

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H22-0853-23 **Applicant:** George Hay & Sons Ltd

Proposal: Conversion of barn to single dwelling to include demolition of lean-to

Location: Agricultural Barn To The North Of Weston Barn House Marsh Road
Weston

Terminal Date: 20th November 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Part 3, Class Q of the The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

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
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Application to determine if prior approval is required for a proposed for the Change of Use of an

Agricultural Building to Dwellinghouses (Use Class C3), at land to the north of Weston Barn House.

Site Description

The application site is located in the Weston Marsh area, to the east of the River Welland and within the open countryside as identified by the proposals maps (SELLP 2019). The nearest settlements are Surfleet Seas End, to the west, Moulton Seas End to the south and Weston to the south. The application site is located within flood zone 3 in accordance with EA Mapping systems

History

None relevant

Consultation Responses

IDB

The site is within the Internal Drainage District (IDD) of the South Holland Internal Drainage Board (IDB) and the Board's Byelaws therefore apply. Whilst the Board's regulatory process (as set out under the Land Drainage Act 1991 and the Board's Byelaws) is separate from planning, the ability to implement a planning permission may be dependent on the granting of any required Land Drainage Consents.

The Board's Officers have reviewed the documents submitted in support of the above planning application. Officers have noted works which may require Land Drainage Consent from the Board as outlined in the table below and detailed overleaf. Please be aware of the potential for conflict between the planning process and the Board's regulatory regime.

Where consents are required, the Board strongly recommends that these are sought from the Board prior to determination of this planning application. The annexe at the end of this letter outlines the Board's regulatory function and how to apply for Land Drainage Consent.

LLFA

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.

Highways

No objection. The agricultural barn, for which Prior Approval for conversion to a single dwelling is hereby being sought, is a considerable distance outside the nearest settlement boundary. The expectation therefore is that residents of the proposed dwelling would be more likely to use a motor vehicle to travel between their home and shops, school, services and other facilities, rather than walk.

The site is accessed by a long private roadway but the junction of that roadway with the public highway, Marsh Road, is of good quality with large radii - to accommodate the large agricultural equipment that uses this roadway - and has good visibility in both directions for safe egress.

In consideration of the above and 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 and therefore does not wish to object to this planning application. The following comments have been made by the Authority's Senior Countryside Officer; Moulton Public Footpath No. 2 and Weston Public Footpath No. 7 pass through the red development boundary which is earmarked for the driveway, although it is unclear if this will materially affect the public footpaths.

Comments

- The surface of the public footpath should not be disturbed without the permission of the highway authority.
- The legal alignment of the public footpath should remain open and available for public use. It is

expected that there will be no encroachment, either permanent or temporary, onto the right of way as a result of the proposal.

- The proposed works should not pose any dangers or inconvenience to the public using the right of way.

- No additional structures (i.e. gates) should be erected on the surface of the public footpath without the prior consent of the highway authority.

Environmental Protection

After reviewing the screening assessment I request a precautionary contaminated land 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

The application is for the assessment as to whether prior approval is required for the conversion of an existing agricultural building at Weston Barn House, to use as a single 'larger' dwelling house.

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 application form 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. Whilst there is some works of demolition the external dimensions of the resulting building would not extend beyond the existing envelope and the floor space proposed would correlate with that of a 'larger dwellinghouse'. 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.

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 located some distance from Marsh Road, though it is served by a well-conditioned private road. An existing dwelling utilises this road and is located close to the application site. The highway authority have been consulted and have commented that they have no objections, stating "...development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network and therefore does not wish to object to this planning application."

The proposal therefore in terms of the transport and Highways Impacts of the development are considered acceptable.

Noise Impacts of the Development

Whilst the area is farmed and private road is used for movement of agricultural plan an existing dwelling is located 50 m to the south of the application site. The noise environment therefore is likely to be the same for the proposal as the existing dwelling. With this in mind the Environmental Protection Team have not raised any objections on noise grounds, nor provided any information that complaints about noise from the neighbouring dwelling have been received. Therefore in noise terms the proposal is considered acceptable.

Contamination Risks on the Site

The applicant states that existing agricultural building is used to store agricultural crops and ancillary storage, and the immediate curtilage around the building is not known to be contaminated. There are no other buildings or hardstanding on site or any history of contamination that the longstanding. To support this the applicant has provided a screening assessment form, on request of Environmental Protection.

The screening form confirms that there are no buildings constructed from ACMs. That there is no reported or unreported pollution incidents, the applicant is not aware of any imported soils and based upon knowledge does not consider that contamination could be present on site. Lastly the methodology is based upon Magic Maps, Lincolnshire Heritage Explorer, National Library of Scotland as well as the applicants own FRA. This is considered an acceptable approach.

Environmental Protection have responded to the screening assessment following its request stating that a condition is justified. The condition would be a compliance condition that should any unforeseen contaminants be found during construction then works are to stop and the information submitted to the LPA for agreement of the remediation strategy.

Flooding Risks on the site

The application site is located within Flood Zone 3 in accordance with EA Maps for planning. The applicant has provided an FRA. The proposal is for development across ground floor, in these areas the South East Lincolnshire SFRA states "...single storey proposals will be expected to incorporate mitigation for the extreme 1 in 1000 (0.1%) scenario". The FRA when considering finished floor levels states that "The minimum mitigation measures required for developments that do not have ground floor sleeping shall be determined by the flood depths arising from the 2115 0.5% scenario and with sleeping on the ground floor sleeping shall be determined by the flood depths arising from the 2115 0.1% scenario The finished floor Level FFL of any new dwellings shall be informed by the flood depths."

The applicant subsequently following the South East Lincolnshire Standing Advice Matrix states that "the ground floor will be set at 0.75m above the existing ground level (3.85mODN) set at 4.60mODN."

It is therefore considered that given the resilience measure of increasing FFLs 750mm above existing ground levels the proposal can be regarded as 'safe' development under the standing advice. Further Resilience measures are suggested such as Water, electricity, and gas meters: should be located above the predicted flood level. Electrical services: electrical sockets, heating systems: boiler units and ancillary devices should be installed at least 500mm above the ground

floor level.

The requirement for a sequential and exceptions test (demonstration of sustainability element) are not required, given this proposal is for a change of use and permitted development allowances are set for such changes.

The IDB have been consulted and state that The IDB have stated that "The applicant has indicated that they intend to dispose of surface water generated from roof runoff via infiltration and the demolition of the lean-to will reduce the overall site impermeable area. The supporting Flood Risk Assessment states that the existing arrangements have performed in a satisfactory manner for the purposes of serving the agricultural building. To ensure the proposed dwelling is not prone to poor drainage issues we recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. Please note that we recommend that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate."

Whilst no information in relation to infiltration has been submitted (and so not yet understood to be feasible) the proposal would result in a reduction of surface water area created, through the demolition of the metal lean to. Notwithstanding this the proposal is to provide residential accommodation and therefore the new use is more vulnerable. It is considered reasonable therefore that the submission of a drainage strategy is considered reasonable.

Foul Water

The IDB have stated that "We note that the applicant intends to treat foul waste using a package treatment plant with an associated drainfield. Ground condition tests (see above) may underpin the best design. This proposed scheme may be ineffective when groundwater levels are high. At such times, an alternative disposal method for the treated foul waste may need to be brought into play. For example, an outfall pipe may need to be connected to a local watercourse. Under this scenario, the applicant will need to seek the Board's consent under Byelaw 3."

Further to the discussion on surface water the foul water strategy is linked to infiltration rates. Whilst a treatment package is an acceptable approach, they type is determined by the outcome of ground water testing. Therefore a condition on the submission of a foul water strategy is considered reasonable.

In terms of flood risk then the proposal subject to conditions on surface water and foul water strategies is considered acceptable.

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".

It is material to considered that an existing dwelling is located in close proximity to the application site. The application site is served already by a private road infrastructure (the one which serves the existing dwelling) and so services and utilities are already located close by. 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 then to the building. This building along with the dwelling and hard standing in-between would result in a 'cluster' of form, this form already exists and so not harmful upon the characteristics of the open countryside. 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 architectural form of the barn. This building is well-established and has informed the character of the open countryside for many years, the lean to would be demolished and the building is not compatible with modern agriculture; this is precisely the type of development that class Q sought to approve.

The openings are a mix of aluminum and timber and the amount proposed is required to provide future residents with sufficient amenity. The architectural features of the barn would remain

unchanged, and the plans shows no changes to the facing brick. The building is highly visible and any changes would have an effect upon the character of the open countryside, it is considered necessary to remove the ability for the erection of fences and boundary treatments. A poorly executed scheme would have a detrimental impact upon the character and landscape of the area and so details would need to be agreed prior to their erection. It is therefore considered that the design of the proposal is acceptable.

the provision of adequate natural light in all habitable rooms of the dwellinghouses

As touched upon in the last section the openings would offer a high level of amenity for future residents. All rooms that require it are served with adequate natural light. The proposal in these terms is considered acceptable.

Conclusion

The proposal is considered to accord with the provisions and limitation set out by class q. Section 13 of Class W (Part 3, Sched 2) grants) The local planning authority the ability to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. It is considered that in this instance conditions relating to land contamination, the provision of access and parking spaces as well as a surface and foul water drainage strategy are required to mitigate the development.

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.