

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) Section 191/192

**DELEGATED DECISION FOR APPLICATION FOR CERTIFICATE OF
LAWFUL DEVELOPMENT**

Reference no.: 2021/CL/91210/E

Site: Windmill Church Of England Primary School,
Upper Batley Lane, Batley, WF17 0NP

Description: Certificate of lawfulness for proposed car park
extension

Case Officer: Jennifer Booth

Decision Reference: PROPOSED OPERATIONS REFUSE

**I hereby authorise the refusal of this application for the reasons set out
in the officer's report and recommendation annexed below in respect of
the above matter.**

Kevin Walton

AUTHORISED OFFICER

Date 26-May-2021

Reference:	2021/CLD/91210/E
Applicant: -	Windmill C of E Primary School
Location: -	Windmill Church Of England Primary School, Upper Batley Lane, Batley, WF17 0NP
Proposal: -	Certificate of lawfulness for proposed car park extension

Site Description

Windmill Church of England Primary School is a large campus with a number of brick built buildings. This application relates to part of the larger site which originally formed part of the garden for the caretaker's bungalow. The use of the caretaker's bungalow recently changed under 2019/92106 to be used as part of the larger school site.

Application Proposal

The application is for a certificate of lawful proposed development to form a hard standing within the school grounds for parking including the erection of a 2 metre high boundary fence.. The onus is on the applicant to provide evidence which states why the proposal fits with the permitted development legislation. In this case, the applicant has stated on the application form that the proposal is permitted development.

Relevant Planning History

2019/92106 – change of use of caretaker's bungalow for educational use associated with the school - granted

Consultations

This is an application for a Lawful Development Certificate and for this reason, no consultations are necessary.

Legislation

The Town and Country Planning Act 1990 Section 55 & the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Assessment: -

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined section 55 of the Town and Country Planning Act 1990.
1. If so, whether Permitted Development rights apply to the property; and

2. Whether the proposed development falls within permitted development under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Parts 2 Class A & 7 Class N.

The proposal comprises the formation of a hard standing for parking within the school grounds and the erection of fence, thus the proposal constitutes the carrying out of building operations on and over land.. As such, it is regarded as development as defined by section 55 of the Town and Country Planning Act 1990.

The application therefore falls to be considered under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 2 (Minor Operations), Class A (Gates, fences, walls) & Part 7 (Non-domestic extensions, alterations etc), Class N (hard surfaces for schools, colleges, universities or hospitals).

Permitted development

Part 2, Class A. Development consisting of the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure –

Development not permitted –

(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— (*in this case.....*)

(b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;

The proposed fence would not exceed 2 metres in height.

Part 7, Class N. Development consisting of—

(a) the provision of a hard surface within the curtilage of any school, college, university, or hospital to be used for the purposes of that school, college, university, or hospital.

The plans indicated this area would be surfaced to provide parking for 8 vehicles within the grounds of the school. The caretaker's bungalow would have originally been an ancillary use to the school and the recent change of use application brought the site firmly into the school unit.

Or

(b) the replacement in whole or in part of such a surface.

N/A

Development not permitted

N.1 Development is not permitted by Class N if—

(a) the cumulative area of ground covered by a hard surface within the curtilage of the site (other than hard surfaces already existing on 6th April 2010) would exceed 50 square metres.

The area to be surfaced over the area currently surfaces would cover approx. 102sqm. This is in excess of the limitations set out and as such the proposal does not meet this criteria.

(b) 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; or

The land does not form part of the schools playing fields.

(c) the development would be within the curtilage of a listed building.

The school is not listed.

Conditions

N.2 Development is permitted by Class N subject to the following conditions—

(a) where there is a risk of groundwater contamination, the hard surface is not made of porous materials; and

(b) in all other cases, either—

(i) the hard surface is made of porous materials, or

(ii) provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the institution.

Moreover, the proposed hardsurface was not granted planning permission under any previous planning permission.

Conclusion

The proposed hardstanding within the grounds of Windmill Church of England Junior School would not meet the criteria for permitted development as set out in Schedule 2, Part 7, Class N of the Town and Country Planning (General Permitted Development) Order 2015 as the resultant hardstanding is more than 50sqm.

Recommendation: REFUSE certificate

Decision Authorisation - Delegated Powers**Application Number:** 2021/91210**Officer Recommendation:** REFUSE certificate

The proposed hardstanding within the grounds of Windmill Church of England Junior School would not meet the criteria for permitted development as set out in Schedule 2, Part 7, Class N of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) as the resultant hardstanding is more than 50sqm in area contrary to paragraph N.1(a) of Class N..

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Application form	-	862258	06/04/2021
Location plan	-	863249	06/04/2021
Proposed plans	-	862257	06/04/2021
Report for 2019/92106	-	862259	06/04/2021

Report Dated 20/04/2021