DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H07-0836-20**	**Applicant:**	**Mrs J Pell**
Proposal:	Retention of dwelling without complying with agricultural habitation clause - Condition 2 of EE390-71		
Location:	Millfield Nurseries Mill Lane Gedney Hill		
Terminal Date:	23rd November 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. EE390-71 (agricultural occupancy condition).

Site Description

The property (bungalow) is associated with Millfield Nurseries and is located within the settlement of Gedney Hill on the northern side of Mill Lane. Glasshouses are presently located to the east and south-east. The latter has outline planning permission for frontage building plots (ref. H07-0179-18). Gedney Hill Mill (grade II listed) is situated further to the west and beyond that a row of dwellings.

Relevant Planning History

EE-390-71 - Bungalow and garage, Mill Lane, Gedney Hill - Granted 9 December 1971

Consultation Responses

None received

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 property is within Gedney Hill Settlement limit as defined within the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan is therefore applicable. It states that in Minor Service Centres such as Gedney Hill 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 allocated and committed sites and infill.

There has been a change of circumstance since planning permission was granted for an agricultural dwelling in 1971 in the sense that the site is no longer in open countryside, but rather inside Gedney Hill 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 Hill settlement boundary. Moreover, the site is also part of an allocated housing site (ref. Geh004). 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.

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.

Conclusion

There has been a change of circumstance since the original planning permission (ref. EE-390-71) because the property is now within Gedney Hill Settlement limit as defined within the South East Lincolnshire Local Plan, 2019. It is also part of an allocated housing site (ref. Geh004). Consequently, an agricultural restriction can no longer be justified. No objections are therefore raised to removal of condition 2 of planning permission ref. EE-390-71.