Planning Inspectorate

Appeal Decision

Site visit made on 17 November 2026

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2026

Appeal Ref: APP/P0119/X/25/3367622
Bix Manor, Wood Lane, Horton BS37 6PG

- 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 Mr Michael Maguire against the decision of South Gloucestershire Council.
- The application ref P25/01017/CLP, dated 17 April 2025, was refused by notice dated 10 June 2025.
- 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 installation of a wall.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. On my visit to the site, I saw a stone wall on the roadside boundaries of the appeal property. It appears this wall has been recently constructed and it is generally positioned in accordance with the details as shown on the layout drawing that accompanied the LDC application. However, this wall is different in appearance to that shown on the submitted elevation plan. In the interests of clarity, I confirm my assessment is based on the information submitted with the LDC application, including the drawings.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant a LDC was well-founded.

Reasons

4. An application under section 192(1)(b) of the Act seeks to ascertain whether any operations proposed to be carried out in, on, over or under land would be lawful. The Planning Practice Guidance confirms that the applicant is responsible for providing sufficient information to support their case. The decision is based on the facts of the case and relevant law or judicial authority. The planning merits of the matters applied for, such as whether it would be in keeping with the area, are not relevant to my assessment of this appeal.

5. Section 191(2) of the Act sets out that operations are lawful at any time if (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason) and (b) they do not constitute a contravention of any of the requirements of an enforcement notice

then in force. There is no evidence of any enforcement notice relating to the appeal site and so the proposal would not be unlawful due to the provisions of Section 191(2)(b) of the Act.

6. The application forms states the proposal would include the carrying out of building or other operations. As such, it would fall within the meaning of development as defined in section 55(1) of the Act. Moreover, the installation of a wall is not excluded as development under section 55(2) of the Act. The proposed development would require planning permission under the terms of section 57 of the Act when read as a whole.

7. Article 3(1) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) grants planning permission for the categories of development set out in Schedule 2. Amongst other things, Class A in Part 2 of Schedule 2 of the GPDO (hereafter referred to as Class A) defines the erection of a wall as permitted development. However, in light of sub-paragraph A.1(a)(ii) under Class A it is not permitted development to erect a wall adjacent to a highway used by vehicular traffic when its height would exceed 1m above ground level. Also, under A.1(b) of Class A the erection of a wall that would exceed 2m in height above ground level is not permitted development.

8. The submitted plan showing the elevation of the proposed wall is not drawn to an identified scale. It shows a maximum height measurement of “196” however no units of measurement are identified on the drawing. The appellant’s written submissions state that their dogs would be able to clear a 1m high structure too easily and that the sizing of the wall would ensure safety for all. As such, the evidence as a whole indicates the height of the proposed wall would exceed 1m above ground level. Indeed, it would seem the figure of “196” on the drawing indicates a maximum height of the wall of 196cm or 1.96m.

9. As such, the proposal would accord with the terms of A.1(b) under Class A. However, the issue as to whether the proposal would represent permitted development under Class A when read as a whole turns on whether the wall would be erected adjacent to a highway used by vehicular traffic. If so, the proposed wall at a height in excess of 1m would not comply with sub-paragraph A.1(a)(ii) of Class A.

10. The highways of Wood Lane and King Lane lie to the front and along one side of the site. Both of these roads are used by vehicular traffic. A layout plan appears to show the line of the proposed wall running along or near to the roadside boundaries of the appeal property and on either side of the access onto the land.

11. The appellant contends the wall would not be adjacent to a highway as it would be set back at least 2m from the roads. However, neither the Act nor the GPDO defines the meaning of the word “adjacent” and they do not specify a separation distance for a wall to be considered as not adjacent to a highway. As such, the issue is a matter of judgment to be determined on a fact and degree basis.

12. The layout drawing does not annotate nor clearly show the extent of the highway or the position of the proposed wall in relation to Wood Lane and King Lane. Instead, it simply shows a pair of lines indicating a 2m wide strip of land on the side of the proposed wall that would face the roads. It is unclear by simply looking at the plan as to what this 2m distance is meant to represent and it is uncertain

whether it denotes the wall as being at least 2m from the edge of the part of the highway used by vehicles.

13. On my visit, I saw a grassed roadside verge in front of the existing wall. It would seem that a wall set back 2m from the edge of the surfaced part of the road would mean this verge could be retained. However, the low level grass and roadside vegetation on this verge would not screen the wall from the roads. The submitted plan appears to indicate the provision of planting on the side of the wall facing into the appeal property but none is proposed between the wall and the road. Therefore, without any evidence to the contrary, it seems there would be no significant intervening natural or other feature between the proposed wall and the carriageway part of the highway. As such, even if it is set back by 2m, the proposed wall would still appear to be next to the highway as the only demarcation feature between the appeal property and the roads.

14. For the above reasons, I find as a matter of fact and degree that the proposed wall would be adjacent to a highway used by vehicular traffic. The wall would also exceed 1m above ground level in height and so the proposal would not be permitted development under Class A due to sub-paragraph A.1(a)(ii). There is no case made that the proposal would constitute permitted development under any other part of Schedule 2 of the GPDO and so it would not be granted planning permission under Article 3(1) of the GPDO.

15. Accordingly, I conclude the proposal would be development that requires planning permission but for which planning permission was not granted on the date of the LDC application. Enforcement action could have been taken against the proposed development and so it would not have been lawful if instituted or begun at the relevant date.

Conclusion

16. 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 a wall is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Jonathan Edwards

INSPECTOR