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Your ref: PP:11952793
Our ref: 1530 1 LMS SB

09 March 2023

Planning and Building Control Manager
South Holland District Council
Council Offices
Priory Road
Spalding
PE11 2XE

Dear Sirs

MR AND MRS R SEATON
APPLICATION UNDER SECTION 191 (1)(c) OF THE TOWN AND COUNTRY PLANNING ACT 1990
CONTINUED OCCUPATION OF DWELLING NOT IN ACCORDANCE WITH CONDITION 3 (AGRICULTURAL OCCUPANCY) OF PLANNING PERMISSION EE36/73
98 LUTTONGATE, GEDNEY HILL, SPALDING, LINCOLNSHIRE. PE12 0QH

We have submitted an application under Section191 of the Act for a certificate of lawfulness in relation to the above proposal via the Planning Portal, reference PP-11952793.

The dwelling in question was granted planning permission on 8th January 1973 and was the subject of conditions and in particular condition 3 states that:-

"The occupation of the dwelling shall be limited to a person employed, or last employed, locally in agriculture as defined in section 290(1) of the Town and Country Act 1971 or forestry or a dependant of such a person residing with him (but including a widow or widower of such a person)."

Section 191 of the Act allows any person to ascertain whether a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful for planning purposes. The burden of proof rests with the applicant and the standard of proof is the ordinary civil standard of "on the balance of probability" and not the higher criminal standard of "beyond reasonable doubt". In the case of an application such as this, The National Planning Practice Guidance sets out that, "…..if a local planning authority has no evidence itself, nor from others' to contradict or otherwise make the applicant's version of events less than probably, 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".

Mr and Mrs Seaton first occupied the dwelling on the 2nd March 2012 and have been in occupation, continuously, ever since. Mr Seaton runs a Landscape Gardening business called Silvertree Garden Services (silvertreegardenservices.co.uk) and Mrs Seaton has

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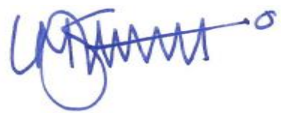
held various jobs in the finance sector. Neither have ever been employed in the agricultural or forestry sector.

The application is supported by a signed declaration from Mr and Mrs Seaton, and we have also included letters from Mrs Seaton's sister, Mr Seaton's accountant and Mr Musgrove, a colleague of Mr Seaton, which corroborates our proposition.

We have, therefore, proved that, in the balance of probability, condition 3 of planning permission E36/73 has been continuously breached for a minimum period of 10 years from the date of this application and therefore the continued occupation of the dwelling is lawful for planning purposes.

Accordingly, we invite the local planning authority to grant the certificate.

Yours faithfully



Lewis Smith MRTPI