

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/00825/CPL

CASE OFFICER

Majid Mir

DETERMINATION DATE 15.10.2024

Address: Great Howarth School, Great Howarth, Rochdale, OL12 9HJ

Proposal: Application for a certificate of lawfulness for the proposed erection of two new single storey detached school buildings and associated 2m high new fencing.

PUBLICITY	Weekly list expired?	N/A	Site notice expired?	N/A
	Neighbour letters expired?	N/A	Press Notice expired?	N/A

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	N

EIA	Screening opinion completed and saved to Onbase?	N
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CONDITIONS	Pre-commencement conditions proposed?	N
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION

GRANT

CHECKED AND SIGNED OFF BY: RG

DATE: 30 October 2024

SITE

The application relates to Great Howarth School. To the south, south west and to the east are residential properties. To the rear there is land that is being developed for allotments.

PROPOSAL

The application seeks a Lawful Development Certificate for the proposed construction of two single storey buildings and for the installation of boundary fence.

Building one would be sited on small patch of grassed area to the front of the school and to the east. The building will be used as a therapy pod. The boundary treatment will be extended around the proposed building and create a secure area and used as a sensory garden.

Building two would be a larger building sited to the west of the school on grassed plot of land. The application proposes that the building will be used as a teaching room.

The proposed boundary fences will be installed around the new building and enclose the buildings. The proposed fences will be 2 metres tall Euroguard V-Mesh fencing in green.

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

LEGISLATION

Town and Country Planning Act 1990 (as amended)

The Town and Country Planning (Use Classes) Order 1987 (as amended)

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

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ("the UCO Amendment Regulations")

RELEVANT SITE HISTORY

81/D12728 Garage For Storage Of School Bus And Sports Equipment.
Decision: Approved.

98/D35856 Extensions To Existing School.
Decision: Approved.

02/D39910 Installation Of Prefabricated Building To Rear Of School.
Decision: Approved.

09/D52581 Installation Of Temporary Teaching And WC Portacabin As
Accommodation To School.
Decision: Approved.

CONSULTATION RESPONSES

Not applicable.

REPRESENTATIONS

In accordance with the Council's Code of Publicity, this application has not been publicised.

ANALYSIS

Class A of Part 2 of Schedule 2 of the GPDO allows for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure subject to it not being contrary to any of the following criteria:

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;
 - (ii) in any other case, 1 metre above ground level;

The proposed fence would be 2 metres tall. The proposed fence has been amended along the south western boundary by the parking spaces. The fence has been set at an angle to allow improved views for drivers as they manoeuvre out from the parking spaces. The proposed fencing is considered to comply with this requirement.

- (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

The proposed fence would be 2 metres tall.

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

The proposed fence would not be within the curtilage of a listed building.

Class M of Part 7 of Schedule 2 of the GPDO allows for extensions, alterations etc for schools, colleges, universities, prisons and hospitals subject to it not being contrary to any of the following criteria:

M.1 Development is not permitted by Class M—

- (a) if the cumulative footprint of any erection, extension or alteration under Class M on or after the relevant date would exceed the greater of—

- (i) 25% of the cumulative footprint of the school, college, university, prison or hospital buildings as it was on the relevant date; or
- (ii) 250 square metres;

The supporting report notes that the footprint of the school is 1,276 square metres with 25% of the footprint totalling 319 square metres. The proposed buildings would have a footprint of 24 square metres and 232.6 square metres. The combined footprint of the two proposed buildings would therefore be 256.6 square metres. Therefore the proposed buildings would not exceed the limits set out in (i).

- (b) in the case of a college, university, prison or hospital building, if any part of the development would be within 5 metres of a boundary of the curtilage of the premises;

The application relates to a school and therefore not applicable.

- (ba) in the case of a school, where any land adjacent to the site is used for a purpose within Part C of the Schedule to the Use Classes Order (residential purposes), if any part of the proposed development is within 5 metres of the boundary of the curtilage of that residential land;

Both proposed buildings would be sited more than 5m away from the boundary of the curtilage of residential land.

- (c) if, as a result of the development, any land used as a playing field at any time in the 5 years before the development commenced and remaining in this use could no longer be so used;

The supporting statement confirmed the affected parts of the site are not used currently, nor have they been in the last 5 years, as a playing field.

- (d) if the height of any new building erected would—
 - (i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres; or
 - (ii) in all other cases, 6 metres;;

The proposed plans show that the height of the proposed buildings would be 3.25m.

- (da) if the height of any rooftop structure would exceed 1.5 metres;

No roof top structures are proposed.

- (e) if the height of the building as extended or altered would exceed—
 - (i) if within 10 metres of a boundary of the curtilage of the premises, the lesser of the height of the building being extended or altered or 5 metres; or
 - (ii) in all other cases, the height of the building being extended or altered;

The application proposes the construction of two new detached buildings that would have an overall height of 3.25m.

- (f) if the development would be within the curtilage of a listed building; or

The development would not be within the curtilage of a listed building.

- (g) unless—

- (i) in the case of school, college or university buildings, the predominant use of the existing buildings on the premises is for the provision of education;
- (ii) in the case of hospital buildings, the predominant use of the existing buildings on the premises is for the provision of any medical or health services;
- (iii) in the case of prison buildings—
 - (aa) the predominant use of the existing buildings on the premises is for the confinement of prisoners; and
 - (bb) in the case of a closed prison, the development does not involve the erection, extension or alteration of any building beyond the perimeter as it stood on the relevant date.

The application relates to a school and the supporting letter has confirmed that the sole use of the building is for the provision of education.

Class M also has a number of conditions. Paragraph M.2 states the following:

Development is permitted by Class M subject to the following relevant conditions—

- (a) **the development is within the curtilage of an existing school, college, university, prison or hospital;**

[...]

- (e) **where proposed development under Class M relates to the erection, extension or alteration of a school building that results in an increase in the school's published admission number, the developer must, within a period of six months starting with the date the development is completed, submit to the local planning authority a travel plan for the site;**

[...]

- (j) the documents and information specified in sub-paragraph (i)(iv) are—
- (i) a written description of the proposed development;
 - (ii) a plan indicating the site and showing the proposed development;
 - (iii) a drawing, prepared to an identified scale, showing—
 - (aa) in the case of a building to be erected, the proposed external dimensions and elevations of that building; and
 - (bb) in the case of a building to be extended or altered, the external dimensions and elevations of that building both before and after the proposed extension or alteration;
 - (iv) the proposed commencement date;
 - (v) written confirmation that development will not take place on any land used as a playing field, and remaining in that use, at any time in the 5 years before the proposed commencement date;
 - (vi) the developer's contact address; and

- (vii) the developer's email address if the developer is content to receive communications electronically.

In regards to paragraph M.2(a), there is no legal definition of curtilage and is a matter of fact and degree. Furthermore, the GPDO does not define curtilage other than in a specific number of cases which does not include school buildings. Examples of this are found in respect of permitted changes of use from agricultural and employment buildings to dwellinghouses whereby curtilage is defined as the lesser of land enclosed or unenclosed, immediately beside or around a relevant building, closely associated with and serving the purposes of the building; or an area of land immediately beside or around the building no larger than the land area occupied by the building.

Challenge Fencing Ltd v SSHCLG and Elmbridge Borough Council [2019] it was considered that when determining whether a site fell within the curtilage of the building, a number of factors need to be considered. These included physical layout, past and present ownership, the use and function of the land and building, the extent of the curtilage and its enclosure relative to the building. This is further confirmed in **Hiley v SSLUHC [2022]** when it was ruled that the physical layout of land or buildings, past and present ownership and the past and present use and function of the land or buildings, were all relevant factors. Additionally, it was considered that the relative size between a building and its claimed curtilage and whether the building or land is ancillary to the main building was also relevant.

It is noted that previous applications made for the site relating to developments for the school have included the plots of land to the west and east. However, 09/D52581 did not include the land to the west. The proposed building sited to the west of the school would be sited on land that is outside the enclosed area of the playground. The land is adjacent to the playground and in close vicinity to the main building of the school. The land is bound by a path (to include boundary treatment approved under planning permission 19/00970/FUL) to the west, the boundary with allotments to the north, highway to the south and southeast, and the school to the east. In regards to the proposed building to the east, the land is again outside the enclosed area of the playground. It adjoins the front of the school, access to the rear of the school and public right of way. The land is also adjacent to the main school building.

The applicant has provided evidence that shows that the plots of land have historically been within the ownership of the school. It is also noted that there was previously a structure on the plot of land to the west. It appears to have been associated with the school. Furthermore, it is noted that schools typically feature a combination of open, semi-public spaces and spaces such as playgrounds that are enclosed for security and safeguarding purposes.

As noted in the definitions above, the land does not necessarily need to be enclosed for it to be considered to be a part of the curtilage of a building. The plots of land appear to be associated with the school, with the land to the west providing a buffer for the playground. Neither parcel of land are larger than the school building land itself and are both proportionate as typical school grounds.

Noting the above, it is considered that the plots of land can be considered to be part of the curtilage of the school.

RECOMMENDATION – Grant

The proposal constitutes permitted development by virtue of compliance with the requirements of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and Schedule 2, Part 7, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Notes for Applicant:

For the avoidance of doubt, this decision notice relates to the following plans and documents:-

- Site Location Plan. Drawing no: 0200. Rev: P02
- Site Plan Existing. Drawing no: 0201. Rev: P02
- Site Plan Proposed. Drawing no: 0211. Rev: P04. Received by email on 15/10/2024
- Proposed Plans Outbuildings Ground Floor. Drawing no: 0214. Rev: P03
- Proposed Elevations Teaching Rooms. Drawing no: 0215. Rev: P03
- Proposed Elevations Therapy Pod. Drawing no: 0217. Rev: P01
- Covering Letter. Ref: JB/99575. Dated: 15 August 2024