

Planning

Growth & Development

Delegated officer report for planning application

Application no. 140600/LP/2024
Date registered valid: 24 July 2024
Proposal: Erection of an outdoor canopy
Address: William Hulmes Grammar School Academy, Springbridge Road,
Manchester, M16 8PR
Ward(s): Whalley Range Ward

Applicant: William Hulmes Grammar School Academy
Agent (if any): Mr Bill Davidson P4 Planning Limited
Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Grant
Date of recommendation: 16 September 2024

Application details

Type of application: Certificate Lawful Development Proposed

Development type: Certificates of lawfulness

Date of site visit: Not Required

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

No neighbour notifications have been printed and sent.

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building and area

A school site with a number of buildings constructed through time to meet educational needs. Main school building and hall, which are unaffected are grade II listed. The surrounding area is predominately residential in character.

Listed building: Grade II

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a certificate of proposed lawful development for an outdoor canopy.

Consultations & Notification Responses

None Required - There is no statutory requirement to consult third parties including neighbours; 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.

Issues

Sections 191 and 192 of the Town and Country Planning Act 1990 provide for anyone (not just a person with a legal interest in the land) to apply to the local planning authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying:

(1) in the case of an application under section 191, the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition; or

(2) in the case of an application under section 192, the lawfulness of proposed operations on, or use of land.

The onus of proof in regard to (1) is firmly on the applicant and the issue of a certificate will depend on the on factual evidence provided about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The relevant test of the evidence in this matter is “the balance of probability” and the applicants own evidence does not need to be corroborated by independent evidence. If the LPA have no evidence to contradict the applicants version of events or make them less then probable, there is no good reason to refuse the issue of a certificate.

In regard to (2), this provides that, if the LPA are supplied with information satisfying them that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect; and, in any other case, they shall refuse the application.

In short, the purpose section 192 is to enable any person who wishes to find out whether any proposed use or operations would be lawful to apply to the LPA for that purpose

The application needs to describe the proposal with sufficient clarity and precision to enable the LPA to understand (from a written description and plans) exactly what is involved in the proposal; and to submit whatever supporting information or legal submission that are to be relied upon in order to satisfy the LPA that a certificate should be granted for the proposal.

In making their decision on an application under section 192, the LPA ask themselves the hypothetical question - *"If this proposed change of use had already occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"* In doing so, the LPA will not only consider whether the proposal would involve "development" requiring an application for planning permission, but whether it would involve a breach of any existing condition or limitation imposed on a grant of planning permission which has been acted upon, and which therefore constrains what can be done on the land. The LPA will not make a proposal fit a scenario; the only question is whether the proposal made by the applicant is lawful at the time of submission.

The Application

This application is pursued under subsection (1) of section 192, which provides for an application to determine whether any proposed use or operations would be lawful for planning purposes.

The applicant is seeking a certificate of proposed lawful development for an outdoor canopy

Permitted development

Class M –extensions etc for schools, colleges, universities, prisons and hospitals

Development not permitted

Paragraph	Complies
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M.1 (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 relevant date; or	Yes
(ii) 250 square metres;	Yes
M.1 (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;	Yes
M.1 (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;	Yes
M.1 (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;	Yes
M.1 (d) if the height of any new building erected would exceed -	
(i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres; or	N/A
(ii) in all other cases, 6 metres;	Yes
M.1 (da) if the height of any rooftop structure would exceed 1.5 metres;	N/A
M.1 (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	N/A
(ii) in all other cases, the height of the building being extended or altered;	N/A
M.1. (f) if the development would be within the curtilage of a listed building; or	N/A
M.1 (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;	Yes
(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;	N/A
(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	N/A

(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.	
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Conditions

Paragraph	Complies
M.2 Development is permitted by Class M subject to the following conditions —	
(a) the development is within the curtilage of an existing school, college, university, prison or hospital;	Yes
(b) the development is only used as part of, or for a purpose incidental to, the use of that school, college, university, prison or hospital;	Yes
(c) any new building erected is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the original school, college, university, prison or hospital buildings;	N/A
(d) any extension or alteration is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the building being extended or altered;	N/A
(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;	N/A
(f) where proposed development under Class M relates to the erection, extension or alteration of a university building, development is permitted subject to the condition that before beginning the development the developer applies to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—	N/A
i. transport and highways impacts of the proposed development;	N/A
ii. the design and external appearance of the erection, extension or alteration; or	N/A
iii. the impact of the development on heritage and archaeology	N/A
(g) an application required under paragraph (f) is to be made and determined in accordance with paragraph M.2A (procedure for applications for prior approval under Class M);	N/A
(h) development approved pursuant to an application under paragraph (f) is permitted subject to the condition that it is completed within a period of three years starting with the prior approval date. date;	N/A
(i) where proposed development under Class M relates to the erection, extension or alteration of an open prison building, before beginning development the developer must—	N/A
i. assess the contamination and flood risks of the development;	N/A

ii. identify measures to reduce, so far as practicable, any contamination or flood risks of the development;	N/A
iii. where the development is in an area within Flood Zone 3, carry out prior consultation in accordance with paragraph M.2B (procedure for prior consultation under Class M); and	N/A
iv. provide written notification to the local planning authority of the proposed development with the documents and information listed in sub-paragraph (j);	N/A
(j) the documents and information specified in sub-paragraph (i)(iv) are—	N/A
i. a written description of the proposed development;	N/A
ii. a plan indicating the site and showing the proposed development;	N/A
iii. a drawing, prepared to an identified scale, showing—	N/A
aa. in the case of a building to be erected, the proposed external dimensions and elevations of that building; and	N/A
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;	N/A
iv. the proposed commencement date;	N/A
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;	N/A
vi. the developer's contact address; and	N/A
iii. the developer's email address if the developer is content to receive communications electronically	N/A

Procedure for applications for prior approval under Class M is set out in M.2A.

The procedure for prior consultation under Class M.

The interpretation of Class M is provided in section M.3.

Other Legislative Requirements

Equality Act 2010

Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

Human Rights Act 1998 considerations

This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have

made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation:

Article 35 Declaration

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) The proposed canopy as shown on drawings WIL2645-001P, WIL2645-002 P and WIL2645-004P, constitutes permitted development in accordance with Schedule 2, Part 7, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Area Team Boundary - Name: SOUTH AREA