DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-1058-19**	**Applicant:**	**Mr Richard Holmes**
Proposal:	Occupation of dwelling by persons not employed in agriculture (Condition 3 of H16-0517-88)		
Location:	Hollies Rangell Gate Low Fulney		
Terminal Date:	23rd December 2019		

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

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 Mr Richard Holmes
4. Decision Notice H16-1152-88
5. Decision Notice H16-0517-88

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 2000

until present day it appears that no person residing in Hollies 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.