

<u>APPLICATION NO:</u>	23/01731/CLD	<u>CASE OFFICER:</u>	Reece Black
<u>WARD:</u>	Prescot North	<u>PARISH:</u>	Knowsley Parish Council
<u>LOCATION:</u>	St John Fisher Catholic Primary School, Tithebarn Road, Knowsley		
<u>PROPOSAL:</u>	CERTIFICATE OF LAWFUL DEVELOPMENT FOR EXTERNAL WORKS COMPRISING OF EXCAVATION OF RAISED PLANTER AREA INCLUDING THE REMOVAL OF 2NO. TREES AND THE ERECTION OF A RETAINING WALL ADJACENT TO PUBLIC FOOTPATH		

Site Description

The application site is located at St John Fisher Catholic Primary School, Tithebarn Road, Knowsley and is located in an area allocated as Urban Greenspace and Education Land in the Development Plan.

To the North-West of the site is Shop Lane and to the East is Tithebarn Road. The application site is encircled by residential properties, excluding the Knowsley Lane Recreation Ground to the West of the site. To the South of the site lies a car park. The boundary treatment adjacent to the public footpath and highway of Tithebarn Road consists of 2.36m high, green, metal railings.

The application site is adjacent to the Knowsley Village Conservation Area boundary, which lies to the North and West.

Proposal

The application is for a Certificate of Lawful Development for external works which comprise of the excavation of an existing raised planter area, which involves the removal of 2 trees, together with the erection of a retaining wall adjacent the public footpath and highway of Tithebarn Road. This is sought with the aim of excavating the raised planter area to sit level with and add to the existing external space provided for recreation use. This would be a permanent change.

The proposed area for works to be excavated and surfaced would equate to 237 square metres. The existing tarmacadam would be replaced by MOT Type 3 (Sudds Aggregate). The excavation would lower the existing raised section by approximately 0.58m.

The proposal includes the erection of a new retaining wall, with a height of 0.46m at the lowest and 0.87m at its highest. The proposed wall would not project above the ground levels of the public footpath.

Consultations

Not applicable.

Representations

Not applicable.

Planning History

Not applicable.

Assessment

The application seeks confirmation that the development is 'permitted development' under the Town & Country Planning (General Permitted Development) (England) Order 2015.

The application comprises of different elements that should be assessed individually to determine whether the proposed development as a whole would be within the parameters of the Order.

The Town and Country Planning (General Permitted Development) (England) Order 2015, Part 7, Class N and Part 2, Class A are the relevant sections of the Order that form the basis of this assessment.

Class N – hard surfaces for schools, colleges, universities or hospitals

N. To be classed as Permitted Development:

- a) The provisions 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; or
- b) The replacement in whole or in part of such a surface.

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;
- 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
- c) The development would be within the curtilage of a listed building.

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.

Class A – gates, fences, walls etc

A. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure

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

Part 7 Class N of the GDPO refers to the hard surfacing for schools, colleges, universities or hospitals and the criteria of whether the proposals would be in accord with the parameters of the Order.

As N.1 states that development is not permitted if the cumulative area of ground 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 submitted Proposed Areas of Work has identified the area to be excavated and surfaced would equate to 237 square metres. Therefore, this would not be within the parameters of Part 7 Class N of the GDPO and consequently a Certificate of Lawful Development cannot be issued.

Part 2, Class A of the GDPO refers to gates, fences, walls and other means of enclosure and the criteria of the whether the proposals would be in accord with the parameters of the Order.

As A.1 states that development is not permitted if the height of the proposed means of enclosure would exceed 2m above ground level in the case of a school.

The proposal includes the erection of a new retaining wall, with a height of 0.46m at the lowest and 0.87m at its highest to accommodate for the slight gradient slope. The proposed means of enclosure would be within the parameters of Part 2, class A of the GDPO and this element of the proposal would not require Planning Permission.

The two trees proposed for removal, are situated within the proposed area of excavation. The Local Planning Authority's records show that these trees are not under the protection of any Tree Preservation Orders or sited within a Conservation Area. Therefore, it would be deemed lawful for these trees to be removed.

Conclusion

Although the proposal contains elements that are comply with the criteria of the Order and all accompanying conditions etc, due to the fact that the proposed hard surfacing would not comply with the parameters of the Part 7, Class N of the GDPO, a Certificate of Lawful Development cannot be issued.

Recommendation

That a certificate of Lawful Development be refused.

1. The proposal does not comply with the requirements of Class N of Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
31/08/2023	7146-02	-	PROPOSED AREAS OF WORK
31/08/2023	7146-P04	-	EXISTING AND PROPOSED STREET AND WALL ELEVATIONS
10/07/2023	-	-	LOCATION PLAN
10/07/2023	7146-02	-	PROPOSED AREAS OF WORK

Signed Case Officer¹:

Reece Black

**Signed Authorising
Officer²:**

K Foster

Date:

7 November 2023

Informatives

Not applicable.

¹ I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

² I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed