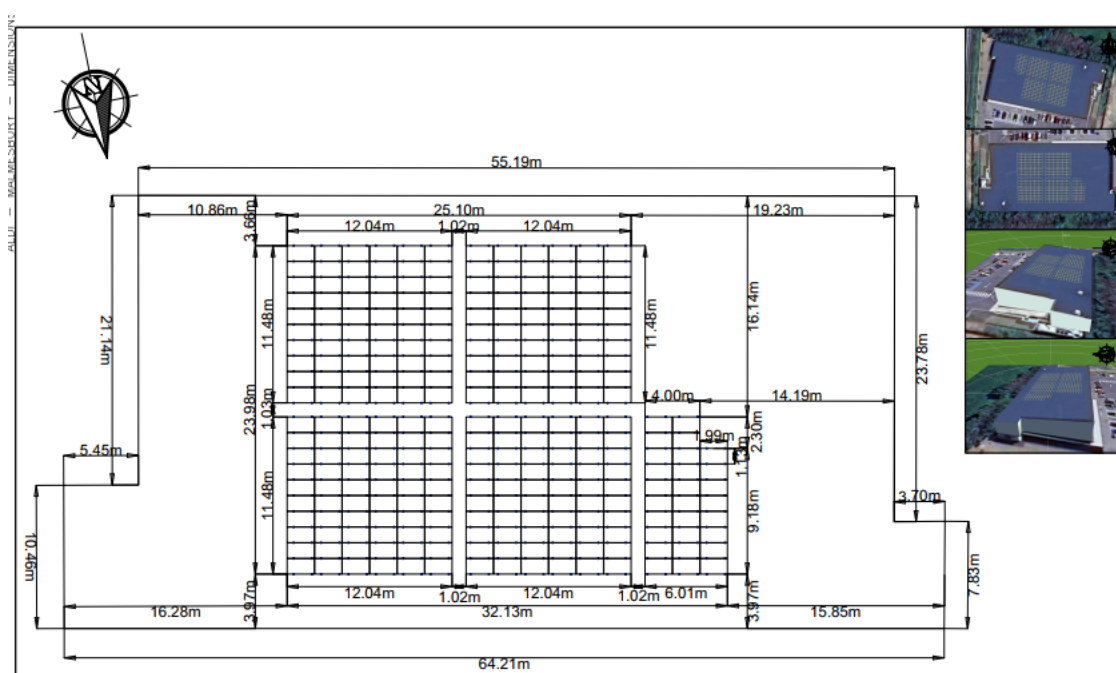


DELEGATED REPORT

APPLICATION REFERENCE:	PL/2026/02048
APPLICATION TYPE:	Prior approval Part 14 Class J: Installation or alteration etc of solar equipment on non-domestic premises
SITE ADDRESS:	Aldi, Festival Way, Malmesbury, SN16 9GN
DEVELOPMENT DESCRIPTION:	Prior Approval Application for the installation of solar PVs at the existing ALDI Foodstore
RECOMMENDATION:	That prior approval is NOT REQUIRED

PROPOSAL

This application seeks the view of the Local Planning Authority as to whether prior approval is required for the installation of roof-mounted solar photovoltaic (PV) panels on the existing ALDI Foodstore at Festival Way, Malmesbury, SN16 9GN. The proposal is made under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 14, Class J, and relates to the installation of 268 PV panels on the roof of the building, as detailed in the accompanying plans and supporting application documents.



SITE DESCRIPTION

The application site comprises an existing Aldi foodstore and associated car parking and servicing areas, located at Festival Way, Malmesbury. The site lies to the northeast of Malmesbury and is positioned adjacent to Crudwell Road (A429) to the west and Festival Way and Malmesbury Garden Centre to the south.

To the north and east, the site is bordered by open agricultural land. The surrounding area is characterised by a mix of commercial uses and open countryside.

The site is not located within a conservation area and there are no listed buildings within the site or its curtilage. The nearest residential property, Fillands Barn, is located approximately 25m to the west on the opposite side of Crudwell Road.

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Proposal / Summary
18N/11/04092/OUT- HYBRID PLANNING APPLICATION: Full Approval for the Demolition of Existing Buildings and the Erection of a Class A1 Foodstore (1,782 sq m Gross Internal Floor Area) with Associated Access, Car Parking and Landscaping. Outline Approval for a Replacement Garden Centre and/or Class B1/B2/B8 Employment Uses. Approved with conditions 17/09/2020
PL/2021/06009- Incorporation of a new external lobby at the approved Aldi Foodstore. Approve with Conditions 17/12/2021
PL/2021/06174- Through carrying out the detailed design of the approved Aldi foodstore, minor changes are required to the approved scheme to ensure the Aldi store is in line with Aldi's latest requirements and operational needs. These minor works comprise: Provision of additional and relocation of existing active electric vehicle charging point parking spaces (EVCPs) within the car park; The extension of the store canopy; The omission of Argelith tiles from under the canopy; Turf and seed types to front of house areas amended. Approved 21/07/2021
PL/2021/03223- An external lobby (18 sq m (GIA)) is proposed at the entrance/exit of the store to improve the operational efficiency of the store. The lobby will provide a clear entrance and exit for customers when entering/exiting the store and will also help with the flow of pedestrians in and out of the store. The lobby will sit under the approved canopy, and the materials/finishes will match the approved materials/finishes at the store frontage. There is a minor amendment proposed to the configuration of the parking bays adjacent to the store front to facilitate this. The Argelith tiles are also omitted from under the canopy in lieu of tarmac. Four active EVCP parking spaces (instead of the approved two) are proposed to be relocated within the car park and are proposed to be located near the junction of the car park, closest to the store. The capacity for an additional 20 passive spaces will also be installed for future use along the same row of parking bays. The plans have been updated to match the most up to date and approved soft landscaping and tree proposals. The turf and seed types in front of house areas have been revised, in order to facilitate the implementation of instant landscaping, and remove

the risk of empty/bare earth in front of house areas at the store opening. Refused 18/05/2021
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LEGISLATION

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

CONSULTATION RESPONSES

St Paul Malmesbury Without Parish Council: Support application.

REPRESENTATIONS

No comments were received.

ASSESSMENT

This submission is not a planning application but is instead a prior notification application submitted pursuant to the Permitted Development rights enshrined within Schedule 2, Part 14 Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the installation of, alteration or replacement of solar photovoltaic equipment on the roofs on non-domestic buildings. There is no requirement for planning permission for such development providing the conditions and caveats set out with Class J are satisfied. The legislation is shown below in italics with comments related to the proposals added by the case officer (not in Italics).

Permitted development

Schedule 2, Part 14, Class J of the GPDO sets out permitted development rights for:

J. 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.

The application would accord with (c).

Development not permitted

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;*

All solar panels proposed are to be installed on a flat roof of less than 10 degrees incline. The proposals therefore would not conflict with this limitation.

(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 proposed installation would not conflict with this limitation.

(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 proposed installation would not conflict with this limitation.

(d) This criterion has been omitted from the GPDO (21.12.2023).

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

The application site is not 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 application building is not listed and is not within the curtilage of a listed building nor is the site within the setting of any Heritage asset.

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 proposed installation would not be 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 proposed installation would not be installed on a wall.

(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 proposal is not located on land with an article 2(3). The PV equipment would not be mounted on a wall fronting the highway.

J.3 This criterion has been omitted from the GPDO (21.12.2023)

Conditions

As outlined in the assessment above, the proposed development meets the relevant criteria to be considered permitted development under Class J(c). However, it is important to note that Class J development is only permitted subject to full compliance with the conditions set out in paragraphs J.4(1) to J.4(12) of the Town and Country Planning (General Permitted Development) (England) Order 2015.

These provisions include requirements relating to prior approval, design and external appearance, potential glare impacts, and other site-specific considerations. Therefore, while the proposal appears to fall within the scope of permitted development, it must also satisfy all applicable conditions under J.4 to benefit from this status.

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

This condition is met. Assessment as part of (2) Class J(c) below.

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

This is a compliance based condition for the applicant should permission be granted.

(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.

National and local planning policy is generally supportive of small-scale renewable energy development, and the installation of solar panels on existing buildings is now commonplace. In this instance, the panels would be situated on an existing commercial building and contained within the established site boundary. Having regard to their limited scale, low-profile design, and siting on a flat roof, it is considered that the development would not result in any adverse impact on the character, appearance, or setting of the surrounding area. Furthermore, there would be no harm to the significance or setting of nearby heritage assets.

In respect of potential glare, the panels would be mounted on the roof of the existing building and are unlikely to be readily visible from surrounding receptors. There are no immediately adjacent residential properties, with only a small number of properties at some distance with potential oblique views. Modern solar PV panels are specifically designed to absorb, rather than reflect, sunlight and therefore exhibit very low levels of reflectivity. In addition, the flat roof arrangement further reduces the likelihood of any adverse glare impacts.

On this basis, it is considered that sufficient information has been provided to demonstrate that the proposal would not give rise to any unacceptable impacts on neighbouring amenity, and that any potential effects arising from glare would be negligible.

As such, the development is considered to comply with the requirements within paragraphs J.4(1) and J.4(2) of Schedule 2 Part 14 Class J(c) of the GDPO.

(3) to (12)

The remaining conditions set out in J.4(3) to J.4(12) do not require detailed assessment by the local planning authority. Instead, they impose procedural and compliance-based requirements on the applicant, such as when development may commence and how it must be carried out.

The applicant has fulfilled their duties by submitting a prior approval application that includes sufficient detail to enable the local planning authority to make an informed decision. The authority, in turn, has met its obligations by advertising the application appropriately and issuing a determination within the required timeframe.

The remaining provisions under J.4 are therefore compliance-based and relate to the implementation of the development, rather than matters requiring further assessment or judgment by the authority.

CONCLUSION:

On the basis of the above, it is considered that the development is permitted development as defined by Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and prior approval is not required.

RECOMMENDATION:

That prior approval is NOT REQUIRED