

Received Date:	30 July 2026
Expires:	24 September 2026
Application Number:	261356
Site:	3 Willowside, Woodley, Wokingham, RG5 4HJ
Application:	Application for a certificate of lawfulness for the proposed replacement of hedge to fence.

1. Relevant Planning History

Application Number	Proposal	Decision Date	Decision	Relevant Conditions
04540	Outline Application for Residential Development at Land Rear of 1 – 45 Butts Hill Road, Woodley, Reading, Berkshire.	15 th July 1976	Approve	11 & 12
05598	Detached House and Garage.	16 th December 1976	Approve	N/A

*Condition 11 of application 04540 reads:

Notwithstanding the provisions Of the Town and Country Planning General Development Order. 1973. no wall. fence. gate. hedge or other means of enclosure shall be erected or planted beyond the forward most part of the front of the dwellings hereby approved unless permission been granted by the District Planning Authority on an application made for the purpose.

*Condition 12 of application 04540 reads:

Details Of all the fencing. screen or other means of enclosure to be erected on the site shall be submitted to and approved by the District Planning Authority prior to the erection thereof.

2. Site Description

A two-storey detached dwelling located in the residential area of Woodley.

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 not subject to any wildlife or habitat designations.

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 A) grants planning permission for the “*enlargement, improvement or other alteration 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.

6. Relevant details of the proposal: Replacement of a front side boundary hedge to a fence.

7. Assessment against legislation:

The proposed fence would be erected beyond the forward most part of the front of the dwelling hereby approved and therefore would be in breach of condition 11 on the original outline permission for the dwelling. For this reason, planning permission is required for the proposed fence.

The relevant section of the Town and Country Planning (General Permitted Development) (England) Order 2015 is Schedule 2, Part 2, Class A. This states that:

“Development is not permitted by Class A if:

- a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed:*
 - i. for a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;*
 - ii. in any other case, 1 metre above ground level;*

In assessing point ‘a)’, no fencing would be erected adjacent to a highway used by vehicular traffic and the proposal therefore complies with this criterion. Although part of the side fence would be next to the pavement, it would be at a right angle to the highway and would extend back into the site. Previous appeal case law cited in Development Control Practice includes examples where Inspectors have stated that Class A “*should be interpreted to exclude any means of enclosure which does no more than meet the highway at one point.*” That is the position in this case.

In assessing point 'b)', the submitted documents confirm that the proposed fencing would not exceed 2m from the natural ground level at any point, and therefore the proposal complies with point 'b)'.

For point 'c)', there is no existing fence on site and therefore the proposed fence is not exceeding its former height, thus the proposal complies with point 'c)'.

Finally, looking at point 'd)', there are no listed buildings on site, and therefore the proposal complies with point 'd)'.

Whilst the proposal complies with Schedule 2 (Part 2) (Class A) of the Town and Country Planning (General Permitted Development) (England) Order 2015, the proposal to erect a fence forward of the principal elevation conflicts with condition 11 and 12 of planning permission 04540. Therefore, permission is not available.

Conclusion

The proposed boundary fence constitutes development, and this requires planning permission. The proposal complies with Schedule 2 (Part 2) (Class A) of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, permission **IS NOT** available as the proposed fence would be forward of the principal elevation and would conflict with condition 11 and 12 of planning permission 04540.

DRAFT APPROVED *MC*

Development Management Team Leader

Date: 24.09.2026