

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H05-1103-20 **Applicant:** Chattertons Trustee Corporation Ltd.

Proposal: Occupation of dwelling by persons not employed in agriculture (Condition 2 of H05-0771-74)

Location: Jalna Ravens Gate Holbeach

Terminal Date: 8th February 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

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 property is Jalna, Ravens Gate, Fleet Fen, Holbeach, Spalding.

Site Description

The site is approximately 2.32 km to the south-west of Fleet and 2.95 km to the south-east of Holbeach. It visibly lies on the Fendland landscape. Agricultural fields predominate the wider location of the site. The character of the area is mainly rural. Residential buildings are scattered across the landscape.

Jalna is a detached dwelling fairly set back from the highway. Further to the rear, there is a large farm yard with former agricultural outbuildings. A menage is roughly 40 metres to the east of the house. The remainder of the curtilage is paddock land.

History

H05-0171-18 - Change of use from agricultural to equestrian and construction of a menage (for private use) (retrospective) - Approved

H05-0417-03 - Single storey extension - Approved

H05-0291-97 - Extensions to kitchen and bathroom - Approved

H05-0220-94 - Retention of dwelling without complying with agricultural habitation clause - Refusal

Planning Considerations

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

Evidence has been submitted by the applicant to demonstrate that the bungalow was resided in by persons who were not solely or mainly employed in agriculture for a period of time in excess of 10 years.

A statement has been submitted to support this application. It is confirmed that the keeping of a few sheep, pigs and chickens took place in the former agricultural buildings as well as some egg chicken sale. However, no evidence has been extended to the Council with regard to domestic livestock at the property.

The piggery was reused to host a hot tube/swimming pool. Company correspondence, receipts and recent photographs have been submitted to prove the householder/recreational use of this former agricultural unit.

Retrospective planning application was granted for change of use to equestrian land and erection of menage in April 2018. It was clearly specified throughout the application documents that the horse activity was for private use.

From the evidence submitted, which is sufficiently clear and unambiguous, on the balance of probabilities it has been proved that the dwelling was resided in by persons who were not solely or mainly employed in agriculture for a period of time in excess of 10 years.

Therefore, the use is lawful and immune from planning enforcement. No reasonable grounds exist to withhold the grant of a lawful development certificate.

Conclusion

A delegated approval on this occasion, granting the certificate as applied for, is considered appropriate in accordance with the application submitted and the supporting evidence.

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.