



Appeal Decision

Site visit made on 19 July 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2024

Appeal Ref: APP/D1265/W/23/3332393

Winter Barns, Mount Pleasant to Wytherston Farm Access Road, Hungry Hill, Powerstock, Bridport, Dorset DT6 3TQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Mrs Anna Best against the decision of Dorset Council.
 - The application Ref is P/PASO/2023/03071.
 - The development proposed is Installation of up to 150 kWp of photovoltaic modules (Solar Panels) to the roofs of three agricultural buildings.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for Installation of up to 150 kWp of photovoltaic modules (Solar Panels) to the roofs of three agricultural buildings at Winter Barns, Mount Pleasant to Wytherston Farm Access Road, Hungry Hill, Powerstock, Bridport, Dorset DT6 3TQ in accordance with the application P/PASO/2023/03071 and the details submitted with it including Maps for identification and Block Plan Drawing: Bp1a pursuant to Article 3(1) and Schedule 2, Part 14, Class J paragraph J.4 (10).

Preliminary Matters

2. The address in the banner heading above has been taken from the appeal form and decision notice as this more clearly identifies the site than that given on the application form.
3. 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.
4. It is common ground that the appeal scheme meets the requirements of paragraphs J.1 and J.2 such that it would constitute development permitted under Schedule 2, Part 14, Class J of the GPDO, subject to an application made for prior approval complying with the Conditions under paragraph J.4. It is also common ground that the appeal scheme complies with paragraph J.4 (1)(a).
5. 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.
6. These prior approval matters include, under Paragraph J.4 (2) that the local planning authority 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.
 7. During the course of the application the applicant submitted a Solar Photovoltaic Glint and Glare Study October 2023 (the Study) assessing the potential glare to occupiers of neighbouring land. The Study assesses the potential effect from glint and glare on eight dwellings within 1km of the appeal site. The key considerations in the Study are whether a reflection is predicted to be experienced, and the duration of any effect relative to thresholds of 3 months per year and 60 minutes on any given day. There is no dispute between the main parties that none of the dwellings would receive solar reflections for more than 60 minutes on any given day with only Sort Cottage receiving reflections for over 3 months of the year. Following the submission of the Study the Council refused the application on the basis of a harmful impact to the neighbouring property at Sort Cottage. As a result, the Council state that prior approval was required and refused.

Main Issue

8. Taking into account the above, the main issue is 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 at Sort Cottage.

Reasons

9. The appeal site comprises three detached agricultural buildings enclosed by some tree and hedge planting. The buildings are separated from Sort Cottage by a field in the ownership of the appellant, by planting to their eastern boundary and by some hedge and tree planting on the western boundary to Sort Cottage.
10. The Study states that due to the intervening vegetation and terrain between Sort Cottage and the appeal site, all reflecting panels are expected to be significantly screened. As a result, the Study states that no further mitigation is recommended or required. The Study has been based upon the Fourth Edition of Solar Photovoltaic and Building Development – Glint and Glare Guidance September 2022 (the Guidance). The Guidance covers the assessment on the impact upon surrounding dwellings with a flowchart forming Figure 10 on page 56 (also reproduced on page 41 of the Study) detailing that where solar reflection falls within one of the key criteria (in this case lasting for more than 3 months per year), mitigating factors need to be considered to determine whether the solar reflection will remain significant and further states that this may require further modelling and a site survey. Furthermore, the Study states at page 23 that when exceeding the 3 months per year consideration, expert assessment of mitigating factors is required to determine the impact significance and any mitigation requirements.

11. While the Study provides a good outline of some factors to be considered when assessing the impact of glare on neighbouring occupiers, it does not form part of the development plan. In light of this and given that Paragraph J.4 (2) to Schedule 2, Part 14, Class J of the GPDO refers to the impact of glare on occupiers of neighbouring land, rather than referring to neighbouring dwellings/buildings, an assessment beyond that in the Study in relation to the built form at Sort Cottage (that could eventually comprise the main building and 5 other related buildings) and to its associated garden is required.
12. In this regard, I acknowledge that the existing tree planting on the boundary to Sort Cottage is incomplete with gaps around the existing canopy spreads such that there are some direct views of the roof of the largest appeal building in particular above the hedgerows from parts of the garden. There would also be direct views of the largest building from windows to an as yet unconstructed Master bedroom and some more limited views from proposed and existing kitchen openings. Views from a window to a secondary bedroom would be adequately obscured by planting, land levels and by the construction of the Master bedroom.
13. I also acknowledge that while the undulating terrain of the adjacent field combined with varying ground levels to Sort Cottage screen some views of the roofs of the appeal buildings from parts of the garden and buildings forming Sort Cottage, it does not prevent all views. Furthermore, at the time of my site visit, growth from grass within the field provided some further screening, but this may not be present all year round or every year.
14. However, there are a number of mitigating factors that would reduce the significance and effect of any glare. Firstly, it is highly unlikely that every day when glare could occur would be sunny with no cloud cover. This would reduce the extent of any glare that would in any case be limited to approximately 45 minutes on those days. Secondly, due to the undulating nature of the field between the appeal buildings and Sort Cottage, and the differing garden levels and extent of outdoor space and built form to Sort Cottage, only part of the garden area, and not all of the buildings, would be subject to glare. Thirdly, while the main impact from glare would be towards the two windows to a proposed Master Bedroom, this room is unlikely to be heavily used in the late afternoon/very early evening when the glare would occur. Fourthly, due to its lower level, any glare to the kitchen/dining windows, door and associated small patio facing the panels would be partly mitigated by a combination of existing boundary planting, the varying topography and occasional grass height within the field. Finally, any reflections viewed from the driveway would be limited by virtue of users moving along it and through any reflection.
15. In light of these mitigating factors, I find that the glare, and its intensity, would be of low significance and would not result in a significantly harmful impact on the occupiers of Sort Cottage. As a result, there is no need for any further mitigation.
16. My attention has been drawn to Sort Cottage being Grade II Listed (List Entry Number: 1287472) and to the location of the site within the Dorset Area of Outstanding Natural Beauty, now called the Dorset National Landscape. However, the panels would be located a considerable distance from Sort Cottage beyond the agricultural field. Where visible from the listed building and its associated grounds, the panels would be viewed in association with, and

viewed against, the roofs of the barns having a similar functional appearance to the existing roofs and wider functional appearance of the barns. In light of this, I find no harm to the setting of Sort Cottage. Furthermore, as the panels would be screened from a number of views and would be viewed in association with the functional appearance of the roofs of the agricultural buildings, they would not be a dominant feature in the landscape and would cause no harm to the Dorset National Landscape, and as a result would cause no harm to Powerstock Common. It is noteworthy that the Council came to similar conclusions in these regards.

17. In conclusion, it follows from the above that 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 at Sort Cottage.

Other Matters

18. I have had regard to the comments from the owners of Sort Cottage with respect to the panels being partly overshadowed by existing tree cover, to their inefficient deployment with regard to the orientation of the roofs and their pitch and potential of the proposal to devalue Sort Cottage. I have also had regard to the condition and construction of the roof. Nonetheless, and while some of these matters would reduce the efficiency of the panels, these are not considerations material to the assessment of design and external appearance under Schedule 2, Part 14, Class J.4 of the GPDO. Furthermore, the proposal does not seek the removal of the trees that would overshadow the panels.
19. While I acknowledge that the panels may be able to be provided elsewhere on the ground, I am required to consider the proposal before me.

Conditions

20. As a permission granted under Schedule 2, Part 14, Class J of the GPDO is continuous while the Order is in force or re-enacted, and unless the permission is revoked or withdrawn, a condition relating to the commencement of development is not necessary.

Conclusion

21. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

C Rose

INSPECTOR