DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-1184-22**	**Applicant:**	**Mr & Mrs D Ford**
Proposal:	Change of use of barn to 2 residential dwellings - re-submission of H23-0943-22		
Location:	Carters Farm Oxcroft Bank Shepeau Stow		
Terminal Date:	23rd February 2023		

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	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application is for a change of use of an existing agricultural building into 2 dwellings 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 has a timber frame with corrugated metal cladding and asbestos cement profiled sheets on the roof.

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

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

Reason: It has not been satisfactorily demonstrated that the building is 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.

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

Support.

LCC Highways/SUDs

No objection.

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

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

Public

Comments received (summarised):
- No objections in principle subject to evidence that the barn is structurally capable of conversion as required by Class Q.

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".

The building is formed with a timber structure with a trussed rafter and posts being utilised to support vertical loads to the ground. The walls take the form of a vertically spanning single skin corrugated galvanised sheeting. The roof sheeting is an asbestos cement profiled sheet cladding on timber purlins.

The structural report indicates that the style of structure can be seen forming a number of agricultural barns across the surrounding Fenland area. They are lightweight structures intended as storage buildings and for agricultural use. However, it goes on to stress that generally the condition of the timber frame is good, with no visible degradation to the structural elements. The ground floor structure appears to be a general purpose concrete slab which shows no signs that it has suffered any significant cracking, movement or differential settlement.

The proposed conversion involves the replacement of the roof and wall cladding with similar new materials. The structural report indicates that the existing timber frame would require some stiffening for use to domestic purposes to building regulations. However, it concludes by saying that "the proposed conversion layout and style will provide methods for incorporating additional load bearing and stability and as such will ensure that the proposed conversion can accommodate domestic loads in accordance with the modern building regulations."

On balance, it is considered that the proposal constitutes a conversion, as opposed to a re-build or fresh build, since it does not involve a substantial rebuilding of the pre-existing structure. As such, it is considered that the proposal satisfies the requirements of paragraph Q.1(i) and PPG.

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 - Access to the proposed dwelling is to be provided by means of the existing access to the farmyard area that has presumably been used by large agricultural vehicles for many years. LCC Highways has therefore concluded that a domestic use of this scale should not give rise to highway safety issues.

(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.

In terms of amenity generally, 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 opposite (west). Other than a ground floor window serving a bathroom, no openings are proposed on the north-eastern elevation. 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 external walls would be Cedral Vertical Cladding (grey) and the roof Profiled Trapezoidal Roof Panels (dark Grey). The windows would be aluminium (Anthracite). 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, a bio-diversity enhancement condition should be imposed.

Other matters

Reference has previously 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

The proposal constitutes permitted development and complies with the relevant conditions under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order, 2015.