

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H23-0766-24 **Applicant:** Mr D Ford

Proposal: Proposed conversion of existing agricultural building to form 2 new dwellings

Location: Carter'S Farm Oxcroft Bank Shepeau Stow

Terminal Date: 11th November 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	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	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks consent to establish if a prior approval application is required for the conversion

of an agricultural building into two dwellings. It has been established that prior approval is required, and as such it is necessary to assess whether prior approval should be granted.

Site Description

The building is part of a farmyard located on the eastern side of Oxcroft Bank, Shepeau Stow. Nook House and Nods Nook Barn is located to the north of the site, and there are associated equestrian facilities to the north-east. The site is otherwise mostly surrounded by agricultural land.

Relevant Planning History

Within the Application Site:

H23-1132-23: (Prior Approval Application) Conversion of three agricultural barns into four residential dwellings involving the demolition of a fourth barn - prior approval refused 19 February 2024

H23-0522-24: (Prior Approval Application) Convert 3 agricultural barns into 4 residential dwellings including the demolition of a fourth barn - refused 21 August 2024

Land to the South:

H23-0345-22: (Prior Approval Application) Change of Use of Barn into Residential Dwelling - refused 13 May 2022

Land to the West:

H23-0943-22: (Prior Approval Application) Change of use of barn to residential dwelling - refused 21 November 2022

H23-1184-22: (Prior Approval Application) Change of use of barn to 2 residential dwellings - re-submission of H23-0943-22 - approved 16 February 2023

H23-0407-23: (Full Application) Demolition of existing barn and erection of 2 detached dwellings - approved 10 October 2023

Consultation Responses

Responses have been received from the below referenced consultees. The responses are summarised below, however, the responses can be viewed in their entirety on the South Holland website.

Whaplode Parish Council: Support (no comments).

CLlr A C Beal: No response received.

CLlr P A Redgate: No response received.

South Holland Internal Drainage Board: There is no drainage strategy supporting this application. We recommend a drainage strategy is provided to enable the change of use of this existing building to residential purposes. If the applicant intends to discharge surface water to a watercourse the Board's prior consent will be required under Byelaw 3. There is no main sewer nearby and the applicant has not provided information on their proposed method of foul waste disposal from these two new dwellings. If the applicant proposes to discharge treated foul water to a watercourse within the Board's District then consent will be required under Byelaw 3.

Highways and SUDS Support: The access width should be detailed- it should be a minimum of 4.1m for the first 10m and 3.7m thereafter. The access is to be upgraded to Lincolnshire County Council specification.

Ecology Officer: No response received.

Environmental Protection: I request a precautionary land contamination condition be applied.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, one letter of representation has been received. The topics raised within the response are summarised as follows:

- This application forms part of a series of submissions which if approved will fundamentally change the character of this isolated and tranquil rural location. It is noted that previous class Q permissions have then been converted to planning permissions for larger dwellings having a more significant impact on amenity and being less appropriately designed for this rural location- fundamentally undermining the purpose and wording of Class Q.
- The proposal would have an adverse impact on residential amenity.
- Previous applications for class Q properties on this site have been approved by SHDC despite objections made on technical and amenity grounds.
- The site has not been a working farm in the 20 years and most days the buildings are not used, if they are it is purely for storage, some of which is the applicant's personal property, not for farming purposes.
- The buildings are currently separate from any farming activity on a wider unit as the owner rents out the land surrounding the site to others but not these barns.
- The site does not form part of an agricultural holding and as such none of the conversions should have been applicable under class Q. This is as set out in Mr Gedney's email of the 26 February- in annex 1 of the planning statement on the previous application and we would ask that the case officer seeks clarification on this matter as this is fundamental to the credibility of the application.
- At Para 4.2 para 3 it states that 'the existing barns will be demolished'- can you seek clarification that this is the residual barns 3 and 4 from H23-0522-24 and how this will be enforced.
- The proposed conversion of barn 1 will cause a significant loss of amenity to the neighbouring property and garden as it is only 5m from the mutual boundary.
- Barn 1 is close to my clients permitted and long-established equestrian hardstanding and muck heap- it is likely that the muck heap would have a significant impact on the residential amenity of any future residents of barn 1, principally through the smell of manure. If this development is allowed, we would require the LPA and developer to accord with the agent of change principle.
- The garden areas for the new plots are very small and immediately by the muck heap meaning the residential amenity within these gardens would be significantly impacted again by smell and potentially flies.

Planning Assessment

Whether the Proposal Comprises Permitted Development

It is first necessary to consider whether the proposed works comprise permitted development. The relevant permitted development rights which allow for the conversion of agricultural buildings to residential dwellings is set out within Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The Class Q permitted development rights were updated on 21 May 2024. There is however a transitional period in place which allows applicants to submit Class Q prior notification applications until 20 May 2025 if they choose to do so. The applicant has indicated on the application form that they wish for the application to be determined on the basis of the pre-May legislation. The application has therefore been determined based on the older legislation.

Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to residential use (Use Class C3). Class Q allows for any building operations 'reasonably necessary' to convert the building.

Paragraph Q.1, a) to m) of Class Q specifies the circumstances under which development is not permitted. It is considered that the proposal would not fail any of these limitations as set out below:

"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"

- According to the applicant's agent, the site was used for agricultural purposes on 20 March 2013.

It is noted that the public representation considers that the site is not part of an agricultural holding; however, it is considered that the site is part of a holding.

"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;

- The proposed dwellings would each feature approximately 52sqm of internal floorspace. The dwellings would therefore be smaller dwellings and would not exceed the above referenced limitations.

"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"

- The proposed dwellings would be smaller dwellings. The dwellings would not exceed any of the above limitations. Prior approval was approved for two dwellings on land to the west of the site under reference H23-1184-22 on 16 February 2023. Both of the dwellings approved under permission H23-1184-22 featured 100sqm and therefore comprised smaller dwellings. With the two proposed dwellings currently proposed, the total number of dwellings would not exceed 5.

"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"

- The proposed dwellings would be classed as smaller dwellings rather than larger dwellings and the cumulative number of dwellings would not exceed 5.

"e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained"

- According to the application form, the site is not occupied under any agricultural tenancy agreements.

"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"

- According to the application form, no agricultural tenancies relating to the site have been terminated in the last year.

"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"

- According to the applicant's agent, work has not been carried out under Class A(a) or Class B(a).

"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"

- The proposals would not result in the external dimensions increasing.

"j) 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)

The submitted plans show that new windows and doors are proposed. The existing external materials are largely proposed to be retained. It is considered that the proposed physical alterations would not go beyond the scope of works permissible under paragraph Q.1.(i), which explicitly includes 'installation and replacement of windows, doors, roofs, or exterior walls'. Whilst national planning guidance and case law make it clear that the development should not be so extensive as to amount to a 're-build,' the works proposed would appear to retain the existing structural elements and there is little evidence to suggest that the existing structure cannot cope with the proposed alterations.

"j) the site is on article 2(3) land"

- The site is not 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"

- The site is not within a site of special scientific interest, a safety hazard area or a military explosives area.

"l) the site is, or contains, a scheduled monument"

- The site is not, nor does it contain a scheduled monument.

"(m) the building is a listed building"

- The building within the site is not listed.

As the proposed development is considered to comprise permitted development, it is subsequently necessary to assess the application against the requirements of the conditions of Class Q, as specified within paragraph Q.2.

Paragraph Q.2 (1) states that where the development proposed is permitted 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,

f. the design or external appearance of the building, and

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

These matters are therefore assessed in turn below.

a. Transport and Highways Impact

The proposed access to the site is from Oxcroft Bank to the west of the site. There is an existing access road to the site which would continue to be used. Lincolnshire County Council's highways and sustainable drainage team have set out that the access width should be detailed and that it should be a minimum width of 4.1m for the first 10m and 3.7m thereafter. The access is not as wide as recommended in places. For example, it is approximately 3.4m wide in some places. Notwithstanding this, the proposal is only for two dwellings which reduces the potential for more than one car needing the use the access at one time. It is therefore not considered that the access would pose an unacceptable risk in terms of highway safety. There is sufficient room for parking and turning within the site.

b. Noise Impacts

Nook House and Nods Nook Barn are located to the north of the site and there are equestrian facilities further to the north. The site is otherwise mostly surrounded by agricultural land. The council's environmental health team have not raised any objections to the proposals in terms of noise concerns. The site is not located in an area that is considered to be particularly sensitive to external noise issues. It is therefore considered that future occupants would not be subject to an unacceptable degree of noise disturbance.

c. Contamination

The council's environmental protection team have recommended a contaminated land condition is included with any favourable decision. This condition would require the site to be monitored for signs of contamination. With the inclusion of this condition, the proposed development would have an acceptable impact in terms of potential contamination risks.

d. Flood Risk

The site lies within Flood Zone 2 of the Environment Agency's Flood Maps. The site is also within an area of "no hazard", as identified within the South East Lincolnshire Strategic Flood Risk Assessment. The submitted Flood Risk Assessment recommends that finished floor levels be 300mm above the existing ground level and that floor resistant/resilient construction be incorporated into the building. This is considered to be acceptable and can be secured via a compliance condition.

e. Whether the Conversion is Impractical / Undesirable

This consideration is not specifically defined, however Planning Practice Guidance sets out at Paragraph 109 (reference ID: 13-109-20150305) that impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".

The site is outside of any defined settlement, however, there are other dwellings and buildings which are relatively close to the site. As such, a residential property within this area would not appear immediately out of character.

Nods Nook Barn is located to the north and associated equestrian facilities are located to the north-east. Nook House is situated to the north-west of the site and fronts Oxcroft Bank. It is noted that the public representation sets out concerns with the amenity impact of the development. The representation sets out that there is 5m between the north elevation of the building and the boundary with the neighbouring property. The representation considers that this would result in a significant loss of amenity to the northern neighbouring property. There is a boundary hedge and fencing between the site and Nods Nook Barn, to the north, which provides some screening between the properties. The proposed windows would be at the ground floor level and therefore would not face directly onto neighbouring windows. The relationship between the properties is therefore acceptable.

The public representation sets out concerns that there is a muck heap on land close to the site which could result in an unacceptable impact on the amenity of future occupants in terms of odour. Whilst the proximity of the muck heap might cause some disturbance to future occupants, it is not considered that this impact would be so adverse as to warrant refusing the application. The site is within a rural area where agricultural practices often result in a degree of disturbance such as odour.

The public representation also considers that the proposed gardens are too small. The local authority does not specify a minimum amount of outdoor amenity space for occupants. The garden spaces are considered to be adequate.

The proposed development would result in an acceptable impact on the amenity of future occupants and the neighbouring properties to the north. The proposed would not cause an adverse impact in terms of overlooking, or a lack of privacy given the design of the properties and the proposed separation distances.

f. External Appearance

Minimal external alterations are proposed as the existing materials would be retained. New window openings and door openings are proposed on the elevations. The visual impact of this is acceptable.

g. Natural Light Provision in Habitable Rooms

The proposed plans show that all habitable rooms are provided with natural light and ventilation given the location of windows on the building.

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.

Conclusion

Taking the above considerations into account, prior approval should be granted in this case as the proposal is acceptable when considered against the relevant considerations that apply for conversions under Class Q. There are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.