

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0105-25 **Applicant:** Mr Cole

Proposal: Removal of agricultural occupancy condition (condition 3) of permission H09-0079-73

Location: Pentland House Chapel Drove Holbeach Drove

Terminal Date: 31st March 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy
02 Development Management
11 Distribution of New Housing

National Guidance

National Planning Policy Framework December 2024

National Planning Policy Framework (December 2024)

Section 2 - Achieving sustainable development
Section 4 - Decision-making
Section 5 - Delivering and sufficient supply of homes
Section 11 - Making effective use of land

National Guidance

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	2	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent to remove condition 3 of permission H09-0079-73, which granted consent for a dwelling on 08 February 1973. The dwelling is Pentland House, Chapel Drove,

Holbeach Drove. Condition 3 restricts the occupation of the dwelling to an agricultural worker.

Site Description

The application site comprises land Pentland House, Chapel Drove, Holbeach Drove. There is a two-storey detached dwelling within the site. The site is located within a relatively isolated rural location. There is however a dwelling on the opposite side of Chapel Drove, greenhouses to the south, and agricultural buildings to the west. The site is otherwise mostly surrounded by agricultural fields.

Planning History

H09-0079-73: Dwelling at Chapel drove, Holbeach Drove - approved 08 February 1973

H09-0381-04: Proposed rear conservatory - approved 06 May 2004

H09-0664-23: Occupation of a dwelling by persons not employed in agriculture (Condition 2 of EE477/73) - rejected (not validated) 09 January 2024

Consultation Responses

Responses have been received from the below referenced consultees. The responses are summarised below, however, the responses can be viewed in their entirety on South Holland District Council's website.

Holbeach Parish Council: Fully support the proposals.

Whaplode Parish Council: No comments.

Cllr A C Beal: No response received.

Cllr P A Redgate: No response 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

Development Plan

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, December 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

There are no adopted Neighbourhood Plans for the area within which the site is located.

No operational development is proposed and the application only seeks consent to remove condition 3. The main consideration in this case is therefore whether there is sufficient justification to remove condition 3.

Principle of Development

The application seeks consent to remove condition 3 of permission H09-0079-73. The wording of

condition 3 is as follows:

"The occupation of the dwelling shall be limited to a person employed, or last employed locally in agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971 or forestry or a dependent of such a person residing with him (but including a widow or widower of such a person).

Reason

This building is sited in an area in which buildings other than those connected with an agricultural need, would not be permitted."

The determination of the application is based upon a consideration and assessment as to whether there are reasonable grounds to continue to impose the condition which forms the agricultural tie.

Within the Local Plan, there are no specific policies which relate to how to assess proposals to remove agricultural worker conditions. There are also no policies which specifically relate to agricultural worker dwellings. The Local Plan does however support appropriate rural development. New dwellings within locations such as the application site would not generally be supported in principle unless there was a specific need for a dwelling within the site, such as the need for an agricultural worker to live on the site to support a rural business such as a farm or horticultural business.

Paragraph 84 of the NPPF is also relevant in this case as this sets out that planning decisions should avoid the development of isolated homes in the countryside unless certain criteria apply, for example there is an essential need for a rural worker (part a).

Delivering and retaining housing for agricultural workers within the countryside can therefore play an important role to help sustain rural businesses, agriculture and horticulture. It is however not clear in this case what type of rural business or agricultural work the original dwelling was considered necessary to support. For example, an officer's assessment of the proposals is not within the available documents for the application.

Removing condition 3 would mean that there would be a loss of one dwelling within the market for potential agricultural workers. It is therefore necessary to assess whether the proposed dwelling continues to be a suitable potential dwelling for agricultural workers, in terms of its location, functionality and its affordability. One way of assessing this is to establish if there is still a market demand for a dwelling with an agricultural occupancy condition. The application is therefore supported by information setting out how the dwelling has been marketed to attract potential buyers.

The applicant's agent represents a well-known estate agency and they have submitted a detailed account of the advertising of the property, on a variety of media formats. The property has been advertised on social media every month from January to December 2024. The property was also advertised on Elizabeth Allen Land Agents, On The Market, Zoopla, and Primelocation and Farmer's Weekly. The application is accompanied by evidence of posts on social media including X, Instagram, Facebook, and Farmer's Weekly.

Despite the advertising generating thousands of on-line views, only six expressions of interest were made. None of the interested parties were able to meet the condition criteria.

In these circumstances there are no reasonable grounds to continue to impose the condition and it is recommended that permission to remove the condition be granted under delegated powers.

Other Conditions

Condition 1 required the development to be commenced by 08 February 1978. This condition is no longer necessary as the development was commenced and completed decades ago. This condition is therefore proposed to be removed.

Condition 2 required details of the proposed access to be submitted and approved by 08 February 1978. There are no details available to confirm whether the requirements of this condition were addressed. Notwithstanding this, the access for the site is in place and as such this condition is no longer necessary.

Condition 4 is a compliance condition and sets out that no part of the proposed building shall be nearer than fifty feet to the centre of the road. The reason for this condition was 'to secure

satisfactory siting'. Most extensions on the front of the dwelling would likely require planning permission, except for a small porch for example. This condition is therefore no longer considered to be necessary and can be removed.

Condition 5 sets out that an adequate reversing bay or turning space shall be provided within the curtilage of the premises. The property features a front driveway with room for parking and turning and as such the requirements of the condition have been fulfilled. This condition can therefore be removed.

Based on a review of the council's records, a s106 agreement was not provided with the original permission, and as such it is not necessary to vary any legal agreements.

Planning Balance

As detailed above, 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 application is supported by sufficient evidence which sets out that the dwelling is no longer needed as an agricultural worker's dwelling. The condition is therefore no longer necessary, and it is considered to be appropriate on this occasion for the condition to 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.

Conclusion

Condition 3 is no longer considered to be necessary, and it is considered to be appropriate on this occasion for the condition to be removed.

Recommendation

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