENT AS THE SITE DOES FALL WITHIN FLOODZONE 2 AND THE CONCLUSIONS OF THIS ASSESSMENT APPEAR TO BE ACCEPTBLE AND THE ASSESSMENT IS CONSIDERED FIT FOR PURPOSE.

THEREFORE SUBJECT TO ANY FURTHER COMMENTS BY THE EA ON ANY RESUBMISSION THE APPLICATION APPEARS TO BE SATSIFACTORY WITH REGARDS TO FLOOD RISK.

IT IS CONSIDERED THAT SUBJECT TO CONDITIONS/INFORMATIVES, ONLY THE HIGHWAYS, FLOOD RISK AND NOISE ELEMENT COULD BE COMPLIED WITH AND THE APPLICATION FAILS ON THE CONTAMINATION REQUIREMENT.

(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,

THE NPPG ADVISES THAT IMPRACTICAL OR UNDESIRABLE ARE NOT DEFINED IN THE REGULATIONS, AND THE LOCAL PLANNING AUTHORITY SHOULD APPLY A REASONABLE ORDINARY DICTIONARY MEANING IN MAKING ANY JUDGMENT. IMPRACTICAL REFLECTS THAT THE LOCATION AND SITING WOULD "NOT BE SENSIBLE OR REALISTIC", AND UNDESIRABLE REFLECTS THAT IT WOULD BE "HARMFUL OR OBJECTIONABLE".

WHEN CONSIDERING WHETHER IT IS APPROPRIATE FOR THE CHANGE OF USE TO TAKE PLACE IN A PARTICULAR LOCATION, A LOCAL PLANNING AUTHORITY SHOULD START FROM THE PREMISE THAT THE PERMITTED DEVELOPMENT RIGHT GRANTS PLANNING PERMISSION, SUBJECT TO THE PRIOR APPROVAL REQUIREMENTS. THAT AN AGRICULTURAL BUILDING IS IN A LOCATION WHERE THE LOCAL PLANNING AUTHORITY WOULD NOT NORMALLY GRANT PLANNING PERMISSION FOR A NEW DWELLING IS NOT A SUFFICIENT REASON FOR REFUSING PRIOR APPROVAL.

THE SITE LIES OUTSIDE OF ANY SETTLEMENT BOUNDARY AND IS NOT IN A SUSTAINABLE LOCATION. WHILST THIS IS THE CASE, FOR THE ABOVE REASONS REGARDING THE GUIDANCE SET OUT IN THE NPPG (AND APPEAL CASE LAW) IT INDICATES THAT THIS IS NOT A REASON FOR REFUSAL.

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

THE DESIGN AND APPEARANCE IS ACCEPTABLE AS A BUILDING PER SE UNDER THIS REGIME.

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

With regard to the provisions of Paragraph W, the Local Planning Authority cannot proceed to grant prior approval if all other matters were acceptable if works had commenced prior to determination.

The procedure for consideration and determination of prior approval applications required under Class Q (and various other classes) is set out at section W of Schedule 2 Part 3. Paragraph W(3) states 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, limitations or restrictions specified in this Part as being applicable to the development in question".

NO WORKS APPEAR TO HAVE BEEN CARRIED OUT ON THE BUILDING PRIOR TO THIS 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 the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

THIS SUBMISSION IS FOR Q(a) AND Q(b), THEREFORE, THIS IS NOT APPLICABLE.

(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.

THIS WOULD BE IDENTIFIED ON THE CERTIFICATE IF APPROVED.

## Conclusion

Pursuant to Clause W(3)(a) and (b) of the 2015 Order, the local planning authority may refuse an application where the proposed development does not comply with, or the developer has provided insufficient information to establish whether the development complies with any limitations in Class Q.

As a result, the submission is recommended for refusal 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 LPA. 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.

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.