

DELEGATED DECISION REPORT

HPK/2023/0180
Valid 08/06/2023

46, CARR ROAD, BUXTON,
DERBYSHIRE, SK17 6WF

LAWFUL DEVELOPMENT
CERTIFICATE FOR A
PROPOSED ERECTION OF
BOUNDARY TREATMENT 1M
IN HEIGHT ADJACENT TO
HIGHWAY

(CERTIFICATE OF
LAWFULNESS - PROPOSED)

MAIN ISSUES

Whether the proposed development comprises permitted development under Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

DESCRIPTION OF SITE

The application relates to No.46 Carr Road; a two storey semi-detached property that forms part of a large housing estate constructed in the mid 2000's, following consent granted under HPK/2003/0335.

The dwelling is orientated with the principal elevation facing southwards, on to an area of land that is situated between the dwelling and an entrance to a small cul-de-sac, whilst the side gable fronts the internal estate road Carr Road.

The property has 1.65m close boarded fencing enclosing the rear garden area (approved under HPK/2022/0169) and seeks confirmation that enclosing the remaining side forward of the front elevation and front garden (outlined in green on the site plan) is permitted development. The fencing will be no higher than 1 metre.

The application site is located in Buxton, within a residential area.

PROPOSAL

The application seeks a Lawful Development Certificate for the proposed erection of 1m high boundary fencing.

SITE HISTORY

HPK/2008/0491 Alterations to approved landscaping scheme/removal of 2 no. trees and retention of 1.8m screen fence – Refused

HPK/2015/0123 Retention of UPVC conservatory with disabled ramp – Approved

HPK/2016/0141 Proposed two storey side extension to create bathrooms – Approved

HPK/2018/0141 Single storey side extension – Approved

HPK/2022/0015 Single Storey Side Extension - resubmission of HPK/2018/0141 – Approved

HPK/2022/0011 Erection of stone boundary wall to replace existing timber fence – Approved

HPK/2022/0012 Increase Ridge Height of Existing Conservatory by approx 400mm, slate roof and insert 2X Roof lights – Approved

HPK/2022/0013 Retention of garden shed at side of house – Approved

HPK/2022/0014 Alterations to front garden to include: Tarmacadam hard standing for 2 x vehicles; Artificial grass lawn; Grey Plastic fence with timber posts enclosing the above; charging point for electric vehicle – Withdrawn

HPK/2022/0120 Retrospective change of use of existing soft landscaped area, as approved by HPK/2003/0335, to an area of hard standing utilised for domestic off-street parking provision, artificial grassed area, and means of enclosure defined by grey boarded fence – Refused. Appeal Ref: APP/H1033/W/22/3310832 Split decision.

HPK/2022/0132 Variation of condition 2 relating to HPK/2022/0011 - Invalid

HPK/2022/0169 Erection of timber fence panels to side and rear of property – Approved

OFFICER COMMENTS

In conformity with the rules stated within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), it is necessary to assess whether the proposed extension to the dwellinghouse adheres to the criteria stated by Schedule 2, Part 2, Class A of the GPDO, to determine whether the householder development is permitted.

Class A – gates, fences, walls etc

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; **N/A**

(ii) in any other case, 1 metre above ground level; **It proposes not to be higher than 1m - accords**

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

(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. **N/A**

Interpretation of Class A

A.2 For the purposes of Class A, “school” includes—

(a) premises which have changed use under Class S or T of Part 3 of this Schedule (changes of use) to become a state-funded school or registered nursery as defined in paragraph X of Part 3; and **N/A**

(b) a building permitted by Class C of Part 4 of this Schedule (temporary buildings and uses) to be used temporarily as a school, from the date the local planning authority is notified as provided in paragraph C.2(b) of Part 4. **N/A**

CONCLUSION / PLANNING BALANCE

The inspector in determining the recent appeal that included boundary treatment in excess of 1m to the front of the property acknowledged that (in para 12. of the decision letter (Ref: 3310832)) ... “The fence panels, according to the measurements on the plan, are only 0.2m higher than could be erected without planning permission. Nonetheless, in this instance any increase in the height of the boundary treatment increases its prominence and harm to the character and appearance of the area.”...

For the reasons outlined above, the proposed 1m high fencing conforms with the rules stated within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - adhering to the criteria stated by Schedule 2, Part 2, Class A of the GPDO - the proposed development of fencing no higher than 1m is permitted development.

Note: the 1.2m grey fencing subject of the appeal will be required to be either replaced with 1m high fencing, or be reduced in height to 1m.

OFFICER RECOMMENDATION: **Issue a POSITIVE Certificate**

Case Officer: Pet Twigg

Recommendation Date: 1.08.2023

X 

Signed by: Jane Colley Signature

On behalf of High Peak Council