

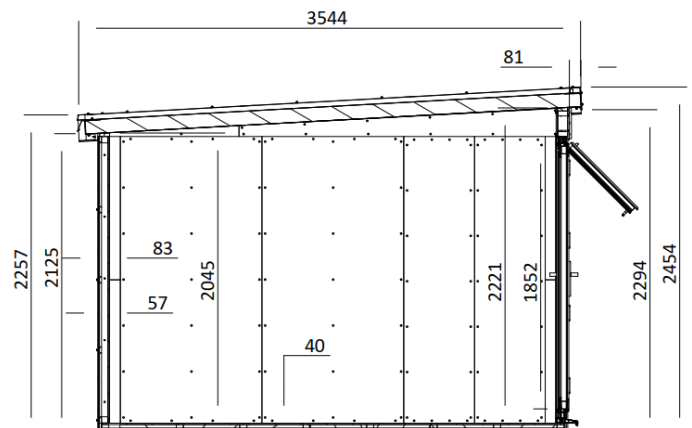
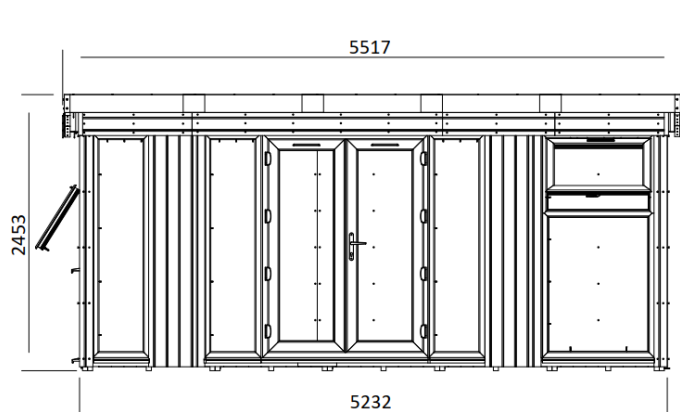
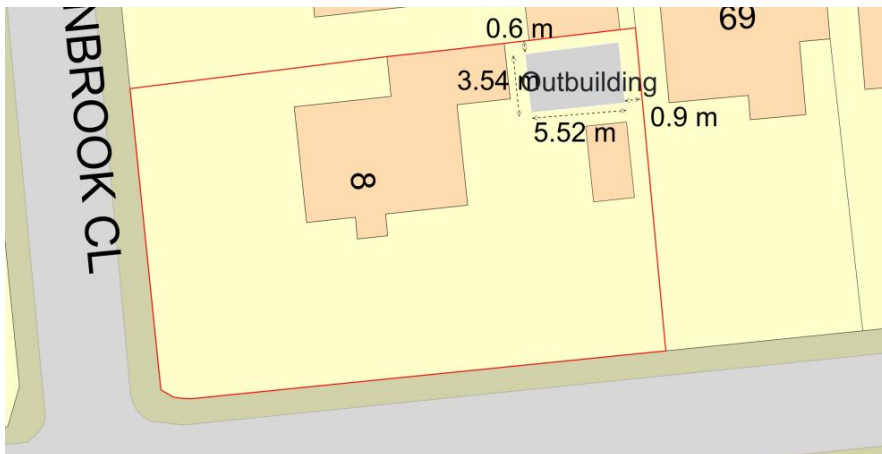
APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR EXISTING USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/00475
APPLICATION TYPE:	Lawful development: Existing development
SITE ADDRESS:	8 Alanbrooke Close, Amesbury, Salisbury, SP4 7AE
DEVELOPMENT DESCRIPTION:	Request for Lawful Development Certificate to confirm existing shed is permitted development under Schedule 2 Part 1 Class E
RECOMMENDATION:	APPROVE

SITE DESCRIPTION AND PROPOSAL

This application seeks a Certificate of Lawfulness of Existing Development under Section 191 of the Town and Country Planning Act 1990 (as amended) to establish the lawfulness of an existing shed within the residential curtilage of the dwellinghouse known as 8 Alanbrooke Close, assessed against Schedule 2, Part 1, Class E of the General Permitted Development Order 2015 (as amended).

The planning merits of the development are not under consideration. The sole issue for determination is whether the existing development constitutes permitted development under the provisions of the GPDO.



RELEVANT LEGISLATION AND CONSIDERATIONS

There are three pieces of legislation relevant to the determination of this CLUED application, these being Section 191 of the Town and Country Planning Act 1990 (as amended), Section 55 of the Town and Country Planning Act 1990 (as amended), and Schedule 2, Part 1, Class E of the General Permitted Development Rights Order (GPDO) 2015 (as amended).

The statutory framework governing Certificates of Lawfulness for Existing Use or Development (CLUED) is primarily set out in Section 191(2) of the Town and Country Planning Act 1990 (as amended). This section establishes that "lawful development" refers to development against which no enforcement action may be taken and where no enforcement notice is in force, or development for which planning permission is not required.

Section 191(4) of the Town and Country Planning Act 1990 (as amended) further stipulates that a Local Planning Authority (LPA) shall issue a Certificate of Lawfulness upon request, provided that, on the balance of probabilities, the LPA is satisfied that the existing development or use described in the application is lawful.

The Planning Practice Guidance (PPG) on [Lawful development certificates](#) clarifies that the burden of proof lies with the applicant. It is the applicant's responsibility to provide sufficiently clear, precise, and unambiguous evidence to demonstrate the lawfulness of the existing development or use.

Paragraph 1 of Section 55 of the Town and Country Planning Act 1990 (as amended) defines development as *'the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.'*

Schedule 2, Part 1, Class E of the General Permitted Development Rights Order (GPDO) 2015 (as amended) sets out the criteria buildings incidental to the enjoyment of a dwellinghouse.

REPRESENTATIONS

There is no legal obligation to consult third parties for this type of application, including Town/Parish Councils or neighbouring properties. However, the PPG recognises that it may be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application.

In accordance with PPG recommendations a site notice was in situ for at least 21 days, immediate neighbours were notified of the CLUED by letter, and Amesbury Town Council and the local ward member (Cllr) were notified of the application via email.

One representation was received and is as follows:

Amesbury Town Council – support – with the following text received:

‘Amesbury Town Council support this application.’

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Proposal / Summary
S/2001/0865 - Full planning permission Decision - Refused Date: 18/6/2001 – ERECTION OF A CONSERVATORY

ASSESSMENT

An application for a Certificate of Lawfulness of Existing Use or Development has been submitted under Section 191 of the Town and Country Planning Act 1990 (as amended) in respect of a shed erected within the established residential curtilage of the dwellinghouse known as 8 Alanbrooke Close.

The works subject to this application relate solely to the physical presence of the shed. The lawfulness of its use is not sought to be confirmed. Section 191 of the Town and Country Planning Act 1990 expressly allows for this distinction, enabling a certificate to be issued in respect of operational development independently of use, where the Local Planning Authority is satisfied that the development itself is lawful.

The erection of a building constitutes “development” as defined by Section 55 of the Town and Country Planning Act 1990. It is therefore necessary to consider whether planning permission was required at the time the shed was erected, or whether it benefited from permitted development rights.

The shed is located within the defined and established residential curtilage of the dwellinghouse. On the basis of its siting, scale and relationship to the main dwelling, it is reasonably considered to be incidental to the enjoyment of the dwellinghouse. As such, it falls to be assessed against the provisions of Schedule 2, Part 1, Class E of the General Permitted Development Order 2015 (as amended), which allows for buildings incidental to the enjoyment of a dwellinghouse, subject to compliance with the relevant limitations and conditions.

Where development is permitted under the GPDO, planning permission is not required, and enforcement action cannot be taken. In these circumstances, the development is therefore lawful for the purposes of Section 191 of the Town and Country Planning Act 1990, provided that the Local Planning Authority is satisfied, on the balance of probabilities, that the permitted development criteria are met.

The next consideration is whether the dwellinghouse known as 8 Alanbrooke Close benefits from permitted development rights. Such rights are assumed to be intact unless they have been expressly removed by condition at the time the dwelling was originally granted planning permission, or through a subsequent planning permission. A review of the Local Planning Authority’s records confirms that permitted development rights have not been removed. The

dwelling therefore benefits from permitted development rights, and the existing shed subject to this CLUED can be assessed against the provisions of Schedule 2, Part 1, Class E of the General Permitted Development Order 2015 (as amended).

Plans/documentation submitted by the applicant

Before assessing the shed against the criteria set out in Schedule 2, Part 1, Class E of the GPDO, it is necessary to consider the evidence submitted by the applicant in support of this CLUED application. The information provided to the Local Planning Authority comprises the following:

- Application form
- Location plan
- Site plan
- Planning statement
- Outbuilding elevations and floor plan
- Photos of the outbuilding in situ

It is worth explicitly noting that the shed subject to this CLUED has been confirmed as in situ to the case officer by the applicant by virtue of the submitted plans and documents, including a photo of the shed.

The criteria in Schedule 2, Part 1, Class E of the General Permitted Development Order 2015 (as amended) is as follows. An assessment of the outbuilding against each criterion of Class E is marked in **bold**.

Permitted development

E. The provision within the curtilage of the dwellinghouse of—

(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or **This criterion is relevant and met.**

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas. **This criterion is not relevant.**

Development not permitted

E.1 Development is not permitted by Class E if—

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class or Q of Part 3 of this Schedule (changes of use); **The dwellinghouse was not granted permission by virtue of the GPDO.**

(b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the

curtilage (excluding the ground area of the original dwellinghouse); **An exact % coverage of the shed has not been provided by the applicant or measured by the case officer but the site plan confirms the shed occupies far less than 50% of the total area.**

(c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse; **the shed is not forward of the principal elevation of the dwellinghouse.**

(d) the building would have more than a single storey; **the building is single storey.**

(e) the height of the building, enclosure or container would exceed—

(i) 4 metres in the case of a building with a dual-pitched roof, **This criterion is not relevant.**

(ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or. **The shed is within 2 metres of the boundary of the curtilage of the dwelling house and the submitted elevations show the maximum height to be 2.45 metres. The criterion is therefore met.**

(iii) 3 metres in any other case; **This criterion is not relevant.**

(f) the height of the eaves of the building would exceed 2.5 metres; **The eaves of the building would not exceed 2.5 metres, this criterion is therefore met.**

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building; **The shed is not situated within the curtilage of a listed building.**

(h) it would include the construction or provision of a veranda, balcony or raised platform; **The shed includes none of these.**

(i) it relates to a dwelling or a microwave antenna; **This criterion is not relevant.**

(j) the capacity of the container would exceed 3,500 litres [F5; or] **The capacity of the shed would not exceed this.**

(k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).] **The dwellinghouse was not built under Part 20 of the GPDO.**

E.2 In the case of any land within the curtilage of the dwellinghouse which is within—

(a) an area of outstanding natural beauty;

(b) the Broads;

(c) a National Park; or

(d) a World Heritage Site,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

The land or dwellinghouse are not within the designations set out in a,b,c,d so criterion E.2 is therefore not relevant.

E.3 In the case of any land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse. **The land or dwelling are not within article 2 (3) land.**

CONCLUSION

On the balance of probabilities, the Local Planning Authority is satisfied that the shed constitutes permitted development under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such, planning permission is not required and enforcement action could not be taken. The development is therefore lawful for the purposes of Section 191 of the Town and Country Planning Act 1990 (as amended), and a Certificate of Lawfulness of Existing Development should be granted.

RECOMMENDATION

It is recommended that a Certificate of Lawfulness for Existing Development be granted for the following development:

The existing shed within the residential curtilage of the dwellinghouse known as 8 Alanbrooke Close as described and detailed in the supporting plans and documentation submitted with this application.

Reason for approval: The existing development is deemed lawful under Schedule 2, Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, the proposal is in accordance with relevant statutory provisions and does not require planning permission.