

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H16-0380-19 **Applicant:** Opperman Plants Ltd

Proposal: Discharge of Section 52 Agreement tying occupation of the dwelling 17A Mallard Road to an owner manager or employee of the horticultural unit (Planning Permission H16-1748-88)

Location: 17a Mallard Road And 15 Mallard Road Fulney Spalding

Terminal Date: 11th September 2019

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 2019

National Planning Policy Framework Feb. 2019.

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

Discharge of Section 52 Agreement tying occupation of the dwelling 17A Mallard Road to an owner manager or employee of the horticultural unit (Planning Permission H16-1748-88).

The Section 52 was signed and completed in 1989.

Site Description

The site is a bungalow built under an approval for an agricultural workers dwelling, associated with nurseries at Mallard Road, Fulney.

History

H16-1748-88

Consultation Responses

None received.

Planning Considerations

It is proposed under the associated application, H16-0379-19, that planning permission be granted for the removal of an agricultural occupancy condition (Controlled by Legal Agreement) on 17A Mallard Road (Condition 4 of H16-1748-88) and use of 15 Mallard Road as an agricultural dwelling.

The applicant sets out in the application submissions (supporting documents and plans) that this is because the semi-detached house is in occupancy by an employee now and better suits the needs of the business.

It is considered that if the employee is occupying the semi-detached house this is evidence that this suits their needs as an employee at the nurseries, and the property is better located, although this is marginal as both properties are in close proximity.

The applicants submitted a pre-application which was favourably received and which was given a positive response, this is evidenced in the application.

Conclusion

The result of approving the application is to maintain the status quo, the business would still have a property tied to the business under an agricultural condition, and there would be no net gain in any unfettered open market dwellings.

Therefore, the application to Discharge the 1989 S52 Agreement is recommended for APPROVAL.

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.