

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H17-0485-25 **Applicant:** Mr H Brown
Proposal: Conversion of agricultural building into dwelling
Location: Rear Of The Chestnuts Reservoir Road Surfleet
Terminal Date: 16th July 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

The Town & Country Planning General Permitted Development Order 2015 (as amended).

Schedule 2, Parts Q & W

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is an application to determine if prior approval is required for a proposed 'change of use of Agricultural Building to Dwellinghouses (Class C3), and for building operations reasonably necessary for the conversion'.

The proposal is to make changes to an existing building on site to form a two bedroom dwelling with access from Reservoir Road, the access is long, it is made up to appropriate widths. The building is very low at the eaves (circa 1.6m) and the design includes voids to remove unusable floor space from the dwelling.

Site Description

The proposal is outside of defined settlement limits of Surfleet Seas-end and is therefore in planning terms located in the open countryside. The surrounding area is predominately rural and is characterised by linear frontage development along Reservoir Road.

The application site contains a dilapidated building. The western boundary down to the vehicular access is bordered by established trees. The south and east boundaries are bordered by a 1 metre high post and rail fence. The northern boundary is bordered by trees to the north-west section and a raised bank forming the boundary, beyond which is a drainage ditch.

There are no dwellings to the north, east or west of the site. The nearest dwelling are located to the south. The building is located in Environment Agency Flood Zone 1, however the surrounding land and access road is located in Flood Zone 3. The SFRA states that the building is in an area that is "Danger for Most" hazard area.

The existing building on site is a mixture of block, block and timber clad external walls with a corrugated asbestos cement roof covering. The application form states that the current use of the building is private storage.

History

H17-0135-76 Full - Piggery with provision of vehicular access and hardstanding - Approved - 14th April 1976.

H17-1119-79 - Permission for existing dwelling at The Chestnuts
Outline - Erection of dwelling and garage - Approved - 20th November 1979.

H17-0022-80 - Permission for existing dwelling at The Chestnuts
Reserved Matters - Erection of dwelling with garage - Approved - 07 January 1980.

H17-0895-23 - Conversion and extension of rural building to form single dwelling. Refused 20-08-24

Consultation Responses

Highways

No objection - As Highways and Lead Local Flood Authority we assess all Prior Approval applications as to whether or not Prior Approval is required for Transport/Highways impacts and flooding risks on the site.

This proposal is for Conversion of agricultural building into dwelling, the access meets the guidelines set out in Manual for Streets, adequate parking provision is proposed within the limits of the site and the proposal will not impact flood risk.

Therefore, it is considered that the proposals would not result in an unacceptable impact of highway safety and flood risk. That said, the existing vehicle access is not appropriate for this or current use as it is just an unbound material and therefore, it will need to be made up to the County Councils specification within the extent of the public highway appropriate for its proposed residential use.

Environmental Protection

I request a screening assessment form be completed at this location. This should be submitted with photographs of both inside and outside of the barn.

Representations

This application has been advertised in accordance with the Development Management Procedure Order 2015 (as amended). A letter of concern has been received from a local resident that expresses the proposal would give rise (or exasperate) existing issues, relating to highway safety, drainage, amenity as well as placing pressure for further development in the area.

Planning Considerations

This application is made under Class Q of the Town & Country Planning General Permitted Development Order 2015 (as amended).

Permitted development

Class Q of part 3 allows for development consisting 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 or
- (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development is not permitted by Class Q

- (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;
- (b) in the case of
 - (i) a larger dwellinghouse, within an established agricultural unit
 - (aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or
 - (bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;
 - (ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;
- (c) in the case of
 - (i) a smaller dwellinghouse, within an established agricultural unit
 - (aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or
 - (bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;
- (d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following
 - (i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
 - (ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;
- (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
- (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;

(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-

(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;

(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;

(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,

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

(k) the site is, or forms part of a (i) a site of special scientific interest;

(ii) a safety hazard area;

(iii) a military explosives storage area;

(l) the site is, or contains, a scheduled monument; or (m) the building is a listed building.

Assessment against Permitted Development - Part 3, Class Q

USE

The applicant has ticked yes that the last use of the site was for an agricultural use as part of an established agricultural unit. However under planning application H17-0895-23 (which was refused to convert this building into a dwelling), the submitted Design and Access Statement stated the following:

"The buildings were originally used to house pigs. However for as long as it has been known to the current owner it has been unused. Currently it is being used as storage for personal belongings for the family that own the site.... The main barn walls are to be reinstated and increased in height with red/brown multi facing brick, with brick soldier course arch, to the main entrance and brick detailing above the other openings as is common in barns in the local area."

It is noted that the initial grant of permission in respect of the 'piggery' comprised a siting that notably differs to that in which the current building lies. Whilst it is not disputed that the building has been historically used as a 'piggery', and that at that time, the building was lawfully as used as such given the time that had lapsed, it is evident that the building has not been used for this purpose for an extensive period of time.

Beyond the aforementioned documents raised within the previous submission on site, during numerous previous proposals on site, photographs provided, in addition to those taken during officer site visits, clearly demonstrate that the building has been used for storage purposes that are not associated with any agricultural activity.

There are therefore questions surrounding the last know use of this building, with its use as 'agricultural purposes' being of notable doubt.

Larger Dwellinghouse

The proposal meets with the terms of a larger dwellinghouse under Qb.

Paragraphs C, D, E, F, G

The proposal meets with the above paragraphs.

External Dimensions

The proposal would not result in any increase to the external dimensions.

Works Reasonably Necessary

A starting point to this section is contained within the text of Class Q itself, which states: Schedule 2, Part 3, Class Q, Para, J allows for:

(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),

Planning Practice Guidance

Planning Practice Guidance

"it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right".

However Planning Practice guidance also expands internal works:

"Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q."

Case Law

Hibbitt, and Another v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council

There are three components which were of particular significance to this case at the time, they are.

1. The reference to the assumption that the permitted development must be "capable" of functioning as a dwelling.

2. The reference to the permitted development not including " new structural elements".
3. The reference to the existing building being sufficiently structurally strong to bear the loading from the external works.

Structural Report

The structural report, discusses some key topics regarding the floor and walls, stating that:

"The internal load bearing stud walls to internal partitions and external walls are supported off low level masonry walls, constructed off concrete strip foundations. Seen in Photo 6 in Appendix A. The floor slab appears to be of reinforced concrete construction with no apparent signs of structural movement / settlement. Seen in Photo 7 in Appendix A. The slab is currently laid with some falls which we assume was due to its previous use as a piggery. We would confirm that during our structural inspection we saw no signs of any structural deformation, deflection or misalignment of the timber framed structure or supporting masonry walls. This would therefore indicate the existing structural framework and panels are performance satisfactory."

On the basis of the report, it would suggest that the floor and walls are currently of a sufficient standard to support the proposal, when considering the *Hibbitt* case. In that:

- There are no new structural elements
- The structural survey suggests the existing building is strong enough (structurally to allow for the development)
- Following the above two points, the LPA would struggle to refute that the building is 'capable' of conversion.

The works proposed, would therefore be in line with the allowances with both Class Q as well as Planning Practice Guidance.

Paragraphs K & L

The proposal would meet with these two paragraphs.

Summary of Permitted Development

There is uncertainty surrounding the last know use of this building given the applicants comments made under a previous application stating that this building had been used for domestic storage.

In the interest of completeness, the report will consider those 'matters' relevant to the assessment of Class Q applications.

Assessment of Paragraph 9A of Article 3 "Permitted Development"

The introductory text of the Permitted Development Order outlines generic provisions, applicable to the Order. Paragraph 9A of Article 3 "Permitted Development" reads as follows:

" Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse (a) where the gross internal floor area is less than 37 square metres in size; or (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015"

This is expanded upon by 9B, which states:

"The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it"

The Nationally Described Space Standards outlines that for a one storey dwelling, with three bedrooms, a minimum floor space of 74sqm is required, with this increasing to 95sqm for 6bedspaces. In order to provide 1 bedspace, a single bedroom must have a floor area of at least 7.5sqm and must be at least 2.15m wide. To provide 2 bedspaces, a room must have a floor area of

at least 11.5sqm. 1 double (or twin bedroom) must be at least 2.75m wide and every other double (or twin) bedroom must be at least 2.55m wide.

Beyond this, point i. details that "the minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area".

The flood risk relating to the site, as is to be detailed further below, is such that it is necessary for flood mitigation measures to be considered with an increase in finished floor levels above flood depths likely to be required. As such, the resultant floor to ceiling height would be below the 2.3 metres required under the nationally described space standards, thus preventing the conversion from occurring under Part 3, Paragraph 9A of the General Permitted Development Order, 2015.

The proposal therefore fails to adhere to the provisions of Article 3, Paragraph 9A and 9B of the General Permitted Development Order. As such, regardless of the below assessment, permission cannot be granted under this Order for the change of use of the building, as it fails to comply with the limits of Permitted Development outlined under the GPDO.

Overall, the development is therefore not permitted under Article 3 of the General Permitted Development Order.

Schedule 2, Part 3, Class Q - Prior Approval Considerations

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 as to:

- (a) Transport and highways impacts.
- (b) Noise impacts.
- (c) Contamination risks.
- (d) Flood risks on the site.
- (e) Location and siting.
- (f) Design/external appearance.
- (g) The provision of adequate natural light in all habitable rooms.

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.

Transport and highways impacts

Highways have been consulted and have no objections. The proposal has an acceptable access and an acceptable level of off street parking provision.

Noise impacts

The noise impacts from the development are considered acceptable.

Contamination risks

The applicant has provided a screening form. It is considered that the proposal could be made acceptable in terms of contamination.

Flood risks on the site

Whilst the site is located within flood zone 1 in accordance with EA mapping, it is located within a 'danger for most area' in accordance with the South East Lincolnshire SFRA. This suggests that the max hazard depths are between 1.25m and 2.0m. This is not addressed by the applicant's flood risk assessment. The SELincs Standing Advice Matrix (developed in conjunction with the EA) when considering (non-major) more vulnerable uses states that:

In depths greater than 1.6m "It is unlikely that mitigation measures would prevent flood water from entering the building at ground level. Therefore, proposals must have a minimum of two storeys with no ground floor habitable accommodation. The first floor living accommodation must be above the highest predicted flood depth".

In depths of 1.0 - 1.6m "Proposals must have a minimum of two storeys with FFLs set a minimum of 1m above existing ground level"

With the absence of information, it is not clear which point is applicable; however, given the SFRA rating 'danger for most' the hazard depth is likely to be a minimum of 1.25m. Given that this building cannot accommodate an upper floor, and that should be building be raised to appropriate FFLs then it would make the conversion improbable (and beyond Class Q).

This is further exacerbated by the fact that the entire surrounding area is located within flood zone 3, meaning that means of escape are highly unlikely.

In any event, as expressed in part above, the level of works that would be required to achieve the necessary flood mitigation to ensure that the scheme exceeds the flood depths, may be such that the resultant floor to ceiling height would be below the 2.3 metres required under the nationally described space standards, thus preventing the conversion from occurring under Part 3, Paragraph 9A of the General Permitted Development Order, 2015.

On the basis of flood risk, which is likely to give rise to a threat to human life, prior approval is refused.

Location and siting

The site is outside of any defined settlement. However, the PPG is clear that location outside of settlement boundaries cannot be considered inappropriate in the case of a Class Q conversion. The site would be no more impractical than neighbouring dwellings, and is considered to be acceptable in this regard.

Design/External Appearance

The eaves of the structure are low, the applicant has described on floor plan that 115sqm would have a 2.3m roof height. The floor plans show that internal walls are positioned to create voids.

The proposal is subject to Nationally Described Space Standards. The proposal is for a 2 bedroom house and should have an internal floor area of 70sqm. The walls at the measure eaves circa 1.6m on plan and part f of the space standards are relevant, they state:

any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage (if the area under the stairs is to be used for storage, assume a general floor area of 1m² within the Gross Internal Area

It is likely then that despite the low amount of headroom in parts of the proposal (including the bedrooms) the development could meet with NDSS, in accordance with the plans submitted. However, should the proposal be required to raise FFLs due to flood risk, it is unlikely that NDSS could be met, therefore prior approval would be required on these grounds, in order to demonstrate that NDSS can be met alongside evidencing flood appropriate dwelling, with ground levels information provided.

Conclusion

It is not clear whether this proposal would in fact be permitted development given the conflicting statement put forward by the applicant in relation to previous proposals on this site, there is therefore uncertainty as to whether the last use of this building is for agricultural purpose. This point would need addressing by the applicant.

Notwithstanding this, the proposal would give rise to flood related risks, that have the potential to

threaten human life. The proposal would not allow for a safe means of escape/refuge and the FFLs, if installed would undermine the ability for the dwelling to meet Nationally Described Space Standards and as such, would fail to accord with the requirements of Permitted Development under Class Q and would conflict with Paragraph 9A of the General Permitted Development Order, 2015.

The recommendation is therefore that Prior Approval 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.