

DELEGATED DECISION REPORT

DET/2022/0021
Valid 07/04/2022

AGRICULTURAL BARN
LOCATED NORTH OF
BREACH ROAD
BROWN EDGE

APPLICATION TO DETERMINE
IF PRIOR APPROVAL IS
REQUIRED FOR PROPOSED
SOLAR PANELS ON
AGRICULTURAL BARN

(AGRICULTURAL/FORESTRY
DETERMINATION)

MAIN ISSUES

- Whether prior approval is required
- If required, is the proposal acceptable

DESCRIPTION OF SITE

Field barn recently approved under DET/2021/0026. Semi-remote location alongside well hedged field boundary in wider area of fields with little or no public prominence / visibility of the site.

PROPOSAL

The application appears to have been submitted with the expectation that prior approval would be needed under Class J of Part 14 to the GPDO (2015) Schedule 2.

The submitted drawings show that solar panels would be attached to both the westerly and easterly roof slopes of the approved barn. Further inquiries with the applicant have established that the installed panel system would have a maximum output energy generation capacity of 7.6kW. [NB this information is on file but not placed on line as it contains commercial costings.]

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

GPDO(2015) Schedule 2 Part 14 Class J – installation or alteration etc of solar equipment on non-domestic premises

Permitted development

J. The installation, alteration or replacement of—

- (a) microgeneration solar thermal equipment on a building;
- (b) microgeneration solar PV equipment on a building; or
- (c) other solar PV equipment on the roof of a building,

other than a dwellinghouse or a block of flats.

Sections J.1, J.2 and J.3 go on to list specific details of development not permitted.

Section J.4 sets conditions which have to be met. J.4(1) says: Class J development is permitted subject to the following conditions—

- (a) the solar PV equipment or solar thermal equipment must, so far as practicable, be sited so as to minimise its effect on the external appearance of the building and the amenity of the area; and
- (b) the solar PV equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed.

J.4(2) is specific to Class J(c) development and says: Class J(c) development is permitted subject to the condition that before beginning the development the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the design or external appearance of the development, in particular the impact of glare on occupiers of neighbouring land, and the following sub-paragraphs apply in relation to that application. [There are then listed a further ten clauses setting out the procedure to be followed in submitting for prior approval.]

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

DET/2021/0017 – wood panelled agricultural building PNREQU

DET/2021/0026 – wooden-clad agricultural building PNREQU – granted

CONSULTATIONS

Publicity

Site Notice expiry date: 24th May 2022

Neighbour consultation period ends: N/A

Press Advert: N/A

Public Comments

None

Town / Parish Comments

None

OFFICER COMMENTS

Principle of Development

Part 14 Class J provides certain specified terms by which solar panels may be installed on non-domestic buildings. The building in question is certainly non-domestic and Class J is therefore relevant and applicable in that respect.

Class J distinguishes between ‘microgeneration’ as itemised at J.(a) and J.(b) and ‘other’ as itemised at J.(c). Also to be noted is that J.(c) is exclusive to the roof of a building whereas (a) and (b) can be attached to the wall of a building as well as the roof.

'Microgeneration' is defined in the Interpretation section (P) of Part 14 where it says – "microgeneration" has the same meaning as in section 82(6) of the Energy Act 2004. Section 82 is shown on the Government Legislation web pages as "up to date with all changes known to be in force on or before 01 June 2022". The defining limit is given at s.82(8)(a) as being 50kW in relation to the generation of electricity. There is a 45kW threshold for schemes generating energy by thermal heating. The proposal here however would use photovoltaic panels to generate electricity.

As noted under the Proposal section of this report, the generation capacity of this project is 7.6kW and therefore well within the defining limit of 'microgeneration'. It is only if the output capacity were to exceed 50kW that it would potentially come under J.(c) as 'other photovoltaic' apparatus. Paragraph J.3 places a 1MW upper limit on J(c) development.

Having examined all of the above it can be concluded that this proposal would be permitted development under Part 14 Class J(b) – microgeneration solar PV equipment on a building as part of non-domestic premises.

There is therefore in fact no requirement to apply to the LPA for determination as to whether prior approval is required.

Assessment

Had prior approval been required the specific points for determination are set out in Class J at condition J.4(2) – these would relate to "the design or external appearance of the development, in particular the impact of glare on occupiers of neighbouring land".

Given that there is no requirement for the LPA to make an assessment it is not proposed to do so other than to remark that the likelihood of glare being problematic in its impact on occupiers of neighbouring land can reasonably be judged as very low. There is a dwelling at c.160m to the east which is likely to have line of sight with the east facing solar panels although, in addition to the distance of separation, the visibility is likely to be further reduced by intervening hedgerow.

CONCLUSION / PLANNING BALANCE

A decision notice can be issued to state that prior approval is not required. However it would be important to state that this is on the basis of the specific development proposed being already 'permitted' without recourse to the prior approval procedure.

OFFICER RECOMMENDATION : **Prior approval not required**

Case Officer: Arne Swithenbank

Recommendation Date: 01.06.2022

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council