

Development Management Delegated Decision Report

B/21/0088



SUMMARY OF APPLICATION				
Application Reference	B/21/0088			
Application Type	Prior Notification under Part 3 - Use Classes			
Proposal	Prior notification for proposed change of use from Offices (Use Class B1(a)) to dwellinghouse (Use Class C3)			
Location	Land Adj. to Beck Lodge, New Hammond Beck Road, Wyberton, Boston, PE21 7JD			
Applicant	Mr A Linkauskas			
Agent	Dean Morley, Misura Architectural Design			
Received Date:	02-Mar-2021	Consultation Expiry Date:	04-Apr-2021	
Valid Date:	02-Mar-2021	Statutory Expiry Date:	27-Apr-2021	
Date of Site Visit:	12-Mar-2021	Extension of Time Date:		
Objections received?	Yes			
5 day notification record: Not applicable as it is a prior notification.				
	Councillors notified	Date	Response received – date	Ok to continue
Recommendation	REFUSE			
Report by:	Grant Fixter			
Date:	12/04/2021			



OFFICER REPORT

SITE AND SURROUNDINGS:

The application site comprises a single storey white rendered building off New Hammond Beck Road. The northern and eastern boundary are defined by planting and fencing which grant access to the adjacent field, New Hammond Beck Road bounds the site to the south and a low level brick wall and planting bound the site to the west. There is a dwelling immediately west of the site, with a further dwelling to the east beyond the adjacent field, with the wider character of the area being predominantly agricultural.

DETAILS OF PROPOSAL:

Prior approval is sought for the conversion of the existing building to form one dwelling through Class O of the The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Full details of the proposal are outlined on the following plans and documents:

- PL-LP-100 - Location Plan;
- PL-BP-101 - Proposed Block Plan;
- PL-PL-101 Rev A - Proposed Plan and Elevations;
- Flood Risk Assessment;
- Supporting Statement.

RELEVANT HISTORY:

- B/21/0001 - Notification of Prior Approval for a Proposed Change of Use from offices (Class B1(a)) to Dwellinghouses (Class C3) – Refused on 11/02/21.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Where the proposed development is considered to be permitted under PART 3 (Changes of use) Class O the application is subject to the prior approval for the following matters:

- Transport and highways impacts of the development;
- Contamination risks on the site;
- Flooding risks on the site;
- Impacts from noise from commercial premises on the internal occupiers of the development, and
- The provision of adequate natural light in all habitable rooms of the dwellinghouse.

CONSULTATION RESPONSES:

Black Sluice Internal Drainage Board

Did not respond.

Wyberton Parish Council

Did not respond.

Lincolnshire County Council

Have no objections.

Environment Agency

Object on the following grounds:

- The proposal has the potential to increase flood risk as it fails to demonstrate it would be safe for its lifetime in accordance with requirements set out in the NPPF;
- Does not demonstrate how people and property will be kept safe from flood hazards;
- Proposal leads to an increase in sensitivity and the FRA does not propose adequate mitigation measures;
- Raising the ground level of the living space by 300mm is not sufficient to mitigate the flood risk to the site;
- Can overcome objection by submitting information which overcomes the above deficiencies.

THIRD PARTY REPRESENTATIONS RECEIVED:

No third party representations have been received.

EVALUATION:

This proposal seeks prior approval for the change of use from Offices (Class B1(a)) to dwellinghouses (Class C3). This provision is contained within Part 3 Class O of the Town and Country (General Permitted Development) Order (2015). The requirements set out within the GPDO are set out below.

Class O outlines a number of provisos where development is not permitted under paragraphs (b) to (e). These are shown in the below table and acts as a checklist as to whether the development is compliant with Class O.1;

Class O.1	Development is not permitted by Class O if -	Does the proposal breach criteria?	
		YES	NO

(b)	The building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order- (i) On 29 th May 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;		X
(d)	The site is or forms part of, a safety hazard area;		X
(e)	The site is, or forms part of, a military explosives storage area;		X
(f)	The building is a listed building or is within the curtilage of a listed building;		X
(g)	The site is, or contains, a scheduled monument.		X

The proposal conforms with the above requirements and none of the criteria would be breached by the proposed development.

Once the proposal satisfies the criteria listed in Part O (as per the table above) only then does it trigger an assessment to be made against the conditions set out in Part O (listed below) in order to ascertain whether prior approval is required.

Conditions of Part O

O.2. –

(1) Development under Class O 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) Contamination risks on the site;
- c) Flooding risks on the site;
- d) Impacts of noise from commercial premises on the internal occupiers of the development, and
- e) The provision of adequate natural light in all habitable rooms of the dwellinghouse.

(2) Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

Transport and highways impacts of the development

The site is located off New Hammond Beck Road where there is good visibility in both directions. The traffic generated from one dwelling will not have a detrimental impact on highway safety and the LCC Highway Authority have confirmed the proposal is acceptable on highway grounds.

The proposed development is acceptable in this respect.

Contamination risks on the site

As the building has been historically used for an office and there are minimal changes proposed, there is very little contamination and pollution risks.

The proposed development is acceptable in this respect.

Flooding risks on the site

The site falls within Flood Zone 3 and according to the strategic flood risk assessment, is in a location identified as a 'danger for most' category.

The EA were consulted and object to the application. The reasoning for their objection was the proposal represents an increase in flood risk sensitivity (moving from a less to more vulnerable use) and the FRA has not demonstrated that the proposed mitigation is adequate to exclude the future 0.1% breach depths and ensure the safety of future occupants and the development. Raising the ground level of the living space by 300mm was also deemed not sufficient to mitigate the flood risk to the site.

As such, the EA requested prior approval was refused and a formal planning application would be required.

The comments were forwarded to the agent who subsequently forwarded discussions they have had with the EA. The EA stated in their correspondence to the agent that the finished floor level would have to be raised by at least 1.1m, to which the agent submitted revised plans to the Council which incorporated such measures.

By raising the FFL, there are knock on effects on the rest of the proposal in relation to natural light which mean the proposal is not permitted development and this will be discussed properly later in the report.

So whilst emails between the agent and EA which the officer has seen indicate the revised proposed plans are acceptable on flood risk grounds, it was not deemed necessary to re-consult the EA and get this confirmed through a formal consultation response as the proposal was now unacceptable on other grounds.

Impacts of noise

The dwelling to the west is of sufficient distance from the application building, with a field between the site and dwelling to the east. The introduction of one dwelling in this area would not give rise to detrimental noise impacts.

The proposed development is acceptable in this respect.

The provision of adequate natural light in all habitable rooms of the dwellinghouse

It is important to note that external changes are not permitted through a Class O application. Any external changes should be applied for once the prior approval has been granted and such changes can include new doors and windows. Any drawings should show the external appearance of the building as it is now and not how it is planned to be altered.

The application building has doors on the north elevation, a window on the east elevation, window on the south elevation and a number of windows and doors on the west elevation. There are no roof lights on the application building.

As previously stated, in order for the application building to be acceptable on flood risk grounds, a number of external changes are needed to ensure there would be adequate natural light in all habitable rooms.

The revised plans show the inclusion of a new window on the north elevation and removal of the existing door, the window on the east elevation has been removed, the window on the south elevation has been moved higher up the elevation to account for the raised FFL, whilst one door and three windows have been removed from the west elevation. On top of that there is also the provision of roof lights.

No external changes are permitted through Class O, so the proposed elevations are not acceptable.

With the removal of the external changes, and the need to raise the FFL internally, the proposal would result in the provision of first floor accommodation which would have inadequate access to natural light and ventilation for all habitable rooms. The agent, in discussions, has suggested that this can be overcome by means of sun tubes connected to the existing windows. However, whilst this approach may be acceptable in some circumstances, given the position and nature of the windows, the Council are not convinced that this would be a satisfactory solution.

Therefore the Council remains unconvinced that it has been adequately demonstrated that there would be adequate natural light to all habitable rooms. As such, the proposals would fail this requirement.

The proposed development is not acceptable in this respect.

CONCLUSION:

As no external changes are permitted through Class O, the revised fenestration arrangements on the application building through the need to raise the FFL cannot be accepted, meaning the proposal would fail to provide adequate natural light to habitable rooms. The proposed development therefore requires the prior approval of the Local Planning Authority and following careful consideration is refused under Class O of Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order, 2015 as amended.

It is worth highlighting this is now the second refusal this year for the site seeking prior approval through Class O. The first was deemed not safe on flood risk grounds and in order to make the development safe from flood risk grounds, external changes are needed which are not permitted. The regulations are in place to ensure development is allowed and encouraged on appropriate buildings and as this is the second refusal against the same regulations which have not changed since the first refusal, the building is clearly not able to comply with said regulations.

RECOMMENDATION:

The development would fail to satisfy Q2 (e) set out in Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), by virtue of failing to provide adequate natural light to habitable rooms. Furthermore, the application incorporates external changes which are not permitted through a Class O submission. As such, prior approval is refused, the development does not constitute permitted development, and planning permission is required.

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE
STATEMENT OF PROACTIVE WORKING: In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2019 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough. This application has been considered and refused against the following plans and documents: <ul style="list-style-type: none">• PL-LP-100 - Location Plan;• PL-BP-100 - Existing Block Plan;• PL-PL-100 - Existing Plan and Elevations• PL-BP-101 - Proposed Block Plan;• PL-PL-101 Rev A - Proposed Plan and Elevations;• Flood Risk Assessment;• Supporting Statement.