

DELEGATED DECISION REPORT

HPK/2023/0258 VALID 26/06/2023	1, THE COPPICE, WHALEY BRIDGE, DERBYSHIRE, SK23 7LH	LAWFUL DEVELOPMENT CERTIFICATE FOR A PROPOSED REPLACEMENT OF EXISTING 1.8M HIGH FENCING WITH NEW 1.8M HIGH FENCING (CERTIFICATE OF LAWFULNESS – PROPOSED)
-----------------------------------	---	--

MAIN ISSUES

Whether the proposed development complies with the relevant parameters under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

DESCRIPTION OF SITE

The application dwelling is a two storey detached property which lies within the settlement boundary for Whaley Bridge as defined by the Local Plan policies map. The dwelling has an existing fence along its side boundary and part of the roadside boundary with The Coppice.

PROPOSAL

The application seeks a Lawful Development Certificate for the replacement of an existing 1.8m high fence with a fence of 1.8m in height. The application suggests that the proposed development complies with all parameters set out under Schedule 2, Part 2, Class A of the General Permitted Development Order (GPDO).

OFFICER COMMENTS

Whether the proposed development complies with the relevant parameters under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

Schedule 2, Part 2 of the GPDO refers to minor operations. Specifically, Class A relates to gates, fences, walls etc and permits the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure, subject to compliance with all criteria set out under Paragraph A.1.

An assessment of the proposed development against this criteria is carried out below:

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

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**

The height of the fence would adjacent to the highway and, at 1.8m, would exceed 1m in height. However, the replacement should be assessed against criteria (c).

(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;

The existing fence is 1.8m in height. The existing fence height is greater than the limitation set out in A.1(a). Therefore, the relevant test is whether the proposal exceeds the existing fence height. As the proposed replacement fence would be 1.8m in height it would not, therefore, exceed the existing fence height. Therefore the development complies.

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

The proposal is not for development within the curtilage of a Listed Building. The development complies.

CONCLUSIONS

It is considered that the proposals would comply with the parameters and limitations set out in Part 2, Class A.1. Therefore, it is recommended that the Certificate be granted.

OFFICER RECOMMENDATION: Grant Certificate

Case Officer: Declan Cleary

Recommendation Date: 31/07/23

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council