

Delegated Report

Planning Ref: 24/01078/P14J

Applicant: Sainsbury's

Ward: Hinckley Castle

Site: Sainsbury's, 20 Rugby Road, Hinckley

Proposal: Roof-mounted solar PV installation



Hinckley & Bosworth
Borough Council

Recommendations

1.1. Prior approval given

Planning application description

- 2.1. This application is made under the provisions of the Schedule 2, Part 14, Class J of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The application considers if prior approval is required for the installation of 954 Panels Photovoltaic System to the roof area of the development site.
- 2.2. In considering the application the local planning authority are restricted to expressing opinions on matters of design, external appearance, and glare impact upon neighbouring occupiers only.
- 2.3. The plans submitted within this application indicate that the solar panels shall be located atop the roof of the site, with all other equipment other than the panels themselves will be installed out of sight.

Description of the site and surrounding area

- 3.1. The application site is located on Rugby Road, within the crescent retail site. The building has a flat roof. The building is located within proximity to a number of retail units within the crescent and is adjacent to other commercial business and residential dwellings.
- 3.2. Documents submitted with the application:
 - Application form
 - Site Location Plan
 - COR-PV DESIGN PLAN Rev C
 - Side View Drawing
 - Project Report
 - Specifications Document

4.0 Relevant planning history

23/00016/ADV

Proposed installation of non-illuminated wall and 4 illuminated flex face signages

Advertisement Consent

24/02/2023

5.0 Publicity

- 5.1 A site notice was posted within the vicinity of the site and neighbours have been notified by letter.
- 5.2 No comments have been received.

6.0 Consultations

- 6.1 None

7.0 Policy

7.1 Class J, Part 14, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended)

7.2 Core Strategy (2009)

- Spatial Objective 12: Climate Change and Resource

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM2: Delivering Renewable Energy and Low Carbon Development
- Policy DM10: Development and Design

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

7.5 Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

Appraisal

8.1. The key issues in respect of this application are therefore:

- Whether the proposal meets the criteria set within Class J, Part 14, Schedule 2 of the GPDO
- Design and external appearance
- Conditions

8.2 Class J, Part 14, Schedule 2 of the GPDO permits the installation or alteration etc of solar equipment on non-domestic properties.

Permitted development

8.3 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

This application is relevant to Class J(c) because it refers to solar PV equipment that exceeds the definition of 'microgeneration' as per section 82(6) of the Energy Act 2004.

8.4 The criteria of Class J, Part 14, Schedule 2 of the GPDO is as follows:

J.1 Development is not permitted by Class J if—

- (a) The solar PV equipment or solar thermal equipment would be installed on a pitched roof and would protrude more than 0.2 metres beyond the plane of the roof slope when measured from the perpendicular with the external surface of the roof slope

N/A

(b) The solar PV equipment or solar thermal equipment would be installed on a flat roof, where the highest part of the solar PV equipment would be higher than 1 metre above the highest part of the roof (excluding any chimney);

The highest part of the solar PV equipment installed on the roof is not higher than 1 metre above the highest part of the roof.

(c) the solar PV equipment or solar thermal equipment would be installed on a roof and within 1 metre of the external edge of that roof;

The solar PV equipment is not installed within 1 metre of the external edge of the roof of the property.

(e) the solar PV equipment or solar thermal equipment would be installed on a site designated as a scheduled monument; or

The solar PV equipment is not on a site designated as a scheduled monument.

(f) the solar PV equipment or solar thermal equipment would be installed on a listed building or on a building within the curtilage of a listed building.

The solar PV equipment would not be installed on a Listed Building or on a building within the curtilage of a Listed Building.

J.2 Development is not permitted by Class J(a) or (b) if—

(a) the solar PV equipment or solar thermal equipment would be installed on a wall and would protrude more than 0.2 metres beyond the plane of the wall when measured from the perpendicular with the external surface of the wall

The development is not installed on a wall.

(b) the solar PV equipment or solar thermal equipment would be installed on a wall and within 1 metre of a junction of that wall with another wall or with the roof of the building; or

The scheme is not installed on a wall or within 1 metre of a junction of that wall with another wall or with the roof of the building.

(c) in the case of a building on article 2(3) land, the solar PV equipment or solar thermal equipment would be installed on a wall which fronts a highway.

The development is not installed on a building on article 2(3) land.

Conditions

J.4 — (1) 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

The development has been sited in the centre of the roof which so far as practicable minimises the effect on the external appearance of the building and amenity of the area.

(b) the solar PV equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed.

The applicant will need to comply with this, it is not a matter for considering under this application.

(2) 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.

Design and external appearance

Paragraph 161 of the NPPF state that the planning system should support renewable energy developments and approve them where their impacts are acceptable. Policy DM2 of the adopted SADMP supports appropriately designed and sited renewable energy and low carbon developments. Policy DM10 requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features.

The proposed development would be on the roof of the building with all equipment other than the panels themselves being out of sight. Due to the minimal protrusion of the panels they would be out of sight from ground floor level & largely out of sight from a streetscene perspective. Furthermore the site and panels are some distance from residential properties and at a higher level.

Therefore, it is considered that there would minimal impact to the character of the surrounding area and to neighboring amenities. By virtue of these factors, the application respects the character of the existing dwellings and the surrounding area, which is in accordance with Paragraph 154 of the NPPF, Policy 1 of the adopted Core Strategy, Policies DM1, DM2 and DM10 of the adopted SADMP, and the Good Design Guide. Prior approval is therefore granted.

(3) The application must be accompanied by—

- (a) a written description of the proposed development;
 - (b) a plan indicating the site and showing the proposed development;
 - (c) the developer's contact address; and
 - (d) the developer's email address if the developer is content to receive communications electronically;
- together with any fee required to be paid,

The above information has been accompanied with the application.

(4) The Local Planning Authority may refuse an application where, in the opinion of the Authority—

- (a) the proposed development does not comply with, or
- (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions,

limitations or restrictions specified in Class J applicable to the development in question

The application complies with Class J, Part 14, Schedule 2 of the GPDO.

(5) Sub-paragraphs (6) and (8) do not apply where a local planning authority refuses an application under sub-paragraph (4) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

This is not applicable

(6) The Local Planning Authority must give notice of the proposed development—
(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—

- (i) describes the proposed development;
- (ii) provides the address of the proposed development;
- (iii) specifies the date by which representations are to be received by the local planning authority; or

(b) by serving a notice in that form on any adjoining owner or occupier.

A site notice was placed near the land to which the application relates to on 5 December 2024

(7) The Local Planning Authority may require the developer to submit such information as the authority may reasonably require in order to determine the application

The developer has submitted sufficient information in order for the Local Planning Authority to determine the application.

(8) The Local Planning Authority must, when determining an application—
(a) take into account any representations made to them as a result of any notice given under sub-paragraph (6); and

(b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in July 2021, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

(9) The development must not begin before the occurrence of one of the following—

- (a) the receipt by the applicant from the Local Planning Authority of a written notice of their determination that such prior approval is not required;
- (b) the receipt by the applicant from the Local Planning Authority of a written notice giving their prior approval; or
- (c) the expiry of 56 days following the date on which the application under sub-paragraph (3) was received by the Local Planning Authority without the authority notifying the applicant as to whether prior approval is given or refused

(10) The development must be carried out—

- (a) where prior approval is required, in accordance with the details approved by the Local Planning Authority;
- (b) where prior approval is not required, or where sub-paragraph (9)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (3),

unless the Local Planning Authority and the developer agree otherwise in writing.

(11) The Local Planning Authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

(12) When computing the number of days in paragraph (6)(a), any day which is a public holiday must be disregarded.

Equality implications

- 7.3 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.4 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 7.5 There are no known equality implications arising directly from this development.
- 7.6 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

8.0 Conclusion

- 8.1 The application seeks to install up to 954 Photovoltaic Panels on the pitched roof of the existing building as supported in the NPPF. The proposal meets the relevant criteria of Class J, Part 14, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO) (as amended). The design, external appearance and glare of the proposed development does not have a significantly adverse impact upon the character of the site or neighbouring amenity. This proposal is therefore in accordance with Policies DM1, DM2 and DM10 of the SADMP. Prior approval of the Local Planning Authority is therefore given.

Recommendation

11.1 Prior approval given

a. Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.