



Appeal Decision

Site visit made on 1 June 2021

by S A Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2021

Appeal Ref: APP/G3110/C/21/3268699

45 Richmond Road, Oxford OX1 2JJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Sir Christopher and Lady Ball against an enforcement notice issued by Oxford City Council.
 - The enforcement notice, numbered 19/00404/ENF, was issued on 28 January 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of solar panels to the roof of the dwellinghouse on the Land which is situated within the Jericho Conservation Area.
 - The requirements of the notice are: (i) Remove the solar panels and all associated fixings from the dwellinghouse and the Land and make good those area of the roof where the solar panels had been installed.
 - The period for compliance with the requirements is 4 (four) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act).
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (a) and the deemed planning application

Main Issue

2. This is whether the development preserves or enhances the character or appearance of the Jericho Conservation Area (CA).

Reasons

3. The appeal property is a two-storey Victorian red-brick dwelling, set back from the line of terraced and semi-detached properties which front Richmond Road. It is side on to Walton Lane, a narrow cobbled street which links Richmond Road to Walton Crescent. Views of the property frontage are gained from Richmond Road at the entrance to and from along Walton Lane. Due to the set back of the property, the house and its south facing roof, are readily visible from the public realm. Although the solar panels on the north facing roof are not all readily visible, they are still recognisable from views along Walton Lane.
4. The appeal property, a former stable block, is within the Jericho Conservation Area (CA) and is subject to an Article 4 Direction¹ which identifies its

¹ Made on the 31st of March 2011

importance and removes permitted development rights for, amongst other things, the installation, alteration or replacement of solar PV or solar thermal equipment on a roof of a dwellinghouse; or a building situated in the curtilage of a dwellinghouse visible from a highway or waterway. The reason for the introduction of the Article 4 Direction was to protect historic features and architectural detailing of buildings in the area.

5. The Jericho Conservation Area Designation Study (2010) (the Study) covers an industrial suburb of the city and reflects a period of late Georgian and Victorian expansion. Streetscapes are typified by a uniformity of building line, roofscape, fenestration and materials, all of which give a consistency of character. There is a common aesthetic of building characteristics within each character area. These include building lines, plot sizes, scale, position, roofscape, brickwork and other materials and all contribute to the significance of the CA.
6. The Study describes the Walton & Smiths Close, in which the appeal property is situated, as an area where front elevations remain largely unaltered including the roofscape and boundary walls, as an important feature of the area. It also notes that some satellite dishes and TV aerials are fitted to the front elevations of a limited number of houses, which detract from the simplicity and composition of the elevations. It says of Richmond Road, the street offers an impressive roofscape that has relatively few alterations, picking up on the addition of rooflights to the front elevations and the addition of a front dormer as not reflecting the character of the street.
7. The appellants highlight that the Study was published in 2010 and has not been re-evaluated since. Consequently, it is claimed that it does not have regard for the Government aims of becoming carbon neutral by 2050 or the local aims of the Council to become carbon neutral by 2030. Furthermore, they argue that the character of the area is likely to have changed significantly and the CA appraisal should reflect that as well as encourage proposals which seek to adapt buildings to ensure their long term future. Because of this, it is stated that little weight should be given to its assessment of the area.
8. I observed during my site visit that the surrounding area has maintained many of its characteristics referred to within the Study. I note also that the Heritage Impact Statement², submitted by the appellants, does not identify areas where the significance of the CA has markedly changed in the subsequent period. Furthermore, it concludes that the aesthetic value of the CA is of high significance due to its vastly unchanged architecture³.
9. 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 most of the roof plane. The panels are a modern addition to the roof with a visually different finish to the roof tiles. Although their dark colour allows for a degree of blending-in with the roof, the expanse of the panels, which are more noticeable because of their raised profile, are at odds with the traditional materials and design of the surrounding buildings. From the public realm and undoubtedly private views too, the solar panels draw the eye and appear as an unsympathetic addition to the property. This visually detracts from the character and appearance of the

² Prepared by Heal Planning

³ Page 7, Heritage Impact Statement

prevailing appearance of the roofscapes within the CA and is harmful to the significance of the CA, which is a designated heritage asset.

10. However, as the development is relatively small-scale, with reference to paragraph 196 of the National Planning Policy Framework (the Framework), I consider the extent of harm to the CA to be less than substantial; this harm should therefore be weighed against the public benefits of the development.
11. The appellants suggest there are public benefits in terms of: i) the economy - where supply is met by an individual reducing demand on publicly supplied services, the prices go down; ii) social – money saved on electricity by the home owner can be used to maintain their property for the public good and spent on other items, thereby generating tax revenues to pay for public services etc; and iii) environmental - helping to reduce carbon emissions, thereby protecting the planet. Furthermore, the appellants advise that the use of solar energy would have a positive impact in terms of localised energy production and a reduction in energy consumption from the electricity grid thereby helping prevent blackouts.
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 for a typical house to save between 1.3 to 1.6 tonnes of carbon per year are undoubtedly important public benefits. I am also mindful that the Council has ambitious plans and targets and seeks to support the increase in the use of renewable energy and improve the energy efficiency of historic buildings.
13. However, given the limited nature of the development and bearing in mind the advice in the Framework that great weight should be given to the conservation of heritage assets, I consider the public benefits to be modest, to which I attach only moderate weight. 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.
14. I note the appellants suggest that the solar panels have a limited operational life and allowing them to remain in situ for a further 5 years would reflect this. However, a temporary permission would perpetuate an unacceptable form of development in this location. Furthermore, the reason for issuing the enforcement notice was to remedy the breach of planning control and the requirements of the notice stipulate their removal. These requirements are in accordance with s173(4)(a) of the 1990 Act. Any lesser action would fail to achieve the objectives of the notice to address the breach of planning control.
15. Accordingly, I find that the proposal fails to preserve or enhance the character or appearance of the CA. In this respect I find it to be 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. The development also fails to comply with the conservation requirements of the Framework.

Other matters

16. My attention is drawn to 56 Nelson Street, which is within the CA, where solar panels have been permitted by the Council. I note that No 56 is within a different character area based on historic development and built form. Nevertheless, no additional information is provided with regards to the circumstances of that particular case and how the Council reached its decision. Consequently, I find that it attracts limited weight. In any case, the development before me should be considered on its own merits.
17. An appeal decision⁴ for a property in the Barnsbury Conservation Area in Islington, London has also been cited as an example where the installation of solar panels was allowed. 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. The property is the subject of two previous appeal decisions⁵ for the development which is the subject of the alleged breach of planning control. Having read the submissions from both the appellants and the Council and those from interested parties, some of whom support the development in terms of its design and environmental approach, and having visited the site and the surrounding area I find that my approach is consistent with the findings of the Inspectors who dismissed the previous appeals for the development. The recent nature and comparable circumstances make these decisions highly relevant and therefore, they carry considerable weight.
19. 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.

Conclusion

20. For the reasons given above, I therefore conclude that allowing the solar panels to remain in situ either on a permanent or temporary basis would not be acceptable. The development would be contrary to the development plan and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. The appeal on ground (a) should not succeed and the deemed planning application under s177(1) of the 1990 Act should be refused.

S A Hanson

INSPECTOR

⁴ Ref APP/V5570/D/18/3210559, Appendix C, Appellants' Appeal Statement

⁵ Ref APP/G3110/D/20/3247562 and APP/G3100/D/20/3262175