

Report to be read in conjunction with the Decision Notice.

Signed:	Officer:	LW	Date:	25/08/26	Manager:	LH	Date:	25/8/26
----------------	-----------------	-----------	--------------	-----------------	-----------------	-----------	--------------	----------------

Application Ref:	3/2026/0459			 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected:	N/A	Site Notice:	N/A	
Officer:	LW			
DELEGATED ITEM FILE REPORT:				REFUSAL

Development Description:	Certificate of Lawfulness to confirm commencement of development in accordance with planning permission 3/2023/0279.
Site Address/Location:	33 Lyndale Avenue, Wilpshire, BB1 9LP.

CONSULTATIONS:	Parish/Town Council
N/A	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
LCC Highways:	N/A

CONSULTATIONS:	Additional Representations.
N/A	

RELEVANT LEGISLATION:

Town and Country Planning Act 1990 – Section 56 and 191.
The Town and Country Planning (Demolition – Description of Buildings) Direction 2021

Relevant Planning History:

3/2023/0279: Removal of existing shed in rear garden and construction of a detached garage and detached garden room to rear of property (Approved).

ASSESSMENT OF PROPOSED DEVELOPMENT:

Site Description and Surrounding Area:

The application relates to a detached bungalow at No. 33 Lyndale Avenue, located within the defined settlement boundary of Wilpshire. The dwelling is constructed predominantly of red facing brick and render, with a concrete tiled roof and uPVC windows and doors.

The surrounding area is primarily residential in character, comprising a mix of detached and semi-detached dwellings situated to the south of the site. Land to the north and west falls within the Green Belt, including the majority of the property's garden area, which extends to the north-west of the dwellinghouse.

Proposed Development for which consent is sought:

The application seeks to establish whether the development permitted under application reference 3/2023/0279 has been lawfully commenced through the carrying out of a material operation, and

consequently whether the completion of the approved development would be lawful in accordance with Sections 56 and 191 of the Town and Country Planning Act 1990.

Observations/Consideration of Matters Raised/Conclusion:

Planning permission was granted under application reference 3/2023/0279 for the demolition of an existing shed and the erection of a detached garage and garden room within the residential curtilage of No.33 Lyndale Avenue. The permission was issued on 20th June 2023.

The consent was subject to six planning conditions, of which Condition 1 is of primary relevance to the current application.

Condition 1 states:

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

As set out above, the purpose of the current application is to establish whether a lawful commencement of development took place prior to the expiry of the permission in accordance with Condition 1. As planning permission was granted on 20th June 2023, development was required to commence no later than 20th June 2026.

Section 191 of the Town and Country Planning Act 1990 provides a mechanism through which a person may apply for a Certificate of Lawfulness. In particular, Section 191 (1) states that:

If any person wishes to ascertain whether –

- a) *Any existing use of buildings or other land is lawful;*
- b) *Any operations which have been carried out in, on, over or under land are lawful; or*
- c) *Any other matters constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,*

he may make an application for the purpose to the Local Planning Authority specifying the land and describing the use, operations or other matters.

Section 191(4) further states:

If, on any application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the Local Planning Authority or a description substituted by them, they shall issue a certificate to that effect, and in any other case they shall refuse the application.

In this case, the applicant seeks a Certificate of Lawfulness under Section 191(1)(c) of the Act and aims to demonstrate that the works undertaken prior to 20 June 2026 constituted a lawful material commencement of development, thereby securing compliance with Condition 1 and preserving the extant planning permission.

In this respect, the first issue to consider is whether the works carried out are sufficient to constitute a material commencement of development.

Section 56 of the Town and Country Planning Act 1990 states that development is taken to be initiated:

- a) If the development consists of the carrying out of operations, at the time when those operations are begun;*
- b) If the development consists of a change of use, at the time when the new use is instituted;*
- c) If the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraph (a) and (b).*

The applicant contends that development was initiated through the carrying out of a material operation pursuant to Section 56(1)(a). For the purposes of Section 56(4), development is taken to have commenced where one of the following material operations have been undertaken:

- a) Any work of construction in the course of the erection of a building;*
- aa) Any work of demolition of a building;*
- b) The digging of a trench which is to contain the foundations, or part of the foundations, or a building;*
- c) The laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);*
- d) Any operation in the course of laying out or constructing a road or part of a road;*
- e) Any change in the use of any land which constitutes material development.*

The applicant has submitted a series of photographs in support of the application, along a Building Control Plan. The photographs demonstrate that the existing shed, which was identified for removal as part of the approved development, has been demolished.

The demolition of a building constitutes a material operation under Section 56(4) (aa) of the Town and Country Planning Act 1990, namely "any work of demolition of a building". However, the Town and Country Planning (Demolition – Description of Buildings) Direction 2021 provides that the demolition of a building with an external cubic content of less than 50 cubic metres is not to be treated as involving the development of land for the purposes of the Act.

In this case, the plans approved under planning permission 3/2023/0279 show the shed to measure approximately 3.5m x 2.2m x 2.4m, equating to an external volume of approximately 18.5 cubic metres. As the building falls well below the 50 cubic metre threshold, its demolition does not constitute development for the purposes of the Act. Consequently, the works undertaken are not sufficient to amount to a material commencement of development under Section 56.

Having regard to the evidence submitted, it is not considered that the development was lawfully commenced within the period prescribed by Condition 1, as the demolition of the shed does not constitute development for the purposes of the Act, given that its volume falls below the threshold specified in the Town and Country Planning (Demolition – Description of Buildings) Direction 2021. Accordingly, it is concluded that the development approved under planning permission 3/2023/0279 was not lawfully commenced within the required timeframe and, therefore, the permission has lapsed and no longer remains extant for the purposes of Sections 56 and 191 of the Town and Country Planning Act 1990.

RECOMMENDATION:	That the Certificate of Lawfulness be refused.
------------------------	--