

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	250833
Site Address:	Lord Harris Court, Mole Road, Sindlesham, Wokingham, RG41 5EA
Expiry Date:	29 May 2025
Proposal: Application for a certificate of lawfulness for the proposed excavation and reconstruction of part of the existing access road, including installation of surface water drainage and erection of street lighting.	

NO RELEVANT PLANNING HISTORY

LEGISLATION

Town and Country Planning Act 1990 (as amended)

Section 55(1) of the Town and Country Planning Act 1990 (as amended) defines development as *"the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."*

The above is supplemented by the definition at section 336 where it is stated that "engineering operations" include *"the formation or laying out of the means of access to highways"*

Section 57 of The Town and Country Planning Act 1990 (as amended) requires that planning permission is required for the carrying out of any development of land.

APPRAISAL

The application is for a Certificate of Lawfulness for the proposed excavation and reconstruction of part of the existing access road, including installation of surface water drainage and erection of street lighting.

Would the works constitute operational development:

The applicant is seeking confirmation as to whether the proposed works require planning permission.

The application form and supplementary Access Road Design provide further detail on the nature and scale of the proposed changes. The following extract from the application form describes the intention of the applicant in further detail:

"The proposals are to excavate the existing access into the site (approximately 90m long) and reconstruct the access road to adoptable standards. The works will involve

installing surface water drainage to adoptable standards and erecting street lighting to adoptable standards.”

The Access Road Design plan indicates that the access road would have a 520mm Subbase, 125mm base layer, 65mm binder course, and 40mm surface course. The footprint of the development would cover a footprint of approximately, 957m².

The Courts have determined that engineering operations involve works with some element of pre-planning, which would normally, but not necessarily, be supervised by a person with engineering knowledge.

When considering the scale of the operation, along with the intention to install surface water drainage and erection of street lighting, it is considered that the works are significant to the extent that they would constitute engineering operations as they amount to considerably more than simply improvements to the existing access road.

In summary, the reconstruction of the access road and installation of the surface water drainage and erection of street lighting constitutes engineering operations falling under the definition of development in s55 of the TCPA 1990 (as amended).

Assessment against the GPDO:

Works to unadopted roads are considered against Schedule 2, Part 9, Class E of the General Permitted Development Order.

The criteria of this class is broad, simply stating that development is permitted for *“The carrying out on land within the boundaries of an unadopted street or private way of works required for the maintenance or improvement of the street or way.”*

As the works have been found to be an engineering operation as per s55 of the TCPA 1990 (as amended) due to the scale of activities required. The scale of the upgrade is significant, including new kerbing, surfacing, street lighting and service infrastructure. It is considered that the proposal goes beyond the maintenance or improvement of the private way and therefore does not qualify for permitted development through Schedule 2, Part 9, Class E of the General Permitted Development Order.

Due to the extent of the drainage proposals, the works may also may affect drainage or flood risk and the works are intended to meet adoptable highways standards which may materially affect the appearance of the private road.

Other matters:

It is noted that some of the work such as gulleys and tactile paving fall outside of the red line submitted. Also, only indicative plans have been submitted which are not sufficient for a certificate of proposed use or development as the Certificate grants a legal right so must be based on definitive information.

Conclusion:

The proposed excavation and reconstruction of part of the existing access road, including installation of surface water drainage and erection of street lighting constitutes development and thus requires planning permission. Permission is not available under

Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, the proposal being in accordance with Schedule 2 (Part 9) (Class E) of the Order.

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.

RECOMMENDATION

Recommendation:	Refuse
Date:	29 May 2025

Recommendation agreed by: (Authorised Officer)	<i>HMM</i>
Date:	29 May 2025