Application under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.

The use or development for which a certificate of lawful use or development is sought is the building/siting of a Conservatory building

AT

57 Peterborough Road, Crowland, Lincolnshire, PE6 0BB

May 2025

Prepared by

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1. INTRODUCTION

1.1 This Statement has been prepared and submitted by Mark Simmonds Planning Services on behalf of Mr Alexander Baranowski ('the applicant') and owner of 57 Peterborough Road. This application is for a Certificate of Lawfulness under section 191 of the Town and Country Planning Act 1990 (as amended) (the "Act").

1.2 This statement sets out the circumstances of the case before the Council for consideration and provides evidence to support the fact that the Conservatory building attached to the dwelling known as 57 Peterborough Road, has been built and used continuously as a Conservatory for a period exceeding 10 years.

2. SITE DESCRIPTION AND PHYSICAL CONTEXT

2.1 57 Peterborough Road, Crowland has been within the ownership of the applicant since the late 1990's. A utility room extension was built by Messrs Greenall Builders in 1998 and a completion certificate was issued by the Council on 11 December 1998 (ref B02/0500/98). Shortly after this the same builder built the Conservatory subject to this application (between 1999-2001), which measures 4.2m by 3.6m with the height of 2.7m.

2.2 The google street image dated 2020 below shows the image of the dwelling and the submitted site plan shows the location.



The Conservatory, subject to this application, is shown to the left if the dwelling in the image.

3. PLANNING HISTORY AND OWNERSHIP HISTORY

H02-0230-04 2 Storey Side Extension- approved. April 2004

4. THE PROPOSAL

4.1 The application for a Certificate of Lawful Established Use is made under the following provision:

The Town and Country Planning Act 1990 ("the Act"), s.191(1) provides that:

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(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.

4.2 THE PROPOSED USE

The application is submitted with the following description of development:

The use for which a certificate of lawful use or development is sought is the lawful siting of a Conservatory building at 57 Peterborough Road, Crowland, South Holland, PE6 0BB

5.0 STATUTE AND CASE LAW

5.1 Planning Guidance and case law has established that the onus is on the applicant to provide sufficient information to support the case for the Certificate, however a local planning authority always needs to co-operate with an applicant who is seeking information.

5.2. If the LPA are 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 LPA or a description substituted by them, they shall issue a certificate to that effect; and, in any other case, they shall refuse the application.

5.3 The relevant test to be applied to the evidence is that of the 'balance of probability' which is the lesser test to the criminal burden of proof.

5.4 The case of F W Gabbitas v SSE and Newham LBC [1985] JPL 630) has established that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted.

5.5. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

TIME LIMITS

5.6. Time limits in relation to the enforcement action referred to above in sections 191 (3)(a) are provided in section 171B:

171B.— Time limits.

(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 four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

5.7. Therefore, in this case the relevant enforcement time limit is four years, after which enforcement cannot be taken to remove the Conservatory. The application for the certificate must be sufficient to demonstrate that at the date of the application the building/Conservatory has been in place for at least 4 years prior to April 2024. However, regardless of the recent changes the Conservatory has actually been in place for well over 10 years in any case.

6.0 THE EVIDENCE IN SUPPORT

6.1 The applicant has been able to provide a number of photographs taken at a family party in April 2001. Fortunately the date of processing is provided on the back of the photographs. Images of the photographs and one of the back is provided below. If the Council requires evidence of the originals, the applicant shall be pleased to produce them for inspection at the Council offices if required:



Dated 30th April 2001













6.2 Further evidence of the Conservatory being in place since at least 30th April 2001, is provided by Google Earth Imagery:



Google Earth 2020



Google Earth 2007



Google Earth 2000

6.3 The Applicant can provide a Statutory Declaration, however, the physical evidence of the Conservatory being in place since at least 2000 is clearly shown in the Google Earth images which are, on balance, undisputable. However, if the Council requires additional verification to prove the existence of the Conservatory for a period exceeding 10 years then this can be provided if necessary.

6.7 The Council is asked to fully take into account the detailed photographic evidence provided which demonstrates that the Conservatory has been in place for a period well over 10 years.

7. CONCLUSIONS

7.1 The Council is respectfully asked to consider this application and evidence and grant the Certificate as applied for.

7.2 Respectfully, evidence has been provided to demonstrate that, on the balance of probability, the Conservatory building has been in place from at least 2000 to present day.

7.3 In compliance with Section 191 of the Town and Country Planning Act 1990 (as amended), the LPA is respectfully requested to issue a Certificate of Lawful Use in respect of this site to confirm that the Conservatory building at number 57 Peterborough Road, Crowland, has become lawful and immune from any enforcement action.