

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H05-1035-19 **Applicant:** Mrs M Orrey

Proposal: Occupation of dwelling by persons not employed in agriculture (Condition 4 of EE66-72)

Location: Lesley-Ann Joys Bank Holbeach St Johns

Terminal Date: 10th January 2020

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

Not applicable

Representations:

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

CASE OFFICER ASSESSMENT

This is a legal determination and planning policy is not relevant to the determination as to whether the claimed use is indeed lawful. The decision is based upon the case officer's judgment as to the case being proven on the balance of probabilities.

This application seeks the granting of a Lawful Development Certificate (LDC) for the occupation of a dwelling by persons not employed in agriculture which is in breach of condition associated with the land.

The applicant has submitted the following evidence in support of the claim:

1. Application form
2. Supporting information Ref. 3577-19 Prepared by G R Merchant Ltd

Case law has established that in order to become immune from enforcement and therefore lawful, the breach must be continuous for a period of at least 10 years.

The applicant has provided a death certificate for their deceased husband (who was the individual who was fulfilling the agricultural habitation clause) that proves that they passed away in February 2003. Additionally the applicant has provided auction listings for a large range of agricultural machinery to be sold at auction in April 2003 which tacitly implies that after that no individual since has been conducting agricultural work at the site. No objections have been received to contradict

the evidence given by the applicant, therefore it would appear that since 2003 until present day no person residing in Hollies has complied with the agricultural occupancy condition.

The Council has no evidence or records to dispute the claim, therefore on the balance of probabilities the case has been proved that the agricultural restriction has been in breach for a period exceeding 10 years. The breach is now, as a result of this, deemed immune from planning enforcement.

A delegated approval is considered appropriate in the circumstances.