

Application Recommended for Approval
Briercliffe Ward

APP/2010/0237

Full Planning Application

Proposed new livestock building, replacement livestock and storage building, midden and underground effluent tank

BORSANE FARM SHAY LANE BRIERCLIFFE

Background:

This application has resulted from an enforcement enquiry. The construction of a new agricultural building was brought to officers' attention, together with an allegation of unauthorised residential use of the site, in the form of a caravan. The residential aspect is being considered separately, although the applicant has provided information to show that a residential use has existed on the site for more than ten years and at present the Council has no evidence to dispute this fact. If this is the case, then the use has become lawful.

The applicants operate a smallholding and keep pigs, sheep, horses and poultry.

This application is for the agricultural building which is partially constructed and to replace a further existing building with one of similar dimensions.

Objections have been received.

Summary of Reason for Recommendation:

The development is generally in accordance with the Development Plan, in particular the policies listed below, and there are no other material considerations to indicate that planning permission should not be granted:

Relevant Policies:

Burnley Local Plan Second Review

E27 - Landscape, character and local distinctiveness in Rural Areas and Green Belt

E29 - New agricultural development

E9 -Groundwater resources

GP2 - Development in the Rural Areas

GP3 - Design and Quality

Site History:

74/0072 – Caravan for temporary living accommodation – Refused

74/0492 – Outline application for bungalow for agricultural smallholding – Refused

75/0375 – Outline application for office and residential development - Refused

Consultation Responses:

1. United Utilities – no objection providing level of cover to the water main is not compromised during or after construction.

2. Environment Agency – unsure whether midden is to be covered, so request a condition to ensure that it is, to prevent rainwater entering and reduce the amount of effluent discharged to the underground tank. *(The applicant has confirmed that he will cover the midden)*
3. Lancashire County Council (Highway Authority) – no objections on highway grounds.
4. Lancashire County Council (County Land Agent) – verbal response to say no objection, building appears necessary for the agricultural use. Written response will be reported at the committee meeting.
5. Briercliffe Parish Council – ‘has serious reservations that the size and security of the premises would not be commercially viable’.
6. Objections from two neighbouring properties on the following grounds:
 - a) the new building is less than the required 400 metres from their dwelling and the smell from the site has increased since it has been used to accommodate pigs. They cannot now leave windows open, or hang washing out and it is curtailing the use of their garden. *(addressed under Planning Considerations)*
 - b) It will affect the value of their property *(not a material planning consideration)*
 - c) There are several small buildings and a static caravan on site that have not received planning permission *(the buildings not included in this application have been there for more than 4 years and are now lawful; the residential use is addressed at the beginning of this report)*
 - d) There does not appear to be any septic tank or sewage disposal facility *(a septic tank is installed)*
 - e) The land is subject to an Article 4 Direction *(addressed under Planning Considerations)*

Planning and Environmental Considerations:

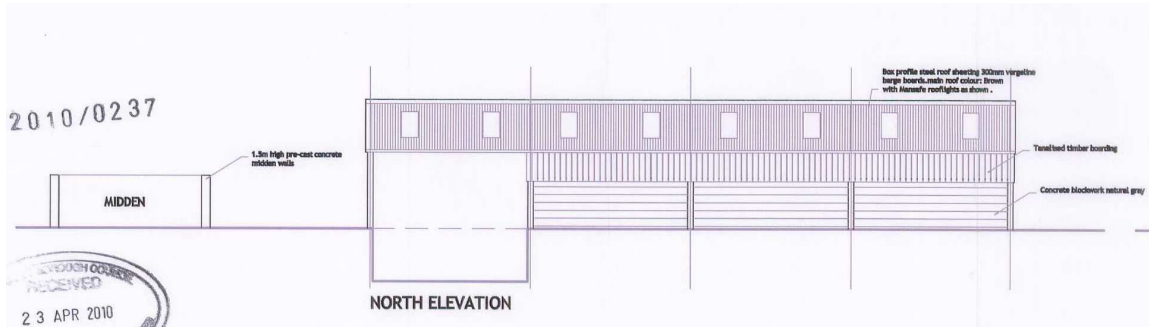
The use of the land for agricultural purposes is not development, so the keeping of animals on the site would not need planning permission. Any buildings on the site require planning permission because the agricultural unit is not large enough to benefit from ‘permitted development rights’

The Article 4 Direction was placed on the land in 1975 due to the threat of sub-division of the land into smallholdings at that time. The purpose of an Article 4 Direction is not to prevent all development, but to remove permitted development rights so that a planning application is required enabling the local authority to exercise control over all development. However, it is not relevant to this case as planning permission is required anyway.

The principle of agricultural buildings in this rural area is acceptable, as set out in policy GP2. The issues in this proposal are design and materials; impact on the landscape; and impact on the amenities of neighbouring residents.

Design/materials

The design is a standard agricultural building, materials being concrete block to the lower walls with timber boarding at the upper level and steel sheets for the roof.



Impact on landscape

The site is well screened from Shay Lane by mature trees and shrubs and there are also trees within the site which screen the building which has already been partially erected, referred to as 'proposed new livestock building' on the plan below. This building measures 18m x 9.3m, is 2.2m to eaves and 3.5m to the ridge. In addition to the screening, it is also set into a slope which minimises its impact in the landscape.

The second building, referred to as 'replacement livestock building' on the plan, measures 13.8m x 10m, is 3m high to eaves and 4.4m to the ridge. This is very similar to the existing building it will replace so there will be no change to the impact on the landscape.

Both buildings are well-related to the existing buildings on the site, creating a close-knit group of buildings which again helps to minimise their impact on the surrounding area.



Impact on residents

There are two dwellings in close proximity to the application site. Shay Lane Farm, which can be seen in the bottom left-hand corner of the above plan, and Crossfield House which adjoins Shay Lane Farm on its western side. The replacement building will be 28 metres from Shay Lane Farm with the other new building being 45 metres away. The midden will be constructed beyond the new building, 67 metres from Shay Lane Farm, as shown on the above plan.

The residents from these dwellings have complained about the smell associated with the pigs at the smallholding. An Environmental Health Officer has visited the site and is satisfied that, at the time of her visit, there was no statutory nuisance as a result of odours from the site. If a statutory nuisance does occur, then there is legislation to deal with this. However, the smell associated with a proposal can be a material planning consideration. In this case, any odours are likely to be due to the removal of animal waste from the buildings. This will be removed daily and will be stored in the new midden, behind the new building. The midden will be covered, both to minimise smells and to prevent rainwater entering it, thus reducing the amount of effluent discharged to the underground tank, as required by the Environment Agency. A condition can be attached requiring the midden to be covered.

The residents have referred in their objection to their belief that livestock should not be kept within 400 metres of a dwelling. However, this is a misunderstanding following a conversation they had with a planning officer. The officer explained that permitted development rights do not apply to buildings within 400 metres of a dwelling which are intended to house livestock. This does not mean that animals cannot be kept within 400 metres of a dwelling, but that a planning application must be made for such a development. This is to allow the local planning authority to consider any potential problems and, if possible, to control them with appropriate conditions.

In this case, the animal waste will be stored well away from the residents, in a covered midden, and the smells associated with the proposal are unlikely to cause a problem to nearby residents.

Recommendation: The application be approved, subject to the following conditions:

1. The development must be begun within three years of the date of this decision.
2. The midden hereby approved shall be constructed within three months of the date of this decision. It shall include a cover which has been approved in writing by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with approved plans and the cover retained at all times.
3. If the agricultural use of this site ceases, the buildings hereby approved shall be removed within three months of the last use of the site.

Reasons:

1. 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. To prevent pollution of the water environment and to minimise impact on nearby residents from odours associated with the business, in accordance with policies E9 and E29 of the Burnley Local Plan, Second Review.
3. To avoid a proliferation of unused and unnecessary buildings in the rural area, in accordance with policy E29 of the Burnley Local Plan, Second Review.

SMD

15/06/2010