



Appeal Decision

Site visit made on 7 October 2025

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 OCTOBER 2025

Appeal Ref: APP/T2350/X/24/3358079

The Village Hall, Franklin Hill, Brockhall Village, Old Langho, Lancashire, BB6 8HY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Prometheus Group Services Ltd against the decision of Ribble Valley Borough Council.
 - The application ref 3/2024/0635, dated 25 July 2024, was refused by notice dated 11 September 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is the installation of 1-metre-high fencing and new entrance gates.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed installation of 1-metre-high fencing and new entrance gates which are found to be lawful.

Preliminary Matters

2. For the avoidance of doubt, I make clear that the planning merits of the proposed fence are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
3. The description of proposed development is taken from the Council's refusal notice rather than from the LDC application form as it is more precise and reflects what is shown on the submitted proposed site plan.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded with particular regard to whether on the date of the LDC application the proposed 1-metre-high fence would have been permitted development and hence lawful if instigated or begun on that date.

Reasons

5. Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) permits the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure subject to the limitations in A.1 and the interpretation in A.2. There is no dispute between the main parties that the proposed 1-metre-high wooden fence and entrance gates would not fall foul of the

limitations in Class A.1 of Part 2 of Schedule 2 of the GPDO. I do not disagree with this common ground position.

6. Notwithstanding the above, it is noteworthy that Article 3(5)(b) of the GPDO states that *“The permission granted by Schedule 2 does not apply if b) in the case of permission granted in connection with an existing use, that use is unlawful”*. While this may of relevance to other types of permitted development in schedule 2 of the GPDO (e.g., the enlargement, improvement or other alteration of a dwellinghouse), it is of no relevance in respect of Class A of Part 2 of Schedule 2. Indeed, this permitted development right relates solely to the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. It is not a permission granted *“in connection with an existing use”*.
7. Given the above, and, despite the Council’s claim that the land to which the proposed fence would be erected cannot be lawfully used in association with the commercial use approved in 2010¹, this is of no consequence in respect of this LDC appeal. In addition, the designation of the land in the development plan for the area as ‘existing open space’ is not relevant to the determination of this LDC application. Moreover, and, in any event, designating the land as ‘existing open space’ in a development plan does not in itself mean that the land has an existing lawful open space use.
8. Put simply, the proposed fence would not fall foul of the limitations in Class A.1 of Part 2 of Schedule 2 of the GPDO. The lawfulness or otherwise of the existing use of the land is of no relevance in this case. Consequently, I conclude that on the date of LDC application, the proposed fence would have been permitted development and hence lawful if instigated or begun on that date.
9. I acknowledge that the Council may consider that the land is not being used lawfully. I pass no comment on this matter. It is a matter that could be separately considered by it, should that be necessary, and utilising its enforcement powers of investigation. Should the Council decide that it is expedient to take enforcement action in respect of an alleged material change of use of the land, it would be open to it to consider what the requirements of any such enforcement notice would be.
10. In reaching the above conclusion, I have considered the representations made by an interested party. However, such representations relate to the planting of a hedge, heras fencing and setting a precent if this appeal were to be allowed. These are not matters that are relevant to the consideration of this LDC application appeal.

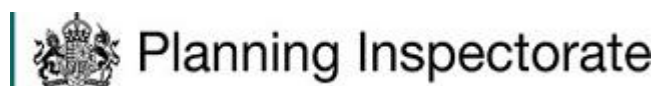
Conclusion

11. For the reasons given above, I conclude that the Council’s refusal to grant a certificate of lawful use or development for the installation of 1-metre-high fencing and new entrance gates is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

D Hartley

INSPECTOR

¹ Planning permission reference 2010/0544



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 25 July 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shown on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed installation of 1-metre-high fencing and new entrance gates would have been permitted development under Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) if instigated or begun on 25 July 2024.

Signed

D Hartley

Inspector

Date: **8 OCTOBER 2025**

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First Schedule

Installation of 1-metre-high fencing and new entrance gates as shown on proposed site plan drawing No. 6020-LC1

Second Schedule

Land at The Village Hall, Franklin Hill, Brockhall Village, Old Langho, Lancashire,
BB6 8HY

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: **8 OCTOBER 2025**

by **D Hartley BA(Hons) MTP MBA MRTPI**

Land at: The Village Hall, Franklin Hill, Brockhall Village, Old Langho, Lancashire, BB6 8HY

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Scale: Not to Scale

