



Appeal Decision

Site visit made on 16 February 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Appeal Ref: APP/G3110/D/20/3262175

45 Richmond Road, Oxford OX1 2JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Sir and Lady Christopher Ball against the decision of Oxford City Council.
 - The application Ref 20/01938/FUL, dated 7 August 2020, was refused by notice dated 7 October 2020.
 - The development proposed is the installation of 15 photovoltaic solar panels to the front and rear roofslopes.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above I have omitted the reference to the proposal being retrospective in the description as this is not an act of development. Nevertheless, the solar panels are in situ and I have determined the appeal accordingly.

Main Issue

3. The main issue is whether the development preserves or enhances the character or appearance of the Jericho Conservation Area (CA).

Reasons

4. The CA covers an industrial suburb of the city and reflects a period of late Georgian and Victorian expansion. Its significance is partly derived from the mixture and high proportion of historic residential and commercial buildings that display consistently high townscape quality. As such, the aesthetic value of the buildings within the CA are of heritage interest. This is recognised in the Jericho Conservation Area Designation Study, 2010 which refers to the common aesthetic of building characteristics within each character area, including, amongst other things, the roofscape.
5. Although the appellants highlight that the study was published approximately ten years ago, the notable characteristics referred to were consistent with my observations of the CA. Neither does the Heritage Impact Statement¹ submitted identify areas whereby the significance of the CA has markedly changed in the subsequent period. Moreover, it concludes that the aesthetic

¹ Prepared by Heal Planning

value of the CA is of high significance due to its vastly unchanged architecture². Accordingly, this continues to contribute considerably towards the significance of the CA.

6. The appeal site concerns an attractive traditional building within the CA that, although originally a stable block, is now a two storey dwelling. It is positioned perpendicular to the cobbled Walton Lane, and is therefore, set back from Richmond Road. As such, its layout is somewhat different from the otherwise general uniformity seen in residential development presenting onto Richmond Road and Walton Crescent. Nevertheless, as it is constructed using materials prevalent in the vicinity, has a relatively simple pitched roof form and is of a similar age to many other traditional buildings, its character and appearance are coherent with the wider area. This remains the case notwithstanding that the roof tiles may not be the original historic fabric, having been previously replaced. Therefore, the building makes a positive contribution to the character and appearance, and hence significance of the CA.
7. The development comprises 15 rectangular solar panels on the roof of the building. The arrangement covers a sizeable section of the northern roofslope, whereas the panels on the southern roofslope cover the majority of the roof plane. The panels are constituted from modern materials including tempered glass which has a different texture and finish from the matt roof tiles. They are also slightly raised relative to the plane of the roof which alters the overall roof profile. In combination with their blocky arrangement, this conveys a utilitarian aesthetic which is alien and harmful to the prevailing traditional appearance of the roofscape in the CA. Although I acknowledge that the dark colour of the panels limits the degree of harm, it does not fully surmount my concerns.
8. Moreover, the number of panels results in the otherwise simple roof treatment appearing cluttered. Their height on the building adds to their visual prominence such that I was able to see some of them from positions along Walton Lane and Richmond Road. They will also feature in some private views from nearby houses and gardens. I am mindful of my statutory duty³ to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Even if I were to accept the appellants' contention that the solar panels are barely visible from the highway, the statutory duty does not state that it is confined to the impact on public vantage points. In any event, my observations were that the visibility of the panels, particularly on the southern roofslope exacerbates the extent of the harm.
9. Taking these factors together, the proposal would be harmful to the significance of the CA, a designated heritage asset. However, in light of the modest scale of the proposal, this would be less than substantial harm. Paragraph 196 of the National Planning Policy Framework (the Framework) states that in these circumstances, this harm should be weighed against the public benefits of the proposal.
10. The appellants highlight the importance of reducing energy consumption and the need to transition to a low carbon future in order to address the negative

² Page 7, Heritage Impact Statement

³ Section 72 Planning (Listed Buildings and Conservation Areas) Act 1990

impacts arising from climate change. The development contributes towards this objective. However, they accept that a balance must be struck between environmental and heritage issues⁴. Essentially, the parties disagree on how much weight the respective considerations should attract and ultimately, where that balance lies.

11. That judgement, although clearly set within a wider context, depends upon balancing the specific merits of the case before me. The evidence provided does not show that the wide-ranging objectives and targets of the Council to tackle climate change and be a low carbon city are made without any qualification. Neither is it shown that they have paramountcy over national and local planning policies. Moreover, both the development plan and the Framework should be read as a whole⁵.
12. The value of small-scale projects to cutting greenhouse gas emissions is recognised in paragraph 154 of the Framework. The greater use of renewable energy, additional support to the national grid and the potential to save 1,120kg of carbon dioxide per year arising from the proposal are undoubtedly important public benefits. The appellants also contend that public benefits are derived indirectly from a reduction in demand which will reduce the price of energy more generally. Furthermore, such savings could be spent elsewhere on maintaining the property. Nevertheless, there is little evidence to substantiate or quantify that this is certainly the case having regard to this proposal. In any event, the small scale of the proposal tempers the extent of the benefits which must be reflected in the overall weight they attract. Therefore, the public benefits of the proposal attract moderate weight.
13. It is also likely that the proposal will reduce the costs of energy bills for the occupants of the property, but this is primarily a private benefit and therefore, does not accrue weight as a public benefit in the paragraph 196 heritage balance.
14. Paragraph 193 of the Framework stipulates that great weight should be given to the conservation of designated heritage assets. This is underlined by the emphasis given in the wording of the statutory duty. Therefore, the moderate weight given to the public benefits in this case does not outweigh the great weight attributed to the harm caused to the significance of the CA.
15. I have considered the appellants' suggestion of imposing a condition that would restrict the presence of the solar panels to a period of five years. This would reduce the degree of harm, but in turn would limit the associated benefits and therefore, would not affect the overall balance under paragraph 196 of the Framework. Moreover, Planning Practice Guidance⁶ relating to the circumstances where it might be appropriate to use a condition imposing a temporary period does not suggest that they should be employed to justify development that falls short of the standard required by the development plan. Therefore, I am not satisfied that a condition would overcome my concerns and make the development acceptable.
16. Reference is made to other buildings in a CA where solar panels have been permitted by the Council. Of those specifically mentioned, 56 Nelson Street

⁴ Page 5, Appellants' Appeal Statement

⁵ Paragraph 3, National Planning Policy Framework

⁶ Paragraph: 014 Reference ID: 21a-014-20140306

appears to have most relevance as it is within the same CA and concerns a traditional dwelling. However, No.56 is some distance from the appeal site and no additional information is provided with regards to how the Council reached its decision in that case. As I am not assured it is directly comparable to the circumstances of the case before me, it attracts limited weight. Likewise, the limited information provided in relation to other examples inhibits a meaningful comparison with the appeal proposal and so they are given little weight. In any case, I have determined the proposal on its own merits.

17. My attention is drawn to an appeal decision⁷ for a property in a conservation area in Islington, London. Although I am only provided with the decision itself, the development concerned a different conservation area and city and so the context would have been different to the case before me. Furthermore, although solar panels formed part of the development, this element was not a matter of dispute between the parties. Therefore, it did not feature significantly in the decision. Consequently, the appeal decision is of little weight.
18. In support of the proposal I am referred to the presence of TV aerials and satellite dishes in the CA. However, it is accepted that these have eroded the character of the area⁸. Hence, their presence would not support further harmful development.
19. The appellants contend that, had it not been for the existence of an Article 4 Direction restricting permitted development rights at the appeal site, the proposed development could have been carried out without the need for planning permission. Be that as it may, the very existence of the Article 4 Direction deliberately removing the ability to undertake such development underlines the sensitivity of the area to such changes. Hence, the operation of permitted development rights in circumstances other than those before me carries no weight. Additionally, my approach is consistent with the findings of the Inspector who dismissed an appeal⁹ for the development. The recent nature and similarity of circumstances make this decision highly relevant and therefore, it carries considerable weight.
20. Accordingly, I find that the proposal fails to preserve or enhance the character or appearance of the CA. It follows that it is contrary to policies DH1 and DH3 of the Oxford Local Plan 2036, June 2020. These policies, amongst other matters, only permit development of high quality design that creates or enhances local distinctiveness and require development to respect and draw inspiration from Oxford's unique historic environment.

Other matters

21. The appellants contend that their Human Rights will only be preserved by the appeal being allowed. Whilst the failure of the appeal restricts the appellants' ability to develop their home as they choose, the protection of designated heritage assets is a legitimate public interest. Therefore, the determination is proportionate and necessary in the circumstances and hence would not result in a violation of their rights under the European Convention on Human Rights, as incorporated into the Human Rights Act 1998.

⁷ Reference APP/V5570/D/18/3210559, Appendix C, Appellants' Appeal Statement

⁸ Page 8, Appellants' Appeal Statement

⁹ Reference APP/G3110/D/20/3247562

Conclusion

22. For the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector