DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H17-0554-22**	**Applicant:**	**J Smith**
Proposal:	Modification of 106 Agreement relating to occupation of dwelling (planning approval H17-0725-03)		
Location:	Smithfield Scoldhall Lane Surfleet		
Terminal Date:	22nd February 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing

National Guidance

National Planning Policy Framework 2021

2 - Achieving sustainable development
5 - Delivering a sufficient supply of homes

Representations:

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

CASE OFFICER ASSESSMENT

PROPOSAL

This is an application seeking modification of an 106 Agreement relating to occupation of dwelling (planning approval H17-0725-03) at Smithfield, Scoldhall Lane, Surfleet.

A Section 106 obligation between South Holland District Council and Mr and Mrs Stephen Hartfil is dated the 13th of July 2004. This agreement was attached to the full planning consent H17-0725-03 granted on 20 July 2004 for the erection of a new dwelling at Scoldhall Nursery, Scoldhall Lane, Surfleet. The schedules of the agreement covenant are that the dwelling should only be occupied by the owner or manager of the agricultural holding, and the development should remain part of the agricultural holding.

The submitted supporting information states: *"The agricultural holding was sold by Mr and Mrs Hartfill to the current owner, Jamie Smith, the business has developed over the years into a successful farm shop that has grown and will continue to be run by the current owners family. Part of the land to the north is to be sold off for commercial development and a new storage unit under planning reference H17-0005-21. Having been a family home, Mr and Mrs Smith are now on their own and the bungalow is too large for two people and the owners would like to downsize and sell the bungalow to a family that would appreciate the space and garden that goes with the bungalow. The original need to be on site to attend the agricultural land no longer exists and there are no security added risks by the owners of the farm shop no longer being on site."*

SITE DESCRIPTION

The dwelling is enclosed by Spalding Farm Shop to the south and derelict farm buildings to the north. Arable fields are located to the east and west. The site is bordered to the north and south by established hedging.

RELEVANT HISTORY

H17-1197-01

Outline - Erection of new dwelling (to replace mobile home) - Approved - 23 December 2002.

H17-0725-03

Full - Erection of new dwelling - Approved - 20 July 2004.

CONSULTATION RESPONSES

None

PLANNING CONSIDERATIONS

Given that the proposed modification is to modify an agreement relating to an agricultural holding that is no longer present, it is considered appropriate to do so. A deed of release was required to legally alter the Section 106 agreement. The deed of release was completed on the 28th of July 2022.

PLANNING BALANCE

The proposed amendments to the s106 agreement are considered reasonable and acceptable for the reasoning set out above.

CONCLUSION

This application 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.