

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H06-0155-21 **Applicant:** Mr & Mrs D Guest

Proposal: Retention of dwelling without complying with agricultural habitation clause (Condition 4 of H06-0861-93)

Location: New House Lowgate Gedney

Terminal Date: 12th April 2021

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	1	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application is to remove condition 4 of H06-0861-93 (agricultural occupancy condition), which is as follows:

Condition 4 - The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, locally in agriculture as defined in Section 336 of the Town and Country Planning Act 1990, or a dependent of such a person residing with him, or a widow or widower of such a person.

Site Description

The property is a detached house located on the western side of Lowgate. It has a number of outbuildings at its rear. A bungalow (Harvest Home) is located to the north and an estate (Bramley

Meadows) to the south.

Relevant Planning History

H06-0861-93 - O/A - Erection of dwelling in connection with nursery - Granted 18 February 1994.

H06-0264-94 - RM - Proposed four bedroomed dwelling with an integral double garage - Approved 31 May 1994.

Consultation Responses

Gedney Parish Council

Supported.

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.

When application ref. H06-0861-93 was considered the site was in a rural area where it was the policy of the Local Planning Authority not to permit residential development except in the interests of agriculture or where related to the use of the land. The circumstances of the case related to an agricultural need, and permission was therefore granted subject to an agricultural occupancy condition.

The property is now within Gedney Settlement limit as defined within the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 (Spatial Strategy) of the SELLP is therefore applicable. It states that in Other Service Centres such as Gedney development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps to meet the service needs of other local communities. Development will normally be limited to committed sites and infill.

Consequently, there has been a change of circumstance since planning permission was granted for an agricultural dwelling in 1994 in the sense that the site is no longer in open countryside, but rather inside Gedney Settlement Limit. Any application for residential development in the present day would comply with Policy 1 of the SELLP on grounds of infill within Gedney 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.

Moreover, 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 it has been satisfactorily demonstrated that there is no longer a demand for the property by the agricultural workforce.

Planning Balance

The site is now within Gedney Settlement Limit as defined within the South East Lincolnshire Local Plan, 2019. Moreover, it has been satisfactorily demonstrated that there is no longer a demand for the property by the agricultural workforce. The proposal therefore complies with Policy 1 of the South East Lincolnshire Local Plan, 2019 and advice within the National Planning Policy Framework, 2019. There are no material considerations that outweigh factors in favour of the proposal.

Conclusion

That condition 4 of H06-0861-93 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.