DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0664-20**	**Applicant:**	**Mr J Stock**
Proposal:	Change of use of land from agricultural to residential - retrospective		
Location:	Land Adj. To Dalrhua 1 Elm Lane Low Fulney		
Terminal Date:	8th October 2020		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development

National Guidance

National Planning Policy Framework 2019

Section 12 of the National Planning Policy Framework (2019)

12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a retrospective full application for the change of use of land from agricultural to residential on land adjacent to Dalrhua at 1 Elm Lane, Low Fulney. The proposal seeks to retain the conversion of land to the side and rear of the existing residential plot. The land projects a maximum of 22.48 metres from the rear boundary and is 73.85 metres in maximum width and is claimed to have been in use as residential land since 2013. The original residential boundary remains bordered by a 3 metre high conifer hedge, with the extended boundary bordered by a 1.2 metre high timber post and a rail fence. The extended land also contains a timber shed, ornamental trees, two owl boxes and a cherry tree.

SITE DESCRIPTION

The proposal site is outside of defined settlement limits and is predominately rural, characterised by sparse development of varying ages and design. The surrounding area is predominately arable land with two residential plots of a similar size to the south-east of the site.

RELEVANT HISTORY

H16-0107-06

Full - Proposed two-storey extension and new detached double garage - Approved - 17 March 2006.

H16-0178-15

Section 73 - Retention of dwelling without complying with agricultural habitation clause (Condition 1 of SU214-66) - Approved - 05 May 2015.

CONSULTATION RESPONSES

None

PLANNING CONSIDERATIONS

This proposal is assessed against SELLP Policy 2 titled Development Management. This Policy states:

"Proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to:
1. size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses;
2. quality of design and orientation;
3. maximising the use of sustainable materials and resources;
4. access and vehicle generation levels;
5. the capacity of existing community services and infrastructure;
6. impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion;
7. sustainable drainage and flood risk;
8. impact or enhancement for areas of natural habitats and historical buildings and heritage assets; and
9. impact on the potential loss of sand and gravel mineral resources."

When the assessed against the above criteria the following observations are made:

1. The size of the extended land is considered to be in keeping with the character of the surrounding area and that of nearby properties. There is no impact on the existing trees on site and the applicant has installed a traditional Lincolnshire post and rail fence around the boundary of the extended land.

2. The design of the land and the way it has been utilised is considered to be visually appealing and does not appear as a jarring or discordant feature in the landscape.

3. The site utilises a traditional Lincolnshire post and rail design and additional trees have been planted on the extended land. This is considered to increase the environmental offer of the site.

4. This proposal will not impact access and vehicle generation levels.

5. This proposal will not impact community services and infrastructure.

6. This proposal will not impact the neighbour land uses of arable farming by noise, odour, disturbance or visual intrusion matters.

7. The proposal has not been materially developed upon save for a small shed. It is not considered that drainage and flood risk has been impacted.

8. The proposal is not considered to impact natural habitats, historical building or heritage assets.

9. The proposal is not considered to impact sand or gravel mineral resources.

When assessed against the above criteria, this retrospective proposal is considered to accord with Policy 2 of the SELLP.

Loss of agricultural land

The land has not been in an agricultural use for seven years. Whilst the local planning authority seeks to minimise the loss of the fertile fen land, there is a material reason why the applicant felt the need to purchase this land. Previously, the agricultural land boundary was approximately 5 metres from the foundations of the property to the north. The movement of large, heavy equipment close to the property was cause vibrations the lead to damage and partial subsidence. The distancing of the boundary should ensure that the property remains safe for habitation for generations to come.

To preserve the open, rural nature of the surrounding area, it is considered appropriate to remove permitted development rights for the extended land. The imposition of this condition is in accordance with local and national planning policy.

CONCLUSION

The proposal is considered to accord with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019 as well as Section 12 of the National Planning Policy Framework (2019). The recommendation is therefore one of approval.

ADDITIONAL CONSIDERATIONS

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.