DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H18-1072-23**	**Applicant:**	**S E King Building Contractors Ltd**
Proposal:	Proposed change of use of agricultural building to dwelling (previously refused under H18-0896-23)		
Location:	Maze Farm Hospital Drove Long Sutton		
Terminal Date:	30th January 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
28	The Natural Environment
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND	0	0	0	1

INTERNAL DRAINAGE BOARD				
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	1	1
RESIDENTS	0	1	0	1

CASE OFFICER ASSESSMENT

Proposal

Application to determine if prior approval is required for a proposed for the Change of Use of an Agricultural Building to Dwellinghouses (Use Class C3), at Maze Farm, Hospital Drove, Long Sutton.

The application is for the conversion and change of use of one agricultural building into a larger dwelllinghouse under the permitted development rights of Schedule 3, Part 2, Class Q of the General Permitted Development Order 2015.

Site Description

The application site is accessed off the end of Hospital Drove and is surrounded by farmland. The barn is made up of sectional concrete boards at ground, to half way up and a corrugated sheeting on the upper half of the elevations and roof. A timber framed door allows for access on the north elevation. On site visit the building had ivy growing, heavily at certain points on the building. To the West of the site is a small farm with a liner development of dwellings.

The application site is a barn located to the east of a small cluster of residential dwellings and agricultural related buildings. It is accessed from Hospital Drove and located away from Long Sutton, to the North East.

The application site is located within the open countryside and outside of any defined settlement boundary. The site is located within Flood Zone 3 of the Environment Agency's Flood Maps and the South East Lincolnshire SFRA indicates that the site is within an area designated as danger for all.

History

H18-0896-23 - Change of use of agricultural building to dwelling. Refused 27-11-23

Consultation Responses

South Holland IDB
The site is within the Internal Drainage District (IDD) of the South Holland Internal Drainage Board (IDB) and therefore the Board's Byelaws apply. Whilst the Board's regulatory process (as set out under the Land Drainage Act 1991 and the Board's Byelaws) is separate from planning, the ability to implement a planning permission may be dependent on the granting of any required Land Drainage Consents.

Highways & LLFA
No objection: The subject agricultural building is not within convenient walking distance of any

established settlement so those living in the dwelling that is being proposed in this Application would be reliant upon the use of a motor vehicle to go about their daily lives. However, the building has presumably hitherto been accessed by agricultural vehicles and therefore there is no cause to consider that a residential use of the building would inevitably be unsafe or place an unacceptable burden upon the local highway network. Therefore having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network and does not wish to object to this planning application.

Environmental Protection
I request a standard land contamination condition to be applied at this location.

National Gas
No objection

Environment Agency
No objection subject to the following condition:

The development shall be carried out in accordance with the submitted flood risk assessment (ref ECL1123b, complied by Ellingham Consulting LTD, dated November 2023) and the following mitigation measures it details:
· Finished floor levels to be set no lower than 0.96m above ground level (AOD)
· Flood resilience and resistance measures to be incorporated into the proposed development as stated. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Historic Places Team
No archaeological input required.

Parish
Sutton Bridge Parish Council resolved to comment that the guidance of National Gas should be taken into consideration regarding the high risk zone from transmission apparatus.

Planning Considerations

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 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 a
(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 followingÃ????¢??
(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.

The applicant has confirmed within the application form and planning statement that the last use of the building (prior to 20th March 2013) was solely for an agricultural use and that no works under permitted development rights for the erection, extension or alteration of the building (for the purposes of agriculture) have taken place. Furthermore, there are no extensions to the external dimensions of the barn proposed (other than steps which are considered di minimus), this is evidenced within the proposed elevation and floor plans.

The building is not located within a conservation area an SSI, safety hazard area, the site does not contain a scheduled monument nor relates to a listed building. The site is not subject to an agricultural tenancy agreement nor has one been terminated within the last 12 months, prior to this submission.
The proposal is for 1 number larger dwellinghouses with a total floor space of 261sqm.

Conditions
(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,
(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, and
(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.

Evaluation under Condition Q.2.

Transport and Highways Impact of the development
The application site is accessed from hospital drove, there are a number of dwellings served by the road in the immediate vicinity, this road is owner by LCC Highways. At the end of the Drove, to the North of number 190 the private drove access to the barn would connect.

The Highway Authority have been consulted and have stated that they have no objections to the proposal. The access has been used by agricultural vehicles and the creation of a dwelling would therefore have a limited impact upon the area. The use of the barn as a dwelling would not overly intensify the access to a point where mitigation is required. Parking is shown on plan and this is sufficient/proportionate to the scale of the development.
The proposal therefore in terms of the transport and Highways Impacts of the development are considered acceptable.

Noise Impacts of the Development
There is a mix of residential and agricultural uses in the area. Number 190 Hospital Drove is located approximately 30m from the existing barn. The noise environment therefore is likely to be the same for the proposal as the dwelling, and a further four dwellings are located within the immediate area. With this in mind the Environmental Protection Team have not raised any objections on noise grounds, nor provided any information that complaints relating to noise from the neighbouring dwelling have been received.
Therefore in noise terms the proposal is considered acceptable.

Contamination Risks on the Site
The applicant does not expand on how this building has been used other than for agriculture. The barn is made up of sectional concrete 'boards' at ground up to half way, the upper elevations are made up of corrugated sheeting with the same for the roof finish.
Environmental Protection have been consulted and have requested a that a contamination condition is attached to any permission. This would require the submission of a desk top study, remediation and verification reports.
Therefore subject to this mitigation (for the protection against contaminants to the new users) the proposal in terms of land contamination is considered acceptable.

Flooding Risks on the site
The application site is located within Flood Zone 3 in accordance with EA Maps for planning. The hazard flood maps show that the area is categorised as a 'danger to all' In so the Environment agency have been consulted.
The EA have stated that they have no objections to the conversion subject to a condition tying the proposed barn to the submitted FRA. The FRA (ECL1123a/G R MERCHANT LTD) puts forward the following mitigation:

-There is a residual risk to the site associated with a breach of the tidal defences. It is proposed that the finished floor level is 11.0m Site Datum, 0.96m above the lowest surrounding ground level, and there is 0.3m of flood resilient construction above finished floor level.
The EA consider that the resilience measures which are based upon the predicted flood depth maps are acceptable. Therefore, subject to a condition linking the proposal to the resilience measures set out within the FRA the proposal is acceptable in flooding terms.

Surface Water Disposal

The IDB have been consulted and state that The IDB have stated that "I cannot see that the applicant has identified a drainage strategy for the site within their application. We recommend a drainage strategy is provided for the site. If the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3".
Given the lack of information in relation to the disposal of surface water drainage and not withstanding that the building is already in situ a condition would be required to ensure that this is disposed of in an acceptable manner. The condition is required to benefit future residents and ensure that a suitable method for the disposal of surface water is provided and retained.

Foul Water
The IDB have stated that "I note that the applicant has not indicated how they propose to dispose of foul water from the development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3."
Again, limited information has been provided in relation to the disposal of foul waste. If this is directed to a water course is governed by Byelaw 3, applicable to the IDB. A planning condition would again be reasonable if attached as it details of how foul sewage is disposed of is required to ensure that future residents are provided with an acceptable level of sanitation.
As regards flood risk then the proposal subject to a condition relating to surface water and foul water disposal strategies the proposal is acceptable.

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

For this section of the assessment, it is taken that Impractical means that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".
It is of material weight to consider that dwellings are abundant in the immediate area around the application site. The application site is accessed from Hospital Drove, given the other dwellings that are served from this road and other utilities infrastructure the locations/siting is not considered to be impractical.
This proposal is located within a 'cluster' of form (mix of agricultural and residential), this form already exits and so not harmful upon the characteristics of the open countryside. Furthermore if approved the converted barn would be of a sufficient distance to retain sufficient amenity standards for both these properties and existing neighbouring dwelling.
The location of the development then is considered not to be impractical or undesirable.

the design or external appearance of the building
The proposal would retain the architectural form of the barn. This building is well-established and has informed the character of the open countryside since the late 1970s. The existing material are not of high merit. The applicant proposes the following palate:
-Walls - Larch vertical cladding
-Roof - Zinc standing seam
-Windows & Doors - Grey aluminium
-Rainwater goods - Black metal
The architectural features of the barn would remain legible, and the materials whilst contemporary would be appropriate. The larch cladding would soften into the environment and the zinc is a nod to the agricultural origins of the building.
Lastly whist some of the first floor space is not considered as 'livable space' being located in an area that is less than 1.5m to the roof (under NDSS) the amount of space on offer would still provide future residents with a sufficient level of amenity. The outdoor amenity area is also considered proportionate.
It is therefore considered that subject to the aforementioned mitigation that the external appearance of the proposal is acceptable.

the provision of adequate natural light in all habitable rooms of the dwellinghouses
All rooms that require it are served with adequate natural light. The proposal in these terms is considered acceptable.

Conclusion

The proposal is considered to accord with the parameters and limitations set out under Class Q (of Part 3) and therefore represent permitted development. An assessment has also be made in

respect of r a determination as to whether the prior approval of the authority will be required and subject to conditions relating to compliance with the FRA, the submission of surface water and foul water drainage scheme, land contamination and details of boundary treatments the proposal is considered acceptable; and prior approval is not required.

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.