DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H19-0837-24**	**Applicant:**	**P Cooper**
Proposal:	Conversion of barns 1 & 2 into 2 dwellings, including extension to barn 2 and conversion of barn 3 into domestic store - part retrospective - approved under H19-0678-22. Modification of Conditions 3, 6 & 16 to allow the conditions to relate to barns 1 and 2 separately		
Location:	Caravan 68 Broadgate Road Sutton St Edmund		
Terminal Date:	5th December 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
23	The Reuse of Buildings in the Countryside for Residential Use
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
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.
Section 16. Conserving and enhancing the historic environment.

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
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

This is a section 73 application, seeking to modify conditions 3, 6 and 16 of H19-0678-22. The proposal seeks to split the conditions to allow them to be discharged separately for barns 1 and 2. These conditions relate to cross sectional drawings to show the extent of the demolition and reconstruction, a materials schedule, and drainage details.

In addition to the above, elevation drawings have been submitted, which include a schedule of materials, for barn 2. These show that brickwork to match the existing building will be utilised alongside horizontal black cladding board. Slate tiles are proposed. The submitted details are consistent with those approved under H19-0678-22.

Site Description

The site is outside of the settlement boundaries outlined within the South East Lincolnshire Local Plan, 2019, and as such can be considered to be within the countryside from a planning context. The barns are situated on the eastern side of Broadgate within a former farmyard, which also includes a large Nissen style building. The buildings are predominantly of red brick construction and are served by an existing access. A static caravan is also presently situated on site.

A pair of semi-detached houses (Nos. 64 and 66 Broadgate) are situated immediately to the south of barns 1 and 2 and to the west of barn 3. Bay Lea House (no. 59) is situated approximately 100 metres to the south-west on the opposite side of Broadgate. A bungalow is located approximately 50 metres to the north-west (No. 71 Broadgate).

Relevant History

H19-1257-16 - PAA - Conversion of barns into dwellings - Withdrawn

H19-1108-18 - Full - Conversion of three barns into dwellings - Granted 27 December 2018

H23-1233-21 - Cond Comp - Details of existing & proposed site levels, elevational & cross sectional plans, materials for roof, external doors & windows, rainwater goods & guttering, foul water disposal, surface water disposal, scheme to deal with contamination, boundary treatment, barn owl box, bat boxes and external lighting (Conditions 4, 5, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 22, 23, 24, 25 and 26 of H19-1108-18) - Approved 3 March 2022.

H19-0678-22 - Full - Conversion of barns 1 & 2 into 2 dwellings, including extension to barn 2 and conversion of barn 3 into domestic store - part retrospective. Approved 15 May 2023.

H19-0711-23 - Cond Comp - Details of contamination of land & pollution & external lighting

(Conditions 17 (Part i) & 22 of H19-0678-22). Approved 6 December 2023.

H19-0509-24 - Cond Comp - Details of extent of proposed demolition and reconstruction including the proposed replacement of any of the existing roof structures and roof timbers, external materials & hard surfaced areas, foul and surface water disposal & contamination of land or pollution of controlled waters - Barn 2 only (Conditions 3, 6, 16 & 17 of H19-0678-22). Withdrawn

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

North Level Internal Drainage Board

No objections.

Lincolnshire County Council Historic Places Team

"Thank you for consulting us on this. Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application. It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request. No objection to Modification of Conditions 3, 6 & 16"

Highway and Lead Local Flood Authority

"The proposal is for minor amendments to 3, 6 & 16 that already has approval under H19- 0678-22. These conditions were not requested by Lincolnshire County Council. It is for the Local Planning Authority to assess/approve"

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.

Key Planning Considerations

Evaluation - Policy Context

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, December 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Evaluation - Section 73

The proposal relates to the variation of Condition 3, 6 and 16 of H19-0678-22, through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the

Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered. The effect of granting permission would be to issue a new permission with Condition 3, 6 and 16 being amended.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development. Likewise, the red outline provided with the ordnance survey site location plan has not been altered and matches that of the initial submission.

In the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the effect of the change will be significant".

Taking all of the above into account, the Local Planning Authority are content that the proposed amendments can be considered under a variation application, via a Section 73 application.

Principle of Development

The principle of development was established under H19-0678-22. As no amendment to the scale or fundamental nature of the proposal are proposed here, there is no requirement to reestablish the principle of development in this instance.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed and beautiful places", states that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the NPPF and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Proposals for new development would therefore

require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The proposed division of the conditions to allow for the discharge of separate plots would not result in a fundamental change to the character of the proposal or area. As such, the proposal is acceptable in this regard.

Turning to the submitted elevation drawings, it is considered that the adequate details have been provided to achieve the requirements of conditions 3 and 6 in relation to barn 2. The submitted materials schedule (listed above) is appropriate for the setting, with the use of black shiplap cladding typical of Fenland barns. Likewise, the use of brickwork to match the existing building ensures the retention of the existing character of the structure. The effect of this material is to create a strong sense of character, which is in keeping with the wider vernacular of South Holland.

It should be noted that as Condition 16 relates to drainage, the character impacts of the alteration would be minimal. The impacts of the decision to split the condition are discussed in further detail under the "flooding considerations" section of this report.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF states that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The proposed amendment would have no impact upon residential amenity.

As detailed above, the scale and design of the proposal is considered to have no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 115 advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

The proposed amendment would have no impact upon the highway network or parking, as illustrated by the comments of the Lead Highway Authority.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact

on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

Flooding Considerations

The decision to split Condition 16, which relates to foul and surface water drainage, would have no significant detrimental impact upon site drainage. The cumulative impacts of development would still be addressed and properly mitigated against. Foul drainage would likely be individualised to each plot regardless of the outcome of this decision, and therefore, the approach to split the conditions would have no impact in this regard.

As such, the proposal to split condition 16 into two separate conditions for each plot is considered acceptable and would not have a significant detrimental impact upon site drainage.

Overall, when considering the development on balance, it is considered, given the mitigation measures detailed and recommended by condition, that the proposal accords with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to flood risk.

Environmental Sustainability

In respect of the climate emergency, Section 14 of the NPPF states that new development should be planned for in ways that: 'avoid increased vulnerability to the range of impacts arising from climate change' with care taken to manage and adapt where development is brought forward in areas which are vulnerable; and that 'can help to reduce greenhouse gas emissions, such as through its location, orientation and design'.

Section 15 of the NPPF promotes the conservation and enhancement of the natural environment. Paragraphs 180 and 185 ensure sites of biodiversity value are protected through the planning system; while Paragraph 186 states that "if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".

In line with both aforementioned sections of the NPPF, Policies 28 and 31 of the SELLP ensure the preservation and enhancement of the natural environment and that suitable mitigation and adaptation to the climate crisis is in place.

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. As a Section 73 application, submitted prior to the introduction of mandatory net gain, it would be inappropriate to apply this condition retrospectively.

Taking the above into account it is considered that given the details submitted, and those required by suitably worded condition, the proposal is acceptable with regards to environmental sustainability. The proposal would therefore be in accordance with Policies 28 and 31 of the SELLP and Sections 14 and 15 of the NPPF.

Heritage and Conservation

Section 16 of the NPPF states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

Policy 29 (The Historic Environment) states amongst other matters that the distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced, in keeping with the policies in the NPPF. Development proposals will be expected to conserve and enhance the character and appearance of designated and non-designated heritage assets, including archaeology, historic buildings, conservation areas, scheduled monuments, street patterns, streetscapes, landscapes, parks (including Registered Parks and Gardens), river frontages, structures and their settings through high-quality sensitive design.

Paragraph 209 of the NPPF states the following: "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

The site has been listed with the Historic England (English Heritage at the time) Greater Lincolnshire Farmsteads Project. As such, the site can be considered a non-designated heritage asset. To this effect, the retention of significant proportions of the original building and original brickwork will ensure the preservation of this asset. The use of vernacular materials within the extension further ensures an appropriate approach has been taken. The development would cause less than substantial harm to the structure, and in ensuring its retention, could be argued as an enhancement to the significance of the asset.

The division of the conditions will not harm their ability to be implemented, and as such, the conditions will still function as intended. To this regard, their ability to protect the asset will be maintained.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposed alterations to the conditions are considered acceptable. The details submitted alongside this application satisfy the requirements of the relevant conditions relating to Barn 2, and therefore, it is unnecessary to require further details to be submitted relating to these matters.

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.

Conclusion

Taking these factors into consideration, the proposal is considered to comply with Policies 1, 2, 3, 4, 23, 28, 29, 30, 31, 36 and Appendix 6 of the SELLP, as well as Sections 2, 4, 5, 9, 12, 14, 15 and 16 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

Recommendation

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