

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/03387
APPLICATION TYPE:	Lawful development: Proposed use / development
SITE ADDRESS:	Frogwell Primary School, Frogwell, Chippenham, SN14 0DG
DEVELOPMENT DESCRIPTION:	Refurbishment in the north wing of Frogwell Primary School, as well as the refurbishment of the Children's Block for a new Early Year's provision. The refurbishment of the school will replace three existing temporary mobile buildings.
RECOMMENDATION:	That a Certificate of Lawfulness for Proposed Development be GRANTED

PROPOSAL

This application seeks a Certificate of Lawfulness (CLP) under Section 192 of the Town and Country Planning Act 1990 (as amended) for a scheme to reorganise and improve existing school accommodation within existing buildings at Frogwell Primary School. The works comprise: a new SEN Resource Base in part of the main school building, bringing the vacant children's centre back into educational use for early years provision, alterations to windows and doors, some timber cladding, and associated external play areas. The refurbishment of the school will replace three existing temporary mobile buildings (marked green on the existing site plan below). The extracts of the submitted existing and proposed site plans, below, give an overview of the building footprints:

Existing



The site plan illustrates the proposed development at 1000 West 10th Avenue. It features several building footprints, including a large central structure and smaller units. Landscaping areas are indicated by green shading and labeled "Proposed Landscaping to be installed design". A parking area is shown in the lower right, labeled "Proposed Landscaping to be installed design". A red line indicates the "Proposed Landscaping to be installed design". A blue line indicates the "Proposed Landscaping to be installed design". A yellow line indicates the "Proposed Landscaping to be installed design". A green line indicates the "Proposed Landscaping to be installed design". A purple line indicates the "Proposed Landscaping to be installed design". A cyan line indicates the "Proposed Landscaping to be installed design". A magenta line indicates the "Proposed Landscaping to be installed design". A brown line indicates the "Proposed Landscaping to be installed design". A grey line indicates the "Proposed Landscaping to be installed design". A black line indicates the "Proposed Landscaping to be installed design". A white line indicates the "Proposed Landscaping to be installed design". A dashed line indicates the "Proposed Landscaping to be installed design". A solid line indicates the "Proposed Landscaping to be installed design". A dotted line indicates the "Proposed Landscaping to be installed design". A dash-dot line indicates the "Proposed Landscaping to be installed design". A long-dash line indicates the "Proposed Landscaping to be installed design". A short-dash line indicates the "Proposed Landscaping to be installed design". A thick line indicates the "Proposed Landscaping to be installed design". A thin line indicates the "Proposed Landscaping to be installed design". A double line indicates the "Proposed Landscaping to be installed design". A triple line indicates the "Proposed Landscaping to be installed design". A wavy line indicates the "Proposed Landscaping to be installed design". A zigzag line indicates the "Proposed Landscaping to be installed design". A dashed line indicates the "Proposed Landscaping to be installed design". A solid line indicates the "Proposed Landscaping to be installed design". A dotted line indicates the "Proposed Landscaping to be installed design". A dash-dot line indicates the "Proposed Landscaping to be installed design". A long-dash line indicates the "Proposed Landscaping to be installed design". A short-dash line indicates the "Proposed Landscaping to be installed design". A thick line indicates the "Proposed Landscaping to be installed design". A thin line indicates the "Proposed Landscaping to be installed design". A double line indicates the "Proposed Landscaping to be installed design". A triple line indicates the "Proposed Landscaping to be installed design". A wavy line indicates the "Proposed Landscaping to be installed design". A zigzag line indicates the "Proposed Landscaping to be installed design".

The plans illustrate that whilst a number of areas are being refurbished there are no extensions proposed, apart from a new canopy on the west elevation of the SEN rooms.

Where replacement windows and doors are required, the design statement advises that these are proposed to be *“aluminium windows and doors, with matching soldier-course brick headers to reflect the existing school building and local vernacular....Weathered timber cladding [would be] introduced to soften the appearance of the strong red brick and add a natural, tactile finish.”*

The site is not within article 2(3) land (ie is not within a conservation area, national landscape, national park etc), and there are no listed buildings in the vicinity.

The planning merits of the proposal are not under consideration. The only issue is whether the proposed works constitute “permitted development” (PD) under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [hereafter referred to as “the GPDO”].

RELEVANT LEGISLATION AND POLICY

The statutory framework governing CLP's is set out in Section 192 of the Town and Country Planning Act 1990 (as amended). This section establishes that a proposed development or use is "lawful" if it would not constitute a breach of planning control. A CLP can be granted if the Local Planning Authority is satisfied, on the balance of probabilities, that the proposed development or use would not require planning permission.

The application has been assessed against the relevant criteria set out in Schedule 2, Part 7 Class M (extensions etc for schools, colleges, universities and hospitals) of the GPDO 2015 (as amended).

REPRESENTATIONS

There is no legal obligation to consult third parties, including Town/Parish Councils or neighbouring properties, for this type of application.

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Proposal / Summary
N/02/00993/FCM - Wiltshire Council R3 Decision - Approve with Conditions Date: 22/5/2002 – Single Storey 2 Classroom Extension, Removal Of 2 Mobiles And Extension Of Playground
N/01/00002/FCM - Wiltshire Council R3 Decision – No object Date: 18/1/2001 – Permission To Site A Double Mobile Classroom With Toilets, Changing Room And Store, To Replace Two Single Mobile Classrooms.
N/05/07040/FCM - Wiltshire Council R3 Decision – No Object Date: 21/11/2005 – Retention of Double Mobile Classroom with Toilets
N/95/02172/FUL - Full planning permission Decision - Unknown Date: 20/12/1995 – Detached Single Storey Classrooms /Library Building
N/95/00536/S73 - Removal/variation of conditions Decision - Approved Date: 2/5/1995 – Renewal Of Temporary permission N/90/0051/DP - Single Mobile Classroom With Toilets
N/98/00257/S73 - Removal/variation of conditions Decision - Unknown Date: 6/4/1998 – Renewal Of Temporary Permission N/95/0536/S73 – For The Retention Of Mobile Classroom
N/93/00005/FCM - Wiltshire Council R3 – Erection Of A Single Pratten Classroom Without Toilets Single Classroom
N/98/00627/FUL - Full planning permission Decision - Unknown Date: 23/4/1998 – Infill Extension Between Two Buildings
N/10/02003/FUL - Full planning permission Decision - Approve with Conditions Date: 3/8/2010 – Re-roof Existing School Building with Interlocking Tiles Following Removal of Asbestos Slates.
N/92/01423/DP3 - Wiltshire Council R3 Decision - Unknown Date: 6/8/1992 – Deemed Permission Regulation 3 Erection Of A Single Mobile Classroom Without Toilets

N/11/00683/FUL - Full planning permission Decision - Approve with Conditions Date: 28/3/2011 – Installation of Solar PV Panels onto Roof of School Building
N/08/00247/FUL - Full planning permission Decision - Approve with Conditions Date: 17/3/2008 – Two Kitchen Extractor Fans to Roof
N/06/00821/FUL - Full planning permission Decision - Approve with Conditions Date: 17/5/2006 – Conservatory Infill, Open Sided Canopy in External Recess.
N/90/00051/DP3 - Wiltshire Council R3 Decision - Unknown Date: 2/2/1990 – Erection Of Single Mobile Classroom Without Toilets
N/09/00716/FUL - Full planning permission Decision - Approve with Conditions Date: 2/6/2009 – Erection of Single Storey Extension to Provide Meeting Room for School
N/90/00467/FUL - Full planning permission Decision - Approved Date: 20/4/1990 – Erection Of Building For Use As Play Group Facility For Children With Special Needs

ASSESSMENT

The proposal seeks to utilise permitted development rights under Part 7 Classes M and N of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The proposal comprises predominantly internal alterations within existing school buildings to facilitate revised educational accommodation, including the creation of SEN teaching spaces and associated facilities. The proposal also includes limited external alterations, comprising replacement and enlarged window and door openings, areas of external cladding, associated hard surfaced play areas and a modest canopy structure. No material change of use is proposed, with the development remaining directly related to and ancillary to the lawful use of the site as a school. The internal works are therefore not development. The plans do not indicate the construction of any substantial new building or extension beyond the existing school complex.

Class M – Alterations to buildings

Having regard to the nature and scale of the proposed works, and on the basis of the information submitted, the Local Planning Authority is satisfied that the alterations to buildings falls within the scope of Class M of Part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The development would remain within the curtilage of an existing school and would be used solely for educational purposes associated with that school. Furthermore, the Local Planning Authority has identified no evidence of previous development undertaken under Class M since the relevant date that would result in the applicable thresholds being exceeded. The proposal therefore constitutes permitted development for which planning permission is not required.

Class N - Hard Surfacing

The proposal includes alterations to existing hard surfaced areas associated with the operation of the school. The submitted information confirms that the designated hard play area would

comprise resurfaced permeable paving within an existing hard surfaced area and that there would be a net reduction in hard landscaping overall following the removal of existing mobile buildings and the provision of soft landscaping. No part of the development would result in the loss of playing field land and the site is not within the curtilage of a listed building. The proposed hard surfacing is therefore considered to fall within the scope of Schedule 2, Part 7, Class N, of the GPDO.

CONCLUSION

After completing the checklist at Appendix 1 and 2, and reviewing the detailed criteria set out in Part 7 Classes M and N along with the submitted plans, supporting documents, and an assessment of relevant constraints (including planning history, any Article 4 Directions, and planning conditions), the following conclusion has been reached:

The proposed development does fall within the scope of permitted development, as defined under Schedule 2, Part 7 Classes M and N of the GPDO. It meets all relevant limitations and conditions, and no restrictions (such as Article 4 Directions or planning conditions) are in force that would remove the permitted development rights relied upon.

RECOMMENDATION: It is recommended that a Certificate of Lawfulness for Proposed Development be GRANTED for the following use/development:

Internal and external alterations to existing school buildings, erection of a canopy and associated hard surfacing works at Frogwell Primary School

Reason for approval: The proposed development is deemed lawful under Schedule 2, Part 7 Classes M and N of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, the proposal is in accordance with relevant statutory provisions and does not require planning permission.

The proposal has been considered having regard to the following plans:

- 2425-FTP-ZZ-FS00-DR-A-1004-P04-Existing GF Plan - Children's Centre received 28 May 2026
- 2425-FTP-ZZ-FSZZ-DR-A-2004-P04-Proposed Elevation - Main School received 28 May 2026
- 2425-FTP-ZZ-FSZZ-DR-A-2003-P04-Proposed Elevation - Children's Centre received 28 May 2026
- 2425-FTP-ZZ-FSZZ-DR-A-2002-P04-Existing Elevation - Children's Centre received 28 May 2026
- 2425-FTP-ZZ-FSZZ-DR-A-2001-P04-Existing Elevation - Main School received 28 May 2026
- 2425-FTP-ZZ-FS00-DR-A-1007-P04-Proposed Site Plan received 28 May 2026

- 2425-FTP-XX-FS00-DR-A-1012-P04-Proposed Children's Centre Roof Plan received 28 May 2026
- 2425-FTP-XX-FS00-DR-A-1009-P04-Proposed SEN Roof Plan received 28 May 2026
- 2425-FTP-XX-FS00-DR-A-1006-P04-Proposed SEN Ground Floor Plan received 28 May 2026
- 2425-FTP-ZZ-FS00-DR-A-1005-P04-Proposed Ground Floor - Children's Centre received 28 May 2026
- 2425-FTP-ZZ-FS00-DR-A-1003-P04-Existing Ground Floor Plan - Main School received 28 May 2026
- 2425-FTP-ZZ-FS00-DR-A-1002-P04-Existing Site Plan received 28 May 2026
- 2425-FTP-XX-FSXX-DR-A-1001-P04-Site Location and Block Plan. received 28 May 2026

APPENDIX 1 –

Checklist for permitted development under Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

If yes is answered to any of the below questions, then planning permission will be required for the proposal.

Constraint	Yes/No/N/A	Notes
Is there an Article 4 Direction removing PD rights for a class within which the proposal falls?	No.	
Is there a condition removing PD rights for a class within which the proposal falls?	No	

APPENDIX 2 -

Checklist for extensions etc for schools, colleges, universities, prison and hospitals under Part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

Class M – Extensions etc for schools, colleges, universities, prison and hospitals		Yes
If yes answer questions below, if no, the application cannot be determined under Class M		
Criteria (M.1) – Development is not permitted if:		
(a)(i)	Would the cumulative footprint of any erection, extension or alteration carried out under Class M on or after the relevant date exceed 25% of the cumulative footprint of the buildings as they were on the relevant date?	No.
(a)(ii)	Would the cumulative footprint of any erection, extension or alteration carried out under Class M on or after the relevant date exceed 250 square metres?	No
(b)	In the case of a college, university, prison or hospital building, would any part of the development 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), would any part of the proposed development be within 5 metres of the boundary of the curtilage of that residential land?	No
(c)	As a result of the development, would any land used as a playing field at any time in the 5 years before development commenced, and remaining in that use, no longer be capable of being so used?	No
(d)(i)	Where a new building would be within 10 metres of a boundary of the curtilage, would its height exceed 5 metres?	N/A no new building
(d)(ii)	In all other cases, would the height of a new building exceed 6 metres?	N/A no new building
(e)(i)	Where an extension or alteration would be within 10 metres of a boundary of the curtilage, would the height of the building as extended or altered exceed the lesser of the height of the existing building or 5 metres?	No

Class M – Extensions etc for schools, colleges, universities, prison and hospitals		Yes
If yes answer questions below, if no, the application cannot be determined under Class M		
Criteria (M.1) – Development is not permitted if:		
(e)(ii)	In all other cases, would the height of the building as extended or altered exceed the height of the existing building?	No
(j)	Would it extend beyond a side elevation of the original dwellinghouse and exceed 4m in height, be more than single storey or have a width greater than half the original dwellinghouse?	N/A
(ea)	Would the height of any rooftop structure exceed 1.5 metres?	N/A
(f)	Would the development be within the curtilage of a listed building?	No
(g)(i)	In the case of school, college or university buildings, is the predominant use of the existing buildings on the premises NOT for the provision of education?	No
(g)(ii)	In the case of hospital buildings, is the predominant use of the existing buildings on the premises NOT for the provision of any medical or health services?	N/A
(g)(iii)(aa)	In the case of prison buildings, is the predominant use of the existing buildings on the premises NOT for the confinement of prisoners?	N/A
(g)(iii)(bb)	In the case of a closed prison, does the development involve the erection, extension or alteration of any building beyond the perimeter as it stood on the relevant date?	N/A

	Criteria (M.2) Development is permitted by Class M subject to the following conditions:	Yes/No
(a)	Is the development within the curtilage of an existing school, college, university, prison or hospital?	Yes
(b)	Is the development only used as part of, or for a purpose incidental to, the use of that school, college, university, prison or hospital?	Yes
(c)	In the case of Article 2(3) land, is any new building erected constructed using materials which have a similar external appearance to those used for the original school, college, university, prison or hospital buildings?	N/A

	Criteria (M.2) Development is permitted by Class M subject to the following conditions:	Yes/No
(d)	In the case of Article 2(3) land, is any extension or alteration constructed using materials which have a similar external appearance to those used for the building being extended or altered?	N/A
(e)	Does development relating to a school result in an increase in the school's published admission number?	No
(e)(i)	If yes, has the developer submitted a travel plan to the local planning authority within six months starting with the date the development was completed?	N/A
(f)	Does the proposed development relate to the erection, extension or alteration of a university building?	No
(f)(i)	If yes, before beginning development, did the developer apply to the local planning authority for a determination as to whether prior approval is required in respect of transport and highways impacts?	N/A
(f)(ii)	Was prior approval sought in respect of the design and external appearance of the erection, extension or alteration?	N/A
(f)(iii)	Was prior approval sought in respect of the impact of the development on heritage and archaeology?	N/A
(g)	Where an application was required under paragraph M.2(f), was it made and determined in accordance with paragraph M.2A (procedure for applications for prior approval under Class M)?	N/A
(h)	Where development was approved pursuant to paragraph M.2(f), was the development completed within three years starting with the date of prior approval?	N/A
(i)	Does the proposed development relate to the erection, extension or alteration of an open prison building?	No
(i)(i)	If yes, has the developer assessed contamination and flood risks of the development?	N/A
(i)(ii)	Have measures been identified to reduce, so far as practicable, any contamination or flood risks?	N/A
(i)(iii)	Where the development is in Flood Zone 3, has prior consultation been carried out in accordance with paragraph M.2B?	N/A
(i)(iv)	Has written notification of the proposed development been provided to the local planning authority together with the documents listed in paragraph M.2(j)?	N/A
(j)(i)	Has a written description of the proposed development been provided?	N/A
(j)(ii)	Has a plan identifying the site and showing the proposed development been provided?	N/A
(j)(iii)(aa)	For a new building, have drawings been provided showing external dimensions and elevations?	N/A

	Criteria (M.2) Development is permitted by Class M subject to the following conditions:	Yes/No
(j)(iii)(bb)	For an extension or alteration, have drawings been provided showing external dimensions and elevations before and after development?	N/A
(j)(iv)	Has the proposed commencement date been provided?	N/A
(j)(v)	Has written confirmation been provided that development will not take place on land used as a playing field within the last 5 years?	N/A
(j)(vii)	Has the developer's contact address been provided?	N/A
(j)(vii)	Has the developer's email address been provided (where the developer is content to receive electronic communications)?	N/A

Checklist for Class N – hard surfaces for schools, colleges, universities or hospitals for schools, colleges, universities, prison and hospitals under Part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

Class N – hard surfaces for schools, colleges, universities or hospitals		Yes
If yes answer questions below, if no, the application cannot be determined under Class N		
Criteria (N.1) – Development is not permitted if:		
(a)	Would 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) exceed 50 square metres?	
(b)	As a result of the development, would any land used as a playing field at any time in the 5 years before development commenced, and remaining in that use, no longer be capable of being so used?	
(c)	Would the development be within the curtilage of a listed building?	

	Criteria (N.2) Development is permitted by Class N subject to the following conditions:	Yes/No
(a)	Where there a risk of groundwater contamination, is the hard surface not made of porous materials? and	N/A
(b)	In all other cases, either -	
(b)(i)	The hard surface is made of porous materials? or	Yes
(b)(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	N/A

