

<u>APPLICATION NO:</u>	22/00719/AGR	<u>CASE OFFICER:</u>	Andrew Hunt
<u>WARD:</u>	Whiston & Cronton	<u>PARISH:</u>	Tarbock Parish Council
<u>LOCATION:</u>	Land at Prescott Road, Cronton, Knowsley		
<u>PROPOSAL:</u>	ERECTION OF 1 NO. GRAIN STORAGE AGRICULTURAL BUILDING		

Site Description

The application site is a rectangular piece of land set within a relatively flat and open part of the countryside designated as green belt, with extensive views in multiple directions. It is located to the south of a new roundabout on the A580 and to the north of a series of isolated and remote houses on Prescott Road. The land currently has hardstanding associated with the construction of the new roundabout (it was used as a construction site compound).

Proposal

The proposal is for the erection of a grain storage agricultural building, using the site of an unauthorised compound. It is proposed that an unauthorised hardcore verge crossing onto Prescott Road, and some unauthorised hard surfacing would remain. The unauthorised bunding constructed around the compound would be removed.

Consultations

N/A

Representations

N/A

Planning History

A previous 'prior approval' application was submitted (22/00378/AGR) earlier this year.

The compound was constructed approximately 2 years ago in connection with roadworks to the north, which were completed in March 2022, although the compound remains in place.

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against

the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the Replacement Unitary Development Plan, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

KNOWSLEY LOCAL PLAN: CORE STRATEGY

CS2 - Development Principles

CS5 - Green Belt

CS19 - Design Quality and Accessibility in New Development

SAVED POLICIES - KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT PLAN (ADOPTED JUNE 2006)

G8 - Agricultural or Equestrian Development

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.

Assessment

The case of (*Smolas v Herefordshire Council [2021]*) explained that when an application is asked to consider and determine an application for prior approval it must

1. determine whether the proposed development falls within the scope of a particular class of permitted development; and then
2. determine whether prior approval should be given

The Key Issues are:

- a) firstly, whether the application complies with the definitional scope of Schedule 2, Part 6, Class A of the 2015 General Permitted Development Order (as amended), and;
- b) If the application complies (with the 2015 GPDO), the siting, design and external appearance of the building.

GPDO 2015

Retrospective Works

Class A of Part 6 of Schedule 2 to the GPDO 2015 permits

The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—

(a) works for the erection, extension or alteration of a building; or

(b) any excavation or engineering operations,

which are reasonably necessary for the purposes of agriculture within that unit.

subject to the following condition:

*(i) the developer must, **before beginning the development**, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building”,*
(para A.2.2(i))

The application includes elements built in connection with the unauthorised compound. These works are an integral part of the current proposal and are not considered ‘de minimis’. As these works have already been carried out, the proposal is not eligible for the prior approval process. Relevant case law (*Winters v SSCLG & Havering LBC [2017] EWHC 357 (Admin)*) established the principle that any development that has already commenced is ineligible for the prior approval process. Therefore, as part of the works have already been undertaken, the application fails to comply with Para A.2. 2 i) of Class A of Part 6 - Schedule 2 of the GPDO (2015).

h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;

Part A.1 (h) of Class A states that

“A.1 Development is not permitted by Class A if—

(h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road”;

The Local Highway Authority have confirmed that Prescott Road is a classified road. Parts of the proposal would be within 25m of Prescott Road. This includes the hardcore verge crossing and hard surfacing within the site.

The proposal does not fall within the provisions of Part A of Class 6 because it comes within a description of development which is not permitted development set out in para A.1 (h) of Class A of Part 6 Schedule 2 of the GPDO (2015).

SITING, DESIGN AND EXTERNAL APPEARANCE OF THE BUILDING

As it has concluded that the proposal would not be permitted development and would be contrary to the 2015 General Permitted Development Order. The siting, design and external appearance of the building does not need to be assessed because a full planning application is required for the proposal.

CONCLUSION

As they do not accord with the condition in para A.2.2(i)) and the limitation in para A.1 (h) the proposal fails to comply with the requirements of Class A of Part 6, Schedule 2 of the GPDO (2015) and is not permitted development. Prior approval is therefore refused, and planning permission is required.

RECOMMENDATION:

The Council has determined that prior approval is required and refused and that planning permission is required for the following reasons:-

- 1) The proposal includes retrospective works, contrary to the condition in Para A.2. 2 (i) of Class A of Part 6 - Schedule 2 of the GPDO (2015).
- 2) Parts of the development would be within 25 metres of a classified road, contrary to the limitation in para. A.1 (h) of Class A of Part 6, Schedule 2 of the GPDO (2015).

Signed Case Officer:

Andrew Hunt

**Signed Authorising
Officer:**

Mark Carwood

Date:

12 December 2022

Informatives

N/A