

Officer Report

Application No.	24/1997/FH
Site Address	BROWN TILES, SANDLING ROAD, LYMINGE, FOLKESTONE, CT18 8DX
Officer Name	Macey Douglas
Proposal	Lawful Development Certificate (proposed) for the installation of ground mounted solar panels.

Recommendation

Report Number	RD-436427
Recommended Decision	Recommended to be Not Lawful
Recommendation Date	09 January 2025

Report

Site

The application site is of a large scale to the northwest of Sandling Road. The site features a large, detached dwelling finished in beige render with brown tile hanging. There is a large amenity space to the rear surrounded by dense hedging with a field to the rear of the site.

The site lies in the Kent downs National Landscape Area, outside of any defined settlement boundary.

Relevant Site History

There is no recent or relevant history related to the application site.

Proposal

Planning permission is sought to erect a ground mounted solar array within the western most corner of the rear amenity space. The solar panels array would measure the following approximate dimensions according to the site plan:

Width: 7.20 metres

Length: 9.00 metres

The solar panels themselves would have a height of 1.75 metres according to the information provided within the application form.

Consultation Responses

Not considered relevant under this process.

Publicity

Not considered relevant under this process.

Representations

Not considered relevant under this process.

Relevant Policies

Not considered relevant under this process.

Appraisal

Schedule 2, Part 14, Class B - installation or alteration etc of stand-alone solar equipment on domestic premises

B.1 Development is not permitted by Class B if:

(a) in the case of the installation of stand-alone solar, the development would result in the presence within the curtilage of more than 1 stand-alone solar: PASS; only one ground mounted solar array is proposed

(b) any part of the stand-alone solar –

i) would exceed 4 metres in height: PASS; the solar array would measure only 1.75 metres in height according to the details provided within the application form received ...

ii) would, in the case of land, which is a World Heritage Site, be installed so that it is nearer to any highway which bounds the curtilage than the part of the dwellinghouse or block of flats which is nearest to that highway: N/A; the application site is not a World Heritage Site

iii) would be installed within 5 metres of the boundary of the curtilage: FAIL; the solar array would be situated only 4.15 metres away from the northwestern boundary, falling short of the required distance.

iv) would be installed within the curtilage of a listed building: PASS; the application site is not situated within the curtilage of a listed building

v) would be installed on a site designated as a scheduled monument: PASS; the application site is not situated on a site designated as a scheduled monument

(c) the surface area of the solar panels forming part of the stand-alone solar would exceed 9 square metres or any dimension of its array (including any housing) would exceed 3 metres.: FAIL; the solar array would have an area of approximately 64 square metres and the width (7.20 metres) and length (9.00 metres) of the array would both exceed 3 metres.

B.2 Development is permitted by Class B subject to the following conditions –

(a) stand-alone solar is, so far as practicable, sited so as to minimise its effect on the amenity of the area: PASS; the solar array has been situated to the rear of the site and would not be visible from the street scene of Sandling Road. Furthermore, whilst it can be acknowledged to the rear of the site there is a PRow (HE56), this is over 250 metres away and would have minimal impact upon views from this PRow and the wider Kent Downs National Landscape area.

(aa) in the case of stand-alone solar installed in a conservation area (CA) nearer to any highway which bounds the curtilage than the part of the dwellinghouse or block of flats which is nearest to that highway, 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 stand-alone solar on the character of the conservation area: N/A; the application site is not situated within a CA

(ab) in relation to an application under sub-paragraph (aa), paragraphs J.4(3) to J.4(12) of this Part apply as if “Class B” substitutes the reference to “Class J” in paragraph J.4(4): N/A; the application site is not situated within a CA

(b) stand-alone solar is removed as soon as reasonably practicable when no longer needed: No information has been provided regarding this; however, in the event that the development was

lawful an informative would be included to remind the applicant that the solar array is to be removed once it is no longer in use.

The proposed ground mounted solar array would not constitute permitted development as it would fail B.1 (b)iii) and (c). Formal planning permission must therefore be sought for the proposed works in this instance.

Human Rights

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

Public Sector Equality Duty

In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

Duty to Cooperate

In accordance with paragraph 38 of the National Planning Policy Framework 2023 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service and, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

Recommendation

In light of the above it is considered that the proposal does not fall within permitted development and planning permission is required.

Suggested Informatives (2)

1

The proposed solar array would not amount to permitted development by virtue of Class B.1, (b) iii) and (c) of Part 14 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the solar array would be situated closer than 5.00 metres to the northwestern boundary of the curtilage of the site and would have an area

greater than 9 square metres, with both the width and length greater than 3.00 metres. Planning permission would therefore be required.

2

Your attention is drawn to the fact that this decision was determined as not lawful on the basis of the following submitted documents:

Application Form - received 19/12/2024

The location plan - received 19/12/2024

Brown Tiles solar array Site location plan

Image of site location B facing NE - received 19/12/2024

Image of site location C facing SE - received 19/12/2024

Image of site location D facing NW - received 19/12/2024

Image of site location A facing SW - received 19/12/2024