

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** EP/44/22/CLP**LOCATION:** 2 Vicarage Lane
East Preston
BN16 2SP**PROPOSAL:** Lawful development certificate for a proposed new close board fence at varying heights to be built along boundary of site within the current brick dwarf wall.**DESCRIPTION OF APPLICATION**

The application seeks a Lawful development certificate for a proposed new close board fence at varying heights to be built along boundary of site within the current brick dwarf wall.

RELEVANT SITE HISTORY**REPRESENTATIONS****Representations Received:****CONSULTATIONS****Consultations Responses Received:****LEGISLATIVE BACKGROUND**

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

In this instance the proposed works will be assessed against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- Part 2, Class A, which pertains to the erection, construction, improvement or alteration of a gate, fence,

wall or other means of enclosure.

Provided the proposed works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the proposed works will constitute Permitted Development and would not require planning permission. If the works fail to accord with the criteria then planning permission will be required for them to take place.

CONCLUSION

The proposed fence is considered to fall under Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

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;

(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.

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

(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.

The property known as 2 Vicarage Lane is a detached property and is not listed or within a conservation area.

After examination of the site's history no restrictions to Permitted Development rights have been found.

The part of the fence to the front of the site is considered adjacent to the highway and is over 1m in height. The applicant suggests it is not adjacent and quote an appeal case in their favour. Due to the layout of the road, which features relatively wide grass verges the proposed fence would appear adjacent to the highway in this instance in conflict with A.1 (ii). Further part of the proposal does exceed 2m in height (proposed at 2.025m high). This does not comply with relevant section A.1 (b) and is not considered permitted development and as such requires the submission of an application for full planning permission.

RECOMMENDATION

PP REQUIRED

The Arun District Council hereby certify that on 11/04/22 the development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, was not lawful within the meaning of section 192 of the Town & Country Planning Act 1990 by reason of non-compliance with the relevant criteria within Schedule 2, Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

FIRST SCHEDULE

The proposed fence does not fall under Schedule 2, Part 2, Class A of the GPDO.

The decision was based on the following plans:

- Location and Block Plans GA 005 REVA**
- Fence Elevations GA007**

SECOND SCHEDULE

2 Vicarage Lane, East Preston, BN16 2SP

EXTENT OF USE

Construction of a close board fence at varying heights of 1.225m and 2.025m to be built along boundary of site within the current brick dwarf wall.

EP/44/22/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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