

Received Date:	1 September 2025
Expires:	14 November 2025
Application Number:	252081
Site:	Waters Edge, Loddon Drive, Wargrave, Wokingham, RG10 8HL
Application:	Application for a certificate of lawfulness for the proposed replacement of existing gate with new electric gate.

1. Relevant Planning History

Application Number	Proposal	Decision Date	Decision	Relevant Conditions
03149	Bungalow and garage	07/08/75	C/A	N/A
180280	Householder application for the proposed erection of new decking to the side and rear of the existing house (Retrospective).	25/04/18	C/A	N/A
181599	Householder application for the erection of a shed (part retrospective).	21/08/18	C/A	N/A

2. Site Description

Two storey detached dwelling

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 located in Archaeological Sites and Archaeological Sites Consultation Zone.
- The site is not subject to potential bat roost.
- The site is located in designated countryside in Wargrave.

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.

PART 2

Class A – gates, fences, walls etc

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

6. Relevant details of the proposal: The proposed electric gate would be 2m in height, 7m in width and 0.1m in depth. The existing gate is 1.20m in height. Loddon Drive is a private road.

7. Assessment against legislation:

			Yes	No
s.55	1	Does it constitute development?	✓	
s.191	2	Would it be contrary to an enforcement notice?		✓
s.187a Art.3 (4)	3	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted?		✓
Art.3 (5)	4	Are the building operations involved in the construction of the original building lawful?	✓	
Art.3 (6)	5	Does it involve the formation, laying out or material widening of a means of access to an existing highway which is a trunk or classified road, or creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons?		✓
Art.4	6	Is there an 'Article 4 Direction' in effect for the site?		✓
Sch.2 Pt. 2 A	7	Does it consist of the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure?	✓	
A.1(a)	8	Would the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic, after the carrying out of the development exceed: (i) One metre above ground level? (ii) In the case of schools, two metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than one 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?	✓	
A.1(b)	9	Would the height of any other gate, fence, wall or means of		✓

			Yes	No
		enclosure erected or constructed, after the carrying out of the development exceed two metres above ground level?		
A.1(c)	10	Would the height of any gate, fence, wall or other means of enclosure maintained, improved or altered, as a result of the development, exceed its former height or the height referred to in A1(a) or (b) above as the height appropriate to it if erected or constructed, whichever is the greater?	✓	
A.1(d)	11	Would it involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building?		✓

The comments have been acknowledged; however public consultation is not required for proposed certificate of lawfulness applications.

Waters Edge is a detached residential property located on Loddon Drive, a privately maintained road serving a number of residential dwellings. While the road is private, it is used by vehicles to access multiple properties and therefore constitutes a “highway used by vehicles” for the purposes of the Town and Country Planning (General Permitted Development) (England) Order) 2015 (as amended).

There is no definition of Highway in the GPDO. The Highways Act 1980 defines highway as “the whole or a part of a highway other than a ferry or waterway”. The common law definition of a “highway” is currently being used by decision makers in lieu of a statutory definition i.e. a way over which the public have a right to pass and repass. The private road is used by vehicular traffic and there is an acquired right to use the road by its residents – i.e. all these residents have a right to pass and repass although it is not maintained at the public expense. On this basis, the private road is considered to be a highway.

As parts of the gate are adjacent to and on the highway the 1m height limit applies. Additionally, the proposed gate height of 2.0m would be taller than the existing gate height of 1.2m therefore, exceeds the permitted development threshold, meaning planning permission is required.

8. Conclusion

The proposed replacement of existing gate with new electric gate 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 not being in accordance with Schedule 2 (Part 2) (Class A) of the Order

DRAFT APPROVED



Development Management Team Leader

Date: 10 November 2025