

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/01340
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	3 Rixon Gate, Ashton Keynes, Swindon, SN6 6PH
DEVELOPMENT DESCRIPTION:	Proposed Garden studio
RECOMMENDATION:	Approve

PROPOSAL

This application seeks a Certificate of Lawfulness (CLP) under Section 192 of the Town and Country Planning Act 1990 (as amended) for a proposed garden studio.

The planning merits of the proposal are not under consideration. The only issue is whether the proposed works constitute "permitted development" (PD) under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [hereafter referred to as "the GPDO"].

RELEVANT LEGISLATION AND POLICY

The statutory framework governing CLP's is set out in Section 192 of the Town and Country Planning Act 1990 (as amended). This section establishes that a proposed development or use is "lawful" if it would not constitute a breach of planning control. A CLP can be granted if the Local Planning Authority is satisfied, on the balance of probabilities, that the proposed development or use would not require planning permission.

The application has been assessed against the relevant criteria set out in Schedule 2, Part 1, Class E of the GPDO 2015 (as amended).

REPRESENTATIONS

There is no legal obligation to consult third parties, including Town/Parish Councils or neighbouring properties, for this type of application.

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Proposal / Summary
PL/2022/07817 - Householder planning permission Decision - Approve with Conditions Date: 28/11/2022 – Proposed two storey side and rear extension with demolition of existing single storey extension to front of property. Landscaping to front and the creation of 2 parking spaces to the side.
PL/2023/00777 - Approval of details reserved by a condition Decision - Approve Date: 2/3/2023 – Discharge of condition 4 of PL/2022/07817

PL/2023/03803 - Approval of details reserved by a condition Decision - Approve Date: 20/7/2023 – Discharge of condition 5 Surface Water of planning application
PL/2022/07817 (Proposed two storey side and rear extension with demolition of existing single storey extension to front of property. Landscaping to front and the creation of 2 parking spaces to the side).

ASSESSMENT AND CONCLUSION

3 Rixon Gate is a semi-detached dwelling situated within the east of the village of Ashton Keynes. The property is not listed or subject to an Article 4 Direction. The site is not situated within a designated National Landscape (formerly Area of Outstanding Natural Beauty) it is, however situated within the Ashton Keynes Conservation Area also referred to in the legislation as Article 2/3 land. The planning history available for the property indicates that permitted development rights remain intact.

The proposal seeks to utilise permitted development rights under Part 1 Class E of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) via the erection of a detached garden studio to the rear of the property. The applicant has confirmed that the proposed use would be for home office and storage. The structure would be installed using ground screw foundations rather than a traditional concrete base and would be elevated above ground level. The height measurements given include the studio at its elevated level from the adjacent ground.

The building would measure approximately 2.155 m in width and approximately 4.015 m in length. The building would have an overall height of approximately 2.430 m and eaves height of approximately 2.330m. The building would be located within 1 metre of the boundary of the curtilage of the dwelling house.

Having completed the detailed assessment checklist at Appendix 1 and 2, and based on the submitted plans and supporting information, it is concluded that:

The proposed development does fall within the scope of permitted development, as defined under Schedule 2, Part 1, Class E of the GPDO. It meets all relevant limitations and conditions, and no restrictions are in force that would remove the permitted development rights relied upon.

The proposed development is considered lawful under Section 192 of the Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

It is recommended that a Certificate of Lawfulness for Proposed Development be GRANTED for the following use/development:

Reason for approval: The proposed 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.

APPENDIX 1 –

Checklist for Householder permitted development under Parts 1, 2 or 14 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

If yes is answered to any of the below questions, then planning permission will be required for the proposal. If not, then proceed to complete the relevant checklist(s) at Appendix 2

Constraint	Yes/No/N/A	Notes
Is there an Article 4 Direction removing PD rights for a class within which the proposal falls?	NO	
Is there a condition removing PD rights for a class within which the proposal falls?	NO	
For the purposes of Part 1, is the property a flat or maisonette?	NO	

APPENDIX 2 –

Checklist for Householder permitted development under Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

Class 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 b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.		Yes
Criteria (E.1) – Development is not permitted if:		
	Is the development within curtilage and incidental to enjoyment of dwellinghouse?	yes
(a)	Was the permission to use the dwellinghouse granted Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule?	no
(b)	Would more than 50% of the curtilage be covered (excluding the original dwellinghouse)?	no
(c)	Would any part of it be situated on land forward of a wall forming the principal elevation of the original dwellinghouse?	no
(d)	Would the building have more than one storey?	no

Class 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 b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.		Yes

Criteria (E.1) – Development is not permitted if:		
(e)	Would the height exceed 4m (dual-pitched roof), 2.5m (within 2m of the boundary) or 3m in any other case?	no
(f)	Would the eaves exceed 2.5m height?	no
(g)	Is it within the curtilage of a listed building?	no
(h)	Would it include the construction or provision of a veranda, balcony or raised platform?	no
(i)	Would it relate to a dwellinghouse or a microwave antenna	no
(j)	Would the capacity of the container exceed 3,500 litres?	no
(k)	Was the dwellinghouse built under Part 20 of this Schedule?	no

Criteria (E.2) – Development is not permitted if:		Yes/No
	If the dwellinghouse is within a National Landscape or World Heritage Site, would the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse exceed 10 square metres?	N/A

Criteria (E.3) – Development is not permitted if:		Yes/No
	If the dwellinghouse is within a National Landscape or World Heritage Site, would the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse exceed 10 square metres?	N/A