DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-1288-21**	**Applicant:**	**Mr & Mrs D Wheatley**
Proposal:	Erection of Storage Shed - retrospective		
Location:	Cranmore House Cranmore Lane Holbeach		
Terminal Date:	7th February 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019
National Guidance **National Planning Policy Framework 2021**

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

PROPOSAL

This is a Section 191 certificate of lawfulness application for an existing use of a storage shed to the rear of Cranmore House, Cranmore Lane, Holbeach, PE12 7HT.

SITE DESCRIPTION

The site is located at the edge of the Holbeach settlement boundary. The southern and eastern boundaries abut the open countryside. The storage unit in question is located to the rear of the main dwelling which fronts Cranmore Lane.

RELEVANT HISTORY

H09-1434-79 - Change of use of residence and former nursery to residence, builder's yard and paddock at Cranmore Lane - Approved

CONSULTATION RESPONSES

None.

PLANNING CONSIDERATIONS

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.

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

1. Application Form
2. Site Location Plan, block plan and photograph of shed
3. Google map images from 2007

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 shed in question was erected 2003 and has been on the site since. Aerial photographs indicate that the shed was present on site in December 2007.

On the balance of probability, therefore, it has been satisfactorily demonstrated that the shed 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.

PLANNING BALANCE

On the balance of probabilities, it is concluded that the shed has been on the site in excess of 10 years therefore a certificate of lawfulness can be issued.

CONCLUSION

Given the absence of contrary evidence it is considered that, on the balance of probabilities, the shed has been on the site in excess of 10 years, and it would be appropriate to issue a certificate of lawfulness.

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.