

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/01972
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	The Farthings, 8 Fortunes Field, Broad Hinton, Swindon, SN4 9PW
DEVELOPMENT DESCRIPTION:	Single storey rear extension.
RECOMMENDATION:	Refuse

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 single storey rear extension.

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, Classes A–H of the GPDO 2015 (as amended).

SITE DESCRIPTION

8 Fortunes Field is a detached bungalow situated on a small cul de sac in the village of Broad Hinton. The property is located within the National Landscape and is therefore situated on article 2(3) land. The property is not listed or subject to any article 4 direction and the planning history indicates that permitted development rights are intact.

The rear of the property is 'L' shaped and it is proposed to infill part of this area with a garden room extension. The proposed garden room extension will extend beyond both a side and rear elevation of the original dwellinghouse. Schedule 2 Class A A.2 (b) states that development is not permitted by class A where the property is situated on article 2(3) land and the enlarged part of the dwellinghouse extends beyond a wall forming a side elevation of the original dwellinghouse.

Due to the drop in land levels at the rear of the property the proposal also includes the addition of a raised platform and steps which would lead down to the lawn area of garden, this would fail to meet A.1 (k)(i) as the height of the platform exceeds 0.3m.

The proposed garden room will have a flat roof with glass lantern. The eaves height of the proposed extension exceeds the eaves height of the existing bungalow and therefore fail to meet A.1(d).

For the reasons given above it is considered that the proposal fails to meet A.2 (b), A.1 (k)(i) and A.1 (d) of schedule 2 Part 1, Class A

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
None

ASSESSMENT AND CONCLUSION

The proposal seeks to utilise permitted development rights under Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Having completed the detailed assessment checklist at Appendix 1 and 2, and based on the submitted plans, supporting information, and a review of relevant constraints (including planning history, Article 4 Directions, and any planning conditions), it is concluded that:

The proposed development does not fall within the scope of permitted development, as it fails to meet one or more of the limitations or conditions set out within the relevant class(es) of the GPDO. Specifically:

A.1 (d), A.1 (k)(i) and A.2 (b) of Schedule 2, Part 1, Class A.

The proposed development is not considered lawful under Section 192 of the Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

It is recommended that the Certificate of Lawfulness for Proposed Development be REFUSED for the following reasons:

Reason for refusal: The proposed development does not meet the criteria for permitted development under A.1 (d), A.1 (k)(i) and A.2 (b) of Schedule 2, Part 1, Class A the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, planning permission is required.

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, 3 and 4.

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 A – Enlargement, Improvement or alteration of a dwellinghouse		Yes/No
If yes answer questions below, if no skip to Class B		Yes
Criteria (A.1) – Development is not permitted if:		
(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 the ground covered by extensions to the original dwellinghouse exceed 50% of the total area of the curtilage?	No
(c)	Would the height of the proposal exceed the height of the highest part of the roof of the existing dwellinghouse?	No
(d)	Would the height of the eaves exceed the height of the existing dwellinghouse eaves?	Yes
(e)	Is the principal elevation of the original dwellinghouse being extended or Is the elevation being extended fronting a highway and forming a side elevation?	No
(f)	Would the single storey extension extend beyond the rear wall of the original dwellinghouse house by more than 4m (detached) / 3m (others) or exceed 4m in height?	No
(g)	For dwellinghouses not in Article 2(3) land or SSI, would it extend beyond the rear wall of the original dwellinghouse house by more than 8m (detached) / 6m (others) or exceed 4m in height? <i>Please note that the proposed development is subject to a prior approval process. As such, a Certificate of Lawfulness cannot be granted unless prior approval has been applied for and either determined as not required or formally approved.</i>	No
(h)	Would it have more than a single storey and extent beyond the rear wall of the original dwellinghouse by 3m or be within 7m of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse?	No
(i)	Would the extension be within 2m of a boundary with eaves exceeding 3m in height?	No
(j)	Would it extend beyond a side elevation of the original dwellinghouse and exceed 4m in height, be more than single storey or have a width greater than half the original dwellinghouse?	No
(ja)	Does the total enlargement (the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceed or would exceed the limits set out in sub-paragraphs (e) to (j)?	No
(k)	Would it include the construction or provision of a veranda, balcony or raised platform, the installation, alteration or replacement of a microwave antenna, the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or an alteration to any part of the roof of the dwellinghouse?	Yes

Class A – Enlargement, Improvement or alteration of a dwellinghouse		Yes/No
If yes answer questions below, if no skip to Class B		Yes
Criteria (A.1) – Development is not permitted if:		
(l)	Was the dwellinghouse built under Part 20 of this Schedule?	No

	Criteria (A.2) Dwellinghouses on article 2(3) land – Development is not permitted by Class A if:	Yes/No
(a)	Would it consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles?	No
(b)	Would it extent beyond a side elevation of the original dwellinghouse?	Yes
(c)	Would it consist of 2-storeys and extend beyond the rear wall of the original dwellinghouse?	No
(d)	Would the total enlargement (the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceed the limits set out in sub-paragraphs (b) and (c)?	No

	Criteria (A.3) – Development is permitted by Class A subject to the following conditions:	Yes/No
(a)	Are materials to be used in exterior work of similar appearance to the existing dwellinghouse (other than conservatories)?	Yes
(b)	Would any upper-floor windows in the side elevation be non-obscure and non-fixed shut below 1.7m?	N/A
(c)	Where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, does the roof pitch of the enlarged part not, so far as practicable, match the roof pitch of the original dwellinghouse?	N/A