DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H02-0614-22**	**Applicant:**	**Mr P Speechley**
Proposal:	Proposed replacement dwelling - approved under H02-0014-17. Removal of Condition 11 to allow retention of original dwelling		
Location:	An Hendra Common Drove Crowland		
Terminal Date:	23rd August 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
22	Replacement Dwellings in the Countryside
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

5 - Delivering a sufficient supply of homes
12 - Achieving well-designed places
14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
RESIDENTS	1	6	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a Section 73 Continuation application at An Hendra, Common Drove, Crowland. This application concerns a replacement dwelling - approved under H02-0014-17 and removal of Condition 11 to allow retention of original dwelling.

Condition 11 states: "Prior to the first occupation of the dwelling hereby permitted, the existing dwelling on the original site shall be demolished, all rubble and associated materials cleared from the site, and the land returned to agricultural use.

Reason: To ensure that the existing dwelling is demolished.
This Condition is imposed in accordance with Policy HS17 of the South Holland Local Plan, 2006."

The replacement dwelling at Oxley Manor is now occupied and therefore the dwelling at An Hendra should have been demolished in accordance with this condition.

SITE DESCRIPTION

The site on which the original dwelling is sited is outside of defined settlement limits and the surrounding area is predominately rural, characterised by non-nucleated linear buildings of varying ages and designs. The site is adjacent to existing agricultural buildings, and there are open fields to the east and west of the site. This is a wide plot with little depth. The existing bungalow is of a standard design.

RELEVANT HISTORY

H02-0922-76

Outline - Bungalow and garage with provision of vehicular access at Common Drove - Approved - 08 December 1976

H02-0093-13

Section 191 Lawful Use Certificate - Occupation of dwelling by persons not employed in agriculture (Condition 3 of H02-0922-76) - Approved - 11 April 2013.

H02-0572-16

Full - Proposed replacement dwelling - Approved - 31 August 2016.

H02-0014-17

Full - Proposed replacement dwelling - resubmission of H02-0572-16 - Approved - 20 February 2017.

CONSULTATION RESPONSES

Welland & Deepings Internal Drainage Board

"As this application is only a request to retain the original dwelling instead of demolishing it, the Board have no further comments to make."

Crowland Parish Council - Objection

"Planning stated property to be replace, old property to be demolished. The property should be demolished as stated and land returned to farmland."

Members of the public - 7 (6 Support 1 Object)

Shields visual impact of adjacent agricultural sheds - Not a matter of material planning weight when the dwelling was conditioned to be removed.

Dampens noise from agricultural sheds - Not a matter of material planning weight when the dwelling was conditioned to be removed.

It will help my children get on the property ladder - Not a matter of material planning weight when the dwelling was conditioned to be removed.

Would help address lack of housing availability - The Council can demonstrate in excess of a five year housing land supply.

To remove would be contrary to the Levelling Up and Regeneration Bill - Not a matter of material planning weight when the dwelling was conditioned to be removed.

Damage to the environment from removal of the home - The damage to the environment is greater by retaining a dwelling in this location from vehicular emissions and internal energy consumption.

An empty farmyard would aid potential fly-tipping - This is not a matter that carries material planning weight.

Current owners are allowing elderly persons to live there who cannot find housing in their price range in the area - This matter is not considered to constitute an exceptional circumstance to justify retention of the dwelling.

The mental health of the occupants living at the property has been "helped a great deal" by living at the property - This matter is not considered to constitute an exceptional circumstance to justify retention of the dwelling.

Bungalows are "urgently required" in the area - If new bungalows are required, then development will be directed to sites within defined settlement limits that are more sustainable.

Loss of younger generations from Common Drove and the local area - The bungalow is not being inhabited by young residents, and there are more sustainable locations in the area to house future generations.

As we keep livestock having an additional neighbour will help us "in case of emergencies or when we are away to ensure the animals are safe and cared for." - The potential for neighbours to lend a helping hand is not a matter which carries material planning weight.

"The site is isolated from the main settlement."

"The nearest bus stop is 2.1 kilometres east of the site."

"The suggestion by the applicant that the dwelling should be retained because the land can't be used for anything else does not represent a planning reason for the retention of a dwelling in the countryside."

The site is immediately adjacent to a grain store approved under H02-1107-19, with the consideration that the bungalow was shortly to be demolished.

The bungalow is in a flood risk area that requires raised finished floor levels.

PLANNING CONSIDERATIONS

The determining issue in this application is whether an exceptional argument has been brought forward to justify a departure from established local and national planning policy in respect of new residential development in the open countryside.

Policy 1 of the South East Lincolnshire Local Plan, 2019, directs most new housing development to the Sub-Regional Centre of Spalding followed by the Main Service Centres and Minor Service

Centres. With regard to development in the countryside Policy 1 indicates that planning permission should only be granted for new development in the open countryside if it is essential in that location and cannot reasonably be accommodated within defined settlement limits. The site is isolated and not served by public transport. The nearest bus stop is 2.1 kilometres from the dwelling.

Paragraph 80 of the National Planning Policy Framework states that "planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply.

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
c) the development would re-use redundant or disused buildings and enhance its immediate setting;
d) the development would involve the subdivision of an existing residential building; or
e) the design is of exceptional quality, in that it:
- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

None of the above circumstances apply in this instance and retention of the dwelling cannot be justified.

If Condition 11 of H02-0014-17 was removed it would effectively create an additional dwelling in the open countryside, since it would be possible to live in the new dwelling at Oxley Manor and also retain the original dwelling An Hendra. Although personal considerations can be taken into account in the determination of a planning application, the more general planning matters such as consistency with the relevant adopted planning policies are still the principle considerations by which a planning application should be judged. The personal circumstances of the current occupants of An Hendra have been put forward as a justification for retention. The occupants of An Hendra are not the applicants and the needs of the occupants can be met by other single storey dwellings in and around Crowland.

PLANNING BALANCE

Removal of Condition 11 of H02-0014-17 would effectively create an additional dwelling in the open countryside, since it is possible to inhabit the new dwelling Oxley Manor and retain the existing bungalow at An Hendra. This would be contrary to the objectives of Policies 1 and 22 of the South East Lincolnshire Local Plan, 2019. Although personal circumstances put forward by an objector are a material planning consideration it is considered that they do not outweigh established planning policy aimed at ensuring new housing is in a sustainable location and the protection of the countryside.

CONCLUSION

This application is recommended for refusal.

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.