DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H13-0132-24**	**Applicant:**	**Mr & Mrs P & D Haines**
Proposal:	Occupation of dwelling by persons not employed in agriculture (Condition 2 of H13-0266-74 and H13-0231-75).		
Location:	St Albans House Fen Gate Moulton Chapel		
Terminal Date:	9th April 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

The application seeks the granting of a Certificate of Lawfulness for occupation of St Albans House by persons not employed in agriculture.

Site Description

The site is located in countryside on the western side of Fen Gate, Moulton Chapel and is occupied by a large house, plus buildings at the rear.

Relevant Planning History

H13-0266-74 - Outline - Mr J W Walkers - Dwelling and garage - Approved 11 September 1974

H13-0231-75 - RM - Mr A Pearce - House and garage - Approved 23 April 1975

H13-1323-07 - S192 - Mr K German - Determination to comply with agricultural occupancy clause - Approved 15 November 2007.

H13-0981-12 - S73A - Mr & Mrs W Price - Retention of dwelling without complying with agricultural habitation clause (Condition 2 of H13-0266-74 and Condition 2 of H13-0231-75) - Refused 17 January 2013

Material Considerations

The application seeks the granting of a Certificate of Lawfulness for occupation of St Albans House by persons not employed in agriculture.

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 Property was purchased from Mr & Mrs W Price by Thomas Albert George Osmond, on 23rd August 2013. He purchased the Property with tenants in situ. The "Tenants" Mr Ian Edwards and Mrs Jane Marina Edwards (nee Sanders) occupied the Property continuously as their principal private dwelling house from 23rd August 2013 until 16th September 2019.

A submitted Statement of Truth signed by Thomas Osmond and reproduced clearly states that he was the owner and Landlord of the Property between August 2013 and September 2019. For the entire duration of his ownership the Property was occupied by tenants, Mr Ian Edwards and Mrs Jane Marina Edwards (nee Sanders). It states that at no point during their occupation of the Property were either Mr or Mrs Edwards employed solely or mainly in agriculture. Instead, Mr Osmund has clearly stated that they were employed as Directors of Winchperfect Ltd, a cable pulling company involved in the telecoms sector. Mr Osmund has further stated that for the entire period of his ownership (August 2013 and September 2019) none of the land at St Albans House was used for agricultural purposes.

On 17th September 2019 Thomas Osmond sold the Property to Paul and Debra Haines (the "Applicants"). Paul and Debra Haines moved into the Property on 17th September 2019 and have occupied the Property continuously from 17th September 2019 until the date of this application. The submission is accompanied by Statutory Declarations signed by Paul Haines and also Debra Haines stating that at no point during his/her occupation has he/she been solely or mainly employed or last employed in agriculture, nor is he/she a dependant of such a person.

The only other occupiers of the Property during the last 10 years have been Mrs Haines' sons, Cobie and Jayden (13 yrs. and 16 yrs.). They were both in full-time education during their occupation of the Property.

The evidence therefore confirms St Albans House has been occupied for a continuous period in excess of 10 years by persons who are not solely or mainly employed or last employed in the locality in agriculture, nor are they dependents of such a person.

Conclusion

On the balance of probability, it has been satisfactorily demonstrated that there has been a breach of the agricultural occupancy condition for at least the last 10 years. There is no substantive evidence held by the Council to dispute this.

Recommendation

Approval.