

# Planning Committee

## 10 December 2024



<b>Application No.</b>	24/01133/PAP
<b>Site Address</b>	Sunbury Leisure Centre, Nursery Road, Sunbury-on-Thames, TW16 6LG
<b>Applicant</b>	Spelthorne Borough Council
<b>Proposal</b>	Prior Approval Notification for the installation of a further 89 no.1kWp (kilowatt 'peak') solar photo voltaic (PVs) panels to the roof
<b>Case Officer</b>	Kelly Walker
<b>Ward</b>	Halliford and Sunbury West
<b>Called-in</b>	N/A. This application is being referred to the Planning Committee for a decision, as the applicant is Spelthorne Borough Council

<b>Application Dates</b>	Valid: 23.10.2024	Expiry: 18.12.2024	Target: Within 8 weeks
<b>Executive Summary</b>	<p>The subject property is Sunbury Leisure Centre, which is located on the northern side of Nursery Road. The site is irregular in shape with the building set back from the road, with car parking in front. To the north and east is Sunbury Manor School, and to the west are the rear gardens of the dwellings located along Beverley Road. The site is located in the urban area.</p> <p>The application is a Prior Approval Notification, (a Permitted Development Procedure), and the proposal is for the installation of a further 89 no.1 kWp Solar Photovoltaic (PV) panels to the sloping roofs of the existing leisure centre. There is already a group of panels on the roof which were installed in 2004. As the proposed panels will generate in excess of 50 kilowatts of electricity, Prior Approval is required under Schedule 2, Part 14, Class J(c) of the Town and Country Planning (General Permitted Development) Order 2015 (GDPO) (As amended), for the installation of solar equipment on non-domestic premises. This type of application requires an assessment on design and external appearance of the development, in particular the impact of glare on occupiers of neighbouring land.</p> <p>The location of the building away from neighbouring properties and directed towards the road, together with the fact that the solar panels will protrude only 80mm from the sloping roof profile, will ensure the proposal has an acceptable design and appearance and an acceptable impact of on occupiers of neighbouring properties in regard to glare.</p>		

	Therefore, the proposal is considered to meet the requirements of Prior Approval and is acceptable
<b>Recommended Decision</b>	Grant the Prior Approval Notification subject to conditions

## MAIN REPORT

### 1. Development Plan

- 1.1 The following policies in the Council’s Core Strategy and Policies DPD 2009 are considered relevant to this proposal:
- SP6 (Maintaining and improving the Environment)
  - EN1 (Design of New Development)
- 1.2 The policies contained within the National Planning Policy Framework (NPPF) (December 2023) are also relevant. The Government also published a draft revised NPPF in July 2024, which has not currently been adopted. The draft NPPF is given limited weight currently.
- 1.3 On 19 May 2022, the Council agreed that the draft Spelthorne Local Plan 2022 – 2037 be published for public consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The public consultation for the Pre-Submission Publication version of the Local Plan ended on 21st September 2022 and the local plan was submitted to the Planning Inspectorate on 25th November 2022.
- 1.4 An Examination into the emerging Local Plan commenced on 23 May 2023. However, on 6 June 2023, the Council resolved to request that the Planning Inspector pause the Examination for a period of three (3) months to allow time for the new council to understand and review the policies and implications of the emerging Local Plan. After the three month pause, the Council would decide what actions may be necessary before the Local Plan Examination should proceed.
- 1.5 At the meeting of the Council on 19 July 2023, it was agreed that Catriona Riddell & Associates be appointed to provide ‘critical friend’ support to inform the options for taking the Local Plan process forward.
- 1.6 On 14 September 2023, the Council considered a report following the deferral in June. The report listed three options; to continue with the local plan to include further work (especially on design codes), to request a further pause, or to withdraw the local plan. On the day of the meeting, a letter was received from the Housing Minister stating that the Housing Secretary was directing the Council “not to take any step to withdraw the plan from examination...” The Council resolved to extend the pause in the Examination timetable until the proposed changes to the NPPF had been published before determining the next steps.

- 1.7 On 22 September 2023, the Inspector agreed to a further pause to the Examination and requested that the Council continue to address the issues that he identified in the first week of the Examination, in particular flood risk and its potential implications in relation to the site allocation and delivery strategy of the plan.
- 1.8 On 10 November 2023, the Environment Agency (EA) provided comments on Spelthorne's Level 1 and Level 2 Strategic Flood Risk Assessment (SFRA) seeking additional information, amendments and updates to the assessment.
- 1.9 Following the Environment & Sustainability Committee meeting on 29 February 2024, it was resolved to propose, to the Planning Inspector, modifications to the emerging Local Plan, including the removal of all Green Belt site allocations, with the exception of two allocations that meet the need for Gypsy, Traveller and Travelling Showpeople, the removal of site allocations at high risk of flooding and to move some higher flood risk sites to the later plan period (years 11-15), and the withdrawal the Staines Development Framework as a core document.
- 1.10 On 19 March 2024 the Council published updated Level 1 and Level 2 SFRA. On 2 May 2024 the EA provided comments, including a request for additional clarification which was provided on 17 May 2024.

On 18 July 2024, Council considered a report into the resumption of the Local Plan Inquiry which had previously been agreed by the Corporate Policy and Resources Committee on 8 July 2024. The report set out the recent response from the Environment Agency, and the options for deciding whether or not Council agreed a request for further Main Modifications to the Local Plan in order to resume the Examination hearings and progress the Plan to adoption. Council agreed the option to progress the local plan and officers requested this from the Inspector.

- 1.11 On 24 October 2024, the Council agreed to re-instate 13 of the 15 Green Belt sites as housing allocations and request the Planning Inspector to resume the Examination into the Local Plan. Officers have now requested this from the Inspector.
- 1.12 The following policies of the Pre-Submission Spelthorne Local Plan 2022 – 2037 are of relevance:
- ST1: Presumption in Favour of Sustainable Development.
  - ST2: Planning for the Borough.
  - PS2: Designing places and spaces.
- 1.13 The NPPF policy states at para 48 that: Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

- 1.14 Section 38(6) the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan (unless material considerations indicate otherwise) and not in accordance with an emerging plan, although emerging policies may be a material consideration.
- 1.15 At this stage, the policies in the Pre-Submission Spelthorne Local Plan carry limited weight in the decision-making process. The adopted policies in the 2009 Core Strategy and Policies DPD carry substantial weight in the determination of this planning application.

**2. Relevant Planning History**

2.1 The site has the following relevant planning history:

92/00119/DEE	Erection of a dual use leisure centre including sports hall and swimming pool with parking and alterations to highway.	Grant 29.04.1992
04/00295/FUL	Installation of an array of solar panels to the south elevation of the swimming pool roof.	Lapsed 08.06.2004

**3. Description of Current Proposal**

- 3.1 This application relates to Sunbury Leisure Centre, which is situated on the northern side of Nursery Road. The site is irregular in shape and the building is set back from the road with a car park in front. To the north and east is Sunbury Manor School, and to the west are the rear gardens of the dwellings located along Beverley Road. The site is located in the urban area.
- 3.2 This application is for a Prior Approval Notification for the installation of solar panels on the roof of the leisure centre. There is already an array of solar panels on the leisure centre roof which was installed in 2004. This proposal is for the installation of more solar panels adjacent to these on the front elevation, and also on the rear roof elevation.
- 3.3 Under Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) Order 2015 (GDPO) (as amended), the installation of solar equipment on non-domestic premises constitutes permitted development, subject to meeting various requirements. The proposal will generate in excess of 50 kWp of energy and therefore would fall within Class J(c), which permits development subject to the condition that before beginning 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.

#### 4. Consultations

4.1 No consultations are required for this prior approval notification

#### 5. Public Consultation

5.1 The Council has sent letters to 17 properties. No letters of representation have been received.

#### 6. Planning Issues

- Design and appearance (glare)

#### 7. Planning Considerations

7.1 This application seeks Prior Approval for the installation of photovoltaic (PV) solar panels on the roof of the existing leisure centre building, with a total installed capacity of 89 kWp. The proposed rear array will measure approx. 35m in length and 7m in width and the front array will measure some 19m by 6m.

7.2 As noted above under Class J, Part 14, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, development is not permitted by Class J if **(Officer response in bold)**:

(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. **The panels protrude only 0.08 metres from the pitched roof plane.**

(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) **(Not relevant as not installed on a flat roof)**

€ the solar PV equipment or solar thermal equipment would be installed within 1 metre of the external edge of that roof. **The panels are set at least 1m from the external edge of the roof.**

(d) in the case of a building on article 2(3) land, the solar PV equipment or solar thermal equipment would be installed on a roof slope which fronts a highway. **(Not relevant as the site is not located in a Conservation Area)**

€ the solar PV equipment or solar thermal equipment would be installed on a site designated as a scheduled monument; **(Not relevant)** or

(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. **(Not relevant)**'

7.3 However, as noted above, the proposal is for micro solar PV equipment and which will generate in excess of 50 kilowatts of electricity (the proposal is for

89 kilowatts). Therefore, the proposal would fall within Class J(c), and as such, this application has been submitted for a determination as to whether the Prior Approval of the authority will be required for the design or external appearance of the development, in particular the impact of glare on occupiers of neighbouring land. Given what is proposed, and its location adjacent to neighbouring properties, It is considered that Prior Approval is required and is considered below.

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

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, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

7.5 The proposal includes two no. arrays of solar panels. Both will be installed on the pitched roof of the existing leisure centre building, facing south. One will be located on the front sloping roof, located beneath the existing panels, and one will be on the rear roof, but on the slope that is angled towards the building. As such, the rear array will not be readily visible from outside the site. The proposed panels will protrude from the plane of the existing roof slope by 80mm and will be set back at least 1m from the edge of the external roof (1.2m at its closest), which has a gentle slope and already has some solar panels upon it. Also, the roof is already of a dark colour and the installation of more panels would not be particularly evident. The panels at the front of the building will be located approximately 18m from the side boundary with the rear gardens of the residential properties on Beverley Road. The properties are approximately 36 m away. Also, it should be noted that no letters of objection have been received in relation to the proposal. The building is also set back approximately 80m from Nursery Road to the south. The panels would not be readily visible from outside the site as they are located at height on the gentle sloping roof on the existing building.

7.6 Therefore, the proposed solar panels will not significantly affect the external appearance of the building and will have an acceptable design. Given the distance from the road and boundaries, and given the angle of the roof, there will not be a significant impact in regard to glare on occupiers of neighbouring land.

7.7 It is acknowledged that the proposal relates to an application for Prior Approval and the policies of the Local Plan are therefore identified for guidance purposes in addressing the potential impact of the proposal on the identified criteria. As such the proposal is considered to accord with Policy EN1 of the Core Strategy and Policies DPD.

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

The local planning authority must, when determining an application—

- (c) take into account any representations made to them as a result of any notice given under sub-paragraph (6); and
- (d) have regard to the National Planning Policy Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

7.9 The NPPF on climate change and renewables states that

*‘163. When determining planning applications for renewable and low carbon development, local planning authorities should:*

*(a) not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions.*

*(b) approve the application if its impacts are (or can be made) acceptable ...*

*164. In determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights) ....’*

7.10 As noted above no letters of objection have been received in relation to the proposal. The proposal provides energy efficiency and low carbon energy on a non-domestic building energy by a renewable source, which would have an acceptable impact, and as such accords with the NPPF.

### Conclusion

7.11 It is considered that Prior Approval is required. The proposed development would have an acceptable design and external appearance, with particular regard to the impact of glare on occupiers of neighbouring land. The proposal will provide a renewable source of energy for an existing building and accordingly, the Prior Approval application is recommended for approval.

## **8 Recommendation**

8.1 APPROVE subject to the following conditions:

1. The development hereby permitted shall be completed within three years from the date of this permission.

Reason: -. This condition is required by Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: E010 01 received on 19 September 2024, site location plan received on 21 October 2024 and amended plan numbered E010 02 received on 21 November 2024.

Reason: -. For the avoidance of doubt and to ensure the development is completed as approved.

3. The solar photovoltaic (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.

Reason: -. In the interest of visual amenity.

4. The solar photovoltaic (PV) equipment shall be removed as soon as reasonably practicable when it is no longer needed.

Reason: -. In the interest of visual amenity.