

REPORT FROM: ASSISTANT DIRECTOR PLANNING, BUILDING CONTROL
AND REGULATORY SERVICES

TO: BARROWFORD AND WESTERN PARISHES COMMITTEE

DATE: 4TH SEPTEMBER 2024

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE ON 4TH SEPTEMBER 2024

Application Ref: 24/0389/CEU

Proposal: Certificate of Lawful Use (S.191 Existing Development): Lawful start for the construction of 5 no. dwellings on land of Outline Planning Permission 13/15/0290P and 18/0598/REM.

At: Barley House Farm, Barley Lane, Barley

On behalf of: Mr A Atkinson

Date Registered: 13/06/2024

Expiry Date: 09/08/2024

Case Officer: Alex Cameron

This application has been brought before Committee as three responses raising concerns have been received.

Site Description and Proposal

The application site a former group of agricultural buildings, outline planning permission and reserved matters have been approved for the erection of five dwellings on the site.

This is an application for a Lawful development Certificate seeking to confirm that the development has been lawfully implemented in accordance with Section 56 of the Town and Country Planning Act 1990 (T&CPA) prior to the expiry of the planning permission and therefore is the planning permission is extant.

Relevant Planning History

13/15/0290P - Outline: Erection of five dwellings (Access only), demolition of agricultural buildings and formation of access road (Re-Submission).

18/0598/REM - Reserved Matters: Erection of 5 detached dwelling houses (Appearance, Landscaping, Layout and Scale) of Planning Permission 13/15/0290P and formation of access road (Re-Submission). Approved

20/0730/CND - Approval of Details Reserved by Condition: Discharge of conditions 5 (Surface Water Drainage), 6 (Sustainable Drainage System), 7 (Foul & Surface Water) and 10 (Contamination) of Planning Permission 13/15/0290P. Conditions Partially Discharged

21/0097/CND - Approval of Details Reserved by Condition: Discharge of Condition 3 (Obscure Glazing), Condition 4 (Boundary Treatment), Condition 6 (Street Maintenance), Condition 7 (Materials) and Condition 8 (Window Details) of Planning Permission 18/0598/REM. Conditions Partially Discharged

Consultee Response

LCC Highways – No objection

Barley Parish Council - We understand that Outline planning permission for 5 dwellings (access only), the demolition of agricultural outbuildings and the formation of an access road was granted in September 2015 (13/15/0290).

We also understand that that reserved matters were approved in November 2018 and that works should have commenced by November 2020 but this date was moved to 1st May 2021 due to the COVID pandemic.

We also understand that there are no changes to the previously approved planning application and subsequent discharge of conditions etc. since there is none referenced in the application.

Therefore, we have concluded that the CoLU is only about whether the development had lawfully commenced within the prescribed time.

The applicant has put forward that the foundations were excavated for the north facing wall of the garage on Plot 2 on 30 April 2021, the day before permission expired - this excavation was subsequently back filled to prevent accidents.

This site of the excavation is not that visible from the highway or other residences, and none of our Councillors are able to confirm whether these works were undertaken or not. Therefore, there is nothing we can add to the Borough Council's deliberations.

There is no doubt that a lot of time has passed since the planning approval was granted in 2015 and so the Parish Council will view the decision of the Borough Council with interest.

Public Response

Nearest neighbours notified – Two responses received raising the following concerns:

- The development is in breach of condition 6 of the Reserved Matters and therefore the planning approval is no longer valid.
- The site is within the Green Belt
- There are more suitable sites for housing
- Traffic and parking congestion
- Overdevelopment of the site
- Noise and disturbance
- Privacy impacts
- Urbanisation of the village
- Not in keeping with the character of the area and National Landscape

An additional neutral comment was made raising no objection but asking the planning officer to consider how long granted permission lasts for and how much work needs to be undertaken for commencement. These are matters that are considered in this determination report.

Officer Comments

The timescale for the permission on the decision notice of the reserved matters was to lapse on 14th November 2020, however, that date fell within the provisions of The Business and Planning Act 2020, Part 3, Section 17 which, in response to the pandemic, extended the timescale for implementation of permission expiring within that time to 1st May 2021 under section 93A of the Town and Country Planning Act.

The applicant has provided evidence that prior to 1st May 2021 the majority of the agricultural buildings were demolished and a trench was dug for foundations of the garage of plot 2.

Either of these operations would be material operations specified in Section 56 of the T&CPA for implementation of a planning permission. The evidence submitted demonstrates that on the balance of probabilities the planning permission was implemented prior to 1st May 2021.

It must also be considered whether all pre-commencement conditions which go to the heart of the permission have been complied with and therefore that the planning permission was lawfully implemented by the works above.

The pre-commencement conditions are conditions 5 (surface water drainage), 6 (surface water drainage management and maintenance), 7 (foul and surface water drainage) and 10 (contamination) of the outline permission and condition 6 of the reserved matters.

Conditions 5, 6, 7 and 10 of the outline permission were discharged subject to implementation, and validation prior to occupation in the case of 10, by 20/0730/CND on 21st April 2021.

Condition 6 of the reserved matters was discharged subject to implementation by 21/0097/CND on 21st April 2021.

Therefore, all pre-commencement requirements of the conditions have been discharged and the commencement of the development was lawful.

Other matters

In their statement submitted with the application applicant contends that the condition 6 of the reserved matters is one that should have been attached to the outline permission because it related to the principle of the development and therefore it was unlawful to attach it to the reserved matters approval.

Should the developer have considered the condition to be beyond the scope of the reserved matters the appropriate forms of challenge would have been to submit an appeal against the condition or apply to challenge the decision in the High Court. The condition was not appealed or challenged within the applicable timescales. The condition does therefore still apply and must be complied with, however, as detailed above the pre-commencement requirements of the condition have been discharged by 21/0097/CND.

A number of other concerns have been raised, these were considered in approving the outline permission and reserved matters and are not material to determining this application which solely relates to whether the permission is extant.

Conclusion

It has been demonstrated that on the balance of probabilities the planning permission has been lawfully implemented within the appropriate timescale and is extant.

Reason for Decision

It has been demonstrated that on the balance of probabilities the Planning Permission 13/15/0290P (Reserved Matters 18/0598/REM) was lawfully implemented prior to its expiry and is therefore extant.

RECOMMENDATION: Approve

Application Ref: 24/0389/CEU

Proposal: Certificate of Lawful Use (S.191 Existing Development): Lawful start for the construction of 5 no. dwellings on land of Outline Planning Permission 13/15/0290P and 18/0598/REM.

At: Barley House Farm, Barley Lane, Barley

On behalf of: Mr A Atkinson

REPORT TO BARROWFORD AND WESTERN PARISHES COMMITTEE ON 4TH SEPTEMBER 2024

Application Ref: 24/0449/FUL
Proposal: Full: Installation of solar panels to existing roof structures.
At: Ogden Hill Farm, Barley Lane, Barley.
On behalf of: Mr Paul Barlow.
Date Registered: 03/07/2024.
Expiry Date: 28/08/2024.
Case Officer: Joanne Naylor.

Site Description and Proposal

The application site relates to an existing farmhouse building and traditional agricultural barn and a redbrick outbuildings, it is located within the Forest of Bowland National Landscape (formerly known as Area of Outstanding Natural Beauty) and in the Open Countryside. The site sits above Lower Ogden Reservoir and is accessed from Barley Green, an existing single width access track provides access to five residential properties.

The application seeks planning permission to erect solar panels to the front and rear roof slopes of Ogden Hill Farmhouse and Ogden Hill Barn, and for solar panels to the Red Brick Outbuilding to the south and north roof slopes.

Relevant Planning History

21/0191/FUL: Full: Change of use and external alterations to convert a barn to 2 dwellings & erection of detached double garage (resubmission). Approved with conditions 16th June 2021.

20/0646/FUL: Full: Conversion of Barn to 2 No. dwelling houses and erection of a detached double garage. Refused 14th January 2021.

Consultee Response

Parish Council

The Council made the following considerations:

- 1) Ogden Farm is within the Area of Outstanding Natural Beauty and is very much in the open countryside; it is not in a cluster of buildings.
- 2) It lies at the very foot of the slopes of Pendle Hill and is highly visible from the hillside and public footpaths; it also receives direct sunlight from sunrise until early evening,
- 3) The application is for solar panels to be fitted on all three buildings within the farm complex, on both domestic and non-domestic agricultural buildings.
- 4) The three buildings are not aligned meaning there are north, south, east and west facing roof slopes.
- 5) We think the number of solar panels will be 82No, each measuring 1.754m x 1.096m. giving a total area of 158Sqm of solar panels.

The Council are mainly supportive regarding solar panel installations and there are a few within Barley village.

However, the Council considers this to be a large-scale installation which goes beyond the microgeneration being encouraged by the government and as such the proposal does not seek to minimise the effect on the amenity of the area.

Even if anti-glare panels are used, and this is not clear within the application, the area of panels will still stand out because of the property location.

The Council therefore object to this application because of its large size and the negative impact it will have on the landscape and scenic beauty of the area; aspects of the AONB which the Parish Council seeks to conserve

Highways LCC

Having reviewed the documents submitted, Lancashire County Council acting as the local highway authority does not raise an objection regarding the proposed development. However, it should be noted that several Public Footpaths pass within close proximity to the site and any glint or glare from the solar panels may affect users on these Public Rights of Way. Therefore the following informative note should be applied to any formal planning approval granted.

Informative Note The settings of Public Footpaths 50 and 52 Barley with Wheatley Booth (refs FP1308050 and FP1308052) may be affected by the proposed development.

Countryside Access Officer

No comments received to date, Members will be updated should comments from the Countryside Access Officer be received nearer the time of the committee date.

Public Response

The nearest neighbours have been notified by letter and a site notice has been displayed, no responses received.

Relevant Planning Policy

Pendle Local Plan Part 1: Core Strategy

Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum.

Policy ENV2 identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings.

Policy ENV3 (Renewable Energy and Low Carbon Energy Generation) sets out that the council will support proposals for this type of development where it does not result in an unacceptable impact upon landscape, ecology, heritage assets or residential amenity.

Saved Policy 31 of the Replacement Pendle Local Plan sets out the maximum parking standards for development.

National Planning Policy Framework

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Chapter 14 of the National Planning Policy Framework paragraph 163 (a) states that even small-scale projects provide a valuable contribution to significant cutting of greenhouse gas emissions and (b) that applications to be approved if its impacts are acceptable.

Paragraph 164 states that when determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). Where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 of the Framework.

The Design Principles Supplementary Planning Document (SPD) applies to extensions and sets out the aspects required for good design.

Officer Comments

Principle of Development

The application is for renewable and low carbon energy generation, Policy ENV3 of the Core Strategy supports this type of development, provided that it does not result in unacceptable impacts upon heritage, neighbouring amenity, landscape and ecology.

Design and Heritage

Policy ENV 1 states for proposals in the National Landscape should wherever possible aim to safeguard or enhance the landscape character of the area, and that proposals would be given on a needs basis and in scale of the surroundings.

The proposed development involves the erection of solar panels to the roof slopes of the Farmhouse, Barn and red brick outbuilding. The orientation of the solar panels would be to the east, west, north and south. The application site is set lower in the ground with an historic embankment formed to the rear, as the buildings would be set in front of the embankment to the rear, it would reduce the impact of the proposed solar panels on the farm buildings, whilst the solar panels to the red brick outbuilding would be on the south and north elevations only the south roof slope would be visible. Overall, the majority of the roof slopes would have solar panels erected, the applicant has confirmed that the solar panels would have an anti-glare coating and a condition could be placed to that effect.

As the proposed solar panels are to be erected to the roof of the farm buildings and would not be readily visible from near and far views as the panels would be similar in colour to the roof as it exists, with anti-glare coating, and the site being a significant distance from the Beacon at Pendle Hill, the proposed development would not have an unacceptable impact on the visual amenity of

the Forest of Bowland National Landscape, and therefore it would not harm the character and appearance of the site within the wider views of the National Landscape.

The applicant has confirmed that the energy source for Ogden Hill Farm is electricity only, whilst undertaking the site visit it was clear that it would be difficult for vehicles to deliver oil or LPG in this location due to the steep land and single track, the insertion of solar panels on the farm buildings would provide a source of sustainable renewable energy which would meet the needs basis for ENV1.

Therefore, the proposed development would comply with the National Planning Policy Framework, Policy ENV1, ENV2 and ENV3 of the Local Plan: Part 1 Core Strategy and the Design Principles SPD.

Landscape and Visual Impact

The proposed development would be visible from Public Right of Way 1308050 travelling towards the farmhouse, the solar panels would not be readily visible due to the height of the roof. Public Right of Way 1308052 is to the rear of the farm buildings, as the farm building is set below the land level of the hill due to the historic embankment, the solar panels on the rear roof slope would not be easily seen due to the solar panels being at a higher level. As the proposal for renewable energy is sited upon the roof and the footpaths being in close alignment with the farm buildings, the view from the footpaths would be limited due to the height of the building and the solar panels located on the roof slope.

When considering longer views, there are a number of routes that can be taken up Pendle Hill, and from the Beacon the proposal would be set away by a significant distance. The Farmhouse, Barn and Outbuilding have been set into the landscape with a historic embankment to the rear of the farm buildings which reduces the visual impact on the landscape. The applicant has confirmed that the solar panels would have an anti-glare finish and this could be conditioned to ensure there would be minimal glare and glimmer. Therefore, the siting of the solar panels on the roof slopes would not result in an unacceptable impact upon the landscape and visual amenity of the area. The proposed development would not have a detrimental impact on the appearance and character of the landscape and would comply with Policy ENV1 of the Local Plan Part 1: Core Strategy and Chapter 4 of the National Planning Policy Framework.

Residential Amenity

The application site is in an isolated location, the nearest neighbours are greater than 21m away, therefore there would be no unacceptable residential amenity impact to neighbouring properties, therefore the proposal would conform with Policy ENV2.

Highways

Highways have raised no objection to the proposed development on highways safety grounds.

Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed housing development would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework, subject to compliance with planning conditions. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Approve

Subject to the following conditions:

1. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan BAR/01 00, Existing Plans and Elevations BAR/01 Dwg 01, Proposed Plans and Elevations BAR/ Dwg 02, Existing and Proposed Site Plan BAR/01 Dwg 03.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Prior to the installation of the development hereby permitted, a specification for the exact panels to be installed including: the manufacturer, model number, anti-glare coating and projection above the roof plane shall be submitted to, and agreed in writing by the Local Planning Authority and shall not be varied without prior written permission of the Local Planning Authority.

Reason: To ensure the solar panels do not cause a nuisance of glare and glimmer.

4. The solar panels hereby approved shall only be erected until such a time as they are no longer in use. One month after the date at which they have finished generating electricity they must be removed.

Reason: In order that they do not deteriorate to such a state that could result in a potential landscape impact.

Application Ref: 24/0449/FUL

Proposal: Full: Installation of solar panels to existing roof structures.

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On behalf of: Mr Paul Barlow.