

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H14-1133-25 **Applicant:** Houghton Produce Ltd

Proposal: Demolition of agricultural building, erection of 4 dwellings including new access & change of use of agricultural land to residential - Approved under H14-0851-24. Modifications of Conditions 11, 12 and 13 of H14-0851-24 to allow amendments to wording of conditions.

Location: Land To North Of Fengate Road Pinchbeck Spalding

Terminal Date: 3rd February 2026

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 4 - Decision making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land
Section 12 - Achieving well designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

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

HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a Section 73 application seeking to amend the wording of Conditions 11 and 12 and remove Condition 13 of H14-0851-24.

Planning permission was granted, under reference H14-0851-2, for the Demolition of agricultural building, erection of 4 dwellings including new access & change of use of agricultural land to residential.

Site Description

The site is located outside the defined settlement boundary of Pinchbeck as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). The site is currently occupied by Houghton Produce Ltd and is located along Fengate Road, whilst it is in a predominantly agricultural setting there are residential dwellings nearby along Mill Green Road. The site received permission to erect four dwellings under H14-0851-24.

History

H14-0367-03 - Agricultural storage building - Approved

H14-1092-23 - Demolition of agricultural building, erection of 5 dwellings including new access/road and change of use of agricultural land to residential - Withdrawn

H14-0851-24 - Demolition of agricultural building, erection of 4 dwellings including new access & change of use of agricultural land to residential - Approved

Consultation Responses

Welland and Deepings Internal Drainage Board

No comment.

Lincolnshire County Council Highways Authority

Comments:

Demolition of agricultural building, erection of 4 dwellings including new access & change of use of agricultural land to residential - Approved under H14-0851-24. Modifications of Conditions 11, 12 and 13 of H14-0851-24 to allow amendments to wording of conditions. The conditions to be varied are not conditions requested by Lincolnshire County Council as Local Highway and Lead Local

Flood Authority. It is for the Local Planning Authority to comment.

South Holland District Council Environmental Protection

I have reviewed the Ground Contamination Investigation and Assessment Phase 1 Desk Study by Langdale-Smith and Co Limited (Project number 71042, issued 26th November 2025).

I am in general agreement with the findings of this report. I request a precautionary land contamination condition as follows:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority (LPA). An investigation and risk assessment must be undertaken in accordance with details to be agreed with the LPA. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the LPA. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved by the LPA.

No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

Lincolnshire Wildlife Trust

No substantive comments or recommendations on the proposal.

Public Representation

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 73

The proposal relates to variations to Conditions 11 and 12 and the removal of Condition 13 of H14-0851-24, through seeking permission under 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 very 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 conditions amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

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".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development.

In the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the effect of the change will be significant".

Modifications to Wordings of Conditions

Firstly, Condition 11 of H14-0851-24 related to contaminated land and requiring a scheme to deal with any contamination of land or pollution of controlled waters to be submitted to the Local Planning Authority. As part of the development was to demolish the existing agricultural building on site, this meant that this building could not be demolished until this condition was discharged, amongst others.

Regardless of this, the applicant has since demolished this building prior to a contaminated land scheme having been submitted, or approved by the Local Planning Authority. In any case, it appears that the concrete plinth in which this building sat has remained and as such the potential contamination itself would remain unlikely.

Furthermore, a Ground Contamination Investigation & Assessment has been submitted within this application which details that there are no sources of contamination that would be a hazard to workers, buried utilities or future residents. SHDC Environmental Protection, who requested this condition, have since commented on the application outlining that they are in agreement with the findings of this report but have requested a precautionary land contamination condition be attached to the decision notice should the application be approved.

As such, Condition 11 of H14-0851-24 has been modified to read that the development will be carried out in accordance with this aforementioned document. Alongside this, a new condition has been included within this application to enforce that if any contamination is found that it is reported immediately to the Local Planning Authority. These conditions should enforce the correct procedure be carried out and no harm should be caused through any potential contaminated land on site.

Moving on from this, Condition 12 of H14-0851-24 required bat roost boxes to be erected on site at least one month prior to demolition works on site being carried out and must be approved by the Local Planning Authority. Whilst this was not submitted to the LPA prior to demolition works being carried out on site and the LPA are unaware whether or not they were erected one month prior to demolition works being carried out, bat boxes have been erected on site and thus provides mitigation in this respect. Two bat boxes have been installed on site with photo evidence of this being provided within the submission.

This condition was initially attached to the decision notice due to the LPAs Ecologist consultation, stating that there are over 430 records of bats being observed within 2km of the site between 2000 and 2024 including observations of large roosts within close proximity to the site as recently as 2020. There is a 'negligible' roost potential classification based on the physical characteristics of the building, however, the ecologist context in this regard took priority and was the ultimate reason for the addition of this condition.

In any case, the LPA consider that the bat boxes provided on site allow for mitigation and for any potential bats on site to utilise. Overall, this condition can be modified to ensure that these boxes remain on site for the timeframe required.

Condition 12 should be read in conjunction with Condition 13 of H14-0851-25. Due to this, an ecological watch must be placed on the barn during the demolition to ensure that if bats are found, that the demolition be halted until a mitigation strategy is developed and mitigation license be

applied for.

As stated above, the demolition works were carried out before approval from the LPA was sought and as such an ecological watch was most likely not carried out, with there being no formal recording of whether bats were found on site or if a mitigation license was applied for.

The two bat boxes on site do however provide some form of mitigation on site to allow for any potential bats to find new refuge. In a similar light to the above, and given that no records of bats have been recorded on site during the previous submission, it would be considered acceptable and appropriate to remove this condition completely as the building has been demolished and mitigation placed nearby.

Overall, Condition 11 and 12 can be suitably reworded and modified to ensure that appropriate procedures are carried out in regard to land contamination and bat box mitigation. Furthermore, Condition 13 can be completely removed as the existing building has been demolished and mitigation has been placed nearby. All other relevant conditions from H14-0851-24 including those which have not yet been discharged will be attached on this decision notice also.

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 above assessment has outlined the acceptability to the amendments to the wording of Conditions 11 and 12 and removal of Condition 13 of H14-0851-24, whilst the proposal conforms with the South East Lincolnshire Local Plan (2019) and the provisions of the National Planning Policy Framework (December 2024) when viewed as a whole.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.

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

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 4, 28 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). There are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

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