DELEGATED OFFICER REPORT

PROPOSAL	**Application for a Lawful Development Certificate for a Proposed Development. Replacement of a front garden hedge with a boundary wall. The proposed wall will be constructed of traditional brick base and an iron fence on top to match the local area character, measuring a maximum height of 1.0 metre from the lowest adjacent ground level. The wall will follow the exact footprint of the hedge along the front southern boundary facing Bath Road.**
LOCATION:	34 Bath Road, Emsworth, PO10 7ER
REFERENCE NO:	APP/26/00572
APPLICANT:	Mr Joseph Burnie
APPLICATION TYPE:	Lawful development: Proposed use
CONSULTATION EXPIRY DATE:	26/08/2026
APPLICATION EXPIRY DATE:	29/09/2026
WARD:	Emsworth

RECOMMENDATION: GRANT A CERTIFICATE OF LAWFUL DEVELOPMENT

1 Site Description

1.1 34 Bath Road is a mid-terrace two storey dwelling located to the west side of Bath Road. The property is set back behind a block paved driveway which is open to the highway at the front. There is a hedge to the southern boundary of the driveway and low brick wall with a planting bed to the north. Slipper Mill Pond, which is part of the Chichester Harbour National Landscape, lies on the opposite side of Bath Road.

1.2 The area immediately surrounding the application site is residential. The host dwelling is part of a long, terraced row of properties with a generally similar layout and appearance. The site lies within Emsworth Conservation Area and there are no TPO trees within the site, although there is one a little over 7m to the south within the frontage of No.36. There is no Article 4 in effect within the Conservation Area.

2 Planning History

APP/11/01146 - Reduce crown height by 3.5m and width by 3m, 1No. Twisted Willow tree within Emsworth Conservation Area., RNO,22/07/2011.

APP/15/01031 - Crown reduce 1No. Twisted Willow by 3m to previous pruning points within Conservation Area of Emsworth., RNO,28/10/2015.

APP/18/00222 - Crown reduce 1No.Twisted Willow height by 3m and laterals by 2m to previous pruning points, within Conservation Area of Emsworth., RNO,04/04/2018.

APP/20/00616 - 1xNo; Twisted Willow-Crown height reduction by 2m below previous pruning points. Reduce laterals to previous pruning points., RNO,04/09/2020

APP/24/00033 - 1No Willow (T1) pollard to previous pollard points, leaving a height of 8M by 5M width, within Conservation Area of Emsworth., CTEX,23/04/2024 17:04:08

APP/24/00530 - Single storey rear extension, rear dormer window and rooflights to second floor, internal alterations throughout. Replacement garage/outbuilding. PERMIT 26/09/2024.

3 Proposal

Application for a Lawful Development Certificate for a Proposed Development. Replacement of a front garden hedge with a boundary wall. The proposed wall will be constructed of traditional brick base and an iron fence on top to match the local area character, measuring a maximum height of 1.0 metre from the lowest adjacent ground level. The wall will follow the exact footprint of the hedge along the front southern boundary facing Bath Road.

4 Policy Considerations

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

5 Statutory and Non Statutory Consultations

Not required, however consultation was carried out as follows:

Councillor Charles Robert No comments received.
Councillor Grainne Rason No comments received.
Councillor Reuben Mychaleckyi No comments received.

6 Community Involvement

Not required for a Certificate of Lawful Proposed Use or Development.

7 Legal Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

(i) Principle of development

7.2 The proposal has been assessed against the 'Permitted Development' allowances in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

7.3 The proposed fence and wall would fall within Class A of Schedule 2 Part 2

Class A – gates, fences, walls etc

Permitted development

A. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Development not permitted

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; **N/A**

(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

Elevations provided indicate the wall and fence would be a maximum 1m in height, which is in keeping with other boundary treatments to the side of driveways in this section of Bath Road.

(d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building. **N/A**

8 Conclusion

8.1 The proposed development falls within permitted development regulations as set out in Class A of Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Therefore, a Lawful Development Certificate can be issued.

9 RECOMMENDATION:

That the Head of Place and Growth be authorised to **GRANT A CERTIFICATE OF LAWFUL DEVELOPMENT for** application APP/26/00572.

FIRST SCHEDULE:

This certificate relates to the following development:

Application for a Lawful Development Certificate for a Proposed Development. Replacement of a front garden hedge with a boundary wall. The proposed wall will be constructed of traditional brick base and an iron fence on top to match the local area character, measuring a maximum height of 1.0 metre from the lowest adjacent ground level. The wall will follow the exact footprint of the hedge along the front southern boundary facing Bath Road as described in the written particulars, plans and other documents submitted with your application.

SECOND SCHEDULE:

This certificate relates to land at 34 Bath Road, Emsworth, PO10 7ER as shown edged red on the submitted Location Plan.

INFORMATIVE

Your attention is drawn to the fact that a tree located on nearby land is protected by TPO. Consent to carry out works to this tree may be required from the Council. Should you require any further advice on this please contact the Arboriculturist via the Customer Service Centre on 023 9244 6019.

OTHER IMPORTANT INFORMATION:

(1) This Certificate is issued solely for the purpose of Sections 192 of the Town and Country Planning Act 1990 (as amended). It does not relate to any other application that may be required under any other part of the Town and Country Planning Act, the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 01329 824823.

(2) It certifies that the use/development specified in the First Schedule taking place on land described in the Second Schedule would be lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) on the specified date and thus would not be liable to enforcement action under part 7 of the 1990 Act.

(3) The certificate only applies to the extent of the development specified in the First Schedule taking place on land described in the Second Schedule and identified on the attached plan. Any development which is materially different from that described or which relates to other land may render the owner/occupier liable to enforcement action under section 172 of the 1990 Act.

(4) The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act (as amended), which states that the lawfulness of a described 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 matter relevant to determining such lawfulness.

(5) Your attention is drawn to the attached information regarding your right to appeal to the Secretary of State if you are aggrieved by the Council's decision.