DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0668-22**	**Applicant:**	**Mr J Osborne**
Proposal:	Installation of patio doors & 2 replacement upvc windows		
Location:	39 Church Street Donington Spalding		
Terminal Date:	5th September 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Section 12 and 16 of the National Planning Policy Framework (2021)

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This application seeks the granting of a certificate of lawfulness for installation of patio doors and 2 replacement UPVC windows.

The Patio doors and replacement windows are both on the side (Southern) elevation of the property.

Site Description

39 Church Street is a Victorian, 3-Bay property, formerly a semi-detached property, the southern house has long since been demolished, leaving a largely blank southern, side elevation. The property is in a prominent position within the Donington Conservation Area, being situated across the road from the Grade I Listed Church of St Mary and the Holy Rood.

The property is not listed, however, it is considered by the local authority to be a 'building of local heritage' and as such, an Article 4 direction has been placed upon the property. Other 'Buildings of Local Heritage' are also situated within close visual proximity.

The area generally is characterised mostly by residential development of the C19th, however, a large mid-late C20th residential development is situated behind the site.

History

H04-1001-08

Proposed two-storey extension, garage extension and conservatory link. Refused on 12-11-08

H04-0104-09

Two-storey extension, conservatory and alterations to existing garage. Approved on 14-04-09

H04-0490-09

Details of external materials and windows (Conditions 3, 5 and 7 of H04/0104/09). Approved on 27-07-09

Consultation Responses

None received

Planning Considerations

This application is for a Certificate of Lawful Development and seeks to officially determine whether the works addressed in this application were or were not covered by permitted development.

39 Church Street is subject to an Article 4 direction which does restrict the permitted development rights of the property substantially. Furthermore, the site is within the Conservation Area, which yet further restricts the extent of the Permitted Development rights. However, the addition of doors and windows is not an act which is restricted by Conservation Area status.

The property is subject to an Article 4 Direction which outlines that any enlargement, improvement or alteration which would be subject to Class A, Part 1 Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 which is to take place on any elevation facing a roadway, waterway or public open space must be subject to the need for planning permission.

The works outlined would normally be subject to Class A, Part 1 Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015. However, these works have been carried out on the (Southern) side elevation. This means that because the elevation these works have been carried out upon does not directly face a highway, waterway or public open space, the Local Planning Authority is satisfied that planning permission would not have been required and as such, no breach of planning controls has occurred.

Conclusion

On the balance of probabilities. it has been sufficiently shown that the works completed would not have been subject to a need for planning permission, in spite of the Article 4 direction active at the property. The Local Planning Authority does not wish to dispute this.

It is therefore considered appropriate to issue a Certificate of Lawful 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.