DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0035-24**	**Applicant:**	**Seagate Homes**
Proposal:	Retention of Dwelling without Complying with Agricultural Habitation Clause - Condition 1 of SU159-68		
Location:	Ivanda Nursery Monks House Lane Spalding		
Terminal Date:	12th March 2024		

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

National Guidance

National Planning Policy Framework 2023

Section 2 Achieving Sustainable Development
Section 5 Delivering a sufficient supply of homes
Section 11 Making effective use of land
Section 12 Achieving well designed and beautiful 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
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Retention of Dwelling without Complying with Agricultural Habitation Clause - Condition 1 of SU159-68.

Site Description

The site is situated within the settlement boundary of Spalding, on the site of a former nursery. The Edward Drain forms the boundary of the southern part of the site. The site was previously a site containing both a house and greenhouse structures, grassland and trees, some of which are mature. Residential estates are situated to the north, south and east of the site, with the western boundary representing the edge of the urban area of Spalding. Being situated within the settlement boundary of Spalding means that the site is amongst the more sustainable locations within the district as a whole, where a range of more sustainable transport options would be available. Ivanda House exists on the site to the south west of the wider site, which has a garden and concrete garage. It has been separated off from the main development site as it is to be disposed of separately as a dwelling. The rest of the site has a resolution to grant for housing development.

History

SU 159/68 - House and Garage at Monks House Lane, Spalding - Approved 11 September 1968 subject to the following condition:

"The occupation of the dwelling shall be limited to a person employed, or last employed, locally in agriculture as defined in Section 221 (1) of the Town and Country Planning Act, 1962, or forestry, or a dependent of such a person residing with him (but including a widow or widower of such a person). "

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

H16-0136-23 - Proposed residential development of 70 dwellings, including demolition of existing glass houses. Undetermined at the time of writing but has a resolution to grant permission subject to a Section 106 agreement.

Consultation Responses

Legal Services
Confirms there are no legal agreements applying to the land restricting residential use to agricultural only.

Planning Considerations

The main planning consideration relates to the appropriateness of keeping or dispensing with the 1968 permission which restricted occupants of the existing Ivanda House to agricultural workers only. This was applicable at the time when the rest of the site operated as agricultural glasshouses. The glasshouses are not being retained as the rest of the site has a resolution to grant to develop for housing. Whilst planning permission has not yet been granted due to the need to complete a legal agreement, it is reasonable to assume that permission for housing would be forthcoming.

At the time the condition was imposed in the late 1960s, the development surrounding Ivanda Nursery would have been more rural and very different. As the town has expanded, the site is now within the settlement boundary, meaning that the principle of residential development has now been established.

There is therefore now no reason to retain the agricultural workers condition given that Ivanda House is to be sold off separately to the wider development site and the horticultural glasshouse use has ceased.

Conclusion

Using the site as a residential dwelling that is not in connection with the agricultural use now that the use has ceased is not considered to be an issue within a sustainable location, at the top of the settlement hierarchy in sustainability terms. There is no evidence to justify refusal of this application and it is considered acceptable that the condition can now be removed, and Ivanda House can operate as a conventional residential dwelling.

Recommendation

Grant permission to remove the agricultural workers condition.

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.