



PINS Ref: 6012700

LPA Ref: H20-0467-26 (1370)

TOWN AND COUNTRY PLANNING ACT 1990
WRITTEN REPRESENTATIONS PROCEDURE

APPEAL BY
Diane Buchan

STATEMENT OF CASE FOR THE LOCAL PLANNING AUTHORITY

Enclosures:

- Statement of Case
- Appendix 1: Conditions recommended by the Local Planning authority is the appeal is allowed.
- Appendix 2: Decision Notices and Location Plans from Planning Permissions H20-0728-02 and H20-0516-13

South Holland District Council
Council Offices
Priory Road
Spalding
Lincs
PE11 2XE

Statement of Case for the Local Planning Authority

1.0 Background

- 1.1 The application was refused as a delegated decision for the reason set out within the decision notice dated 09th July 2026 and as set out in Paragraph 6.1 of this Statement.

2.0 Proposal

- 2.1 The application sought consent for a lawful development certificate for the proposed siting of a static caravan to be used as an annexe for Annasfield, which is the host dwelling in this instance.
- 2.2 Consent was sought under Section 192 of the Town and Country Planning Act (1990) (as amended).

3.0 Appeal Site and Surrounds

- 3.1 The site comprises land to the north-east of Old Fendyke and to the north-east of Annasfield which is a dwelling located on the opposite side of the road. The site is located within a rural area, being largely surrounded by agricultural fields; however, there are some dwellings and agricultural buildings interspersed within the area. The site is located approximately 3km to the west of the Tydd St Giles and 1.8km to the south of Sutton St James.

4.0 Relevant Site History

- 4.1 H20-0614-90: (Section 32) Removal of agricultural habitation condition - refused 13th July 1990
- 4.2 H20-0847-91: (Section 63) Retention of dwelling without complying with agricultural habitation condition - refused 12th December 1991
- 4.3 H20-0728-02: (Full Application) Erection of three single storey extensions - approved 09th August 2002
- 4.4 H20-0516-13: (Full Application) Erection of oak framed open fronted garage - approved 14th August 2013
- 4.5 H20-0365-17: (Full Application) Proposed Garage/Store - approved 22nd May 2017
- 4.6 H20-0467-26: (Certificate of Lawfulness) Siting of static caravan to be used as annexe to main dwelling - refused 09th July 2026

5.0 Legislation and Relevant Planning Guidance

- 5.1 Section 192 of the Town and Country Planning Act (1990) (as amended) sets out the following:

"Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall:

(a) specify the land to which it relates;

(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use or operations to be lawful; and

(d) specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness."

5.2 Therefore, the applicant / appellant needs to provide the decision maker with sufficient information to demonstrate that the proposed development is lawful in planning terms.

5.3 National Planning Practice Guidance (NPPG) also provides relevant guidance. Amongst other matters it states that an application may be refused if there is insufficient or precise information; that for s192 applications the applicant needs to describe the proposal with sufficient clarity and precision; and that refusal is not necessarily conclusive that something is not lawful, it may mean that to date insufficient evidence has been presented.

5.4 The appeal is to be determined on matters of fact and law rather than the merits of the development which are not relevant.

6.0 Reason for Refusal

6.1 The application was refused on 09th July 2026 for the following reason:

"The area where the static caravan is proposed to be sited is not considered to be within the residential curtilage of the host dwelling, which in this instance is Annasfield. As such, full planning permission would be required for the proposed siting and occupation of the caravan."

7.0 Statement of Case

7.1 As set out above, the application was refused as it was considered that the appeal site was outside the curtilage of the dwelling Annasfield. Within the delegated assessment for the application, relevant caselaw was considered and it was acknowledged that "curtilage" does not have a specific definition in planning legislation. Instead, decision

makers must consider relevant factors, and each case needs to be considered based on the circumstances of the land in question.

- 7.2 The following key factors were considered most relevant when establishing if land is within the curtilage of a building:
- Physical relationship / proximity;
 - Layout and enclosure (including barriers and fencing);
 - Historic and current ownership; and
 - Functional use.
- 7.3 These matters were considered as part of the determination of the application and the following evidence was submitted as part of the application:
- Application Form;
 - H20-0365-17 - Decision Notice;
 - Additional / Supporting Information Statement;
 - Supporting Care & Family Dependency Statement;
 - Drawing 1 - Block Plan; and
 - Location Plan.
- 7.4 The appellant also provided some further information via emails, some of which have been submitted with the current appeal.
- 7.5 As part of the current appeal, the appellant has provided a Statement of Case with various appendices. Some of the information provided was not provided during the determination of the application. This includes photographs of the site and land registry information.
- 7.6 As set out within the delegated assessment for the application, whilst planning permission was granted within the appeal site for a garage / store in 2017 under application H20-0365-17, the application did not specify the use of the appeal site. No other planning permissions have been granted for a change of use of the land to be used as garden land. Notwithstanding this, the appellant considers that the land has been used as garden land in association with Annasfield; however, it remains unclear when the use of the site as garden land began.
- 7.7 As set out previously, prior to 2017 applications H20-0728-02 and H20-0516-13 were submitted and approved for Annasfield. The red line boundaries for these applications related to the parcel of land around the dwelling, which is on the south-western side of Old Fendyke. The land to the north-east of Old Fendyke, which is the subject to this appeal, was not included. The decision notices and location plans from these applications have been included within Appendix 2 for reference. Whilst previous red line boundaries are not determinative of residential curtilage, this suggests that the land was not considered to be part of the residential parcel of land attached to the dwelling in 2013 and prior to this.
- 7.8 The appellant has provided photographs of the previous owner's using the land seemingly for recreational use; however, it is unclear when the photographs were taken. As such, it remains unclear when the site was first used as garden land and whether the use has been continuous.

- 7.9 Regardless as to whether the site has been used as a garden, the use of the site as garden land does not automatically mean that the site is part of the curtilage of the dwelling. In the case of a dwelling, its curtilage is usually considered to be land attached to it and forming one enclosure with it. In this case, the appeal site is separated from the dwelling of Annasfield by a public road, a hedgerow and access gates. It is considered that the public road and boundary treatments between the appeal site and Annasfield separates the land parcels, preventing the parcels from being considered as one enclosure.
- 7.10 The public road that runs between the appeal site and the dwelling of Annasfield is within separate ownership and this further suggests that the two land parcels are separate, rather than being part of the same enclosure.
- 7.11 The appellant has provided land registry information which shows the appeal site and land around Annasfield being within the same ownership as of 2001. During the determination of the application, it was assumed that both parcels of land had been within the same ownership since 2017 as this was based on a review of the documents that were provided as part of the determination of application H20-0365-17. Although the information provided as part of the appeal appears to show that the ownership of both parcels has been under joint ownership since 2001, this does not prove that the appeal site has been used as garden land or is part of the curtilage of the dwelling. Furthermore, as set out previously in Paragraph 7.6, the appeal site was not included in subsequent planning applications.
- 7.12 Although a functional relationship appears to exist between the appeal site and Annasfield as the land appears to be used as garden land, the appeal site is not attached to the dwelling, nor can it be described as forming one enclosure with it.
- 7.13 The appellant considers that too much emphasis was placed on the physical separation of the appeal site caused by the public road and that other factors were not given enough consideration. The physical separation between the sites is a significant factor in this case, and generally when determining the curtilage of buildings. The separate ownership of the public road is also a factor in this case. Therefore, the LPA continues to consider that the appeal site is not within the curtilage of Annasfield.

8.0 Conclusion

- 8.1 The LPA continues to consider that the appeal site is not within the curtilage of the dwelling of Annasfield and as such, it is considered that full planning permission would be required for the siting of the caravan. Therefore, the LPA considers that the appeal should be dismissed.

Appendix 1

Draft List of Conditions

1. Schedule 1 - Description of Use or Operation

Siting of static caravan to be used as annexe to main dwelling

Schedule 2 - Land Specified

Annasfield, Old Fendyke, Sutton St James, Spalding, PE12 0JR

2. Notes:

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 as amended. It certifies that the use, operations or matter specified in Schedule 1 taking place on the land described in Schedule 2 was or would have been lawful on the date of the application, and thus was not or would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.

This Certificate applies only to the extent described in Schedule 1 and to the land specified in Schedule 2 and on the attached plan. Any use, operation, or other matter which is materially different from that described, or which relates to other land, may render the owner or occupier liable to enforcement action. For a Section 192 Certificate, the lawfulness is only conclusively presumed where there has been no material change in any relevant matter before the use or operations are begun.

3. The determined plans are:

- Application Form
- H20-0365-17 - Decision Notice
- Additional / Supporting Information Statement
- Supporting Care & Family Dependency Statement
- Drawing 1 - Block Plan
- Location Plan

Appendix 2

Decision Notices and Location Plans from Planning Permissions H20-0728-02 and H20-0516-13

Town and Country Planning Act 1990 Planning Permission

Reference: H20/0728/02

Received: 24-JUN-02

Type: FULL

Name: Mr & Mrs B Harrison
The Bungalow (Annasfield)
Mission House Corner
Old Fendyke, Sutton St James
Spalding Lincs

Agent: S Thrower
Architectural Design Services
3 Newgate Road
Tydd St Giles
Wisbech Cambs PE13 5LH

Description: Erection of three single storey extensions

Location : The Bungalow (Annasfield) Mission House Corner
Old Fendyke Sutton St James

South Holland District Council hereby give notice that PERMISSION HAS BEEN GRANTED for the development in accordance with the application and plans submitted, subject to any condition(s) set out below:

- 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 91 of the Town and Country Planning Act 1990.

The determined plans are:

1:2500 Location plan, Existing elevations & Dwg nos. SH/84002 & SH/84102 received 24 June 2002.

Your attention is drawn to the enclosed advice letter and leaflets about bats and your responsibilities under the Wildlife & Countryside Act 1981 and Conservation (Habitats etc) Regulations 1994. If bats are found work must cease and English Nature contacted for advice on how to proceed. (The local bat group contact is Colin & Annette Faulkner tel: 01775 766286).

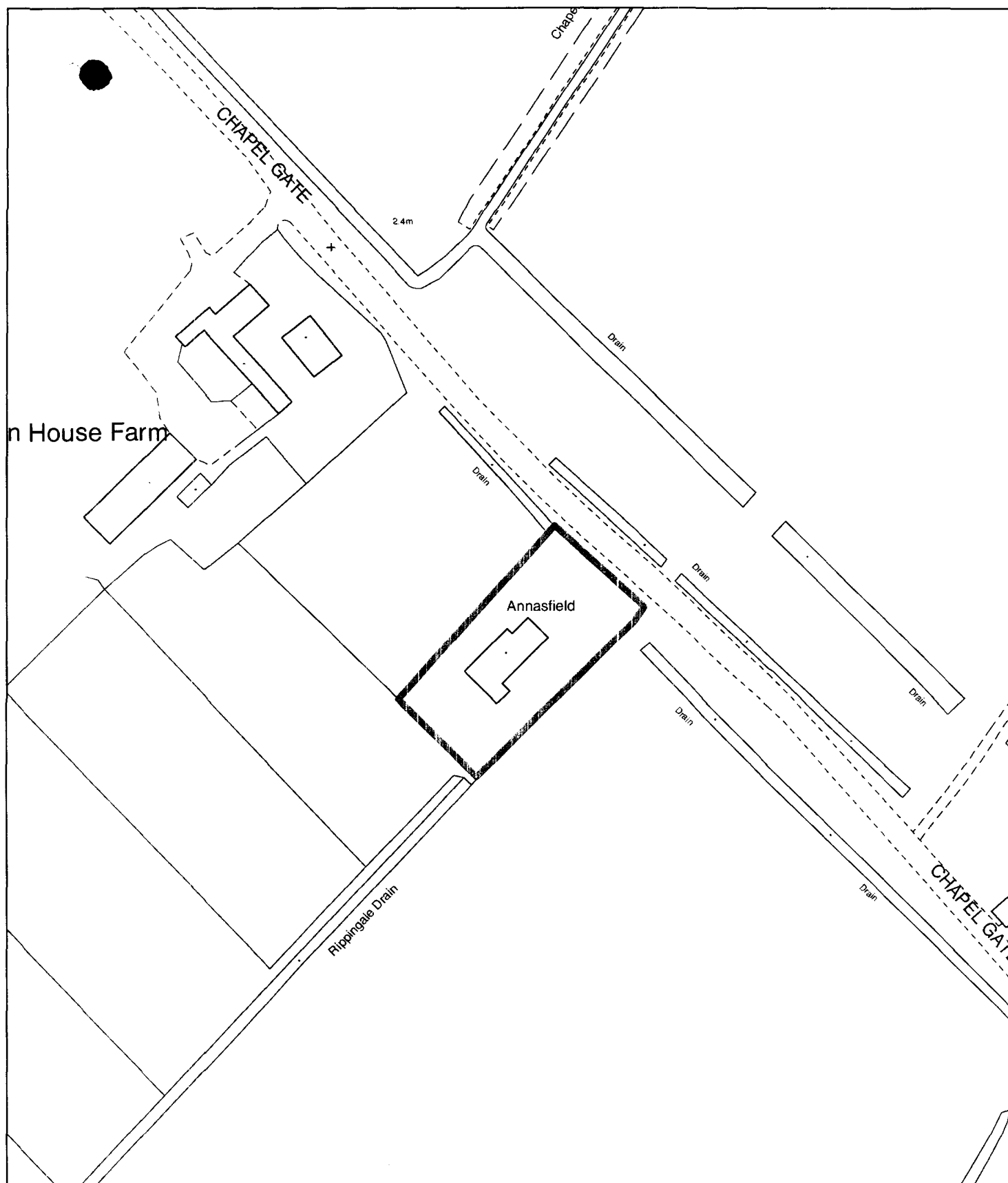
Chris Simpkins
Chief Executive
Terry Huggins
Director of Customer Services
Bob Atkins
Director of Corporate Services

Head of Planning & Development

09 AUG 2002

H20/0728/02

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



**Planning Application Location Plan
Ward Member Notification**

H20/0728/02

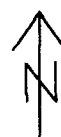
Scale: 1:1250

Planning and Development

Council Offices, Priory Road, Spalding, Lincolnshire
PE11 2XE

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www.sholland.gov.uk

FILE COPY

Town and Country Planning Act 1990 Planning Permission

Reference: H20-0516-13 Received: 19th June 2013

Type: FULL

Name: Mr and Mrs Harrison
Annasfield
Old Fendyke
Sutton St James
Spalding
Lincs
PE12 0JR

Agent: Mr and Mrs Harrison
Annasfield
Old Fendyke
Sutton St James
Spalding
Lincs
PE12 0JR

Description: Erection of oak framed open fronted garage

Location : Annasfield Old Fendyke
Sutton St James Spalding

South Holland District Council hereby give notice that PERMISSION HAS BEEN GRANTED for the development in accordance with the application and plans submitted, subject to any condition(s) set out below:

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:
1:2500 location plan (Dwg. 1), 1:50 layout plan and 1:100 elevation plans (Dwg. 3) received 11 June 2013;
1:500 site plan (Dwg. 2) received 18 June 2013;

Reason: For the avoidance of doubt and in the interests of proper planning.

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The Local Planning Authority has acted positively and proactively in determining this application by assessing the application against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise and subsequently determining to grant planning permission within the statutory timeframe in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Copies of all documentation submitted in connection with this application can be viewed online at www.sholland.gov.uk/doitonline/plandev/plansearch.aspx



Paul Jackson
Planning Manager

14th August 2013

H20-0516-13

This decision refers only to that required for the purposes of the Town and Country Planning Acts and not for Building Regulations or any other legislation.

Draw No 1

