

Application Number:	2020/0411	Application Type:	Householder
Proposal:	Single-storey detached outbuilding	Location:	18 New Way Whitworth
Report of:	Planning Unit Manager	Status:	For publication
Report to:	Development Control Committee	Date:	23 February 2021
Applicant:	Mr & Mrs N Lazenbury	Determination Expiry Date:	26 February 2021
Agent:	James Campbell Associates Ltd		

Contact Officer:	Neil Birtles	Telephone:	01706-238645
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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	Yes
Other (please state):	

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

That Permission be granted subject to the conditions set out in Section 10 of the Report.

2. The Site

The applicant resides in a detached dormer-bungalow which is accessed from the turning-head of a short-cul-sac. The area of hard standing extending to the front of the dwelling leads to a garage attached to its N gable, beyond which the applicant's side-garden bounds the rear gardens of 16 New Way and 11 / 13 / 15 Sandbank Gardens. Behind its rear garden is Tong End Brook.

The application proposes erection of an outbuilding near to the side boundary of the rear garden of 16 New Way, along which runs a 1.25m high fence, and near to the rear boundary of 11 / 13 Sandbank Gardens, along which runs a 1.25m high fence with a 3+m high evergreen hedge to the applicant's side.

The applicant's dwelling and those neighbouring it are within the Urban Boundary, whilst the land to the other side of Tong End Brook is Countryside/Green Belt.

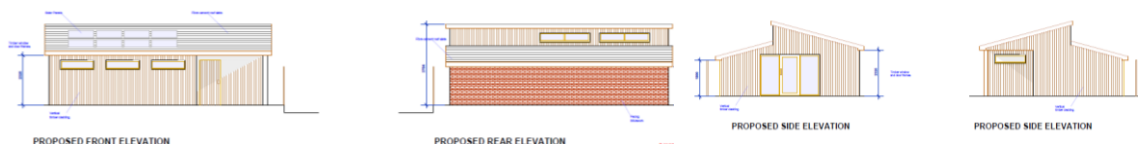
3. RELEVANT PLANNING HISTORY

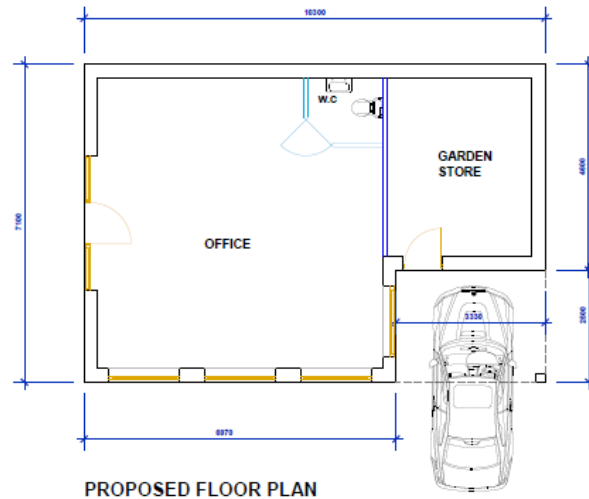
None.

4. PROPOSAL

As first submitted the application sought permission to erect an outbuilding with an L-shaped footprint 0.6m from the party-boundary with neighbouring properties, necessitating removal of the 3+m high evergreen hedge to the applicant's side of the fence on the party-boundary with 11 & 13 Sandbank Gardens :

- It was to accommodate a garden-store of 3.3m x 4.6m near to the gardens of 16 New Way & 11 Sandbank Gardens and an office of 7m x 7m near to the gardens of 11 & 13 Sandbank Gardens.
- It was to be of unconventional shape, resulting in a high-level window facing towards 11 & 13 Sandbank Gardens.





Following receipt of objections from neighbours and Whitworth Town Council the Applicant has submitted a revised scheme - showing the proposed outbuilding with an amended siting and more conventional dual-pitched roof - and provided a fuller explanation of its intended use.

The resulting outbuilding will continue to have an L-shaped footprint but its 9.9m long rear elevation is now to stand 1.5m from the gardens of 11 & 13 Sandbank Gardens, enabling retention of both the existing fence on this boundary and the existing conifer hedge - the submitted drawings show it is to be retained with a height exceeding the gutter-height of the outbuilding (2.1m) . Its stand-off from the fence to be retained on the side-boundary of the rear garden of 16 New Way has been increased to 1m.

It is to possess external walls of brick matching the existing dwelling - the elevations to face 11 & 13 Sandbank Gardens and 16 New Way to have no window or door openings. It is to have a conventional dual-pitched roof, covered with fibre-cement roof-slates, rising to a ridge of 3.2m in height at a distance of 4.6m from the party-boundary with 11 & 13 Sandbank Gardens.

The following explanation/justification for the proposal has been received :

“This room is an extension to the applicant’s living space; it is not another residence; it is not a double garage; it is not a business. It is something that has long been at the back of their minds as “nice to have one day”, but is now a “must have today”, driven and shaped by Covid. The reasons are as follows:

1. *The applicants four parents are all in their late 80’s, and the applicants are conscious they will need support in the not too distant future. This development enables the applicants to free up space in the house so that one or more of them they can move in with them if required.*
2. *Since March the applicants have worked entirely from home. They require a dedicated quiet office space to continue doing so.*
3. *As one of the applicants is shielded they have to be extra careful when out, and have been unable to go to the gym, even when they re-opened between lockdowns. This development will enable the applicants to exercise safely in their own home, which we will continue to benefit from through their own retirement.*
4. *The applicants seven-year-old dog is disabled and cannot walk far; her best (only) exercise is swimming. When she couldn’t go to the pool during lockdown and was*

forced to walk further, she suffered repeated pad and bone infections and spent eight weeks on antibiotics and trussed up in a collar. She now needs a number of water therapy sessions each week to rebuild her muscles, and the need for these will only increase as she enters these next senior years. A water / dog tank here in our home (about the size of a deep small bath) will help no end.

Given these usage requirements, the space needs to be of sufficient size to accommodate:

- *An exercise area, containing a bike, rowing and walking machine and space and space for floor exercise. It will also need to be of sufficient height to exercise safely;*
- *A study/home office area and facilities;*
- *Somewhere to relax/lounge, like a garden room. This will be essential if the main reception room inside the house is to be used by elderly relatives; and*
- *A water tank/bath where our disabled dog can exercise.”*

5. POLICY CONTEXT

National

National Planning Policy Framework

Section 2	Achieving Sustainable Development
Section 9	Promoting Sustainable Transport
Section 11	Making Effective Use of Land
Section 12	Achieving Well-Designed Places
Section 13	Protecting Green Belt Land

Development Plan Policies

RBC Core Strategy (2011)

AVP1	Area Vision for Whitworth, Facit & Shawforth
Policy 1	General Development Locations and Principles
Policy 8	Transport
Policy 23	Promoting High Quality Design and Spaces
Policy 24	Planning Application Requirements

6. CONSULTATION RESPONSES

LCC Highways

No objection.

United Utilities

No objection in principle.

There is a 225mm diameter combined public sewer at an unconfirmed depth of 4.71m shown to run beneath the proposed structure. Before proceeding with the development a 'Build Over Agreement' must be entered into with us.

Whitworth Town Council

Objects to the Planning Application (as first submitted)

Reasons :

- Close to adjoining properties
- Over development - too high / loss of privacy

This is a large non-residential structure in a residential area and it is out of keeping with the

character of the area. There are window in the direction of neighbouring properties which give concerns for loss of privacy and residential amenity.

7. **NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order neighbours were notified by letter.

In respect of the scheme first submitted seven representations expressing objections were received and one expression of support.

The Objections were received from 6 New Way, 11 / 13 / 15 / 17 Sandbank Gardens plus one of unknown address :

- The nature of the office use may involve the occupant's existing management consultancy business and create noise/ further traffic.
- If this 'office' proposal is granted what is to stop other properties also setting up similar business ventures in our residential area? The Deeds of all properties on the estate state that you cannot run a business from your home.
- As the proposed building takes up much of the existing off-street parking at the property where will cars be parked in this already busy cul-de-sac? The refuse collecting service already has to reverse in order to access the bins.
- The size of the proposed building so close to boundaries/design not in-keeping with its surroundings.
- Detrimental effect on the enjoyment of our gardens - blocking view/light, casting significant shadow/overbearing, overlook some gardens - particularly concerning as many neighbours are elderly and their gardens are a major source of pleasure.
- The office' may also require external lighting for security purposes which may cause light pollution for some neighbours.
- May contribute to local flooding / interfere with water pipes of United Utilities.
- We should protect Green Belts and the intrinsic character and beauty of the countryside.

The representation expressing Support for the proposal was from the resident 16 New Way and states that *"the owners of the property...have assured me that the building is solely for their personal use"*.

Whitworth Town Council Cllr Janet Whitehead also commented that :

I have had complaints from neighbours of this property.

After visiting the site and studying the drawings I feel the development is too large and disrespectful to close neighbours.

This is a large space for a home office - which brings concerns about its use - is it for a business or is it to be used as a dwelling at a later date ?

If it didn't have the added second part of the roof it may not be too bad or if faced the opposite way around.

RE-NOTIFICATION

As a result of re-notification of the immediate Neighbours on revisions to the originally-submitted scheme the resident of 16 New Way has again expressed Support for the proposal and occupiers of 11 & 13 Sandbank Gardens have re-iterated that they have objections to the application.

In summary :

11 Sandbank Gardens

The proposed development will have a negative impact on us because the rear garden of our home of 52 years has become our main source of relaxation and outdoor exercise...It will be overbearing and dominate everyone's outlook who borders it. It will stop sunlight and overshadow our outdoor space, as proven by the applicant's existing tall conifer hedge. Does this building not greatly reduce the existing parking area at the property.

13 Sandbank Gardens

The garden is our only place of leisure as we are elderly - this building will make it dark and stop sunshine. Our privacy will be affected and our outlook will be of a large tiled roof. The building is too big, out of keeping and how will they maintain the hedge? We also have concerns about noise, possible flooding (with pipes for our area being on their land) and future change of use.

8. ASSESSMENT

The main considerations in this case are as follows:

- 1) Principle; 2) Neighbour Amenity; 3) Visual Amenity; & 4) Access/Parking

Principle

Permission is sought for an outbuilding in the garden of a residential property within the Urban Boundary of Whitworth.

Objections have been received on the grounds that the application makes reference to creation of an 'office' space. Whether the Deeds of properties on the estate preclude use for any business purpose is a private matter. In terms of Planning, a person may operate a business from their home without the need to first apply for and obtain Planning Permission so long as it is of a kind and on a scale not to alter the residential character of the property.

In this instance, the application has been submitted on a Householder Application Form and the Applicant's Justification Statement makes clear that any 'office' use of the proposed outbuilding will be limited to use as a '*study/home office*' for residents of the dwelling.

Accordingly, there is no objection in principle to the proposal. A Condition is recommended to ensure the resulting outbuilding is used for purposes ancillary/incidental to the enjoyment of the dwelling house at 18 New Way as such (not excluding its use by any resident of the property as a home-office so long as this is of a kind/on a scale not to alter the residential character of the property).

Policies 1, 23 and 24 of the Council's adopted Core Strategy seek to maintain Rossendale's distinctive environment by, amongst other things, ensuring that all new developments are of the highest standard of design - that respect and respond to local context, distinctiveness and character - in terms of criteria including style, visual impact, scale, massing and height.

Section 2 of the Council's approved Alterations & Extensions to Residential Properties SPD provides general guidance about the form any extension or outbuilding should take, with the aim of ensuring it is of a high standard of design and does not detract from the character of the original and neighbouring properties, neighbour amenity or highway safety through siting, excessive bulk, inconsistent design or ill-matched facing materials.

The SPD gives specific advice in relation to Garden Structures, stating:

Where planning permission for garden structures is needed (e.g. summerhouses, sheds and greenhouses) proposals will be assessed with

regard to the following issues:

- Garden structures will not normally be allowed to the front of domestic properties (or side on corner plots) where they would be within 2m of the boundary; and
- They will be considered against the general principles included in this SPD including amenity concerns and visual dominance.

Visual Amenity

As amended, the proposed outbuilding will have external walls of brick matching the existing dwelling, with a dual-pitched roof rising to a ridge-height of 3.2m and covered with artificial slates (with roof lights & solar-panels only in that roof-plane facing away from 11 & 13 Sandbank Gardens.

With a setback from the highway of 12.5m, the proposed outbuilding will not form an unduly prominent or intrusive feature in the street-scene. Likewise, it will not unduly impact on the essentially open and rural character of the Countryside/Green Belt as it will be sited appreciably further from the Urban Boundary than is the applicant's dwelling and that at 17 Sandbank Gardens.

Neighbour Amenity

It can be appreciated why objections were received to the originally-submitted scheme due to concerns about 'business' use of the proposed outbuilding and the consequential traffic and noise this may give rise to.

As stated above, the Justification Statement now submitted makes clear that any 'office' use of the proposed outbuilding will be limited to use as a '*study/home office*' for residents of the dwelling. A Condition is recommended to ensure the resulting outbuilding is used for purposes ancillary/incidental to the enjoyment of the dwelling house at 18 New Way as such (not excluding its use by any resident of the property as a home-office so long as this is of a kind/on a scale not to alter the residential character of the property).

As amended, it is not considered that the proposal will cause any neighbour unacceptable overbearing or loss of light/outlook/privacy.

For occupiers of 16 New Way the proposal will result in the gable of the outbuilding standing 1m from the 1.25m high fence on the side-boundary to their rear garden. This neighbour has expressed support for the application.

For occupiers of 11 & 13 Sandbank Gardens the proposed outbuilding will now stand 1.5m from the rear-boundary of their back gardens and it is now intended to retain both the existing fence on this boundary and the existing conifer hedge - the submitted drawings show it is to be retained with a height exceeding the gutter-height of the outbuilding (2.1m). that replace the existing 3+m high conifer hedge standing to applicant's side of the 1.25m high fence at the bottom of their rear gardens.

Whilst the rear elevation of the resulting outbuilding will have a length of 9.9m, it will possess no door or window openings facing the neighbours. Likewise, the roof-plane facing these neighbours will possess no roof lights. The roof will rise to a ridge with a height of 3.2m, at a distance of 4.6m from the party-boundary with 11 & 13 Sandbank Gardens. As the conifer hedge presently has a height of 3+m the neighbours will not experience appreciably greater overbearing or loss of light. Furthermore, in the case of neither 11 nor 13 Sandbank Gardens will the proposed outbuilding be more than half the width of their rear garden.

The proposed outbuilding will occupy a tarmacked area rather than eat into the soft-landscaped border in which the conifer hedge is growing. Accordingly, if its construction is undertaken with care there is no reason to think undue root-damage will occur. Nevertheless, it is considered appropriate to require by Condition replacement of any of the conifers within this hedge that are removed, die or are seriously damaged as a result of the works.

Access/Parking

Objectors have raised traffic/parking concerns.

It is the case that the proposed outbuilding will occupy part of the hard-surfaced area presently available to the applicants for parking.

However, LCC Highways has raised no objection to the proposal, satisfied that the property will continue to have sufficient off-street parking spaces to accord with the Parking Standards set out in the Council's adopted Core Strategy.

Other Matters

Objectors have raised concerns about local flooding / interference with pipes of United Utilities.

The area has no record of local flooding and there is no reason that appropriate drainage arrangements cannot be made for disposal of surface-water from the roof of the proposed outbuilding. United Utilities has raised no objection to the proposal but has indicated that development should not proceed until the developer has entered into a 'Build Over Agreement' to protect its apparatus. The Applicant has been made aware of this requirement.

9. SUMMARY REASON FOR APPROVAL

The proposal is acceptable in principle and, subject to the conditions, will not unduly affect the openness of Green Belt, visual & neighbour amenity or highway safety. The development is therefore considered to accord with the National Planning Policy Framework and Policies AVP1 / 1 / 8 / 23 of the Council's adopted Core Strategy (2011).

10. RECOMMENDATION

Permission is granted

CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.

- 2) The development shall be carried out in accordance with the following unless otherwise required by the conditions below.

Title	Drwg No	Date Recd
Location Plan	-	08 / 09 / 20
Existing Site Plan	20.2268.1A	03 / 09 / 20
Proposed Site Plan	20.2268.2B	10 / 12 / 20
Proposed Building	20.2268.4E	10 / 12 / 20

Reason: To ensure the development complies with the approved plans and submitted details.

- 3) The outbuilding hereby permitted shall be used for purposes ancillary/incidental to the enjoyment of the dwelling house at 18 New Way as such (not excluding its use by any resident of the property as a home-office so long as this is of a kind/on a scale not to alter the residential character of the property).

Reason: In the interests of neighbour amenity and highway safety, and to accord with the submitted Applicant Justification Statement (December 2020).

- 4) The external walls of the outbuilding hereby permitted shall be constructed with facing bricks matching those of the existing dwelling, and its roof shall be covered with artificial slates that are grey in colour, unless otherwise first agreed in writing by the Local Planning Authority prior to first use.

Reason: In the interests of visual amenity.

- 5) Prior to first use of the outbuilding hereby permitted a scheme for disposal of surface-water from the roof of the outbuilding hereby permitted in the most sustainable way shall be implemented, having regard to hierarchy set out in National Planning Practice Guidance, the order of priority for investigation being as follows :

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.

Reason: To mitigate the risk of flooding and pollution.

- 6) The outbuilding hereby permitted shall be constructed in accordance with Section 7 (Demolition and construction in proximity to existing trees) of British Standard BS 5837: 2012, and any of the conifers in the hedge bounding 11 &13 Spring Gardens that are removed, die or become seriously damaged or diseased within 3 years of completion of the outbuilding shall be replaced with others of the same siting and species in the next available planting season unless a variation is first agreed in writing by the Local Planning Authority prior to first use.

Reason: In the interests of visual and neighbour amenity and to accord with the submitted Applicant Justification Statement (December 2020) and approved drawings.

INFORMATIVES

Attention is drawn to the comments of United Utilities in which it advises that the proposed outbuilding will be over a 225mm diameter combined public sewer and, consequently, a 'Build Over Agreement' must be entered into with it before any works proceed.