

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H17-0333-24 **Applicant:** G W Machin & Son Ltd
Proposal: Re-use of building for residential purposes (Class C3)
Location: Machin'S Farmhouse Surfleet Bank Surfleet
Terminal Date: 6th June 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Section 192 of the Town and Country Planning Act 1990 (TCPA 1990)

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This submission is a Section 192 application, comprising a Lawful Development Certificate which seeks confirmation of the existing use class for Machin's Farmhouse, Surfleet Bank.

The proposal seeks confirmation that the use of the property falls within Class C3. The application has been supported by:

- A Site Location Plan
- Supporting Statement
- Photographs of the Dwelling

Site Description

The application site comprises a detached building, located on Surfleet Bank, Surfleet. The building is set back within its plot and is well hidden by trees and hedgerow. The application site is surrounded by open fields to the north, east and west with R S Recycling Ltd to the south.

History

No planning history on site.

Consultation Responses

No responses have been received from consultees during the initial consultation exercises.

Public Representation

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.

Evaluation

This application is a Lawful Development Certificate which seeks confirmation of the existing use class of Machin's Farmhouse, Surfleet Bank; predominantly to gain confirmation as to whether the use of the premises falls within Class C3.

This application is a legal determination and planning policy is not relevant to the determination as to whether the proposed use would be lawful. The planning history of the site was investigated. Permitted development rights had not been removed by any previous permissions and the proposal.

The Local Planning Authority has not received any application relating to the change of use of the site.

Planning Considerations

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

Relevant provisions of the Town and Country Planning Act, 1990

In relation to proposed uses, Section 192 of the Town and Country Planning Act, 1990, provides that:

(1) If any person wishes to ascertain whether-

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall-

(a) specify the land to which it relates;

(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use or operations to be lawful; and

(d) specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

Furthermore, Section 3 of the Town and Country Planning (Use Classes) Order, 1987 (as amended) provides that:

(1A) Subject to the provisions of this Order, where a building or other land is situated in England and is used for a purpose of any class specified in - (a) Part B or C of Schedule 1, or (b) Schedule 2, the use of that building or that other land, or if specified, the use of part of that building or the other land ("part use"), for any other purpose of the same class is not to be taken to involve development of the land.

(2) References in paragraph (1) and (1A) to a building include references to land occupied with the building and used for the same purposes.

(3) A use which is included in and ordinarily incidental to any use in a class specified in Schedule 1 or 2 is not excluded from the use to which it is incidental merely because it is specified in Schedule 1 or 2 as a separate use.

Lawful Use - Assessment

The applicant has submitted this Lawful Development Certificate to gain confirmation as to the use of the application site, with particular focus upon gaining confirmation that it falls within Class C3. The application has been supported by:

- A Site Location Plan
- Supporting Statement
- Photographs of the Dwelling

The applicants supporting statement sets out their key points for this case; these can be summarised as:

- The dwelling was occupied until the mid 1990s.
- The rear garden was used for growing vegetables for domestic consumption up until 2015, for over 10 years after the dwelling became unoccupied
- The dwelling has at all times remained in the ownership of G W Machin and Son Limited
- The house was boarded up and made secure in 2004
- The most recent works include some relatively minor repairs to the roof in February 2024

Taking the above into account the last known use of the site was as a residential dwelling under Use Class C3. No objections have been received that provide information that contradicts the evidence given by the applicant, or the assessment of information that has taken place by the Local Planning Authority.

Overall, it is considered that the use of the premises, would fall under use Class C3.

Conclusion

No objections have been received that provide information that contradicts the evidence given by the applicant, or the assessment of information that has taken place by the Local Planning Authority.

Based on the information detailed above, including the supporting information and an assessment of site history, it is considered that the lawful use of the site is as Class C3.

It is therefore considered appropriate to issue a certificate of lawfulness.

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.