

DECISION DELEGATED TO HEAD OF PLANNING**DECISION DELEGATED TO HEAD OF PLANNING**

Application No: H20-0989-23 **Applicant:** Mrs H MacDonald

Proposal: Discharge of 106 Agreement - Granting of Lawful Use Certificate H20-0768-23 making the Obligation no longer necessary - original permission H20-0658-98

Location: Barling Deer Farm Bardlings Drove Sutton St James

Terminal Date: 10th May 2024

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019****National Guidance****National Planning Policy Framework 2023**

Not applicable - this is a legal determination in relation to the S106 agreement that runs with the land.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT**Proposal**

Discharge of Section 106 Agreement - Granting of Lawful Use Certificate H20-0768-23 making the Obligation no longer necessary - original permission H20-0658-98.

Site Description

The site is in the countryside on farmland to the south west of Sutton St. James. It is outside of any settlement boundary and therefore in an unsustainable location. The nature of the area is typical flat farmland although the site itself has a good level of boundary screening and is not visible from the highway. The site has a constructed house with two rear sheds and one shed along the flank boundary at the

front. Much of the perimeter of the site has mature tree and hedge screening. A large gravel drive connects the property to the adjacent highway.

History

H20-0420-94 - Determination that Prior Approval for Agricultural Building Not Required - Erect Steel Portal Framed Building to store hay - Approved 18 May 1994.

H20-0856-94 (Outline) - Erection of a house and garage. Condition 4 related to an agricultural occupancy condition. Approved 25 April 1995. The decision notice also drew attention to the fact of a S106 Planning Obligation related to this permission.

H20-0037-98 (Reserved Matters). Erection of house and garage. Approved 17 April 1998.

H20-0658-98 - (Full) - Erection of house and garage. Approved 22 October 1998. Condition 2 of that approval states:

"The occupation of the dwelling shall be limited to a person solely or mainly employed, locally in agriculture, as defined in Section 336 of the Town and Country Planning Act 1990 or a dependent of such a person residing with him, or a widow or widower of such a person."

H20-0690-14 - (Full) Proposed double electric security gates and fence to front. Refused 3.1.14.

H20-0768-23 - (Certificate of Lawfulness S191) - Erection of Dwelling (Class C3) without compliance to the approved permission H20-0658-98. Approved 30 October 2023.

H20-0625-23 - (Prior Approval) - Conversion of Agricultural Building to residential use. Rejected 9.1.24.

H20-0214-24 - (Agricultural Determination) - Proposed agricultural hay storage barn. Refused 16.4.24.

20-0386-24 - (Agricultural Determination) - Proposed agricultural hay storage barn - Resubmission of H20-0214-24. Undetermined.

Consultation Responses

None Required.

Planning Considerations

This application relates to the removal of a planning obligation which ran with the land which stated:

"The owners hereby covenant that the development shall be permanently remain part of the agricultural holding comprising the land of which it forms an integral part and shall not be occupied except by the owner manager or employee of that agricultural building."

The land to which the obligation relates is Barling Deer Farm, Bardlings Drove, Sutton St. James, Spalding PE12 0JN.

The obligation was entered into on 22/6/1998.

The existence of a Section 106 Planning obligation is mentioned on the decision notice for H20-0856/94 dated 25 April 1995.

Application H20-0658-98 which was approved 22 October 1998 also has attached Condition 2 of that approval states:

"The occupation of the dwelling shall be limited to a person solely or mainly employed, locally in agriculture, as defined in Section 336 of the Town and Country Planning Act 1990 or a dependent of such a person residing with him, or a widow or widower of such a person."

Application H20-0768-23 was a Certificate of Lawfulness S191 application established that the dwelling was occupied for a lawful period without complying with Condition 2 of H20-0658-98. This was approved on 30 October 2023.

Given that the occupation of the property by persons not connected to agriculture is now lawful, the obligation to retain an agricultural connection is now redundant so therefore can be removed from the property.

The legal officer has confirmed that the planning obligation has been discharged, so as a result, the proposal is considered acceptable.

Conclusion

The removal of the discharge is acceptable and has been signed, therefore the decision notice can be issued.

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.