

Officers Report

Case Reference: 25/00652/CPL
Location: Smallbridge Business Park, Unit 7 Riverside Drive Rochdale OL16 2SH
Proposal: Application for a certificate of lawfulness for the proposed laying of additional hardstanding within the curtilage of an existing industrial building
Recommendation: Refuse
Officer: Majid Mir

SITE

The application relates to an industrial building (unit 7) within Smallbridge Business Park. The Business Park, plus additional land to northeast, east and south of the site are located within a Primary Employment Zone (policy EC/2 of UDP). There is a mixture of commercial and industrial uses within Smallbridge Business Park. The building is sited on a bend on Riverside Drive and towards the end of the business park.

To the south and east of the application site, there is a plot of land that has been allocated as a development site within an employment zone under policy EC/8 of the UDP. To the south of the site is also the River Roch which also wraps around the land allocated under policy EC/8 of the UDP.

A small proportion of the site is located within flood risk zone 2, however, the application building is located outside of flood risk zone 2. Riverside Drive to the west of the site is located within national surface water 1 in 30 year risk of flooding area.

The site has been enclosed by fencing. Behind the boundary treatment, and within the curtilage of the site, there are landscaped areas containing trees, grass and low lying vegetation.. It is noted that the trees along this landscaped area adjacent to the highway have been removed. Access is gained to the site directly off Riverside Drive, with one point of vehicle access located to the front and another to the rear.

It appears that the unit 7 is now in operation as is being used as a vehicle/car body repair shop (Use Class B2). Boundary treatment has also been installed around the perimeter of the site.

PROPOSAL

Application for a certificate of lawfulness for the proposed laying of additional hardstanding within the curtilage of an existing industrial unit under Schedule 2, Part 7, Class J of the General Permitted Development) (England) Order 2015' (GDPO).

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

LEGISLATION

Town and Country Planning Act 1990 (as amended)

The Town and Country Planning (Use Classes) Order 1987 (as amended)

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ("the UCO Amendment Regulations")

RELEVANT SITE HISTORY

25/00483/VRCON - Section 73 application to remove condition 5 (Replacement Trees) of planning permission 24/00328/FUL (Change of use from commercial, storage and distribution [Use Classes E(g) and B8] to vehicle/car body repair shop (Use Class B2), with associated works including installation of flues and erection of 2.4m high perimeter paladin fence). Decision: Withdrawn.

24/00328/FUL - Change of use from commercial, storage and distribution [Use Classes E(g) and B8] to vehicle/car body repair shop (Use Class B2), with associated works including installation of flues and erection of 2.4m high perimeter paladin fence. Decision: Grant subject to conditions.

15/00097/DOC - Submission of details to comply with condition 3 on planning permission 14/00148/FUL. Decision: Request completed.

14/00148/FUL - Single storey extension to existing warehouse. Decision: Grant subject to conditions.

01/D38699 - Erection of industrial unit with detached chemical store. Decision: Granted subject to conditions.

CONSULTATION RESPONSES

Not applicable.

REPRESENTATIONS

In accordance with the Council's Code of Publicity, this application has not been publicised.

Class J of Part 7 of Schedule 2 of the GPDO allows for the installation of hard surfaces for industrial and warehouse premises consisting of -

- (a) the provision of a hard surface within the curtilage of an industrial building or warehouse to be used for the purpose of the undertaking concerned; or
- (b) the replacement in whole or in part of such a surface.

Industrial and warehouse premises fall under Use Class B. Planning permission was granted for change of use from commercial, storage and distribution [Use Classes E(g) and B8] to vehicle/car body repair shop (Use Class B2). The applicant confirmed that conditions 3 (biodiversity enhancement) and 5 (replacement tree planting) have been implemented. Additionally, the use of the site vehicle/car body repair shop (Use Class B2) has been implemented. In this regard the use meets the requirement of Class J of Part 7 of Schedule 2 of the GPDO.

Class J of Part 7 of Schedule 2 of the GPDO states that development is not permitted under Class J of Part 7 of Schedule 2 of the GPDO, if the development would be within the curtilage of a listed building. In this regard, the proposed development would not be within the curtilage of a listed building.

Paragraph J.2 states that 'development is permitted by Class J subject to the following conditions—

- (a) where there is a risk of groundwater contamination the hard surface must not be made of porous materials; and
- (b) in all other cases, either—
 - (i) the hard surface is made of porous materials, or
 - (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 industrial building or warehouse.'

The application proposes to lay hardstanding on an area of approximately 709 square metres of hard standing. The supporting statement states that 'the proposed hardstanding is intended to be made with a 25mm tarmac cover. As a result of this surface water will be directed towards the retained area of grass to the south of the new hardstanding areas'. The plans show that there are grassed areas to the north and south of the site.

Paragraph J2)b)ii) can only be satisfied where a)run-off water arising from the proposed hard surface is directed to an area within the curtilage of that building, and b) that area is porous.

The plans would suggest that surface water would drain to an area to south of the site which covers an area of approximately 29 square metres. This vegetated area forms part of the boundary of the curtilage.

In dealing with point a), the submission is accompanied by a topographical survey that raises considerable doubt as to whether the run-off water produced by the proposed hardstanding at the north of the site could reach the areas identified to accommodate run-off water, given the flat topography that would not seemingly permit water to flow across the hardstanding and around the building.

Furthermore the applicant's submission is not sufficiently precise or unambiguous to determine that an area of 29sqm is a reasonable size to accommodate run-off water from the 709sqm of new hardstanding, particularly in the absence of any evidence of the ground conditions as an area of undeveloped, or vegetated land may not have the necessary soil conditions to permit infiltration and thus be permeable, particularly given the overall scale of the site. Without details such as infiltration testing or drainage calculations, it cannot be determined that run-off would only be diverted to a permeable surface within the curtilage of the building, and run-off flows would not accumulate such that they would run through this area and beyond the curtilage.

Therefore, considering the scale of the proposal and the limited and conflicting information that supports the area and the minute area of permeable or porous areas, it is considered that insufficient information has been provided to show that adequate provision has been made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site as set out in paragraph J.2 (b)(ii) under Class J of Part 7 of Schedule 2 of the GDPO.

Recommendation: Refuse

Refusal(s) (1)

- 1 The application is not supported by evidence that is sufficiently clear or unambiguous to demonstrate that run-off water from the proposed hard surface would be directed to a permeable or porous area or surface within the curtilage of the application building and therefore fails to demonstrate the proposal meets the requirements as set out in paragraph J.2 (b)(ii) under Class J of Part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 2 For the avoidance of doubt, this decision is based on the following plans and documents:

- Location Plan
- Existing Site Plan. Drawing number: N173-05
- Proposed Block Plan. Drawing number: N173-08 / C

- Topographical Survey. Drawing number: 1551 001 001
- Supporting Letter. Dated: 23 June 2025