



Appeal Decision

Site visit made on 29 January 2024

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 27th February 2024

Appeal Ref: APP/F5540/W/23/3328617

Prologis Park, Unit B, Green Lane, Hounslow TW4 6ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Miss Natalie Yates, Redcentric Plc against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00507/AA/PA1, dated 05 June 2023, was refused by notice dated 28 July 2023.
 - The development proposed is installation of solar PV panels to a pitched roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters

1. Under Article 3(1) and Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the installation, alteration or replacement of solar equipment on non-domestic premises subject to limitations and conditions.
2. Where an application is made for prior approval for development paragraph J.4 (4) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply – or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development.
3. Paragraph J.4 (2) requires the local planning authority to assess whether the prior approval will be required as to the design or external appearance of the development, in particular the impact of glare on occupiers of neighbouring land.
4. Part 14, Class J of the GPDO was amended on 21 December 2023. The amendment removed the limitation set out at J.3 which restricts applications to a total generating capacity of 1 megawatt. It also amends the limitations on article 2(3) land; however, this is not pertinent to the appeal. I have taken account of the former amendment in my reasoning below.
5. The Council refused the application on the basis that the developer had provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified in Class J applicable to the development and that it was unable to assess the design or external appearance of the development.

6. The appellant submitted a single plan (LXP-EN-2203-05 PLD-01) with the planning application. This is a roof plan, showing the arrangement of the solar panels on the roof. No elevational details were submitted, and no details were provided of the profile or nature of the panels. The appellant has submitted revised plans as part of the appeal including: details of the type of panels; a roof plan (LXP-EN-2203-06 GA-01) showing the general arrangement of the panels on the roof which now shows solar panels on the smaller roof to the front of the building in addition to the main roof; a mounting system drawing; and a plan showing a 2000mm exclusion from the roof edge on the main and smaller roof. I shall address these plans in my reasoning below.

Main Issues

7. Taking into account the above, the main issues in this case are:
- Whether sufficient information has been provided to demonstrate that the proposal complies with the conditions, limitations or restrictions specified in Class J and;
 - if so, whether or not prior approval should be given in respect of the design or external appearance of the development, in particular the impact of glare on occupiers of neighbouring land.

Reasons

8. The appeal site is a large industrial building situated within the Prologis Park, Hounslow. Residential properties are situated along Beavers Lane to the northeast and Beavers Community Primary School lies to the northwest on Salisbury Road. Heathrow airport lies less than 2 miles to the west.
9. Schedule 2 Part 14, Class J of the GPDO sets out permitted development rights for the installation or alteration of solar equipment on non-domestic premises. Class J states that the installation, alteration or replacement of a) microgeneration solar thermal equipment on a building; b) microgeneration solar PV equipment on a building; or c) other solar PV equipment on the roof of a building, other than a dwelling house or block of flats is permitted subject to the criteria set out at Paragraphs J.1 (a-f), J2(a-c) and subject to conditions set out at paragraphs J.4 (1-11).
10. J.1a, states that development would not be permitted where the solar PV equipment would be installed on a pitched roof and would protrude more than 0.2m beyond the plane of the roof slope when measured from the perpendicular with the external surface of the roof slope. The additional 'mounting system drawing' demonstrates that the proposed solar PV panels would not protrude more than 0.2m beyond the plane of the roof slope and so the proposal meets the requirements of this paragraph.
11. The additional roof plan (LXP-EN-2203-06-GA-01) shows panels on the smaller roof in addition to the main roof, which is a change to the original plan. The plans appear to indicate that there may be a slight pitch on this roof too; however, as there are no elevational details or profiles, I cannot be certain that this is the case. In any event, the mounting system drawing confirms that the solar PV panels would not be higher than 1 metre above the highest part of the roof. The proposal, therefore, meets the requirements of paragraph J.1 (b) were they applicable.
12. The additional roof layout plan demonstrates that the proposal would not be installed within 1 metre of the external edge of the roof and so the proposal meets the requirements of paragraph J.1 (C).

13. As it is not intended to install the solar panels on a wall and as the appeal building is not a listed building/within the curtilage of listed building or scheduled monument, the other criteria are not applicable. Whilst details of the energy generating capacity are not provided criterion J.3 restricting the capacity of the solar PV system to 1 megawatt has been removed. Consequently, the proposal meets the criteria set out in paragraphs J.1 and J.2.
14. Class J.4 (1) states that development is permitted subject to conditions that the solar PV equipment must, as far as possible be sited so as to minimise its effect on the external appearance of the building and the amenity of the area; and, that the solar PV equipment is removed as soon as reasonably practicable when no longer needed. It would be possible to condition the prior approval to ensure that the PV equipment is removed when no longer needed.
15. J.4 (2) states that development is permitted subject to the condition that the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the design or external appearance of the development, in particular the impact of glare on occupiers of neighbouring land. It goes on to say [J.4 (3)] that the application must be accompanied by a written description of the proposed development, which it is, albeit brief. In addition, the developer's contact details, and email address were included.
16. A plan accompanied the application which indicates the site and shows the arrangement of the solar PV panels on the roof. They would cover a significant proportion of the main roof and smaller flat, other than a 2m exclusion zone around the edge of the roof. Whilst further details have been provided in relation to the type of roof panel as no elevational details are provided it is difficult to assess the effect of the proposal on the external appearance of the building and the amenity of the area.
17. Furthermore, the appeal building is situated adjacent to Beavers Lane to the north east. There are flats on the other side of Beavers Lane which are three to four storey and which are higher than and overlook the roof of the appeal building. There is also the school which lies to the north west. Consequently, there is potential for the proposal to cause glint and glare to adjacent neighbours. Furthermore, it was apparent on my site visit that the appeal building is close to Heathrow Airport and appears to be on or close to the flight path and so there is the potential for the solar PV panels to cause a distraction to pilots. In the absence of any assessment of the potential glint and glare arising from the solar PV panels, there is insufficient information before me to assess the impact of glare on occupiers of neighbouring land.
18. Consequently, whilst the proposal would comply with the limitations set out in J.1 and J.2; in accordance with part J.4(4)(b) there is insufficient evidence before me to determine whether the proposal would comply with the conditions set out in paragraph J.4. As such, there is insufficient information before me to consider the second main issue.

Conclusion

19. Taking into account the above, the appeal should be dismissed.

Caroline Mulloy

Inspector