

Hanwell Fields Community Centre, Rotary Way, Banbury

15/00015/CLUE

Ward: Banbury Hardwick

District Councillor/s: Cllrs
Donaldson, Ilott and Turner

Case Officer: Laura Bailey

Recommendation: Approval

Applicant: Cherwell District Council

Application Description: Certificate of Lawful Use Existing for a photovoltaic array installation on south west facing roof

Committee Referral: Council owned land

Committee Date: 19 March 2015

1. Site Description, Background and Proposed Development

- 1.1 The Hanwell Fields Community Centre is situated north west of the Rotary Way roundabout, adjacent to 'The Hanwell Arms' public house and the car parking serving a number of local shops to the north west. Hanwell Fields Community School is situated across the road to the south of the site. There are no relevant site constraints.
- 1.2 This application seeks a Certificate of Lawfulness (existing) for the installation of solar panels on the south west facing roof.

2. Application Publicity

- 2.1 There is no duty on the Local Planning Authority to publicise Certificate of Lawfulness applications. However, the Town Council have been consulted on the application as have the Council's Legal Team.

3. Consultations

- 3.1 **Bicester Town Council:** No comments received.

Cherwell District Council Consultees

- 3.2 **Council's Solicitor:** No comments received.

Oxfordshire County Council Consultees

- 3.4 None.

Other Consultees

- 3.5 None

4. Relevant Planning History

- 4.1 95/01117/OUT (PER) Residential development, new link road, landscaping, ancillary development and new primary school site, (as amended by additional masterplan received 15/05/96 and link road plans received 27/03/97).
- 4.2 05/00809/REM (PER) Reserved Matters to Outline 95/01117/OUT: Mixed Use Local Centre comprising of up to 7 No. A1, A2 and A5 units, public house, community centre, 39 No. 1 and 2 bed flats, land identified for possible future doctors surgery, landscaping and parking. Including temporary construction access (as amended by plans received 30/06/05, 01.08.05, 24.10.05 and 11.11.05).
- 4.3 Neither the enabling outline planning permission nor reserved matters applications contain any relevant restrictive conditions withdrawing permitted development rights for the installation of solar PV.

5. Appraisal

- 5.1 Section 191 of the Town and Country Planning Act allows for an application to be made to the Local Planning Authority to ascertain whether an existing use of buildings or other land is lawful. If the Local Planning Authority are provided with information satisfying them of the lawfulness of a current use at the time of the application they shall issue a certificate to that effect. S.191(2) states "For the purposes of this Act uses and operations are lawful at any time if— (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force."
- 5.2 The Town and County Planning (General Permitted Development) Order 1995, as amended (2012 – SI 2012 749), at Part 43 to Schedule 2 sets out permitted development rights for solar panels, ground and water source heat pumps, and flues forming part of biomass and combined heat and power systems installed on non-domestic premises, subject to certain limitations and criteria
- 5.3 These permitted development rights can only be implemented in accordance with certain limitations and criteria, which are as follows:
 - Panels should be sited, so far as is practicable, to minimise the effect on the external appearance of the building and the amenity of the area.
 - When no longer needed for micro-generation panels should be removed as soon as reasonably practicable.
 - Solar panels installed on a wall or a pitched roof should project no more than 200mm from the wall surface or roof slope.
 - Where panels are installed on a flat roof the highest part of the equipment should not be more than one metre above the highest part of the roof (excluding the chimney).
 - Equipment mounted on a roof must not be within one metre of the external edge of the roof.

- Equipment mounted on a wall must not be within one metre of a junction of that wall with another wall or with the roof of the building.
- The panels must not be installed on a listed building or on a building that is within the grounds of a listed building.
- The panels must not be installed on a site designated as a scheduled monument.
- If the building is on designated land* the equipment must not be installed on a wall or a roof slope which fronts a highway.

**Designated land includes national parks and the Broads, Areas of Outstanding Natural Beauty, conservation areas and World Heritage Site.*

- 5.4 It is considered that the installation of the solar panels meets the criteria set out above and therefore is considered lawful.
- 5.5 This assessment and the subsequent certificate are not based upon an assessment of the application against the development plan or other material considerations; it is based solely upon a judgement of the evidence presented against the requirements of Section 191 of the principal Act.

Engagement

- 5.6 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of this submission.

Conclusion

- 5.7 Based on the assessment above, it is recommended that the certificate be granted.

6. Recommendation – Grant

FIRST SCHEDULE

Installation of a photovoltaic array on the south west facing roof slope

SECOND SCHEDULE

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THIRD SCHEDULE

Having regard to the information submitted by the applicant, the planning application records and information held by the Local Planning Authority, the Local Planning Authority is satisfied that the works described in the first schedule benefit from a deemed grant of planning permission pursuant to Part 43, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way through the efficient and timely determination of the application.