

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H05-0104-23 **Applicant:** Mr & Mrs King

Proposal: Occupation of dwelling by persons not employed in agriculture - Condition 3 of H05-0304-86 (allowed on appeal)

Location: The Grange Haycroft Lane Fleet

Terminal Date: 31st March 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Representations:

	Object	Support	No Obj.	Comments
--	--------	---------	---------	----------

CASE OFFICER ASSESSMENT

Proposal

The application seeks the granting of a Certificate of Lawfulness for occupation of The Grange, Haycroft Lane, Fleet, Spalding.

Site Description

The site comprises a large, detached house known as The Grange and its associated outbuildings. The site is located on a parcel of land between Fleet Road (B1515) to the north, and Haycroft Lane to the south. Access is via Haycroft Lane.

History

T/APP/A/87/66319/P4 - Planning appeal in relation to H5/0304/86 for outline planning permission (all details to be reserved for subsequent approval) for the erection of an agricultural dwelling, calf breeding unit, implement store, garage and access at the junction of Main Road and Haycroft Lane, Fleet, Holbeach, Lincs - Appeal allowed 24.03.1988.

Consultation Responses

N/A

Material Considerations

The application seeks the granting of a Certificate of Lawfulness for occupation of The Grange by persons not employed in agriculture.

This is a legal determination and planning policy is not therefore relevant to the determination as to whether the claimed use is indeed lawful. The test which the application must meet is that the use has been on-going for a continuous period of 10 years, although it is not necessary for the use to be on-going at the time of the application provided the use has not been lost by operation of law (ie by way of abandonment, the formation of a new planning unit, or a further material change of use). The evidence submitted must be considered on the balance of probability.

The evidence accompanying the application (bank statements, invoices, telephone bills, accountant invoice and other various documents) indicates that neither the applicants nor any tenant, since purchasing the property, have complied with the Agricultural Restriction. In the absence of any evidence to the contrary, it is concluded that sufficient evidence has been produced which demonstrates that "on the balance of probability" the occupation of the dwelling in breach of the agricultural occupancy condition has continued for in excess of 10 years since the breach of planning control, thereby making it immune from planning enforcement.

Conclusion

On the balance of probability, it has been satisfactorily demonstrated that there has been a breach of the agricultural occupancy condition for at least the last 10 years. There is no substantive evidence held by the Council to dispute this.

It is therefore considered appropriate to issue a certificate of lawfulness.