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.	**2025/N /91175/E**
Site Address	**Ivy Farm, Brockholes Road, Farnley Tyas, Huddersfield, HD4 6UW**
Description	**Prior notification for formation of agricultural access road**
Recommending Officer	**Elenya Jackson**

DECISION – PRIOR APPROVAL 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: 09-Jul-2025

Officer Report – 2025/91175

Site Description

The site is within the Green Belt on the Kirklees Local Plan. The site relates to a field, which is open and free from development, currently constituting open countryside. There is Whinny Wood to the north of the site above where is indicated as the existing access.

Description of Proposal

The development would see the creation of a 61m long area of hard standing hardcore with a maximum with of 19.4m and a minimum width of 15.5m

The application form states that the total area of the entire agricultural holding is 121 hectares in area and the land on which the proposed development would be located has been in agricultural use for 100 years. The application form sets out the area of the parcel of land where the development is to be located is 1 or more hectare in size.

The application form sets out that the application is submitted to seek the creation of a yard for the storage of hay.

History of negotiations/amendments received

Officers requested clarification regarding the use of the site and the threshold of previous development.

Planning History

Wider unit:

2021/94724: Change of use of agricultural storage building to farm shop. Conditional full permission.

2023/93429: Discharge condition 4 (extraction) on previous permission 2021/94724 for change of use of agricultural storage building to farm shop. Approved.

2022/94070: temporary permission for the retention of agricultural workers dwelling. Conditional full permission.

Application site:

2022/94020: Deemed application via enforcement appeal for engineering operation consisting of the laying of a hard-surface vehicular access track. Deemed approval via upheld appeal.

2023/92793: Discharge condition 1 on previous permission 2022/94020 (APP/Z4718/C/22/3313108) for deemed application via enforcement appeal

for engineering operation consisting of the laying of a hard-surface vehicular access track.

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. No formal representations have been received.

Consultation Responses

KC Highways: No objection

Procedural Matters and Policy Context
The above described proposal is defined as development within Section 55 of the Town and Country Planning Act 1990.

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.

A.1 outlines when development is not permitted.

(a) The development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare In area;	**Pass**: The site is part of a parcel in excess of 1 hectare.
(b) It would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins;	**Pass**: None of the listed has taken place.
(c) It would consist of, or include, the erection, extension or alteration of a dwelling;	**Pass**: No works are proposed to a dwelling.
(d) It would involve the provision of a building, structure or works not designed for agricultural purposes;	**Pass**: The application form states that the proposed development would be in connection

	with agricultural purposes.
(e) The ground area would be covered by – any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations would exceed 1,000 square metres; or (ii) any building erected or extended or altered by virtue of Class A would exceed 1,500 square metres, calculated as described in paragraph D.1(2)(a) of this Part;	**Pass**: The proposal does not relate to a building or work for accommodating livestock or plant or machinery.
(f) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;	**Pass**: The proposal does not relate to a building.
(g) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;	**Pass**: The proposal does not relate to a building.
(h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;	**Pass**: the site would be beyond 25 metres of a classified or trunk road.
(i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building;	**Pass**: The proposal does not relate to a structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge.
(j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming;	**Pass**: Not applicable.
(k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system— (i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or (ii) is or would be within 400 metres of the curtilage of a protected building.	**Pass**: The proposal does not relate to a building.
the erection or extension of a building would be carried out on land or a building that is, or is within the curtilage of, a scheduled monument	**Pass**: The proposal does not relate to a building.

Assessment

Paragraph (2) of Class A.2 requires the developer to apply in writing to the local planning authority for a determination as to whether the prior approval is required, inter alia, for siting and means of construction of the formation/alteration of a private way. In this instance the applicant is applying

for a hardsurface which extends a private way. The applicant does not argue that the proposed hardsurface is not an alteration nor forms a private way although an application is nonetheless submitted for prior approval. Notwithstanding this, as part of the assessment the Local Planning Authority should determine whether or not the proposal complies with the requirements and conditions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2. Part 6, Class A.

The GPDO states that the building must be reasonably necessary for the purposes of agriculture with the “unit”.

The submitted detail sets out the use of the development would be in connection with the storage of hay as existing buildings within the farm have been converted into a farm shop.

Officers requested clarification from the agent on 29.05.2025 as the application form states the site is mixed use for livestock and arable farming but the details also mention farm diversification including a livery yard and farm shop, “is also located on the farm”. The details further state that the farm is wholly self-sufficient in hay. Officers have reviewed the application history of the site which demonstrate a long established livery use at the farm. This livery yard appears to be a primary use in its own right and also seems to be both functionally and physically intertwined with the agricultural use. Officers were therefore of the opinion that the site is a mixed-use site and not wholly agricultural.

A supporting statement was received from the agent provided by Clarion solicitors which states that the land of the application has not been used as a livery but there is a livery in the wider unit which seems to suggest the livery and agricultural uses are separate. Further clarification was sought whereby the agent now states that the farm shop and livery are ancillary to the main use of the site which is agricultural which appears to now suggest these ancillary uses do form part of the wider agricultural use thus contradictory to the previous statement.

The applicant refers to a previous permission on the farmyard associated with the holding and states that a livery was in operation at the time of this application in 2017, however this decision does not set any precedent for future decisions.

The site received permission in 2021 under application 2021/94724 for the change of use of a storage unit into a farm shop although this permission does not appear to have been implemented.

In light of the evidence of a mixed livery and agricultural use, it is considered necessary and reasonable to clarify the Local Planning Authority’s opinion on whether or not the mixed use affects the ability to benefit from permitted development rights.

As set out in *Lyons v Secretary of State for Communities and Local Government* [2010], the Court upheld the principle that where a site accommodates multiple uses that are physically and functionally linked, it constitutes a single mixed-use planning unit. In such circumstances the Court concluded that Part 6 permitted development rights could not be applicable to a planning unit consisting of a mixed use. This matter turned on whether the site consisted of two separate planning units or one single planning unit with two primary uses.

The concept of a planning unit was set out in *Burdle v Secretary of State for the Environment [1972] 3 All E.R. 240, 244,* where Justice Bridge suggested three broad tests for the determining the planning unit.

> "First, that whenever it is possible to recognise a single main purpose of the occupier's use of his land to which secondary activities are incidental or ancillary, the whole unit of occupation should be considered … But, secondly, it may equally be apt to consider the entire unit of occupation even though the occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another. This is well settled in the case of a composite use where the component activities fluctuate in their intensity from time to time but the different activities are not confined within separate and physically distinct areas of land.
> Thirdly, however, it may frequently occur that within a single unit of occupation two or more physically separate and distinct areas are occupied for substantially different and unrelated purposes. In such a case each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered as a separate planning unit."

Applying this to the current case, it is not disputed that the livery yard operates on land owned by the applicant. Indeed, the applicant submits that the "farm" is self sufficient in hay, clearly suggesting the horses on the land are fed with hay produced on the land. A map submitted shows the extent of the ownership with areas indicating land uses for agricultural activities and other land seemingly put to the livery use. Aerial imagery and Googlestreet also clearly indicate the keeping of horses on the site. Aerial imagery also shows the storage of horseboxes and hay bales stored on the hardsurfaces adjacent to the buildings. Publicly available information also states there is a large indoor livery yard which would be one of the barn structures in the farm complex. Other buildings within the same farm complex have previous planning permissions for storage for agricultural purposes.

Consequently, there appears to be little doubt that the livery and agricultural uses share the same access and outdoor storage areas and equally operate within buildings sited on the farm complex.

In light of the size of the livery operation, including the number of fields used by horses, it is clear the livery use does not rely on the agricultural operations, other than the production of hay, for its own existence. The livery yard is a stand alone use capable of operating by itself. The livery use cannot therefore be considered ancillary to the agricultural use.

As set out in Burdle, it is appropriate to consider the entire unit of occupation which is shown on the submitted map to be fields used for agriculture and horse use. On this land it is evident that the occupier carries on a variety of activities, primarily agriculture and livery. As these are not considered ancillary to one another, the planning unit would be considered the whole unit unless distinct and separate areas can be identified.

While the submitted map shows distinct fields for each purpose, it is clear the farm complex of buildings is shared space for agricultural storage and livery yard which cannot be considered distinctly separate. Therefore the third Burdle test cannot be applicable in this instance and as such the planning unit consists of a composite use.

Accordingly, the site constitutes a single mixed-use planning unit and therefore does not benefit from agricultural permitted development rights under Part 6 of the General Permitted Development Order.

The statement refers to the applicant adding concrete to the

Siting and means of construction

The proposal is not considered to benefit from permitted development rights, Class A of Part 6 of the GDPO. However, it is required that the Local Planning Authority further assess the proposals in relation to the conditions of Part 6. As noted above, the main criteria to assess are the siting and means of construction.

<u>Siting</u>
The hard standing would be located 117m west of the highway. It is noted there is a gate on the site which delineates the access point to the field. The Highways Team have confirmed they have no objection to the proposal, it is noted the proposal would be served by an existing access point.

The siting of the proposed development is therefore considered acceptable.
<u>Means of Construction</u>

The proposal gravel construction would have a degree of prominence as the site has no development and is within a Green Belt setting, it is considered it would be lessened through the overall design of the development with the bulk of the works being at ground level.

The overall external appearance would lead to a degree of visual intrusion although this is balanced against the overall character of the countryside

location within which remains of an open character and it would read as predominantly free from development albeit with some small scale levels of visual intrusion resulting from the development proposal.

Representations
One formal objection received raising the following concerns:

- Track being used for equestrian shows
- Track being used for the Honley show
- Applicant not being associated with an agricultural use
- Applicant not according with requirements of appeal decision
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Conclusion
It is concluded that the proposal fails to comply with the provision of Schedule 2, Part 6, Class A of the GPDO 2015 (as amended).

RECOMMENDATION – Prior Approval Required and Refused
Decision Authorisation – Delegated Powers
Application number – 2025/91175

I refer your submission for agricultural development as described above.

The proposal as submitted is not acceptable by reason of the submitted details failing to accord with the provisions of Schedule 2, Part 6, of the General Permitted Development (England) Order 2015 (as amended) by reason of the unit consisting of a mixed composite use for agriculture and livery. As such, Prior approval is therefore, required and subsequently refused.

Plans and specifications schedule:-

Plan / Document Type	**Reference**	**Rev**	**Date Received**
Location and existing site plan	2025/73 01	A	29TH April 2025
Proposed	2025/73 01	A	29TH April 2025
Application Form			29TH April 2025
Supporting statement	Clarion ref: 435395.2		16th June 2025.
Supporting email			7th July 2025

Report Dated: 9nd July 2025