

DELEGATED DECISION REPORT

SMD/2024/0346
Valid 29/07/2024

TOLL GATE COTTAGE
TEAN ROAD
CHEADLE

**APPLICATION FOR A LAWFUL
DEVELOPMENT CERTIFICATE
FOR -
REMOVAL OF EXISTING WALL
ENTRANCE AND WIDENING
OF ENTRANCE**

**(CERTIFICATE OF
LAWFULNESS - EXISTING)**

MAIN ISSUES

Whether or not the widening of access and removal of existing wall to the west of the application site is in accordance with the Town and Country Planning (General Permitted Development) Order 2015 (as amended), Part 1, Class F and Part 1, Class A therefore be deemed to be “permitted development” not requiring the submission of a householder planning application.

DESCRIPTION OF SITE

The site relates to a detached property on a corner plot that fronts onto Tean Road and sides onto the A522. It sits outside of the Development Boundary of Cheadle and located within the green belt. The property has an existing access off Huntley Lane with gated brick walls. It is not a listed building and fronts an unclassified road.

PROPOSAL

This application seeks approval for a certificate of lawfulness under Section 191 of the Town and Country Planning Act 1990 for removing of an existing wall/ gate that runs perpendicular to the road and widening of access from 6.2m to 11.2m (5m+). Works have already been completed. The access is to be permeable/ porous within the site curtilage.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 191 of The Town and Country Planning Act 1990 (as amended). The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, Class F- surfaces incidental to the enjoyment of a dwellinghouse and Part 2, Class A- gates, fences, walls etc.

SITE HISTORY

SMD/2006/0867: Side/rear conservatory. Refused.

SMD/2000/0990; Change of use of domestic outbuilding to dog grooming business. Approved.

SMD/2024/0347; Application for a Lawful Development Certificate for - Proposed erection of detached garage. Approved.

EVIDENCE IN SUPPORT OF THE APPLICATION

- Application form
- Drawing no: 01396 AL(0) 02 site plan and location plan
- Planning Statement
- Appendix A- Land Charges Map

OFFICER COMMENTS

Section 191 of The Town and Country Planning Act 1990 (as amended) entitles any person to ascertain whether-

- (a) any existing use of buildings or other land is lawful; or
- (b) any operations which have been carried out in, on, over or under land are lawful; or
- (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

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.

Subsequently, there are two parts of this application.

1. Whether the widening of the access is in accordance with The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, Class F- Hard surfaces incidental to the enjoyment of a dwellinghouse and,
2. Whether the removal of the existing stone pillar is permitted.

Class F – hard surfaces incidental to the enjoyment of a dwellinghouse

Permitted development

F. Development consisting of—

- (a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or
- (b) the replacement in whole or in part of such a surface.

The access will serve a dwellinghouse. This is apparent from street-view and the site's planning history which relates to domestic use only. The widening of the main access by an additional 5m will also be to an existing access as per the site plan. It would accord with F.

F.1 Development is not permitted by Class F if—

- (a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class

G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);

The application site has not previously been involved as part of a change of use.

or

(b) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

Not applicable.

F.2 Development is permitted by Class F subject to the condition that where—

(a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and

(b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres, either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

The hardstanding lies to the rear of the property.

County Highways was consulted. They confirm the access fronts an unclassified road and request the surface to be in bound and porous material for a minimum distance of 5m rear of the carriageway edge. As noted in the planning statement, it would meet County Highway's justification in the interest of highway safety by ensuring the hard standing will be surfaced in permeable materials or provision will be made to direct run off water to a permeable / porous area within the site curtilage. Therefore, the scheme is considered permitted development under Part 1 Class F.

An informative will be added to advise the applicant that whilst the works have already been completed, a S184 should be applied for in order to formalise the works and allow opportunity for inspections prior to surfacing.

The second part to the certificate of lawfulness is whether the removal of the existing wall is allowed.

Under Schedule 2, Part 1, Class A- Gates, fences, walls etc... it relates to either the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. In the case of this development, the existing stone pillar/ gated access is to be removed to accommodate the widened access. The wall is not part of a listed building nor a shared wall, therefore, it is deemed to meet Class A and considered permitted development. There are no restrictions on the demolition of the stone pillar.

Conclusion

The existing works meets the above permitted development requirements and therefore a Certificate of Lawful Development can be issued under Section 191 of the Town and Country Planning Act 1990.

OFFICER RECOMMENDATION : Meets the requirements in the GPDO

OFFICER RECOMMENDATION :

Case Officer: Lisa Li

Recommendation Date: 29/01/2025

X 

Signed by: Jane Colley Signature

On behalf of Staffordshire Moorlands District Council