

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H05-0719-23 **Applicant:** Exors of K W Stokes Dec'd

Proposal: Retention of dwelling without complying with agricultural habitation clause (Condition 2 of EE175/71)

Location: Lambert House Lambert Bank Holbeach Drove

Terminal Date: 5th October 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy

National Guidance

National Planning Policy Framework 2021

Section 2 - Achieving sustainable development
Section 5 - Delivering a sufficient supply of homes

Representations:

	Object	Support	No Obj.	Comments
--	--------	---------	---------	----------

CASE OFFICER ASSESSMENT

Proposal

The application seeks to remove Condition 2 of planning permission H09-0175-71, which restricted the occupancy of the dwelling to a person employed or last employed in agriculture.

Site Description

The property is a detached two storey dwelling located within the settlement of Holbeach Drove. The site is located on the eastern side of Lambert Drain, to the eastern edge of the settlement. The immediate area is largely characterised by agricultural land, although to the west is the residential area of the settlement.

Relevant History

H09-0175-71 - Full. House and garage, with provision of vehicular access, at Lambert Bank, Holbeach Drove. Approved 17/06/71.

Consultation Responses

No consultation response received.

Planning Considerations

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South-East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2021 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

The property is within Holbeach Drove settlement limits, as defined with Policy 1 of the SELLP. The Policy states that within the settlement boundaries of the Other Service Centres and Settlements (such as Holbeach Drove) development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities and that development will normally be limited to committed sites and infill.

There has been a change in circumstances since permission was originally granted in 1971; the site is no longer within the countryside, and is instead, within the settlement of Holbeach Drove. Any application for residential development in the present day would comply with Policy 1 of the SELLP on grounds of infill within Holbeach Drove settlement boundary. Consequently, an agricultural restriction can no longer be justified since its essential purpose is to restrict development in the countryside to that related to agriculture.

Conclusion

Condition 2 of H09-0175-71 can no longer be justified due to the site now being within the settlement of Holbeach Drove. As such, it is recommended that Condition 2 of H09-0175-71 be removed.

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.