DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H17-1078-23**	**Applicant:**	**The Executor of D W Machin (Deceased)**
Proposal:	Conversion of agricultural building into 5 dwellings and associated operational development		
Location:	Pells Yard Coney Garth Farm Surfleet		
Terminal Date:	26th January 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Part 3, Class Q of the The Town and Country Planning (General Permitted Development) (England) Order 2015.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	1	0
RESIDENTS	4	0	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a prior approval application at Pells Yard, Coney Garth, Surfleet for conversion of an agricultural building into 5 dwellings and associated operational development. The proposal seeks to provide new windows and doors in the external walls of the building with the existing access upgraded to meet County Highways requirements. An existing access will be upgraded, with the road sited to the rear of the building, and each plot allocated two off road parking spaces. Each plot is to be allocated an area of amenity space. The residential garden curtilage including car parking spaces totals 447 square metres.

Plot One has a floor space of 130 square metres, Plot Two 99 square metres, Plot Three 142 square metres, Plot Four 99 square metres and Plot 5 126 square metres. Therefore, three larger dwellinghouses and two smaller dwellinghouses are proposed. The combined floorspace of the larger dwellinghouses is 398 square metres. The combined floorspace of the smaller dwellinghouses is 198 square metres. The total floorspace of the building is 596 square metres.

Plot 1 is to contain a combined kitchen / dining / living area, wc, bedroom and a bathroom at ground floor level. At first floor level, two bedrooms and two en-suites are to be provided.

Plot 2 is to contain a combined kitchen / dining / living area, wc, bedroom and a bathroom at ground floor level. At first floor level a bedroom will be provided.

Plot 3 is to contain a combined kitchen / dining / living area, wc, bedroom and a bathroom at ground floor level. At first floor level, two bedrooms and two en-suites are to be provided.

Plot 4 is to contain a combined kitchen / dining / living area, wc, bedroom and a bathroom at ground floor level. At first floor level a bedroom will be provided.

Plot 5 is to contain a combined kitchen / dining / living area, wc, bedroom and a bathroom at ground floor level. At first floor level, two bedrooms and two en-suites are to be provided.

Two buildings to the south of the plot will be removed. These buildings are not suitable for residential conversion. Any asbestos within or in the buildings is to be removed.

SITE DESCRIPTION

The site is in the open countryside and the surrounding area is predominately rural, characterised by non-nuclearised linear development of varying ages and designs. The A16 is sited beyond agricultural fields to the west of the site. Coney Garth Lane and agricultural fields are located to the north of the site. Agricultural fields area located to the west of the site, with a dilapidated dwelling named Coney Garth Farm to the south of the site. A property named Pavillions is located further to the south.

The site is in Environment Agency Flood Zone 3 and is in a "Danger for Most" hazard area, with a maximum predicted flood depth of 1 metre on the 2115 South Holland Strategic Flood Risk Mapping. The submitted Flood Risk Assessment proposes a finished floor level of 1 metre with a further 300mm of flood resilient construction.

RELEVANT HISTORY

H17-0769-01

Agricultural Determination - Proposed canopy and lean-to - Approved - 20 July 2001.

CONSULTATION RESPONSES

Initial Responses Received (Consultation period between 11th December 2023 to 4th January 2024)

Lincolnshire County Council - Historic Places Team - 18 December 2023

"No archaeological input required."

Whaplode Parish Council - 19 December 2023

Objection - *"The access road is restricted access to farm vehicles only and unsuitable for heavy lorries or*
general traffic. The existing structure is not fit for conversion as outlined in the application."

Environment Agency - 20 December 2023

"The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.

Condition:
The development shall be carried out in accordance with the submitted flood risk assessment undertaken by Origin Design Studio and the following mitigation measures it details:

· The finished floor levels of all habitable accommodation shall be set no lower than 1m above Ordnance Datum (AOD)
· Flood resilient construction to a height of 300mm above the predicted flood depth

These mitigation measures shall be fully implemented prior to occupation and subsequently shall be retained and maintained thereafter throughout the lifetime of the development.

Reason
To reduce the risk of flooding to the proposed development and future occupants in line with Policy 4 of the South East Lincolnshire Local Plan."

Welland & Deepings Internal Drainage Board - 22 December 2023

"Foul and surface water provisions should be confirmed to the Board prior to works commencing on site."

South Holland District Council - Environmental Protection - 28 December 2023

"I request a precautionary land contamination condition be applied at this location."

Lincolnshire County Council - Highways & SUDS - 08 January 2024

Additional information required:

"There needs to be clear delineation from the public highway and private land-. Boundary treatments and materials need to be detailed."

"Surfleet Public Bridleway No. 1077 runs along Peter Seadlike Lane but this is outside of the red development boundary. It is not anticipated that the proposed developed will affect the public bridleway if the route is not used as a means of accessing the A16."

Note - Further information regarding fencing and means of access was submitted on the 11th of January 2024. This information was sent for reconsultation to Highways & SUDS Officer on the 12th of January 2024.

Lincolnshire County Council - Highways & SUDS - 23 January 2024

No objections. They request a condition regarding boundary treatment, as well as access, utility and construction informatives.

"The application is for prior approval of the conversion of an agricultural building into 5 dwellings and associated operational development. There needs to be clear delineation from the public

highway and private land-boundary treatments / details are to be conditioned. Each plot has two parking spaces which is acceptable. Surfleet Public Bridleway No. 1077 runs along Peter Seadyke Lane which is not adopted highway - this will not be used as access for the residents and is outside of the red development boundary. Therefore the public bridleway will not be affected. The proposal will not have an adverse impact on the public highway."

"As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application."

Members of the public

This application has been advertised in accordance with the Council's Statement of Community Involvement and the Development Procedure Order. In this instance, four letters of representation have been received.
These can be summarised as:

Access road is in poor condition.
Road is a single lane.
Steep banks adjacent to access road.
Road is often covered in mud.
Refuse collection vehicles will not come down the road.
No streetlights in vicinity of site.
The structure is not sound.
Impact on wildlife.
Surface water drainage provision.

The applicant would not maintain the building properly.
Will the 5 dwellings get occupied by the proposed recycling plant at the top of Peter Seadike Lane?
Other developments are occurring in the area.

The agent has responded to a summary of the public objections

Regarding the summary of points from the public. I have reviewed your summary as I cannot see a copy of their
submissions online yet. The only comments I would like to make in reply is the site currently is accessed and used by
agricultural vehicles & equipment via the adopted road network around the site. As such there will be reduction on
the local road network in terms of movements and times of traffic generation. In addition, I note LCC Highways have
not yet provided their consultee comments. Finally, it is not known at this stage who will inhabit the dwellings once
constructed.

KEY PLANNING CONSIDERATIONS

The main issues and considerations in this case are:

Compliance with Part 3, Class Q of the The Town and Country Planning (General Permitted Development) (England) Order 2015.

EVALUATION

Relevant provisions of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended)

The Town and Country Planning (General Permitted Development) Order, 2015, within Class Q of Schedule 2 Part 3, provides that development as described below is permitted:
Q. 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.

Paragraph Q.1 sets out the circumstances where development is not permitted. This details that development would not be 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;

(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 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 -
(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.

Furthermore, para Q.2 provides that development is only permitted under Class Q subject to the following conditions:

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

(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.

Para Q.3 provides an interpretation of Class Q and states that:

For the purposes of Class Q -

"larger dwellinghouse" means a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

"smaller dwellinghouse" means a dwellinghouse developed under Class Q which has a floor space of no more than 100 square metres having a use falling within Class C3 (dwellinghouses) of the schedule to the Use Classes Order.

Para W of Part 3 sets out the procedure for prior approval where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required. Para W also provides under section W.3 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 except for conditions in paragraph G.1(d)(iv), paragraph M.2(1)(f), paragraph MA.2(2)(f), paragraph N.2(1)(e), paragraph O.2(1)(e), paragraph PA.2(1)(v), or paragraph Q.2(1)(g), limitations or restrictions specified in this Part as being applicable to the development in question.

Assessment - Buildings Use

Paragraph Q.1 states that such 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,
(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.

The submitted application form answers the large extent of questions raised as a result of the requirements of Class Q. The application form indicates that the building is in agricultural use and outlines that, in respect of the above, the application site fulfils the requirements outlined.

Having visited the site there was no evidence that the use identified by the applicant within their submission is incorrect. On the balance of probability, it is therefore considered that the Local Planning Authority have no justifiable reason to dispute the use of the site being agricultural.

Assessment - Class Q

The information provided by the applicant appears to satisfactorily demonstrate that the provisions of criteria (a) - (h) and (j) to (m) have been met.

As outlined above, the 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). Paragraph 105 indicates that "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".

The guidance of the PPG is therefore clear and accords with the High Court judgement Hibbitt v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council. The latter concludes that Part 3 Class Q of the GPDO allows a "conversion" but does not allow a "re-build" or "fresh build".

The proposal would result in the insertion of windows and doors, with work that is suitably required to enable the conversion being demonstrated. It is considered that the extent of the works proposed are reasonably necessary for the building to function as a dwelling and that the conversion would not involve building operations beyond those permitted under Class Q.

As such, it is considered that the proposed works satisfy the requirements of paragraph Q.1(i) and PPG. Consequently, the proposal is permitted development under Class Q(b) of the GPDO.

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.

In respect of paragraph Q.2 and paragraph W(3) as detailed above, the following can be considered in respect of addressing the requirements:

Transport/Highways - An existing vehicular access exists off Coney Garth Lane, which would be utilised for entry and exit to the dwellings. LCC Highways consider that the proposal would not have an unacceptable impact upon highway safety and the site can accommodate off-road vehicle parking. They do observe that *"Surfleet Public Bridleway No. 1077 runs along Peter Seadyke Lane which is not adopted highway - this will not be used as access for the residents and is outside of the red development boundary. Therefore the public bridleway will not be affected. The proposal will not*

have an adverse impact on the public highway."

Noise Impacts - The application site lies adjacent to a dilapidated empty residential dwelling to the south. Whilst there is likely to be a level of noise associated with development during the development phase of the conversion, the resultant development is not considered to give rise to significant noise impacts.

Contamination - Due to the former agricultural use of the land and buildings it would be considered appropriate to adopt a precautionary approach and as such it is recommended that a precautionary contamination condition be attached to any consent from this application.

Flood Risk - The site is in Environment Agency Flood Zone 3 and is in a "Danger for Most" hazard area, with a maximum predicted flood depth of 1 metre on the 2115 South Holland Strategic Flood Risk Mapping. The submitted Flood Risk Assessment proposes a finished floor level of 1 metre with a further 300mm of flood resilient construction.

Location and Siting - The site is in the open countryside and the surrounding area is predominately rural, characterised by non-nuclearised linear development of varying ages and designs. The A16 is sited beyond agricultural fields to the west of the site. Coney Garth Lane and agricultural fields are located to the north of the site. Agricultural fields area located to the west of the site, with a dilapidated dwelling named Coney Garth Farm to the south of the site. A property named Pavillions is located further to the south. The site has a satisfactory relationship with neighbouring dwellings/development.

Design/external appearance - Any asbestos on site is to be removed. It is considered that the existing materials to be retained will maintain an agricultural character and all the building that remain in keeping with the other buildings in the vicinity of the site.

Natural Light - There is acceptable level of adequate natural light in all habitable rooms of the proposed dwellings. Whilst there are no streetlights in the vicinity of the site, there is considered to be an adequate level of natural lighting available to all plots. This is due to to ground floor, first floor and rooflight fenestration on the west and east elevations on all plots.

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.

The building is a steel frame building that requires substantive internal works to develop two floors and raised finished floor levels of 1 metre. An accurate assessment as to the structural integrity of the existing building cannot be made as a structural report prepared by a qualified structural engineer has not been submitted for assessment by the Local Planning Authority. This document is considered vital to assess whether the existing building can provide a realistic chance of conversion under Class Q assessment criteria.

Outstanding matters from representation

The applicant would not maintain the building properly - This is not a matter of material planning weight. The level of care in maintenance of the building post construction is not within the remit of planning

Will the 5 dwellings get occupied by the proposed recycling plant at the top of Peter Seadike Lane? - This is not a matter of material planning weight. Occupant restrictions are not of relevance to a Class Q application.

Other developments are occurring in the area - Class Q application sites are primarily located in areas outside of defined settlement limits. There is no recently approved development in the immediate vicinity of the site.

CONCLUSION

Due to the absence of a Structural Report the proposal is not considered to constitute permitted development and does not comply with the relevant conditions under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order, 2015.

RECOMMENDATION

This application is recommended for refusal.

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.