DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H05-0675-26**	**Applicant:**	**Mrs S Saunders**
Proposal:	Use of land and buildings for agriculture		
Location:	Glentyne Farm Frostley Gate Holbeach		
Terminal Date:	11th September 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework August 2026

Representations:

	Object	Support	No Obj.	Comments
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent for a lawful development certificate for the use of land and buildings within the site for agriculture.

The application is submitted under Section 191 of the Town and Country Planning Act (1990) (as amended).

Site Description

The application site comprises approximately 2.9 hectares of land at Glentyne Farm which is located to the south-east of Frostley Gate, at Holbeach Fen. The site currently features grazing land, three buildings and there are some storage containers within the site.

Planning History

H05-0300-06: (Full Application) Change of use of land to paddock, plus erection of stable block/hay barn and construction of pond (part retrospective) - approved 10th May 2006

H05-0835-06: (Discharge of Conditions) Details of hay store and stable block (Condition 2 of

H05/0300/06) - approved 26th July 2006

H05-0836-06: (Discharge of Conditions) Details of lighting to be used on stable block (Condition 5 of H05/0300/06) - approved 26th July 2006

H05-0837-06: (Discharge of Conditions) Details of access roadway and car parking area (Condition 3 of H05/0300/06) - approved 26th July 2006

H05-0499-08: (Full Application) Proposed mobile home (retrospective) - refused 20th June 2008

H05-0453-16: (Full Application) Erection of an agricultural shed and a temporary residential caravan as part of an agricultural business on the application site - refused 20th September 2016

H05-1062-16: (Full Application) Erection of agricultural shed - approved 25th November 2016

Consultation

There is no statutory obligation for the local planning authority (LPA) to publicise an application for a certificate of lawful development; however, a site notice has been displayed next to the site for 21 days. In this case, no representations have been received from members of the public.

Key Planning Considerations

Relevant Legislation

Section 191 of the Town and Country Planning Act (TCPA) (1990) (as amended) - sets out the following:

"(2) For the purposes of this Act uses and operations are lawful at any time if:
- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force."

Section 191(4) further sets out that:

"(4) If, on an application under this section, the local planning authority is provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application."

National Planning Practice Guidance clarifies that it is the responsibility of the applicant to provide sufficient information to support the application (Paragraph 006 Reference ID: 17c-006-20140306). The evidence provided needs to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability rather than beyond reasonable doubt.

Section 171B(3) of the TCPA further sets out the following:

"(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of:
(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed."

Assessment

Section 55 of the Town and Country Planning Act 1990 (TCPA) defines development as the "carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land".

The application seeks consent to establish that the use of the land and buildings for agriculture is lawful in planning terms. According to the submitted Justification Statement, the applicant considers

that the use is lawful as the use began in April 2016 and the use has been continuous since then. The application was submitted on 17th July 2026 and as such, it needs to be proven that the land has been used continuously for agricultural purposes for at least 10 years dating back from when the application was submitted.

In terms of the status of the land prior to 2016, as set out previously, planning permission was granted on 10th May 2006 for the change of use of the land to a paddock, for the erection of a stable block / hay barn and the construction of a pond (ref: H05-0300-06). Condition 1 of permission H05-0300-06 set out that "The use of the site shall be restricted to use for the grazing and recreational keeping of horses and shall not be used for business purposes". The approved site plan refers to a 'grass paddock' throughout most of the site.

Application H05-0300-06 is referred to as being partly retrospective and it appears that the use of the land for keeping horses might have started prior to the permission being granted. Conditions 2, 3 and 5 of planning permission H05-0300-06 were discharged under applications H05-0835-06, H05-0836-06 and H05-0837-06. The buildings were subsequently constructed. As such, it appears that the site was used for grazing and keeping horses from at least 2006. This is supported by information that was submitted within a planning application that was submitted for the site in 2008 (ref: H05-0499-08). Within the planning statement for the application, the applicant set out the following:

"On the 10 May 2006 permission was acquired for 'Change of use of land to paddock, plus erection of stable block, hay barn and construction of pond' under application H05/0300/06 (copy enclosed). These works have all been implemented".

Therefore, the last approved use of the site was for the keeping of horses rather than for agricultural use.

According to the Justification Statement that has been submitted with the current application, the applicants purchased the site in 2016 and began using the site for agricultural purposes in the same year.

Two planning applications were submitted in 2016 by the applicants. The first sought permission for the erection of an agricultural shed and a temporary residential caravan (ref: H05-0453-16). This application was refused on 20th September 2016 as it was considered that there was insufficient justification for the caravan, which was proposed to be used to support an agricultural business within the site.

The Design Statement for the application set out the following:

"The applicant and her husband currently operate a feed supply business which has become established but needs a larger premises and storage facility if it is to expand. In addition to the feed supply business there is sufficient scope on the land to develop poultry and beef steers. The three disciplines will enable the applicants to have three different income streams and provide a balanced and reliable base for profitability. In order to carry out these operations the applicants will require to erect a 40 x 60 agricultural shed and to site a residential caravan on the land to enable them to carry out their business. The site currently consists of approx. 3ha of double cropping land with 3 stables and a feed room with hard access from the public road."

The Design Statement is not dated; however, the application form for the application was dated 08th May 2016. It appears that when the application was submitted, the applicants were operating a feed supply business from the site; however, the submitted information implies that animals were proposed to be kept and were not kept on the land at the time.

As part of the consultation process for the application, the LPA sought advice from an independent agricultural consultant who provided the following comments in their response dated 15th August 2016:

"2. The applicant and her husband currently operate a feed supply business which has become established, but requires larger premises and storage facilities if it is to expand.
3. It is proposed to erect a 40 x 60 agricultural building and site a residential caravan on the site. In addition to the feed supply business the applicants proposed to stock the land - which I assume is down to pasture; with poultry and beef steers
5. I do not consider that a feed supply business is agriculture as defined in Section 336 (i) of the

Town & Country Planning Act 1990, and therefore the siting of a building for use with a feed supply business should be assessed on normal planning policies for industrial / commercial buildings."

For reference Section 336 of the Town and Country Planning Act 1990 defines agricultural as follows:

""agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly"

Therefore, it is considered that at the time application H05-0453-16 was submitted, the site was not yet used for agriculture.

A second planning application was submitted in 2016 for the erection of an agricultural shed and this was approved on 25th November 2016 (ref: H05-1062-16). Although the red line boundary for the application enclosed the entire site, the permission only referred to the proposed building within the description of development and there was no reference to the use of the land within the wider site. As such, it appears that the wider permitted use of the site continued to be the keeping of horses on the land.

The current application is accompanied by a Justification Statement which sets out the following:

-"On 25th April 2016 the site changed its address to Glentyne Farm.
-On 03rd June 2016 Rural Payments Agency issued the clients with an agricultural business use, County Parish Holding Number and Single Business Identifier. Which intitles them to carry out agricultural business on the land and buildings.

Appended to the Justification Statement is a letter dated 03rd June 2016 from the Rural Payments Agency which confirms a County Parish Holding number and Single Business Identifier for Glentyne Farm. Another appendix is a document from South Holland District Council confirming the change of the property name to Glentyne Farm on 25 April 2016. Whilst these appendices are noted, it is not considered that the appendices provide proof that the land started to be used for agricultural purposes. For example, changing the name of a property to a farm is not proof of an agricultural use.

The Justification Statement also sets out the following:

-On 25th November 2016 planning permission was granted for an agricultural shed.
-During this time the clients carried out the below on site:
-The applicants cleared boundary trees from brambles and 7.3 acres of ragwart.
-Re-seeded for livestock.
-Re-fenced, including new fencing and gates (stock fencing with barb wire and electric).
-Infilled missing conifer tree approximately 200 planted.
-Planted 100 beech trees, 100m of willow and round 20 fruit trees.
-Fields were cut for hay (250 bales) then 60 sheep grazed the land.
-Chickens and ducks were kept in the "stables" building.
-The 60ft agricultural shed was under construction.

The Justification Statement then sets out the following:

"Since 2016, the applicants have increased the herd of goats with a closed breeding program and they have 48. This includes goats for meat, milk and 4 of which are entire males."

The Justification Statement later sets out the following in terms of works that took place in 2016:

"July 2016 - Mr & Mrs Saunders owned the land, cleared and re-seeded. (buildings hidden by trees).
August 2016 - Mr & Mrs Saunders owned the land, cleared and re-seeded. (buildings hidden by trees)."

Based on this information, it appears that the land started to be re-seeded in July 2016. It is unclear

what is meant by "During this time"; however, it appears that the applicants undertook clearance works and planting and began to use the land for livestock from November 2016 onwards.

Prior to November 2016, based on the submitted information it is unclear what agricultural activities took place other than re-seeding the land. As set out previously, it appears from the information that was submitted for application H05-0453-16 that the land was largely used for the applicant's feed supply business which was not considered to comprise agricultural development. Application H05-0453-16 was determined between 19th May 2016 and 20th September 2016. The submitted information for that application referred to proposed agricultural works such as the future use of the land for keeping livestock; however, it appears that during the determination of the application the site was not being used to keep livestock.

Notwithstanding this, another appendix within the submitted Justification Statement is a "June Survey 2016" which was submitted to the Department for Environment Food & Rural Affairs. This documents sets out that the land was being used to keep the following animals:

-Keeping poultry (25 laying flock);
-15 breeding flock birds;
-7 ducks; and
-48 goats.

Aerial imagery of the site is appended to the Statement; however, this imagery is unclear and does not appear to show animals within the site such as poultry or goats. It appears that the approved agricultural shed was within the site from 2018; however, it is unclear when the building was substantially completed as no photographs of the building has been provided to demonstrate this. Notwithstanding the unclear images that have been appended to the Justification Statement, a review of imagery on Google Earth has been undertaken and this does appear to show some livestock (potentially goats) within the site from 2018. This is not conclusive; however, on the balance of probabilities it is considered that livestock were likely being kept within the site from 2018 onwards; however, prior to this it is unclear if livestock were being kept within the site as limited evidence has been provided to show this.

The applicant has not submitted photographs of the site to show how the site has been used over time to support their case. There are limited Streetview images of the site available on Google Earth dated April 2009 and September 2021. The Streetview images from September 2021 appear to show goats within the site.

There are photographs of the site that were taken as part of the determination of application H05-0453-16. The photographs were dated 01st June 2016 and do not show any animals within the site. Additional photographs were taken of the site by the determining planning officer for application H05-1062-16 which were dated 02nd November 2016. These photographs cover most of the site and it does not appear that any livestock animals were being kept within the site at that time. The site appears to feature large areas of grassland which supports the applicant's reference to the land being re-seeded.

Whilst it is acknowledged that the photographs from these applications were only taken on two days in 2016, these photographs appear to indicate that the site was not being used for grazing livestock as of 02nd November 2016.

As set out previously, the documents that were submitted by the applicants as part of the determination of applications H05-0453-16 and H05-1062-16 also appear to indicate that the site was not yet being used for keeping livestock. Furthermore, according to the submitted Justification Statement, it appears that prior to November 2016, the only potential agricultural works that had taken place was the clearance and re-seeding of the land.

As set out previously, it needs to be clearly demonstrated by the applicant that the use of the land changed from an equestrian use to an agricultural use since at least July 2016. However, the only works that appear to have been undertaken as of July 2016 was the re-seeding of the land and the use of the site for a feed supply business which is not considered to comprise an agricultural use. Whilst the re-seeding of land is often accepted as part of an agricultural use, for example, to support the grazing of animals, in this case, it is not clear if the re-seeding of the land represents a change in the use of the land from equestrian to agricultural. The re-seeding of the land could be seen as a continuation of the equestrian use.

Furthermore, despite the Justification Statement suggesting that the applicants have increased their herd of goats from 2016 onwards, there is limited evidence to show that livestock were grazing the land prior to 2018.

In terms of the use of the site after 2016, the Justification Statement sets out the following events:

-"In 2017 the bee hives were set up on the site
-2018 - shows the agricultural store finished and paddocks they created in full use. -H05-1062-16
-2022 - some of the trees cut back to expose the existing buildings on the southern boundary
-2023 - more trees cut back to expose the buildings on the southern boundary.
-2025 - current scene of the agricultural small holding."

The Justification Statement sets out that the applicants keep 50 chickens, 10 ducks, 44 goats and beehives within the site. It is considered that the keeping of such animals comprises an agricultural use; however, the statement provides limited detail in terms of when the animals started to be kept within the site. Notwithstanding the lack of detail and explanation, on the balance of probabilities it is considered that the site has been used for agricultural purposes since 2018. As set out previously, this is partly based on a review of Streetview images and aerial imagery of the site since 2018, in addition to information provided by the applicant. However, it is considered that insufficient evidence has been provided to show that the site has been used continuously since July 2016 as agricultural land.

Another matter of relevance is an enforcement case that is currently underway within the site due to a potential breach of planning control as it appears that caravans have been sited within the site and the current applicants might be residing within them. The enforcement case began in December 2024 and according to the notes on the enforcement file, the current applicants claim they have been living within the site for the past few years based on a discussion that took place during a site visit in March 2026. Furthermore, a pre-application was submitted by the current applicants on 14th February 2024. Whilst pre-application enquiries are treated as confidential, in this case, the submitted information is considered to be directly relevant to the current application and it is considered relevant to consider the following statement within the pre-application statement:

"Mr & Mrs Saunders have been operating their business from this site for approximately 6 years and have been living on site in temporary accommodation for approximately 4 years."

Under the current application, the applicants have applied for a certificate of lawfulness to demonstrate that the whole of the site has been used continuously as agricultural land for 10 years, starting in April 2016. As set out previously, the applicant only needs to demonstrate that the breach has been continuous since July 2016; however, the applicant has contradicted the information that has been submitted with the current application within the pre-application that was submitted in 2024. This undermines the reliability of the Justification Statement that has been submitted. Even though the applicants do not have planning permission to live within the site, the applicants have previously undermined their own claim that the whole of the site has been used continuously for agricultural purposes as it appears that part of the site might have been used for residential purposes. The applicants themselves have set out this out.

Therefore, it is considered likely that the site was used for agricultural purposes since at least 2018; however, insufficient information has been provided to demonstrate an agricultural use prior to this. Although the LPA granted approval for an agricultural shed under planning permission H05-1062-16 on 02nd November 2016, this permission did not grant consent for the change of use of the site as a whole to an agricultural use. Whilst the wider use of the land should have been queried in 2016, the permission nonetheless did not grant approval for the site to be used as agricultural land. Even if it was concluded that the permission did allow for the whole site to be used for agricultural purposes, the permission was not granted until 02nd November 2016 and the applicants need to demonstrate that the use commenced in July 2016 and carried on continuously since then.

Furthermore, it appears that part of the site has been used for residential purposes. Even though the residential use has been without planning permission, this undermines the applicant's claim that the whole site has been used as agricultural land.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

It is considered that insufficient information has been provided to show that the site has been used as agricultural land continuously for 10 years. Furthermore, according to information previously provided by the applicants, it appears that part of the site has been used for residential use. Even though this use does not have planning permission, this undermines the applicants current submission. As such, it is not considered that the breach of planning control is immune from enforcement action, and it is considered that full planning permission is required for the change of use of the land for agriculture.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused under delegated authority.