

DELEGATED DECISION REPORT

APPLICATION NUMBER

192748

Middle Brampton Farm, Brampton Road, Madley, Herefordshire, HR2 9LZ

CASE OFFICER: Ms Chloe Smart
DATE OF SITE VISIT: N/A

Relevant Development N/A
Plan Policies:

Relevant Site History: None relevant to this application.

CONSULTATIONS

| | Consult ed | No Respons e | No objectio n | Qualifie d Comme nt | Object |
|--------------|---------------|--------------------|---------------------|------------------------------|--------|
| Local Member | X | | | | |

PLANNING OFFICER'S APPRAISAL:

Site description and proposal:

This application relates to Middle Brampton Farm which lies to the west of the C1196 road in the parish of Madley. Madley is a village south west of Hereford.

This application seeks a lawful development certificate in respect of existing development which has been carried out at the site. The development relates to a 130kw boiler and associated woodchip storage area which has been installed within an existing structure at the barn.

Appraisal:

Process

This application has been made under section 191 of the Town and Country Planning Act 1990 which allows the local planning authority to grant a certificate confirming that an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition is lawful.

The statutory framework setting out what constitutes lawfulness is set out in section 191(2) of the Town and Country Planning Act 1990. In summary, lawful development is development in which no enforcement action can be taken and where no existing enforcement notice is in force.

The relevant time period for development to become lawful in the case of engineering, mining or other operational development is four years.

The applicant is responsible for providing sufficient information to support an application. That information must be factual information or evidence.

In the case of applications for existing development, if the applicant has provided sufficiently robust evidence and the local planning authority has no evidence itself, or from any others to contradict or make an applicant's version of events less than probable, there is no good reason to refuse the application.

This application does not require any assessment of the merits of the proposal. It is simply a case of whether the information submitted by the applicant is sufficiently robust to demonstrate the time period, and there is no contradictory evidence.

There is no requirement to consult third parties regarding this application.

Review of evidence

The application is accompanied by the following:

- Lawful Development Certificate application form;
- Covering Letter;
- Site Location Plan;
- Commissioning Certificates for Biomass Boiler installed within the agricultural building (dated 28th August 2014); and
- Ofgem RHI acceptance letter for the biomass boilers dated 9th March 2015)

The submitted evidence demonstrates the boiler was installed on 24th August 2014. In addition, evidence provided by Ofgem confirms they accepted the boiler and tariffs commenced on 9th March 2015. During the consideration of the application, the applicant's agent also provided a photograph showing the woodchip storage area. The submitted evidence provided by the applicant demonstrates 'beyond the balance of probabilities' that the boiler has been in situ for a period in excess of four years. The Council also has no evidence to the contrary.

As such, the recommendation is to issue a Certificate of Existing Lawful Development for the reason set out below.

RECOMMENDATION: **PERMIT** ☒ **REFUSE** ☐

REASON:

1. This Existing Lawful Development Certificate submission relates to a 130kw boiler and adjacent associated woodchip storage area which has been installed within an existing structure at an existing barn. Based on the evidence submitted by the applicant, the Local

Planning Authority is satisfied that the works were completed in excess of four years ago and therefore represent lawful development. The works comply with Section 191(2) of the Town and Country Planning Act 1990.

Signed: 

Dated: 9th October 2019

TEAM LEADER'S COMMENTS:

DECISION:

PERMIT

☒

REFUSE

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Signed:

..... Dated: 9/10/2019.....