

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	253150
Site Address:	Hurst Village Hall, School Road, Hurst, Wokingham, RG10 0DR
Expiry Date:	4 March 2026
Site Visit Date:	16 February 2026
Proposal: Application for a certificate of lawfulness for the proposed introduction of a permissive footpath across existing land, with no operational development or material change of use, not amounting to development under section 55 of the Town and Country Planning Act 1990	

PLANNING HISTORY

Application No.	Description	Decision & Date
None relevant		

APPRAISAL

Description of Works: The proposed introduction of a permissive footpath across existing land with no operational development or material change of use along with the erection of fencing.

Are the works lawful?:

Yes	☒
No	☐

Assessment:

This application must be assessed against planning legislation to determine whether the introduction of a permissive footpath across existing land would amount to operational development or constitute a material change of use of the land. As with any Certificate of Lawfulness application, the burden of proof rests with the applicant, and the Local Planning Authority is required to test the evidence on the balance of probability.

Section 55 of the Town and Country Planning Act 1990 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.

For the purposes of the Act, “building operations” include demolition of buildings, rebuilding, structural alterations or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder (Section 55(1A)).

Footpath

The proposed footpath would be laid with a modest amount of gravel or hardstanding and footpath mesh where necessary due to ground conditions. These works are not considered to be of a scale or nature that would constitute development. The works are modest and are not proposed along the full length of the footpath, with the majority consisting of a natural pathway across fields rather than a defined constructed route.

Whilst the footpath is relatively long and crosses multiple land parcels, the extent of works required is not considered to constitute operational development in this instance. The applicant has acknowledged that fencing may be required at certain points along the route and has confirmed that any such fencing would not exceed 2 metres in height. As such, this would constitute permitted development under Part 2, Class A (Minor Operations) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Given the nature and scale of the proposal, it is considered that the laying of the footpath would not result in operational development. The small areas of grasscrete and gravel proposed are considered to be de minimis in nature. For the majority of the route, no works are proposed, with access across the land simply being permitted.

Fencing

The proposed fencing would itself constitute permitted development as any fencing, where it is erected, would be under 2 metres in height.

Part 2 Class A of the GDPO states –

Permitted development

A. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Development not permitted

A.1 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;

(b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;

(c) the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or

(d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.

In this instance, the fencing proposed would not exceed 2 metres in height, would not adjoin a highway and is not within the curtilage of a Listed Building. The proposed fences would therefore constitute Permitted Development under Schedule 2 Part 2 Class A of the GDPO.

Summary:

Finally, it is considered that the introduction of a permissible footpath does not result in a level of building, engineering, mining or other operations which would constitute development, and there is no material change in use of the land. Additionally, the proposal does not include any demolition, substantial rebuilding or other structural alterations. It has been adequately demonstrated that the proposed permissible footpath itself would not amount to operational development and that there would be no material change of use of the land. Furthermore, any proposed fencing would accord with the aforementioned Permitted Development Legislation, as such, this element of the works would constitute permitted development.

Conclusion:

Based on the information submitted, the Local Planning Authority is satisfied that the proposed introduction of a permissive footpath across existing land would not amount to operational development or a material change of use for which planning permission is required under Section 55 of the Town and Country Planning Act 1990 (as amended). Furthermore, the erection of fencing along the footpath would constitute permitted development under Part 2, Class A (Minor Operations) of the Town and

Country Planning (General Permitted Development) (England) Order 2015 (as amended).

It is therefore recommended that this application for a Certificate of Lawfulness be approved.

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:	Approval
Date:	16 February 2026
Earliest date for decision:	29 January 2026

Recommendation agreed by: (Authorised Officer)	BC
Date:	23.02.26