
Appeal Decision

Site visit made on 3 July 2024

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 15th July 2024

APP/Z4310/X/24/3337471

Eastfield, 8 North Mossley Hill Road, Liverpool L18 8BJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against the decision of Liverpool City Council to refuse to grant a certificate of lawful use or development, (LDC).
- The appeal was made by Mr Stephen Irvine.
- The application, reference 23LP/3052, validated on 14 December 2023, was refused by a notice dated 28 December 2023.
- The application was made under section 192(1)(b) of the Act of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of development is sought is for the installation of 22x (22 number), of solar PV (photovoltaic), panels to the roof of Eastfield, 8 North Mossley Hill Road.

Summary of Decision: The appeal is allowed and a certificate of lawful development is issued, in the terms set out below in the Formal Decision.

Appeal property

1. The appeal concerns the large 2 storey detached residential property, Eastfield, 8 North Mossley Hill Road. Eastfield and its grounds are situated in the northern corner of the junction of North Mossley Hill Road and Palmerston Road. No. 8 lies within the Mossley Hill Conservation Area. The immediate area is characterised by large detached houses in heavily planted gardens and their high stone boundary walls.

Appellant's proposal

2. It is proposed to install 22 PV solar panels on the south facing roof plane of Eastfield facing Palmerston Road. Each panel would measure 1722mm x 1134mm x 30mm.

Considerations

3. PART 14 - Renewable energy - to the Town and Country Planning (General Permitted Development Order)(England) 2015 permits at *Class A – installation or alteration etc of solar equipment on domestic premises the installation, alteration or replacement of microgeneration solar PV or solar thermal equipment on – (a) a dwellinghouse or a block of flats; or (b) a building situated within the curtilage of a dwellinghouse or a block of flats.*
4. That permission is subject to limitations, particularly at A.1 (a), (b) and (c), in respect of dimensions and positions. The Council were satisfied that

the appeal project would meet those limitations. I agree. The proposed solar panels would not project above the surface of the plane of the roof slope, (A.1(a)), nor would they be higher than the highest part of the roof, (A.1(b)). The solar panels would not be fitted to a wall, (A.1(c)).

5. For the appeal solar panel project to be permitted development, it must also comply with Conditions to Part 14 Class A - A.2 Development is permitted by Class A subject to the following conditions - (a) solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the external appearance of the building; (b) solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the amenity of the area.
6. The term "so far as practicable" requires a subjective value assessment, as does the term "minimise its effect" in A.2(a) and (b) to Condition A.2. Although unlike most of the Order's exactitude, the wording "so far as practicable" appears elsewhere in the Order, for instance in Conditions A.3(c) and H.2(a). Application of the A.2 Conditions here suggests it needs to be shown that efforts have been made to minimise the visual impact of the solar installation on the appearance of the building on which they are installed and on the amenity of the immediate area to the degree that the project may be considered to be development permitted by the Order.
7. The Council said the PV panels at No. 8 would cover the most of the large roof plane area of the south facing side of the house. They would be most visible from the junction of North Mossley Hill Road and Palmerston Road. The PV panels would be different in colour and texture to the existing roof. They would stand out from and jar with the appearance of the existing roof. That would draw attention to their installation. They would fail to conserve or enhance the appearance of Mossley Hill Conservation Area.
8. I agree with the Council that the south facing roof plane of the house, No. 8, Eastfield, is the obvious location for such installations. I do not share their view, however, that because of the prominence of the south facing roof slope, they should instead be fitted on other hipped internal roof planes and flat roofed parapets where they would be better hidden. That would minimise their impact on the appearance of the house itself and on the appearance of this part of the Conservation Area, but the PV installation would likely be so inefficient at electricity generation as to probably be not worth the investment. There would also be practical difficulties in installing and maintaining a disjointed series of panels on several small roof slopes, most of which would face in disadvantageous directions. Such a scheme would not pass a practicable test.
9. Condition A.2 A.2(a) and (b) say that the solar PV installations are to be sited so as to minimise its effect on the external appearance of the building and sited so as to minimise its effect on the amenity of the area. There is no reference to design, colour or general appearance. Rather, those conditions and others are predominantly dimensional limitations.
10. I am aware that the Council were concerned about what they said was the prominence of the appeal property Eastfield, No. 8, in the locality,

suggesting that the PV installation would be clearly apparent in views along North Mossley Hill Road and Palmerston Road. At the time of year of my visit, the dense high trees and hedges were in full leaf. They limited clear public views to the main south facing roof slope to a short stretch close to the junction of North Mossley Hill Road and Palmerston Road. High stone boundary walls also considerably restricted views to the house. It may be that consideration of such matters would more pertinently have applied to a possible planning application. The limited views to the PV installation could cause some, albeit quite limited, harm to the appearance of the Conservation Area, but not such that the 'so far as practicable' test was not met.

11. For the reasons given above, I conclude that the PV installation application scheme would be development permitted by PART 14 - Renewable energy - to the Town and Country Planning (General Permitted Development Order)(England) 2015 - Class A(a). On the evidence now available, the Council's refusal to grant a certificate of lawful use or development in respect of the installation of 22x of solar PV panels to the roof of Eastfield, 8 North Mossley Hill Road was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under s.195(2) of the 1990 Act as amended.

FORMAL DECISION

12. The appeal is allowed. Attached to this decision is a certificate of lawful development for the installation of 22 number solar panels on the south facing roof plane of Eastfield, No. 8 North Mossley Hill Road, Liverpool L18 8BJ.

John Whalley

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192 (as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995: ARTICLE 24

IT IS HEREBY CERTIFIED that on 14 December 2023 the development described in the First Schedule hereto in respect of the premises specified in the Second Schedule hereto, would be lawful within the meaning of section 192(1)(b) of the Town and Country Planning Act 1990 (as amended), for the following reason:

Installation of 22x, (22 number), of solar photovoltaic panels to the south facing roof slope of Eastfield, 8 North Mossley Hill Road, Liverpool L18 8BJ would be lawful as it would be permitted by PART 14 - Renewable energy - to the Town and Country Planning (General Permitted Development Order)(England) 2015 Class A(a).

John Whalley

INSPECTOR

Date: 15 July 2024

Reference: APP/Z4310/X/24/3337471

First Schedule

Installation of 22x (22 number), of solar PV panels to the roof of Eastfield, 8 North Mossley Hill Road.

Second Schedule

The dwelling Eastfield, No. 8 North Mossley Hill Road, Liverpool L18 8BJ.

IMPORTANT NOTES OVERLEAF

NOTES

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the development described in the First Schedule and specified in the Second Schedule was lawful on the certified date and thus would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the development described in the First Schedule and specified in the Second Schedule and identified on the attached plan. Any development materially different from that described, or which relates to any other land, may result in a breach of planning control that is liable to enforcement action by the Local Planning Authority.
4. The effect of the Certificate is subject to the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

Lawful Development Certificate Plan

Appeal reference: APP/Z4310/X/24/3337471 Date: 15 July 2024

The dwelling Eastfield, No. 8 North Mossley Hill Road, Liverpool L18 8BJ



Plan attached to the Lawful Development Certificate – No scale

John Whalley

INSPECTOR