DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H18-0611-24**	**Applicant:**	**Mr J Andrews**
Proposal:	Confirmation that The Lords Manor, The Lords Manor Barn & The Lords Manor Static all have an established use (beyond relevant periods for immunity) as individual residential dwellings		
Location:	Lords Manor Hospital Drove Long Sutton		
Terminal Date:	12th September 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Section 191 of the Town and Country Planning Act 1990

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This is an application made under Section 191 of the Town and Country Planning Act 1990 (as amended). The applicant seeks confirmation as to whether the use of a building 'Lords Manor' 'Lords Manor Barn' and static caravan for the purposes of a dwelling house (C3) is lawful.

Site Description

The application site is located on the eastern side of Hospital Drove (north of the junction with Woad Lane/Ave Farm Road) close to number 219. The application site is located to the east of Long Sutton and North West of Sutton Bridge located outside of any defined settlement boundary and in the open countryside.

The site is closed off with high gates and two accesses and tree lined. The boundaries are set back from Hospital Drove where there is a grass verge with a number of cars parked. This site has previously applied for certificates, that the council considered at that time could not be issued.

This application site is located outside of the residential curtilage associated with 2019 Hospital Drove and therefore makes up its own planning unit (distinct from that residential property).

History

H18-0941-23- S191 - Use of building as a residential dwelling. Certificate not issued

H18-0943-23 - S191 - Conversion of barn into residential dwelling. Certificate not issued

Consultation Responses

Legal

The evidence suggests that the LDC application should be approved

Planning Considerations

The application seeks the local authority's consideration as to whether:

The Lords Manor, The Lords Manor Barn & The Lords Manor Static all have an established use (beyond relevant periods for immunity) as individual residential dwellings

The grant of a certificate applies only to the lawfulness of development in accordance with planning legislation. It does not remove the need to comply with any other legal requirements such as the Building Regulations 2010, or the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) or other licensing or permitting schemes.

Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the contents of an application and how it must be submitted. An application must be accompanied by sufficient factual information/evidence for a local planning authority to decide the application. An application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate. *Paragraph: 005 Reference ID: 17c-005-20140306*

Evidence provided by applicant

This LDC can be broken down into the 3 following components (or breaches). These buildings are shown on the block plan (as well as the location plan) provided by the applicant.

- Lords Manor
- Lords Manor Barn
- Static Caravan

All of which are being utilised as separate dwellinghouses and are now beyond the period for enforcement.

Time Limits

The time limits for taking enforcement action are set out in section 171B of the Town and Country Planning Act 1990.
It states that In most cases, development becomes immune from enforcement if no action is taken:

-within 4 years for an unauthorised change of use to a single dwellinghouse where the change of use took place before 25 April 2024
-within 10 years for any other breach of planning control (essentially other changes of use)

The Lords Manor and Lords Manor Barn therefore need to demonstrate a 4 year continuous period (previous submission show that it is clear this breach took place before April 2024) and the caravan needs to demonstrate a 10 year continuous breach.

The Lords Manor

The 'Lords Manor' is located to the north of the application site and has its own separate access. Photos demonstrate that the building is served by its own septic tank. It is a timber clad single storey building with a northerly access porch. The applicant has provided the following supporting evidence:

- Letter from Long Sutton Medical Centre
- Invoice for gas dated at 2019 (Lords Manor as the address).
- Photographs
- Applicants statement
- Signed Statements from Neighbours
- Statement from contractors that empty the septic tanks
- Bank Statement showing address

Corroboration: The signed statements from neighbours and contractors as well as the doctors surgery whom confirmed the letter.

The Lords Manor Barn

The Lord's Manor Barn is located to the south of the 'Lord Manor' and is again a timber clad single storey building. This is inhabited by Mrs Ann Andrews who for medical reasons needed to move into the barn in 2018. The barn is served by its own septic tank. The applicant has provided the following evidence:

- Supporting Statement (The applicant has provided a personal statement detailing that Mrs Ann Andrews through poor health was unable to live in the main house and so an outbuilding was converted (that forms the premise of this certificate) to suit her needs. The applicant points out explicitly that this is not an annexe but a 'Stand Alone Property'. The supporting information states that the utility bills are shared with the property and so cannot be evidenced to support that this is a unit that is separate from the dwelling.)
- Photos

Corroboration: Mrs Ann Andrews confirmed over the telephone that this was the case. Mr Andrews confirms he signed the statement.

Static Caravan

The static caravan is located to the east of Lord Manor Barn. It is clad in timber and served by its own septic tank. The applicant has provided the following information

- Signed Statement by Mr A Andrews
- letter showing a caravan belonging to Mr & Mrs B Andrews has left a holiday resort in 2009

Corroboration : None of the evidence for the static required corroboration

Assessment

The information submitted in support of this application has in part been corroborated. The corroborated evidence relates in the main to the Lords Manor itself. However Mrs Ann Andrews also confirmed through telephone conversation that she lives in the 'Lord Manors Barn' and has done so for over 4 years and Mr Andrews confirms he signed the supporting statement.

There is some conflicting evidence that the council do possess. A google image (from street view) dated September 2021 appears to show that the Lords Manor Barn was functioning for the storage of domestic items rather than functioning as a dwellinghouse. Whilst this evidence shows the original garage doors open with domestic items stored it does not show the full extent of this building and cannot therefore conclude comprehensively that all of the building was used for the storage of domestic items. Therefore, tilted weight is given to the signed statement from Mr Andrews as well as the phone call with Mrs Ann Andrews herself.

Other conflicting evidence relates to the dates when the 'Lords Manor' itself which appears on Google Earth Pro to have changed locations between 2020 and 2022. In 2020 it appears that the Lords Manor is potentially a caravan, in 2022 it shows the building in the position and footprint it is located in today (which is further north). Whilst this may suggest that two buildings have been considered to form the Lords Manor over time it does not contradict previous evidence that the manor was inhabited in 2018; or that the new building has been located on this site for less than 4 years. (The 2020 evidence is stated to be taken in August, which is 4 years and 1 month ago). Therefore it cannot categorically be disproved (by the conflicting evidence) that even though the building (where it is now) appears on Google Earth After 2020, that 4 continuous years of habitation

have not taken place.

Lastly, turning to the caravan there is no evidence that conflicts the applicant's evidence. Mapping also shows this in situ over 10 years, there is also nothing to suggest that the continued residential use was disrupted (the applicant states the existing tenant moved in to the static 1 month before Mr Andrews moved out). So a tilted balance to the large amount of evidence including doctors letter is given.

Planning Practice Guidance (Paragraph: 006 Reference ID: 17c-006-20140306) states that:

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

As the conflicting evidence is not wholly comprehensive (i.e. the google images only convey that part of the Lords Manor Barn was being used for domestic storage (and so not all of it) and that Google Earth Pro maps don't disprove that the Lords Manor itself has been habituated for over 4 years) (only that the building appears to have been relocated, over 4 years ago) when weighted against the large amount of corroborated evidence and signed statements there appears to be no good reason to refuse this application.

It should be noted that the caravan reflects only a change of use of the immediate area it is located on for residential purposes, whilst the Lords Manor and Lords Manor Barn are considered to have uses as an established residential dwelling.

Conclusion

On the balance of probabilities, giving the appropriate weight to the conflicting evidence, when weighed against the supporting evidence it appears that there is no good reason not to issue the certificate.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.