DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H06-0042-22**	**Applicant:**	**E Breese**
Proposal:	Occupation of dwelling by persons other than Mr W R Breese, his family or dependants or to the family or dependants of future occupants of Linden House - Condition 2 of H06-0140-88		
Location:	Flat Linden House Churchgate		
Terminal Date:	21st March 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Not applicable.

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

The application seeks the granting of a Certificate of Lawfulness for occupation of dwelling by persons other than Mr W R Breese, his family or dependants or to the family or dependants of future occupants of Linden House - Condition 2 of H06-0140-88.

Site Description

The site is located in the countryside, to the south side of the A17 near Gedney Black Lion, and to the north east of Gedney, between both of the settlements. The detached dwelling is situated to the west of Churchgate road, and is comprised of several outbuildings to the rear where the "Flat" is situated.

Relevant Planning History

H06-0140-88- Approved in 16-03-88- Change of use of outbuildings to self-contained' living accommodation for disabled person.

Material Considerations

The application seeks the granting of a Certificate of Lawfulness for occupation of dwelling by persons other than Mr W R Breese, his family or dependants or to the family or dependants of future occupants of Linden House.

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 (which includes numerous tenancy agreements, a timeline and application form) appears to indicate that there have been tenants residing in the "flat" other than Mr W R Breese, his family or dependants or to the family, for a period of more than 10 years, in breach of Condition 2 of H06-0140-88.

Conclusion

On the balance of probability, it has been satisfactorily demonstrated that there has been a breach of Condition 2 of H06-0140-88 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.