DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H20-0065-21**	**Applicant:**	**Mr A F North**
Proposal:	Retention of Dwelling without complying with agricultural habitation clause (Condition 2 of H20-0204-85)		
Location:	Ashby Old Fendyke Sutton St James		
Terminal Date:	19th March 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy

National Guidance

National Planning Policy Framework 2019

Sections 2, 4 and 5

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

The application is to remove condition 2 of H20-0204-85 (agricultural occupancy condition).

Site Description

The property (bungalow) is located on the south-western side of Old Fendyke. It has a number of outbuildings at its rear. The nearest residential properties are bungalows to the north-west.

Relevant Planning History

H20-0204-85 - 1 no. proposed bungalow with garage including vehicular access, Old Fendyke, Sutton St James - Granted

Consultation Responses

Sutton St James Parish Council

Use should remain linked to the property to ensure it is affordable for future occupiers who choose to work in the agriculture industry.

Planning Considerations

As indicated in paragraph 47 of the National Planning Policy Framework, 2019, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The proposed development is outside a defined settlement limit within the South East Lincolnshire Local Plan, 2019. It is therefore within an area regarded as countryside. Policy 1 of the South East Lincolnshire Local Plan is therefore applicable. It states that development will be permitted in the countryside that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

In this case, permission was only granted because there was an essential agricultural need. Consequently, before approving an application to remove an agricultural occupancy clause, the Authority needs to be satisfied that there is no longer a demand for the property by the agricultural workforce.

The recommended procedure is contained within the Council's Policy Guidance Note entitled "Agricultural Workers' Dwellings and Occupancy Conditions". Essentially, the applicant needs to show that a genuine attempt has been made to sell the property "over a reasonable period of time" (usually a minimum period of 12 moths) at a value which reflects the existence of the occupancy condition.

The property is a detached bungalow on a spacious plot. Most of the land was sold in 2015 and the applicants now only retain approximately 5 acres (2 hectares). The property was marketed with Acorus from November 2019 to December 2020, initially at a guide price of £250,000 and subsequently reduced to £244,500. The agricultural occupancy condition was clearly emphasised throughout.

The agent has indicated that a direct marketing campaign was undertaken in the locality of the subject dwelling to ascertain if any potential demand existed. Three forms were returned, but neither party requested further details. Overall, limited interest was generated with two requests to view the property and no offers received.

It is considered that a genuine attempt has been made to sell the property over a reasonable period of time at a value which reflects the existence of the occupancy condition and that it has been satisfactorily demonstrated that there is no longer a demand for the property by the agricultural workforce.

Planning Balance

It has been satisfactorily demonstrated that there is no longer a demand for the property by the agricultural workforce. The proposal therefor complies with Policy 1 of the South East Lincolnshire Local Plan, 2019 and advice within the National Planning Policy Framework, 2019. There are no material considerations that outweigh factors in favour of the proposal.

Conclusion

That condition 2 of planning permission ref. H20-0204-85 be removed.

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.