

Application Number:	24/00806/CPL
Location:	12 Seymour Street, Heywood, OL10 3AJ
Proposal:	Certificate of lawfulness for a proposed outbuilding within rear garden
Applicant:	Mrs Doreen Isungu
Case Officer:	Bob Melling
Recommendation:	Refuse

Location

This application relates to no. 12 Seymour Street, a two-storey, semi-detached dwelling located in Heywood. The dwelling faces southeast towards the highway and adjoins no. 10 Seymour Street to the northeast. The host dwelling has garden areas to the side and rear measuring 70m².

Description of Proposal

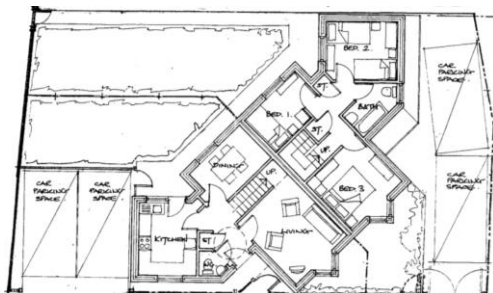
Permission is sought for a flat roof outbuilding with a height of 2.5m and a floor area of 20m². The outbuilding is to be used as a garden room and will replace an existing garden shed.

Is the proposal wholly within the curtilage of the dwellinghouse?	Yes
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Relevant History

97/D34503 Residential Development - One Pair Of Semi - Detached Dwellings
Grant subject to conditions

Condition 3 *Prior to the 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.*

Permitted Development Rights removed?	Condition 3 of planning application ref: 97/D34503 requires the car parking spaces as approved to be retained as such thereafter. The proposed outbuilding would be built partially over the approved spaces (Figure 1) and would constitute a breach of condition 3. As such, the proposal would not be lawful. Notwithstanding, a complete assessment of the proposal has been made.  <i>Figure 1 - Approved site plan for 97/D34503</i>
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Representations

In accordance with the Council's code for publicity for this type of application, no letters of notification have been issued.

Legislation and Guidance

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Permitted development rights for householders – Technical Guidance (September 2019)

Assessment (Class E)

Class E of Part 1 of Schedule 2 of the GPDO allows for:

- 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.*

Officer's note: The proposed building would be used as a garden room, which is considered to be a use incidental to the enjoyment of the dwellinghouse.

Development is not permitted by Class E if:

- (a) Permission to use the dwellinghouse as a dwelling has not been granted only by virtue of Class M,N,P or Q of Part 3 of the GPDO

☒ **Complies**

☐ **Does Not Comply**

- (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).

☒ **Complies**

☐ **Does Not Comply**

Officer's note: The outbuilding would cover a ground area of 20m². The total area of the curtilage is approximately 70m².

- (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.

☒ **Complies**

☐ **Does Not Comply**

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

☒ **Complies**

☐ **Does Not Comply**

(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,
- (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
- (iii) 3 metres in any other case.

☒ **Complies**

☐ **Does Not Comply**

(f) the height of the eaves of the building would exceed 2.5 metres;

☒ **Complies**

☐ **Does Not Comply**

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building

☒ **Complies**

☐ **Does Not Comply**

(h) it would include the construction or provision of a verandah, balcony or raised platform

☒ **Complies**

☐ **Does Not Comply**

(i) it relates to a dwelling or a microwave antenna.

☒ **Complies**

☐ **Does Not Comply**

(j) the capacity of the container would exceed 3,500 litres

☒ **Complies**

☐ **Does Not Comply**

Paragraph **E.2** of the above order stipulates that development is permitted by Class E would not be permitted if any part of the curtilage of the dwellinghouse is within –

- (a) an area of outstanding natural beauty;
- (b) the Broads;
- (c) a National Park; or
- (d) a World Heritage Site

and 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.

☒ **Complies**

☐ **Does Not Comply**

Paragraph **E.3** further states 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

☒ **Complies**

☐ **Does Not Comply**

The site is not on any category of article 2(3) land.

Recommendation: Refuse

Condition 3 of planning application 97/D34503 requires the approved car parking spaces be retained for car parking purposes. The proposed development would therefore breach of this condition and would be unlawful and therefore require planning permission.

Notes for applicant:

For the avoidance of doubt, the decision relates to the following documents and drawings:-

- Planning statement entitled 'Lawful Development Certificate' submitted by Walker Architectural Design Ltd
- Location Plan. Dwg no. WA059-001
- Existing and Proposed Site Plan. Dwg no. WA059-002
- Proposed Elevations. Dwg no. WA059-003

	Date	Officer
Report Completed	16/10/2024	Signed: BM
Authorisation	21/10/2024	Signed: RC