

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H23-0943-22 **Applicant:** Mr & Mrs D Ford
Proposal: Change of use of barn to residential dwelling
Location: Carters Farm Oxcroft Bank Shepeau Stow
Terminal Date: 28th 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	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
RESIDENTS	0	0	0	2

CASE OFFICER ASSESSMENT

Proposal

The application is for a change of use of an existing agricultural building to a 4 bed dwelling under

Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

Site Description

The building is part of a farmyard located on the eastern side of Oxcroft Bank to the south of Shepeau Stow village. It is predominantly timber framed with a corrugated metal external skin.

Nook House is situated to the north fronting Oxcroft Bank. Nods Nook Barn is located to the north-east to the rear of Nook House, plus associated equestrian facilities beyond. Open land is located to the south and also opposite (west).

Planning History

Barns to the South-East

H23-0345-22- Prior Approval Application - Change of Use of Barn into Residential Dwelling - Refused 13 May 2022

Consultation Responses

Whaplode Parish Council

Supported.

LCC Highways/SUDs

Does not wish to restrict the grant of permission

South Holland Internal Drainage Board

If the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3.

Environmental Protection

H23-0345-22 - Request screening assessment or contaminated land condition.

Public

Objections/comments received (summarised):

- No evidence to confirm if the barn (in and of itself) is structurally capable of conversion as required by Class Q. In the absence of this it is clear that the proposal cannot be assumed to comply with Class Q
- Seems likely that the barn would require a level of material removal and rebuild (especially roof) that exceeds that permissible under Class Q which requires conversion of the existing shell and structure - not replacement.
- Overlooking/lack of privacy
- Various easements and rights of way over the application site that should be maintained relating to drainage and access
- Disposal of asbestos should be dealt with in accordance with best practice

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".

In this case, it is noted that the existing framework is predominantly timber. Moreover, a mezzanine floor is proposed. No structural report has been submitted demonstrating that the existing frame is adequate for the proposed loads. It has not been satisfactorily demonstrated that the building would be capable of being converted to residential use without building operations that would be so extensive as to go well beyond the scope of the operations permitted by Class Q and would amount either 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;
- (b) Noise impacts;
- (c) Contamination risks;
- (d) Flood risks on the site;
- (e) Location and siting;
- (f) Design/external appearance.

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;

(a) Transport/Highways - The proposal would have 4 bedrooms. Three parking spaces are available on site, plus turning facilities. An existing access would be utilised which has junction visibility appropriate for the type and classification of road. LCC Highways do not wish to restrict the grant of permission on highway safety grounds.

(b) Noise Impacts - Although the buildings are part of a farmyard, only buildings to the rear would remain in agricultural use. Boundary screening could also be erected to alleviate any noise issues that may occur. It is considered that future occupiers would have an acceptable level of amenity.

Nook House is situated to the north fronting Oxcroft Bank. Nods Nook Barn is located to the north-east to the rear of Nook House, with associated equestrian facilities beyond. Open land is located to the south and also opposite (west). Other than a window serving a shower room on the ground floor, no openings are proposed on the north-eastern elevation. A first floor bedroom window on the rear elevation faces Nods Nook Barn, but not at a close distance. Nevertheless, it could be removed if permission was forthcoming. On balance, it is considered that the amenity of occupiers of neighbouring properties would not be materially harmed in terms of overlooking, lack of privacy, overshadowing, overbearing effect, noise and disturbance, etc.

(c) Contamination - Due to the former agricultural use of the land and buildings a contaminated land condition would be necessary if permission was forthcoming.

(d) Flood Risk - The site to which the application relates is partly within Flood Zone 2 and partly 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.

(e) 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. The site has a satisfactory relationship with neighbouring dwellings/development.

(f) Design/external appearance - The proposed external works are considered acceptable in terms of design/appearance.

(g) The provision of adequate natural light in all habitable rooms of the dwellinghouses - The proposal is satisfactory in this respect.

Ecology - Whilst not technically a consideration for Class Q, protected species are protected under the Wildlife and Countryside Act, 1981. It is therefore a material consideration.

The building is not open sided and is unlikely to be occupied by protected species such as Barn Owls, for example. Nevertheless, any approval would need to be subject to an ecological survey, including mitigation measures if appropriate. This could be addressed by means of a condition.

Other matters

Reference has been made to various easements and rights of way over the application site that should be maintained relating to drainage and access. However, this is a separate civil matter.

Conclusion

It has not been satisfactorily demonstrated that the building would be capable of being converted to residential use without building operations that would be so extensive as to go well beyond the scope of the operations permitted by Class Q and would amount either 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 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.