DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H20-0713-21**	**Applicant:**	**Mr & Mrs Githiri**
Proposal:	Change of use of barn to residential dwelling using existing access		
Location:	Adj. Chestnut House Broadgate Sutton St James		
Terminal Date:	31st August 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Planning Practice Guidance

T & CP (GPD) Order 2015

Class Q

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
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	2
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	2
SHDC INTERNAL	0	0	0	3

CASE OFFICER ASSESSMENT

Proposal

The application is for a change of use of existing agricultural buildings to a dwelling under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

Site Description

The buildings are located on the western side of Broadgate, immediately to the north of industrial premises (Lift & Shift Ltd). They are currently used for accommodating livestock and are constructed in a combination of tin and asbestos sheeting and timber cladding.

An Ash (Fraxinus excelsior) tree, which is the subject of Sutton St James Tree Preservation Order No. 4, 1991, is situated immediately to the south-west of the buildings. Two preserved trees (Giant Sequoia) are situated further to the south-west along the frontage of the industrial premises.

Chestnut House is located some 140 metres to the north-east and a dwelling is currently under construction to the south-west of the industrial premises.

Planning History

No recent history.

Consultation Responses

Sutton St James Parish Council

Safety concerns regarding access to the road, also with it being next to an industrial business. It brings no new employment to the village or help its sustainability. If the council is minded to approve, a contribution to the pre-school new building should be made.

Cllr J Tyrrell

I have an open mind so I would like to make it clear if this came to planning committee I'm not for or against this development.

However, I would like to know if there is a TPO on any of the trees near the proposed property. Also, there is a container firm next door that operate a 24-hour self-storage with an electric gate. I spoke to the owner and they said it opens anywhere from 20 to 50 times a day. I noticed the siren sounds every time it opens and HGV lorries do use this gate as well. My last observation is a bad visibility splay. My point is will this become a problem for both parties.

LCC Highways/SUDs

Does not wish to restrict the grant of permission

South Holland IDB

If surface water discharge is proposed to a watercourse, then the proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3).

North Level IDB

No comments.

Environmental Protection

Noise - No objections.

Contamination - Request screening assessment or contaminated land condition.

Planning Considerations

Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 indicates that the following is permitted development:
a) a change of use of a building and any land within its curtilage from a use as an agricultural building to use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and
b) 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. The information provided by the applicant appears to satisfactorily demonstrate that the provisions of criteria (a) - (h) and (j) to (m) have been met.

Paragraph Q.1(i) states that 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). It advises that Class Q assumes that the agricultural building is capable of functioning as a dwelling. It recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. Also, that the right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house. It is not the intention of the permitted development right to include the construction of new structural elements for the building.

Zinc standing seam cladding would be used for the walls and roof. The application states that "this allows the existing tin to be replaced with barrel vaulted zinc roof sheets and will not affect the existing roof or wall structure. As to most conversions, a new floor and internal stud walling is required to comply with current Building Regulations, these do not affect or have any bearing on the existing structure therefore, by using standing seam zinc roofing sheets this will again have no bearing on the existing structure. This allows us to use the new floor and stud walls to construct a new timber stud roof internally to comply with the current Building Regulations."

The existing structure consists of a combination of timber and metal, some of which has deteriorated over the years and is no longer considered fit for purpose. It has not been satisfactorily demonstrated that the proposal would not involve new structural elements. No structural survey has been submitted. As such, it is considered that the proposed works fail to satisfy the requirements of paragraph Q.1(i) and the PPG. As a consequence, the proposal is not 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.

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.

Addressing the above;

Transport/Highways - The proposal would have 2 bedrooms. Two Parking spaces are available on site, plus turning facilities. An existing access would be utilised. LCC Highways do not wish to restrict the grant of permission on highway safety grounds.

Noise Impacts - Industrial premises are located to the south-west. They are presently occupied by Lift & Shift Ltd, who hire out storage containers, cabins, cranes, etc.

The proposed dwelling has been designed with no openings on its south-western or north-western elevations. Boundary screening could also be erected to alleviate any noise issues. It is considered that future occupiers would have an acceptable level of amenity and that the proposal would not unduly prejudice activity/operations on the neighbouring industrial premises.

Contamination - Due to the former agricultural use of the land and buildings Environmental Protection have requested a contaminated land condition in this case.

Flood Risk - The site to which the application relates is within Flood Zone 3. However, it is within an area of "no hazard" within the South East Lincolnshire Strategic Flood Risk Assessment. Moreover, the proposal is a conversion so, in accordance with Paragraph 167 of the National Planning Policy Framework, 2021, the proposal should not be subject to the sequential or exception tests. However, it should still meet the requirements for a site-specific flood risk assessment.

The proposal is a more vulnerable development. Consequently, the Flood Risk Assessment recommends that finished floor levels be 300mm above existing ground level and that floor resistant/resilient construction be incorporated. This is considered acceptable.

Location and Siting - The site is relatively isolated. However, it has previously been established that applications such as this cannot be resisted on these grounds.

In terms of siting, the buildings are in very close proximity to a preserved Ash tree. It is considered that their conversion to residential would lead to future requests to fell the tree and therefore prejudice its continued existence.

Design/external appearance - The proposed external works are considered acceptable in terms of design/appearance.

Conclusion

It has not been satisfactorily demonstrated that the proposal would not involve new structural elements. As such, it is considered that the proposed works fail to satisfy the requirements of paragraph Q.1(i). As a consequence, the proposal is not permitted development under Class Q(b) of Part 3 of Schedule 2 of The Town & Country Planning (General Permitted Development) Order, 2015.

Moreover, an Ash (Fraxinus excelsior) tree, which is the subject of Sutton St James Tree Preservation Order No. 4, 1991, is situated immediately to the south-west of the buildings. The development would, if permitted, compromise the tree and result in pressure to remove it, thereby prejudicing its continued existence, to the detriment of the visual amenities of the rural locality.

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.