DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H21-0920-19 **Applicant:** S Town

Proposal: Proposed change of use of agricultural building into a residential dwelling

Location: Land Adjacent: Longfield Greendyke Tydd St Mary

Terminal Date: 6th November 2019

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

T & CP (GPD) Order 2015 - Permitted Development Rights Class Q

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	1	0
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

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

Site Description

The site is located on the western side of Greendyke opposite the junction with Gipsy Lane. It is currently occupied by a building and an associated house is situated to the south.

Site History

No recent

Consultation Responses

Gedney Parish Council - Object and consider that previous reasons for refusal still apply.

LCC Highways - Does not wish to restrict the grant of permission.

SHDC Environmental Protection - Recommend contaminated land note.

Environment Agency - Falls within Cell E7 of the local flood risk standing advice.

Public - None received.

Planning Considerations

Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 allows development involving 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 (dwellinghouse) (Class Q(a) development). In addition, Class Q(b) permits building operations that are reasonably necessary to convert the dwelling to a Class C3 use (Class Q(b) development. Paragraph Q1 identifies the specific circumstances under which development is not permitted and Paragraph Q2 lists the conditions applying to Q(a) and Q(b) development.

The conditions in paragraph Q.2 set out where 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 Q.2 (1) (a)-(e). 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. In considering whether the proposal meets the requirements set out in Paragraph Q1 for the development to be permitted under Class Q(a) consideration of the criteria (a)-(m) in paragraph Q.1 is required.

With regards to Q.1, information provided by the applicant appears to demonstrate that the provisions of criteria (b) - (h) and (j) to (m) have been met. However, Q.1(a) indicates that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013. The building is currently used for domestic storage and there is no evidence that it was in use as part of an agricultural holding on the date specified.

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.

The conversion scheme would utilise the existing brick building and metal frame. New roofing material would be required and new/revised openings. It is considered that the works fall within the scope of works that could be considered reasonably necessary for the building to function as a dwellinghouse.

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 is required as to:
(a) Transport and highways impacts;
(b) Noise impacts;
(c) Contamination risks;
(d) Flood risks on the site;
(e) Location and siting.

Transport/Highways - An existing access would be utilised. LCC Highways has raised no objections.

Noise Impacts - There are no noise impacts in respect of the proposal. The amenity of nearby residents would not be materially harmed.

Contamination - SHDC Environmental Protection has raised no objections subject to a note concerning unexpected contamination.

Flood Risk - The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. Applications for barn conversions in such an area require a flood risk assessment and flood risk reduction measures, but not a sequential test or exception test.

The Environment Agency's Flood Maps have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences. Also, large parts of the South Holland District lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017).

The site is within an area identified as "Danger for Some" within the SE Lincolnshire SFRA. The Depth Maps indicate a peak depth of 0.25-0.5m.

The proposal has ground floor sleeping accommodation. The Environment Agency generally indicates that it will only support like-for-like vulnerability classification uses and may not support proposals including ground floor habitable accommodation, unless the flood risk assessment identifies mitigation measures in line with those required for new build development of the same type, as far as this is practicable. In this case, FFLs would be raised 0.5m at a similar level to the Greendyke carriageway. This is considered to be satisfactory. The proposal therefore complies with paragraph Q.2(1)(d) of the GDPO.

Conclusion

It has not been sufficiently demonstrated that the proposal satisfactorily complies with paragraph Q.1(a), which indicates that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013. The building is currently used for domestic storage and there is no evidence that it was in use as part of an agricultural holding on the date specified. Consequently the development does not constitute permitted development under Class Q and therefore prior approval for the proposed change of use cannot be granted.

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.