

DECISION DELEGATED TO HEAD OF PLANNING
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Application No:	H23-1132-23	Applicant:	Mr D Ford
Proposal:	Conversion of three agricultural barns into four residential dwellings involving the demolition of a fourth barn		
Location:	Carter'S Farm Oxcroft Bank Shepeau Stow		
Terminal Date:	11th March 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Planning Practice Guidance

T & CP (GPD) Order 2015 (as amended)

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
SHDC INTERNAL	0	0	0	1
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application is for conversion of three agricultural barns into four residential dwellings, involving the demolition of a fourth barn, under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Site Description

The buildings are part of a farmyard located on the eastern side of Oxcroft Bank to the south of Shepeau Stow village. Barn 1 has a metal frame with corrugated steel cladding. Barns 2, 3 and 4 are mainly timber framed with an external skin of timber cladding, tin, asbestos sheeting, etc.

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

Planning History

Frontage Barn

H23-0943-22 - PAA - Change of use of barn to residential dwelling - Refused 21 November 2022.

H23-1184-22 - PAA - Change of use of barn to 2 residential dwellings - re-submission of H23-0943-22 - Approved 16 February 2023.

H23-0407-23 - Full - Demolition of existing barn and erection of 2 detached dwellings - Approved 10 October 2023.

Site

H23-0345-22 - PAA - Change of Use of Barn into Residential Dwelling - Refused 13 May 2022.

Carlton Lodge

H23-0089-23 - PAA - Conversion of agricultural buildings to form 5 dwellings - Withdrawn 20 March 2023.

H23-0335-23 - PAA - Conversion of agricultural buildings to form 3 dwellings - Approved 26 May 2023.

H23-0717-23 - Full - Residential development (3 Dwellings) involving the demolition of existing buildings - Approved 4 October 2023

H23-0019-24 - S73 - Residential development (3 Dwellings) involving the demolition of existing buildings - approved under H23-0717-23. Modification of Condition 2 to allow amendments to previously approved plans - Under consideration.

Consultation Responses

Whaplode Parish Council

Support.

LCC Highways/SUDs

Access width should be a minimum of 4.1m wide for the first 10m and thereafter it should be 3.7m. The access needs to be upgraded to Lincolnshire County Council specification - a note should be added to the proposed site plan.

South Holland Internal Drainage Board

If the applicant proposes to discharge surface water or treated foul water to a watercourse, consent

would be required under Byelaw 3.

Environmental Protection

Request precautionary contaminated land condition.

Public

Objection received (summarised):

- Class Q only permits up to 5 units with a total floorspace of 465sqm. This has been exceeded on this holding.
- the onus of all planning policy is to support development in sustainable locations. The current proposal is contravening this approach by seeking more than the permitted number of dwellings in this isolated and unsustainable location.
- Other properties nearby that have been permitted under Class Q/full applications are sitting empty and haven't sold. Not addressing local housing need.
- Adverse impact upon the amenity of nearby residents due to overlooking, lack of privacy, noise/disturbance, etc. Contrary to good design and amenity policies at both local and national level.

Planning Considerations

Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) 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 by Class Q. Criterion (d) indicates that the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit shall not exceed 5.

In this case, prior approval has previously been given for change of use of a frontage barn to 2 residential dwellings (ref. H23-1184-22), plus conversion of agricultural buildings to form 3 dwellings at Carlton Lodge (ref. H23-0335-23) which is understood to be on the same established agricultural unit. The proposed development is not permitted by Class Q, therefore, because the number would exceed 5. It is noted that both these sites have subsequently received full planning permission for 2 and 3 dwellings respectively and that the agricultural buildings have now been demolished. Notwithstanding this fact, prior approval has previously been granted for a total of 5 dwellings on the holding under Class Q, so the threshold has been met.

Moreover, 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).

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 of barns 3 and 4 is predominantly timber. The structural report accompanying the application provides more specific details and indicates that the majority of the primary structural elements could be retained and "subsumed" into the residential conversion. This implies that the existing frame is inadequate for the proposed loads and that

significant additional structural elements would be required. The buildings are not therefore considered to 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 paragraphs Q.1(d) and (i) and PPG. Consequently, the proposal is not permitted development under Class Q 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.
- (g) The provision of adequate natural light in all habitable rooms of the dwellinghouses.

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;

Transport/Highways - Sufficient parking spaces are available on site, plus turning facilities. An existing access would be utilised. LCC Highways has recommended that the access width be a minimum of 4.1m wide for the first 10m and thereafter 3.7m. This would appear to be possible if the existing Leylandii hedge was cut back to the boundary. The access would also need to be upgraded to Lincolnshire County Council specification.

Noise Impacts - Nods Nook Barn is located to the north and associated equestrian facilities to the north-east. Nook House is situated to the north-west fronting Oxcroft Bank. Open land is located to the south and opposite (west). The proposal would essentially remove the existing farmyard use. It is considered that the amenity of occupiers of neighbouring properties would not be materially harmed taking into consideration the present use of the buildings.

Contamination - Due to the former agricultural use of the land and buildings Environmental Protection have requested a precautionary contaminated land condition in this case.

Flood Risk - The site is within Flood Zones 2 and 3 of the Environment Agency Flood Maps. 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 174 of the National Planning Policy Framework, December 2023, 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.

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.

Nods Nook Barn is located to the north and associated equestrian facilities to the north-east. Nook House is situated to the north-west fronting Oxcroft Bank. The development has a satisfactory relationship with neighbouring dwellings/development. The amenity of neighbouring residents would not be materially harmed in terms of overlooking, lack of privacy, etc, given the design of the properties and/or the separation distances involved.

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

Provision of natural light - The proposal is satisfactory in this respect.

Ecology - This is not technically a consideration for Class Q. However, it has previously been indicated that the barn has been used by Barn Owls for roosting. As they are a protected species, this is a material consideration under the Wildlife and Countryside Act, 1981 and a note should therefore be attached to any consent.

Conclusion

The established agricultural holding has previously received prior approval for 5 dwellings, so the threshold of a maximum of 5 dwellings under Class Q has already been met.

Also, Barns 3 and 4 especially are not considered to 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 paragraphs Q.1(d) and (i) and national Planning Practice Guidance. Paragraph Q.1(i) 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 (as amended) allows a "conversion" but does not allow a "re-build" or "fresh build". Consequently, the proposal is not permitted development under Class Q of the GPDO.