

# Development Management Delegated Decision Report

B/21/0085



SUMMARY OF APPLICATION			
<b>Application Reference</b>	B/21/0085		
<b>Application Type</b>	Full Planning Permission		
<b>Proposal</b>	Application under s.73 for the removal of condition 3 (Agricultural Habitation Clause) of planning permission BR/0185/72 (Bungalow, garage and vehicular access)		
<b>Location</b>	Ardgraft, Swineshead Road, Kirton Holme, Boston, PE20 1TT		
<b>Applicant</b>	Mr & Mrs R Palmer		
<b>Agent</b>	Leanne Jeffreys, Acorus		
<b>Received Date:</b>	01-Mar-2021	<b>Consultation Expiry Date:</b>	29-Mar-2021
<b>Valid Date:</b>	01-Mar-2021	<b>Statutory Expiry Date:</b>	26-Apr-2021
<b>Date of Site Visit:</b>	12-Mar-2021	<b>Extension of Time Date:</b>	
<b>Objections received?</b>	No		
5 day notification record: Not applicable			
	<b>Councillors notified</b>	<b>Date</b>	<b>Response received – date</b>
<b>Recommendation</b>	APPROVE		
<b>Report by:</b>	Grant Fixter		
<b>Date:</b>	19/04/2021		



## **OFFICER REPORT**

### **SITE AND SURROUNDINGS:**

The application site comprises a single storey detached dwelling and its associated curtilage located off Swineshead Road, Kirton Holme. As per The South East Lincolnshire Local Plan, the site is within the countryside and is located approximately 200m north of the Kirton Holme settlement boundary.

North of the site is land associated with Albert Bartlett who are an agricultural product wholesaler, with a dwelling to the east and agricultural land to the south.

### **DETAILS OF PROPOSAL:**

The application building is subject to an agricultural habitation clause. This proposal is made under Section 73 of the Town and Country Planning Act 1990 for the removal of condition 3 (Agricultural Habitation Clause) of planning permission BR/0185/72 (Bungalow, garage and vehicular access).

The proposal is accompanied by:

- Location Plan;
- Planning Statement;
- BR 185/72 Decision Notice;
- Property value details;
- Nationwide price index;
- Property details;
- Adverts;
- Performance reports;
- Agricultural dwelling letter;
- County/ Unitary authority information covering farm holdings in the area.

### **RELEVANT HISTORY:**

- B/20/0163 - Application under s.73 for the removal of condition 3(Agricultural Habitation Clause) of planning permission BR/0185/72 (Bungalow, garage and vehicular access) – Withdrawn on 22/06/2020
- B/16/0127 - Erection of a single storey side extension to existing bungalow – Approved on 23/05/2016;
- BR 185/72 – Bungalow, garage and vehicular access – Approved on 10/05/1972.

### **RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:**

#### **South East Lincolnshire Local Plan (2011-2036)**

The following policies contained within the South East Lincolnshire Local Plan (2011-2036) (i.e. SELLP) are relevant to this application:

- Policy 1: Spatial Strategy.

### **CONSULTATION RESPONSES:**

No consultation responses were received.

### **THIRD PARTY REPRESENTATIONS RECEIVED:**

No third party representations were received.

### **EVALUATION:**

Section 73 of the Town and Country Planning Act instructs a Local Planning Authority to only consider the question of the planning condition's subject. If it is considered acceptable the LPA can grant permission accordingly or if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

Given the decision of the planning permission BR 185/72, the development has already been judged to be acceptable in principle. Section 73 of the Act directs a Local Planning Authority to only consider the question of the condition's subject. In this case the application seeks to remove a planning condition which restricted future occupancy to agricultural or forestry workers and the implications of the removal are addressed below.

SELLP Policy 1 sets out a hierarchy of settlements and states that development will be permitted within the settlement boundaries of these respective settlements providing the proposed development supports the designated role of the settlement in which it is to be executed. Land outside of these settlement boundaries is recognised as countryside. Development in the countryside will be permitted 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.

The dwelling is sited some 200m north of the Kirton Holme settlement boundary. Rather than focusing the argument on recently approved development in its vicinity which is an argument used by some, this submission focuses on outlining why there is no longer a need for the agricultural dwelling condition and this is a material consideration when determining this application. The following documents were submitted to outline why it is deemed there is no longer a need for the restrictive condition:

- Planning Statement;
- BR 185/72 Decision Notice;
- Property value details;
- Nationwide price index;
- Property details;
- Adverts;
- Performance reports;
- Agricultural dwelling letter;
- County/ Unitary authority information covering farm holdings in the area.

The reasoning for the condition was:

*“This building is sited in an area in which buildings other than those connected with an agricultural need, would not be permitted”*

Evidence has been provided which shows the property was marketed from Oct 19 – May 20 and then again from Jun 20 – Jan 21. Upon review of the Planning Statement, calculations have been shown as to how much the property would be worth without this condition and how the property was advertised with a 25% discounted price, whilst allowing for offers below this, essentially equating to a 32% discount. The guide price was further reduced in Feb 2020 to try and generate further interest. From review of the supporting information, it is abundantly clear the property was advertised as an agricultural workers dwelling and was advertised on a number of sites.

In addition, the agent directly contacted 58 agricultural holdings in the area via a postal questionnaire and a copy of this has been submitted with the application. This was done to establish the local need and a total of 7 forms were returned, with 4 requesting further information.

From both the above methods, only one viewing was requested with no offers received. The above comprises an extensive marketing approach on both a national and local level and there was no real interest in the property.

Furthermore, there is no agricultural holding associated with the dwelling.

For all the reasons above, it is therefore considered that the change in circumstances is sufficient for condition 3 to no longer meet the tests for conditions i.e. not being reasonable. Therefore the retention of condition three attached to BR 185/72 would fail the test set out in the NPPF.

Given that there are no physical alteration to the existing dwelling and the removal of condition would not harm the level of amenity over and above the current relationship between properties in this instance it is considered there are no grounds to restrict the occupancy.

### **CONCLUSION:**

Extensive marketing of the dwelling took place on both a local and national level, with the property clearly advertised with the occupancy condition at a reduced price, with only one viewing taking place and no offers being received. The condition would fail to meet the tests for conditions and it is, therefore, recommended condition 3 is removed.

### **RECOMMENDATION:**

Approve

CONDITIONS / REASONS			
Pre-commencement conditions?		Agreed with applicant/agent - Date:	


<b>INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE</b>
<u>STATEMENT OF PROACTIVE WORKING:</u> In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2019 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.