DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H08-1126-25**	**Applicant:**	**Mr G Jamieson**
Proposal:	Retention of dwelling without complying with agricultural habitation clause - Condition 2 of SR587-72		
Location:	Homefields Wargate Way Gosberton		
Terminal Date:	20th January 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

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

CASE OFFICER ASSESSMENT

Description of Proposal

This is a Section 73 application, seeking to remove Condition 2 of SR587-72, which restricted the occupancy of the dwelling to a person employed or last employed in agriculture.

Site Description

The site is outside of any of the settlement boundaries outlined within the South East Lincolnshire Local Plan, 2019, and is therefore defined, in planning terms, as being located in the countryside. It is located approximately 275m south of the defined settlement limits of Gosberton. Several other dwellings are located in the area.

Relevant History

SR587-72 - Full - Bungalow and garage with provision of vehicular access - Approved 07/09/77

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

No consultation responses received.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Key Planning Considerations

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Evaluation - Section 73

The proposal relates to the removal of condition 2 of SR587-72 (agricultural occupancy condition), utilising section 73 of the Act. The purpose of an application made under section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is clear that: "On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.

The effect of granting permission would be to issue a new permission with the relevant condition removed, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and or nature results "in a development which is not substantially different from the one which has been approved"

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are

areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The proposed development lies outside a defined settlement limit within the SELLP. It is therefore within an area regarded as countryside. Where a site would be located within the Countryside, Policy 1 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."

The development has been long established, with the dwelling having been resided in for a notable period of time following its initial grant of permission under reference SR587-72. The principle of development was accepted by that host application; however, this was only accepted and granted on the basis of an essential agricultural need. Consequently, before approving an application to remove an agricultural occupancy clause, the Authority would typically need to be satisfied that there is no longer a demand for the property by the agricultural workforce as a minimum.

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 submitted information outlines that the dwelling has been marketed at a price to reflect the agricultural occupancy condition for a period of over 12 months. Within this period, the property has also been marketed in Farmers Weekly for a period of a month.

The dwelling was initially advertised at a price of £260,000. This figure was calculated based off of the sale of a nearby property of comparable scale, which did not have an agricultural clause, which sold for £385,000. The £260,000 figure is approximately 30% below the guide price of £385,000, with this reduction being consistent with the advice given in the Agricultural Worker's guidance note previously referred to. Subsequently, the property has been advertised at £240,000 for a period in excess of two months. This time includes an advertisement in Farmer's Weekly.

At the time of the application's submission, it was stated by the applicant that there were only two parties who had come expressed interest in the property. A third party contacted the Council directly to outline that they were interested in a viewing of the property. These three parties can be divided into two categories, two who showed a tentative interest, and one who put in an offer on the property.

Beginning with the two parties who viewed the property, neither party, at the time of writing, proceeded to submit an offer for the dwelling. On this basis, it cannot be said that their interest was sufficient to be considered genuine interest. Both parties interest therefore can be discounted, as they do not show genuine interest in the property as an agricultural worker's dwelling. It should also be noted that of the two, one was not employed in agriculture, so their interest may be discounted regardless.

Turning to the party who submitted an offer on the property, which is that of most interest. The offer submitted met the asking price for the dwelling and as such, this further strengths this matter. On this basis, the offer would be considered fair and consistent with the provisions of the guidance note. Under usual circumstances, this fact would be sufficient to demonstrate interest in the property and to prevent the removal of the condition.

That being said, the party was subsequently unable to secure a mortgage for the property, prior to the offer being formally accepted. Whilst the securing of a mortgage would ordinarily be a third-party consideration which carries limited planning weight, in this instance an inability to secure a mortgage prevents the interest shown from being legitimate. It can be viewed that the party never had a realistic chance of being able to purchase the property. In addition to this matter, this offer was received several months before the submission of this application (coming in September 2025); and therefore, adequate time has elapsed to complete any paperwork etc which would have been necessary to rectify the concerns and comprises sufficient time for this interested party to actively

seek an alternative mortgage or secure the aforementioned mortgage. A lack of ability to secure the mortgage resulted in the party withdrawing their interest. On this basis, their interest can be discounted here.

It should also be noted that a commentary from an independent advisor has been submitted to the Council by the applicant. This outlines that, in their professional opinion, the property would not be mortgageable due to the clause. This could be viewed as an additional barrier for future legitimate interest, whilst also lending credence to the aforementioned party's inability to secure a mortgage; however, there is a possibility for mortgages to be obtained for dwellings that comprise an agricultural clause and this matter, in of itself, is not justification as to remove such a clause.

The marketing exercise is considered to be sufficient. The evidence before the Council demonstrates there has been insufficient, legitimate interest in the purchase of the property as an agricultural worker's dwelling.

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

On the balance of probabilities and on the strength of the submitted information, Condition 2 of SR587-72 should be removed as there is not suitable demand for an agricultural worker's dwelling.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.