DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0112-24**	**Applicant:**	**Miss C Cragg & Mrs K M Thomas**
Proposal:	Bungalow and garage - approved under H16-0699-74 & H16-0275-75. Retention of Dwelling without Complying with Agricultural Habitation Clause - Condition 3 of H16-0699-74 & Condition 2 of H16-0275-75		
Location:	Bridge Lodge South Drove Pode Hole		
Terminal Date:	4th April 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	1	0	0

CASE OFFICER ASSESSMENT

Proposal

The application seeks to remove Condition 3 of planning permission H16-0699-74, which restricted the occupancy of the dwelling to a person employed or last employed in agriculture.

Site Description

The property is a detached bungalow located within the settlement of Spalding and Pinchbeck. The site is located on the eastern side of South Drove in Pode Hole, to the southern edge of the settlement. The immediate area is largely characterised by agricultural land, although to the north is the residential area of the settlement.

History

H16-0699-74 - Outline - Approved

H16-0275-75 - Planning - Approved

H16-0360-85 - Outline - Residential Dwelling - Approved

H16-0913-86 - Full - Residential Dwelling - Approved

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Ward Member Cllr D R Ashby

Fully support

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.

Evaluation

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.

In this case, the adopted 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 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

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

Planning Considerations

The proposal relates to the removal of condition 3 (agricultural occupancy condition), through seeking permission via a section 73 application. 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 condition 3 removed, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

As indicated in paragraph 47 of the National Planning Policy Framework, (December 2023), planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The property is within Spalding and Pinchbeck Settlement limit as defined within the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan is therefore applicable. It states that in Main Service Centres such as Spalding and Pinchbeck development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps to meet the service needs of other local communities.

There has been a change of circumstance since planning permission was granted for an agricultural dwelling in 1974 in the sense that the site is no longer in open countryside, but rather inside Spalding and Pinchbeck Settlement Limit. Any application for residential development in the present day would comply with Policy 1 of the SELLP on grounds of infill within Spalding and Pinchbeck settlement boundary. Consequently, an agricultural restriction can no longer be justified since its essential purpose is to restrict development in the countryside to that related to agriculture.

Conclusion

There has been a change of circumstance since the original planning permission (ref. H16-0699-74) because the property is now within Spalding and Pinchbeck Settlement limit as defined within the South East Lincolnshire Local Plan, 2019. Consequently, an agricultural restriction can no longer be justified. No objections are therefore raised to removal of condition 3 of planning permission ref. H16-0699-74.

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.