DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0448-25**	**Applicant:**	**Mr N Witteman**
Proposal:	Retention of dwelling without complying with agricultural habitation clause (Condition 4 of H16-0187-98)		
Location:	Witteman Nurseries South Drove Pode Hole		
Terminal Date:	8th July 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development
Section 4 - Decision-making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land

National Guidance

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	1	0	0

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent to remove condition 4 of permission H16-0187-98. Permission H16-0187-98 granted consent for a bungalow on 07 May 1998. The bungalow is located at Witteman Nurseries, South Drove, Pode Hole. Condition 4 restricts the occupation of the dwelling to an agricultural worker, or their widow, widower or dependents.

Site Description

The application site comprises a single storey bungalow and its associated curtilage on land at Witteman Nurseries, which is located to the west of South Drove.

The site is outside any defined settlement limits, as identified by the South East Lincolnshire Local Plan 2011-2036 (March 2019) and the accompanying policies map.

Planning History

H16-1229-88: (Outline Application) Demolish structure and store etc., to provide plot' for house and garage - approved 04 October 1988

H16-0187-98: (Full Application) Proposed bungalow - approved 07 May 1998

H16-0154-01: (Discharge of Conditions) Landscaping and brick details (conditions 2 and 5 of H16/0187/98) - approved 01 March 2001

H16-1218-08: (Full Application) Proposed extension to bungalow - approved 12 January 2009

Land to the west / rear of the site:

H16-1097-22: (Prior Approval) Conversion of existing agricultural building into 3 dwellings - withdrawn 05 January 2023

H16-0560-23: (Prior Approval) Change of use of an existing agricultural building into 3 1-bedroom dwellings under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 - approved on 14 August 2023

H16-0792-23: (Full Application) Demolition of Class Q consented agricultural buildings and the erection of three dwellings, associated hard and soft landscaping and creation of a re-wilding area - refused 12 February 2024

H16-0186-24: (Full Application) Demolition of Class Q consented agricultural buildings and erection of three dwellings, associated hard and soft landscaping and creation of a re-wilding area - resubmission of H16-0792-23 - approved 01 October 2024

Consultation Responses

Responses have been received from the below referenced consultees. The responses are summarised below, however, the responses can be viewed in their entirety on South Holland District Council's website.

Cllr D R Ashby: It's good that this parcel of land is finally being developed . This has been going on for too long.

Cllr M E Le Sage: No response received.

Public Representations

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

Development Plan

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 adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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, December 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

There are no adopted Neighbourhood Plans for the area within which the site is located.

Principle of Development

No operational development is proposed, and the application only seeks consent to remove condition 4 of permission H16-0187-98. The main consideration in this case is therefore whether there is sufficient justification to remove condition 4. The wording of condition 4 is as follows:

"The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, locally in agriculture as defined in Section 336 of the Town and Country Planning Act 1990, or a dependent of such a person residing with him, or a widow or widower of such a person.

Reason: The site is in a rural area where it is the policy of the Local Planning Authority not to permit residential development except in the interests of agriculture or where related to the use of the land. The circumstances of this case relate to an agricultural need, and permission is therefore confined to it."

The determination of the current application is based upon a consideration and assessment as to whether there are reasonable grounds to continue to impose the condition which forms the agricultural tie.

Within the Local Plan, there are no specific policies which clarify how proposals to remove agricultural worker conditions should be assessed. There are also no policies which specifically relate to agricultural worker dwellings. The Local Plan does however support appropriate rural development. New dwellings within locations such as the application site would not generally be supported in principle and should only be done so as an exception where there was a specific need for a dwelling within the site, such as the need for an agricultural worker to live on the site to support a rural business such as a farm or horticultural business. Similarly, the conversion of agricultural buildings to form dwellings is generally supported, provided the conversion is suitable. However, a market dwelling in this location would not be acceptable or in line with the Local Plan.

Paragraph 84 of the NPPF is relevant in this case as this sets out that planning decisions should avoid the development of isolated homes in the countryside unless certain criteria apply, for example there is an essential need for a rural worker (part a).

Delivering and retaining housing for agricultural workers within the countryside can therefore play an important role to help sustain rural businesses, agriculture and horticulture. It is assumed that the dwelling was originally intended to provide accommodation for employees or the business owners of the nursery business within the wider site. For example, this was the justification set out within the submitted planning statement for the application. None of the conditions refer to the nursery business though, and as such an agricultural worker could live within the dwelling even if they did not require use of the nursery business.

Removing condition 4 would mean that there would be a loss of one dwelling within the market for potential agricultural workers. It is therefore necessary to assess whether the proposed dwelling continues to be a suitable potential dwelling for agricultural workers, in terms of its location, functionality and its affordability. One way of assessing this is to establish if there is still a market demand for a dwelling with an agricultural occupancy condition. Typically, similar applications are supported by evidence to show how similar dwellings have been advertised to potential agricultural workers. Dwellings are typically advertised on the market for a period of 12 months. In this case, the planning statement sets out that the applicant does not think it is necessary to undertake a marketing exercise to advertise the house for potential buyers. No valuation information has been provided indicating the value of the dwelling, however, the dwelling could potentially be of interest to agricultural workers. It is considered that in the absence of a marketing exercise at a valuation that reflects the occupancy restriction, it is not possible to demonstrate that the condition is no longer necessary or reasonable. Furthermore, the applicant has failed to demonstrate why a departure from the Local Plan is warranted or justified in this instance.

According to the planning statement, the applicant considers that condition 4 is no longer necessary as Witteman Nurseries ceased to trade as a business several years ago following the retirement of

the occupiers. Whilst this opinion is noted, it is not shared by the LPA. The buildings associated with Witteman Nurseries such as the glasshouses are proposed to be demolished under permission H16-0186-24 as consent has been granted for three dwellings to replace the existing buildings within the site. The planning statement sets out within section 5 that this "will result in a separation of Title of the 'red-line' land described under H16-0186-24 from the application site area indicted in H16/0187/98".

For background context, prior approval consent was granted to change the use of an agricultural building within the site into three dwellings on 14 August 2023 under reference H16-0560-23. A full application was subsequently submitted and granted permission for three dwellings under reference H16-0186-24. The proposed dwellings were considered to comprise a more suitable design for the site that represented a betterment on the scheme that was approved under the prior approval consent.

It is therefore acknowledged that consent has been granted to erect three dwellings on land to the south-west, and that these dwellings will replace the existing glasshouses and horticultural buildings. However, permission H16/0187/98 was not tied to the nursery business and the wording of condition 4 relates to agricultural workers in general. As such, the dwelling could still serve agricultural workers as the condition is not only restricted to employees of Witteman Nurseries.

Furthermore, permission H16-0186-24 relates to land next to the current application site and the approval of three dwellings on this land does not automatically mean that it is no longer necessary for an agricultural worker's dwelling to be provided on land next to the site. It is therefore considered that a marketing exercise should be undertaken to establish if there is a need for an agricultural worker's dwelling within the site. If the property is advertised appropriately as an agricultural worker's dwelling and no buyers or tenants are found, then it could be appropriate to remove the condition as this would support the case that the condition would no longer be necessary.

The planning statement also refers to permission H16-0035-24, as an example application within which South Holland District Council determined that it was appropriate to remove an agricultural worker occupancy condition. Permission H16-0035-24 related to a dwelling at Ivanda Nursery, Monks House Lane, Spalding. The original permission for the dwelling was approved on 11 September 1968 under permission SU 159/68. The relevant agricultural occupancy condition was set out within condition 1 and the wording was similar to the wording of condition 4 of permission H16-0187-98. Since the original permission was granted consent under permission SU 159/68, the area around the site was granted consent for residential development and large areas to the north and south of the site now feature residential development. The area around the site therefore significantly changed since the original approval was granted in 1968. The reason for the agricultural occupancy condition was therefore no longer considered to be necessary as the site was no longer within a rural or isolated location. The site is also within the settlement boundary of Spalding, as identified by the Local Plan and the accompanying policies map.

The circumstances of the current application site are therefore different to the above referenced proposal. Although consent was granted to remove a similar agricultural occupancy condition under permission H16-0035-24, this does not automatically mean that it is appropriate to remove the condition 4 of permission H16-0187-98 in the absence of any discernible justification.

It is recognised that the settlement boundary for Spalding is located on the opposite side of South Drove Drain and land within this area is allocated for development. Notwithstanding this, the current application site is located outside any defined settlement boundary and is therefore within the countryside policy area. Consent would typically only be granted for a new dwelling in this area if one or more of the criteria of Paragraph 84 of the NPPF were addressed, and if the requirements of Policy 1 of the Local Plan were addressed. The site is located within a relatively rural area. There is a railway line to the north-west of the site and South Drove to the north-east. There is no footpath on South Drove and the site is not considered to be within walking distance of key services and facilities. There is a dwelling, Lakefield, located to the north-west of the site. The site is however otherwise mostly surrounded by agricultural fields other than sporadic dwellings located along South Drove. Due to the rural character of the area around the site and the more isolated position of the site, it is therefore considered that the current application site represents different circumstances to the site that was considered under permission H16-0035-24.

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.

In this case, it is considered that insufficient evidence has been provided to justify the removal of condition 4 of permission H16-0187-98. The proposed development would result in the loss of a potential dwelling for the use of agricultural workers. There could be benefits associated with the proposed addition of a market dwelling if there is no longer a need for agricultural workers to occupy the site. However, further evidence needs to be provided to demonstrate that this is the case, ideally through the marketing of the property to prospective agricultural workers. As such, the applicant has failed to demonstrate or justify why a departure from the Local Plan is warranted in this instance.

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

It is considered that insufficient evidence has been provided to justify the removal of condition 4 of permission H16-0187-98 contrary to the requirements of the SELLP.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused

under delegated authority.