

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-1068-21 **Applicant:** Mr & Mrs Godfrey
Proposal: Siting of a single residential unit.
Location: The Old Coal Yard Low Road Holbeach Hurn
Terminal Date: 10th December 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

The application seeks the granting of a Certificate of Lawfulness for the siting of a single residential unit.

Site Description

The site is located on the south-eastern side of Low Road and is a former coalyard. It is currently occupied by a mobile home and a number of sheds/outbuildings. Access is off Low Road via a private roadway.

"The Old Vicarage" is located to the south-west and the Rose & Crown Public House and caravan site to the north and north-east.

Planning History

No recent history

Material Considerations

The application seeks the granting of a Certificate of Lawfulness for the siting of a single residential unit.

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 submission indicates that the former owner purchased the site in November 1953 and operated a business from the premises (coal yard). The application is accompanied by a number of personal statements indicating that he lived on the site for a period of well over 20 years and probably more than 40 years. Aerial photographs indicate that a static caravan was present on site in April 2005 and September 2009.

A year before he died (20 March 2015) he moved into a care home on the recommendation of Social Services. The current owners purchased the land in November 2016 after a period of some 20 months due to probate and sale. According to records, they occupied the new mobile home/residential cabin in December, 2017, upon which the old static caravan was removed.

Although the static caravan was unoccupied for the period outlined above, it remained on site. This is supported by photographic evidence showing it on site in August 2016. Information accompanying the application indicates that it retained its domestic use. It can therefore be argued that the residential use was not abandoned.

On the balance of probability, therefore, it has been satisfactorily demonstrated that a residential unit has existed on the site for a continuous period of not less than 10 years from the date of the application. There is no substantive evidence held by the Council to dispute this.