

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0010-24 **Applicant:** Mr A Cole

Proposal: Retention of dwelling without complying with agricultural habitation clause - Condition 4 of H09-1016-88 and condition 1 of H09-0012-89.

Location: Ivory Lodge Chapel Drove Holbeach Drove

Terminal Date: 20th March 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy

National Guidance

National Planning Policy Framework 2023

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	0	1
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application has been made to remove condition 4 of outline application ref. H09-1016-88 and condition 1 of reserved matters approval ref. H09-0012-89 (agricultural occupancy condition), which is as follows:

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 dependent of such a person residing with him, or a widow or widower of such a person.

Reason: The site is in a rural area where it is 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 this case relate to an agricultural need, and permission is therefore confined to it.

Site Description

The property is a detached bungalow located in open countryside on the western side of Chapel Drove, Holbeach Drove.

Relevant Planning History

H09-1016-88 - Outline - Three bedroom bungalow - Approved 16 September 1988 subject to agricultural clause (condition 4).

H09-0012-89 - RM - Erect bungalow with garage and vehicular access - Approved 9 February 1989 subject to agricultural clause (condition 1).

H09-1714-05 - Full - Proposed side-extension to bungalow - Approved 7 February 2006.

Consultation Responses

Holbeach Parish Council

No comments.

Public

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.

Planning Considerations

Evaluation

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.

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

In this case, the South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (updated December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Housing Policy

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. The property was advertised by EA Land Agents Ltd from 1 January 2023 to 31 December 2023 by various means, including on their website. The sales brochure referred to an agricultural clause and the guide price reflected its existence. It was also advertised regularly online/social media. It was advertised 12 times in the Farmers Weekly over a period of 12 months. Of the small number that enquired, some didn't comply with the agricultural clause and one wanted more land.

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

Conclusion

It has been satisfactorily demonstrated that there is no longer a demand for the property by the agricultural workforce. The proposal is 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.

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 approved under delegated powers.