

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H20-0124-24 **Applicant:** Mrs H Thompson
Proposal: Conversion of barn into single residential unit
Location: Holly Cottage Old Fendyke Sutton St James
Terminal Date: 30th April 2024

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019****National Guidance****National Planning Policy Framework 2023**

Town and Country Planning (General Permitted Development) Order 2015 -

Class Q - Agricultural buildings to dwellinghouses

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	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a prior approval application seeking permission for the conversion from a barn into a single residential unit at Holly Cottage, Old Fendyke.

Site Description

The site is located outside any defined settlement boundaries as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). Holly Cottage is set opposite the junction connecting Old Fen Dike with Sandy Gate, across the road there are two properties. The barn is located to the rear of the site with a smaller barn located to the front of the proposed barn conversion site. A limited number of properties are sited within the immediate area due to it mostly being large open fields located in the countryside.

History

H20-0583-07 - Replacement dwelling - Refused

H20-1079-07 - Replacement dwelling, including wind turbine (re-submission of H20-0583-07) - Approved

H20-1369-07 - Details of landscaping and boundary treatment (Condition 3 of H20/1079/07) - Approved

H20-0686-08 - Proposed detached double garage - Approved

Consultation Responses

North Level Internal Drainage Board

No objections.

Lincolnshire County Council Highways Authority

No Objections

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 or increase surface water flood risk and therefore does not wish to object to this planning application.

Comments:

The application is for prior approval for the conversion of the barn into a single residential unit. The access exists and they have shown on the proposed block plan that it will be upgraded to Lincolnshire County Council Specification. There is sufficient parking and turning on site. Visibility onto Old Fen Dike is good. 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.

Informatives

Highway Informative 03

The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. Any traffic management required to undertake works within the highway will be subject to agreement. The access must be constructed in accordance with a

current specification issued by the Highway Authority. Any requirement to relocate existing apparatus, underground services, or street furniture because of the installation of an access will be the responsibility, and cost, of the applicant and must be agreed prior to a vehicle access application. The application form, costs and guidance documentation can be found on the Highway Authority's website, accessible via the following link: <https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb>.

South Holland District Council Environmental Protection

I request a precautionary land contamination condition be applied at this location as follows:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority (LPA). An investigation and risk assessment must be undertaken in accordance with details to be agreed with the LPA. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the LPA. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved by the LPA.

No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

Planning Considerations

Permitted development

Q. Development consisting of a

(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 not permitted

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

(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.

The applicant has confirmed within the 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 de minimus), this is evidenced within the proposed elevations 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 one number larger dwellinghouses with a total floor space of 103sqm.

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 Old Fen Dike, there are many dwellings along this road in the immediate vicinity which are served by this strip of road which provides further access to other roads. Lincolnshire County Council have been consulted on this application and initially requested additional information stating that there is 'No clear access route is shown on the block plan. It is noted that the drawing states for the access to be shared it should measure a minimum of 4.1m for the first 10m thereafter it shall measure 3.7m. It does not show the measurements. The drawing is correct - the access needs upgrading to Lincolnshire County Council Specification'. Following a set of amended plans being provided, LCC's new comment reads as follows - *'The access exists and they have shown on the proposed block plan that it will be upgraded to Lincolnshire County Council Specification. There is sufficient parking and turning on site. Visibility onto Old Fen Dike is good. The proposal will not have an adverse impact on the public highway.* It is therefore considered acceptable in relation to the highway safety.

Overall, the access has clearly been used by agricultural vehicles as well as existing residential properties, the creation of a dwelling would therefore have a limited impact upon the area. The use of the barn would not overly intensify the access to a point where mitigation is needed. Two vehicle parking spaces have been provided and these are considered acceptable as they will allow for adequate parking away from the highway. The proposal therefore in terms of the Transport and Highway Impacts of the Development are considered acceptable.

Noise Impacts of the Development

There are many residential properties within the immediate area, the host dwelling 'Holly Cottage' is located 60m South West of the barn with 'Rose Cottage' and 'Hoyles Cottage' being 125m away in the same direction. To the North West 'Colreta' are 250m away and finally 'Che Sera' is 150m to the South East. There are of course other properties in these directions further back than the listed ones. Noise impacts from the development are considered to be low although noise will occur when the works are being carried out but this should not be for a prolonged period of time, Environmental Protection were consulted and raised no objections from a noise background. Therefore in noise terms the proposal is considered acceptable.

Contamination Risks on the Site

Environmental Protection have been consulted and requested that a precautionary land contamination condition be applied to the permission. This requires that if contamination is found at any time that was not previously identified it must be reported to the LPA immediately. Subject to this condition the proposal is considered acceptable in terms of contamination risks.

Flooding Risks on the Site

The application site is located within Flood Zone 3 of the Environment Agencies flood maps with the hazard zone of the Strategic Flood Risk Assessment identifying it being of no hazard. Within the provided flood risk assessment the following mitigation measures were suggested -

- The floor level of the dwelling will be 0.3m above surrounding ground level
- There should be 0.3m of flood resilient construction above finished floor level

As such, these mitigation measures are considered to adequately allow the development to be acceptable in flood risk terms on site.

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".

The site is outside any defined settlement limit; however it has been previously established that applications such as this cannot be resisted on these grounds. The application site has access along Old Fen Dike with the relevant infrastructure other already being provided or set to be added at a later date (such as the driveway). The works required to allow the building to be accessed by vehicles are limited and the availability of utilities means that it would not be impracticable to connect them to the building. Furthermore if approved the converted barn would be of a sufficient distance to retain sufficient amenity standards for both this property and existing neighbouring dwelling.

The Design or External Appearance of the Building

The proposal would retain the main and distinguished architectural form of the existing barn, they aim to keep the design similar by using materials to match. The windows will be aluminium placed across all elevations, the existing walls are made from vertical corrugated sheet cladding and where new walls are to be placed they will use the same material throughout. By using these materials the features of the barn will remain acceptable and legible, furthermore the amenity space adjacent to the barn and parking is considered to be acceptable. Overall, it is considered the design and external appearance of the building 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 hallway provides access into the open plan kitchen, living and dining area; these rooms are provided with windows and bi-fold doors all to allow for natural light into the main living areas in the barn conversion. To the rear of this there is a utility and shared bathroom all with windows. At the very rear there are three bedrooms one with an en-suite, Bedroom 3 has a large side window and Bedroom 2 and the Master Bedroom also have large windows. The proposal in these terms is considered acceptable.

Conclusion

The proposal constitutes permitted development and complies with the relevant conditions under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order, 2015.

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.

Recommendation

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