

<b>Application Reference Number:</b>	2026/0050
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<b>Application Type:</b>	Lawful Development Certificate – Proposed
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<b>Proposal Description:</b>	Certificate of Lawful Development - Proposed development of new Nursery building and associated access, play areas and canopy
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<b>Location:</b>	The Forest Academy, Thornton Road, Kendray, Barnsley, S70 3NG
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<b>Applicant:</b>	Mr Shaun Kierman
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<b>Third-party representations:</b>	None	<b>Parish:</b>	None
		<b>Ward:</b>	Stairfoot

**Summary:**

This application is for a lawful development certificate and seeks confirmation that a proposed development of new a nursery building and associated access, play areas and canopy is lawful and does not require planning permission.

Based on the information submitted by the applicant, the local planning authority determines that in accordance with The Town and Country Planning (General Permitted Development) (England) Order 2015, the development falls within Schedule 2, Part 7 (Non-domestic extensions, alterations etc) Class M (extensions etc for schools, colleges, universities and hospitals). Therefore, this lawful development certificate should be granted.

**Recommendation:**

Lawful Development Certificate – Granted with Conditions



## Relevant Policies

Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO), Schedule 2, Part 7, Class M – development by schools, colleges etc.

Town and Country Planning Act 1990 Certificate of lawfulness of proposed use or development:

1) If any person wishes to ascertain whether—

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land,

would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

## Consultations

Legal – No objections

## Representations

There is no statutory requirement for a Local Planning Authority to consult third parties, including neighbouring residents or parish councils on a lawful development certificate application, since such applications are a matter of fact and law and are not determined on planning merits or judged against national and local planning policies and guidance. Nevertheless, this application was made available online. No comments were received.

## Assessment

An application has been made for a lawful development certificate to confirm that proposed works can be carried out which constitute permitted development under Schedule 2 GDPO 2015, Part 7, Class M relating to non-domestic extensions/alterations are lawful. This proposal will not benefit from PD rights if the following apply (as set out in GDPO 2015 Schedule 2 Part 7 M.1):

- The cumulative footprint of any erection/alteration exceeds the greater of:
  - o 25% of the cumulative footprint of the school
  - o 250 square metres
- Within 5m of land next to the site that is used for residential purposes
- If the development would stop any land used as a playing field in the last 5 years from continuing as such
- If the height of any new building erected would exceed:
  - o 5 metres if within 10 metres of boundary; or
  - o in all other cases, 6 metres
- Extensions/alterations height would exceed:
  - o 5 metres if within 10 metres of boundary; or
  - o the height of the existing building elsewhere
- If the development is within the curtilage of a listed building

o unless the site must mainly be used for its intended purpose of a school

As with all developments/alterations, PD rights can accrue as long as:

- the building is not listed;
- the school is not in a conservation area; and
- there is no valid Article 4 Direction enacted over the area.

Development is permitted under Class M where the following conditions are satisfied:

- Must be within the curtilage of an existing school;
- Development must be used as part of, or incidental to, the use of that institution; and
- If the development increases the school's published admission number, a travel plan must be submitted to the local planning authority within 6 months of completion.

On the balance of probabilities, the evidence submitted meets all the limitations and conditions of Schedule 2, Part 7, Class M of the GPDO 2015. The development is within the curtilage of the school and is for a use that is incidental to the school's educational function.

Based on the information available, the proposal falls within Schedule 2 Part 7 Class M Permitted Development rights, subject to compliance with all limitations and conditions. Therefore, the proposal would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended) as a proposed form of development.

Finally, the evidence provided is sufficient on the balance of probabilities, to demonstrate that the proposed nursery building constitutes permitted development in line with the parameters above. It is recommended that the lawful development certificate may therefore be granted.

## **Recommendation**

Lawful Development Certificate – Granted with conditions

Barnsley Metropolitan Borough Council hereby certify that the development described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto and edged red on the plan submitted as part of this application, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason;

- In accordance with The Town and Country Planning (General Permitted Development) (England) Order 2015, the development falls within Schedule 2, Part 7 (Non-domestic extensions, alterations etc) Class M (extensions etc for schools, colleges, universities and hospitals)

**First Schedule:** Certificate of Lawful Development - Proposed development of new Nursery building and associated access, play areas and canopy

**Second Schedule:** The Forest Academy, Thornton Road, Kendray, Barnsley, S70 3NG

## **Conditions**

As per Schedule 2 GDPO 2015, Part 7, Class M relating to non-domestic extensions/alterations. The following conditions must be satisfied:

- Must be within the curtilage of an existing school;
- Development must be used as part of, or incidental to, the use of that institution; and
- If the development increases the school's published admission number, a travel plan must be submitted to the local planning authority within 6 months of completion.