DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0030-22**	**Applicant:**	**Mrs D Woods**
Proposal:	Occupation of dwelling by persons not employed in agriculture (Condition 2 of EE158/65)		
Location:	Cherry Trees Saltney Gate Saracens Head		
Terminal Date:	21st March 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Not applicable.

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

The application seeks the granting of a Certificate of Lawfulness for occupation of Cherry Trees, Saltney Gate by persons not employed in agriculture.

Site Description

The site is located in the countryside to the north-western side of Saltney Gate and is occupied by a large detached house and spacious gardens. It sits within a small cluster of frontage dwellings in an area that is otherwise agricultural in character.

Relevant Planning History

EE158/65

Material Considerations

The application seeks the granting of a Certificate of Lawfulness for occupation of Cherry Trees 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 the application (in particular the Statutory Declaration) indicates that the applicant and her sister have been the sole owners of the property since 2021 following the passing of their late mother in October 2020, but have never resided at the property. Previous to their mother passing both their mother and her husband lived at the property and neither primarily worked on the associated agricultural land. Furthermore, no other previous residents have been employed in agriculture. 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.