DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0161-26**	**Applicant:**	**Mr & Mrs Beeken**
Proposal:	Occupation of dwelling by persons not employed in agriculture (Condition 3 of H02-0515-85)		
Location:	Leatherlands Dowsdale Bank Crowland		
Terminal Date:	16th April 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This application is for a Lawful Development Certificate for an existing use submitted under Section 191 of the Town and Country Planning Act 1990. The applicant seeks confirmation that the dwelling 'Leatherlands' has been occupied in breach of Condition 3 of H02-0515-85, which attached an agricultural occupancy condition to the site.

Site Description

The site is located outside any defined settlement boundary as outlined within the South East Lincolnshire Local Plan, 2019 (SELLP). Leatherlands is located down the end of Dowsdale Bank and is within some close proximity to Shepeau Stow, despite the rurality of the area there are multiple residential dwellings within close proximity.

History

H02-0515-85 - Erection of a detached bungalow with garage and vehicular and pedestrian access - Approved

H02-0060-86 - Agricultural workers bungalow and garage - Approved

Consultation Responses

No consultation responses received.

Planning Considerations

Relevant Legislation

Section 191 of the Town and Country Planning Act (1990) (as amended) sets out the following:

"Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether
(a) any existing use of buildings or other land is lawful;
(b) any operations which have been carried out in, on, over or under land are lawful; or
(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,
he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if
(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if
(a) the time for taking enforcement action in respect of the failure has then expired; and
(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(3A) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if
(a) the time for applying for an order under section 171BA (a "planning enforcement order") in relation to the matter has not expired,
(b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or
(c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.]

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(5) A certificate under this section shall
(a) specify the land to which it relates;
(b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use, operations or other matter to be lawful; and
(d) specify the date of the application for the certificate.

(6) The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

(7) A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission
(a) section 3(3) of the M1Caravan Sites and Control of Development Act 1960 or section 7(1) of the Mobile Homes (Wales) Act 2013;
(b) section 5(2) of the M2Control of Pollution Act 1974; and
(c) section 36(2)(a) of the M3Environmental Protection Act 1990."

Therefore, the local planning authority (LPA) needs to be provided with sufficient information to demonstrate that there the site has been in breach of the relevant conditions, as referenced above,

for the requisite period of time, so that the LPA are unable to take enforcement action.

Assessment of Evidence

For the certificate to be granted, it needs to be proven that the condition was breached more than 10 years ago, and was continually breached for a period of 10 years of more.

The application seeks the local authority's consideration as to whether:
Occupation of dwelling by persons not employed in agriculture (Condition 3 of H02-0515-85)

The condition states:

The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, locally in agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971, or a dependent of such a person residing with him, or a widow or widower of such a person.

Reason: The site is in a rural area where it is the policy of the Local Planning Authority not to permit residential development except in the interests of agriculture or where related to the use of the land. The circumstances of this case relate to an agricultural need, and permission is therefore confined to it.

The applicant has provided:

- Site Location Plan
- Covering Letter
- Planning Statement - Legal Opinion - February 2026
- LDC Supporting Information - Statutory Declaration of Roger Beeken dated 26 January 2026
- LDC Supporting Information - Statutory Declaration of Margaret Beeken dated 26 January 2026
- Decision Notice H02-0515-85

The following information has been taken from the various documents as listed above.

The statement discusses that planning permission was granted via an outline application under reference H02-0515-85 and was subject to the agricultural limitation condition. A subsequent reserved matters application was submitted and approved under H02-0060-86. The statement outlines however, that the agricultural occupancy condition was not attached to this decision notice. Upon further review of this, it is apparent that the agricultural occupancy condition was not attached to the decision notice relevant to the reserved matters application. Whilst it is noted that it this approval that was implemented, this approval was the reserved matters approval pertinent to the outline planning permission. As such, the dwelling was permitted by virtue of the outline planning permission H02-0515-85 and reserved matters approval H02-0060-86, and the development is therefore subject to the conditions attached to both decision notices.

The outline planning permission, as outlined above, is subject to the agricultural occupancy condition and it is therefore clear and evident that the site is subject to the agricultural occupancy condition. Any suggestion otherwise is not shared by the Local Planning Authority.

In any case, further information regarding the breach and family situation has been provided. Mr and Mrs Beeken have lived at Leatherlands since it was constructed in 1986, this has been proved through Council Tax Statements for the site between 1996 - 2025. At the time of the outline permission, Mr Beeken had a full time job as a driver at T.C. Harrison Group delivering plant and machinery, he had been employed in this job since 1973. This has also been evidenced through employment documentation.

Following on from this, due to family illness in the early 1980s it was envisaged that Mr Beeken would take over 12 acres of land as well as taking over the tenancy of 28 acres of land. Despite the initial plan of taking over this farming land, this did not come to fruition with the 12 acres of land being sold to release funds into the family. Alongside this, Mr Beeken received an offer in 1988/1989 to purchase a lorry from his employer to become self-employed and deliver his own plant and machinery, a business to conduct this was formally established with Mrs Beeken in 1989 under the name "M.R. Transport". This has been evidenced through a letter from Mr Beeken's accountant which confirmed the transfer of his pension and that his final day of employment at T.C. Harrison was 31 August 1989.

This business, operated by Mr and Mrs Beeken operated between 1989 to 2005 before it was subsequently sold. During the time in which it was operated, Mr Beeken worked full time 5 - 6 days a week which provided the full income for the family. Mrs Beeken worked dealing with the administration and accounts for the business.

After this, a new business was established in 2005 by Mr and Mrs Beeken and operated as a Commercial and Domestic Window Cleaning business called "Clear2View". This was operated between 2005 to 2015 before this was also sold on. Both of these businesses have been evidenced proving both Mr and Mrs Beeken worked for each business and was their main source of employment.

Mr Beekens tax returns between 2009 - 2016 show that the majority of his income is derived from the window cleaning business, asides from the state pension in the years 2014 onwards. Following on from the sale of "Clear2View" in 2015, Mr and Mrs Beeken retired with letters from the Department for Works and Pensions evidencing this.

Although the 12 acre farming land was sold on, it would appear that Mr and Mrs Beeken kept ownership of the 28 acres of farming land with this being farmed and sold for crop between 1984 - 2000. Mr Beeken would spend a few hours a week, primarily on weekends, to farm this land. This was primarily wheat and barley which was sold to a local poultry farm for feed. The statement outlines that the income from this was insignificant and only amounted to a few hundred pounds a year with some years the expenses from running Greenacres exceeding the money which was made.

This land was formally signed over to Mr Beeken in 1999 making him legal owner, it was then let to a cousin in 2000 with a copy of the tenancy agreement being provided to evidence that this took place on 27 October of that same year. The land was sold to a cousin in November 2023 and a solicitor's letter confirming the completion of this sale has been provided.

The statement concludes by saying that Mr Beeken has *"never been employed in agriculture and the income derived from the farming of Greenacres was not even a marginal part of our household income"*. He ceased farming Greenacres in 2000 and rented the land out. The main employment was firstly T.C. Harrison before operating their own business which was T.C. Harrison and Clear2View before retiring and drawing from their pensions.

As such, from the evidence which has been provided, it is clear that Mr and Mrs Beeken have worked various jobs since at least 1989 which were not agricultural in operation, with these alternative forms of employment being their main source of income. notwithstanding their ownership, due to the lack of significant income made from Greenacres, this was not their main source of income. The condition, which was attached to the outline permission, states that any persons living on site must be *"solely or mainly employed, or last employed, locally in agriculture"*, Mr and Mrs Beeken were clearly not solely or mainly employed in agriculture with their last employment being their own business which were the transportation of plant and machinery and window cleaning respectively.

It is therefore considered that both occupants, Mr and Mrs Beeken, on the balance of probabilities have been in breach of Condition 3 of H02-0515-85 for a continuous period of 10 or more years with the evidence provided clearly outlining and supporting this claim.

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.

Conclusion

The applicant has shown, on the balance of probabilities, that the agricultural occupancy condition was breached for a continuous period of 10 years immediately preceding the date of the application.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be deemed lawful.