

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	08/03/2021
Planning Development Manager authorisation:	TF	09/03/2021
Admin checks / despatch completed	CC	09.03.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	09.03.2021

Application: 20/01476/LUEX **Town / Parish:** Little Clacton Parish Council

Applicant: Mrs Samantha Goodman

Address: Telstar Holland Road Little Clacton

Development: Certificate of Lawfulness for use of the existing property as a dwellinghouse in breach of Condition 1 of application ENE/TEN/492/61 for a continuous period in excess of 4 years (relates to dwelling).

1. Town / Parish Council

Little Clacton Parish Council supports the application.

2. Consultation Responses

No consultations required.

3. Planning History

00/00725/FUL	Alterations to existing packing shed, and erection of storage containers	Approved	28.07.2000
16/30256/PREAPP	Erection of agricultural building to house new biomass boiler.		10.11.2016
16/02071/FUL	Proposed erection of agricultural building to house new biomass boiler.	Approved	21.03.2017
18/30200/PREAPP	Proposed single storey rear extension.		08.11.2018

4. Relevant Policies / Government Guidance

Not applicable.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

This application relates to the property known as Telstar located on the southern side of Holland Road within the Parish of Little Clacton. The property is a two storey, 4 bedroom detached dwelling located in a semi-rural location outside of the defined settlement development boundary for the area. The property has an in-and-out driveway leading to a large parking area and double garage.

Description of Proposal

The application seeks a Lawful Development Certificate for an Existing use in breach of a planning condition under the Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991.

In this instance, the evidence submitted seeks to demonstrate that the existing dwelling has been occupied as an unrestricted residential dwellinghouse in breach of Condition 1 (agricultural occupancy condition) of application ENE/TEN/492/61 for a continuous period in excess of 4 years (relates to dwelling).

Main Considerations

The National Planning Policy Guidance explains the process for obtaining a lawful development certificate and how the application should be determined. The keys points being:

- The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application (Paragraph: 006 Reference ID: 17c-006-20140306).
- A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process (Paragraph: 009 Reference ID: 17c-009-20140306).

Assessment

The applicant, in support of the application has submitted the following documents:

- Statement and signed declaration explaining the timeline of events during ownership and prior to Mr and Mrs Goodman's ownership including their profession (not in or related to agriculture).
- Land Registry Title and Plan confirming the extent of the site and date of purchase (04.04.2013)
- Electricity bills from 2016 onwards confirming Mr and Mrs Goodman as the occupants.
- A copy of the estate agent's particulars at the time of sale which failed to include any details of the agricultural occupancy condition attached to the dwelling (also omitted from the sales particulars and solicitors searches from the earlier purchase).

Conclusion

From the evidence provided, the Local Planning Authority are satisfied that the applicant purchased the property on the basis that no occupancy condition existed. The sales particulars and solicitor searches failed to highlight the clause. Mr and Mrs Goodman purchased the house and land on 04.04.2013 and have lived there ever since. Mr and Mrs Goodman were not employed in agriculture or a related profession.

6. Recommendation

Lawful Use Certificate Granted

7. Reasons for Approval

- 1 The evidence submitted with the application is sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities, Telstar, Holland Road, Little Clacton, Clacton On Sea, Essex CO16 9QG (Title number EX644562) has been occupied as an independent dwelling in breach of Condition 1 (agricultural occupancy condition) of application ENE/TEN/492/61 for a continuous period of in excess of 4 years; and that this use has not been supervened by another material change of use and nor has it been abandoned.

8. Informatives

Not applicable.