DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H06-0892-21**	**Applicant:**	**Mr D Carnell & Miss A Towler**
Proposal:	Retention of dwelling without complying with agricultural habitation clause (Condition 3 of H06-0639-80)		
Location:	Belvedere Blazegate Gedney		
Terminal Date:	15th October 2021		

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 4. Decision making.
Section 5. Delivering a sufficient supply of homes.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	1	0
WARD MEMBER	0	0	0	0
RESIDENTS	1	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application is to remove condition 3 of H06-0639-80 (agricultural occupancy condition), which is as follows:

Condition 3 - 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 290(1) of the Town and Country Planning Act 1971, 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 3-bedroom bungalow located on the northern side of Blazegate, Lutton, PE12 9HJ. It has gardens and land in the region of 0.5 acre, which are landscaped. It is served by a large driveway.

A house (Jecardy) is situated to the west and open farmland to the east and north.

Relevant Planning History

H06-0639-80 - Erection of dwelling with garage and access - Granted 20 August 1980.

Consultation Responses

Gedney Parish Council

No objections.

Public

Resident objection received (summarised):
If property was priced correctly it would sell. The present price is obviously out of reach for genuine agricultural workers.

Planning Considerations

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made 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 (SELLP), 2019. It is therefore within an area regarded as countryside. Policy 1 of the SELLP is therefore relevant. 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 months) at a value which reflects the existence of the occupancy condition. This should be in an appropriate publication, including in related agricultural publications such as "The Grower" or "Farmers Weekly", and not just the local press. It states that the value would normally be expected to fall in the range of 25-40% below open market value and the property must be actively marketed.

The property is a detached 3-bedroom bungalow on a spacious plot. It was initially put up for sale by Brown & Co in September 2020 requiring offers in excess of £275,000 and has been advertised via Brown & Co and various websites such as Zoopla and Rightmove. Interest was initially shown but none qualified with a suitable agricultural background.

Recently, however, an offer of £275,000 was made by an interested party who appears to comply with the agricultural clause. This was increased to £300,000 in late August/early September 2021. This was rejected based upon a re-valuation of the property by Hockeys on 16 August 2021, which suggested a marketing price of £425,000. No reference was made of the agricultural clause. Based upon this valuation, the vendors asked for £325,000.

Two further valuations of the property were undertaken by Ark Property on 18 October 2021

(£495,000 excluding the clause) and Geoffrey Collings & Co (£475,000 excluding the clause). This was at the behest of the applicants given rising property prices. The average was therefore £485,000. Taking into consideration the existence of the agricultural clause (30% reduction) the present asking price would therefore be in the region of £339,500. It should be noted that the valuation by Geoffrey Collings & Co states that sensible offers should be given consideration.

On 27 October 2021 the interested party submitted a further offer of £312,500. This is approximately 8% below an asking price of £339,500 and is considered reasonable. The applicants maintain that 8% is too great given a buoyant property market and have not accepted the offer. However, it should be remembered that demand for properties such as this with an agricultural clause is very limited. Moreover, it is only approximately 5% less than the valuation by Hockeys, taking into account a reduction due to the clause.

Based upon the aforementioned, therefore, it has not therefore been satisfactorily demonstrated that there is no longer a demand for the property by the agricultural workforce. Consequently, the agricultural clause should not be lifted.

Conclusion

It has not been satisfactorily demonstrated that there is no longer a demand for the property by the agricultural workforce since a reasonable offer has been made by an interested party. The proposal is not therefore in compliance with South Holland District Council's Policy Guidance Note entitled "Agricultural Workers' Dwellings and Occupancy Conditions" and Policy 1 of the South East Lincolnshire Local Plan, 2019. The latter permits dwellings in the countryside if they are considered necessary, for example, in conjunction with agriculture. This policy is in accordance with advice within paragraph 80 of the National Planning Policy Framework, 2021.

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.

Recommendation

That the application be refused under delegated powers.