

**Demolition of existing barn  
(Prior approval Part 3 Class Q:  
Agricultural buildings to dwellinghouses  
APPLICATION NO:PA/2025/310)  
and  
Erection of exact replica with ground levels raised**

**Barn off Carr Lane, East Lound**

Prepared by



August 2025

## **CONTENTS**

**1. INTRODUCTION**

**2. THE PROPOSAL**

**3. SITE HISTORY**

**4. THE LOCATION**

**5. DESIGN**

**6. RESIDENTIAL AMENITY**

**7. FLOOD RISK**

**8. PLANNING POLICY**

**9. JUSTIFICATION**

**10. CONCLUSION**

## 1. INTRODUCTION

1.1 Mark Simmonds Planning Services Ltd have been instructed to prepare and submit a proposal for the replacement of a barn which has the benefit of a prior approval conversion to a dwelling, with a high-quality 'facsimile' as a betterment home which more effectively overcomes flood risk issues.

1.2 The barn benefits from a Prior Approval the details and conditions of which are as follows:

1.3 North Lincolnshire Council hereby gives notice that the application received on 06/03/2025 to:

determine if prior approval is required for a proposed change of use of agricultural buildings to create one single-storey dwellinghouse (Use Class C3) under Class Q at Barn off Carr Lane, East Lound

has been considered and that permission for this development in accordance with the plans and written particulars submitted has been granted subject to the following conditions and reasons:

/~/ only the pertinent condition reproduced here /~/

1.4 The development shall be carried out in accordance with the submitted flood risk assessment (ref: Rev B dated 29 April 2025 compiled by EWE Associates Ltd) and the following mitigation measures it details:

- Finished floor levels of the dwelling shall be set no lower than 3.8 metres above Ordnance Datum (AOD).
- Flood resistance and resilience measures shall be implemented up to 4.1m AOD.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

1.5 Reason

To reduce the risk of flooding to the proposed development and future occupants, in accordance with CS19 of the North Lincolnshire Core Strategy 2011.

## 2. THE PROPOSAL

This application proposes the removal of the barn and its replacement with an exact copy but with land levels raised. The final result will continue to be a modest, well designed, dwelling which is in keeping with the locality.

The applicant is grateful for the Class Q prior approval and had entered this project with every intention to convert the disused agricultural building. However, at the preparation stage for development it became apparent that the safety and mitigation requirements for flood risk would be much better met in a revised design whereby the same design, a facsimile, would be built on raised ground to not need to lose a large amount of internal space to raising levels. This along with the much-improved visual aspect introduced with this complete redesign, is considered to be a betterment with the Class Q being the less desirable fallback.

### **3. THE SITE HISTORY**

#### **Planning History**

Reference: 2/1993/0295

Proposal: Erection of a steel framed building for use as a stable/ storage building.

Decision: Approve with conditions

PA/2025/310 – Class Q approved.

### **4. THE LOCATION**

4.1 The building has clearly been used for agricultural purposes historically, which the LPA accepted under the Class Q approval, including sheltering livestock to the present day. The site can be safely accessed and can provide parking.

4.2 The site is outside of any development boundary and is therefore classed as being within the countryside. However, it is a previously developed site which benefits from a Class Q conversion permission and this replacement dwelling is considered a betterment both visually and with regards to flood risk mitigation.

### **5. DESIGN**

5.1 The proposed new dwelling has been located within the site in the same place as the Class Q barn building. It is designed specifically to raise the ground levels so as to fully mitigate any flood risk. The design is still modest and 'rural' so as to complement the existing built form along this road and with the addition of natural screening would enhance the visual amenity of the locality.

5.2 The Council is asked to consider the detailed design plans submitted with this application. The images below show a very modest dwelling with features that reflect and complement the dwellings in the near vicinity.

## 6. RESIDENTIAL AMENITY

The existing building is set away from any other residential properties and the proposed dwelling would replace the barn which has the benefit of approval for a converted dwelling. There will be no impact on any existing or future residents by way of loss of privacy or overlooking and there is generous private amenity space for future residents.

## 7. FLOOD RISK

The site is within a Flood Zone 3 and the Flood Risk Assessment and associated mitigation which accompanied the Class Q application has been submitted. The Environment Agency was previously content with this assessment and with conditions the dwelling conversion was considered acceptable. This revised application would seek to meet the previous requirements which are infinitely more practicable with this fresh design.

## 8. PLANNING POLICY

### **The National Planning Policy Framework (NPPF 2024)**

It sets out Central Government's planning policies for England and how these are expected to be applied.

Paragraphs 7 and 8 define the commitment to sustainable development based on three dimensions:

7. The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs<sup>4</sup>. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection<sup>5</sup>.

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so

that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

**The relevant sections of the Framework is considered to be:**

Section 2. Achieving sustainable development.

Section 4. Decision making.

Section 5. Delivering a sufficient supply of homes.

Section 9. Promoting sustainable transport;

Section 11. Making effective use of land.

Section 12. Achieving well-designed places.

Section 14. Meeting the challenge of climate change, flooding and coastal change.

Section 15. Conserving and enhancing the natural environment.

**North Lincolnshire Local Plan:**

Policy RD2, DS1, DS7, DS11, DS14, DS16, T2, T19, LC5,

LC14, HE9, H1, H5, and H8.

**North Lincolnshire Core Strategy:**

Policy CS1, CS2, CS3, CS5, CS6, CS7, CS8, CS17,

CS19, and CS25

Housing and Employment Land Allocations DPD (2016)

PS1: Presumption in Favour of Sustainable Development

Supplementary Planning Guidance

North Lincolnshire Countryside Design Summary

North Lincolnshire Landscape Character Assessment & Guidelines

North Lincolnshire Strategic Flood Risk Assessment

## 9. PLANNING BALANCE AND JUSTIFICATION

This site sits outside of the Development Limits the land and therefore must be termed as Countryside. However, the Council is asked to consider the history of the site with the Class Q approval and that this dwelling is an application for a **betterment**.

### **Principle and Class Q Fallback**

The Council is asked to give significant consideration to this proposal in terms of the 'Class Q fallback'. The site is subject to an extant consent under Class Q, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, which granted permission for the existing agricultural building to be used as a single residential dwelling.

Caselaw has established that a consent under Class Q represents a legitimate and weighty fallback position when considering alternative proposals for the same form of development on the same site. The leading legal principles relating to the use of the fallback were set out in *R v Secretary of State for the Environment and Havering BC (1998) EnvLR189*. In that case, Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted that there were three elements to the fallback test: "First whether there is a fallback use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly, if the answer to the second question is "yes", a comparison must be made between the proposed development and the fallback use".

In addition to this and specifically relating to 'Class Q development and its subsequent fallback, the Court of Appeal case, '*Mansell vs Tonbridge and Malling Borough Council (2017)*' provides a

significant benchmark and consideration. This case concerned the grant of permission for a four dwelling scheme on land which was presently occupied by a single bungalow and agricultural buildings. The council in this case, granted permission forming the view that a fallback position was present given that the agricultural buildings 'could' be subject to a prior approval under Class Q, which 'could' have provided a resultant development of the same quantum of residential dwellings (three dwellings via Class Q and the retention of the existing bungalow).

This case, which was quashed by the High Court, was subsequently 'reinstated' through the Court of Appeal. With the Court of Appeal establishing through this case that where there is demonstrably a 'realistic prospect' of a 'permitted development' scheme being implemented, and where an alternative proposal would normally conflict with the development plan insofar as it being an unsuitable location for housing, the potential for the fallback position to outweigh that conflict must be considered by the local authority. In respect of a 'realistic prospect', this case highlighted that that of 'Sullivan L.J.'s judgment', in that "a 'real' prospect is the antithesis of one that is 'merely theoretical' (paragraph 20). The basic principle is that for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice' (paragraph 21)". This went on to detail that "when the court is considering whether a decision-maker has properly identified a 'real prospect' of a fallback development being carried out should planning permission for the proposed development be refused, there is no rule of law that, in every case, the 'real prospect' will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO".

Therefore, "in some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand". However, in the case of 'Mansell vs Tonbridge and Malling Borough Council', it was stated that to not consider the fallback of Class Q (even if there is not evidence of a specific proposal under Class Q), would "have been a failure to have regard to a material consideration, and thus an error of law". This clearly demonstrates the need to assess and review the fallback position in respect of Class Q development. In this case, the requirement is clearer than that expressed, given that the site is subject to an extent proposal under Class Q, which was approved by the local Planning Authority, with a very real prospect for this

development to take place.

In any event, the court decision also reiterated that "They should remember too that the making of planning policy is not an end in itself, but a means to achieving reasonably predictable decision making, consistent with the aims of the policy-maker. Though the interpretation of planning policy is, ultimately, a matter for the court, planning policies do not normally require intricate discussion of their meaning". It stands to reason that, where the alternative new-build proposal offers either an enhancement to the setting, a reduction in density or betterment in overall development, when compared to the fallback, the development could (and perhaps should) be allowed to proceed.

The Council is asked to consider the approach taken by the Courts and take into account that the application site has the benefit of a permission under Class Q for the conversion of the existing agricultural buildings to form a single storey dwelling, in which the submission details that the landowner purchased "with the consent with the intention to carry out the scheme as approved".

This modest and attractive new dwelling allows for significant scope to improve the layout and design and create a dwelling with better architectural detailing, better and more efficient layout and ultimately a more energy efficient building to construct and run for the future" with the proposal offering "a significant betterment over the original consented scheme".

## **10 CONCLUSION**

The Council is respectfully asked to consider the Class Q fallback position and that this modest design would be a betterment including with regard to flood risk mitigation.

The flood risk mitigation can also be more effectively achieved in this new dwelling design.

This proposal therefore provides a number of benefits, and on balance provides a betterment that positively reflects the characteristics of the site and the implements full flood risk mitigation, up to date energy requirements, whilst providing a positive contribution to the appearance of the site compared to the fallback position.

On balance, the Council is respectfully asked to consider that taking account of the above considerations, the benefits of the proposed development compared to the identified fallback position is a material planning consideration, which, in this instance, outweighs the conflict with the development plan.

The Council is asked to support this proposal as an overall betterment to the Class Q fallback.