

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H13-0145-20 **Applicant:** Mrs L Leyland

Proposal: Occupation of dwelling by persons not employed in agriculture (Condition 3 of H13-0919-78)

Location: Jersey Lodge Middle Marsh Road Moulton Marsh

Terminal Date: 10th April 2020

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

Not applicable.

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

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.

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

1. Application form
2. Site Plan
3. Affidavit of Lisa Leyland and appendices

Case law has established that in order to become immune from enforcement and therefore lawful, the breach must be continuous for a period of at least 10 years.

The applicant has provided a sworn affidavit to evidence the application. No objections have been received to contradict the evidence given by the applicant, therefore it would appear that since 1999 until present day it appears that no person residing in Jersey Lodge has complied with the agricultural occupancy condition.

The Council has no evidence or records to dispute the claim, therefore on the balance of probabilities the case has been proved that the agricultural restriction has been in breach for a period exceeding 10 years. The breach is now, as a result of this, deemed immune from planning enforcement.

A delegated approval is considered appropriate in the circumstances.