

DELEGATED DECISION WORKSHEET

Application No: W 24 / 0099

Registration Date: 04/03/2024

Expiry Date: 29/04/2024

Case Officer: Millie Flynn

Location: 3 Inglewood Close, Lillington, Leamington Spa, CV32 7AD
Proposal: Application for Certificate of Lawfulness for existing conservatory in accordance with drawing 'CONSERVATORY PLAN' submitted on 26th January 2024.

Applicant: Mrs Slade

Recommendation: Lawful Use

CHECK LIST

Publicity period expired (Neighbours, Site and Press Notice)	YES
All other consultations expired	YES
Filing checked	YES
Description correct in computer	YES

SUMMARY OF REPRESENTATIONS

Not applicable.

RELEVANT POLICIES

Not applicable.

DETAILS OF THE DEVELOPMENT

The application seeks a legal determination in the form of a Lawful Development Certificate, to ascertain whether the existing rear conservatory to the west elevation is lawful. The application is made on the basis that the extension was completed over 4 years prior to the date of this application.

The application form states that the extension was completed on 17/08/2000. Immunity from enforcement action is effective after 4 years from substantial completion of the building operations.

THE SITE AND ITS LOCATION

The application property is a detached bungalow, positioned to the north west of Inglewood Close, Lillington, Leamington Spa.

PLANNING HISTORY

No relevant planning history.

ASSESSMENT

The application must be determined on the balance of probabilities, i.e. is it 'more likely than not' that the development is lawful. The burden of proof is on the applicant, but if the Council has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, then a certificate should be issued, provided the applicant's evidence is sufficiently precise and unambiguous.

It should be noted that the applicant is seeking to prove immunity from enforcement on the basis that it has been over 4 years since the building operations were completed. The application was submitted 26.01.2024, therefore the Council must be able to determine on the balance of probabilities, that there is sufficient evidence to prove that the building operations were substantially complete by 26.01.2020.

The evidence submitted in support of the application is as follows:

Conservatory Invoice

A copy of the invoice for the conservatory has been provided from Taybrite Windows, setting out that the installation of the conservatory was planned for 17.08.2000. Officers can attach significant weight to this.

Aerial photographs

Aerial photographs sourced from Google Maps show the existing conservatory to the rear in situ since November 2006. Again significant weight is attributed to these aerial photographs, as they clearly show the rear conservatory within the boundary of the application site.

Taking the evidence in its totality and given that the applicant's evidence has been corroborated by aerial photography, and in absence of any contradictory evidence, it is considered, on the balance of probabilities, that the applicant has demonstrated that the rear extension has been substantially complete for more than 4 years prior to the date of this application and therefore is lawful and immune from possible enforcement action.

Checked by:

Business Manager - Development Management
(Authorised Officer of the Council)



Date: 05 March 2024

