

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0836-24 **Applicant:** Miss V Frohock
Proposal: Change of use of agricultural buildings to 5 dwellings
Location: Adjacent To The Hollies Pilmore Lane Fulney
Terminal Date: 29th November 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	1

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks consent to establish if a prior approval application is required for the change of use of three agricultural buildings into five dwellings. The application is sought using permitted development rights which are set out within Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). It has been established that prior approval is required, and as such it is necessary to assess whether prior approval should be granted.

Building 1, the most northern building, is proposed to be changed into two dwellings. Building 2,

within the middle of the site, is proposed to be changed into two dwellings. Raised terrace areas are proposed on the rear of both buildings. Lastly, Building 3 is proposed to be changed into one dwelling and it is proposed to erect a rear extension on the southern elevation of this building.

During the determination of the application, it was noted that the rear extension was too tall to be allowed using Class Q permitted development right. As such the height of the proposed extension was reduced to accord with the relevant legislation. Similarly, the roof terraces for dwellings 1 and 2 (Building 1) were combined into one terrace as it is considered that only one extension is permitted per building.

Site Description

The application site comprises land north of The Hollies, Pilmore Lane, Spalding. The site features three barns which are proposed for conversion.

The site is located to the east of Spalding, approximately 230m to the east of the A16. The site is outside any defined settlement limits and is therefore within the countryside in planning policy terms. There are mostly agricultural fields around the site, however, there are two dwellings to the north of the site, and one dwelling (The Hollies) to the south of the site.

Planning History

No planning applications have previously been submitted within the site.

Consultation Responses

Responses have been received from the below referenced consultees. The responses are summarised below, however, the responses can be viewed in their entirety on South Holland District Council's website.

South Holland Internal Drainage Board: I note within the Flood Risk Assessment (RM Associates, Sept 2024) that the applicant has stated there is no increase in the amount of surface water run-off for this development and therefore the existing drainage system will be utilised. If at any point new soakaways are proposed, we would advise that these are appropriately distanced from any existing soakaways and that infiltration testing in line with BRE Digest 365 (or equivalent) is undertaken to determine its efficiency. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. I note that the applicant intends to treat foul waste using a package treatment plant, however I cannot see that the applicant has indicated how they intend to dispose of treated foul water from this development. There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

Highways and SUDS Support: The access needs upgrading to Lincolnshire County Council Specification and a note should be added to the block plan stating this.

Environmental Protection:

First Response (23 October 2024): I request a screening assessment form be completed for this location to include photographs of the site.

Second Response (13 November 2024): After reviewing the Screening assessment form and photos supplied, I would ask that a standard land contamination condition be applied at this location.

CLlr R A Gibson: No response received.

CLlr G P Scalese: No response received.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Planning Assessment

Whether the Proposal Comprises Permitted Development

It is first necessary to consider whether the proposed works comprise permitted development.

Schedule 2, Part 3, Class Q of the GPDO, allows for the conversion of agricultural buildings to residential dwellings. This is however subject to certain conditions and restrictions, including the requirement for applicants to apply to the local planning authority to determine if a prior approval application is necessary.

The Class Q permitted development right was updated on 21 May 2024. There is however a transitional period in place which allows applicants to submit Class Q prior notification until 20 May 2025 if they choose to do so. The application form indicates that the applicant wishes for the application to be determined based on the newer legislation. The application has therefore been determined based on the newer legislation.

Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to residential use (Use Class C3). Class Q allows for any building operations 'reasonably necessary' to convert the building and now allows for extensions.

Paragraphs a) to p) of Class Q specify the circumstances under which development is not permitted. It is considered that the existing agricultural buildings, the site and the proposed dwellings as converted, would not fail any of these limitations as set out below:

"a) in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unitâ??

(i) on 24th July 2023, or

(ii) where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins"

- According to the application form, the site was used for agricultural purposes on 24 July 2013.

"b) in the case of a site that was (but is no longer) part of an established agricultural unitâ??

(i) the site was part of an established agricultural unit on 24th July 2023,

(ii) where the site ceased to be part of an established agricultural unit after 24th July 2023, the site has not been part of the established agricultural unit for a period of at least 10 years before the date development under Class Q begins, or

(iii) since ceasing to be part of an established agricultural unit, the site has been used for any non-agricultural purpose"

- According to the application form, the site is part of an agricultural unit.

"c) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeds 150 square metres"

- None of the proposed dwellings would exceed 150sqm. To summarise dwelling 1 features 120 sqm, dwelling 2 features 112sqm, dwellings 3 and 4 each feature 136sqm, and dwelling 5 features 126sqm.

"d) The development under Class Q, together with any previous development under Class Q, within the original limits of an established agricultural unit (see paragraph Q.3(2) of this Part) would result inâ??

(i) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 10, or

(ii) the cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order exceeding 1,000 square metres"

- According to the submitted application form, no work under the permitted development rights for the erection, extension or alteration of a building reasonably necessary for the purposes of agricultural has been carried out on the agricultural unit during the 10 year period before development begins. The proposed number of dwellings would not exceed 10, nor would the combined floorspace exceed 1,000sqm (the combined floorspace totals 630sqm).

"e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained"

- According to the application form, the site is not occupied under any agricultural tenancy agreements.

"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"

- According to the application form, no agricultural tenancies relating to the site have been terminated in the last year.

"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 during the period which is 10 years before the date development under Class Q begins"

- The site has not been subject to development under Class A(a) or Class B(b) of Part 6 of the Schedule 2 of the GPDO.

"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, other than?"

(i) extension of the building allowed by paragraph Q.1(i);

(ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i)

- The development would not result in the external dimensions of the building extending beyond the external dimensions of the existing building, other than the extension of outbuilding 5 to form unit 5 which is allowed by paragraph Q.1(i). The proposed protrusions would not exceed 0.2m.

"i) the development under Class Q(b) would result in an extension that?"

(i) has more than one storey,

(ii) is sited anywhere other than to the rear of the existing building,

(iii) extends beyond the rear wall of the existing building by more than 4 metres,

(iv) has eaves the height of which exceed the height of the eaves of the existing building,

(v) is higher than whichever is the lower of?"

(aa) the highest part of the roof of the existing building, or

(bb) a height of 4 metres above the ground,

(vi) extends beyond a wall that forms a side or principal elevation of the existing building, or

(vii) would be sited on land that, before the development under Class Q(b), is not covered by a hard surface that was provided on the land by virtue of any development, and?"

(aa) the hard surface was not provided on the land on or before 24th July 2023, or

(bb) where the hard surface was provided on the land after 24th July 2023, the hard surface has not been situated on the land for a period of at least 10 years before the date development under Class Q(b) begins"

- The proposed development seeks to install a single storey rear extension on building 3 (dwelling 5). As set out previously, the proposal has been amended as initially the height of the extension ridgeline was 4.4m, thereby exceeding the maximum height allowance of 4m. The extension has therefore been amended and now the ridgeline measures 4m from the ground level. The proposed extension therefore accords with the above referenced allowances. For example, it would not extend from the building by more than 4m and is located on the rear of the building.

The other two buildings are proposed to feature raised terraces on the rear of the buildings. Initially, two terraces were proposed on the rear of building 1 (dwellings 1 and 2). This has been amended during the determination of the application to combine the terrace as only one extension is allowed per building. The terraces are considered to comprise permitted development and would not exceed the above referenced allowances.

"j) the development under Class Q(c) 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(j)(i)"*

- National Planning Practice Guidance and case law make it clear that development under Class Q should not be so extensive as to amount to a 're-build'. Other than the aforementioned extension to building 3 and the proposed roof terraces, the other proposed external works would appear to retain the existing structural elements of the buildings. On building 1, the existing brickwork is proposed to be retained and repointed, vertical timber cladding is proposed to infill walls as necessary on the eastern elevation, aluminium framed windows and doors are proposed, and fibre cement profiled roof cladding is proposed. On building 2, similar materials are proposed however the building would feature rooflights. The materials of the rooflights are not specified, however, it is presumed that the frames would match the frames on the rest of the building. On building 3, the existing brickwork is proposed to be retained and repointed, the existing slate roof is proposed to be retained and repaired, and a cement sheeting is proposed on the roof of the northern part of the building. Part of the existing door openings are proposed to be bricked up to form new windows and the window and door frames would be made from aluminium. It is therefore considered that the existing structures can cope with the proposed alterations and that the works are allowed under part i).

"k) the site is on article 2(3) land"

- The site is not on article 2(3) land.

l) the site is, or forms part ofâ??

(i) a site of special scientific interest;

(ii) a safety hazard area;

(iii) a military explosives storage area"

- The site is not within a site of special scientific interest, a safety hazard area or a military explosives area.

"m) the site is, or contains, a scheduled monument"

- The site is not, nor does it contain a scheduled monument.

"(n) the building is a listed building"

- None of the buildings within the site are listed.

"(o) the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), would not be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 as read with the notes dated 19th May 2016 which apply to it"

- The proposed dwellings would comply with the nationally described space standard.

"(p) the building does not have suitable existing access to a public highway"

- Access to the site is proposed from Pilmore Lane, to the west of the site. The access is suitable, however, it will be upgraded to ensure suitable surfacing is in place to reduce the potential for mud and debris to be spread from the site on the highway.

As the proposed development is considered to comprise permitted development, it is subsequently necessary to assess the application against the requirements of the conditions of Class Q, as specified within paragraph Q.2.

Paragraph Q.2 (1) states that where the development proposed is permitted 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.

These matters are therefore assessed in turn below.

a. Transport and Highways Impact

The proposed access to the site is from Pilmore Road the west of the site. There is an existing access to the site which would continue to be used. Lincolnshire County Council's highways team has requested that the access is upgraded to their specification. The site plan has been amended to clarify that this will take place. The access is acceptable for the proposed five dwellings.

b. Noise Impacts

The site is mostly surrounded by agricultural land, however, there are three flats within The Hollies which is located to the south of the site. There are also two dwellings located to the north of the site (Westbourne and The Cottage). The council's environmental health team have not raised any objections to the proposals on the basis of noise disturbance. The site is not located in an area that is likely to be subject to adverse levels of noise. It is therefore considered that future occupants would not be subject to an unacceptable degree of noise disturbance.

c. Contamination

The council's environmental health team have requested a condition which would require the submission of a contamination assessment in order to identify and mitigate any pollution risks. This has been agreed with the applicant's agent.

d. Flood Risk

The site lies within Flood Zone 3, as is most of the district of South Holland. The application is accompanied by a Flood Risk Assessment (FRA), which concludes that the main risk of flooding to the site would be if a breach were to occur to the Coronation Channel earth flood bank, which is located approximately 485m to the west of the site. The FRA sets out recommendations to help mitigate the risk of flooding within the site such as setting the finished ground floor levels at 4.09mODN. According to the FRA, the existing floor levels for the buildings are 3.57mODN (building 1), 3.79mODN (building 2) and 3.49mODN (building 3). The proposed raised levels are considered to be feasible based on the submitted plans. It is considered appropriate to include a condition requiring compliance with the recommended mitigation outlined within the submitted FRA.

It is therefore considered that the proposed development would have an acceptable impact in terms of flood risk. It is however recommended that a condition be included to require the development to accord with the recommendations of the submitted FRA.

e. Whether the Conversion is Impractical / Undesirable

This consideration is not specifically defined, however Planning Practice Guidance sets out at Paragraph 109 (reference ID: 13-109-20150305) that impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".

Although the site is relatively isolated as it is not within walking distance of key services and facilities, the site is next to a road and as such there is an existing access to the site. It is not considered that the proposed conversion would be impractical or undesirable.

f. External Appearance

The proposed external alterations include the installation of new roofs, cladding, windows and doors. The timber cladding adds a rural element to the appearance and respects the existing form of the building and its rural setting, and would not appear overly domestic, or out of character with

the surrounding area. The proposed extension on dwelling 5 and the roof terraces appear to feature brickwork which would match the existing buildings. The proposed external alterations would therefore not appear overly domestic, or out of character with the surrounding area. It is however considered appropriate to include a condition to secure further details relating to the exact materials to ensure they are of an appropriate quality and appearance.

The conversion of the buildings to residential use is therefore not considered to have an adverse impact on the character and appearance of the rural landscape.

g. Natural Light Provision in Habitable Rooms

The proposed plans show that all habitable rooms are provided with natural light and ventilation given the location of windows on the building.

Amenity Impact of the Extension on Building 3

Class Q Q2.(3) is also relevant as this requires the development to apply for a determination as to whether the prior approval of the authority is required as to the impact of the proposed extension on the amenity of adjoining premises. A single storey rear extension is proposed on building 3 (dwelling 5). The nearest dwellings to the extension are the three flats located within The Hollies. The proposed extension would be located approximately 5m to the west of The Hollies. It is not considered that the proposed extension would result in an unacceptable degree of overshadowing of The Hollies due to the single storey nature of the extension and its positioning. Furthermore, no windows are proposed on the western elevation and as such this reduces the potential for overlooking between the properties. The amenity impact of the extension is therefore acceptable.

Conclusion

Taking the above considerations into account, it is considered that prior approval should be approved with recommended conditions. The proposed development has been assessed against the relevant prior approval criteria, and it is considered that the proposed conversion of the buildings would be acceptable.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.

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.