DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H17-0601-22**	**Applicant:**	**Mr & Mrs R Hart**
Proposal:	Occupation of dwelling by persons not employed in agriculture (Condition 4 of H17-0271-91 - re-registered as H17-1306-91)		
Location:	The Burrells Stockhouse Lane Surfleet		
Terminal Date:	11th August 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

N/A

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

PROPOSAL

The application seeks the granting of a Certificate of Lawfulness for occupation of The Burrells, Stockhouse Lane, Surfleet by persons not employed in agriculture (Condition 4 of H17-0271-91 - re-registered as H17-1306-91).

SITE DESCRIPTION

The site is located in the open countryside to the west of Surfleet and is occupied by a detached dwelling with a spacious garden. It sits within an area of non-nucleated linear development that is otherwise agricultural in character.

RELEVANT PLANNING HISTORY

H17-0271-91

No documents held by Local Planning Authority.

H17-1306-91

Outline - Proposed new dwelling for agricultural purposes and farmstead inc. means of access

(Registered as H17/0271/91) - Approved - 04 February 1992

H17-0249-92

Reserved Matters - Erect 3 bed bungalow - Approved - 02 June 1992.

H17-0587-93

Full - Proposed garage - Approved - 23 July 1993.

MATERIAL CONSIDERATIONS

The application seeks the granting of a Certificate of Lawfulness for occupation of New 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 evidence accompanying states since the occupation of The Burrells, the occupants have not complied with the Agricultural Restriction. Mrs Hart is a full time housewife and Mr Hart is a self employed lorry driver, and was previously a gardener / landscaper as well as a lorry driver for Healey Transport. A letter from Healey Transport confirms that Mr Hart has worked for the company in excess of 20 years. A letter from a my friend supports the assertion that Mrs Hart has been a housewife for in excess of 20 years. 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.