

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H15-0824-22 **Applicant:** Mr & Mrs Fox

Proposal: Occupation of dwelling by persons not employed in agriculture - SR210/69 Condition 3

Location: The Foxes New Road Quadring Eaudike

Terminal Date: 11th October 2022

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Representations:

	Object	Support	No Obj.	Comments
OTHER STATUTORY BODIES	0	0	1	0

CASE OFFICER ASSESSMENT

Proposal

The application seeks the granting of a Certificate of Lawfulness for occupation of The Foxes, New Road, Quadring Eaudyke, by persons not employed in agriculture.

Site Description

The detached property is situated within the countryside, according to Policy 1 within the South East Lincolnshire Local Plan, 2019. The dwelling is situated on a spacious plot, with only two other residential properties within the vicinity. The surrounding area is characterised by agricultural buildings and agricultural open fields to the north west of the property.

History

SR/210/69 - House and garage with provision of vehicular access - approved September 1969

Consultation Responses

Quadring Parish Council

No Objections.

Material Considerations

The application seeks the granting of a Certificate of Lawfulness for occupation of The Foxes 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 evidence accompanying the application (the Affidavit, Council Tax Records and two statements of truth) indicates that neither the applicants nor any tenant, since purchasing the property, have complied with the Agricultural Restriction. In the absence of any evidence to the contrary, it is concluded that sufficient evidence has been produced which demonstrates that "on the balance of probability" the occupation of the dwelling in breach of the agricultural occupancy condition has continued for in excess of 10 years since the breach of planning control, thereby making it immune from planning enforcement.

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.

It is therefore considered appropriate to issue a certificate of lawfulness.