

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H23-0835-22 **Applicant:** Mr A Dickens

Proposal: Proposed conversion of existing agricultural buildings to 5 dwellings and associated works

Location: Orchard Farm Dowsdale Bank Shepeau Stow

Terminal Date: 19th December 2022

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

T & CP (GPD) Order 2015

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
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application is for the conversion of two agricultural buildings to 5 residential units under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. They would consist of 2 large dwellings of just under 232sqm and 3 small dwellings of just under 100sqm.

Site Description

The application site is located at Orchard Farm, Dowsdale Bank on the South-Eastern side of the highway. The site currently accommodates a working farm with various agricultural buildings. Presently, the buildings proposed to be converted share the access with the farm. Native hedging is situated along the northern boundary.

New residential properties are under presently construction along the frontage. The nearest residential properties other than the aforementioned are "The Gatehouse" some 230m to the north-east and "Willowdale" to the south-west on the opposite side of Orchard Farm.

Planning History

H23-0352-03 - Out - Erection of agricultural dwelling (siting committed) - Withdrawn.

H23-0511-04 - Full - Use of building to establish farm plant to produce poultry and horse bedding - Granted 8 September 2004.

H23-0174-06 - Agri Determination - Erection of steel framed agricultural building (1,284 square metres) - Approved 6 March 2006.

H23-0594-20 - Prior approval - Proposed barn conversion into 5 dwellings - Approved 15 October 2020.

H23-0794-21 - Full - Demolition of existing buildings and erection of 4 dwellings - Granted 16 November 2021.

H23-0358-22 - Full - Erection of dwelling - amendment to position of Plot 4 previously approved under H23-0794-21 - Granted 23 May 2022.

Consultation Responses

Whaplode Parish Council

Supported.

LCC Highways/SUDs

Does not wish to restrict the grant of permission.

South Holland Internal Drainage Board

Note that the applicant has not identified or provided a drainage strategy for the site within their application. If a surface water/foul water discharge is proposed to a watercourse then the proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3).

Environmental Protection (Contamination)

Previously requested land contamination condition.

Public

Objections received (summarised):

- Increased traffic on an already busy country lane with dangerous bends and concealed driveways.
- Significant impact upon small country roads that area unsuitable in terms of width and construction for additional traffic. Already damaged with no sign of permanent repair being offered.
- Orchard Farm originally applied for planning for 5 dwellings and planning dept approved only 4, so why would planning dept now allow them to build 5 more dwellings.

- Small housing estate harm the rural character of the Dowsdale Bank and the area.
- Noise and disruption to neighbouring properties, including during construction period.
- Further 5 dwellings would be just too much.

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 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
- 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 submitted indicates that the provisions of criteria (a) - (h) and (j) to (m) have been satisfactorily met. This is accepted in good faith.

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). Paragraph 105 indicates that "it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right".

The guidance of the PPG is therefore clear and accords with the High Court judgement *Hibbitt v Secretary of State for Communities and Local Government*, and *Rushcliffe Borough Council*. The latter concludes that Part 3 Class Q of the GPDO allows a "conversion" but does not allow a "re-build" or "fresh build".

The structural report accompanying the application indicates that the structural elements of the buildings are generally in good condition and of reasonable sectional size. The brick walls are in satisfactory alignment and condition. The concrete floor is in good condition and laid to a satisfactory level. The structural work to the foundations would be minimal and satisfy the requirements of Class Q. More specifically:

Barn 1

The conversion will involve replacing the existing corrugated metal sheet roof with insulated metal sheet panels to similar alignment. The proposed lightweight insulated steel sheet roof will have a similar loading to the corrugated asbestos sheeting. Any new internal partition walls would be studwork partitions walls built off the floor slab. Thus, the new live and dead load from the roof will be similar to the existing. The roof load will be directed via the existing timber frames and lower existing brick walls to the existing foundations. No significant increase in roof load is proposed. The timber framed posts are deemed satisfactory and no alterations to these are expected subject to inspection. By spreading the load, the loading at each support should be minimal and easily accommodated by the existing, frames, walls and associated foundations.

Barn 3

The proposal is to utilise the existing ground floor footprint to create three separate dwelling units following the shape profile of the original barn. The conversion will involve replacing the existing corrugated asbestos sheet roof with insulated metal sheet panels to similar alignment. The proposed lightweight insulated steel sheet roof will have a similar loading to the corrugated asbestos sheeting. Any new internal partition walls would be studwork walls built off the floor slab. Thus, the new live and dead load from the roof will be similar to the existing. The roof load will be directed via the existing timber frames and lower existing brick walls to the existing foundations. No significant increase in roof load is proposed. The concrete foundations to the external walls are deemed satisfactory and no alterations to these are

expected subject to inspection. The existing mid-level timber floor would be removed to give a vaulted effect inside the new dwellings. No loadbearing stud partitions would be aligned to give additional support to the trusses as necessary. By spreading the load, the loading at each support should be minimal and easily accommodated by the existing, timber frames, walls and associated foundations.

Based on information contained within the structural report, therefore, it is considered, on balance, that the extent of the works proposed are reasonably necessary for the building to function as a dwellinghouse and that the conversion would not involve building operations beyond those permitted under Class Q.

As such, it is considered that the proposed works satisfy the requirements of paragraph Q.1(i) and PPG. Consequently, the proposal is permitted development under Class Q(b) of the GPDO.

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;
- (g) The provision of adequate natural light in all habitable rooms of the dwellinghouses.

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 - Resident concerns have been expressed on grounds that Dowsdale Bank and other country lanes are unsuitable in width and construction, etc to accommodate additional residential development. However, Lincolnshire Highways Authority has been consulted and has responded as follows:

"The Application Site is remote from the centre of settlement of Shepeau Stow and residents of the proposed dwelling would therefore be reliant upon the use of a motor vehicle to go about their daily lives. However, there are several existing residential properties scattered along Dowsdale Bank and the principle of residential development upon the application site has already been established by recent grants of planning consent for new builds.

Therefore, having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety and so does not wish to object to this planning application."

In light of this advice it is considered that there is not sufficient reason to resist the application on highway safety grounds.

Noise Impacts - The buildings are presently part of a farmyard. New dwellings are under construction along the frontage (ref. H23-0794-21 and H23-0358-22). Agricultural buildings would be retained at the rear. Environmental Protection have previously raised issues over the relationship of residential properties to a working farm. As with the frontage scheme, this could be addressed by the erection of solid 2 metre high fencing, plus acoustic glazing on the rear elevation within noise sensitive rooms such as living rooms and bedrooms.

The nearest dwellings are the new properties under construction along the frontage, plus "Willowdale" and "Sunnydale" located to the south-west. It is considered that the proposed use would not materially harm the amenity of neighbouring residents, including noise impacts, bearing in mind the buildings could presently be used as part of a working farm and that such a use is potentially more noisy than residential.

It is recognised that nearby residents can suffer noise and general disturbance during the construction phase of new development. However, this is temporary in nature and not normally considered to be such as to justify refusal.

Contamination - In respect of the frontage scheme (ref. H23-0794-21), Environmental Protection requested a contaminated land condition due to the former use of the site and the nature of the new development proposed. Such a condition should be imposed in this case.

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 167 of the national Planning Policy Framework, 2021, should not be subject to the sequential or exception tests.

Location and Siting - The site is relatively isolated and would not normally be considered suitable for new housing. However, it has previously been established that applications under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order, 2015 cannot be resisted on spatial grounds.

The site is presently part of an existing farmyard. Issues concerning potential noise and disturbance have already been addressed.

Design/external appearance - The scheme largely retains the existing agricultural/rural character 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.

The provision of adequate natural light in all habitable rooms of the dwellinghouses - The proposal is satisfactory in this respect.

Ecology - Whilst not technically a consideration for Class Q, protected species are protected under the Wildlife and Countryside Act, 1981. It is therefore a material consideration.

The buildings are not open sided and are therefore unlikely to be occupied by protected species such as Barn Owls, for example. Nevertheless, any approval would need to be subject to an ecological survey, including mitigation measures if appropriate. This could be addressed by means of a condition.

Conclusion

Notwithstanding that residential development would not normally be supported in this location the proposal nevertheless constitutes permitted development and complies with the relevant conditions under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order, 2015.

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.