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G R Merchant Ltd
Unit 4 Wrights Mews
12a Park Road
Holbeach
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PE12 7EE

TOWN AND COUNTRY PLANNING ACT 1990
PRIOR NOTIFICATION

Reference: H20-0953-22 **Date of Decision:** 23rd November 2022

Applicant: Mr & Mrs Githiri
Chestnut House
Broadgate
Sutton St James
Spalding
PE12 0HD

Location: Adj. Chestnut House Broadgate Sutton St James Spalding

Description: Change of use of barn to residential dwelling using existing access - re-submission of H20-0713-21

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

1 In the opinion of the Local Planning Authority 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

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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.

Notes:

The determined plans are:
3838-21 01B
3838-21 02B
Preliminary Structural Report by Shields Wilson (Document Ref. SW 22-230-REP-01) dated August 2022
Flood Risk Assessment by Ellingham Consulting Ltd (ref. ECL0515/G R Merchant Ltd) dated June 2021
Tree Protection Details by G R Merchant (Ref. 3838-21)



Phil Norman
Head of Planning
South Holland District Council

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the

Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.