

16 Deard's End Lane

**APPLICATION FOR PRIOR APPROVAL IN RESPECT OF PROPOSED INSTALLATION OF SOLAR
PANELS ON A FLAT ROOF**

SUPPORTING PLANNING STATEMENT

1.0 Introduction and background

This statement has been prepared in support of an application for Prior Approval that relates to the installation of solar panels on the flat roof of the property at 16 Deards End Lane.

The applicant, having sought professional planning advice, has been advised that there is a clear case that the installation benefits from Permitted Development (PD) rights, and that prior approval is not required, by virtue of The Town and Country Planning (General Permitted Development) (England) Order 2015 ["GPDO"], Part 14 Renewable Energy, Class A – installation or alteration etc of solar equipment on domestic premises.¹

This statement sets out why it is considered that the proposed installation complies with the rights and limitations of the GPDO, despite some of the proposed panels being potentially visible from the highway. It demonstrates that it will have no adverse impact on the character or appearance of the Conservation Area. Indeed, the installation will have much less impact than if the panels were installed on the roof slope of the building; such an installation would not require an application for a determination as to whether prior approval is required. Drawings of the proposed installation are submitted with this application, together with an energy assessment.

In addition, we have researched a number of installations, alongside a flat roof installation, within the Deards End Lane Conservation Area and note that several have been installed without express planning permission. It is understood that no enforcement action has been undertaken in relation to these installations with the apparent acceptance of the Council that they are indeed PD.

It is noted that the determination of Prior Approval should rightly be based on the impact of the appearance of the solar PV on the affected land, taking into account the development plan, material considerations and positive design considerations as laid out within. That said, the basis for the Government introducing permitted development rights for domestic renewable energy installations (and indeed widening their ambit to include flat roof installation as recently as December 2023) is consistent with and indeed supported by policy in the National Planning Policy Framework (NPPF) and elsewhere (not least the adopted

¹ It should be noted that this analysis takes account of changes to the GPDO introduced by The Town and Country Planning (General Permitted Development etc) (England) (Amendment) (No 2) Order 2023 (SI 2023/1279) that came into force on 21 December 2023. A consolidated version of the GPDO is attached as Appendix 1 for convenience, including the cross references to 'Class J' para. in para. A2 (bb).

Development Plan and North Herts' declaration of a Climate Emergency in 2019) and as such the interpretation of the GPDO, such as it is necessary, should take due account of the urgent need to take every opportunity to reduce greenhouse gas emissions and avoid placing unnecessary limitations on the rights prescribed by national statute.

2.0 Article 4 Direction

Having analysed the North-Herts Council's website alongside the Deards End Lane Conservation Area Appraisal- 8th April 2008 document, it is understood that there is no 'Article 4 Direction' which removes Permitted Development rights in the Deards End lane Conservation area such as these relate to domestic energy generation.

With this in mind, the proposed installation is permitted development provided the design does not contravene the limitations found within Class A, and where appropriate Class J, Part 14 of GPDO (given the cross reference to this part under Class A, para A2(bb)).

3.0 Permitted Development Rights

For the avoidance of doubt, the relevant permitted development rights are quoted at Appendix 1. As highlighted in the above footnote, these take account of changes to the GPDO that were made in December 2023 and include a recital of the relevant parts of Class J (non-domestic solar installations) such as these are cross referred to, as highlighted above.

The changes introduced in December 2023 were related to giving further encouragement to domestic installations on flat roofs and freestanding installations and therefore, it is considered that these changes effect the assessment of the lawfulness and acceptability of the proposals that are the subject of this installation.

4.0 Contextual Description of the site, property and proposed Solar PV Installation

As with many of the properties down the historic Deards End Lane, No.16 is characterised as a large, two storey detached house of Neo-Georgian design, constructed around the 1920s and 1930s. The main building is constructed from brick beneath a steeply pitched plain clay roof. Casements, dormer windows and prominent chimney stacks are all distinctive features. Since construction, the property has had few additions, principal to this application being the matching red brick single storey garage extension to the North-west, alongside the kitchen-dining single storey red brick extension to the east.

The property resides in the Deards End Lane Conservation area, the character of which is described as a "garden village" predominantly due to the extensive gardens, high hedges and mature trees surrounding the properties down this lane. No.16 is bordered by a tall green hedge around all sides, with a mixture of large, tall trees long the boundary line. The north

edge of the property has a thicker, mature band of vegetation, blocking much of the northern view of the property from the lane.

The land the property resides on slopes gently down towards the end of the garden, with the main building being at the highest point. The height and location of the main building, combined with the land's irregular kite like shape, leaves the garage and the main gate hidden from most areas within the property.

The proposed development consists of two Solar PV arrays, one atop the garage flat roof to the Northwest of the property, one atop the Kitchen Flat roof to the East of the property. Both arrays will contain All Black PV panels, mounted on a non-fixed, frame based mounting system. The Panel and Mounting system datasheets are attached. The overall system will be no higher than 400mm from the flat roof surface and will be barely visible from the surrounding highways and neighbouring properties due to a combination of parapets, tree/plant cover and topography.

5.0 Compliance of the installation with PD rights

The proposed installation at the property clearly falls within the ambit of Part 14, Class A of the GPDO, and where appropriate Class J, being an installation within the curtilage of a dwelling house.

We assess the installation against the criteria within Class A, and where appropriate Class J which states when permission is not granted, as follows.

A.1.(a)

“(a) the solar PV or solar thermal equipment would protrude more than 0.2 metres beyond the plane of the wall or in the case of a pitched roof the roof slope when measured from the perpendicular with the external surface of the wall or pitched roof slope”

The installation is neither on a wall nor a pitched roof; therefore, it would not conflict with this limitation.

A.1.(b)

“in the case of solar PV or solar thermal equipment on a pitched roof it would result in the highest part of the solar PV or solar thermal equipment being higher than the highest part of the roof (excluding any chimney);”

The installation is not on a pitched roof; therefore, it would not conflict with this limitation.

A.2 (ba)

“in the case of solar PV or solar thermal equipment on a flat roof, it would result in the highest part of the solar PV or solar thermal equipment being more than 0.6 metres higher than the highest part of the roof (excluding any chimney)”

None of the proposed solar arrays will be installed above the highest part of the main building's roof (excluding any chimney). The proposed mounting system's maximum height results in a total install height below 0.4m, less than the aforementioned 0.6m. The installation would not therefore conflict with this limitation.

“(c) In the case of land within a conservation area or which is a World Heritage Site, the solar PV or solar thermal equipment would be installed on a wall which fronts a highway.”

This limitation is quite specific in describing the installation on a “wall” fronting the highway and makes no reference to a roof slope or a flat roof. The installation is on a flat roof, not a wall.

It is highlighted that elsewhere in this part of the GPDO, other clauses specifically refer to ‘wall or roof slope’ or ‘flat roof’ whereas this is not the case in terms of this limitation. On plain reading of this limitation, if the solar panels are on a flat roof and they face a highway, this does not trigger the need for planning permission (only the requirement to make a Prior Notification application if they are on Article 1 (3) as is the case here). Moreover, the December 2023 changes to the GPDO make no difference in this regard.

It is instructive to note that some local authorities make this clear in their on-line advice on the matter. For example, Medway Council state as follows :-

“You will not usually need planning permission to install solar panels on the roof of a house or block of flats in a conservation area, even if the roof faces a highway. However, you'll need planning permission when installing solar panels or other equipment on a wall fronting a highway within a conservation area.”²

It is clear that, despite fronting a highway, as the installation is on a flat roof it does not conflict with the GPDO in this respect.

2

https://www.medway.gov.uk/info/200150/planning_guidance/1080/planning_permission_and_solar_panel

- (d) the solar PV or solar thermal equipment would be installed on a site designated as a scheduled monument; or***
(e) the solar PV or solar thermal equipment would be installed on a building within the curtilage of the dwellinghouse or block of flats if the dwellinghouse or block of flats is a listed building.”

Neither of these clauses apply. The site is neither a scheduled monument nor a Listed Building and the land is not considered a World Heritage Site.

Accordingly, the proposals do not conflict with any of the limitations in A1. We turn to the conditions in A2 as follows. The GPDO states that development is permitted by Class A subject to the following conditions:-

A.2. (a)

Solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the external appearance of the building;

This installation has been designed using a shallow frame-based system for the flat roof solar arrays. Consideration has been made to create a final look that minimises the external effects on the building, as far as practicably possible. Utilising all black solar panels and a metallic mounting system that does not extend above the panels, this configuration will reduce the visual effect of the system on the property and the surrounding area. External accessories, such as bird blocker, will also be all black, for the same effect.

The design decision was made to proceed with a flat roof system, not only for reduced complexity for the install, but also to minimise the effect on the external appearance of the building (with benefits to the character and appearance of the Conservation Area). Compared to a standard pitched roof, or even a ground mounted system, the proposed flat roof design will be rarely seen from much of the property, a pitched roof install would be seen from all angles externally.

The solar array above the garage is surrounded by a parapet wall. This parapet wall measures 200mm tall and therefore covers over half of the panels 400mm total height. This parapet wall, alongside the slope of the ground within the property, results in an effect that makes this installation unviewable from the ground externally, and the ground floor internally.

The smaller kitchen flat roof array does not have a parapet but does benefit from the height differences of the surround land. This smaller four panel array will only be viable from the Northeast portion of the garden, hidden behind the structure of the property. Special consideration has been made to utilise the “East-West VanDerValk Mounting Method” so only

two of the panels would be visible, and none of the side on metallic mounting material would be seen. This results in a cleaner finish.

Deemed important to note, the main vista when entering through the front gates will be unaffected by the proposed design.

The above minimises the overall effect of the solar PV system on the total external appearance of the building.

As further discussed in A.2. (b), the overall number of panels is necessary to make for a viable install for the property owner.

A.2. (b)

Solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the amenity of the area.

Further to the points outlined in the previous section, this system has been designed to minimise the effect on the amenity of the local area by utilising a shallow, flat roof mounting system. Combined with the existing construction of the flat roofs and the topography of the area, this point alone majorly reduces the effect on the amenity of the area compared to other solar installation alternatives.

We have given consideration to the fact that the main array above the garage can be just seen from views along Deards End Lane, specifically from the portion of road leading North West, when facing south. Attached is a photograph of the discussed vista, overlooking the garage roof from the affected highway. It is to be noted that should the boundary hedge between Deards End Ln and No.16 be kept at the level when the photograph was taken, the panels and mounting frame will be obscured from the highway. Given the angle, roughly 100mm in height of the solar array will be visible from the road should the hedge be cut back to a level such as it was in 2019.

With the array being on the first story flat roof, the panels on the east side will be obfuscated by the surrounding plant cover on the boundary of the garden, having little to no impact on the amenity of the public realm. In colder months where tree cover is reduced, the two arrays may well be seen from neighbouring properties, such as No.18 & No.15, all be veiled views through bare trees.

It is highlighted that the above clause states 'so far as is practicable.'

It is further noted that in the council's "Council Climate Change Strategy 2022-2027", the council states that it is their aim to "provide leadership and support for both businesses and residents to switch to renewable energy" alongside adapting "to the impacts of planning

projects” and “providing further supplementary planning guidance to encourage more sustainable development and work towards carbon neutrality.”

If we analyse the production of the installation, with the properties current usage, utilising calculations and data from the Energy and Performance Assessment summarised in the table below, it is plain to see the proposed system will make a profound impact to the owner occupier, alongside a large positive environmental impact.

Further analysis has been done into the potential removal of the garage array potentially visible from the highway. It is plain to see the proposed system without this array would be underwhelming in meeting the properties current energy needs. Not only for financial viability, but also in terms of environmental performance.

	<u>Kitchen Only</u>	<u>Full System</u>	
Annual electricity savings	£238.00	£924.00	per year
Annual income from Export	£0.00	£37.00	per year
Total Annual Benefit:	£238.00	£961.00	per year
Total Reduction of Grid Requirements	969kWh	4094kWh	per year
Reduction of CO2 Emissions	201kg	838kg	per year
Total Cost of Installation	£7,703.79	£9,633.40	
Payback Period	32 Years	10 Years	

This makes abundantly clear that a smaller, “kitchen only” installation would not be practicable and furthermore would clearly not maximise the energy efficiency of the property.

Accordingly, the proposed flat roof system provides the most appropriate solar PV installation.

It is therefore considered that “so far as is practicable” the installation minimises the effect on the external appearance of the building and the effect on the amenity of the area whilst delivering the energy saving and climate change benefits of the proposal.

A.2. (ba)

“in the case of solar PV or solar thermal equipment installed on a flat roof located on article 2(3) land, before beginning development the developer must apply to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required with respect to the impact of the appearance of the solar PV or solar thermal equipment on that land”

With the installation consisting of a flat roof system within an article 2(3) area of land, clause A.2. (ba) applies, and therefore this application seeks to demonstrate that prior approval of the LPA is not required.

It should be noted that while the proposed installation is within the Deards End Lane Conservation area, there is no Article 4 Direction which removes any Permitted Development rights, as outlined previously within. Nether-the-less, analysis has been done on the design in relation to the *2008 Deards End Lane Conservation Area Appraisal*, to assess the “land” itself.

In *Section 5 of the Deards End Lane Conservation Area Appraisal*, special attention is given to the twin nature of Nos 14 & 16, being at *“oblique angles on opposite corners of the junction with Stobarts Close”*. With the discrete nature of the proposed flat roof system, views of both properties, seen simultaneously, will be mostly unaffected. Specifically, from Deards End Lane crossroads with Stobarts Close, facing NorthEast, the proposed development will be hidden behind evergreen pines and the previously mentioned Boundary Hedge.

We believe the discussed “Dialogue” remains unaffected between these two buildings.

Section 6 of the *Deards End Lane Conservation Area Appraisal* further discusses the *“Opportunities for improvement”*. This section mostly covers preferred gate options, alongside a need to keep the boundary hedges, both of which are already adhered to by the property. A low, albeit metal gate and a full “soft” edge of hedging surrounds the property.

This section further describes a preference for “New build garages”. While this proposal does not include a new garage, it is installed upon an existing garage. By using all black panels and a shallow installation frame, the proposal does its best to *“be of a scale and design to reflect the character and material palette”* of the existing building, similar to the preference of a new garage development.

Having assessed all points within, the proposed development does not go against any of these points and is designed in a way to *“ensure that the ‘green’ character of the lane is not encroached upon by highly visible new structures”*.

The proposed solar arrays will not provide new sights among most residents of Deards End Lane. With most properties either owning solar installations or having an installation visible from the property or curtilage of the property, solar PV is already commonplace in the area. Further reinforced in section 5.

Accordingly, given the very limited visual presence of the proposed installation, it will not conflict with the Council’s statutory duty to preserve or enhance the character and appearance of the conservation area. Indeed, the owners have elected to adopt the proposed installation to allow for the benefits of solar whilst avoiding the potentially more significant visual amenity and heritage impacts of a system mounted to the roof slope of the house.

A.2.(bb)

“in relation to an application under sub-paragraph (ba), paragraphs J.4(3) to J.4(12) of this Part apply as if “Class A” substitutes the reference to “Class J” in paragraph J.4(4)”

All points from paragraphs J.4(3) to J.4(12) haven been considered and addressed where necessary. The conditions within J.4(3) have been met, with a description of the proposed works, plans and contact details attached.

A.2.(c)

Solar PV or solar thermal equipment is removed as soon as reasonably practicable when no longer needed.

Due to the installation being mounted on a flat roof and not permanently fixed, the arrays could be easily removed if it reached the end of its design life. However, the technology proposed should last for many decades before requiring refurbishment or replacement, with the solar panels specifically having a product warranty of 25 years.

6.0 Examples of Currently Installed Solar Installations

Solar Installations have been erected in numerous locations in the local area over the last few years. A number of these have been well within the public eye, specifically No.19 and The Barns. Given no enforcement action has been undertaken in relation to these installations, it is indeed apparent that the council have accepted these proposals as PD. See below the multiple examples of solar PV installations.

19 Deards End Lane - No permission sought, Permitted Development. The PVs clearly visible from Deards End Lane and surrounding dwelling houses and respective gardens within the conservation area.



The Barns, Deards End Lane – Listed, Permission Sought, Solar Panels visible from park lane within the conservation area.



2 Deards End Lane - No permission sought, Permitted Development. The PVs visible from neighbouring dwellings.



6 Deards End Lane - No permission sought, Permitted Development. The PVs visible from neighbouring dwellings.



10 Deards End Lane – No permission sought, Permitted Development. The solar panel edges are visible from the road and visible from neighbouring dwellings.



7.0 Policy and climate change context

As noted above, in applying the criteria of the GPDO to domestic energy generation, such as there could be interpretation of the statute, the overriding commitment of national planning and other policy to addressing climate change is fundamental.

It is further important to note that The National Planning Policy Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 7). One of the key objectives, as set out in paragraph 8(c) is adapting to climate change. In relation to applications for renewable energy, paragraph 168 of the Framework states; LPA's should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and should approve applications provided any impacts are or can be made acceptable.

By reducing the average households carbon footprint in accordance to the Fifth Carbon Budget of the Committee on Climate Change we can bring the us closer to the 80% UK-wide reduction in emissions by 2050 required to tackle dangerous climate change. The 2023 Government Emissions report has noted a 7% increase of CO₂ generation from the previous year per kWh of energy produced, currently setting this small scale installation to save 1 Tonne of CO₂ annually.

Current Government guidance on Climate Change states that, "In addition to the statutory requirement to take the Framework into account in the preparation of Local Plans, there is a statutory duty on local planning authorities to include policies in their Local Plan designed to tackle climate change and its impacts."

Further this Government guidance states that the challenges of climate change can be addressed through the local plan through a range of measures including "providing opportunities for renewable and low carbon energy technologies".

The proposals also comply with the Development Plan. The North Herts Local Plan (2011 – 2031) positively supports renewable energy generation.

Policy NE12: Renewable and low carbon energy development states that :-

"Proposals for other renewable and low carbon energy development which would contribute towards reducing greenhouse gas emissions will be permitted subject to an assessment of the impacts upon:

- i. Landscape quality, landscape character and visual amenity, including consideration of cumulative impacts of development;
- ii. Environmental assets;
- iii. The historic environment, including the impact on the setting of historic assets ;
- iv. The transport network; v. Air quality;

- vi. Aviation interests; and
- vii. The amenity of residents”

It has been demonstrated that the proposals comply with these matters such as they are relevant. There will be no impact on visual amenity of any significance, the amenity of residents will not be adversely affected and the proposals preserve the character of the historic environment.

Moreover, the policy adds that :-

“In assessing renewable and low carbon energy proposals against the above criteria the Council will give **significant weight** to their local and wider benefits, particularly the potential to reduce greenhouse gas and other harmful emissions....” (our emphasis)

North Herts Borough Council's own “Sustainability Strategy 2025-30 – Actions” document aims to “Achieve a Net Zero North Herts district by 2040.” Using actions listed such as “

19 - Promote independent advice and/or service and schemes to support residents to retrofit their homes, install low carbon technologies, or reduce their energy usage

28 - Integrate consideration of district wide net zero and climate adaptation goals in local plan development process.

“

In light of the Nppf, the Development Plan, the climate emergency declared by the council in 2019, and the aforementioned points and design decisions made, we believe that the Council’s application of permitted development rights should seek to encourage renewable energy generation.

8.0 Conclusion

This statement demonstrates that the proposed solar panel installation at 16 Deards End Lane is Permitted Development under the Part 14, Class A of the GPDO and does not require prior approval. It does not conflict with the criteria within the GPDO in terms of its dimensions or location, and has been designed to minimise the impact on the amenity and appearance of the building and the area so far as is practicable. It is the only both feasible & amenity sensitive solution to achieve significant energy saving benefits for this property.

It is consistent with adopted planning policy and will not conflict with the Council’s statutory duty to preserve or enhance the character of the Deards End Lane conservation area.

It is considered that no prior approval is required and the installation proposed is permitted by virtue of permitted development rights and we therefore request that the Council issue a notice to that effect.

APPENDIX 1 : Extract from GPDO, as amended by The Town and Country Planning (General Permitted Development etc) (England) (Amendment) (No 2) Order 2023 (SI 2023/1279) that came into force on 21 December 2023

“Permitted development

A. The installation, alteration or replacement of microgeneration solar PV or solar thermal equipment on—

- (a) a dwellinghouse or a block of flats; or
- (b) a building situated within the curtilage of a dwellinghouse or a block of flats.

Development not permitted

A.1 Development is not permitted by Class A if—

- (a) the solar PV or solar thermal equipment would protrude more than 0.2 metres beyond the plane of the wall or in the case of a pitched roof the roof slope when measured from the perpendicular with the external surface of the wall or pitched roof slope;
- (b) in the case of solar PV or solar thermal equipment on a pitched roof it would result in the highest part of the solar PV or solar thermal equipment being higher than the highest part of the roof (excluding any chimney);
- (ba) in the case of solar PV or solar thermal equipment on a flat roof, it would result in the highest part of the solar PV or solar thermal equipment being more than 0.6 metres higher than the highest part of the roof (excluding any chimney)
- (c) in the case of land within a conservation area or which is a World Heritage Site, the solar PV or solar thermal equipment would be installed on a wall which fronts a highway;
- (d) the solar PV or solar thermal equipment would be installed on a site designated as a scheduled monument; or
- (e) the solar PV or solar thermal equipment would be installed on a building within the curtilage of the dwellinghouse or block of flats if the dwellinghouse or block of flats is a listed building.

Conditions

A.2 Development is permitted by Class A subject to the following conditions—

- (a) solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the external appearance of the building;
- (b) solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the amenity of the area;
- (ba) in the case of solar PV or solar thermal equipment installed on a flat roof located on article 2(3) land, before beginning development the developer must apply to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required with respect to the impact of the appearance of the solar PV or solar thermal equipment on that land;

(bb) in relation to an application under sub-paragraph (ba), paragraphs J.4(3) to J.4(12) of this Part apply as if “Class A” substitutes the reference to “Class J” in paragraph J.4(4); and
(c) solar PV or solar thermal equipment is removed as soon as reasonably practicable when no longer needed.