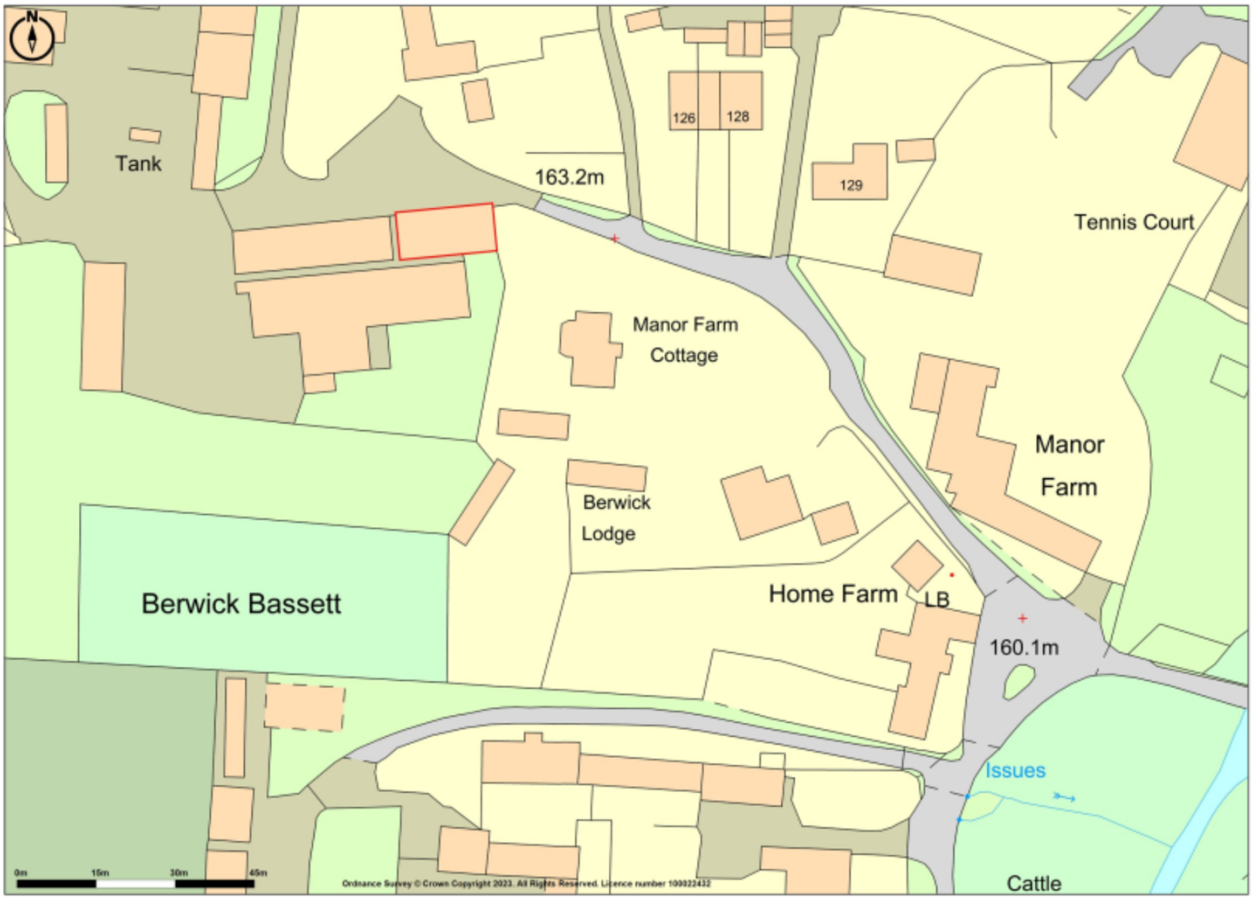
CASE OFFICER'S REPORT

Application Reference:	PL/2023/05580
Application Type:	Lawful development: Existing use
Site Inspection:	
Consultation ends:	03 August 2023
Case officer:	Helena Carney

Site Address:	MANOR FARM, BERWICK BASSETT, SWINDON, SN4 9NG
Proposal:	Installation of a biomass boiler
Recommendation:	Approve

SITE AND PROPOSAL:

Manor Farm is owned and occupied by the D G White Partnership. Manor Farm is a large arable enterprise extending to over 1,900 acres of farmland. The supporting statement states that in early 2012, a 150kw KWB Biomass Boiler was installed in one of the agricultural buildings as shown edged in red on the location plan excerpt below:



This application is for a Lawful Development Certificate relating to the installation of this biomass boiler at Manor Farm under section 191 of the Town and Country Planning Act 1990.

This application for a Certificate of Lawfulness is submitted on the basis that the biomass boiler and change of use of an agricultural building has been present and in use for a period of four or more years, thus making it immune from enforcement action and lawful in planning terms.

CONSULTATION:

Berwick Bassett and Winterbourne Monkton Joint Parish Council: no response received at time of writing.

REPRESENTATIONS:

One representation was received from the occupiers of a neighbouring property, in support of the application, commenting “We moved into Meux Cottages in September 2013. At that point in time we were aware that the Bio Mass boiler had been installed and was providing energy to both the farm and also to the then owners of 129 Berwick Bassett. So in terms of time-span the system has been there certainly in excess of 5 years and in all probability in excess of 10 years”.

ASSESSMENT:

This Certificate of Lawfulness application looks to confirm that a building constitutes lawful development for which no enforcement action may be taken. This application is assessed against the criteria set out in Section 191 of the Town and Country Planning Act 1990, as well as Section 171B (2) of the Act, which explains that the time for taking enforcement action is after the end of the period of four years, beginning with the date of the breach. In the case of ‘any other breach of planning control’ no enforcement may be taken after the end of the period of 10 years, beginning with the date of the breach. Accordingly, this supporting statement and evidence attached demonstrates that the installation of the biomass boiler and change of use of an agricultural building is now lawful and immune from enforcement action.

Planning Practice Guidance makes clear that the onus of proof lies with the applicant, and:

‘in the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability’.

In this instance, the applicant’s case relies upon a supporting statement and a signed statutory declaration. The supporting statement claims that the breach of planning control has occurred for in excess of 10 years, showing that the biomass boiler was installed back in 2012 and there has been no enforcement action taken in this time.

The supporting statement written by a planning consultancy seeks to summarise all the evidence submitted and make a case for approving the certificate.

The following evidence has been submitted:

• Statutory declaration from Mr David White of D G White Partnership regarding this evidence;
• Installation invoice from 12th March 2012;
• RHI signed Commissioning Certificate;
• NFU Farm Select insurance documents from 10th Feb 2012 to date, showing
• the biomass boiler added to the policy in 2012;4
• Ofgem periodic data from 5th April 2012 to present, showing 11 years of use;
• Heat sales from the biomass boiler from 31st March 2014 to present;
• Service invoices from 9th December 2014 to present; and
• Biomass wood pellets invoices from 6th May 2014 to present;

The evidence provided within the supporting statement states that the installation of the biomass boiler and subsequent change of use of the agricultural building occurred in March 2012, and the boiler was brought into use on 23rd March 2012. The heat sales, service invoices and wood pellet invoices show data from 2014. It is stated within the supporting statement that D G White Partnership changed account systems and previous data has been difficult to get hold of. However, it is stated within the signed statutory declaration, that the biomass boiler has been in use since 23rd March 2012 and therefore for a period in excess of 10 years continuously.

Photographic evidence of the biomass boiler and building where it is in installed is included within the supporting statement as shown below:

Photographs below show the building where the boiler is located, and the boiler itself.







CONCLUSION AND RECOMMENDATION:

The Council itself has no significant evidence to contradict the applicant's evidence. As such, on the balance of probability, it can be concluded that the installation of the biomass boiler and subsequent change of use of the agricultural building occurred in 2012 and therefore for a period in excess of 10 years. The Certificate should therefore be approved.

Conditions: (1)

1 From the evidence provided (including a Supporting Statement and signed Statutory Declaration) and on the balance of probability, the building as shown on location plan ref. D G White - Manor Farm - Biomass Boiler has undergone a change of use from agriculture to being used to house the biomass boiler in excess of the 10-year period specified in Section 171 B (2) of the Town and Country Planning Act 1990.