

Received Date:	18 February 2025
Expires:	15 April 2025
Application Number:	250373
Site:	Robin Lodge Nursery, Part Lane, Swallowfield, Wokingham, RG7 1TB
Application:	Application for a certificate of lawfulness for the proposed erection of boundary treatment.

1. Relevant Planning History

Application Number	Proposal	Decision Date	Decision	Relevant Conditions
20441	Site Licence for a Caravan Site	05/12/1983		N/A
991513	Proposed erection of one dwelling	22/11/1999	Refused	N/A
022183	Proposed erection of one detached dwelling.	28/05/2002	Refused	N/A
052884	Proposed change of use of market garden to formation of hardstanding for 5 gipsy caravans with parking facilities.	19/08/2005	Refused	N/A
173339	Prior approval application for the siting of a forestry building for the storage of machinery, tools and wood.	05/12/2017	Prior Approval Approval	N/A
181365	Forestry prior approval application for the erection of an open sided building with a corrugated steel roof for the storage of wood and machinery	20/07/2018	Approved	N/A
190434	Full planning application for the proposed siting of a biomass boiler and flue plus amendments to existing forestry building. (Retrospective)	21/05/2019	Withdrawn	N/A
222047	Full application for the proposed erection of 3 no. buildings and open log store with associated parking, access and landscaping, plus the formation of an earth bund to north and east boundary, following removal of 1 no. mobile home and demolition of existing outbuildings.	12/10/2022	Refused	N/A
231233	Full application for the proposed erection of 2no. buildings and open log store with associated parking, access and landscaping, plus the formation of an earth bund and acoustic screen around wood chipper, following demolition of existing green houses and mobile home.	30/08/2023	Refused	N/A

2. Site Description

The application site is located in the countryside and the site is an open field that features an open sided building.

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 subject to wildlife and habitat designations being located in an area that holds the potential to support bat roosts.

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:

The proposed erection of a boundary fence along the northern, southern and western boundaries.

7. Assessment against legislation:

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

"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.”

When assessing ‘a)’, no fencing will be erected adjacent to the highway, and therefore the proposal complies with point ‘a)’.

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)’.

8. Conclusion:

The proposed boundary fence constitutes development and this requires planning permission. Permission is available under Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, the proposal being in accordance with Schedule 2 (Part 2) (Class A) of the Order.

DRAFT APPROVED



Development Management Team Leader

Date: 15/04/25