

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	242362
Site Address:	Pine Drive, Lower Wokingham Road, Crowthorne, Wokingham, RG45 6BX
Received Date:	23 September 2024
Expiry Date:	18 November 2024
Proposal: Application for a certificate of existing lawful development for erection of a boundary fence.	

PLANNING POLICY/LEGISLATION

The Town and Country Planning (General Permitted Development) (England) Order 2015

Article 3	In conjunction with Schedule 2, Part 2, Class A grants planning permission for “the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure”.
Article 4	Provides that the planning authority may give direction to restrict the effect of Article 3

Town and Country Planning Act 1990 (as amended)

Section 55	Provides that ‘development’ includes the carrying out of building operations on land, and ‘building operations’ includes structural alterations or additions to buildings.
Section 57	Planning permission is needed for all development of land.
Section 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.

PLANNING HISTORY

Application No.	Description	Decision & Date
732/55	Bungalow	Approved: 19/10/1955
252/56	Bungalow and access	Approved: 21/06/1956

207/72	Addition	Approved: 17/02/1972
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SITE AND PROPOSAL DETAILS

Site Description: Single storey detached dwelling and outbuildings.

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 also not subject to any wildlife or habitat designations.
- The site is situated within countryside.

Relevant Details of the Proposal: Proposed erection of a 1.52-metre-tall front boundary fence.

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? <i>It is clear that the position of the fence is adjacent to a highway used by vehicular traffic, such that A.1(a)(ii) of Schedule 2, Part 2, Class A of the GPDO (as amended) is the criteria relevant to</i>	✓	

ASSESSMENT AGAINST LEGISLATION				
			Yes	No
		<i>this submission. The fence is 1.52 metres in height, and therefore fails to comply with this requirement.</i>		
A.1(b)	9	Would the height of any other gate, fence, wall or means of 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? <i>The works do not comprise maintenance, improvement or alteration, they are for a new fence.</i>	N/A	N/A
A.1(d)	11	Would it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building?		✓

Conclusion

The proposed erection of a boundary fence constitutes development requiring planning permission. Permission is not available under Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, the proposal not being accordance with Schedule 2 (Part 2) (Class A) 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	
Conditions agreed:	N/A
Recommendation:	Refuse
Date:	12 November 2024
Earliest date for decision:	N/A

Recommendation agreed by: (Authorised Officer)	
Date:	12 November 2024