



Appeal Decision

Site visit made on 8 July 2024

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9TH JULY 2024

Appeal Ref: APP/T5720/C/22/3308855

Land at 391 Cannon Hill Lane, Raynes Park, London SW20 9HH

- 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 Dr Ravi Tomar against an enforcement notice issued by the Council of the London Borough of Merton.
 - The enforcement notice, numbered 21/E0035, was issued on 11 October 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised installation of solar panels raised above the ridgeline of the roof of the property on the land.
 - The requirements of the notice are (a) completely remove the solar panels from the roof OR (b) reconfigure the solar panels to lay flat on the roof below the ridgeline AND (c) remove from the Land all materials, fixtures, fittings, and debris associated with compliance with the works in (a) or (b) above.
 - The period for compliance with the requirements is 1 month.
 - 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 Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 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.

Procedural Matter

2. The National Planning Policy Framework was amended on 19 December 2023 (the Framework). In respect of the ground (a) appeal and the deemed planning application main issue, no material changes have been made to the Framework.

Reasons

3. The appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the notice and the main issue is the effect of the development on the character and appearance of the area.
4. The appeal property is a two-storey terraced dwellinghouse which has been extended following the grant of planning permission on appeal in 2019¹. It is in

¹ Planning permission ref APP/T5720/D/19/3226602 for a part single storey, part two storey side and rear extension and extension of existing rear dormer – approved on 30 July 2019

a prominent position on the corner of Cannon Hill Lane with Camborne Road. There is a prevailing consistency to the ridge height and appearance of the terraced and semi-detached dwellings in the area. The properties include bay fronted windows, the use of brick and render for the walls and mainly brown coloured roof tiles. The buildings are positioned in a planned linear manner with similarly proportioned front amenity spaces which include a combination of driveways and vegetation. There are some street trees in Cannon Hill Lane and Camborne Road, and this also softens the otherwise built form. Collectively, the above attributes add positively and distinctively to the character and appearance of the area when appreciated by passers-by.

5. The breach of planning control relates to the installation of solar roof panels which are tilted and hence can be seen from both Cannon Hill Lane and Camborne Road above the roof ridgeline of the appeal property. The evidence is that solar roof panels were approved as part of the 2019 appeal decision. The solar panels are shown on approved drawings and do not project above the ridge of the main roof of the dwelling. The appellant states that this was a factual error. While an appeal has not been made under ground (c) of section 174(2) of the Act, I find that the planning permission is clear in terms of the solar panels. They were approved to be laid flat above the roof dormer. In fact, approved drawing No. A358:P:110 (Roof Plan as Proposed), as shown in the Council's statement of case, includes the words '*solar panels laid flat*'.
6. Owing to the position, height, width, and shape of the solar panels, which are prominent in view from medium distance views from both Cannon Hill Lane and Camborne Road, I find that the development unacceptably departs from the consistency afforded to the height and unbroken roof ridges of the two-storey dwellinghouses in the area. The tilted solar panels have an unacceptably jarring impact when appreciated in the context of other roofs in the area, to the extent that I find that very significant harm has been caused to the character and appearance of the area.
7. I note the appellant's comment that chimney stacks, aerials and satellite dishes are higher than the main roof ridges of the dwellinghouses in the area. However, there is a general order and rhythm to these additions. They are not seen in the same incongruous way as the solar panels. Indeed, there is a general consistency to the design and position of chimney stacks amongst the dwellinghouses in the area.
8. I accept that the tilted solar panels can be seen on the flat roof of the single storey dwellinghouse known as 2B Camborne Road. This is immediately to the rear of the appeal property. However, the solar panels on this property can be differentiated from the breach of planning control. This is because No. 2B Camborne Road is appreciated in the street-scene as being a much lower dwellinghouse than others in the locality. Furthermore, it is very modern in appearance and does not share the same design characteristics as the surrounding two-storey and more traditional properties which have a consistency in terms of unbroken roof ridgelines.
9. In other words, the two-storey terraced appeal property is seen in the context of other similar properties and their roofscapes and it is for this reason that material harm has been caused to the character and appearance of the area arising from the breach of planning control. Therefore, the existence of the

solar panels at 2B Camborne Road does not alter or outweigh my conclusion on the main issue.

10. I am cognisant of the fact that the solar panels on the appeal property are likely to make a positive contribution to the energy efficiency of the dwellinghouse and, in combination with other sustainable energy additions to the property (e.g., air source heat pump), offer environmental benefits including tackling the adverse effects of climate change. In this regard, I am also mindful of the appellant's comment that the Council aims for 'net zero' by 2050 and paragraph 164 of the Framework which states, *'local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings.'*
11. The above is a positive material planning consideration that must be weighed against the very significant harm that has been caused to the character and appearance of the area.
12. The appellant states that the installer advised him that it was necessary to tilt the solar panels for *'optimization of the sun movement'*. Other than this comment, I have no technical information before me to support such a claim. Even if the claim is correct, there is nothing before me to suggest that laying the solar panels down/flat would have the effect of making them not work at all. In any event, in this case the harm caused to the character and appearance of the area from the tilted solar panels is a decisive matter. In reaching this conclusion, I am cognisant of paragraph 163 of the Framework which states, *'when determining planning applications for renewable and low carbon development, local planning authorities should approve the application if its impacts are (or can be made) acceptable'*. In this case, the character and appearance impact of the solar panels, in their tilted position above the ridgeline of the roof, is not acceptable.

Planning Balance and Conclusion

13. For the above reasons, I find that significant harm has been caused to the character and appearance of the area. Therefore, the breach of planning control does not accord with the design, character, and appearance requirements of policies DM D1, DM D2 and DM D3 of the Council's adopted Site and Policies Plan and Policies Maps 2014, policy D3 of the London Plan 2021 (LP) and Chapter 12 of the Framework. The Council has referred to policy D4 of the LP, but this is not directly relevant to the breach of planning control as it relates to design reviews, masterplans, and design codes.
14. I conclude that the breach of planning control does not accord with the development plan for the area taken as a whole and the identified other material considerations do not, on balance, indicate the decision should be made other than in accordance with the development plan. Therefore, the ground (a) appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

D Hartley

INSPECTOR