DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H02-0512-25**	**Applicant:**	**Mr A Baranowski**
Proposal:	Erection of Conservatory		
Location:	57 Peterborough Road Crowland Peterborough		
Terminal Date:	22nd July 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent for a lawful development certificate for the erection of a conservatory. The application is submitted under Section 191 of the Town and Country Planning Act (1990) (as amended).

Site Description

The application site comprises land at 57 Peterborough Road, Crowland. The site features a two-storey detached dwelling and its associated garden space and driveway.

The dwelling faces to the south-east of the site, towards Peterborough Road. The conservatory is located on the southern side of the dwelling. The conservatory measures 4.2m by 3.6m. The height of the conservatory is 2.7m.

Planning History

H02-0997-98: (Full Application) Alterations/extensions to existing outbuildings to form utility and shower room - approved 13 November 1998

H02-0230-04: (Full Application) Two storey side extension - approved 14 April 2004

Consultation

There is no statutory obligation for the local planning authority (LPA) to publicise an application for a certificate of lawful development. A site notice has however been displayed next to the site for 21 days.

Key Planning Considerations

Relevant Legislation

Section 191 of the Town and Country Planning Act (TCPA) (1990) (as amended) - sets out the following:

"(2) For the purposes of this Act uses and operations are lawful at any time if:
- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force."

Section 191(4) further sets out that:

"(4) If, on an application under this section, the local planning authority is provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application."

National Planning Practice Guidance clarifies that it is the responsibility of the applicant to provide sufficient information to support the application (Paragraph 006 Reference ID: 17c-006-20140306). The evidence provided needs to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability rather than beyond reasonable doubt.

Section 171B(3) of the TCPA further sets out the following:

"(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of:
(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed."

Assessment of Evidence

For the certificate to be granted, it needs to be proven that the extension was constructed more than four years ago. According to the submission, the extension was constructed between 1999 and 2001. The applicant therefore considers that the extension is immune from enforcement action, and that a certificate of lawfulness should be granted on this basis.

The application is accompanied by a planning statement, within which the applicant has provided an image showing back of a photograph which was taken on 30 April 2001. Whilst the front of the photograph is not provided, this is submitted as evidence that the conservatory was in place in 2001. The statement also shows aerial images of the site and this demonstrates that the conservatory was in place in 2000. The LPA agrees that these images provide sufficient evidence to demonstrate that the conservatory was in place at least more than four years ago.

Furthermore, the conservatory would likely be permitted development as the conservatory appears to conform with the relevant criteria. For example, the width of the conservatory is 3.6m and this does not exceed half the width of the main dwelling which is 4.9m does not exceed a width greater than half the width. The conservatory also does not exceed 4m in height. Therefore, even if the conservatory had been constructed in the past four years, it would still comprise permitted development.

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.

Conclusion

On the balance of probability, the evidence submitted to the case officer is considered sufficient to enable the LPA to conclude that the conservatory has been in place for at least the past four years and is therefore immune from enforcement action. Therefore, the certificate should be granted.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under delegated authority.