DELEGATED DECISION REPORT

HPK/2023/0421 **Valid 29/09/2023**	**38 HILL HEAD DRIVE** **BUXTON**	**CERTIFICATE OF LAWFULNESS FOR A PROPOSED NEW GARDEN WALL** **(CERTIFICATE OF LAWFULNESS - PROPOSED)**

MAIN ISSUES

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

DESCRIPTION OF SITE

38 Hill Head Drive is located on a new build development approved in 2018, and currently near completion. Much of the wider development is now occupied.

The application site occupies a corner plot, accessed via Hill Head Drive, but is prominent on the corner of Hopton Wood Way. The application site benefits from a large corner plot, with much grass land, overlooking nearby fields.

PROPOSAL

It is proposed to enclose the plot with a wall, of 1.225M at its tallest point. The wall will be finished in stone to match the host dwelling.

Revised plans have lowered the tallest point to 1M.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

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

OFFICER COMMENTS

38 Hill Head Drive benefits from permitted development rights. As such, in the event that the proposed development complies with Schedule 2, Part 2, Class A of the General Permitted Development Order (GPDO), a Certificate can be granted. An assessment of the proposed development against the relevant criterion of class A is undertaken as follows:

Class A

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;

As the application site is not a school A.1 (a) (i) is not relevant in this case.

The proposed wall will run alongside a portion of Hopton Wood Way bringing (a)(ii) into effect. Revised plans have ensured that the highest point on the proposed wall is 1M. As such revised plans comply with A.1 (a) (ii).

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

As the proposed fence runs along a highway A.1 (b) is not applicable and is overridden by the constraints of A.1 (a) (ii).

(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

The 1M height as specified by A.1 (a) (ii) is that which is appropriate in the case of a fence proposed along a highway. The proposed fence is also not replacing any pre-existing fence. The proposed fence therefore complies with the relevant criteria and complies with A.1 (c).

(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 application site does not relate in to a listed building in any way. As such the proposal complies with A.1 (d).

CONCLUSION / PLANNING BALANCE

In conclusion, the proposed wall complies with the restraints of Class A, Part 2, Schedule 2 of the GPDO.As such the development is considered lawful, it is recommended that a certificate be granted.

OFFICER RECOMMENDATION : Approve

Case Officer: Rachel Robinson
Recommendation Date: 28th November 2023

X 

Signed by: Ben Haywood

On behalf of High Peak Borough Council