

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	BO'B	06/01/2022
Planning Development Manager authorisation:	JJ	06/01/2022
Admin checks / despatch completed	DB	06.01.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:		

Application: 21/01937/LUPROP **Town / Parish:** Tendring Parish Council

Applicant: Essex County Council

Address: Tendring C P School School Road Tendring

Development: Proposed erection of a single-storey extension sited to the north of the existing school building. Associated alterations to the layout of the existing car park. And installation of microgeneration solar photovoltaic equipment on existing and new roofs.

1. Parish Council

Tendring Parish Council have not made comments

2. Consultation Responses

Not applicable

3. Planning History

01/00980/CMTR	Demolition of toilet/admin block, internal adaptations and erection of classroom/administration extension together with additional informal hard paved areas (CC/TEN/71/01)	Determinati on	07.08.2001
93/01432/FUL	(Tendring County Primary School, Main Road, Tendring) (CC/TEN/25/93) New hall and kitchen	Approved	02.02.1994
94/01151/CMTR	(Tendring County Primary School, Tendring) CC/TEN/17/94 Car Park extension	Determinati on	16.11.1994
94/01446/CMTR	(Tendring County Primary School, Main Road, Tendring) CC/TEN/21/94 - Continued siting of relocatable classroom (renewal of permission TEN/543/89)	Determinati on	02.02.1995
11/00237/FUL	Erection of a covered play area/canopy.	Approved	27.05.2011
12/00363/FUL	Erection of covered play area/canopy.	Approved	26.06.2012

12/00740/FUL	Erection of covered play area/canopy.	Approved	07.08.2012
20/00511/FUL	Proposed change of use of land from agricultural to parent parking and tree planting.	Approved	11.06.2020
21/00787/DISCON	Discharge of condition 4 (Scheme of planting) of approved planning application 20/00511/FUL.	Approved	24.08.2021
21/01937/LUPRO P	Proposed erection of a single-storey extension sited to the north of the existing school building. Associated alterations to the layout of the existing car park. And installation of microgeneration solar photovoltaic equipment on existing and new roofs.	Current	

4. Legislation

The National Planning Policy Framework (NPPF) 2021

The National Planning Policy Practice Guidance (NPPG)

Town and Country Planning Act 1990: Section 192

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

5. Officer Appraisal

Site Description

The application site is the Tendring Primary School and this application is being made on behalf of Essex County Council. The school (application site) is situated between Tendring and Tendring Green and is not within a settlement development boundary. It is outside and to the north of the Tendring village Conservation Area (original and extended designations).

The school site is bounded by the B1035 to the north and east (Heath Road and School Road, respectively). There is a community recreation ground and car park abutting the western boundary and one detached dwelling abutting the southern boundary. Apart from properties on the north side of Lodge Road, the surrounding land use is agricultural. Vehicular access is via an existing entrance from the B1035 School Road, with pedestrian entrances from a separate gate on School Road and a rear entrance from the recreation ground and car park.

Description of Proposal

The application seeks a Lawful Development Certificate for the erection of a single-storey extension to accommodate two classrooms, a music & drama studio, new school office and secure reception, and for the installation of new, roof-mounted, microgeneration solar photovoltaic panels on a nondomestic building. The application includes extension to the existing car parking area by way of the laying of hardstanding. The lawfulness of the proposed development is assessed under the legislation of the Town and Country Planning Act 1990: Section 192 as amended by section 10 of the Planning and Compensation Act 1991 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Main considerations

- (i) Whether the proposed extension meets the criteria for permitted development under Schedule 2, Part 7, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- (ii) Whether the proposed installation of photovoltaic panels meets the criteria for permitted development under Schedule 2, Part 14, Class J (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- (iii) Whether the proposed alterations to the car parking area meets the criteria for permitted development under Schedule 2, Part 7, Class N of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

1. Assessment of Permitted Development Criteria: proposed extension

Schedule 2, Part 7 (Non-domestic extensions, alterations etc), Class M (Class M – extensions etc for schools, colleges, universities and hospitals)

Permitted Development

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

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 21st 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;

The existing footprint of the building is stated as being 1256 m². The proposed development would be 314 m² representing 25% of the existing footprint. The proposal complies.

(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;

N/A

(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;

Submitted drawing 293 – 06A shows that the proposed extension is a minimum of 16m from the site boundary. The proposal complies.

(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;

Submitted drawing 293 – 06A shows that the proposed extension is on land that is currently used for paths, a planting bed and car parking.

(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;

N/A the proposed structure is an extension to a building.

(da) if the height of any rooftop structure would exceed 1.5 metres.

N/A there would be no rooftop structure.

(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, the lesser of the height of the building being extended or altered or 5 metres; or

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

The proposed extension is more than 10m from the boundary of the curtilage of the school and lower than the existing school buildings: 6.9m proposed ridge, 9.845m existing ridge.

The proposal complies.

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

The existing school building is not listed. The proposal complies.

(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;

(iii) in the case of prison buildings—

(aa) the predominant use of the existing buildings on the premises is for the confinement of prisoners in closed conditions;

(bb) the buildings are located on a site with a closed perimeter; and

(cc) the development does not involve the erection, extension or alteration of any building beyond the perimeter as it stood on 21st April 2021.

The original buildings were constructed as a school. The site remains in use as a school.

The proposal complies.

Conditions

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

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

The proposal complies.

(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;

The proposal complies.

(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; and

N/A the site is not within Article 2 (3) land.

(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;

N/A the site is not within 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 applicant has expressed the wish to deal with this matter within six months from the date of completion of the development.

(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;

(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);

(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.

Items (f) to (g) are N/A. The application relates to a primary school building.

Given the above, the proposed development constitutes permitted development by virtue of the provisions of Schedule 2, Part 7, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015.

2. Assessment of Permitted Development Criteria: proposed installation of microgeneration solar photovoltaic equipment on a building other than a dwelling house or block of flats

Schedule 2, Part 14 (Renewable Energy), Class J (installation or alteration etc of solar equipment on non-domestic premises), Item (b)

Permitted Development

J. *The installation, alteration or replacement of—*

(b) *Microgeneration solar PV equipment on a building other than a dwellinghouse or a block of flats.*

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

(a) the solar PV equipment or solar thermal equipment would be installed on a pitched roof and would protrude more than 0.2 metres beyond the plane of the roof slope when measured from the perpendicular with the external surface of the roof slope;

Submitted drawing 293 – 07A shows that the Solar PV equipment would not protrude more than 0.2m beyond the plane of the roof slope. The proposal complies.

(b) the solar PV equipment or solar thermal equipment would be installed on a flat roof, where the highest part of the solar PV equipment would be higher than 1 metre above the highest part of the roof (excluding any chimney);

Submitted drawing 293 – 07A shows that Solar PV equipment would be installed on a flat roof but would not be higher than 1 metre above the highest part of the roof. The proposal complies.

(c) the solar PV equipment or solar thermal equipment would be installed within 1 metre of the external edge of that roof;

Submitted drawing 293 – 07A shows that the Solar PV equipment would not be installed within 1m of the external edge of the roof. The proposal complies.

(d) in the case of a building on article 2(3) land, the solar PV equipment or solar thermal equipment would be installed on a roof slope which fronts a highway;

(e) the solar PV equipment or solar thermal equipment would be installed on a site designated as a scheduled monument; or

(f) the solar PV equipment or solar thermal equipment would be installed on a listed building or on a building within the curtilage of a listed building.

Items (d) to (f) are N/A. The site is not on Article 2 (3) land, is not designated as a scheduled monument and is not a listed site.

J.2 Development is not permitted by Class J (a) or (b) if—

(a) the solar PV equipment or solar thermal equipment would be installed on a wall and would protrude more than 0.2 metres beyond the plane of the wall when measured from the perpendicular with the external surface of the wall;

(b) the solar PV equipment or solar thermal equipment would be installed on a wall and within 1 metre of a junction of that wall with another wall or with the roof of the building; or

(c) in the case of a building on article 2(3) land, the solar PV equipment or solar thermal equipment would be installed on a wall which fronts a highway.

Items (a) to (c) are N/A. Not applicable. All of the proposed panels will be mounted on flat or pitched roofs.

J.3 Development is not permitted by Class J(c) if the capacity of the solar PV equipment installed (together with any solar PV equipment installed under Class J(b)) to generate electricity exceeds 1 megawatt.

The solar PV equipment would be installed under Class J (b) as Microgeneration Solar PV Equipment. Microgeneration is defined by section 82(6) of the Energy Act 2004 as follows:

“...the use for the generation of electricity ... of any plant —

(a) which in generating electricity ..., relies wholly or mainly on a source of energy or a technology mentioned in subsection (7); and

(b) the capacity of which to generate electricity ... does not exceed the capacity mentioned in subsection (8).

The technologies listed in subsection (7) include (d) photovoltaics and (g) solar power. Subsection (8) defines the maximum permitted capacity for the microgeneration of electricity as 50kW.

The installation will use photovoltaic panels generating electricity using solar power. Max. Capacity < 50kW, therefore, the proposal complies.

Conditions

J.4—(1) Class J development is permitted subject to the following conditions—

(a) the solar PV equipment or solar thermal equipment must, so far as practicable, be sited so as to minimise its effect on the external appearance of the building and the amenity of the area; and

The siting of the proposed panels are on buildings towards the rear of the school site or on roof slopes which do not face School Road.

(c) the solar PV equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed.

Condition J.4 (b) is addressed by informative.

(2) Class J(c) development is permitted subject to the condition that before beginning the development the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the design or external appearance of the development, in particular the impact of glare on occupiers of neighbouring land, and the following sub-paragraphs apply in relation to that application.

(3) The application must be accompanied by—

(a) a written description of the proposed development;

(b) a plan indicating the site and showing the proposed development;

(c) the developer's contact address; and

(d) the developer's email address if the developer is content to receive communications electronically;

together with any fee required to be paid.

(4) The local planning authority may refuse an application where, in the opinion of the authority—

(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in Class J applicable to the development in question.

(5) Sub-paragraphs (6) and (8) do not apply where a local planning authority refuses an application under sub-paragraph (4) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

(6) The local planning authority must give notice of the proposed development—

(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—

(i) describes the proposed development;

(ii) provides the address of the proposed development;

- (iii) specifies the date by which representations are to be received by the local planning authority;
or
- (b) by serving a notice in that form on any adjoining owner or occupier.
- (7) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application.
- (8) The local planning authority must, when determining an application—
- (a) take into account any representations made to them as a result of any notice given under sub-paragraph (6); and
- (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012([60](#)), so far as relevant to the subject matter of the prior approval, as if the application were a planning application.
- (9) The development must not begin before the occurrence of one of the following—
- (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
- (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or
- (c) the expiry of 56 days following the date on which the application under sub-paragraph (3) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
- (10) The development must be carried out—
- (a) where prior approval is required, in accordance with the details approved by the local planning authority;
- (b) where prior approval is not required, or where sub-paragraph (9)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (3), unless the local planning authority and the developer agree otherwise in writing.
- (11) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
- (12) When computing the number of days in paragraph (6) (a), any day which is a public holiday must be disregarded.

Conditions J.4 (2) (1-12) are N/A as they relate to installations under Class J (c).

Given the above, the proposed development constitutes permitted development by virtue of the provisions of Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015.

3. **Assessment of Permitted Development Criteria: proposed alterations/extension to car parking area.**

Schedule 2, Part 7 (Non-domestic extensions, alterations etc), Class N (hard surfaces for schools, colleges, universities or hospitals)

Permitted Development

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; 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;

The area of hard surfacing would be reduced and the parking bays re-modelled within the existing footprint of the parking area. The proposal complies.

- (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

N/A the land to be covered by hard standing is not used as a playing field.

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

N/A the site 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

There is no reason to suspect that the school land is contaminated land.

- (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.

The hard surfacing is existing and is non-porous. However, the hard surfacing has direct run-off to permeable areas. The proposal complies.

Given the above, the proposed development constitutes permitted development by virtue of the provisions of Schedule 2, Part 7, Class N of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Other Considerations

Tendring Parish Council have not commented on the proposal.

No further letters of representation have been received.

Conclusion

Given the above compliance of the proposal with the relevant parts of the Town and Country Planning (General Permitted Development) (England) Order 2015, it is concluded that, subject to conditions, the proposed extension to the school building and the installation of Solar PV Panels constitutes permitted development, and a Certificate of Proposed Lawful Development can be issued.

6. **Recommendation**

Lawful Use Certificate Granted

7. Reason

The proposed development as demonstrated within submitted plans: 293-01A, 02, 04, 05, 06A and 07A as indexed on 12.11.2021, constitutes permitted development by virtue of the provisions of Schedule 2, Part 7, Classes M and N of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, a certificate of lawful development is granted.

8. Informatives

The extension of the school building would result in an increase in the school's published admission number. To comply with the requirements of Item (e), Schedule 2, Part 7, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015, within a period of six months starting with the date the development is completed, a travel plan for the site shall be submitted to the local authority and approved in writing.

To comply with the requirements of Item J.4. (1) (c) of Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015, the approved solar PV equipment shall be removed from the building as soon as is reasonably practicable when no longer needed.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO