

Application:	2021/1417/FUL	ITEM 2	
Proposal:	Retrospective planning application for construction of an agriculture building and solar panels.		
Address:	Clonmel Farm Cold Overton Road Langham Rutland		
Applicant:	Mr Brian Sampson	Parish	Langham
Agent:	Miss Megan Simpson	Ward	Langham
Reason for presenting to Committee:	Cllr Abigail MacCartney recommendation		
Date of Committee:	28.04.2022		
Determination Date:	10.01.2022		
Agreed Extension of Time Date:	29.04.2022		

EXECUTIVE SUMMARY

Policies SP7, SP13, SP15, SP18 and SP23 require that agricultural development should be essential for efficient operation, ensure that it would not have an unacceptable impact on the environment and satisfactorily address any impact, and comply with requirements for good design.

Given the above, the current development would not meet the objectives for non-residential development in the countryside and cannot be considered acceptable. While the proposed steel frame barn appears to be a conventional type of structure for the kind of development, the agriculture enterprise would not support the development essentially and financially.

RECOMMENDATION

REFUSE, for the following Reason:

1. Based on the information provided it is considered that insufficient justification has been provided to demonstrate that a building, particularly as big as the one proposed is reasonably required for the agricultural/horticultural purposes associated with the smallholding.

Acceptance of this scale of development in the countryside without sufficient justification is therefore considered to be contrary to Planning Policies SP7, SP 13, SP15, SP23 of the Site Allocation and Policies Development Plan Document (2014), Section 12 and 14 of the National Planning Policy Framework (2021).

Site & Surroundings

1. The site is located alongside Cold Overton Road in Langham and comprises a green field within the rural setting of this open countryside location and is outside of planned limits for developments. The site is not within a Conservation Area and the area land is approximately 4hectares, directly adjacent to the road with the access from Cold Overton Road. The site is screened by mature trees and hedgerows.

Proposal

2. Retrospective planning application for solar panels and construction of an agriculture building.
3. The proposed agricultural building measures 18.3m x 12.2m. The height of the barn to eaves height is 4m and the barn is proposed to be painted 'juniper Green'
4. The agricultural barn for which permission is sought is required for business and security purposes. The barn is required to provide secure, dry storage for hay bales, animal feed and agricultural/horticultural machinery and equipment.
5. There are solar panels on site that have been erected in a temporary location, as shown on the Existing Site Plan, for which retrospective permission is sought. These are proposed to be relocated to the location shown on the Proposed Site Plan, adjacent to the proposed agricultural barn. Solar panels would allow the applicant to generate 15kW of energy in a sustainable manner, which can be utilised by the applicant to undertake wider smallholding activities.

Relevant Planning History

2016/0363/AGP – Proposed agricultural building to facilitate horticultural production and fruit growing.

2017/0685/AGP – Proposed agricultural building for storage of agricultural machinery and livestock feeds.

2019/0712/FUL – Retrospective planning application for construction of an agriculture building and solar panels

Planning Guidance and Policy

National Planning Policy Framework (NPPF)

Chapter 12 - Achieving well-designed places

Chapter 14 - Meeting the challenge of climate change, flooding and coastal change

Core Strategy DPD

CS02 - The Spatial Strategy

CS19 - Promoting Good Design

CS20 - Energy Efficiency and Low Carbon Energy Generation

Site Allocations and Policies DPD

SP7 - Non-residential development in the countryside

SP13 - Agricultural, Horticultural, Equestrian and Forestry Development

SP15 - Design and Amenity

SP18 - Wind Turbines and Low Carbon Energy Developments

SP23 - Landscape Character in the Countryside

Neighbourhood Plan

No relevant planning policies but the Plan does contain an aspirational proposal

Officer Evaluation

Principle of the use

6. The site is currently in agricultural/horticultural use.
7. A very similar application to that proposed was refused planning permission in September 2019 (2019/0712/FUL – Retrospective planning application for construction of an agriculture building and solar panels). The application was refused for the following reason:

“The applicant has provided insufficient evidence/justification to show that a building, particularly one as big as that proposed, is reasonably required for agricultural/horticultural purposes. Acceptance of the proposed development would therefore be contrary to Planning Policies SP7, SP 13, SP15, SP23 of the Site Allocation and Policies Development Plan Document (2014), Section 12 and 14 of the National Planning Policy Framework (2019).”
8. It is considered that there has been no significant material change in circumstances since that refusal.

Impact of the use on the character of the area

9. The site is located outside of the planned limits for developments in the open countryside where development proposals are required to comply with the requirements of Policy SP7 of the adopted Site Allocations and Policies DPD which states:

Sustainable development in the countryside will be supported where it is:

- a) essential for the efficient operation of agriculture, horticulture or forestry;
- b) essential for the provision of sport, recreation and visitors' facilities for which the countryside is the only appropriate location;
- c) essential investment in infrastructure including utilities, renewable energy and road side services required for public safety purposes;
- d) a rural enterprise comprising small scale alterations, extensions or other development ancillary to an existing established use appropriate to the countryside;
- e) new employment growth comprising small scale, sustainable rural tourism, leisure or rural enterprise that supports the local economy and communities;
- f) farm diversification that supports waste management development.

Provided that:

- i) the development cannot reasonably be accommodated within the Planned Limits of Development of towns and villages;
 - ii) the amount of new build or alteration is kept to a minimum and the local planning authority is satisfied that existing buildings are not available or suitable for the purpose;
 - iii) the development itself, or cumulatively with other development, would not adversely affect any nature conservation sites or be detrimental to the character and appearance of the landscape, visual amenity and the setting of towns and villages;
 - iv) the development would not adversely affect the character of, or reduce the intervening open land between settlements so that their individual identity or distinctiveness is undermined; and
 - v) the development would be in an accessible location and not generate an unacceptable increase in the amount of traffic movements including car travel.
10. The site has previously been refused as it was considered that it has failed to demonstrate that a building the size of that proposed is reasonably required, taking into account the size of the agricultural holding.

11. The site accommodates one pen of sheep, two pens of pigs, two small areas of fruit trees, and sixty solar panels. The building would be sited in the top (north-east) corner of the site away from the road. The size of the building is considerable in relation to the land that it would serve and would reduce the area of agricultural activities.
12. The site includes also a range of paraphernalia including caravan(s), lorry vehicles and trailer, which have been used for storage purposes, and have been on the site for a significant period of time, further reducing the area of land which can be used for agricultural activities associated with the small holding.
13. The application states the land will be used for haymaking and growing fruit trees (though these are young saplings and at present do not appear to provide any significant crop). In addition, there is no information that the trees support this agriculture business.
14. The applicant has advised that he is producing hay from the existing land. However, given the land is extensively occupied by animals, trees, and other items, together with the proposed storage building there does not appear to be much land left available for hay production.
15. Based on the evidence provided it is considered that the solar panels would only generate limited financial income (approx. £1500 per year or £20,000 upto 2035). Together with the sales from the smallholding it is considered that the enterprise is not financially viable and that there is therefore no justification for the development of a large agricultural building in this rural countryside location.
16. The Local Planning Authority is required to ensure that any development would be sustainable, achieve well-design places and meet all relevant planning objectives.
17. Section 12 of the NPPF (2021) advises that development should be clear about design and expectations and improve the character and quality of an area and the way it functions. Section 14 NPPF (2021) requires that any renewable developments would demonstrate potential for suitable development and ensure that there would not be an adverse impact; although a planning application for the renewable source's energy should be treated favourably, subject to site-specific criteria.
18. The Policies CS2, CS19 and CS20 of the Core Strategy (2011) identify that the development must ensure the sustainability of the environment to meet designed standards, and energy efficiency; and promote high-quality design and respect the distinctiveness of the towns and villages and rural areas. Developments are expected to make a positive contribution to the unique character of Rutland's towns, villages, and countryside.
19. Policies SP7, SP13, SP15, SP18 and SP23 require that agricultural development should be essential for efficient operation, ensure that it would not have an unacceptable impact on the environment and satisfactorily address any impact, and comply with requirements for good design.
20. Given the above, the current development would not meet objectives for non-residential development in the countryside and cannot be considered acceptable. While the proposed steel frame barn appears to be a conventional type of structure for the kind of development, the agriculture enterprise would not support the development essentially and financially.
21. Given this, it is considered that the proposed development does not meet the relevant criteria and cannot be approved.

Highway issues

22. The proposal is not supported any relevant evidence on highway safety and sufficiency with non-residential car parking standards.

Crime and Disorder

23. It is considered that the proposal would not result in any significant crime and disorder implications.

Human Rights Implications

24. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation. It is considered that no relevant Article of that act will be breached.

Consultations

25. Environmental Protection: No objections

26. Ecology:

It appears this is a part retrospective planning application; temporary solar panels have already been installed and there are proposals for an agricultural building. We have records of badger setts in the vicinity of the development and records of water vole in the watercourse. An ecology survey - to include surveys for badger and water vole - is required.

Please note that ODPM Regulations require protected species surveys to be submitted prior to determination of a planning application. It is also essential that the extent that they may be affected by the proposed development is established before the planning permission is granted. (Reference: Paragraph 99 of ODPM Circular 06/2005 (Biodiversity and Geological Conservation Statutory Obligations and their Impact within the Planning System)).

27. Langham Parish Council:

This site is called Clonmel Farm but is not, and has never been, a farm. It has been a rubbish tip with abandoned trucks for a number of years. There has been someone living in a trailer on the land, without permission, for a number of years also.

Historically, there have been a number of planning applications and planning actions over the years, as follows.

2016/0363/AGP for horticulture and fruit growing. A small building located at the east of the main gate tucked behind the hedge. Despite this location being called Clonmel Farm, Bass Solar Energy, Langham Parish Council saw no issue with a small building to replace existing polytunnels (in disrepair).

2017/0685/AGP for breeding rare breeds and food storage for same. This application required clarification what rare breeds, what agricultural machinery, inconsistency with size of building and declared use. Langham Parish Council recommended refusal as the application was very unclear and did not make sense. Also, clarification was sought by Rutland County Council as to the use of this address for Bass Solar Energy. Neither clarification was provided and RCC refused permission.

Meanwhile, work was started on building a large steel skeleton for a building of some sort just inside the main gate and visible from Cold Overton Road. Permission was not sought for this.

2019/0712/FUL application for agricultural building with solar panels for fruit and hay production. This application was made whilst the RCC Enforcement Officer was working to get clarification on the use of the address for Bass Solar Energy, and the state of the site being covered with abandoned and rusting vehicles and machinery. The details of the proposed business were sketchy, and the size of the building seemed excessive for the use stated.

Now 2021/1417.FUL Retrospective planning application for construction of an agricultural building and solar panels.

Solar panels have been erected which presumably is why the application is for retrospective planning permission.

Site plans

The site plan shows that the Clonmel Farm site has more than doubled in size (one assumes the owner has acquired the neighbouring field). The two tiny rectangles on this site plan, labelled solar panels, we assume indicate the location of the building and the panels as there is no other indication of the building. The scale of this diagram is more than misleading as the relative size of these rectangles would struggle to be representative of a small shed. Furthermore, the DAS point 11 speaks of the location of the building and solar panels being to the north eastern corner, yet the site plan shows rectangles to the SOUTH east. However, another document does put the building and solar panels on the north of the land. Which is correct?

The Block Plans are meaningless as they show nothing except that the solar panels will be beside the building. It looks like a stream beside them, yet the site plan shows the stream in a different location, or perhaps it is the boundary of the land?

Point 9 of the DAS states the owner commenced construction of building based on deemed consent for application 2016/0363/AGP. This is misleading as the deemed consent was for a much smaller building in a totally different location to the south and east near the front hedge and gates.

Point 10 highlights ongoing use of the land as a residence.

Point 12 is concerning as, whilst suggesting use of solar energy to power activities on the site, it suggests further diversification. If this point is juxtaposed with the fact that Clonmel Farm is still the business address of Bass Solar Energy providers of solar equipment, it suggests that there is an intention for the building to be used to store solar equipment for sale rather than for agricultural purposes, and that the solar panels are not intended for use on site but as a main source of income i.e., a Solar Farm.

Point 13 speaks of storage of hay bales, animal feed and machinery for the sheep and pigs that are grazed on the land. There have been no animals on this land for the past 20 years plus, although a few sheep have appeared recently. The land has been covered with rotting vehicles, so this statement is not accurate. There have never been pigs on this land. There are 10 small fruit trees planted near the entrance so the claim of 100 is an exaggeration.

Point 14 speaks of a hay harvest being lost due to the destruction of a polytunnel, where it was stored. Being a regular walker past this site, hay has never been seen being grown or harvested, there has not been a polytunnel on this land since the dilapidated one mentioned in application 2016/0368/AGP. It is worth checking the veracity of this statement. With the

amount of land available it is difficult to see how it could support pigs and sheep as well as a field of hay.

Point 16 and table. The amount of machinery being required for 4.3 hectares seems excessive yet would enable adequate storage of solar equipment for sale.
The policies quoted.

CS1 speaks of 4 principles

- a) Social progress which meets the needs of everyone
 - b) Effective protection of the environment
 - c) The prudent use of resources and
 - d) The maintenance of high and stable levels of economic growth and employment.
- This application does not seem to address any of these.

CS2 Spatial Strategy is about sustainable development to create safe and healthy communities and meet the needs of the local economy. This proposal does not appear practical or well thought through and so confidence in its sustainability must be very low.

CS4 The location of development relates primarily to housing and not to agriculture.
CS16 The rural economy. Point a alone is relevant and requires a certainty that this proposal will indeed benefit the local environment and add to its distinctiveness.

CS19 Promoting good design this proposal does not address design in any way. Indeed, it ignores the fact that looking through a gate onto open countryside one is met with a pile of rubble and six dilapidated mobile homes.

CS20 Energy efficiency and low carbon generation yes, this proposal uses solar panels, so it does meet this policy, but, in theory, is only to be used to meet their agricultural needs. Yet they go on to mention expansion and an income from solar panels.

CS21 The Natural Environment this site has not contributed to the natural environment for years indeed it has taken away from it significantly. Whilst a well sited, green barn at the far end of the site would be acceptable, it is excessively large, is describing a financially unrealistic amount of machinery for a small farming enterprise concerning the growing of hay.

Policies from the Langham Neighbourhood Plan (LNP)

Policy CE3 There is no evidence in this application that there will be any economic benefit to Langham from this proposal.

Policy D3 Parish Architecture THERE IS NO SUCH POLICY and section D deals with development within the PLD and would be irrelevant here, so the quoting of this seems to be an attempt to mislead, or demonstration that the LNP has not been consulted. The references of the NPPF Policies are difficult to support. There is no evidence this proposal is sustainable, it has zero impact on the local economy, there is no evidence of design consideration, and it will not conserve and enhance the local environment. The claim that it will meet the climate change challenge is difficult whilst it may save by producing renewable energy for the agricultural enterprise cited, it can only really add value if it were a solar farm business and it is not what this application is for.

Overall, this application does not seem to be well thought through, does not give clarity about where the building and solar panels will be located, is ambiguous in its statement of ultimate purpose of this proposal (agricultural or solar energy) and shows inconsistencies in size of building, amount of machinery needed and stated agricultural purpose of the land.

The above is of concern, and that concern is exacerbated by the fact the owner of this land has continuously failed to respond to the enforcement officer and has even erected buildings and solar panels without permission despite being under scrutiny from the enforcement officer.

Neighbour Representations

28. 3 Letters of support have been received and can be summarised as follows:

- In favour of the development to enable the field to be farmed
- Will not be detrimental to the environment or surrounding community

Conclusion

29. Based on the information provided it is considered that insufficient justification has been provided to demonstrate that a building, particularly as big as the one proposed is reasonably required for the agricultural/horticultural purposes associated with the smallholding.

30. Acceptance of this scale of development in the countryside without sufficient justification is therefore considered to be contrary to Planning Policies SP7, SP 13, SP15, SP23 of the Site Allocation and Policies Development Plan Document (2014), Section 12 and 14 of the National Planning Policy Framework (2021).