



Appeal Decision

Site visit made on 19 February 2024

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2024

Appeal Ref: APP/G5180/D/23/3334289

Barton, Kemnal Road, Chislehurst, Bromley, BR7 6LY

- 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 Mr and Mrs Robbert and Vivian Schut against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/23/03109/FULL6, dated 10 August 2023, was refused by notice dated 29 November 2023.
 - The development proposed is the installation of solar panels on the flat roof.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of solar panels on the flat roof at Barton, Kemnal Road, Chislehurst, Bromley, BR7 6LY in accordance with the terms of the application, Ref DC/23/03109/FULL6, dated 10 August 2023 and the plan numbered 01B.

Preliminary Matter

2. The application was made retrospectively and at the time of my visit the solar panels were installed.

Main Issue

3. The main issue is the effect of the proposal upon the living conditions of neighbouring occupiers at Mulbarton Court with particular regard to visual impact.

Reasons

4. The appeal property is a single-storey dwelling, part of which is understood to be the former ballroom to a large Victorian premises that was destroyed during WWII. Barton is now attached to the rear elevation of a three-storey apartment block known as Mulbarton Court within landscaped communal grounds. A total of twenty-eight solar panels have been installed on the flat roof part of Barton where it adjoins Mulbarton Court. The black panels each measure 1350mm by 1165mm and have been arranged in three rows and set inclined at an angle to face south. They sit on a black supporting solid looking frame and at their highest point rise 680mm above the surface of the roof.
5. The flat roof in question has a concrete/stone balustrade around two sides of its perimeter. The maximum height of the panels sits below the height of the balustrade. As such, and due to any angle of sight, they cannot be seen from

ground level to the front or side of Barton. The absence of the balustrade to the rear of Barton means that they are detectable when viewed from the communal garden around Mulbarton Court and to the north of the appeal property. However, only the top part of the nearest row is visible. Within the wider context of their setting the degree to which they can be seen is minimal. They appear neither prominent nor visually intrusive from this aspect.

6. There are two floors of flats in Mulbarton Court immediately above the roof of Barton. During my visit I was able to view the outlook from windows to the flats immediately above Barton at first floor level (flat No 5) and second floor level (flat No 9), and from a neighbouring second floor flat (No 12).
7. The installation is clearly visible in the outlook from the first and second floor east facing windows of the nearest flats. The degree of prominence varies from window to window. The closest window to flat 12 serves a bedroom. The raised panels and their mountings can be seen when looking down and at an oblique angle. However, they do not obscure any line of sight, but are seen merely as an alternative configuration of the roof form over Barton.
8. From flats 5 and 9 the installation is more prominent. Both properties have bedroom windows directly facing the grounds but with their nearest side of the frames approximately aligned with the rear wall of Barton. The panels and their mountings are seen at close quarters and at a shallow angled outlook when looking to the right. From flat 5, at first floor, they are at eye level. However, whilst changing the appearance of the roofscape over Barton, the outlook from these windows remains mixed, being partly across the roof of Barton and more broadly towards the landscaped grounds and beyond.
9. The four windows to flats 5 and 9 immediately above the roof of Barton look directly towards the installed panels and framework. Both windows at first floor to flat 5 and which directly face the installation at eye level serve two separate non-habitable spaces. One room has a bath and WC, the other has a shower and WC. Neither window is fitted with obscure glazing so consequently the panels are easily seen in the outlook at very close quarters. At second floor level, one window to flat 9 serves a bathroom with frosted glazing. The second window is to a small study/bedroom. The outlook from all these windows and across the immediately adjacent roofscape to Barton has been noticeably changed. However, I do not share views expressed that the panels and their frames are industrial in nature. I accept that they are utilitarian in form but in my assessment, they are domestic in both scale and function, despite their numbers.
10. I understand neighbours' concerns as there has been an undeniable shift in the outlook from certain windows of some flats to greater or lesser degrees. But overall, I find the shift to be from one form of utilitarian roofscape to another. Change does not necessarily equate to harm. Furthermore, the flats do not rely solely upon their east facing windows for an aspect from all their habitable living spaces. As such, I am satisfied that the living conditions at neighbouring properties has not been impacted to a degree overall that is harmful. Accordingly, I find no conflict with Policy 37 of the Bromley Local Plan 2019 as far as it requires development to respect the amenity of occupiers of neighbouring buildings.

Other Matters

11. The appeal site lies within the Chislehurst Conservation Area, an extensive area described within the Council's *Supplementary Planning Guidance for Chislehurst Conservation Area* as comprising predominantly residential development in the west, agricultural and rural land in the east, with the intervening portions incorporating extensive Commons and open space, nodes of retail, service and community facilities, and residential areas. Kemnal Road is a spacious suburban area with the character of a rural lane. I share the Council's view that the development at Barton has had no impact upon the character or appearance of the conservation area. Accordingly, I am satisfied that the area's significance as a heritage asset has been unaffected.
12. I have noted some comments questioning the structural capability of the roof to support the panels and framework. However, this is not a matter that relates to the planning merits of the case that is before me.

Conditions

13. The Council has suggested one condition in the event of the appeal succeeding that would require the development to be retained in accordance with the plans. I have referenced the relevant plan to which the permission relates in my formal decision. Therefore, no such condition is necessary.

Conclusion

14. For the reasons given, I find no harm to the living conditions of neighbouring occupiers at Mulbarton Court. Accordingly, in the absence of any other conflict with the development plan, and having regard to all other matters raised, the appeal is allowed.

John D Allan

INSPECTOR