MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	144288/LP/2025
Date registered valid:	29 October 2025
Proposal:	Erection of 3 No. single storey cabin structures for educational purposes, finished in brick, tile and other materials to broadly match finishing materials of the existing school building.
Address:	8 Alexandra Road South, Manchester, M16 8ER
Ward(s):	Whalley Range Ward
Applicant:	Noreen Khan Included Learning
Agent (if any):	Mr Gordon Kenyon Kenyon Planning
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	**Refuse**

Date of recommendation: 24 December 2025

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

The application site comprises a single-storey former doctor's surgery, which is currently in use as a school (Use Class F1(a)), along with its associated grounds. The site is located within a residential area and lies inside the Whalley Range Conservation Area.

Listed building: Not applicable

Conservation area: Whalley Range Conservation Area 1992

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a certificate of proposed lawful development to erect three, single storey cabin structures for educational purposes, finished in brick, tile and other materials to broadly match finishing materials of the existing school building.

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.

Planning History

There have been a number of applications related to this site. While none relate to its current use as a school, the applications listed below provide details of its previous uses.

063110/FU/SOUTH1/01 – Planning permission was granted on the 18 October 2001 to allow the change of use from doctors surgery to solicitors office.

057083/FO/SOUTH1/99 – Planning permission was granted on the 1 November 1999 for the erection of a two storey extension to doctors surgery

F12301 – Planning permission was granted on the 9 January 1980 for the erection of a single-storey medical centre.

Legislative 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;

(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.

In the case of applications for proposed development, the onus rests with the applicant to make their case on the balance of probability.

The applicant is seeking a certificate of proposed lawful development to erect three, single storey cabin structures for educational purposes, finished in brick, tile and other materials to broadly match finishing materials of the existing school building. The applicant considers that the proposed development is permitted under the provisions of Part 7, Schedule 2, Class M of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO").

To benefit from the permitted development rights, afford by the GPDO the existing site must be either a school, college, university, prison or hospital. The application is supported by a letter from the applicant stating that the current use of the property is as a school, which began operating in February 2014 and has continued uninterrupted since then. The latest Ofsted report (2024) confirms that the school was established to support pupils in reintegrating into education. Accordingly, it is considered that the use falls within Class F.1(a) (provision of education) of Schedule 2 to the Use Classes Order.

As stated above, the application purports to be for the erection of single storey cabin structures on the site. However, as shown on the existing site plan there are currently three cabins; these have recently been brought on to the site (see image 1). The Council received a complaint in June 2024 when the cabin adjacent to the rear boundary was brought onto the site, and a subsequent development compliance investigation concluded that all three cabins are unauthorised.

During that compliance investigation, officers have been in correspondence with the applicant and planning agent. Of particular consequence is an email sent to the Development Compliance Officer by the planning agent, on 24 September 2025, in which they stated clearly the applicant's intentions:

> "Upon receipt of the certificate of lawfulness, the unauthorised structures will be re-located, clad and tiled… As previously discussed, this approach will hopefully provide a more certain and permanent solution for the retention of the single-storey buildings/cabins…" [emphasis ours]

The proposed site plan details the distance that each cabin will be moved so that they will be five metres from any boundary with a neighbouring residential use in an attempt to comply with Part 7, Class M, sub-paragraph M.1(b) of the GPDO (see image 2).

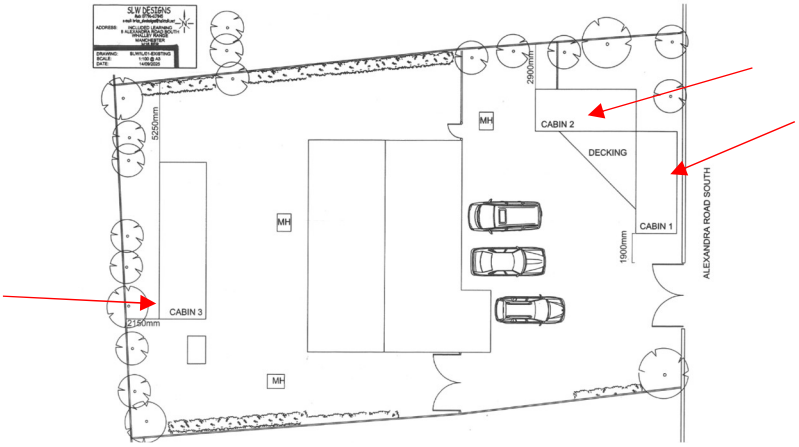


Image 1 Existing Site Plan – Red arrows have been included to identify the three existing cabins.

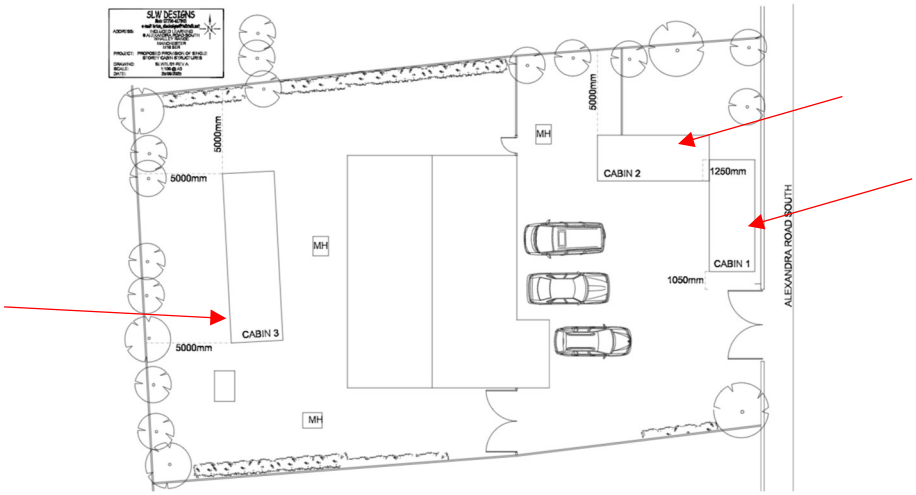


Image 2 Proposed Site Plan - Red arrows have been included to identify the three cabins.

Given the above and notwithstanding the description of the proposed development, it is clear that the applicant's intention is to relocate the existing unauthorised cabins, adding a pitched roof and cladding them with red brick slips on all elevations, along with low-profile fibre cement slates on the roofs, and not the construction of new buildings or cabins on the site.

However, the GPDO does not grant retrospective planning permission, and this is specifically set out under Article 3(5):

> (5) The permission granted by Schedule 2 does not apply if—
>
> > (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful;

One example relates to a fence that has been erected adjacent to a highway used by vehicular traffic, it is only permitted by the GPDO if it complied with the height limitations under Paragraph A.1 of Part 2 of Schedule 2 at the time it was erected or constructed. If the fence exceeded those limits, it could not be made to become permitted under the GPDO simply by later reducing its height.

As discussed, the existing cabins are unauthorised and the relocation of these cabins, adding a pitched roof, and re-cladding them in an attempt to meet the requirements of Part 7, Class M of the GPDO is not permitted development and will require planning permission.

Part of the proposal is to clad the cabins in materials that are “broadly similar” to the materials used in the main school building on the site, in an attempt to comply with Condition M.2(c) of the GPDO:

> (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;

Whilst there is no definition of “constructed” or “construction” in the GPDO, the Cambridge Dictionary defines it as “the work of building or making something, especially buildings, bridges, etc”. For planning purposes, it is considered that “construction” encompasses a wide range of building and engineering activities that physically alter land or buildings.

In this instance, notwithstanding the description of development, the proposed re-siting of the cabins, followed by cladding and alterations, is clearly not works of construction. As such, even if the materials used to reclad the cabins are similar to the external appearance of the original school building, the cabins will not have been “constructed” using those materials and can therefore not comply with Condition M.2(c).

The certificate should therefore be refused.

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 polices 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: Refuse

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

Contrary to the applicant's description of development, the Council considers that the existing and unauthorised cabins within the site are to be relocated, before adding pitched roofs and cladding them with brick slips to all elevations and tiles to their roofs.

Schedule 2, Part 7, Class M of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) allows for the erection, extension or alteration of a school building but these permitted development rights cannot apply retrospectively. In addition, the re-sited cabins will not be constructed using materials which have a similar external appearance to those used for the original school building, which fails to comply with Condition M.2(c). Therefore, the proposed relocation and alteration to the existing and unauthorised cabins is not permitted development and an application for planning permission is required.

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
Conservation Area - Whalley Range Conservation Area 1992
Flood Zones Type 2 (low to medium risk) -
Flood Zones Type 2 (low to medium risk) -
Flood Zones Type 2 (low to medium risk) -
Flood Zones Type 2 (low to medium risk) -
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Flood Zones Type 2 (low to medium risk) -
Flood Zones Type 2 (low to medium risk) -
Flood Zones Type 2 (low to medium risk) -
Flood Zones Type 3 (high risk) -
Flood Zone Plus Climate Change -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH AREA