

Appeal Decision

Site visit made on 10 September 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2024

Appeal Ref: APP/H5960/W/24/3340794

Battersea Studios, 80 Silverthorne Road, Wandsworth, London SW8 3HE

- 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 Tom Newman (Schroders UK Real Estate Fund) against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref is 2023/4056.
 - The development proposed is the determination as to whether prior approval is required for the installation of roof mounted photovoltaic panels.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, the description of the development proposed is taken from the Council's decision notice which more clearly, accurately and concisely describes the proposal than that provided on the application form.

Background and Main Issue

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), development is permitted for the installation, alteration or replacement of certain solar equipment on non-domestic buildings subject to limitations and conditions.
4. The local planning authority (LPA) may refuse the application where it considers that the proposed development does not comply with the applicable conditions, limitations or restrictions set out within Class J. The application may also be refused where it is considered that the developer has provided insufficient information to enable the LPA to establish whether the proposed development complies with those same conditions, limitations or restrictions.
5. In this case, the Council contend that the application included insufficient information to establish that the proposal would comply with the limitations at paragraph J.1.(a) and J.1.(c). The former sets out that development is not

permitted if the solar photovoltaics (solar PVs) or solar thermal equipment proposed would be installed on a pitched roof and would protrude more than 0.2 metres (m) beyond the plane of the roof slope when measured from the perpendicular with the external surface of the roof slope. The latter sets out that development is not permitted if the solar PV equipment or solar thermal equipment would be installed on a roof and be within 1m of the external edge of that roof.

6. The Council also refers to the paragraph J.3. limitation, which restricted solar PV equipment to a total generating capacity of 1 megawatt, and the Council state that, in its opinion, insufficient information had been supplied to establish this was the case. However, Part 14, Class J of the GPDO was amended on 21 December 2023. These amendments included the revocation of the paragraph J.3. limitation. Therefore, the paragraph J.3. limitation is not relevant to my determination.
7. Given the above background, the main issue is whether the proposal would be permitted development, having regard to the requirements set out within Schedule 2, Part 14, Class J of the GPDO with particular regard to paragraph J.1.(a) and J.1.(c).

Reasons

8. Within the GPDO, limitations which refer to dimensions, for example by placing restrictions on the size of development or their proximity to or from a particular feature, are expressed precisely. For a proposed development to constitute permitted development, there cannot be a de minimis infringement of such dimension limitations. It is in this context, that a decision on whether a proposed development complies with the applicable conditions, limitations or restrictions set out within the GPDO should be made and indeed on when sufficient information has been provided to enable compliance to be established.
9. The plan referenced 712-Battersea Studios-SYZ-DR-101 V1 Indicative PV Layout (the layout plan) comprises of an aerial photograph, rather than a plan as such. The arrangement of the proposed solar PVs is superimposed on the roof of the host building in the photograph. The solar PVs are depicted by illustrative navy-blue rectangular shapes.
10. The photograph depicts the host building and the surrounding area from a birds-eye perspective. However, parts of the elevations beneath the roofs of the host and neighbouring buildings are visible, and this indicates to me that the view is an angled one. The result is that the layout plan impresses upon me the concern that the depicted roofscape's proportions may not accurately nor precisely reflect the reality. Therefore, and even though the plan is identified as being to scale, I am not confident that the plan accurately depicts the PVs arrangement upon the roof.
11. The overall result is that the aforementioned layout plan shows the proposed solar PVs in a rather general and representational form, and not in a manner which exudes precision and accuracy.
12. Although the plan referenced 712-SYZ-DR-01- Typical Pitched Roof Fixing (the roof fixing plan) shows some solar PVs atop of a roof pitch with a

maximum height of 0.2m and situated at a distance of 1m from the roof edge, it is showing a typical depiction. This is evidenced by an annotation on the plan clearly identifying that the elevation/cross section shown on the plan are indicative to demonstrate a typical installation. It does not confirm to me that this is the pitch of the roof of the host building nor that the dimensions and design of all of the solar PVs proposed in this case would match what is shown on this plan. None of the submitted plans include a section or elevation which clearly shows, in side profile, the existing roof pitch of the host building nor the proposed solar PVs atop of it. Furthermore, none of the plans submitted provide me with a clear understanding of the precise dimensions of each of the solar PV panels proposed for installation.

13. Therefore, the submitted plans do not provide me with a sufficient level of clarity or certainty that all of the solar PVs in this case would not be within 1m of the external edge of the roof nor that they would not 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 above the highest part of the roof. Therefore, insufficient information has been provided to enable it to be established that the proposed development would comply with paragraph J.1.(a) and J.1.(c).
14. For these reasons, I cannot conclude that the proposal would comply with the limitations set out within Part 14, Class J of the GPDO with particular regard to paragraph J.1.(a) and J.1.(c). Consequently, I cannot conclude that the proposal constitutes permitted development. In such circumstances the appeal should be dismissed.

Other Matters

15. As I have been unable to conclude that the proposal constitutes permitted development in the first place, I cannot attribute weight to the beneficial contribution that the proposal may make to transitioning to a low carbon future in a changing climate.

Conclusion

16. For the reasons given above, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR