

<u>APPLICATION NO:</u>	22/00378/AGR	<u>CASE OFFICER:</u>	Andrew Hunt
<u>WARD:</u>	Whiston & Cronton	<u>PARISH:</u>	Tarbock Parish Council
<u>LOCATION:</u>	Land Adjacent To Prescott Road (North Of Red House Farm And South Of Cronton Road), WA8 5PS		
<u>PROPOSAL:</u>	PRIOR APPROVAL FOR THE ERECTION OF 1 NO. AGRICULTURAL GRAIN STORAGE BUILDING		

Site Description

The application site is a rectangular piece of land set within a relatively flat and open part of the Green Belt with extensive views in multiple directions. It is located to the south of the new roundabout on the A580 and to the north of a series of isolated and remote on Prescott Road. The land currently has hardstanding associated with previous works to the roundabout to the north.

Proposal

The proposal is for the erection of 1 no Grain Storage Agricultural Building using the site of an unauthorised compound ('Compound') constructed in connection with nearby roadworks to the north. The proposal also includes other elements including security gates, revised access, a bund and retention of existing hardcore base.

Consultations

Environmental Health – Further information is required in relation to the grain storage building.

Highways – Objection additional information is required in relation to access.

Merseyside Fire and Rescue – No Objection subject to an information note.

Representations

This application has been publicised by letters sent to 7 neighbours. 17 Objections were received consisting of the following main points:

- Concerned about the amount of traffic moving to and from the site and highway safety.
- There would be damage to the road surface from heavy vehicles.
- There are more appropriate locations for the building especially as the applicant owns large areas of land.
- Concerned about flood risk from the building, there are already issues nearby.
- Loss of current open view from Red House Farm towards the Cronton Road.
- The building will be located within an open area and would be an eye-sore

from all directions.

- The building would be very large and cause harmful visual impact and loss of openness of the Green Belt.
- There is a health risk from pollen and dust from the grain store.
- Fire Risk from Grain Stores.
- There is a safety risk from unauthorised access to the grain building.
- The building would decrease the value of neighbouring properties.
- The proposed is not permitted development and does not meet the criteria set out in the 2015 GPDO.

Planning History

There is no specific planning history, however unauthorized works have taken place at the site in connection with roadworks to the roundabout to the north.

The Compound consists of a hard-surfaced area with bunding surrounding on three side and an access onto Prescott Road. The Compound was constructed approximately 2 years ago, without planning permission, in connection with roadworks to the north of the site. The roadworks were completed in April 2022 but the Compound has not been removed.

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 2015 General Permitted Development Order (as amended).
- 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”,*

The application includes unauthorised elements which have been built in connection

with works to the roundabout to the north. This includes a bund and hardcore base. The hardcore base is proposed to be retained and the bunding altered and expanded as part of the proposals. These works are an integral part of the current proposal and are not considered De Minimis. As these works are not lawful and 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;

Para 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”;

Parts of the proposal, would be within 25 Metres of a Classified Road (Prescot Road). These include the revised access onto Prescot Road, bunding, mesh fencing, security gates and hardcore base.

The Council's Highways department have confirmed that Prescot Road is a Classified Road.

The proposals do not fall within the provisions of Part A of Class 6 because they come 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

The LPA 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 proposals.

NEIGHBOUR OBJECTIONS

There have been numerous objections from neighbours in relation to a variety of matters. As it is considered that the proposal is contrary to the provisions of the GPDO 2015 (As Amended), these matters have not been considered in detail in the current application. However, in any case, if the proposal were found to be permitted development by law only the siting design and external appearance can be taken into account. Therefore, all other matters than these cannot be considered by the Local Planning Authority.

CONCLUSION

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

RECOMMENDATION:

The Council has determined that prior approval is refused, and planning permission is required for the following reason(s):-

- 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 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 Cawood

Date:

12 December 2022

Informatives

N/A