DECISION DELEGATED TO DEVELOPMENT MANAGER

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| **Application No:** | **H23-0594-20** | **Applicant:** | **Mr A Dickens** |
| **Proposal:** | Proposed barn conversion into 5 dwellings | | |
| **Location:** | Orchard Farm Dowsdale Bank Shepeau Stow | | |
| **Terminal Date:** | 15th October 2020 | | |

**Planning Policies**

**South East Lincolnshire Local Plan - Adopted: March 2019**

**National Guidance**

**National Planning Policy Framework 2019**

Planning Practice Guidance

T & CP (GPD) Order 2015 - Permitted Development Rights - 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 |
| SHDC INTERNAL | 0 | 0 | 0 | 1 |
| OTHER STATUTORY BODIES | 0 | 0 | 0 | 1 |
| RESIDENTS | 0 | 1 | 0 | 0 |

CASE OFFICER ASSESSMENT

**Proposal**

The application is for a change of use of existing agricultural buildings into 5 dwellings under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. They would consist of one large dwelling of just under 465sqm and 4 dwellings of just under 100sqm.

## Site Description

The buildings, which are part brickwork and part fibre cement, are located on the eastern side of Dowsdale Bank and are currently part of a farm yard. An existing access is located immediately to the north. The nearest dwellings are "Willowdale" and "Sunnydale" located to the south-west.

## Planning History

No recent history.

## Consultation Responses

Whaplode Parish Council - Support.

LCC Highways/SUDs - No objections subject to notes.

SHDC Environmental Protection -
Contamination - Requests condition/note.
Noise - Potential for odour/noise complaints.

Public - 1 response received supporting the conversion as it would improve the area aesthetically and encourage more families to the country lifestyle.

## 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.

Paragraph Q.1(i) states that 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). It advises that Class Q assumes that the agricultural building is capable of functioning as a dwelling. It recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. Also, that the right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house. It is not the intention of the permitted development right to include the construction of new structural elements for the building.

In this case the buildings have a substantial frame. It is considered that the proposal wouldn't include significant new structural elements and that the extent of the works proposed are reasonably necessary for the building to function as a dwellinghouse.

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;

Transport/Highways - The existing access would upgraded. A total of 16 parking spaces would be provided, plus a gated access to the farm. LCC Highways does not wish to restrict the grant of permission.

Noise Impacts - The building is presently part of an existing farmyard, which would be retained at the rear. Environmental Protection have raised issues over the relationship of the dwellings to a working farm. This was conveyed to the applicant, who has now submitted amended plans including a 1.8 metre high acoustic fence at the rear. This should ideally be raised to 2 metres, plus acoustic glazing should be installed on the rear elevation within noise sensitive rooms such as living rooms and bedrooms.

The nearest dwellings are "Willowdale" and "Sunnydale" located to the south-west. Planting is presently situated along the south-western boundary and no resident objections have been received. It is considered that the proposed use would not materially harm the amenity of neighbouring residents, including noise impacts.

Contamination - A screening Assessment has been submitted. Environmental Protection have requested a condition/note relating to unexpected contamination.

Flood Risk - The building to which the application relates is within Flood Zone 1 and within an area designed as "no hazard" within the Strategic Flood Risk Assessment. It therefore satisfies the sequential test notwithstanding that the proposal is a conversion so, in accordance with Paragraph 164 of the national Planning Policy Framework, 2019, should not be subject to the sequential or exception tests.

Location and Siting - The site is presently part of an existing farm yard. Issues concerning potential noise have already been addressed. If odour issues were to arise (eg, the burning/storing of waste) they could be dealt with under separate environmental legislation.

The site is relatively isolated. However, it has previously been established that applications such as this cannot be resisted on these grounds.

Design/external appearance - The scheme largely retains the existing appearance of the buildings and the Design and Access statement indicates that the scheme attempts to "maintain the agricultural aesthetics of the site". It is considered, on balance, that there is not sufficient reason to resist the scheme on these grounds given that planning regulations produced by Central Government generally support agricultural conversions such as this.

## Conclusion

That the Class Q prior notification application be approved.

## 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.