

# APPLICATION FOR A CERTIFICATE OF LAWFULNESS OF PROPOSED USE OR DEVELOPMENT FOR THE INSTALLATION OF SOLAR PANELS TO ASSIST IN POWER GENERATION AT BLACKMINSTER SEWAGE TREATMENT WORKS, WORCESTERSHIRE

**Applicant**

Severn Trent Water Limited

**Local Councillor**

Mr Alastair Adams

**Background****Background to Certificate of Lawfulness of Proposed Use or Development**

Section 192 of the Town and Country Planning Act 1990 (as amended) enables a person to ascertain whether a proposed use of building or other land, or any operations proposed to be carried out in, on, over or under land would be lawful for planning control purposes. Once a certificate is granted, it remains valid for the use or development described in it, on the land it describes, provided there is no subsequent material change in the circumstances.

The grant of a certificate applies only to the lawfulness of development carried out, or proposed, in accordance with the planning legislation. It does not remove the need to comply properly with any other legal requirements, such as consents required under the Wildlife and Countryside Act 1981, or the Listed Building and Conservation Areas Act 1990.

**Background to the proposal**

The applicant states that water utilities are amongst the most significant users of electricity in comparison to other sectors. Water industry operations require large amounts of energy for water and sewage treatment. Water UK policy describes how the wastewater processes in particular uses about half of the total operational energy. In recent years the total amount of energy used by the water industry has increased to comply with tougher environmental standards and to serve more people in a growing population.

Under Section 2(3) of the Water Industry Act 1991 (as amended) the regulator has a duty to ensure that the activities of the water companies are performed, "... in the manner...best calculated to contribute to the achievement of sustainable development".

In order to address this responsibility, Severn Trent Water Limited has a programme of efficiency improvements to minimise demand for energy. In addition, it has a policy to increase on-site renewable energy generation at both clean water and waste water sites in order to meet corporate objectives on protecting the wider environment. This forms part of a long-term strategy to increase renewable energy generation as set out in their Business Plan (2015-2020). The applicant's target is to increase the amount of electricity produced from renewable energy technologies to meet 50% of their own electricity demand by 2020. As a result, the applicant is investigating installing solar panels to assist in power generation at Blackminster Sewage Treatment Works and has made this application for a Certificate of Lawfulness of Proposed Use or Development.

## The Proposal

Severn Trent Water Limited is applying for a certificate of lawfulness of proposed use or development for the installation of solar panels to assist in power generation at Blackminster Sewage Treatment Works, Worcestershire. The Sewage Treatment Works measures approximately 3.5 hectares in area. It is proposed that the solar panels would cover an area of about 0.86 hectares.

The proposed solar panels would be ancillary to the sewage treatment operations at the site. They would have a potential installed capacity of 0.44 Megawatts (MW). The arrays would be positioned within the south of the Blackminster Sewage Treatment Works. The panels would all be south facing and would have a total average production in a year of approximately 385,440 Kilowatt-hour (kWh). The total grid imported energy consumed by the Blackminster Sewage Treatment Works is approximately 805,259 Kilowatt-hour (kWh) per annum. The proposed solar panel installation would off-set approximately 48% of the current energy imports. The maximum height of the panels would be approximately 2.4 metres.

## The Site

The application site, which is approximately 1.35 hectares in area, is located within the confines of the wider Blackminster Sewage Treatment Works, which is about 3.5 hectares in area. The proposed solar panels would cover an area of approximately 0.86 hectares. The Sewage Treatment Works, which has been in operation since the 1960's, consists of tanks and a pond.

The Sewage Treatment Works is bound by railway line to the north; Blackminster Business Park to the east; Broadway Brook and open countryside to the south and west.

The Sewage Treatment Works is accessed via Station Road which is located to the north-east of the application site.

A Public Right of Way (Footpath 505 (C)) runs beyond the application site to the south, approximately 50 metres away, in a north-west to south direction.

The Broadway Brook Local Wildlife Site (LWS) is situated adjacent to the south-western boundary of the site. Littleton, Broadway & Badsey Brooks and tributaries LWS is situated about 450 metres east of the site.

Part of the wider Blackminster Sewage Treatment Works is located within Flood Zone 2 and 3.

The nearest residential property to the application site is 'The Outlook' situated about 170 metres east of the application site. Further residential properties are situated along Station Road and Blackminster Road, a minimum of 200 metres away, located to the east of the proposal.

## Summary of Issues

The issue for consideration is whether the proposed development would constitute 'Permitted Development' under The Town and Country Planning (General Permitted Development) Order 2015.

## Planning Policy

This application is for a Certificate of Lawfulness of Proposed Use or Development, and is not an application for planning permission, and therefore, is not assessed against the development plan policies.

## Consultations

**County Councillor Adams** – No comments received.

**Wychavon District Council** request that the provisions of the General Permitted Development Order (2015) are taken into account in the determination of the planning application.

**Badsey Parish Council** – No comments received.

## Other Representations

There is no statutory requirement to consult third parties, other than the District Council on such applications. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining such applications. Therefore, no publicity of the application has been carried out.

## The Head of Strategic Infrastructure and Economy Comments

The County Planning Authority must be satisfied that having assessed the information submitted that the proposed use or development described would be lawful if instituted or began at the time of the application to issue a Certificate of Lawfulness of Proposed Use or Development. In any other case the application should be refused.

Severn Trent Water Limited is the sewerage undertaker for

Worcestershire. The proposed development can, therefore, be considered under Schedule 2 'Permitted development rights', Part 13 'Water and sewerage', Class B 'Development by or on behalf of sewerage undertakers' of the Town and Country Planning (General Permitted Development) (England) Order 2015. Class B States:-

*"B. Development by or on behalf of a sewerage undertaker consisting of:-*

*(a) development not above ground level required in connection with the provision, improvement, maintenance or repair of a sewer, outfall pipe, sludge main or associated apparatus;*

*(b) the provision of a building, plant, machinery or apparatus in, on, over or under land for the purpose of survey or investigation;*

*(c) the maintenance, improvement or repair of works for measuring the flow in any watercourse or channel;*

*(d) the installation in a sewerage system of a pumping station, valve house, control panel house or switch-gear house;*

*(e) any works authorised by or required in connection with an order made under section 73 of the Water Resources Act 1991 (power to make ordinary and emergency drought orders)(a);*

*(f) any other development in, on, over or under their operational land, other than the provision of a building but including the extension or alteration of a building".*

It is considered that the proposed development could fall under Class B(f), however, the proposal must be on Severn Trent Water Limited's operational land and must not include the provision of a building. The order does not define 'operational land', but a definition is included within Section 263 of the Town and Country Planning Act 1990 (as amended), which defines operational land in relation to statutory undertakers as:-

- a) "land which is used for the purpose of carrying on their undertaking; and*
- b) land in which an interest is held for that purpose".*

It is considered that as the proposal would be located wholly within Blackminster Sewage Treatment Works, which is owned and operated by Severn Trent Water Limited for the purposes of carrying out their undertakings that the proposal would be located on operational land. The applicant has confirmed that no new buildings would be constructed. Inverters would be mounted on the rear of the solar panels. The cables would be buried and would transfer the energy generated to the existing operational switch house, from where electricity produced is distributed around the Sewage

Treatment Works.

There are a number of exclusions under class B(f) which related to buildings, which is not relevant in this instance or which limit plant and machinery height to 15 metres. The applicant has confirmed that the proposal would be approximately 2.4 metres in height, so this exclusion does not apply. There are conditions for Class B development but none of these relate to Class B(f).

Finally, the Government's Planning Practice Guide (PPG) at paragraph Reference ID: 13-019-20140306 states that *"if the proposed development would fall into Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended), it would only be permitted where a local planning authority has issued a screening opinion determining that the development is not environmental impact assessment development"*. The County Planning Authority has adopted a Screening Opinion, which confirms that the proposal is not one for which an Environmental Impact Assessment is required.

## Conclusion

The Head of Strategic Infrastructure and Economy considers that on the basis of the submitted application form, supporting statement and plans that the proposed installation of solar panels to assist in power generation at Blackminster Sewage Treatment Works would constitute Permitted Development under Schedule 2, Part 13, Class B(f) of the Town and Country Planning (General Permitted Development) Order 2015.

## Recommendation

**The Head of Strategic Infrastructure and Economy recommends that a Certificate of Lawfulness of Proposed Use or Development should be granted for the proposed installation of solar panels to assist in power generation at Blackminster Sewage Treatment Works, Worcestershire, for the following reason:**

- a) The proposal represents permitted development under Part 13, Class B(f) of Schedule 2 of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015.**

## List of Background Papers

In the opinion of the proper officer (in this case the Head of Strategic Infrastructure and Economy) the following are the background papers relating to the subject matter of this item:

The application, plans and consultation replies in file reference 15/000033/CL.