Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: **BN/8/23/CLP**

LOCATION: Mill House
Yapton Road
Barnham
PO22 0BD

PROPOSAL: Lawful development certificate for the proposed ground mounted solar panels consisting of 26 No Perlight 400 Wp, and installation of a 10.4kWp solar PV and battery installation.

DESCRIPTION OF APPLICATION

This application seeks a Lawful Development Certificate for the proposed ground mounted solar panels consisting of 26 No Perlight 400 Wp, and installation of a 10.4kWp solar PV and battery installation.

RELEVANT SITE HISTORY

REPRESENTATIONS

Representations Received:

CONSULTATIONS

Consultations Responses Received:

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

In this instance the proposed works will be assessed against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- Part 14 Renewable Energy, Class B - Installation or alteration etc of stand-alone solar equipment on domestic premises

Provided the proposed works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the proposed works will constitute Permitted Development and would not require planning permission. If the works fail to accord with the criteria then planning permission will be required for them to take place.

CONCLUSION

The proposed solar panels are considered to fall under Schedule 2 Part 14 Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Development permitted:
B. The installation, alteration or replacement of stand-alone solar for microgeneration within the curtilage of a dwellinghouse or a block of flats.

Development not permitted
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;
(b)any part of the stand-alone solar -
(i)would exceed 4 metres in height;
(ii)would, in the case of land within a conservation area or 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;
(iii)would be installed within 5 metres of the boundary of the curtilage;
(iv)would be installed within the curtilage of a listed building; or
(v)would be installed on a site designated as a scheduled monument; or
(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.

Conditions
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; and
(b)stand-alone solar is removed as soon as reasonably practicable when no longer needed.

The property known as Mill House is a detached property and is not listed or within a Conservation Area.

Examination of the site history shows there are no permitted development restrictions on the site.

The solar panels conflict with relevant section Part 14, Class B. This is due to the proposal falling outside of the curtilage of the property, and therefore not meeting the criteria of this Permitted Development Right. Although within the freehold and owned as part of the property, 'curtilage' is defined in the Permitted development rights for householders guide as "land which forms part and parcel with the

house. Usually it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area."

The field in which these panels will be situated is outside of the immediate enclosure of the house, and is at least 50m away from the closest possible curtilage boundary of Mill House.

The last application for the site (BN/5/13) showed the red edge of the application site for the extension to the dwelling as much smaller than the current red edge for this application. The site where these panels are proposed are on land is not shown as being in the ownership of the land in 2013. There have been no applications to demonstrate that the land has been used as curtilage to the dwelling since that time.

Therefore, in this case it cannot be considered that the land on which the panels are to be sited are as part of the curtilage, and as such their construction requires the submission of an application for full planning permission.

RECOMMENDATION

PP REQUIRED

The Arun District Council hereby certify that on 18th January 2023 the development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, was not lawful within the meaning of section 192 of the Town & Country Planning Act 1990 by reason of non-compliance with the relevant criteria within Schedule 2, Part 14, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015.

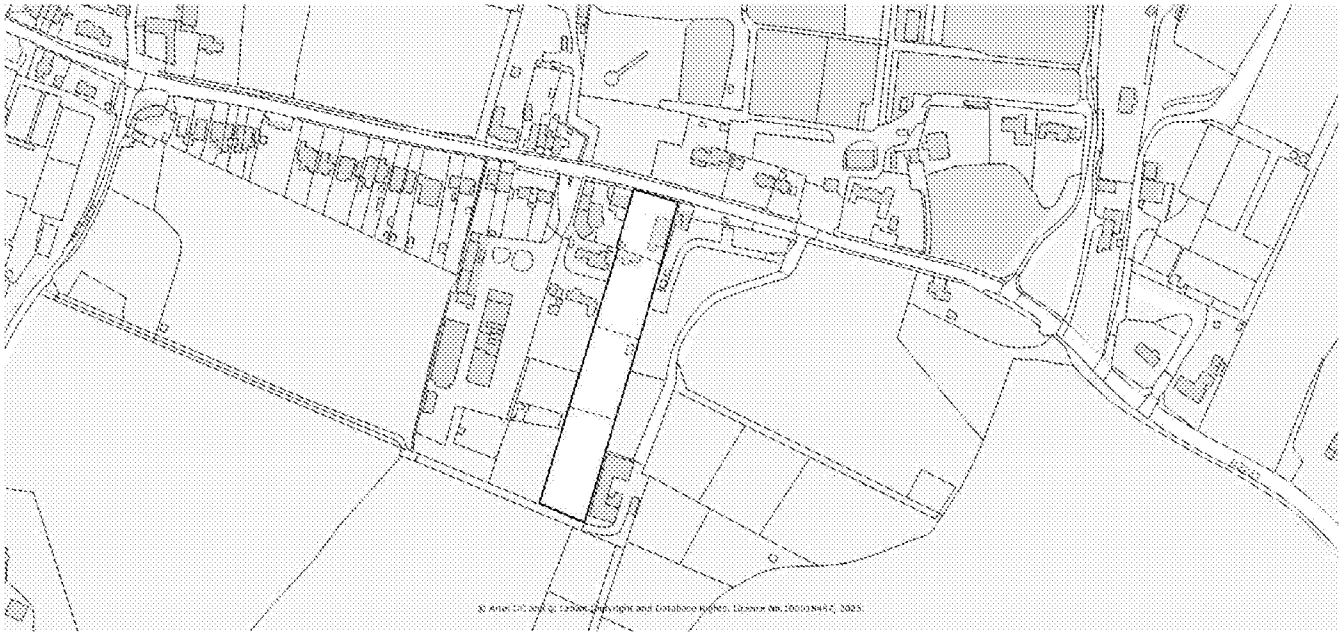
FIRST SCHEDULE
The proposed solar panels are not considered to fall under Part 14 Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015.

The development is hereby refused in accordance with plans and statements:
- Location Plan
- PV and Battery Proposal
- Planning Statement

SECOND SCHEDULE
Mill House, Yapton Road, Barnham, PO22 0BD

EXTENT OF USE
Installation of ground mounted solar panels consisting of 26 No Perlight 400 Wp, and installation of a 10.4kWp solar PV and battery installation.

BN/8/23/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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