



Appeal Decision

Site visit made on 6 October 2020

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 26 October 2020

Appeal Ref: APP/W0340/X/20/3252766

4 The Maltings, West Ilsley, Newbury, RG20 7AX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Philip Knight against the decision of West Berkshire Council.
 - The application Ref 19/02750/CERTP, dated 1 November 2019, was refused by notice dated 14 January 2020.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is described as 'installation of solar panels on roof. See enclosed quotation.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the installation of solar panels on the roof of No 4 The Maltings would have been lawful on the date of the LDC application, being 1 November 2019, on the basis that the development would have been granted planning permission by the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), as then in force.

Reasons

3. Article 3 and Schedule 2, Part 14, Class A of the GPDO grant planning permission for the installation, alteration or replacement of microgeneration solar PV or solar thermal equipment on a dwellinghouse. This 'permitted development right' is subject to limitations and conditions set out in paragraphs A.1 and A.2 of Part 14.
4. There is no dispute that the proposed installation of solar panels would comply with the limitations set out in paragraph A.1.
5. The Council refused to grant a LDC on the basis that it would breach conditions A.2(a) and (b), which require solar PV is, so far as practicable, sited so as to minimise its effect on the external appearance of the building and the amenity of the area. The phrase 'so far as practicable' is not defined in the GPDO.
6. These conditions do not require a conventional assessment of the effect of the proposal on the external appearance of the dwelling and the amenity of the area. Nevertheless, it must be shown, that in practical terms, the effects have been minimised.

7. No 4 The Maltings comprises a detached dwellinghouse located within the West Ilsley Conservation Area and the North Wessex Downs Area of Outstanding Natural Beauty. It has a pitched roof, the front of which incorporates a chimney stack, pitched dormer, two small gables and a large feature gable. The main ridge line is stepped in height and the eaves line varies across the front of the house. Because of these features, the roof form contributes significantly to the overall architectural composition of the dwelling.
8. In support of the proposal, the appellant has provided a quotation for the design, installation and commissioning of a solar photovoltaic and battery storage system at the appeal dwelling. That puts forward two solutions which the company say will provide a 'strong platform to manage and control reliance on the National Grid for future household energy needs'.
9. The recommendation is a PV array comprising 15 panels, configured as one block of eight panels, located on the south west facing roof, and one block of seven panels (configured as one row of four panels over one row of three panels) to be mounted on the south east facing roof elevation. The second option is a larger solar array comprising 17 panels with the additional panels being installed on the south west facing roof elevation.
10. To pursue an option beyond the recommended 15 panels runs counter to minimising their effect because, in general terms, a lesser number of panels is more likely to be able to be sited in a way which minimises their effect. Moreover, the quote demonstrates that the required amount of panels can be accommodated in two locations on the roof. The sketch provided however, shows that the panels would have a significantly greater roof coverage than that stated in the quotation, being sited in two locations on the main front facing roof pitch and on one side of the pitch to the projecting feature gable.
11. All of these locations would be visible from various points of The Maltings. Consequently, restricting the location of the panels to two locations on the roof, rather than three, would result in a lesser effect on the external appearance of the dwelling and the amenity of the area.
12. Moreover, the sketch provided shows only the general location of the panels and does not show how they would be arranged in relation to architectural features of the roofscape, including the smaller gables and pitched dormer. It has not therefore been shown that they would be sited so as to minimise the effect on the external appearance of the dwelling.
13. I accept that the dark colour of the proposed panels would match features of the house, including the weatherboarding to the front gable. I also accept that given that the rear roof pitch of the dwelling faces to the north east, that the most practical option – in terms of receiving most sunlight – would be to position the panels on the front facing roof pitch.
14. However, the appellant has not demonstrated that the solar panels on the front roof pitch of the dwelling would, so far as practicable, be sited so as to minimise their effect on the external appearance of the building and the amenity of the area. On the evidence before me and on the balance of probabilities, the installation of the solar panels would breach limitations A.2(a) and A.2(b) of Schedule 2, Part 14, Class A of the GPDO. It follows that the appellant has not demonstrated that the proposed solar panels on the roof are granted planning permission by the GPDO.

Other matters

15. I note that the appellant considers that a precedent has been set by the Council granting a LDC for the installation of solar panels on the neighbouring dwelling at No 5 The Maltings. However, I am not aware of the information submitted in support of that application, and, in any case, I am only able to consider whether the proposal before me is lawful.
16. I've also noted the representation submitted in support of the proposal but since the appeal is concerned with what is lawful, I am unable to consider matters relating to the Council's environmental objectives.
17. The Council has highlighted that it remains open to the appellant to submit a planning application for the proposal to be considered against the relevant policies of its development plan. I have noted the appellants misgivings in this regard, but they are not matters for me and this appeal. In any case, it is also open to the appellant to submit a fresh LDC application with a view to addressing the issues I have highlighted.

Conclusion

18. I conclude that the Council's refusal to grant a LDC in respect of the installation of solar panels on roof was well-founded and that the appeal should not succeed. I will exercise the powers transferred to me under s195(3) of the 1990 Act as amended.

Richard S Jones

INSPECTOR