

# REPORT FOR DECISION

<b>Agenda Item</b>	
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<b>DECISION OF:</b>	<b>PLANNING CONTROL COMMITTEE</b>
<b>DATE:</b>	<b>20<sup>th</sup> DECEMBER 2011</b>
<b>SUBJECT:</b>	<b>PROPOSED LOCAL DEVELOPMENT ORDER FOR PERMITTING SOLAR PANELS ON NON-HOUSEHOLDER PROPERTIES</b>
<b>REPORT FROM:</b>	<b>DEVELOPMENT MANAGER</b>
<b>CONTACT OFFICER:</b>	<b>JOHN CUMMINS</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain
<b>SUMMARY:</b>	This report is to obtain authorisation to investigate designation of a LDO to allow solar PV and thermal panels to be erected on all properties in the Councils, area excluding conservation areas and listed buildings, rather than just domestic residences as currently permitted by statute
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	The Committee is recommended to allow the formal process for the authorisation of a LDO to commence.
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework? N/A
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	Executive Director of Resources to advise regarding risk management N/A
<b>Statement by Executive Director of Resources:</b>	N/A
<b>Equality/Diversity implications:</b>	N/A
<b>Considered by Monitoring Officer:</b>	N/A

<b>Wards Affected:</b>	All
<b>Scrutiny Interest:</b>	N/A

**TRACKING/PROCESS**

**DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

**1.0 BACKGROUND**

- 1.1 As part of Governments targets for carbon reduction 'Permitted Development' rights have been introduced for solar pv and thermal panels on domestic properties, within limits. Solar panels pv are a method of turning sunlight directly into electricity while thermal panels heat water and reduce the reliance on carbon for heating. Solar PV panels have no moving parts and typically are 1m high, 700mm wide and 80mm thick. Thermal panels are similar and usually have a 'pump system' mounded in the roof space. They are black and are usually mounted in groups of 12 or more. The Government allows the power generated by Solar PV panels to be fed into the national grid and the owners of the panels can receive a payment for this or they can use the power themselves or a combination of both. The heat from thermal panels is used by the owner of the property to reduce the reliance on other sources of heating.
- 1.2 However, Government have not introduced similar rights on other properties but they have indicated in PPS 1 – Delivering Sustainable Development, that Councils should consider designating an LDO to allow other properties to 'enjoy' these rights. A Planning Advisory Service 'pathfinder' project has resulted in the first LDO being designated in Dacorum District for solar panels within an enterprise area.
- 1.3 Given the designation of the first LDO a template now exists for this process and the purpose of this report is to obtain the authority of the PCC to progress the designation of an LDO for the whole of Bury Councils administrative area.
- 1.4 The demand for retro fitting solar panels to buildings to date has been limited. In the last 12 months only 6 applications have been submitted for retro fitting of panels, although it is common for new buildings to be designed with solar panels because of the need to have a good BREAM rating.

**1.5** It is anticipated that the publicity surrounding the designation of an LDO will encourage owners of buildings throughout the Councils area to consider the installation of these panels which will make Bury Council a more sustainable area in which to live and work.

**1.6** The report is being presented to the PCC as it has implications for the number of applications that the Council will receive and how these will be handled by the planning department. If the PCC accept the recommendation then a report will be presented to the Executive in order to allow the formal designation of an LDO to commence.

## **2.0 EXISTING PERMITTED DEVELOPMENT RIGHTS**

**2.1** The current permitted development rights on houses for solar panels have the following restrictions:

- Panels should not be installed above the ridgeline.
- Should project no more than 200mm from the roof or wall surface.

Other than that they should comply with the following:

- Panels on a building should be sited, so far as is practicable, to minimise the effect on the appearance of the building.
- They should be sited, so far as is practicable, to minimise the effect on the amenity of the area.
- When no longer needed for microgeneration they should be removed as soon as possible.

**2.2** These rights can be exercised without any reference to the Council but normally we do receive applications for Lawful development Certificates to confirm that installations are in accordance with the regulations. This is a technical legal process carried out by the officers of the department.

**2.3** Currently there are no permitted development rights for solar panels on any other type of property. However, depending on the scale of the proposed solar panel development, it may be argued that the installation is, in legal terms, de minimis. In other words so small a development as not to change the character or appearance of the property to such an extent as to warrant it being development within the terms of the planning act. However, this approach is fought with legal complexity and each proposal has to be assessed on its own merits which can take time and considerable resources and can be open to challenge.

## **3.0 POWER TO DESIGNATE AN LDO AND PROCEDURES**

**3.1** Currently local authorities may designate LDO's under powers given to them by Section 40 of the Planning and Compulsory Purchase Act 2004 included provision for local authorities to expand on permitted development rights set nationally by way of local development orders.

**3.2** The provision came into effect on May 2006 and advice is given in Circular 1/2006

- 3.3 A draft LDO should be produced before formal consultation or publicity takes place, although it is recommended that informal consultation takes place before or during the drafting of the LDO.
- 3.4 When making an LDO, an authority must comply with the same publicity and consultation requirements as are required for the production of a development plan document. They must, in addition, consult any body who would have been a statutory consultee for an application for planning permission for the development in question.
- 4.0 **DACORUM LDO**
- 4.1 The first LDO for microregeneration on non domestic properties has been completed by Dacorum DC.
- 4.2 The LDO has the following criteria:
- On pitched roofs:
- No panel shall extend beyond the edge of the roof in any direction
  - No panels shall project more than 200mm above the roof plane; and
  - Panels shall be positioned, so far as is practical, in balanced layout that is sympathetic to the configuration of the roof.
- On flat roofs:
- No panels shall be higher than 1.5m from the roof; and
  - No panels (and supporting structures) shall be closer than 1m from the edge of the building
- 4.3 It is considered that these are well considered and could form the basis of a LDO for Bury Councils area.
- 5.0 **DRAFT BURY LDO**
- 5.1 It is proposed that the Dacorum order be modified to allow solar generation any industrial, warehouse, business, commercial, civic, school or multi storey residential buildings (apartments/flats) of more than 2 floors within administrative area of Bury, excluding Conservation Areas and Listed Buildings.
- 5.2 A copy of the draft order is attached at Appendix 2 (excluding the map)
- 5.3 The draft LDO has a procedure for notification of intended installations similar to the process of a Lawful development Certificate so that the effectiveness of the LDO can be monitored and measured.
- 6.0 **RECOMENDATION**
- 6.1 That the draft LDO at Appendix 1 is used as a basis for starting the designation of an LDO and that the planning department formally request authorisation of the Executive to allow consultation on an LDO to commence.

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**List of Background Papers:- None**

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