



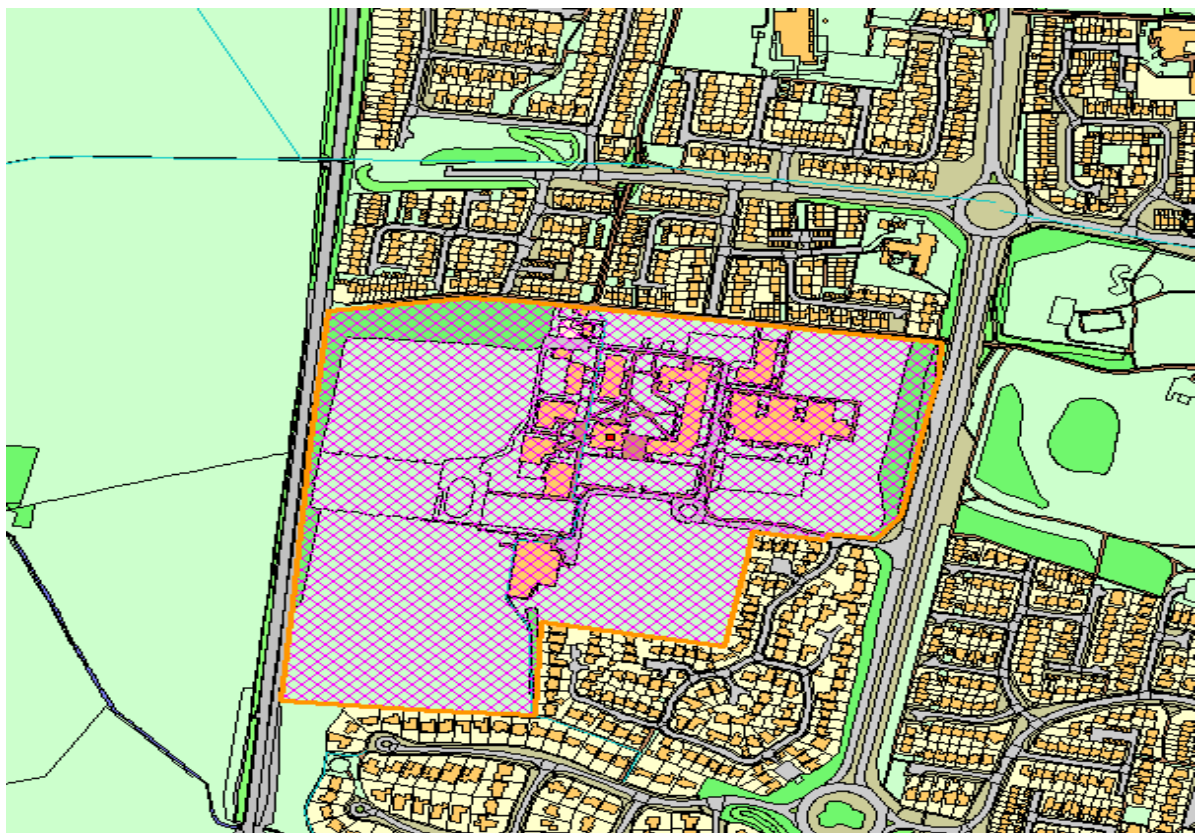
Northumberland

County Council

Cramlington, Bedlington and Seaton Valley Local Area Committee 22nd February 2022

Application No:	21/03734/CLEXIS		
Proposal:	Certificate of existing lawful development for sections of new/replacement 1.8m high perimeter fencing		
Site Address	Cramlington Learning Village , Cramlington, NE23 6BN		
Applicant/ Agent	Mr Craig Davidge Cramlington, NE23 6BN		
Ward	Cramlington Village	Parish	Cramlington
Valid Date	8 October 2021	Expiry Date	3 December 2021
Case Officer Details	Name: Mr Adam Ali Job Title: Planning Officer Tel No: 01670 623948 Email: adam.ali@northumberland.gov.uk		

Recommendation: That a certificate of Lawfulness be ISSUED.



1. Introduction

1.1 It has been confirmed that this application is to be referred to members for a decision at the Local Area Council Committee meeting.

2. Description of the Proposals

2.1 The certificate of lawfulness (existing) application is for new/replacement perimeter fencing at the school premises. The fencing is 1.8m in height.

2.2 The purpose of such a Certificate of Lawfulness (for existing development) (CLEXIS) application is for an applicant to receive a legal document which confirms an existing form of development is lawful and therefore does not require full planning permission.

2.3 The grounds for the submission of the application are based on permitted development rights. The Town and Country Planning (General Permitted Development) (England) Order (*GPDO for short) (2015) (as amended) considers fences to be permitted development subject to certain criteria and conditions.

2.4 As stated in National Planning Policy Guidance, “The grant of a certificate applies only to the lawfulness of development in accordance with planning legislation. It does not remove the need to comply with any other legal requirements such as the Building Regulations 2010, or the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) or other licensing or permitting schemes.”

3. Relevant Planning History

3.1 N/A

4. Planning Policy

4.1 Development Plan Policy

Not relevant for this type of application.

4.2 National Planning Policy

National Planning Policy Guidance (NPPG) (2019) (As updated)

4.3 Other Key Planning Documents/Policy

The Town and Country Planning (General Permitted Development) (England) Order (*GPDO for short) (2015) (as amended)

The Town and Country Planning Act 1990 (as amended)

5. Consultee Responses

Highways	No highway safety issues arise from the proposal
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6. Public Responses

Neighbour Notification

It is not required to consult neighbours for this type of application.

Number of Neighbours Notified	0
Number of Objections	22
Number of Support	0
Number of General Comments	0

Notices

No Site Notice Required.

No Press Notice Required.

Summary of Responses:

22 objections received, summarised below:

- Negative impact on public health and carbon reduction targets
- Restricting access would reduce opportunities for public to use green space and leisure facilities
- Restricting access to footpaths and cycle routes would make cycling and walking less convenient and safe.
- Impact on biodiversity and wildlife
- Prohibits access to a public right of way
- School fields are used at weekends for sports, will this continue?
- Design more akin to an industrial estate than a residential area
- Noise and disturbance in relation to picking up children
- Air quality impact with increase in car traffic
- Highway safety concerns
- Funds for the fence could be better spent inside the school on education
- Impact on property prices

The above is a summary of the comments. The full written text is available on our website at: <https://publicaccess.northumberland.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Response to objections:

- Given the nature of the proposal, it is to be assessed in accordance with the provisions of the GPDO as discussed below.
- As stated in the NPPG, “Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.”

7. Appraisal

7.1 The purpose of applying for a Certificate of Lawfulness (Existing) is to enable the applicant to obtain a statutory document from the Local Planning Authority confirming that the development applied for, in this case the construction of fencing, is lawful for development control purposes, on the date. If the certificate is issued/granted the applicant would not be required to make an application for full planning permission for the development.

7.2 In determining whether the development is lawful for planning control purposes regard is had to the provisions of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended). Sections 191 - 193 of the Town and Country Planning Act 1990 (as amended) are also relevant, as is the content of the National Planning Policy Guidance.

7.3 When it comes to fencing, the GPDO considers certain fencing to be permitted development and therefore not require full planning permission. Schedule 2, Part 2, Class A of the GPDO states that the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure constitutes permitted development, subject to various criteria and conditions.

7.4 In relation to Schools, the GPDO, in Schedule 2, Part 2, Class A states that fences at schools can be built up to 2m in height. This 2m allowance is on the proviso that any part of the fence 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. The Council’s Highways Development Management Team was consulted on the proposal for an assessment on whether or not the proposal passes the aforementioned proviso. It has been assessed and it is considered that the element of the fence above 1m in height and up to 1.8m in height would not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons. The proposal therefore complies with the GPDO and the fence is considered to constitute permitted development and so full planning permission is not required.

7.5 The concerns raised within the objections received are fully acknowledged; however, and notwithstanding these, they do not prevent the applicant being able to continue to erect the fence in line with the above mentioned GPDO.

Other Matters

Equality Duty:

The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications:

The proposal has no implications in relation to crime and disorder.

Human Rights Act Implications:

The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision-making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

8.1 It is considered that the fence constitutes permitted development as defined by the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended) for the reasons outlined above.

8.2 Members are advised that should they oppose the issue of the Certificate of Lawfulness, the applicant will be within their rights to erect/retain the fence regardless provided it does not exceed a 2m height.

9. Recommendation

That Members note that it is the intention of the Local Planning Authority to issue the Certificate of Lawfulness in respect of the fence:

Conditions/Reason

01. That a certificate of lawfulness for the existing development be granted for the following:

- i) Site: Cramlington Learning Village, Cramlington, NE23 6BN
- ii) For: Certificate of existing lawful development for sections of new/replacement 1.8m high perimeter fencing

Reason: The proposal satisfies the criteria and conditions set out in Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended), allowing for the development to be permitted under the GPDO.

Date of Report: 02.02.2022

Background Papers: Planning application file(s)