

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

**Town and Country Planning (General Permitted Development) (England)
Order 2015 - Schedule 2, Part 6**

**DELEGATED DECISION FOR DISCHARGE OF CONDITION -
NOTIFICATION OF AGRICULTURAL DEVELOPMENT**

Reference no. 2024/N /92539/E

**Site Address land off, Church Lane, Birstall,
Batley, WF17 9NX**

**Description Prior notification for erection of
agricultural building**

Recommending Officer Nicole Helliwell

DECISION – DETAILS WITHHELD - REFUSED

**I hereby authorise the refusal of this application for the reasons set out
in the officer's report and recommendation annexed below in respect of
the above matter.**

Kevin Walton

AUTHORISED OFFICER

Date: 02-Oct-2024

Officer Report

Reference No. 2024/N/92539/E

Site Address: Land off, Church Lane, Birstall, Batley, WF17 9NX

Proposal: Prior notification for erection of agricultural building

Site Description

The application relates to a parcel of land located off Church Lane in Birstall, Batley. The site is accessed via a track which also serves a number of residential units. The site is not near any listed buildings or Public Rights of Way (PROW). However, the parcel of land is located within the Green Belt and within the setting of the Birstall Conservation Area.

Description of Proposal

Prior notification is submitted under Class A of Part 6 of the Town and Country Planning (General Permitted Development) (Order 2015 (as amended)) for the erection of an agricultural building. The application form states that the detached building would be used to store agricultural vehicles. The structure would measure approximately 25.1m in length, approx. 9.9m in depth and approx. 5.35m in height with an overall footprint of 235m². The building would be constructed using Merlin Grey 40mm Composite cladding and would incorporate a dual-pitched roof finished in Merlin Grey 40mm Composite Panels with 40mm Composite Skylight.

History of Negotiations/Amendments Received

No amendments were sought or received during consideration of the application.

Relevant Planning History

- **2022/93200:** Erection of stable following demolition of existing barn. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2020/91892:** Replacement of existing stables with one dwelling. [Planning application details | Kirklees Council](#) – Conditional Full Permission

Representations

As this is an application for prior approval, no advertisement of the application has been undertaken by the LPA in accordance with The General Permitted Development Order 2015, Schedule 2, Part 6, Class A. However, two representations have been received which have been summarised and addressed below:

- The proposed development is for plant not associated with agricultural activities

Response: *The application form states that the building would be used to store agricultural vehicles and therefore, is assessed on the basis of information provided.*

- The only other agricultural building within close proximity was granted planning permission on 6th October 2021 to be converted into a dwelling (2020/62/91892/E)

Response: *The 2021 permission was granted for the replacement of existing stables with one dwelling.*

- This will directly impact residents through noise pollution, these fields were previously used for grazing with relatively low if any noise pollution.

Response: *Residential amenity by way of siting would be considered under the provisions of prior approval should an assessment be required.*

- The proposed materials are not in accordance with the relevant design policies and largely consist with that of an industrial development.

Response: *Design by way of appearance would be considered under the provisions of prior approval should an assessment be required.*

- The proposal does not demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.

Response: *Highway impacts cannot be assessed under the provisions of prior approval.*

- The access width and visibility splay from the existing unadopted access road to Church Lane is not suitably designed for the proposed use and scale of the vehicles accessing the proposed development.

Response: *Highway impacts cannot be assessed under the provisions of prior approval.*

- Construction works have commenced prior to obtaining full planning permission, this constitutes a breach of planning control.

Response: *Any construction works undertaken prior to determination are at the Applicant's own risk and may be subject to enforcement action.*

- I have concerns regarding the integrity of the information provided on the application form and intentions of the 'developer.'

Response: *The applicant is required to demonstrate the proposed buildings is reasonably necessary for the purposes of agriculture. This will form part of the assessment.*

- There is now a range of plant vehicles, JBCs on site and piles on hardcore and rubble stacked up in what were green paddocks. There is now no agricultural activity on site at all and no agricultural vehicles.

Response: *Any construction works undertaken prior to determination are at the Applicant's own risk and may be subject to enforcement action.*

- I am also concerned that inappropriate development and use of the land is already occurring.

Response: *Any construction works undertaken prior to determination are at the Applicant's own risk and may be subject to enforcement action.*

- The proposal would have an impact on the openness and character of the greenbelt, the protected wildlife, highway safety and myself and other residents in the community.

Response: *Only siting appearance and design would be considered under the provisions of prior approval should an assessment be required.*

- I'd also like to ensure that no decision is made in favour of this horrendous inappropriate development in greenbelt, until I have had an opportunity to notify neighbours and us all prepare appeals against it.

Response: *Only siting appearance and design would be considered under the provisions of prior approval should an assessment be required.*

Procedural Matters and Policy Context

The proposal is defined as development within Section 55 of the Town and Country Planning Act 1900. The General Permitted Development Order 2015, Schedule 2, Part 6, Class A permits the following development:

A. 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
- a) any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit.

Paragraph D.1 of Part 6 defines agricultural land as land “which before development permitted by this part is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse or garden”.

The Town and Country Planning Act 1990 (“the Act”) defines agriculture as:

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly

Assessment

Class A of the GDPO refers to development on units of 5 Hectares or more. The submitted site location plan confirms that the unit would have a site area of approx. 3.04 acres which would equate to approximately 1.23 hectares. As the application is for the erection of an agricultural building on a unit measuring less than 5 hectares it would therefore fail to accord with the overarching description of development allowed under Part 6, Class A.

Moreover, when considering the former stables and those granted planning permission in 2023 it appears the previous and current use of the land appears is in connection with the grazing and keeping of horses. Aerial photographs do not indicate the land has previously been used for the purposes of agriculture as defined by the Act. The applicant has not provided any evidence to demonstrate the previous keeping of horses was an agricultural activity that could reasonably fall into the definition within the Act.

The applicant also has not demonstrated the existing use of the land is used for the purposes of a trade of business.

The information provided by the applicant within the application form simply states the building is required to store an agricultural vehicle. Even if the applicant provides evidence that the land is used for agriculture in connection with a trade of business, the applicant has not demonstrated the scale of the building is reasonably necessary to store a vehicle. The building has a floor space of 235 square metres which is consider far in excess or the space require to store a vehicle.

On this basis, it is recommended that prior approval is required but must be refused for the reasons above.

Recommendation: Approval of Details Withheld

Authorisation: Delegated Powers

Application Number: 2024/92539

Officer Recommendation: Approval of Details Withheld

I write to inform you that your submission of details relating to the above application require prior approval. I also write to inform you that the proposed development cannot be considered for the purposes of Schedule 2, Part 6, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) [the Order"]. This application is submitted for the erection of an agricultural building on a unit measuring less than 5 hectares and therefore fails to accord with the overarching description of development allowed under the provisions of Article 3(1) and Class A, Part 6 of Schedule 2 of the Order.

It also has not been demonstrated that the existing use of the land is in use for agriculture which is so used for the purposes of a trade or business or that the size of the building is reasonably necessary for the proposed use to store a vehicle.

Plans and Specification Schedule:

Plan Type	Reference	Revision	Date Received
Existing Site Location Plan	P1	-	05/09/2024
Proposed Storage Shed Floor Plans	P2	-	05/09/2024
Proposed Storage Shed Elevations	P3	-	05/09/2024
Proposed Site Location Plan	P4	-	05/09/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter and otherwise actively engaged with the applicant in dealing with the application. For the reasons outlined above, the development cannot be considered as a 'prior notification' submission.

Report Dated: 01/10/2024