

Delegated Report		Analysis sheet		Expiry Date:		11/10/2018	
		N/A / attached		Consultation Expiry Date:		N/A	
Officer				Application Number(s)			
Thomas Sild				2018/3526/P			
Application Address				Drawing Numbers			
13 Lyndhurst Terrace London NW3 5QA				See decision notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Erection of 99sqm single-storey school outbuilding (Class D1)							
Recommendation(s):		Grant Certificate of Lawfulness (Proposed)					
Application Type:		Certificate of Lawfulness (Proposed)					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	00	No. of responses	01	No. of objections	01
Summary of consultation responses:		Neighbour objection: <ul style="list-style-type: none"> Site is within a conservation area and development within gardens is harmful The proposed building will lead to an increase in intake and noise disturbance <i>Officer response:</i> <i>The Council is unable to take public comments into account when reaching a decision for this type of Permitted Development application</i>					
CAAC/Local groups* comments: *Please Specify		Not applicable					

Site Description

The application site is an existing non-residential language school (Class D1) and garden space, located on the west side of Lyndhurst Terrace within Fitzjohns Netherhall Conservation Area.

The main school building is a 4-storey, Victorian structure with later extension at lower ground and upper ground floor levels.

Relevant History

- 5th June 2014: 2014/3439/P Application withdrawn for erection of 6m x 4m garden office within rear boundary of school.
- 11th September 2001: PWX0103580 Permission granted for erection of glass canopy on rear elevation and other minor alterations (use given as language school)
- 14th March 1994: 9400348 Permission granted for the erection of a single storey rear extension over part of an existing terrace at upper ground floor level
- 14th March 1994: 9460037 Permission granted for demolition of a rear extension over part of the terrace at upper ground floor level.
- 2nd February 1989: 8905094 Permission refused for the erection of a conservatory at the rear

Relevant policies

Part 7, Class M of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

Assessment

Part 7, Class M of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) permits the erection, extension or alteration of a school, college, university or hospital building.

Development is not permitted by Class M—

(a) if the cumulative gross floor space of any buildings erected, extended or altered would exceed—

(i) 25% of the gross floor space of the original school, college, university or hospital buildings; or

(ii) 100 square metres, whichever is the lesser;

The original school building, is approximately 578sqm (GEA). The original building has been previously extended by 34sqm or 6% of the original floorspace. The proposed GEA floorspace of the outbuilding is 99sqm. The outbuilding plus previous extensions will therefore total 23% of the original floorspace. As such the proposal exceeds neither (i) nor (ii), and part (a) is satisfied.

(b) if any part of the development would be within 5 metres of a boundary of the curtilage of the premises;

As indicated by the Proposed Block Plan (ref: L002), the proposed building will be sited away from the site boundary by a minimum distance of 5 metres from all sides. As such, part (b) is satisfied.

(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;

A playing field, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2010 and included in the NPPF (2012), is the whole of a site which encompasses at least one playing pitch. A playing pitch is defined in the Town and Country Planning (Development Management Procedure) (England) Order 2010 as 'a delineated area which, together with any run-off area, is of 0.2 hectares or more, and which is used for association football, American football, rugby, cricket, hockey, lacrosse, rounders, baseball, softball, Australian football, Gaelic football, shinty, hurling, polo or cycle polo.' The existing garden extends only to 0.0967 hectares and therefore has not been used as a playing pitch or field at any time in the last 5 years. As such, part (c) is satisfied.

(d) if the height of any new building erected would exceed 5 metres;

The height of the new building would not exceed 5 metres in height; being 4.625 metres at its highest point. The Proposed Elevations (ref: P210) refer. As such, part (d) is satisfied.

(e) if the height of the building as extended or altered would exceed—

(i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres; or

(ii) in all other cases, the height of the building being extended or altered;

The proposal relates to a new building as such part (e) is not applicable

(f) if the development would be within the curtilage of a listed building;

The proposed building is not situated within the curtilage of a listed building. As such, part (f) is satisfied.

or (g) unless—

(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;

(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.

The predominant use of the existing buildings on the premises is for the provision of education. As such part (g) is satisfied.

Development is permitted by Class M subject to the following conditions—

(a) the development is within the curtilage of an existing school, college, university or hospital;

The proposed development would be located within the curtilage of an existing school.

(b) the development is only used as part of, or for a purpose incidental to, the use of that school, college, university or hospital;

The proposed development would be used as part of the existing school.

(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 or hospital buildings;

The proposed development is located on article 2(3) land and therefore it would be constructed using materials which have a similar external appearance to those used for the original school. The original school building has Flemish bond London stock brick work; single glazed, timber framed, sash windows; and a hipped slate roof. The proposed building would have matching brick work, timber framed double glazed windows and a slate pitched roof. The windows are proposed to be double glazed for energy efficiency, but their appearance will be similar to the windows on the original school building.

and (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.

The proposal relates to a new building as such part (d) is not applicable

For the purposes of Class M—

“original school, college, university or hospital building” means any original building which is a school, college, university or hospital building, as the case may be, other than any building erected at any time under Class M; and “school” does not include a building which changed use by virtue of Class S of Part 3 of this Schedule (changes of use), where 2 or more original buildings are within the same curtilage and are used for the same institution, they are to be treated as a single original building in making any measurement.

The use of the building as a school has been documented through planning history to at least 2001, as such it will not have changed use by virtue of the above Class