

April 2023

Community Energy England response to consultation on Permitted development rights: supporting temporary recreational campsites, renewable energy and film-making

Introduction to Community Energy England

1. This is a response by Community Energy England (CEE), which represents 300+ community energy and associated organisations across England involved in the delivery of community-based energy projects that range from the generation of renewable electricity and heat, to the energy efficiency retrofit of buildings, to helping households combat fuel poverty.
2. Our vision is of strong, well informed and capable communities, able to take advantage of their renewable energy resources and address their energy issues in a way that builds a more localised, democratic and sustainable energy system.
3. Community energy refers to the delivery of community led renewable energy, energy demand reduction and energy supply projects, whether wholly owned and/or controlled by communities or through partnership with commercial or public sector partners.
4. The overwhelming motivation of people and groups involved in community energy is to make a contribution to averting climate catastrophe, followed by a desire to bring community and social benefit.
5. We believe that these motivations should be shared by all working in the energy sector and on energy system transformation.

General comments:

1. In general Community Energy England is very supportive of the drive to simplify and extend the permitted development rights regime for solar.
2. However in the experience of our members the Conditions about minimising impact on the appearance of a building and/or the amenity of an area create an entirely subjective decision for planning officers who enforce it with extreme caution for fear of later challenge. This is being used a lot to stop rooftop solar.
3. Additionally the Conditions to 'remove the solar as soon as reasonably practicable when no longer needed' is no longer fit for purpose. It will be needed for the foreseeable future.
4. In addition to the measures discussed in this consultation we believe there is scope to go further, especially around the issue of solar on or within the curtilage of listed buildings. In some cases community energy projects have been obliged to enter into complex and costly planning applications when proposing new solar even on rooftops with no heritage value, merely because they are near to listed buildings. The balance of considerations in these cases is generally weighted very heavily towards heritage concerns; the need for new solar

power is often given minimal weight in determinations. We note that The Royal Borough of Kensington and Chelsea has introduced a [new listed building consent](#) order, giving consent for solar panels on most Grade II and Grade II* listed buildings, without the need for individual listed building consent. This measure could be extended across the nation.

Questions

Rights for domestic solar

Solar on domestic buildings

Q12. Should the permitted development right for solar on domestic rooftops be amended so that they can be installed on flat roofs where the highest part of the equipment would be no higher than 0.6 metres above the highest part of the roof (excluding any chimney)?

Yes/No/Don't Know. Please give your reasons.

1. Yes. However we believe that 0.6m is an overly restrictive limit for the height of the installed panels.
2. There is currently a 1m limit on new flues, vents, chimneys or exhaust pipes above the highest point of a roof on a domestic property. Chimneys, because they are existing technology and part of the building, though often redundant and, especially on flat roofs, not of architectural significance or merit, are considered acceptable whatever their height.
3. Whilst most solar PV installations will not need to exceed 0.6m in height there are occasions when this will be necessary to maximise the collection of energy.
4. Solar thermal panels are often larger than PV panels, sometimes 2m in length and needing to be installed in 'portrait' orientation. Sometimes seasonal optimisation may be applied by installing the panels at a steeper angle to capture more effectively the lower angle of sun in winter, spring and autumn when more hot water is usually needed.
5. For this reason a permitted development maximum height of 1.5m should be allowed or up to the height of any existing permitted on-roof structure, whichever is the greater.

Q13. Are there any circumstances where it would not be appropriate to permit solar on flat roofs of domestic premises?

Yes/No/Don't Know. Please give your reasons.

1. No. Given the climate emergency solar should be fitted as soon as possible on all available roofs and this should be made as easy as possible by the planning system.

Q14. Do you agree that solar on a wall which fronts a highway should be permitted in conservation areas?

Yes/No/Don't Know. Please give your reasons.

1. Yes. See response to Q13.

Q15. Do you have any views on the other existing limitations which apply to this permitted development right which could be amended to further support the deployment of solar on domestic rooftops?

Yes/No/Don't Know. Please give your reasons.

1. **Recommendation: The Conditions about minimising impact on the appearance of a building and/or the amenity of an area should be removed entirely from all permitted development Classes. Their effect counteracts the intended impact of increasing permitted development.**
2. These conditions have no objective measure; it is left entirely to the subjective view of individual planners. As such it is widely disliked by planning officers who apply it often in an ill-informed way and with extreme caution for fear of later challenge. This is being used a lot to stop rooftop solar even where the visual impact is absolutely minimal.
3. Additionally because the planning function of a Local Authority is outside the direct control of Members and senior leadership, it doesn't matter how strong the Local Authority is in their drive to zero carbon, their planners are still applying subjective opinion to the installation of PV
4. The Low Carbon Hub in Oxford has had a situation where an appeal was lost by a householder where the PV is really not noticeable from the street. In their [Osney Supercharge project](#), part of the government supported Project LEO (Local Energy Oxford), households keen to install PV are snarled up in a long, difficult process. As soon as there is any uncertainty, householders understandably back off.
5. **Recommendation: Additionally the Conditions to 'remove the solar as soon as reasonably practicable when no longer needed' is no longer fit for purpose. It will be needed for the foreseeable future.**
6. Together these Conditions are leading to situations where planning officers are actually asking householders about their justification for installing the amount of PV, whether it is really needed to meet their energy needs and wanting householders to prove that they have 'used up' roofspace on the back slope before putting it on the street slope. None of these things are the business of the planning system.
7. **Recommendation: The automatic restrictions on solar installations within the curtilage of listed buildings should be removed; only installations on listed structures themselves should require a full Listed Building Consent application.**
8. In the past community energy projects have been obliged to enter into complex and costly planning applications when proposing new solar even on rooftops with no heritage value, merely because they are near to listed buildings. The balance of considerations in these cases is generally weighted very heavily towards heritage concerns; the need for new solar power is often given minimal weight in determinations.
9. We note that The Royal Borough of Kensington and Chelsea has introduced a new listed building consent order, giving consent for solar panels on most Grade II and Grade II* listed buildings, without the need for individual listed building consent.
10. **Recommendation: This measure should be extended across the nation.**

Stand-alone domestic solar

Q16. Do you agree that the existing limitation which prevents stand-alone solar being installed so that it is closer to the highway than the dwellinghouse in conservation areas, should be removed?

Yes/No/Don't Know. Please give your reasons.

1. Yes. See response to Q13.

Q17. Do you have any views on how the other existing limitations which apply to this permitted development right could be amended to further support the deployment of stand-alone domestic solar?

Yes/No/Don't Know. Please give your reasons.

1. Yes. Solar is being treated as a regrettable excrescence or appendage to architecture. It can be a strong architectural feature in its own right.
2. All of B.1 is too limiting, but particularly the stipulation B.1 (c.) of the limit of 9m² area. This limits the generation possible when the space might allow more and the building might need more, but does not protect anything in particular.
3. There will be many cases where vastly greater arrays can be installed without reduction of visual amenity, which would enable other low carbon technologies to be installed in the property by supplying cheap power - eg heat pumps. This is a good thing that must be encouraged.
4. **There should be no size limit on the size of a solar array.**
5. More than one stand alone solar should be permitted. There may be space for east and west facing arrays instead of or additional to a south facing array. This is worth having.
6. The 4m height limit is arbitrary and should be removed in favour of 'not exceeding the height of adjacent buildings or structures.' A sloping solar array against a blank facade such as an 'end of terrace wall' may be more interesting than the original feature.
7. Also limiting it to within 5m of a boundary, or preventing a listed building from having stand-alone solar is no longer valid given the need for all buildings to benefit from cheaper, more secure and greener energy.
8. Proximity to the boundary of the curtilage does not have any necessary correlation with visibility or obtrusion on the external environment. If it is installed behind a hedge it may be invisible.
9. Similarly the curtilage of many (but not all) listed buildings is suitable for solar. A similar planning provision to Kensington & Chelsea's [new listed building consent](#) order, giving consent for solar panels on most Grade II and Grade II* listed buildings, without the need for individual listed building consent should be instituted across the nation. Installations on non-listed structures within the curtilage of listed buildings should be allowed under designated circumstances or be the subject of Prior Approval applications rather than listed building applications.

10. **Recommendation: All of B. 1 should be removed with the possible exception of**

B1. (b) (v) ‘installed on a site designated as a scheduled monument’.

A similar planning provision to Kensington & Chelsea’s [new listed building consent](#) order, giving consent for solar panels on most Grade II and Grade II* listed buildings, without the need for individual listed building consent should be instituted across the nation..

The Conditions B2. (a) and (b) should be removed. See reasoning at Q15.

Rights for non-domestic solar

Solar on non-domestic buildings

Q18. Do you agree that the current threshold permitting the generation of up to 1MW of electricity on non-domestic buildings should be removed?

Yes/No/ Don’t Know. Please give your reasons.

1. Yes. We need to maximise the exploitation of local solar potential especially on rooftops which are usually close to demand. This will also drive the implementation of local flexibility which will reduce the need for expensive centralised transmission reinforcement. Many large commercial sites, for example, can take roof arrays larger than 1 MW

Q19. Is the current prior approval for solar equipment on non-domestic rooftops (where equipment is over 50kW but no more than 1MW) effective?

Yes/No/ Don’t Know. Please give your reasons.

1. No. We suggest the prior approval for 50kw to 1MW roof top arrays is removed as it creates an unnecessary delay and hurdle to deploying PV to meet our Net Zero targets. Feedback from our members shows that it is very little understood by local authorities and compliance is extremely patchy.
2. We suggest that prior approval be reserved for visually sensitive locations only, i.e. section 2(3) land and listed building curtilages (see response to Q17 above).

Q20. Are there any circumstances where it would not be appropriate to allow for the installation of non-domestic rooftop solar where there is no limit on the capacity of electricity generated?

Yes/No/Don’t Know. Please give your reasons.

1. No. We need to maximise solar on appropriately orientated roofs.

Q21. Do you agree that the existing limitations relating to the installation of solar on non-domestic buildings in article 2(3) land - which includes conservation areas, Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites – should be removed?

Yes/No/Don’t know. Please give your reasons.

1. Yes. The prior approval system can provide some protection whilst maintaining a presumption in favour of installation. There will be many cases where buildings in AONBs do

not directly impact the wider visible environment - and in many cases already degrade it.
Putting solar on a rusty steel barn is not going to degrade the beauty of the area.

Q22. Do you have any views on how the other existing limitations which apply to the permitted development right could be amended to further support the deployment of solar on non-domestic rooftops?

Yes/No/Don't know. Please give your reasons.

1. Yes.
2. **Recommendation: The Conditions at J.4—(1) (a) and (b) should be removed entirely. See response to Q15 for reasoning.**

Stand-alone non-domestic solar

Q23. Do you agree that the existing limitation which prevents stand-alone solar being installed so that it is closer to the highway than the building in article 2(3) land - which includes conservation areas, Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites – should be removed?

Yes/No/Don't know. Please give your reasons.

1. Yes. The criterion should be the visual and ecological impact, not the relative distance of the highway and the building. This could be assessed by the Prior Approval process.

Q24. Do you have any views on how the other existing limitations which apply to this permitted development right could be amended to further support the deployment of stand-alone non-domestic solar?

Yes/No/Don't know. Please give your reasons.

1. Yes. The prior approval system can provide some protection whilst maintaining a presumption in favour of installation.
2. Projects should preferably be community-led and owned.
3. **Recommendations:**
4. **Most limitations should be removed. See our response to Q17 for reasoning:**

All of K. 1 should be removed with the possible exception of

K1. (b) (v) 'installed on a site designated as a scheduled monument'.

A similar planning provision to Kensington & Chelsea's [new listed building consent](#) order, giving consent for solar panels on most Grade II and Grade II* listed buildings, without the need for individual listed building consent should be instituted across the nation..

The Conditions K2. (a) and (b) should be removed. See reasoning at Q15. Other limitations in regard to article 2(3) land should also be removed.

Community ownership of the solar should be a material consideration in favour of planning approval.

Solar Canopies

Q25. Do you agree that permitted development rights should enable the installation of solar canopies in ground-level off-street car parks in non-domestic settings?

Yes/No/Don't Know. Please give your reasons.

1. Yes. Indeed, this sort of installation should be a compulsory requirement to obtain planning permission for such projects. Planning guidance on solar on canopies should take account of embodied carbon requiring it be minimised. An aluminium structure would hugely increase upfront carbon emissions. Timber canopies have been successfully used but supply chain criteria on genuinely sustainable and local sourcing of timber should be imposed and enforced.
2. However we see no merit in the 'ground-level' stipulation. Rooftop or multistorey car parks are even better suited to canopies as they are likely to be less obstructed by other buildings and the need is the same or even greater in the case of multistorey car parks.
3. **Recommendation: delete "ground-level"**

Q26. Do you agree that a permitted development right for solar canopies should not apply on land which is within 10 metres of the curtilage of a dwellinghouse?

Yes/No/Don't Know. Please give your reasons.

1. As per Q23 the criterion should be visual impact and appropriateness, not distance; the use of a 10m stipulation has a regressive effect preventing this right from being exercised by smaller property holders.

Q27. Do you agree that a permitted development right for solar canopies should not apply on land which is in or forms part of a site designated as a scheduled monument or which is within the curtilage of a listed building?

Yes/No/Don't Know. Please give your reasons.

1. No. If planning permission is going to be granted for a car park it will not be made uglier by being covered with solar panels. Even Stonehenge has areas in the site where the addition of a canopy to a car park would not impact the overall site. Solar panels on a well designed

canopy are not more of an eyesore than a hotch-potch of parked cars. Considerations relating to the solar panels should be addressed such as reflection that impede key views. The prior approval stipulation will allow bad design to be weeded out or modified.

Q28. Do you agree that the permitted development right would not apply to article 2(3) land - which includes conservation areas, Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites?

Yes/No/Don't Know. Please give your reasons.

1. No. As above, if permission is being granted for car parking, it should be covered with solar panels which are not more ugly than a hotchpotch of parked cars.

Q29. Do you agree that solar canopies should be permitted up to 4 metres in height?

Yes/No/Don't Know. Please give your reasons.

1. No. No absolute maximum should be stipulated to allow truck and coach/bus access in time.

Q30. Do you think that the right should allow for prior approval with regard to design, siting, external appearance and impact of glare?

Yes/No/Don't Know. Please give your reasons.

1. Yes, we agree that this is a sensible level of control whilst retaining the presumption in favour of permitting this low-carbon infrastructure.

Q31. Are there any other limitations that should apply to a permitted development right for solar canopies to limit potential impacts?

Yes/No/Don't Know. Please give your reasons.

No comment.

4. Providing further flexibility to allow local authorities to undertake development

Q34. Do you agree that the permitted development right allowing for development by local authorities should be amended so that the development permitted can also be undertaken by a body acting on behalf of the local authority?

Yes/No/Don't Know. Please give your reasons

1. Yes

Signed by:

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Further Information:

Community Energy England (CEE) was established in 2014 to provide a voice for the community energy sector, primarily in England. Membership totals over 300 organisations. Many of the member organisations are community energy groups, but membership extends across a wide range of organisations that work with and support the community energy sector.

www.communityenergyengland.org