

Application Number:	P/CLP/2022/06165
Webpage:	Planning application: P/CLP/2022/06165 - dorsetforyou.com (dorsetcouncil.gov.uk)
Site address:	Atlantic Academy Portland, Lerret Road, Portland, Dorset, DT5 1FN
Proposal:	Erection of additional 2no. classrooms within courtyard of existing school; Erection of storage building; Replacement of external windows and doors
Applicant name:	The Department for Education
Case Officer:	Robert Parr
Ward Member(s):	Cllr Cocking, Cllr Hughes and Cllr Kimber

1.0 In accordance with the Council's scheme of delegation this application is brought to committee for determination as Dorset Council is the landowner.

2.0 Summary of recommendation: Grant Certificate of Lawfulness

3.0 Reason for the recommendation:

The proposed development is considered 'permitted development' as the proposal meets the criteria and conditions as set out in Schedule 2, Part 7 Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, based on the information provided and officers assessment it is considered that the use or operations described in the application would be lawful.

4.0 Key planning issues

Issue	Conclusion
Consideration as to whether or not the development is Permitted Development and as such Lawful, when assessed against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).	The proposals have been assessed and it has been concluded that they would be Permitted Development and as such lawful.

5.0 Description of Site

The site is within the grounds of Osprey Quay Campus, Atlantic Academy, located at the northwest end of Portland. The existing building on site, which is currently vacant, was last in use as a mainstream school. The site is within the Defined Development Boundary, is not a Listed Building, is not in a Conservation Area, is not within the Dorset Area of Outstanding Natural Beauty and the development would be in an area recorded as having a low risk of flooding.

6.0 Description of Development

Erection of additional 2no. classrooms within courtyard of existing school, erection of storage building and replacement of external windows and doors.

7.0 Relevant Planning History

Application No.	Proposal	Decision	Decision Date
10/00429/DCC3	New 315 place primary school and 26 place nursery for Chesil Cove Federation, including supporting landscape masterplan and external curriculum areas	No Objection	08/09/2010
10/00429/DCC3_1	New 315 place primary school and 26 place nursery for Chesil Cove Federation, including supporting landscape Masterplan and external curriculum areas.	Granted	16/09/2010
11/00099/DCC3	External alterations and associated works	Objection	04/03/2011
WP/18/00347/CLP	Change of use from a state school to a language school.	Granted	27/07/2018

8.0 List of Constraints

Dorset Council Land

Special Area of Conservation (SAC) (5km buffer): Chesil & The Fleet (UK0017076)
Distance: 1003

Natural England Designation - RAMSAR: Chesil Beach & the Fleet (UK11012)
Distance: 1806m

9.0 Consultations/Notifications

Portland Town Council and Dorset Council Ward Members were notified about the application.

10.0 Relevant Legislation

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

Section 192 (Certificate of lawfulness of proposed use or development) of The Town and Country Planning Act 1990 (as amended).

11.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property.

This recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

12.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty. It is considered that given the type and nature of the development proposed it would have no adverse impact on people with protected characteristics.

13.0 Financial benefits

13.1 No direct financial benefits have been identified or detailed in the application.

14.0 Environmental Implications

14.1 As the application site is within 5km of the Chesil Beach & the Fleet European protected site, the potential impacts on the protected site have been considered. Having considered the proposals it has been concluded that there will be no adverse effect on the integrity of the designated site.

15.0 Planning Assessment

15.1 Section 192 of The Town and Country Planning Act 1990 (as amended) sets out:

“If, on an application under this section, the local planning authority are provided 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”.

15.2 Having researched the planning history of the site no evidence of any conditions can be found which remove permitted development rights and there are no Article 4 Directions on the site.

15.3 The proposal represents development as defined by s55 of the Town and Country Planning Act 1990.

15.4 The development has been assessed against the limitations imposed by, Schedule 2, Part 7, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is considered to be 'permitted development'. A summary of the assessment is set out below:

Permitted development

M. The erection, extension or alteration of a school, college, university, prison or hospital building.

Development not permitted

<i>Limitations set out in GPDO</i>	<i>Summary of Officer Assessment</i>
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 21 st April 2021 would exceed the greater of— (i) 25% of the cumulative footprint of the school, college, university, prison or hospital buildings as it was on 21st April 2021; or (ii) 250 square metres;	Proposal would not be greater than 25% of school and would be less than 250m ²
(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;	Not applicable as proposal is for a school
(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;	Site is surrounded by highway and no development proposed within 5metres 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;	Would not affect land used as a playing field
(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 (ii) in all other cases, 6 metres;	Proposed development less than 5m in height
(da) if the height of any rooftop structure would exceed 1.5 metres;	No roof top structure would exceed 1.5metres

<p>(e) if the height of the building as extended or altered would exceed—</p> <p>(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</p> <p>(ii) in all other cases, the height of the building being extended or altered;</p>	<p>Proposed development less than 5m in height</p>
<p>(f) if the development would be within the curtilage of a listed building; or</p>	<p>The site is not a Listed Building</p>
<p>(g) unless—</p> <p>(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;</p> <p>(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;</p> <p>(iii) in the case of prison buildings—</p> <p>(aa) the predominant use of the existing buildings on the premises is for the confinement of prisoners in closed conditions;</p> <p>(bb) the buildings are located on a site with a closed perimeter; and</p> <p>(cc) the development does not involve the erection, extension or alteration of any building beyond the perimeter as it stood on 21st April 2021.</p>	<p>(g) (i) The proposal would continue to be for education.</p> <p>All other points are not applicable to this application.</p>
<p>Conditions</p>	
<p>M.2 Development is permitted by Class M subject to the following conditions—</p>	
<p>(a) the development is within the curtilage of an existing school, college, university, prison or hospital;</p>	<p>Yes it would be a SEN School</p>
<p>(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;</p>	<p>The development would only be used as part of the school.</p>
<p>(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;</p>	<p>Site is not article 2(3) land</p>

(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;	Site is not article 2(3) land
(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;	The development would not increase admission number
(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— (i) transport and highways impacts of the proposed development; (ii) the design and external appearance of the erection, extension or alteration; or (iii) the impact of the development on heritage and archaeology;	Not applicable as not a university
(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);	Not applicable as not a university
(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.	Not applicable as not a university

16.0 Conclusion

16.1 Based on the proposals as shown on the plans submitted with this application and officer assessment the development is considered to be 'permitted development' as the proposals meet the criteria Schedule 2, Part 7, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and as such can be considered lawful.

17.0 Recommendation

GRANT Certificate of Lawfulness

Dorset Council HEREBY certifies that on 6 October 2022 the proposed development described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged with a red line on the plan attached to this Certificate, would have been lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason(s):

The proposed development as set out on the following plans:

Location Plan

Proposed Ground Floor Plan – Dwg No. FSS0888-STL-00-00-DR-A-0100 Rev: S1_P14

Proposed Roof Plan – Dwg No. FSS0888-STL-00-R1-DR-A-01002 Rev: S1_P14

Proposed Elevations – Main Building 1 – Dwg No. FSS0888-STL-00-22-DR-A-02002 Rev: S1_P14

Proposed Elevations – Main Building 2 – Dwg No. FSS0888-STL-00-22-DR-A-02003 Rev: S1_P14

Proposed Elevations – Main Building 3 – Dwg No. FSS0888-STL-00-22-DA-A-02004 Rev: S1_P14

Proposed Elevations – Courtyard Building – Dwg No. FSS0888-STL-25-22-DR-A-02001 Rev: S1_P14

Is 'permitted development' as the proposal meets the criteria and conditions as set out in Schedule 2, Part 7 Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).