

PLANNING STATEMENT

S73/VARIATION/REMOVAL APPLICATION, CONDITION 16 OF APPROVED PLANNING APPLICATION H11-0372-16

**Silverwood Garden Centre Browns Gate Long Sutton Spalding
Replacement dwelling**

Prepared by



January 2026

CONTENTS

1. INTRODUCTION

2. THE PROPOSAL

3. SITE HISTORY

4. THE LOCATION

5. PLANNING POLICY

6. JUSTIFICATION

7. CONCLUSION

1. INTRODUCTION

- 1.1 Mark Simmonds Planning Services Ltd have been instructed by Mr J Tyrell, landowner and applicant, to prepare and submit a s.73 Planning Application to remove condition 16 of approved application H11-0372-16 at Silverwood Garden Centre, Browns Gate, Long Sutton.

2. THE PROPOSAL

- 2.1 This application seeks to remove condition 16 which seeks to restrict the occupancy of the Replacement dwelling to a person employed in the adjoining business:

16 The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly employed, or last employed, at the business occupying the land outlined in blue on dwg. no. 1539-03 accompanying the application, or a widow or widower of such a person, or any resident dependent(s).

Reason: The site is located in the open countryside where it is local and national policy to restrict new residential development to that which is essential to meet a proven need. The circumstances in this case satisfy such a need in conjunction with the existing business and this condition is therefore imposed to restrict occupancy to a person(s) associated with the business.

This condition is imposed in accordance with Policy HS7 of the South Holland Local Plan, 2006 and advice within paragraph 55 of the National Planning Policy Framework, March 2012.

- 2.2 The Council will note from the planning records that the dwelling which was to be replaced by this dwelling, previously had an Agricultural Tie in place which restricted occupation of the original dwelling to those working or last working in agriculture. This appears to have been 'transposed' and misapplied under the justification of Policy HS7 as the dwelling was not a new dwelling, but a replacement dwelling and the business to which the dwelling was tied was not rural in nature at all. Unfortunately there is no case officer report to support or indeed explain the reason as to why condition 16 was applied to a replacement dwelling and a business which does not accord with any rural business exceptions.
- 2.3 Due to a change in the family circumstances, the applicant now resides in the converted dwelling on site (see H11-0792-21). This leaves the main tied dwelling being unable to be sold nor advertised for sale as it is not feasible for anyone to comply with the limiting condition as the business is not also for sale.

3. THE SITE HISTORY

Planning History

H11-0372-16 SILVERWOOD GARDEN CENTRE BROWNS GATE LONG SUTTON SPALDING,
Approved 30.06.16

Dwelling which was converted from an old Packhouse Building, granted by the Council under planning reference H11-0792-21

4. THE LOCATION

4.1 The application site is located outside of the settlement boundary of Long Sutton and is classed as being in the countryside. The adjacent land (edged blue in H11-0372-16 and tied to the dwelling) now has a mix of uses. The original Garden Centre now accommodates various small business ventures including a café, shops and hairdressers along with a strong community use for charitable purposes. The applicant also runs a long-established Groundworks business and stores machinery in a yard on the far side of the site, away from the dwelling.

4.2 Also on site is a dwelling which was converted from an old Packhouse Building, granted by the Council under planning reference H11-0792-21

4.3 . As mentioned previously, due to a change in the family circumstances, the applicant now resides in this dwelling and not the main tied dwelling.

5. PLANNING POLICY

The National Planning Policy Framework (NPPF 2024)

It sets out Central Government's planning policies for England and how these are expected to be applied.

Paragraphs 7 and 8 define the commitment to sustainable development based on three dimensions:

7. The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs⁴. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection⁵.

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time

to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and;

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

Building a strong, competitive economy

Paragraph 81. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt.

Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

Supporting a prosperous rural economy

85. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

88. Planning policies and decisions should enable: a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings; b) the development and diversification of agricultural and other land-based rural businesses; c) sustainable rural tourism and leisure developments which respect the character of the countryside; and d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

The Framework also goes on to further support the rural economy:

89. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an

unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

The Development Plan

Condition 16 was applied under the old Local Plan and the justification provided was under the saved Local Plan Policy HS7 which indicates that new housing will only be permitted in the countryside where it is proven essential to meet the needs of rural workers, or the proposal is for small scale, rural exception affordable housing. It is consistent with the Framework's approach to sustainable development and new dwellings in the countryside.

The relevant Development Plan now - **South East Lincolnshire Local Plan - Adopted: March 2019.**

6. JUSTIFICATION

6.1 The applicant accepted the business tie on the replacement dwelling back in 2016 without question because at that time circumstances meant that to comply with the tie was not an issue. However, with the passage of time and significant changes in both the business model and personal family circumstances, this tie has become unworkable on the tied property.

6.2 The practicalities of the tie are so strict that it has led to a review of the reasons behind its initial application and how reasonable they now are in light of changing circumstances.

6.3 It is understood that the dwelling was proposed as a replacement dwelling for a house that originally was tied by way of an agricultural occupancy condition, therefore, in line with policy, tied the occupation to those employed or last employed in agriculture. These ties were commonplace for dwellings located in the open countryside which essentially met a rural need and on this basis met the rural housing policy.

6.4 Whether or not a condition is "reasonable" or not very much depends on whether it can be demonstrated that it no longer serves a valid planning purpose or if it has become obsolete due to changes in circumstances. For a planning condition to be lawful, it must pass "six tests". A tie is considered unreasonable and potentially void if it is not:

1. Necessary for the development to proceed.
2. Relevant to planning and the specific development.
3. Enforceable and Precise.
4. Reasonable in all other respects.

6.5 In terms of whether the occupancy condition in this case can be considered necessary for the development to proceed, it is difficult to assess this as unfortunately there is not a case officers report to support the decision back in 2016. It is understood that the justification given in the application of this condition is "*Policy HS7 of the South Holland Local Plan, 2006 and advice within paragraph 55 of the National Planning Policy Framework, March 2012.*"

6.5 Saved Local Plan Policy HS7 indicates that new housing will only be permitted in the

countryside where it is proven essential to meet the needs of rural workers, or the proposal is for small scale, rural exception affordable housing.

It is consistent with the Framework's approach to sustainable development and new dwellings in the countryside.

There are 2 elements of this policy which are of note here. The first is that it refers to **new** dwellings in the open countryside.

The house permitted in 2016 was not a new dwelling but a replacement dwelling in the open countryside.

It did appear to replace a dwelling which carried its own agricultural occupancy clause, however with the new dwelling being a replacement, we consider that an assessment would have to have been made on the use of this dwelling for rural workers.

The business being carried out by the applicant at the time, was that of a groundworks business and the running of commercial garden centre which contained a café and other independent businesses.

6.6 In planning law, a rural worker is generally defined as :

“as a person who is currently or was last solely or mainly employed in the locality in agriculture, forestry, or another land-based, rural enterprise.”

6.7 A garden centre is primarily a retail operation buying in stock to sell, it is likely considered a commercial business rather than agriculture, therefore an agricultural tie would not be appropriate. In addition, a Groundworks business is also a commercial business and does not necessitate a rural location. On this basis this is likely the reason why the agricultural tie from the original house could not be transposed across to the replacement dwelling.

6.8 The condition applied was then morphed into a business tie to the dwelling, however the justification provided for the condition was that of Policy HS7 which is for a proven essential countryside need. Without any case officers report it is difficult to assess how the rural justification policy was applied to a nonessential business. There are no amenity issues with the dwelling being close to either the Garden Centre business nor the Groundworks business; there is a good degree of separation from any business use, and any machinery is stored on the far side of the site, well away from the dwelling.

6.9 The difficulty with the condition is that with the passage of time and changes in family circumstances, the dwelling cannot essentially be sold to any person at all as they cannot possibly comply with the condition, unless of course the businesses as a whole are also sold to the same person. The adjacent businesses are still buoyant and through individual leases provides income as well as charitable means to a large number of traders and companies.

The applicant is not in a position to sell the adjacent businesses, however personal circumstances mean that they can no longer live in the main dwelling, which now must be sold or sit vacant.

6.10 Therefore, the main issue in this case is whether the disputed condition is reasonable and necessary, having regard to national and local planning policy concerning the provision of

dwellings within the countryside and the imposition of conditions. However, the difficulty here is that the business tie appears to have been applied under the rural workers policy justification, when the business involved is not that of a rural enterprise. This leads to a fundamental discord when applying the rural housing exemptions under both Local and National Policy and the inability to make any logical assessment against policy.

Although the dwelling is considered to be in the open countryside, the dwelling is by no means isolated and there are examples of new dwellings near by which are unfettered in nature. The removal of the condition does not increase car journeys and lead to an impact on the highway and as the condition cannot be considered an Agricultural Tie, it cannot benefit other agricultural workers in the area.

6.11 As the applicant is now residing in a converted dwelling actually located within what is the business use are (edged blue in the 2016 permission), the applicant would ask that if the Council cannot see fit to remove the condition on the grounds of it not being reasonable and necessary, that they transfer the same tie to this dwelling. This way there would be no loss of a dwelling tied to the existing business, therefore the same justification which was applied by the original case officer can be applied to this dwelling, resulting in no actual harm.

7. Conclusion

This application seeks to remove condition 16 of approved application H11-0372-16 at Silverwood Garden Centre as the passage of time and the change in circumstances has rendered the condition unreasonable and unnecessary. The Council is respectfully asked to consider the circumstances as set out here and failing agreement to the removal of the condition, would consider applying the restriction to the other onsite dwelling which is being resided in by the applicant as a workable and viable alternative which results in no apparent harm.