

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: M/70/21/CLP

LOCATION: 19 Merlin Way
Middleton-On-Sea
PO22 6RN

PROPOSAL: Lawful development certificate for proposed replacement of existing 1.8m side fence with 2.0m side fence (feather edge boards + gravel boards).

DESCRIPTION OF APPLICATION

Replacement of 1.8m fence with a 2m high fence to boundary adjacent to Moraunt Drive.

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 or improvement gates, fences and walls

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 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.

The property known as 19 Merlin Way is a detached property and is not listed or within a conservation area.

After investigating the sites history, no restrictions to the Permitted Development rights on site were found.

The proposed fence conflicts with relevant sections (a)(ii)(c) in that it is considered to be adjacent to a highway and therefore can not be higher than 1m in height or existing, and is not considered permitted development and as such does require the submission of an application for full planning permission.

RECOMMENDATION

PP REQUIRED

The Arun District Council hereby certify that on 13th May 2021 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 conflict 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 is considered to fall under Schedule 2 Part 2 of the GDPO

The development hereby approved shall be carried out in accordance with the following approved plans

- Location Plan**
- Block Plan**

SECOND SCHEDULE

19 Merlin Way, Middleton-On-Sea

EXTENT OF USE

2m high fence to eastern boundary of property, adjacent with Moraunt Drive.

M/70/21/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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