

Appeal Decision

Site visit made on 12 February 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 23 February 2026

Appeal ref: APP/C3430/X/25/3364551

25A Wolverhampton Rd, Stourton DY7 5AF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended, (the Act), by the Planning and Compensation Act 1991 against a refusal by South Staffordshire District Council to grant a certificate of lawful use or development.
- The appeal was made by Mr R Ford.
- The application, dated 17 January 2025, Council ref: 25/00037/LUE, was refused by a notice dated 5 March 2025.
- The Application for a Certificate of Lawful Development was for: Replacement shed structure at 25A Wolverhampton Rd, Stourton DY7 5AF.

Summary of decision: The appeal is allowed. A certificate of lawful use or development is issued in the terms set out below in the Formal Decision.

Appeal property

1. The appeal property, No. 25A Wolverhampton Road, Stourton is a detached dwelling set back to the west of Wolverhampton Road, A499. Its rear garden adjoins the northern side of the Stourbridge Canal.

Application project

2. The appeal concerns a domestic shed, said to be a replacement of an earlier dilapidated structure, built just within the garden fence and partially on the steep slope down to the northern edge of the canal. This sloping ground, down from the garden lawn fence to the canal edge is land said by the Appellant, Mr Ford, to be part of his long-established domestic garden land to his home at No. 25A.

Appeal land ownership

3. Mr Ford said he had owned the dwelling and its curtilage land at No. 25A for 17 years. The land upon which the appeal shed was built had been part of the domestic garden to the house for all that time, rather more than 10 years, (s.171B(1)(a) of the Act). The replacement appeal shed had therefore been built under permitted development rights, as set out in The Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order), in Article 3 Schedule 2 Part 1 Class E – buildings etc. incidental to the enjoyment of a dwellinghouse. That permits 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 ... provided the limitations in E.1 are met.
4. Mr Ford submitted the Land Registry's official copy of the plan attached to title number SF484897 showing outlined in red the extent of the property at No. 25A Wolverhampton Road he and his wife bought in October 2008. The plan's red outline shows it includes the site of the appeal shed adjoining the southern boundary of Mr and Mrs Ford's domestic garden with the northern edge of the Stourbridge Canal.

NB. the Land Registry plan shows a substantial part of the red outlined area colour washed in pink. The pink area is the subject of a conveyance shown in the property register and has no relevance to the matters under consideration here.

5. The Council said the boundary of the garden appeared to have been extended and new foundations placed to accommodate the new shed. The new foundations were not on land within the residential curtilage. The development and use of the land was unauthorised. Google Ariel photos and street view photos from the canal path dated April 2024 showed the new structure to be substantially different to that it replaced. It was new operational development which required planning permission. The Council thought the cutting slope upon which the shed had been partially built was owned by the Canal and River Trust and had historically been designated as amenity land. No substantive evidence had been provided to show the land had been used as residential curtilage for a continuous period of at least 10 years.
6. Mr Ford confirmed that the boundary of his land abuts the edge of the canal. That was shown on the Land Registry plan. The original shed stood within the residential curtilage of the property as did the replacement shed structure. The new shed was not contained within Canal Conservation Area Land. Mr Ford showed in his statutory declaration that the Canal Trust had no interest in the land. Mr Ford owned the land on which the new shed stood. It was part of his property and its garden.

Inspector considerations

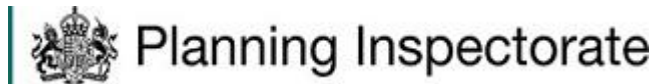
7. The Canal Trust said they did not own the sloping ground between Mr Ford's garden fence and the canal edge. The Land Registry plan confirmed that the new shed was built on Mr Ford's land, owned by him for some 17 years.
8. The Ministry of Housing, Communities and Local Government booklet entitled "Permitted development rights for householders Technical Guidance", describes "Curtilage" - as land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden. In the present case, the land between the formal garden to No. 25A and the canal edge is steep. It is not surprising it has not been used as part of the garden and therefore might not have been seen to be part of the curtilage. However, it is not necessary that land is to be kept in finely maintained condition for it to be considered part of the domestic curtilage. Permitted development rights available under the Order set out in Article 2 Schedule 2 Part 1 Class E – buildings etc. incidental to the enjoyment of a dwellinghouse therefore apply. There was no dispute that Mr Ford's new shed meets the provisions and dimensional limitations of Class E.1. Its construction was development permitted by the Order.
9. The Council's decision to refuse to grant an LDC was not well founded. The appeal succeeds. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

FORMAL DECISION

10. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the development which is found to be lawful.

John Whalley

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 17 January 2025 the operational development described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the location plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The construction of a replacement garden shed structure at No. 25A Wolverhampton Rd, Stourton DY7 5AF would have been permitted by Class E – buildings etc. incidental to the enjoyment of a dwellinghouse to The Town and Country Planning (General Permitted Development) (England) Order 2015 in Article 3 Schedule 2 Part 1.

Signed

John Whalley

INSPECTOR

Date: **23 February 2026**

Reference: APP/C3430/X/25/3364551

First Schedule

The construction of a replacement garden shed structure

Second Schedule

No. 25A Wolverhampton Rd, Stourton DY7 5AF

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use/operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and thus, was/were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 191(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plans

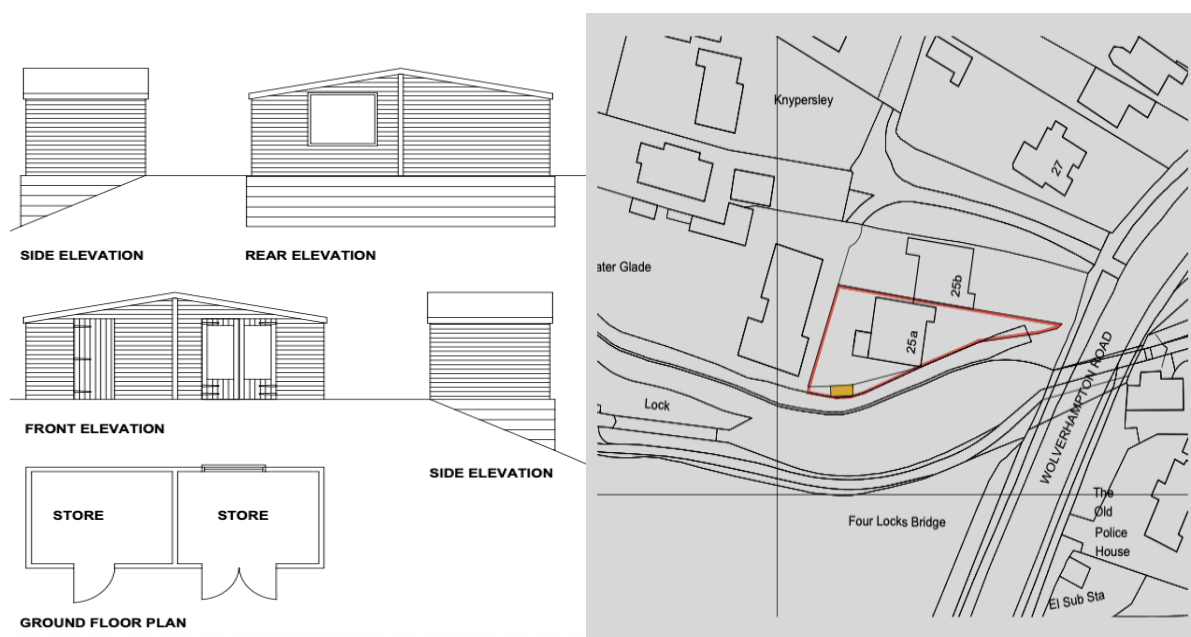
These are the plans referred to in the Lawful Development Certificate dated:

23 February 2026

by John Whalley

Land at: No. 25A Wolverhampton Rd, Stourton DY7 5AF

Reference: APP/C3430/X/25/3364551



Shed

Location plan – Applicant ownership outlined red. Shed shaded yellow

No Scale