

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H20-0245-20 **Applicant:** Ms J Grist

Proposal: Occupation of dwelling by persons not employed in agriculture (Condition 2 of EE208-64)

Location: Colreta Old Fendyke Sutton St James

Terminal Date: 6th May 2020

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
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CASE OFFICER ASSESSMENT

Proposal

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.

Site Description

'Colreta' is located to the eastern side of Old Fendyke and sits within a large residential curtilage. On land to the rear is a menage, stables, livestock shelter and paddock land. Built development in the area is limited and the character of the area is overwhelmingly countryside and agricultural in nature. The nearest property is approximately 140m away to the north-west.

History

H20-0207-05 - Retention of dwelling without complying with Agricultural Habitation Clause (Condition 2 of EE208/64) (refused April 2005)

EE208/64 - Erection of a house and garage with provision of vehicular access (approved August 1964)

Consultation Responses

Not applicable.

Planning Considerations

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.

The applicant has submitted the following evidence in support of the claim:

1. Application form
2. Site Plan and Block Plan
3. Supporting Statement
4. P60 and P45 documentation and terms of employment for one occupant and Companies House and P60 documentation and a payslip for the other occupant

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.

Evidence has been submitted demonstrating "on the balance of probability" that no person residing in the dwelling known as 'Colreta' off Old Fendyke, Sutton St James, has complied with the agricultural occupancy condition for a continuous period of at least ten years. No enforcement action has been undertaken during this period. The breach is now immune from enforcement action and it is therefore considered that there are no reasonable grounds upon which to withhold the grant of a Lawful Development Certificate.

Conclusion

Evidence has been submitted demonstrating "on the balance of probability" that no person residing in the dwelling known as 'Colreta' off Old Fendyke, Sutton St James, has complied with the agricultural occupancy condition for a continuous period of at least ten years. It is therefore recommended that a Lawful Development Certificate be granted.