DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H18-0828-23**	**Applicant:**	**Mr J Godley**
Proposal:	Erection of kitchen extension		
Location:	Keepers Cottage Grange Road Terrington St Clements		
Terminal Date:	15th November 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

The application seeks the granting of a Certificate of Lawfulness for the erection of a kitchen extension at Keepers Cottage, Grange Road.

The extension measures 3 metres by 2.5 metres, with a height of 3 metres. The works were completed in October 2013.

Site Description

The site is outside of any of the settlement boundaries outlined within the South-East Lincolnshire Local Plan, 2019. The nearest settlement is Sutton Bridge, located approximately 2km to the west. The site is towards the eastern extremity of South Holland. The dwelling is isolated, being located over 250 metres from the nearest neighbour. There is a small private nature reserve to the immediate east.

The dwelling itself is a detached, two-storey house, featuring white cladding. The dwelling features dark brown windows and doors. Sizeable boundary treatments of approximately 2 metres are present surrounding the entire curtilage.

Relevant History

H18-1055-18 - Full. Proposed first flood extension to provide WC. Approved 26/11/18.

H18-0823-23 - Full. Replace existing veranda with oak frame - Retrospective. Ongoing

H18-0840-23 - Full. Erection of Greenhouse - Retrospective. Ongoing.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

No responses received

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Key Planning Considerations

Evaluation

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. The applicant has submitted the following evidence in support of the claim:

1.Application Form
2.Site Location Plan
3.Block Plan
4.Elevational Drawings
5.Various receipts and email exchanges between the applicant and the installer.

The extension has been in situ for a period of over 10 years. The submitted evidence shows that the buildings works were completed in late October 2023. There is no substantive evidence held by the Council to dispute this.

Planning Balance

Case law has established that in order to become immune from enforcement and therefore lawful, the breach must be continuous for a period of at least 10 years.

On the balance of probabilities, it is considered that the annexe was substantially completed more than 10 years before the date of this application and therefore a certificate of lawfulness can be issued.

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.