DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H20-0953-22**	**Applicant:**	**Mr & Mrs Githiri**
Proposal:	Change of use of barn to residential dwelling using existing access - re-submission of H20-0713-21		
Location:	Adj. Chestnut House Broadgate Sutton St James		
Terminal Date:	23rd November 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

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
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	0	0	0	1

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. It is a re-submission of application H20-0713-21, which was refused on grounds the proposed works failed to satisfy the requirements of paragraph Q.1(i).

Site Description

The buildings are located on the western side of Broadgate, immediately to the north of industrial premises (Lift & Shift Ltd). They have recently been used for the accommodation of livestock and are constructed in a combination of metal cladding, asbestos cement 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

H20-0713-21 - Prior Approval - Change of use of barn to residential dwelling using existing access - Refused 6 October 2021.

Consultation Responses

Sutton St James Parish Council

Believe there would be a concern of road access onto existing highway. Concerns it is next to an existing commercial setting and in the open countryside.

LCC Highways/SUDs

Does not wish to restrict the grant of permission

South Holland IDB

If surface water or treated foul 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).

Environmental Protection

Noise - Previously raised no objections.

Contamination - Request precautionary contaminated land condition.

Public

Comments/concerns received (summarised):
- Existing building only 1.5m from preserved tree. Any excavation works would cause damage to roots/branches
- Future residents living in close proximity to industrial premises would suffer significant disruption due to ground movements and vibrations of HGVs, plus noise/disturbance from use of audible warning sirens on site, container movements, loading and unloading of lorries, general repair work, etc

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.

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 proposed conversion would consist of the replacement of the roof and wall cladding with similar new materials. The proposed material is a standing seam zinc cladding sheet. The application is accompanied by a preliminary structural report which accepts that the frame structure would not be adequate to carry the required domestic loads, of cladding, services, ceiling and minimum roof imposed loads with the desired factors of safety required by current design codes. In addition, a number of the timber posts exposed at foundation are showing significant signs of decay at ground level and just above. Moreover, the barn has never had a ground floor structure installed.

The structural survey goes on to indicate that the proposed layout and arrangements could be configured in such a way to provide the load bearing capacity and the structural stability required for the proposed conversion to meet current design standards. However, such building operations would be so extensive as to go well beyond what could reasonably be described as conversion and beyond the scope of the operations permitted by Class Q. They would effectively amount to substantial rebuilding of the pre-existing structure or, in effect, the creation of a new building.

As such, it is considered that the proposed works fail to satisfy the requirements of paragraph Q.1(i) and PPG. Consequently, 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 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.

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 does 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. The buildings would also create a buffer between the neighbouring industrial premises and the proposed outdoor seating area. 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 previously requested a contaminated land condition.

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. Although the application is accompanied by details of tree protection measures it is nevertheless considered that a residential use 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.

Provision of adequate natural light in all habitable rooms - The proposal is considered acceptable in this respect.

Conclusion

It is considered that the buildings are incapable of being converted to a residential use without building operations that would be so extensive as to go well beyond what could reasonably be described as conversion and beyond the scope of the operations permitted by Class Q. They would effectively amount to substantial rebuilding of the pre-existing structure or, in effect, the creation of a new building.

As such, the proposed works fail to satisfy the requirements of paragraph Q.1(i) and Paragraph 105 of Planning Practice Guidance. This accords with the High Court judgement Hibbitt v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council. The latter concludes that Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order, 2015 allows a "conversion" but does not allow a "re-build" or "fresh build". Consequently, the proposal is not permitted development under Class Q(b) of the GPDO.

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.