

APPLICATION NO. : H22...0834...92.....

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Refusal of Planning Permission

Reference: H22/0834/92

Received:04-AUG-92 Type:SEC 73 MODIFICATION

Name: Mr I D Holmes & Mrs S J Holmes Agent: Messrs Maples & Son
The New Nursery Solicitors
Moulton Chapel Road 23 New Road
Cowbit, Spalding Spalding
Lincs, PE12 0XD Lincs

Description: Retention of dwelling without complying with agricultural clause on planning permission H22/0174/92.

Location : Moulton Chapel Road Cowbit
Spalding Lincs

South Holland District Council hereby gives notice that PERMISSION HAS BEEN REFUSED for the proposal, for the following reason(s):

- 1 The site is outside the confines of a settlement in an area of open countryside where it is the policy of the Local Planning Authority to permit new development only in exceptional cases where it is satisfied that there is a special need, particularly in connection with agriculture. In the opinion of the Local Planning Authority the circumstances of this case are not sufficient to justify permission, which would be contrary to Policy 7A of the Lincolnshire Structure Plan. This policy is in accordance with national planning policies as set out in Planning Policy Guidance Note No 7, 1992 (The Countryside and the Rural Economy) and is aimed at the conservation of agricultural land, the preservation of the character of the countryside, and the economic provision of services. In the opinion of the Local Planning Authority the granting of permission for the development as proposed would be harmful to the purposes of this policy, because as well as its individual effect on these issues, it would form a precedent for further similar proposals which would be difficult to resist.

Director of Planning and Building Control Services
20-JAN-93 H22/0834/92

This decision refers only to that required for the purposes of the Town and Country Planning Act and not for Building Regulations or any other legislation. See enclosed notes relating to rights of appeal.

[illegible]

21210

171/92	FULL	GRANTED
1030/91	COND COMP.	G
658/91	FULL.	G.
1267/90	FULL	REFUSED.
1663/89	RM	G.
744/89	OUT.	G.
INFILL PLOT.		

0203-41

PLANNING APPLICATION

For office use only

Application No. H22/0834/92

Date Registered 04 AUG 1992

1. Please complete in block letters

NAME AND ADDRESS OF APPLICANT

IAN DOUGLAS HOLMES and SARAH JUNE HOLMES
35 Beaufort Drive,
SPALDING,
Lincolnshire

Tel. No. 0775 712142

NAME AND ADDRESS OF AGENT

(if form completed by agent)

MESSRS. MAPLES & SON,
SOLICITORS,
23 NEW ROAD,
SPALDING, LINCOLNSHIRE

Tel. No. 0775 722261
(Personal contact name)

Please complete in block letters

FULL POSTAL ADDRESS OF THE APPLICATION SITE

MOULTON CHAPEL ROAD COWBIT SPALDING LINCOLNSHIRE

OFFICE
COPY

Please complete in block letters

DESCRIPTION OF PROPOSED DEVELOPMENT

Deletion of Condition 3 contained in Planning Permission H22/0174/92

Please complete

I attach

* Four copies of all plans

* an ownership certificate (see back page)

* a fee of £55.00 If you consider no fee is payable include a written explanation instead.

Signed.....

Date... 3.8.1992

Previous application No:

Please tick **one** box and answer the extra questions under that section.

2. TYPE OF APPLICATION

This is a **full** application for change of use and/or new building worksor This is an **outline** application

(✓)

☒


Now complete Parts
3, 4 and 5 and an
Ownership Certificate

☐


Please state Site Area

(Hectares)

Please tick **any** box where you are including details which you wish to be considered as part of this application.

Siting

☐

Design

☐

External Appearance

☐

Means of Access

☐

Landscaping

☐

Now complete Parts 3 and 5 and an Ownership Certificate.

or This is a **reserved matters** application.
☐


A. Please state Reference Number of outline permission.

B. Please state which reserved matters are dealt with in this application.

Now complete Part 4 only

or This is an application for **renewal** of temporary permission or **continuation** without complying with planning condition.
☐


A. Please state Reference Number of previous permission

B. Please state Condition Number referred to

Now complete an Ownership Certificate

or This is an application for **modification** of a condition on a planning permission which has not yet been implemented.
☒


A. Please state Reference Number of previous permission

B. Please state Condition Number referred to

C. Please state variation required

Now complete an Ownership Certificate

H22/0174/92

No. 3

Deletion

7. INDUSTRIAL, WAREHOUSING, OFFICES OR SHOPS Please complete

Please tick **one** box and complete B if necessary

A. The proposal does not involve any alteration in existing floorspace

☐

B. The proposal involves the creation of or an alteration in total **gross** floorspace

☐

Proposed total gross floorspace sq. m.

Previous total gross floorspace sq. m.

This new total includes the following net floorspace:

Retail sq. m.

Office sq. m.

Industrial sq. m.

Warehousing sq. m.

Other sq. m.

➡ If so, please state use:

How many office, industrial and other staff will be employed on the site as a result of the development proposed?
If you have existing premises on the site, how many of the employees will be new staff?

If you propose to transfer staff from other premises please give details of the numbers involved and of the premises affected.

Office staff

Industrial staff

Other staff

In the case of industrial development, give a description of the processes to be carried out and of the end products, and the type of plant or machinery to be installed

If the proposal forms a stage of a larger scheme for which planning permission is not at present sought, please give what information you can about the ultimate development

Is the proposal related to an existing use on or near the site?
If so, please explain the relationship

State Yes or No

☐

Is this a proposal to replace existing premises in this area or elsewhere which have become obsolete, inadequate or otherwise unsatisfactory?

If so, please give details including gross floor area of such premises and state your intentions in respect of those premises

State Yes or No

☐

What provisions have been made for the parking, loading and unloading of vehicles within the curtilage of the site? (Please show the location of such provision on the plans and distinguish between parking for operational needs and other purposes)

What is the estimated vehicular traffic flow to the site during a normal working day? (Please include all vehicles except those used by individual employees driving to work)

What is the nature, volume and proposed means of disposal of any trade effluents or trade refuse?

Will the proposed use involve the use of storage of any hazardous materials?

State Yes or No

☐

OWNERSHIP CERTIFICATES

PLEASE COMPLETE ALL THE
SECTIONS.

Use the notice at the bottom of the page only
when necessary.

1. APPLICANT'S INTEREST

Please state interest (e.g. owner, prospective purchaser)

2. OWNERSHIP OF THE SITE

This certificate is to make sure that the owners of land are aware of applications made on it.

If the applicant is the **sole owner of the whole site**, complete **Certificate A**.

In **any other case** (i.e. if the applicant is a prospective purchaser, or a tenant, or a joint owner, or the sole owner of only part of the site) then you must give notice to all other owners, and complete **Certificate B**. You can use the notice at the bottom of the form to send to the owner. (An "owner" is a person having a freehold interest, or having a leasehold interest where seven years or more remains unexpired). If you are unable to trace the owner, please contact the Planning Office.

Certificate A No person other than the applicant was an owner of any part of the land to which the application relates at the beginning of the period of 20 days before the date of the accompanying application.

Signed (Applicant/Agent) Date

Certificate B The applicant has given the requisite notice to all persons other than the applicant who were owners of any part of the land to which the application relates at the beginning of the period of 20 days before the date of the accompanying application.

State Name and address of owner:

State Date notice served:

HAROLD ATKIN HOLMES New Nursery

3.8.1992

Moulton Chapel Road Cowbit Lincs.

Signed (Applicant/Agent) Date ..3.8.1992.....

3. If the land is not in agricultural use, complete Certificate 1.

If the land is agricultural, but there is no agricultural tenant, complete Certificate 1.

If the site does relate to an agricultural holding, you must give notice to the tenant, and complete Certificate 2. (You can use the notice at the bottom of the form to send to the tenant).

Certificate 1 None of the land to which the application relates constitutes or forms part of an agricultural holding.

Signed (Applicant/Agent) Date ..3.8.1992.....

Certificate 2 The applicant has given the requisite notice to any other person who, 20 days before the date of the application, was a tenant of any agricultural holding any part of which was comprised in the land to which the application relates.

State Name and address of tenant:

State Date notice served:

Signed (Applicant/Agent) Date

NOTICE UNDER SECTION 27 OF TOWN AND COUNTRY PLANNING ACT 1971

Proposed development at

Take notice that application is being made to South Holland District Council by
for planning permission for

If you should wish to make representations about the application, you should make them in writing not later than 20 days from the date of service of this notice, to Chief Executive, South Holland District Council, Priory Road, Spalding, Lincolnshire.

TO BE COMPLETED
BY APPLICANT OR
HIS AGENT

Signed Date

ADMIN RECORD SHEET

Initial

Submitted Fee f

SS P1500

Receipt Issued

Date first Rec'd

04 AUG 1992

Registration

Reference

H22/0834/92

Cross-Ref

N/A

Date 5-8-92

Validation

TYPE MOD?

Earliest permission

Site area

No of dwellings

Floorspace

Description

Tech

Certificate
Site plans
Description

Accuracy
Incomplete form

Fees

Nil fee

Previous app
Type

Discounted fee

Correct fee

SS

Additional
Refund

Receipt
Issued

Information

Newbuild/Redevelopment/Change of use/Extension/Alteration/Works

Earlier permission Ref

RM

Previous
Current

Siting Design Ext app Access Landscaping

Index sheets 277

OS No's

Grid ref

527900 319000

Ward

X

Parish

LORESTON HILLS

TR Rural

TR Bypass

Level Cross

Footpath

CA

LB

TPO

Inside IBD

NO

Inside LP area

NO

Linked to site

Ref 718

Linked to property

Ref

Planning Records:

Earlier apps

174/92

655/91

1267/90

1030/91

B Reg Records:

Already submitted - Ref

Request

Requested

DC RECORD SHEET

APPLICATION REF:

Directions

Art 7 (Outlines)

RM checklist

Previous
Current
Required

Siting Design Ext app Access Landscape

Reg 4

Scale drawing

Highway S/W

Agric appraisal

Other

Precise details,
for non-standard
direction:

Senior Officer authorised:

.....

Sent:

.....

Revalidation after Direction

Information satisfactory/unsatisfactory

Signed:

Further direction:

Precise details:

Amended description:

New valid date:

Consultation/Publicity Required

Page 8

21/6/8

Requested

Sent

Extra Publicity:

Departure

.....

.....

Setting of LB

.....

.....

Public Right of Way

.....

.....

Discretionary

.....

.....

Extra Consultations:

Dept of Transport

.....

.....

Environmental Serv.

.....

.....

LB/Cons. Area - Local

.....

.....

- Local & National

.....

.....

- English Heritage

.....

.....

Consultant: Name.....

.....

Order No

Other:

.....

.....

Case Officer

13/5

Recorded on board:

6/8

APPLICATION ASSESSMENT

Notes for Case Officer

Site Inspection

Accuracy

Neighbours

Boundaries

Site features

Other

Inspected by *PA1* ~~11-8~~
Date *11-8*

Notice posted by *PD1*
Date *11-8*

Resident Notices required *Na*

Sent

Delivered

Case Officer Conclusions

Site adjacent pair of cottages, open fields to rear of site, new dwelling to W. Farm road opposite, new dwelling further East over to some land, garden not laid out & poss empty has been to site, but land recently used according to neighbour

RECOMMENDATION

COMMITTEE ☒

Departure from Policy *.....*

Ward Member request *.....*

Recommend approval against material objection *.....*

Other circumstance viz: *.....*

Change to Committee recorded

DELEGATED

Case Officer *.....*

Senior Officer *.....*

Case Officer Recommendation

Approve

Refuse

Signed *.....*

Conditions/Reasons
(continue overleaf)

Notes to applicant

Disabled
Outstanding RM
Amended plans

South Lincolnshire Health Authority

1/15/93

HEALTH CLINIC, PARK ROAD, HOLBEACH, LINCS. PE12 7EE.

Telephone: (0406) 22658

Mr. Udy?

Housing Manager,
South Holland District Council,
The Priory,
SPALDING,
S. Lincs.

ref: LS/MSF

26th January 1993

Dear Sir,

re: The Holmes Family, New Nursery, Moulton Chapel Road
Cowbit, Nr. Spalding. PE12 0XD.

I am writing on behalf of the above family, as I believe you are aware of the circumstances regarding their current accommodation.

I would appreciate your priority consideration for the allocation of alternative accommodation.

Conditions are somewhat cramped within their caravan and whilst raising two young children, both at toddler stage, increasing mobility results in accidents.

As I cannot stress enough the importance of preventative care for young children with regard to accidents, I also consider the cramped conditions a contributory factor.

Thank you for your assistance; I look forward to hearing from you in the near future.

Yours faithfully,

Linda Scott

Linda Scott (Mrs.)
Health Visitor

c.c. Mr. & Mrs. Holmes

834/92 file

S.H.D.C. PLANNING DEPT. RECEIVED 29 JAN 1993	
Attention/Of	Date Recd.
DPO N/A	Copy to Housing
DOPO ES	
JC ACP	
Action by	Acknowledge YES/NO
Discuss with	By
Copy to	Date

29/1

Mrs Holmes Saw PJ4 25-1-93

Decision was to refuse, will have been sent
to Mayles.

Advised my course of action was to appeal to
S.C.S.

Town and Country Planning Act etc

DRAFT DECISION

Reference: H22/0834/92

Received:04-AUG-92 Type:SEC 73 MODIFICATION

Name: Mr I D Holmes & Mrs S J Holmes Agent: Messrs Maples & Son
The New Nursery Solicitors
Moulton Chapel Road 23 New Road
Cowbit, Spalding Spalding
Lincs, PE12 OXD Lincs

Description: Retention of dwelling without complying with agricultural
clause on planning permission H22/0174/92.

Location : Moulton Chapel Road Cowbit
Spalding Lincs

South Holland District Council hereby give notice
that permission has been granted/refused etc
on the following conditions/reasons:

- 1 The site is outside the confines of a settlement in an area of open countryside where it is the policy of the Local Planning Authority to permit new development only in exceptional cases where it is satisfied that there is a special need, particularly in connection with agriculture. In the opinion of the Local Planning Authority the circumstances of this case are not sufficient to justify permission, which would be contrary to Policy 7A of the Lincolnshire Structure Plan. This policy is in accordance with national planning policies as set out in Planning Policy Guidance Note No 7, 1992 (The Countryside and the Rural Economy) and is aimed at the conservation of agricultural land, the preservation of the character of the countryside, and the economic provision of services. In the opinion of the Local Planning Authority the granting of permission for the development as proposed would be harmful to the purposes of this policy, because as well as its individual effect on these issues, it would form a precedent for further similar proposals which would be ~~more~~ difficult to resist.

12-JAN-93

AD check.....*Ad 13/1*

Authorised to issue (inc Delegation).....*M. 14.*

BRIAN SMITH Dip TP MRTPI
Director of Planning & Building Control Services
Planning & Building Control Department,
Council Offices,
Priory Road, Spalding,
Lincolnshire. PE11 2XE
Telephone: (0775) 761161
Fax: (0775) 710772

Cam



Application no: H22/0834/92

Type: SEC 73 MODIFICATION

Applicant: Mr I D Holmes & Mrs S J Holmes Agent: Messrs Maples & Son
Tel: 0775 712142 0775 722261

Description: Retention of dwelling without
complying with agricultural
clause on planning permission
H22/0174/92.

Location: Moulton Chapel Road
Cowbit
Spalding
Lincs

Valid date: 04-AUG-92

Terminal date: 29-SEP-92

Target dates:

Target Committee: 15-SEP-92

To case officer 09-AUG-92

Report deadline: 01-SEP-92

Inspected by 14-AUG-92

Extra contacts 19-AUG-92

Case Officer:

Report if not clear by 08-SEP-92

P J UDY

DEVELOPMENT/CONSTRAINTS

Size:

Category: Misc works

Listed building:

Conservation Area:

CONSULTATIONS CARRIED OUT

		Sent	Expiry
Clerk to Weston PC	0406 370669	07-AUG-92	21-AUG-92
Cllr T Barker	0406 380787	07-AUG-92	21-AUG-92
Site/Press Advert MIN		11-AUG-92	04-SEP-92

2 CC - No objection for 13/8/92

*Suggest not in interest
buildings around
Phase 12-8.
Local comp/Local
need*

SITE DETAILS

Grid ref: 527300 318080
OS Sheets: 277

Parcel:

834/92

Refuse Permission as per attached
atc report.

DO NOT ISSUE UNTIL MINUTES
AVAILABLE TO CONFIRM DECISION.

PON 6-1-93

Minutes
confirm
refused
AS.

POST COMMITTEE NOTES:

PLANNING COMMITTEE: (DATE) ...5TH JAN'93...

OFFICER DEALING: ...DPBCS...

AGENDA ITEM NO:4.....

AG. HAB. REPORT

THERE ARE A NUMBER OF CHANGES
TO THE RECOMMENDATIONS - AWAIT DRAFT MINUTES.

ON THE APPLICATIONS: -

H23/200/91 — AS RECOMMENDED DG.
I. C. LAXTON.

H22/834/92 — AS RECOMMENDED. PJU
HOLMES.

H09/424/92 — AS RECOMMENDED. DG
FOWLER

PLANNING COMMITTEE - 5th January, 1993

PLANNING APPLICATIONS. (Continued).

(i) Application Not Determined

The Director of Planning and Building Control Services reported that an appeal had been received relating to the non-determination of the following application. In order to formulate the Council's case at appeal the Director of Planning and Building Control Services submitted a report on the application, and it was agreed that, if the application had been considered, planning permission would have been refused in accordance with the recommendation of the Director of Planning and Building Control Services:-

<u>Plan No. and Applicant</u>	<u>Proposal</u>
H20/0853/92 Kings Quality Homes (O.A. denotes outline application.)	Residential development (7 bungalows and 58 houses) at Chapel Gate, Sutton St James.

3. **AGRICULTURAL/HORTICULTURAL HOLDINGS - AGRICULTURAL HABITATION CONDITIONS/PLANNING OBLIGATIONS**

The Director of Planning and Building Control Services submitted a report outlining the circumstances in which agricultural occupancy conditions were imposed on planning permissions for dwellings in the open countryside, and the circumstances whereby applicants for dwellings on agricultural/horticultural holdings were required to enter into planning obligations under the provisions of section 106 of the Town and Country Planning Act 1990 to tie occupancy of the dwelling to the holding. Recently, a number of applicants had been unable to obtain the necessary finance to erect properties granted planning permission subject to agricultural habitation conditions/planning obligations, as lending institutions appeared reluctant to support this type of business initiative in the current recession and several applications had been received for the relaxation of such obligations or the removal of the conditions. Members were therefore invited to consider whether the Council's existing policies should be reviewed.

With regard to planning obligations, Members were advised that the imposition of various alternative restrictions on development in the open countryside had been considered during the preparation of the report, but none had proved suitable. On a number of occasions in the past, however, where evidence supporting an application had been inconclusive, the authority had granted permission for a caravan or other temporary accommodation on the site to allow sufficient time for the viability of the proposed agricultural/horticultural business venture to be clarified and it was suggested that this should be adopted as the Council's policy, on the basis that permission would ultimately be granted for a permanent dwelling if the venture proved to be viable, with the granting of successive extensions to a temporary permission being avoided where possible. If the viability of the business resulted in an application for a permanent dwelling on the site, however, the applicant might still be required to enter into an appropriate planning obligation.

RESOLVED:

- a) The Council's current policy as set out in its policy advice note "Dwellings in the Open Countryside" be reaffirmed and the policy of imposing agricultural occupancy conditions or other appropriate occupancy conditions on planning permissions for new dwellings in connection with agriculture or other essential and specific uses of land be continued;

PLANNING COMMITTEE - 5th January, 1993

3. AGRICULTURAL/HORTICULTURAL HOLDINGS - AGRICULTURAL HABITATION
CONDITIONS/PLANNING OBLIGATIONS (Continued)

- b) That dependent upon the circumstances of an application, the Council will continue normally to require an applicant to enter into a planning obligation under the provisions of Section 106 of the Town and Country Planning Act 1990 requiring a proposed dwelling and business site to be retained and operated as one unit;
- c) In view of the experience gained in dealing with this type of business enterprise, coupled with the continued requests for the subsequent relaxation of agricultural occupancy conditions/planning obligations, prior to making a decision to grant permission, applicants be provided with a copy of the likely terms of a planning obligation, and asked to submit independent confirmation that funding for the proposed development would be available on that basis;
- d) In the case of an applicant seeking to establish a new agricultural/horticultural enterprise, and where the evidence supporting such an application is inconclusive, consideration be given to granting temporary planning permission for a residential caravan or other temporary accommodation on the site to allow sufficient time for the viability of the enterprise to be clarified, in such circumstances a permission of no more than two years to be granted unless it can be demonstrated that a longer period is essential;
- (e) In considering applications for temporary accommodation, the Council will normally not grant successive extensions to a temporary permission nor grant permission in locations where a permanent dwelling would not usually be permitted;
- (f) Before granting permission for a permanent dwelling, the Council will need to be satisfied, and it will need to be confirmed independently of the applicant, that the enterprise is viable and sustainable in the longer term, and any independent adviser should bear in mind that the advice will not only be in support of the application, but will also be used, and may be relied upon, by the authority in assessing the application and great care should therefore be taken;

PLANNING COMMITTEE - 5th January, 1993

3. AGRICULTURAL/HORTICULTURAL HOLDINGS - AGRICULTURAL HABITATION CONDITIONS/PLANNING OBLIGATIONS (Continued)

- (g) The Council's advice note to applicants be amended to take account of the above, and applicants be advised to bring the Council's policy and advice to the notice of any relevant financial institution before submitting an application; and
- (h) The Director of Planning and Building Control Services be authorised to consult with the various lending institutions and the National Farmers Union regarding the inability of applicants to obtain the necessary funding in some instances.

(Councillors B Chappell and J A Dobney declared indirect interests in the above item, and left the Council Chamber during consideration thereof.)

(Councillor B J Davies left the meeting during consideration of the above item.)

4. LITTLE LANE, WHAPLODE - APPLICATION FOR RELAXATION OF SECTION 106 AGREEMENT (609/92)

Further to minute 3/93 above, the Director of Planning and Building Control Services reported an application for the relaxation of an agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 which tied occupation of a proposed dwelling at Little Lane, Whaplode to the agricultural/horticultural holding of which it formed an integral part, following the applicants' inability to secure financing for the proposed development.

RESOLVED:

- a) That in respect of the current planning permission H23/0200/91, as the development of the site should not be divorced from the requirements of the Section 106 Agreement, the application be refused; and
- b) The applicants be advised of the possible alternative courses of action, outlined in the report of the Director of Planning and Building Control Services, which could form the basis of subsequent planning applications and that the authority would consider such applications, if submitted, in the context of its planning policies and advice to applicants.

5. MOULTON CHAPEL ROAD, COWBIT - APPLICATION FOR RETENTION OF DWELLING WITHOUT COMPLYING WITH AGRICULTURAL CLAUSE ON PLANNING PERMISSION H22/0174/92

Further to Minute 3/93 above, the Director of Planning and Building Control Services submitted a report outlining an application for the retention of a dwelling at Moulton Chapel Road, Cowbit without complying with the agricultural condition on planning permission H22/0174/92.

PLANNING COMMITTEE - 5th January, 1993

5. MOULTON CHAPEL ROAD, COWBIT - APPLICATION FOR RETENTION OF DWELLING WITHOUT COMPLYING WITH AGRICULTURAL CLAUSE ON PLANNING PERMISSION H22/0174/92 (Continued)

RESOLVED: Permission be refused in accordance with the recommendation of the Director of Planning and Building Control Services.

6. FROSTLEY GATE, HOLBEACH FEN - APPLICATION FOR RELAXATION OF PLANNING OBLIGATION

The Director of Planning and Building Control Services submitted a report outlining the circumstances whereby a request had been received for the relaxation of a Planning Obligation relating to a dwelling at Frostley Gate, Holbeach Fen, the subject of planning permission H09/0424/92.

RESOLVED: The applicant be advised that the Council is mindful to release the property from the restrictions contained within the Planning Obligation subject to a report being submitted on behalf of the applicant by an independent, suitably qualified and experienced adviser regarding the continued viability and sustainability of the enterprise, and to such report being confirmed.

7. REGIONAL RECREATION STRATEGY REVIEW

The Director of Planning and Building Control Services reported receipt of the East Midlands Regional Council for Sport and Recreation Consultation Brief, which aimed to provide a strong vision and clear direction and framework for the planning and development of sport in the East Midlands region. There appeared to be no matters which required a response from a town planning point of view.

RESOLVED: The report be noted.

8. TOURISM - PLANNING POLICY GUIDANCE NOTE 21

The Director of Planning and Building Control Services reported that the Department of the Environment had recently issued a planning policy guidance note entitled "Tourism" which outlined the economic significance of tourism and its environmental impact, and its importance in land use planning.

RESOLVED: The report be noted.

9. LONG SUTTON CONSERVATION AREA - PROPOSED EXTENSION

The Director of Planning and Building Control Services submitted a report outlining proposals for the possible extension of the Long Sutton Conservation Area.

RESOLVED: a) The Long Sutton conservation area be extended in accordance with the plan attached as appendix A to the signed minutes;

SOUTH HOLLAND DISTRICT COUNCIL

4

REPORT TO: THE PLANNING COMMITTEE 5TH JANUARY 1993

BY: THE DIRECTOR OF PLANNING AND BUILDING CONTROL
SERVICES

1.0 SUBJECT: PROPOSALS TO DEVELOP AGRICULTURAL/HORTICULTURAL HOLDINGS: IMPLICATIONS ARISING FROM THE IMPOSITION OF AGRICULTURAL OCCUPANCY CONDITIONS AND SECTION 106 PLANNING OBLIGATION AGREEMENTS.

PURPOSE: To review the reasons for the imposition of agricultural occupancy conditions/S106 Planning Obligations in the light of requests from applicants to be released from such conditions/agreements and to determine the requests submitted.

PART A

1.1 Policy Background

1.2 The determination of an application for the erection of a dwelling in connection with a farm/horticultural holding is assessed within the context of the primacy of the approved Structure Plan Policy i.e. Policy 7A (Dwellings in the Open Countryside) and the advice contained in Planning Circular 1/85 "Planning Conditions" and Planning Policy Guidance Note No.7 - "The Countryside and the Rural Economy".

1.3 Essentially, the objectives of the strategic planning policy and the advice from the Department of the Environment is to safeguard the open countryside whilst at the same time recognising that there may be on occasions an essential and overriding need to house employers/employees near to their place of work.

1.4 In assessing individual proposals therefore, the question of whether it is essential in a particular case will depend upon the needs of the farm or horticultural enterprise concerned, and not on the personal preferences or circumstances of any of the individuals involved. To do otherwise could be held to be maladministration on the part of the Council.

1.5 It is important to establish that proposals are genuine; are reasonably likely to materialise, and are capable of being sustained for a reasonable period of time.

- 1.6 It is also reasonable to consider not only the functional requirements of an enterprise as it exists at present, but also its likely future requirements, provided there is clear evidence of a firm intention and ability to develop the business concerned.

2.0 Financial Test

- 2.1 It has been found appropriate also to request a business plan to provide further evidence of the genuineness of the stated intentions to engage in the proposed business, or in support of the size of dwelling which the business unit can sustain. This is of particular importance where the application for a dwelling relates to the intention to set up a completely new farm business, or where an application relates to an existing farm business, and is associated with a major change in the nature or scale of the business. In both situations, significant investment in new farm buildings is often a good indication of intentions.

3.0 Sustainability of a Proposed Enterprise

- 3.1 There have been cases where there is uncertainty about the sustainability of an enterprise, and the Council have in some instances granted permission for the provision of a caravan or other temporary accommodation on the site to allow time for such prospects to be clarified. In those cases Authorities are expected to normally work on the basis that it will be translated into a permanent dwelling if the agricultural unit proves viable.

4.0 Agricultural Occupancy Condition

- 4.1 The imposition of the agricultural occupancy condition, is to ensure that the dwelling is kept available to meet the needs of other farm or horticultural businesses in the locality if it is no longer needed by the original business, thus avoiding a proliferation of dwellings in the open countryside. However, many of the applications submitted in South Holland are specifically related to a particular and relatively small land holding. Indeed, in certain circumstances, the local planning authority can impose the occupancy condition not only on the dwelling which is itself the subject of an application, but also on any existing dwellings on the unit which are under the control of the applicant, and which do not have occupancy conditions, but need at the time of the application to be used in connection with the enterprise. In some instances the potential for adverse environmental consequences affecting the amenities of a dwelling because of its proximity for example to part of the farming enterprise, e.g. crew yard may only be justifiable where its occupation is restricted to an employer/employee.

5.0 Scale of Proposals in the District

- 5.1 Table 1 below summarises the total number of applications submitted for the erection of agricultural dwellings between January 1984 and November of this year. On the basis of those figures, the average annual rate of submission is approaching 60 applications, and it is reasonable, therefore, to assume that since 1974 the number of applications submitted and determined is in excess of 1,000.

Table No.1:- Total number of applications for Agricultural Dwellings
January 1984 - November 1992

(1)	Applications granted permission	342
(2)	Applications refused permission	124
(3)	Total applications received	466

- 5.2 On the basis of the figures in Table II there would appear to be on average some 20 applications per annum submitted. Local planning authorities generally are advised also that applications for the removal of occupancy conditions should be considered on the basis of realistic assessments of the continuing need for them, bearing in mind that it is the need for a dwelling for someone solely, mainly or last working in agriculture in as a whole, and not just on the particular holding that is relevant.

Table No.II:- Applications for the removal of the
Agricultural Occupancy Condition 1989 -1992

(1)	Permission granted	37
(2)	Permission refused	43
	Total applications	80

6.0 Section 106 Planning Obligation (formerly Section 52 Agreement)

- 6.1 The information in Table III attempts to categorise the number of applications determined between 1989 and 1992 in order to illustrate the apportionment of those which are subject to a legal Agreement, and by contrast, to identify the reasons why others are not.

Table No. III:- Applications for Agricultural Dwellings Types of Decisions 1989 - 1992

(1)	Planning permission and legal Agreement	49
(2)	No legal Agreement:	
	(i) Contrary to DPBCS' recommendation	16
	(ii) Holding already established	9
	(iii) Not imposed on outline application	5
	(iv) Separate from holding	1
	(v) Separate for each application	9
	Total Applications	89

- 6.2 It is the accepted practice and policy of this Council to impose the agricultural occupancy condition and where appropriate to require the applicant to enter into an appropriate Planning Obligation (previously known as a Section 52 Agreement). The latter requirement is to tie the farmhouse to the holding and to prevent it being sold off separately and discreetly, the consequences of which may be firstly to seek to benefit unfairly from the original reason for obtaining permission, and secondly give rise to applications for additional dwellings thus leading to a proliferation of dwellings in the open countryside. The evidence available (and certainly since 1984) confirms that the implementation of this policy practice has been both widespread, consistent and discriminating depending on the type of proposal put forward.

7.0 How Necessary is the Requirement for a Planning Obligation?

- 7.1 The justification for a Section 106 Agreement lies in the fact that if permission for a new dwelling was in the first place dependent upon the viability of a particular area of land and the way that it is proposed to work it, then the disposal of any part of that land separately could prejudice the continuance of the holding or planning unit upon which the special justification has been placed. Secondly in certain circumstances the separation of the holding from the dwelling can lead to an application for a further dwelling and the derestriction of the original dwelling. The intention of such

an Agreement is, therefore, related to the use of land and to the development permitted. In other words, the purpose is to require that the house and land holding remains one unit unless otherwise agreed by the Council, and to prevent the unnecessary proliferation of dwellings in the open countryside.

7.2 The Chancery Division of the Courts has upheld this form of agreement (e.g. Good and Another vs Epping Forest District Council (1992)) The Court found that the obligations satisfied the basic test, and that the Council had not been activated by a "non-planning consideration", and neither was it acting contrary to public policy.

7.3 It should also be noted that although a Section 52 Agreement provided no appeal to the Secretary of State, that is no longer the case under the new provisions amended by the Planning and Compensation Act 1991, which establishes rights of appeal against a new Section 106 Planning Obligations after they have been in force for a minimum period of five years.

8.0 Conclusions

8.1 The analysis of the different types of decisions made by the Council as summarised in the tables to this report, not only demonstrates that there are different types of applications submitted, but that some of the decisions also reflect that, where appropriate, the Council have seen fit to interpret the circumstances of an application and the emphasis which needs to be applied to the planning considerations differently to the professional advice. It should be pointed out however that those decisions are made at the time of the initial planning application be it an outline application, or a full application.

8.2 It is clear that the requirement for an applicant to enter into a Planning Obligation (formerly a Section 52 Agreement) has been the consistent policy of the District Council since January 1989, and that for a local planning authority to require such an Agreement is pertinent to a proper planning purpose in relation to the objectives of the planning legislation and planning policy.

8.3 In cases where there is evidence supporting an application is inconclusive, perhaps because there is uncertainty about the sustainability of a proposed enterprise, the Council have on occasions granted permission for the provision of a caravan or other temporary accommodation on the site to allow time for such prospects to be clarified.

8.4 However, the Council is also aware how unsatisfactory it can be to grant successive extensions to a temporary permission, and consequently in considering applications for temporary accommodation, such permissions should normally work on the

basis that it will be translated into a permanent dwelling if the agricultural unit proves to be viable.

8.5 However, to date, this approach has not been seen as a consistent policy attitude by the Council, but given the present economic situation, and the assumption that it is likely to continue for some time, then such an approach may have much to commend it as a policy for adoption by the Council. It may be put forward also to an applicant as an alternative to enter into a Planning Obligation at that time, although ultimately, even if the situation materialised into a need for a permanent dwelling on the site, the applicant's willingness to enter into an appropriate Planning Obligation may still be a necessary prerequisite to the granting of permission for a dwelling.

8.6 The operational experience of the Council in dealing with the circumstances of various applications also shows that overall, it should be the requirements of the commercial enterprise rather than of the owner or occupier which are relevant to determining whether or not a new dwelling is justified. The impact of the cost of the dwelling upon the sustainability of the enterprise and the relative importance of it in that equation has given a particular significance of late from those applicants who have subsequently sought mortgage facilities.

8.7 The response from the various lending institutions to the existence of the Planning Obligation confirms that the circumstances of the current recession are affecting the willingness or otherwise of such institutions to advance mortgage facilities, especially in terms of a residential mortgage, although a commercial mortgage may be possible from some, but it is unlikely to prove attractive to some applicants in view of the high interest rate and loss of tax relief. Notwithstanding such difficulties there is evidence that at the present time the lending institutions are very reluctant to support this type of business initiative given the restrictions and the current recession. However, given the currency of a planning permission the development if implemented will be there for a very long time, consequently, notwithstanding the recession and the apparent difficulties of some applicants, such difficulties must be seen as a temporary phenomenon, relevant but not a planning issue.

9.0 RECOMMENDATION

- (1) That the Council's current policy as set out in its Policy Advice Note "Dwellings in the Open Countryside" be reaffirmed and that it will continue to be the policy of the Council when granting planning permission for new dwellings in connection with agricultural/horticultural or in connection with other essential and specific uses of land to impose either

an agricultural occupancy condition, or another occupancy condition appropriate to the use proposed.

- (2) That dependant upon the circumstances of an application, the Council will normally require the applicant to enter into a Planning Obligation under Section 106 of the Planning and Compensation Act 1991 requiring the proposed dwelling and business site to be retained and operated as one unit. (The experience which has been gained in dealing with this type of business enterprise where the majority of applications envisage a permanent new dwelling as part of the development, coupled with the continued requests for the subsequent relaxation of the agricultural occupancy condition, let alone a Section 106 Agreement, suggests prior to making a decision to grant permission, the applicant should be provided with the copy of the likely terms of a Section 106 Agreement and asked to submit independent confirmation that a Mortgage will be offered on that basis).
- (3) That in the case of an applicant seeking to establish a new enterprise, and where the evidence supporting an application is inconclusive, the Council may be prepared to grant permission for the provision of a caravan or other temporary accommodation on the site to allow time for such proposals to be clarified. In those circumstances the permission is not likely to be granted formally for more than a period of two years, unless it can be demonstrated that a longer period is essential.
- (4) In considering applications for temporary accommodation, the Council will normally not grant successive extensions to a temporary permission nor grant permission in locations where they would not permit a permanent dwelling.
- (5) That before granting permission for a permanent dwelling, the Council will need to be satisfied and for it to be confirmed independently of the applicant that the enterprise is viable and sustainable in the longer term.
- (6) That the Council's Advice Note to applicants be amended accordingly and that applicants be advised to bring to the notice of any financial institution which may be involved, the Council's policy and advice on those matters before submitting an application.

PART B

- 10.1 The applications referred to below have been determined subject in all cases to the agricultural occupancy condition and in the case of two of them to a Section 106 Agreement.

:: The details of the applications are set out in the copies of the original reports considered by the Committee, and in the case of H23/0200/91 a subsequent report is also enclosed. All three applicants have made representations to the Council in respect of the impact of the occupancy condition/Section 106 Agreement upon their ability to obtain satisfactory mortgage facilities. Any further observations and recommendations are set out below.

(1) Application No. H23/0200/91

Applicant: Mr. and Mrs. I. C. Laxton.
 Development: Erection of bungalow and nursery off Little Lane, Whaplode.
 Date of
 Permission: 26th November 1991.

Observations

- (i) The applicants' situation was first reported to the Committee in August of this year, and a copy of that report is attached. Subsequent to the Committee's decision to defer the matter, and following a meeting with Mrs. Laxton and subsequent correspondence, the applicants have written to advise that the Banks are not willing to co-operate further in this matter. The applicants feel that the situation is made worse by the fact that they are first-time buyers. Mr. Laxton works for a major agricultural business and has done so for the last 20 years, whilst Mrs. Laxton was born opposite the site which has been in the family since 1936. The applicants' concern is that if the situation is not resolved, then they may have to retire from farming (trading as H. D. Congreve & Partners) which is an indigenous part of their life.
- ::
- (ii) It is also a fact that the financial institution approached has not responded to our letter of enquiry.
- (iii) Given the circumstances of the application, including the occupation by the applicants of a tied cottage, and the advice from ADAS which identifies H. D. Congreve & Partners as the principal trading company which, with the exception of the 2.85 acres owned by the applicants, securely occupies the remaining 20.4 acres, it may be appropriate to the present proposal for an application to be submitted on behalf of H. D. Congreve & Partners, or alternatively if it is the intention of the applicants to establish an independent facility to consider applying for temporary accommodation in connection with establishing such a holding.

(iv) Recommendation

- (a) That in respect of the current planning permission, the development of the site should not be divorced from the requirements of the Section 106 Agreement.
- (b) That the applicants be advised of the possible alternative courses of action which could form the basis of respective planning applications and that the Council would be mindful to consider such applications if submitted in the context of its planning policies and advice to applicants.

As per

(2) Application No. H22/0834/92

Applicant: Mr. I. D. Holmes and Mrs. S. J. Holmes
Development: Retention of dwelling without complying with the agricultural occupancy condition, Moulton Chapel Road, Cowbit.

Date of
Permission: 26th September 1991

Observations

- (i) The circumstances of the applicants' situation were set out in the report to the Committee on the 7th October (copy attached).
- (ii) The circumstances of the application are already set out in the report, including the agricultural justification for the application. Notwithstanding the proximity of the site to adjoining dwellings, the site clearly forms part of an agricultural holding on which basis permission was granted for the principal dwelling on the holding and the circumstances of the application do not justify a departure from the present policy.
- (iii) It has been suggested that given the number of existing dwellings adjoining and along Moulton Chapel Road in that locality, that there is a case for pursuing the Council's policy with a view to identifying a boundary of development.
- (iv) In my opinion, if that is supported by the Committee it be considered within the context of the draft District Plan, upon which the Parish Council and the general public will in due course be consulted during 1993.
- (v) In the circumstances, therefore, I believe the recommendation on the last report to the Committee remains an appropriate one.

(vi) Recommendation

That permission be refused in accordance with the recommendation as set out in the attached report.

As Lee

(3) Application No. H09/0424/92

Applicant: A. & J. Fowler
Development: Proposed dwelling off Frostleygate,
Holbeach Fen.
Date of
Permission: 18th August 1992.

Observations

- (i) The applicants' Solicitors have written to the Council enclosing a letter from the applicants' Building Society dated 10th November 1992, who have advised as follows:-

"I write to advise you that due to a Section 106 restriction applied to the above property, the Society is unable to proceed with the above mortgage application. I would also point out that the Society would not be able to proceed with the purchase based on a commercial basis."

- (ii) The applicants' Solicitors also confirm that the applicants have approached a number of lenders who have responded in similar terms. They therefore request that the Council be prepared to release the property from the provisions of the Agreement, on the basis that the agricultural restriction is still in force.

- (iii) The circumstances of this particular application are that the dwelling is virtually completed and my understanding is that the original offer from the Building Society was based on a residential property, the true facts of which were subsequently revealed when their attention was drawn to the Section 106 Agreement by which time the construction of the property was well advanced, having been funded by the applicant through his own income derived from his business, and the earlier disposal of his former dwelling.

- (iv) Notwithstanding the way in which the applicant has subsequently managed the situation, it is a fact that as the contents of the earlier report confirms, the applicant had established the enterprise on site on the basis of the earlier grant of permission for the mobile home. The report from ADAS supported the enterprise and the initial approach was consistent with the initiative to establish the holding before

seeking permission for a permanent dwelling. In the circumstances it may be appropriate on this occasion to consider, subject to confirmation from an independent adviser, releasing the applicant from the terms of the Agreement.

(v) Recommendation

That given the circumstances of the situation, subject to a report being submitted from an independent and suitably qualified and experienced adviser as to the continued viability and sustainability of the enterprise by the applicant, the Council are mindful to release the property from the provisions of the Section 106 Agreement.

Aside
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Background papers: F. 602

Local Government (Access to Information) Act 1985

The Officer to whom reference should be made concerning inspection of the background papers is the Director of Planning and Building Control Services, Council Offices, Priory Road, Spalding, Lincs. Tel: (0775) 761161

APPLICATION REFERENCE: H22/0834/92 DATE RECEIVED: 04 08 92

APPLICANT: Mr & Mrs I D Holmes
35 Beaufort Drive
Spalding
Lincs

AGENT: Messrs Maples & Son
23 New Road
Spalding
Lincs

TYPE: SEC 73 MODIFICATION

DESCRIPTION: Retention of dwelling without complying with
agricultural clause on planning permission H22/0174/92

LOCATION: Moulton Chapel Road, Cowbit

Ward Member: Support, dwellings adjacent the site.

County Highways: No objections.

Information From
Applicant:

- Building Society no longer provide 100% mortgages on development with agricultural stipulation.
- Proposing a fairly basic property.
- Not open countryside.
- Development granted on plot 30 metres away without agricultural conditions.
- Policy ensures no unjustified building and that precedents are not created whereby agricultural areas become residential by piecemeal development, neither of these apply to this case.
- No objection to development because granted planning permission for agricultural dwelling. No precedent because on edge of existing development all of which without agricultural restrictions.
- Family lived in area for generations and unreasonable not to encourage such people to live in native villages.
- Planning policy cannot be so entrenched as to permit a plot 30 metres away which can be sold to anybody but for this site not to be development for a local person.
- If not lifted the development will not proceed.

PREVIOUS DECISIONS

H22/1267/90 - Erection of dwelling - Refused.

H22/0658/91 - Erection of bungalow with detached garage - Granted.

H22/1030/91 - Condition Compliance materials - Granted.

H22/0174/92 - Dwelling - Granted.

PLANNING POLICIES/DOE ADVICE

Lincolnshire County Structure Plan Policies 6A and 7A.
PPG7 - The Countryside and the Rural Economy.

CONCLUSIONS

- 1 The applicant received planning permission for a bungalow on 26 September, 1991 and received planning permission for a house on 26 March, 1992 as an alternative dwelling. Both these planning permissions have the standard agricultural habitation condition.
- 2 This application is to lift the agricultural habitation clause on the later application for the house. The applicants claim that owing to this condition, they are unable to secure a 100% mortgage and are unable to provide the down payment to reduce the mortgage.
- 3 The site is outside the development boundary for Cowbit, although it is adjacent to a small group of dwellings along the Moulton Chapel Road. This site extends the ribbon and without an agricultural justification is contrary to both Policies 6A and 7A of the Lincolnshire County Structure Plan. The new dwelling to which the applicant refers is to the north and was granted as an infill plot with no agricultural habitation clause and is consistent with Planning Policy.
- 4 No financial details have been submitted or requested. It is considered in any case that to analyse such financial constraints is outside the Planning Authority's ambit and would quickly undermine the Authority's ability to be seen to be unbiased. To remain unbiased can only be secured by the consistent administration of established Planning Policies. Planning permission was originally granted because the Planning Authority was satisfied on the agricultural case. Whether or not the applicant can implement the permission is not the Planning Authority's concern.
- 5 On this basis, it is not considered that the condition should be relaxed since it would result in many similar applications which would be harmful and contrary to established Planning Policy.

RECOMMENDATION - Refuse Permission.

The site is outside the confines of a settlement in an area of open countryside where it is the policy of the Local Planning Authority to permit new development only in exceptional cases where it is satisfied that there is a special need, particularly in connection with agriculture. In the opinion of the Local Planning Authority the circumstances of this case are not sufficient to justify permission, which would be contrary to Policy 7A of the Lincolnshire Structure Plan. This policy is in accordance with national planning policies as set out in Planning Policy Guidance Note No 7, 1992 (The Countryside and the Rural Economy) and is aimed at the conservation of agricultural land, the preservation of the character of the countryside, and the economic provision of services. In the opinion of the Local Planning Authority the granting of permission for the development as proposed would be harmful to the purposes of this policy, because as well as its individual effect on these issues, it would form a precedent for further similar proposals which would be difficult to resist.

PLANNING COMMITTEE - 7th October, 1992

730. PLANNING APPLICATIONS (Continued)

(c) Applications Deferred (Continued)

<u>Plan No. and Applicant</u>	<u>Proposal</u>
H16/0805/92 Mr R Branton	Sectional concrete garage at 2 St Paul's Road, Spalding.

(Pending a site inspection to assess the suitability of the proposed development.)

f u

H22/0834/92 Mr & Mrs I D Holmes	Retention of dwelling without complying with agricultural clause on planning permission H22/0174/92 at Moulton Chapel Road, Cowbit.
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(For the Director of Planning and Building Control Services to consider with other similar outstanding applications and to report thereon to a future meeting.)

H16/0873/92 Patterson Properties	Pair of semi-detached houses at 22 Wygate Road, Spalding.
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(Pending a site inspection to assess the suitability of the site for the development.)

H01/0891/92 Patterson Properties	Pair of semi-detached houses at 85 Back Gate, Cowbit.
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(Pending a site inspection to assess the suitability of the site for the development.)

H11/0896/92 Mr & Mrs R Southgate	Occupation of dwelling without complying with agricultural occupancy condition of permission (H11/0665/78) at The New House, Wisbech Road, Long Sutton.
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(Pending a site inspection to assess the suitability of the proposal in the light of the character and pattern of existing development.)

H22/0364/92 C R Bustance	Abattoir with associated external storage facilities and staff car parking at Wimberley Hall Farm, Stonegate, Weston.
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(Pending a site inspection, and to enable the Plans Sub-Committee to consider the proposal in greater detail at an extraordinary meeting, following which the application be referred back to this Committee for determination.)

(In respect of the above application it was moved and seconded that the application be refused, following which an amendment was moved and seconded that the application be deferred pending a site inspection, and to enable the Plans Sub-Committee to consider the proposal in greater detail at an extraordinary meeting, following which the application be referred back to this Committee for determination. Prior to voting on the amendment it had been requisitioned under Standing Order No.15 that the matter be the subject of a recorded vote so as to show how each Member present and voting gave his or her vote. The voting on the amendment was as follows:-

APPLICATION REFERENCE: H22/0834/92 DATE RECEIVED: 04 08 92

APPLICANT: Mr & Mrs I D Holmes
35 Beaufort Drive
Spalding
Lincs

AGENT: Messrs Maples & Son
23 New Road
Spalding
Lincs

SOUTH HOLLAND DISTRICT COUNCIL
REPORT TO PLANNING COMMITTEE

Date - 7 OCT 1992

TYPE: SEC 73 MODIFICATION

DESCRIPTION: Retention of dwelling without complying with
agricultural clause on planning permission H22/0174/92

LOCATION: Moulton Chapel Road, Cowbit

Ward Member: Support, dwellings adjacent the site.

County Highways: No objections.

Information From
Applicant:

- Building Society no longer provide 100% mortgages on development with agricultural stipulation.
- Proposing a fairly basic property.
- Not open countryside.
- Development granted on plot 30 metres away without agricultural conditions.
- Policy ensures no unjustified building and that precedents are not created whereby agricultural areas become residential by piecemeal development, neither of these apply to this case.
- No objection to development because granted planning permission for agricultural dwelling. No precedent because on edge of existing development all of which without agricultural restrictions.
- Family lived in area for generations and unreasonable not to encourage such people to live in native villages.
- Planning policy cannot be so entrenched as to permit a plot 30 metres away which can be sold to anybody but for this site not to be development for a local person.
- If not lifted the development will not proceed.

PREVIOUS DECISIONS

H22/1267/90 - Erection of dwelling - Refused.
H22/0658/91 - Erection of bungalow with detached garage - Granted.
H22/1030/91 - Condition Compliance materials - Granted.
H22/0174/92 - Dwelling - Granted.

PLANNING POLICIES /DOE ADVICE

Lincolnshire County Structure Plan Policies 6A and 7A.
PPG7 - The Countryside and the Rural Economy.

CONCLUSIONS

- 1 The applicant received planning permission for a bungalow on 26 September, 1991 and received planning permission for a house on 26 March, 1992 as an alternative dwelling. Both these planning permissions have the standard agricultural habitation condition.
- 2 This application is to lift the agricultural habitation clause on the later application for the house. The applicants claim that owing to this condition, they are unable to secure a 100% mortgage and are unable to provide the down payment to reduce the mortgage.
- 3 The site is outside the development boundary for Cowbit, although it is adjacent to a small group of dwellings along the Moulton Chapel Road. This site extends the ribbon and without an agricultural justification is contrary to both Policies 6A and 7A of the Lincolnshire County Structure Plan. The new dwelling to which the applicant refers is to the north and was granted as an infill plot with no agricultural habitation clause and is consistent with Planning Policy.
- 4 No financial details have been submitted or requested. It is considered in any case that to analyse such financial constraints is outside the Planning Authority's ambit and would quickly undermine the Authority's ability to be seen to be unbiased. To remain unbiased can only be secured by the consistent administration of established Planning Policies. Planning permission was originally granted because the Planning Authority was satisfied on the agricultural case. Whether or not the applicant can implement the permission is not the Planning Authority's concern.
- 5 On this basis, it is not considered that the condition should be relaxed since it would result in many similar applications which would be harmful and contrary to established Planning Policy.

RECOMMENDATION - Refuse Permission. *SP*

The site is outside the confines of a settlement in an area of open countryside where it is the policy of the Local Planning Authority to permit new development only in exceptional cases where it is satisfied that there is a special need, particularly in connection with agriculture. In the opinion of the Local Planning Authority the circumstances of this case are not sufficient to justify permission, which would be contrary to Policy 7A of the Lincolnshire Structure Plan. This policy is in accordance with national planning policies as set out in Planning Policy Guidance Note No 7, 1992 (The Countryside and the Rural Economy) and is aimed at the conservation of agricultural land, the preservation of the character of the countryside, and the economic provision of services. In the opinion of the Local Planning Authority the granting of permission for the development as proposed would be harmful to the purposes of this policy, because as well as its individual effect on these issues, it would form a precedent for further similar proposals which would be difficult to resist.

P J Udy

PJU/SAH H22/0834/92

Mr & Mrs I D Holmes
The New Nursery
Moulton Chapel Road
Cowbit
Spalding
Lincs PE12 0XD

21 October 1992

Dear Sir & Madam

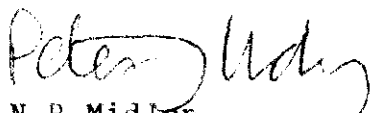
Retention of Dwelling without complying with Agricultural Clause

This planning application was considered by the Planning Committee on 7 October 1992, when it was resolved to defer the application for a further report.

The Local Planning Authority has received a number of similar applications and it is intended to address the issues raised by these applications in one report. The purpose of this letter is to advise you that during the formulation of this report we may be contacting you for further information.

At the present time it is not known when this report will be considered by the Planning Authority but it will be considered as soon as possible.

Yours faithfully



PP. N R Midlen
Principal Planning Officer (Development Control)

The New Nursery,
Moulton Chapel Rd,
Cumbria
Spalding
Lincs PE12 0XD.

Case Officer: Mr Day
Application No: 894/92.

Tuesday 13th October.

Dear Sir/Madam,

I am writing to inform
you of a change of address. We
are no longer living in Spalding, we have
now had to move back with my husband's
parents. The address is now the above.
Yours Sincerely,

S.J. Holmes.

S.H.D. PLANNING DEPT.	
14 OCT 1992	
PJ	
7JU	
MAYOR	
WELL	

Mr & Mrs Holmes

854192

LATE OBS. Off. Date

Salient points highlighted

Asked why recommended refusal.

Was contrary to two policies in Structure Plan + w that position must have a ag clause

They should talk to their commander +
A P.P. refused they have the right of
appeal to S.O.S. for Ew.

PM 5-10-92

Maples & Son

SOLICITORS

COMMISSIONERS FOR OATHS

**SOUTH HOLLAND D.C.
PLAN DEPT.**

04 AUG 1992

REF H22/0834/92

A. R. Withyman, M.A., LL.B. (Cantab)
Richard W. Lewis, LL.M. (Lond)
Philip A. N. Crew, LL.B. (Leeds)
Malcolm Charlesworth, LL.B. (Hull)
David Hicken, LL.B. (Sheffield)
Michael H. Pepper, M.A. (Cantab)

23 NEW ROAD
SPALDING
LINCS. PE11 1DH

DX 26706-Spalding
Telephone (0775) 722261
Fax (0775) 767525

Our Ref:

Your Ref:

Date

RWL/JT

PJU/SJS H22/0174/92

3rd August, 1992

Dear Sirs,

re: Mr. & Mrs. I.D. Holmes

Further to your letter of the 7th May we have pleasure in enclosing four copies of an application for the deletion of the agricultural stipulation together with four copies of the plan and our clients cheque to the value of £55.00 in respect of the fee.

It is considered that for the very exceptional reasons herein set out that this is a case that justifies departure from the Planning Authorities normal planning policy. These reasons are as follows :-

1. Hardship caused to the applicants.

This position was clearly set out in our letter of the 8th April but we would repeat it briefly. Because of the problems that a number of Building Societies are now in concerning 100% mortgages it is no longer possible to get 100% mortgages on properties with an agricultural stipulation. In Mr. & Mrs. Holmes financial position they are unable to produce the deposit necessary to enable a mortgage subject to an agricultural stipulation to be sufficient to enable them to build the property. They are not proposing to build a mansion but a fairly basic property as was shown by the original application. It is vital that Mr. Holmes works on the adjoining nursery and is available at all times to tend to matters there.

2. Situation of the Property.

The rationale behind the policy of the Planning Authority with regard to properties in open countryside is eminently sensible and justified. However it has to be said that this area is not really open countryside. The site is on the edge of development and indeed Planning Permission was granted WITHOUT THE IMPOSITION OF AN AGRICULTURAL STIPULATION on the 24th May 1989 in respect of a plot of land merely some thirty metres away. The thinking behind the agricultural stipulation policy

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of the Council is to ensure that firstly there is not unjustified building in the area and secondly that precedents are not created whereby agricultural areas would become residential areas by means of piecemeal development. With respect neither of these applies to this particular case. The erection of a dwelling on the site is accepted by the Council as necessary for agricultural purposes, there is therefore no inherent objection to building on this particular site. In no way can building on this particular site create a precedent as it is on the edge of existing development all of which has taken place without the imposition of any agricultural stipulations. Whilst it is appreciated that lines have to be drawn somewhere there can be no sacrosanct reason for drawing the line on development for this particular settlement where it now is rather than some twenty five metres to the west. It will merely be one additional house in an existing area of settlement and will not in any way create an adverse precedent.

3. Helping local people buy homes locally.

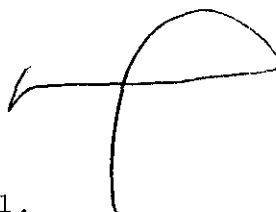
It must be remembered that part of planning policy for villages is to enable local people to live in their home area in order that village communities may thrive. The Holmes family have for generations been in the Cowbit area and it is unreasonable not to encourage wherever possible such people to make their homes in their native villages. As in this case no dangerous precedent will be granted it must be right to delete the condition. We cannot believe that planning policy in this area is so entrenched as to permit a plot thirty metres away to be sold to anybody be they connected with the village, agriculture or not but for this site not to be capable of being built upon by a local person in the circumstances outlined above.

As explained in point 1 if the Planning Authority insists on maintaining the agricultural stipulation this will mean that Mr. & Mrs. Holmes cannot build on the property and will be unable to move to Mr. Holmes native village and to be near the holding where it is imperative that he is. Given that the underlying rationale of planning policy in agricultural

3rd August, 1992

areas is in fact no way adversely affected by this application the Planning Authority is urged to delete this condition and allow Mr. & Mrs. Holmes to make their home in their native village without hardship.

Yours faithfully,

A handwritten signature, possibly 'J. F.', written in ink. It consists of a horizontal line with a small hook at the end, and a large, sweeping loop that crosses the horizontal line.

South Holland District Council,
Planning & Building Control Department,
Council Offices,
Priory Road,
SPALDING,
Lincolnshire.

Encs.

TOWN AND COUNTRY PLANNING ACT 1971

PLANNING PERMISSION

REFERENCE : H22/0870/83

DATE RECEIVED : 7 7 83

APPLICANT : Mr & Mrs H A Holmes
 Stonegate
 Cowbit
 Spalding
 Lincs

AGENT : Broadgate Builders
 (Spalding) Ltd
 Broadgate House
 Weston Hills
 Spalding Lincs.

TYPE : Full GRID REF : 527180 313030

DESCRIPTION : Erect house with garage incl. vehicular access

LOCATION : Moulton Chapel Road, Cowbit

The South Holland District Council hereby gives notice that permission has been granted for the carrying out of the development in accordance with the application and plans submitted, subject to the following condition(s):

1. The development must be begun not later than the expiration of five years beginning with the date of this permission.

Reason: As required by Section 41 of the Town and Country Planning Act 1971

2. Before any development is commenced, a scheme of landscaping and tree planting for the site, including details of positions, heights on planting, and species of trees and shrubs, shall be submitted to and approved by the Local Planning Authority.

Reason: In the interests of visual amenity.

3. The approved scheme of landscaping and/or screening shall be carried out in its entirety within a period of two years beginning with the date on which development of the land is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. The trees, shrubs or bushes shall be adequately maintained by the owner(s) of the land on which they are situated for a period of ten years beginning with the date of completion of the scheme, and all losses shall be made good during that period.

Reason: In the interests of visual amenity and to ensure that the approved scheme is implemented satisfactorily.

Cont'd...

IMPORTANT NOTE

This permission refers only to that required by the Town and Country Planning Acts.

If approval is required under the Building Regulations or any other enactment, this must be obtained separately.

SOUTH HOLLAND DISTRICT COUNCIL

Cont/...
H22/0975/88

- 4 Before the development hereby permitted is commenced details of the type and colour of the materials to be used for external walls and roofs shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the external appearance of the proposed development harmonises with existing buildings in the area.

- 5 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 290(1) of the Town and Country Planning Act 1971, 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.

- 6 The glasshouses and packing shed, as shown on the submitted block plan, shall be erected concurrently with the dwelling hereby permitted.

Reason: Due to the agricultural circumstances relating to this application.



District Planning Officer
31 August 1988