DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0432-19**	**Applicant:**	**Mr Edgar Madge**
Proposal:	Erection of conservatory, car port, porch and summer house		
Location:	40a Cowbit Road Spalding		
Terminal Date:	10th July 2019		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019
National Guidance **National Planning Policy Framework 2019**

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

This is a legal determination and planning Policy is not relevant to the determination as to whether the claimed use is indeed lawful.

The decision is based upon the case officer's judgment as to the case being proven on the balance of probabilities.

This application seeks the granting of a Lawful Development Certificate (LDC) for the erection of a Conservatory, car port, porch and summer house all used in connection with the residential dwelling and built without planning permission. Due to the previous use of the dwelling being a bed and breakfast facility the dwelling does not benefit from the usual permitted development rights usually associated with a residential dwelling.

The applicant has submitted the following evidence in support of the claim:
1. Site Plan
2. Block Plan
3. Evidence in the form of Building Control Documents
4. Evidence of the installation of the Conservatory, Front Porch and Car Port.
6. Application form

Case law has established that in order to become immune from enforcement and therefore lawful, the building or other operations must have been completed more than four years before the date of application.

The background to the case is that the applicant built a Conservatory, Car Port, Porch and Summer house within the curtilage of the dwelling known as 40A Cowbit Road and the building works for

these structures were finished prior to at least 2010 with the Conservatory, Car Port and Porch being built back in 2005.

It is the applicants case that the passage of time being well in excess of the required 4 years has passed and the building works as specified and shown on the submitted block plan are now immune from planning enforcement.

In assessing the evidence submitted by the applicant the invoice for the Conservatory dated 2005, the invoice for the installation of the under floor heating and the invoice for the Car Port, Conservatory and Front Porch, also date 2005, all indicate that the majority of the works took place in or around mid- 2005. Although these are not conclusive evidence of the date of completion of works, when you also take into account the manufacturers guarantee issued for the 3 structures in September 2005, this would indicate the completed installation of the Conservatory, car porch and Porch in September 2005.

With regards to the Summer House, evidence has been submitted in the form of communications with the Council's Building Regulation team, and again, although not conclusive evidence of a date of completion it is a good indication on the balance of probabilities that the works did complete in excess of the required 4 years.

No objections have been received from any parties nor any evidence in held by the Council to prove the contrary, therefore on the balance of probabilities the case has been proved that the erection of the Conservatory, Car Port, Porch and Summer House at the property at 40 A Cowbit Road, Spalding, being the building or other operations, have been completed more than four years before the date of application and is therefore immune from planning enforcement.

A delegated approval is considered appropriate in the circumstances.