

Received Date	20 December 2024
Expires:	14 February 2025
Application Number:	243192
Site:	14 Heatherway, Crowthorne, Wokingham, RG45 6HG
Application:	Application for a certificate of lawfulness for the proposed erection of a detached outbuilding and installation of hardstanding to form an enlarged patio.

1. Relevant Planning History

Application Number	Proposal	Decision Date	Decision	Relevant Conditions
0/35/59	Outline application of residential development	02/07/59	C/A	N/A
130/61	Layout/roads & sewer	17/07/61	APP	N/A
163/61	Detached house and garage	14/09/61	APP	N/A
39819	First floor extension to provide two bedrooms	25/08/92	C/A	N/A
222188	Householder application for the proposed two storey rear/side extension, canopy to create porch to front, garage conversion to create habitable accommodation and changes to fenestration following demolition of the chimney.	13/09/22	C/A	N/A
242684	Householder application for the proposed insertion of 1no. first floor window.	28/11/24	C/A	N/A

2. Site Description

Two storey detached dwelling

3. Land/ Property Designations

- There are no listed buildings at the site and the property is not within 'Article 2(3) land' (Town and Country Planning (General Permitted Development) Order 2015).
- The site is subject to an area of Tree Preservation Order.
- The site is located within the Modest Development Locations of Crowthorne.

4. Legislation

Town and Country Planning Act 1990 (as amended)

- s.55 Provides that '*development*' includes the carrying out of building operations on land, and '*building operations*' includes structural alterations or additions to buildings.
- s.57 Planning permission is needed for all development of land.
- s.187a Enforcement for breach of conditions
- s.192 Applications for Certificates of Lawfulness of proposed use or development.
- s.191 Defines operations as 'lawful' if:
- (a) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) They do not constitute a contravention of any of the requirements of any enforcement notice then in force.

Town and Country Planning (General Permitted Development) Order 2015 (GPDO)

Article 3 In conjunction with Schedule 2 (Part 1) (Class E) grants planning permission for the erection of certain outbuildings, pools and fuel storage containers within the curtilage of a dwellinghouse.

Article 4 Provides that the planning authority may give direction to restrict the effect of Article 3.

5. The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

Class E- Outbuildings

6. Relevant details of the proposal:

The stained timber board cladding single storey outbuilding for a proposed gymnasium would be approx. 5.03m in width, 6.55m in length and 2.65m in height. It contains one powder coated aluminium bi-folding door on the east side elevation.

7. Assessment against legislation:

			Yes	No
s.55	1	Does it constitute development?	✓	
s.191	2	Would it be contrary to an enforcement notice?		✓
s.187a Art.3	3	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted?		✓
Art.3 (5)	4	Are the building operations involved in the construction of the dwellinghouse lawful?	✓	
Art.4	5	Is there an 'Article 4 Direction' in effect for the site?		✓
Art.4	6	Is it within the curtilage of the dwellinghouse?	✓	

Fuel storage

Sch.2 Pt. 1 E.b	7	Does the development consist of a container used for the storage of oil or liquid petroleum gas?		✓
Sch.2 Pt. 1 E.b	8	Is the storage for domestic heating purposes?		✓
E.1(j)	9	Would the capacity of the container exceed 3,500 litres?		✓

Outbuildings and pools

Sch.2 Pt. 1 E.a	10	Does the development comprise a building or enclosure, swimming or other pool, or the maintenance, improvement or other alteration of such a building or enclosure?	✓	
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			Yes	No
Sch.2 Pt. 1 E. a	11	Is the building, enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such?	✓	

Fuel storage and outbuildings

E.1(a)	12	Has permission to use the dwellinghouse as a dwellinghouse been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)?		✓
E.1(b)	13	Would the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) exceed 50% of the total area of the original curtilage (excluding the original dwelling)?		✓
E.1(c)	14	Would any part of the building, enclosure, pool or container be situated on land forward of a wall forming the principal elevation of the original dwellinghouse?		✓
E.1(d)	15	If it is a building would it have more than one storey?		✓
E.1(e)	16	Would the height of the building, enclosure or container exceed: (i) Four 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 two metres of the boundary of the curtilage of the dwellinghouse?	✓	
		(iii) Three metres in any other case?		✓
E.1(f)	17	Would the height of the eaves of the building exceed 2.5 metres?	✓	
E.1(g)	18	Would the building, enclosure, pool or container be situated within the curtilage of a listed building ?		✓
E.1(h)	19	Would the development include the construction or provision of a veranda, balcony or raised platform?		✓
E.1(i)	20	Would it relate to a dwelling?		✓
E.1(i)	21	Would it relate to a microwave antenna?		✓
E.3	22	Article 2(3) land (World Heritage Sites, National Parks, AONBs & Conservation Areas): Would any part of the building, enclosure, pool or container be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse?		✓
	23	Would it affect or be within the Root Protection Area of a TPO'd tree? * Does not affect Article 3 permission but separate TPO approval may be needed (Application site within Tree Preservation Order Served or Confirmed Area)	✓	

8. Conclusion

The proposed erection of a detached outbuilding constitutes development requiring planning permission. Permission is not granted under Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, the proposal not being in accordance with Schedule 2 (Part 1) (Class E) E1.eii and f of the order.

The outbuilding would be less than 2 meters from the side boundary, therefore the height limit for the total development is restricted to 2.5 metres if it is to be permitted development. The total height is 2.65 meters, thus not permitted development.

The height of the eaves of the building is 2.60 metres, which is not under permitted development as the height of the eaves of the building should not exceed 2.5 metres. Therefore, planning permission is required for the development. The certificate cannot be approved for these reasons.

The nearby trees are protected by a Tree Preservation Order and separate consent regarding works that will effect protected trees would likely be required.

Class F- Hard surfaces

9. Relevant details of the proposal:

The proposed patio area will be 4.60m in length and 17m in width. The maximum height of patio 280mm above ground level at any point.

10. Assessment against legislation

			Yes	No
s.55	1	Does it constitute development?	✓	
s.191	2	Would it be contrary to an enforcement notice?		✓
s.187a Art.3 (4)	3	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted?		✓
Art.3 (5)	4	Are the building operations involved in the construction of the dwellinghouse lawful?	✓	
Art.4	5	Is there an 'Article 4 Direction' in effect for the site?		✓
Sch.2 Pt. 1 F (a) (b)	6	Would the development comprise the provision within the curtilage of a dwellinghouse of a hard surface, or for its partial or complete replacement?	✓	
Sch.2 Pt. 1 F (a) (b)	7	Is the hard surface required for a purpose incidental to the enjoyment of the dwellinghouse as such?	✓	
F.1	8	Has permission to use the dwellinghouse as a dwellinghouse been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)?		✓
	9	Would it affect or be within the Root Protection Area of a TPO'd tree? * Does not affect Article 3 permission but separate TPO approval may be needed. (Application site within Tree Preservation Order Served or Confirmed Area)	✓	

11. Conclusion

The proposed installation of hardstanding to form an enlarged patio, constitutes development requiring planning permission. Permission is granted under Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, the proposal being in accordance with Schedule 2 (Part 1) (Class F) of the Order.

Should any area of the patio be above 0.3m in height (when measure from the natural contours of the ground), it would be classed as a raised platform and would not be permitted development – planning permission would be required.

The nearby trees are protected by a Tree Preservation Order and separate consent regarding works that will effect protected trees would likely be required if the patio is

within the Root Protection Area (RPA) of any protected Trees. The applicant is advised to undertake further investigation of the extent of the RPA of protected trees.

DRAFT APPROVED MC

Development Management Team Leader

Date: 13.02.2025