



Appeal Decision

Site visit made on 21 July 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 JULY 2025

Appeal Ref: APP/P4225/X/24/3357714

12 Seymour Street, Heywood, Rochdale, OL10 3AJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Doreen Insungu against the decision of Rochdale Metropolitan Borough Council.
 - The application ref 24/00806/CPL, dated 13 August 2024, was refused by notice dated 21 October 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is a proposed outbuilding within the rear garden.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. For the avoidance of doubt, I make clear that the planning merits of the proposed outbuilding within the rear garden is not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
3. The applicant's name on the LDC application form is Mrs Doreen Insungu. However, the appeal has been submitted in the name of Mrs Doreen Insunga. At my request, the applicant has confirmed that the reference to Mrs Doreen Insunga on the appeal form is an administrative error. Only the person that made the LDC application can appeal. I have therefore used the name Mrs Doreen Insungu in the banner heading above as that is the name that appears in the LDC application form. I am satisfied that the appeal was in fact lodged by Ms Doreen Insungu and that the name on the appeal form is simply a spelling mistake.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded with particular regard to whether on the date of the LDC application the proposed outbuilding within the rear garden would have been lawful if instigated or begun on that date.

Reasons

5. There is no dispute between the parties that the proposed outbuilding would not fall foul of the limitations and conditions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I have no reason to disagree with this common ground position.

6. Notwithstanding the above, and, at my request, the Council has provided me with details of the planning permission for the appeal dwellinghouse (1997 Permission)¹. This includes both the approval notice as well as what it claims to be the approved site layout plan which shows car parking on part of the land to which the proposed outbuilding is proposed to be sited. Condition No. 03 of that planning permission states that *“prior to first occupation of the houses hereby approved, the car parking spaces indicated on the approved plan shall be constructed and made available for use. The spaces shall be retained for car parking purposes thereafter”*. The Council maintain that the approved site layout plan relates to that which includes the provision of two car parking spaces on the appeal land. It states that two car parking spaces were approved in association with use of No. 12 Seymour Street as a dwellinghouse, in accordance with the approved site layout plan accompanying the 1997 Permission (i.e., drawing No. 01 Rev B dated July 1997).
7. While the appellant contends that a different site layout plan was approved in respect of the 1997 Permission, this is not reflected in terms of the site layout plan shown in the Council’s LDC application officer report and subsequently also sent to me, for the avoidance of doubt and at my request, as part of the appeal. The appellant comments that the Council’s approval notice does not specify any drawing numbers and, moreover, that its officer report states, *‘although the layout does not strictly accord with the Council’s adopted standards, it does fall within the definition of an infill site whereby the standards can be relaxed’*.
8. I do not find that the evidence is sufficiently precise and unambiguous for me to conclude that the comment made in the Council’s 1997 Permission officer report about *‘adopted standards’* relates to adopted car parking standards. Indeed, such a comment is made in the context of the proposal being an *‘infill development’* as distinct from say a comment being made that the site is accessible to sustainable modes of transport. Furthermore, and, in any event, I do not know from the evidence what car parking standards were in place in 1997. It may have been the case that the two car parking spaces per dwellinghouse shown on drawing No. 01 Rev B dated July 1997 represented a reduction relative to the Council’s car parking standards at the time.
9. Given the above, I do not therefore agree with the appellant that *‘assumptions can be made that the Council had agreed to reduce parking standards’*. In any event, it is necessary that I consider the approved site layout plan, and, in this case, the appellant has not reasonably substantiated why I should disregard drawing No. 01 Rev B dated July 1997 from the point of view of my consideration of this LDC application and condition No. 03 of the 1997 Permission.
10. I do not find that the appellant’s evidence is sufficiently precise or unambiguous to counter the claim made by the LPA that the proposed outbuilding would be sited on land approved and designated for car parking purposes as part of condition No. 03 of the 1997 Permission. In reaching this conclusion, it is noteworthy that the position of the appeal dwellinghouse on the land now, and relative to the highway, does appear to be reflective of the site layout plan (i.e. drawing No. 01 Rev B dated July 1997) provided to me by the LPA. The position of the dwellinghouse is not reflective of the plan contained within appendix 1 of the appellant’s statement of case.

¹ Planning permission 97/D34503 dated 10 October 1997

11. The appellant maintains that the car parking area for the existing property was constructed in the wrong location. This comment is not reasonably substantiated in the context of drawing No. 01 Rev B dated July 1997. The evidence before me does not include details of when the dwellinghouses were first occupied. In my judgement, the Google image dated 2005 does appear to show two areas of hardstanding adjacent to the appeal dwellinghouse. It is conceivable that this hardstanding relates to two car parking spaces on the part of the land shown as being provided with two car parking spaces on drawing No. 01 Rev B dated July 1997.
12. The Google image dated 2016 is not sufficiently clear in terms of demonstrating whether one or two car parking spaces are in place. The appellant comments that one car is parked in this area at this time, rather than two cars. However, the image is a snapshot in time. The absence of a second car does not necessarily mean that a second car parking space was not available at this time. I acknowledge that the Google image dated 9 June 2023 indicates the provision of one hard surfaced car parking space and an area in a green colour which may be grass or astroturf. However, the period between 9 June 2023 and 13 August 2024 (i.e., the date of the LDC application) is too short for any claim to be made that condition No. 03 of the 1997 Permission has been breached continuously for ten years. The appeal does not include precise and unambiguous evidence to support any contention that condition No. 03 has been breached for a continuous ten-year period such that, on the balance of probability, no enforcement action could be taken by the local planning authority under section 171(B)(3) of the Act
13. Given the above, and, on the balance of probability, I find that the evidence is not sufficiently precise to indicate that condition No. 03 of the 1997 Permission no longer has any effect from a planning enforcement point of view. Hence, and, in this regard, I am unable to conclude that on the date of the LDC application the proposed outbuilding would not have been in breach of condition No. 03 of the 1997 Permission. Hence, on the balance of probability, and on the date of the LDC application, the evidence does not support the appellant's claim that the proposed outbuilding could have been lawfully constructed on the land if instigated or begun on that date.

Conclusion

14. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a proposed outbuilding within the rear garden is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

D Hartley

INSPECTOR