DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H05-1041-19**	**Applicant:**	**Mr & Mrs J Ellis**
Proposal:	Retention of dwelling without complying with agricultural habitation clause (Condition 2 of H05-0013-84)		
Location:	Mill Lodge Fleet Bank Fleet		
Terminal Date:	6th January 2020		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy

National Guidance

National Planning Policy Framework 2019

Sections 2, 4 and 5

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application is to remove condition 2 of planning permission ref. H05-0013-84 (agricultural occupancy condition).

Site Description

The property (bungalow) is located in the countryside on the northern side of Fleet Bank. A paddock is located to the east and thereafter Mill House (grade II listed). A roadway serving an industrial complex situated further to the north is located to the west and thereafter a nine hole golf course.

Planning History

H05-0702-83 - O/A - Residential development (1 plot) - Granted 8 November 1983

H05-0013-84 - Full - Residential development (1 plot) - Granted 13 February 1984

H05-0120-93 - Extensions - Granted 23 March 1993

Planning Considerations

As indicated in paragraph 47 of the National Planning Policy Framework, 2019, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The proposed development is outside a defined settlement limit within the South East Lincolnshire Local Plan, 2019. It is therefore within an area regarded as countryside. Policy 1 of the South East Lincolnshire Local Plan is therefore applicable. It states that development will be permitted in the countryside that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

In this case, permission was only granted because there was an essential agricultural need. Consequently, before approving an application to remove an agricultural occupancy clause, the Authority needs to be satisfied that there is no longer a demand for the property by the agricultural workforce.

The recommended procedure is contained within the Council's Policy Guidance Note entitled "Agricultural Workers' Dwellings and Occupancy Conditions". Essentially, the applicant needs to show that a genuine attempt has been made to sell the property "over a reasonable period of time" (usually a minimum period of 12 moths) at a value which reflects the existence of the occupancy condition.

The property is a detached bungalow in spacious landscaped grounds. It has no associated agricultural land and is not closely related to an existing small holding. Acorus Rural Property Services have extensively marketed the property from September 2018, which is in excess of 12 months. This also included national advertising in the Farmers Weekly and Farmers Guardian. The property was initially marketed at a guide price of £265,000, which was subsequently reduced to £260,000, with the agricultural occupancy condition clearly emphasised. One request to view the property was received and undertaken during the marketing period. No offers were received.

It is considered that shows that a genuine attempt has been made to sell the property over a reasonable period of time at a value which reflects the existence of the occupancy condition and that it has been satisfactorily demonstrated that there is no longer a demand for the property by the agricultural workforce.

Conclusion

It is considered that a genuine attempt has been made to sell the property over a reasonable period of time at a value which reflects the existence of the occupancy condition and that it has been satisfactorily demonstrated that there is no longer a demand for the property by the agricultural workforce. No objections are therefore raised to removal of condition 2 of planning permission ref. H05-0013-84.

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.