

28 Highbury Road - Hitchin

**APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE IN RESPECT OF PROPOSED
INSTALLATION OF SOLAR PANELS**

SUPPORTING PLANNING STATEMENT

1.0 Introduction and background

This statement has been prepared in support of an application for a Lawful Development Certificate that relates to the installation of photovoltaic solar panels to the roofscape of the main dwelling at 28 Highbury Avenue.

The applicant, having sought professional planning advice, has been advised that there is a clear case that planning permission is not, in any event, required for the installation as it benefits from Permitted Development (PD) rights 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 visible from the highway. Drawings of the proposed installation are submitted with this application, together with an energy assessment.

In addition, we have researched a number of installations within the local area of Highbury Road 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 the LDC should rightly be based on a matter of law, not (unlike an application for planning permission) on the acceptability of the proposed installation taking into account the development plan and other material considerations. That said, the basis for Government introducing permitted development rights for domestic renewable energy installations (and indeed widening their ambit as recently as December 2023) is consistent with and indeed supported by policy in the National Planning Policy Framework (NPPF) and elsewhere (not least 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.

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.

2.0 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.

These changes 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 of the proposals that are the subject of this installation.

3.0 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, being an installation within the curtilage of a dwelling house.

We assess the installation against the criteria within Class A 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 mounting system used for this installation will be an on-roof system. The resulting finish of the solar panels and all mounting parts would sit underneath the 0.2m threshold. It would not therefore 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);”

Regarding the parts of the installation on a pitched roof, none of the proposed solar arrays will be installed above the highest part of the roof (excluding any chimney). It would not therefore 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)”

Regarding the parts of the installation on a flat roof, none of the proposed solar arrays will be installed above the highest part of the roof (excluding any chimney). The proposed mounting system's maximum height results in a total install height below 400mm. 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.”

(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.”

None of these clauses apply. The site is neither a scheduled monument nor a Listed Building and the land is neither within a conservation area nor is 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)

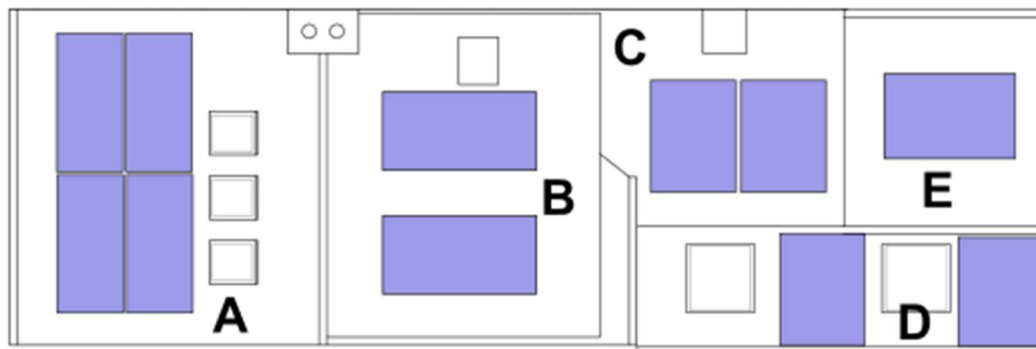
Solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the external appearance of the building;

This installation has been designed using a standard on-roof rail-based system for the pitched solar arrays and a minimal, 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, as well as all black mounting rail for the pitched roofs, 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 style and size of this and many neighbouring properties leads to an inevitable, spread-out design across multiple roof spaces. While multiple roofs are used in the design, the overall coverage of the building with solar panels is lower, due to the complexity of the structure, than most installations. By distributing the solar panels over west, east and south roof faces,

viewed from a majority of locations, only four solar panels will be visible. This minimises the overall effect of the solar PV system on the total external appearance of the building.

The singular solar array visible from street level (A) is designed as a rectangular array to minimise the overall effect on the building. By optimising panel size and quantity, we have created a design with a suitable border of roof tiles around each side of the array, where the solar panels do not dominate the front of the building, the most visible and therefore the most affecting of the external appearance of the building.



Further analysis has been carried out for the remaining solar panels on the property, displayed in the diagram above. Roof B, the dormer flat roof, will site the panels to the rear(east) and therefore will not be visible from the street, and barely visible from the surround area. Roof C, the middle south roof, provides the best location for solar, being south facing and 30deg, these panels are only visible to the neighbouring gardens south of the property, not from the street view. Roof D contains two panels, at a 10 Degree pitch. At this pitch, the panels will be mostly unseen from the property itself, bar some views from the garden, and less visible than Roof C to the neighbouring properties. Roof E is a single flat roof panel, surrounded by parapet walls on all sides bar east and therefore only visible from acute angles to the east.

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.

We have given consideration to the fact that the front facing roof slope is one of the most seen of the property and may not immediately seem the most suitable location for an array. However, it is an invaluable part of this project to ensure a feasible financial investment for the client as well as preparing for the future of the property. The frontal roof array will be the

only set of panels visible from Highbury Road, the flat roof panels will not be visible from the street being as they are on the rear part of the flat roof, so the vast majority of the panels have no impact on the amenity of the public realm. 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 further compare the production of the installation, with the properties current and planned usage, utilising calculations and data from the Energy and Performance Assessment summarised in the table below, it is plain to see a system without the two most visually prominent arrays on the property would be underwhelming in meeting the properties current and future energy needs. Not only for financial viability, but also in terms of environmental performance.

<u>Total Usage, System Cost and Payback Times</u>	<u>Full System</u>		<u>Reduced System</u>	
Total Cost of Installation	£11694.24		£10,413.91	
Total Generation of Installation	4207kWh		2010kWh	
Future Annual Usage with ASHP & 2 nd EV	12800kWh			
Estimated annual benefit of proposed Solar Installation:	£1,048.00	per year	£529.00	per year
Percentage of Energy Needs Met from Solar	30%		15%	
Payback Period	11.1 Years		19.7 Years	

Alongside the solar installation, it is the property owners desire to install an Air Source Heat Pump (ASHP) as well as purchase another Electric Vehicle, further steps along the road to lower their, and the properties, carbon footprint. With this to be installed late 2025, early 2026, it is important to consider how these energy consumption changes will affect the property and it is imperative to consider these changes in the current solar PV design. The resulting “future usage” is used in the above calculations to show the necessity of utilising the properties many roof spaces, to allow for the required carbon and cost savings now and into the future.

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

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

Although the frontal solar panels will be visible from Highbury Road, the design clearly minimises, as far as is practicable, the impact on the amenity of the area and this judgment must be seen in the context of other examples of PV panels in the local area,(at No.15 Highbury Rd, 2 & 5 Acre Piece, 50 & 112 Whitehill Rd), such a feature is becoming increasingly common.

Similarly, the rear facing panels, while visible from gardens within the Highbury Road, Whitehill Rd and Acre Piece quadrant, will not be new sights among residents. With three separate installs, across six roofs, solar PV is already commonplace in the area. See image in Section 4, 5 Acre Piece & Riddy Lane.

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”

Clause A.2.(ba) does not apply, the site has no relation to any of the land designations listed within Article 2(3). Article 2(3) land refers to the following:

(a)an area designated as a conservation area under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (designation of conservation areas);

(b)an area of outstanding natural beauty;

(c)an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981 (enhancement and protection of the natural beauty and amenity of the countryside) M1;

(d)the Broads;

(e)a National Park; and

(f)a World Heritage Site.

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)”

Further to the point outlined in the previous section, Clause A.2.(bb) does not apply to this property or application.

A.2.(c)

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

The installation could be quite easily removed if it reached the end of its design life, and the tiles reinstated. 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.

4.0 Examples of Currently Installed Solar Installations

Solar Installations have been erected in numerous locations in the local area over the last few years. A significant number of these have been well within the public eye, specifically 15 Highbury Rd and 50 Whitehill Rd. 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, all perfectly visible from the highway at the front of the property.

112 Whitehill Road - No permission sought. The PVs clearly visible from the highway. Nonrectangular design.



50 Whitehill Road - No permission sought. The PVs fronting highway and clearly visible from Whitehill Road



2 Acre Piece – No permission sought. Multiple arrays clearly visible from the highway.



5 Acre Piece & Riddy Lane - No permission sought. The PVs clearly visible from the rear of surrounding dwelling houses and respective gardens & Access ways.



15 Highbury Road - No permission sought. Well sized array. Clearly visible from Highbury Road



5.0 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".

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

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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 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.

6.0 Conclusion

This statement demonstrates that the proposed solar panel installation at 28 Highbury Road is Permitted Development under the Part 14, Class A of the GPDO. 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 feasible solution to achieve the significant energy saving benefits on this property.

As a matter of law, it is considered that no express planning permission is required and the installation proposed is lawful by virtue of permitted development rights and we therefore request that the Council issue a certificate 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.