

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H06-1060-22 **Applicant:** Mrs S Russell

Proposal: Retention of dwelling without complying with agricultural habitation clause (Condition 2 of H06-0083-74 & H06-0779-75)

Location: Hallgate Nursery Hallgate Gedney

Terminal Date: 27th January 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy

National Guidance

National Planning Policy Framework 2021

2 - Achieving sustainable development
4 - Decision making
5 - Delivering a sufficient supply of homes

Representations:

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

CASE OFFICER ASSESSMENT

PROPOSAL

This is a Section 73A Continuation application at Hallgate Nursery, Hallgate, Gedney for the retention of a dwelling without complying with the agricultural habitation clause (Condition 2 of H06-0083-74 & H06-0779-75)

SITE DESCRIPTION

The site is outside of defined settlement limits and the surrounding area is predominately rural, characterised by non-nucleated linear development of varying ages and designs.

RELEVANT HISTORY

H06-0083-74

Outline - House and garage, with provision of vehicular access at Engine Dyke, Gedney Dyke - Approved - 22 May 1974.

H06-0779-75

Reserved Matters - Bungalow and garage with alteration to existing access at Engine Dyke, Gedney Dyke - Approved - 22 October 1975.

CONSULTATION RESPONSES

Gedney Parish Council

No objection.

PLANNING CONSIDERATIONS

As indicated in paragraph 47 of the National Planning Policy Framework (2021), planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The dwelling 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 property was placed on the market due to the passing of the applicant's partner and the need to downsize for easing maintenance requirements. The marketing price for the property was £575,000 and clearly stated the existence of the habitation clause and the size of the unit being 6 acres. The property has been marketed since 30 November 2021 at Hix & Son, with nobody who satisfied the clause showing a firm interest in purchasing the property. The property has been marketed on a variety of forms of media with evidence submitted to demonstrate this.

It is considered that the property has been marketed at a price which reflects the existence of the clause. This is typically 25 to 33% below market value.

PLANNING BALANCE

The property has been marketed for over a year on a variety of forms of media at a price which reflects the existence of the agricultural habitation clause. Given that no firm interest has been forthcoming for the property, the local planning authority is satisfied that there is no longer a demonstrable demand for an agricultural property in this location.

CONCLUSION

That Condition 2 of H06-0083-74 should 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.