

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/24/3339983

Battersea Studios, 82 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 Mr Tom Newman (Schroders UK Real Estate Fund) against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref is 2023/4793.
 - 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.(b) 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 flat roof, where the highest part of the solar PV equipment would be higher than 1 metre (m) above the highest part of the roof (excluding any chimney). 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 referred to the paragraph J.3. limitation within its Officer Report. This limitation restricted solar PV equipment to a total generating capacity of 1 megawatt, and the Council stated 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.(b) 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 33200-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. Furthermore, plan 712-SYZ-DR-01 E/W Rev 1 Flat-to-roof Dimensions (the Flat-to-roof plan) shows that a 300 millimetre (mm) gap would be provided

between the rows of the proposed solar PVs. However, the gap between the rows depicted on the layout plan looks proportionally greater. This disparity between the plans further serves to undermine the confidence I have in the accuracy of the submissions and in the appellant's assertion that the proposed solar PVs would not be within 1m of the external edge of the roof.

13. Overall, the submissions which have been made leave me very uncertain of precisely how close to the external edge of the roof the proposed solar PVs would be. Consequently, insufficient information has been provided to enable it to be established that the proposed development would comply with paragraph J.1.(c).
14. The layout plan provides no indication of the height of the solar PVs. No section or elevation has been submitted which clearly shows, in side profile, the existing roof nor the proposed solar PVs atop of it. This hinders my understanding of the solar PV's affixation to the existing roof and their protrusion above it.
15. The Flat-to-roof plan does show, in isolation, some solar PVs in section and elevation, and the solar PVs shown are depicted as having a height of only 0.26m. However, the plan shows only a small selection of solar PVs. A plan annotation indicates that the Flat-to-roof plan is showing a typical depiction: it does not confirm to me that this is the precise appearance and dimensions of each of the solar PVs proposed in this particular case. Again, 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 be no higher than 1m above the highest part of the roof. Therefore, I also find that insufficient information has been provided to enable it to be established that the proposed development would comply with paragraph J.1.(b).
16. 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.(b) and J.1.(c). Consequently, I cannot conclude that the proposal constitutes permitted development. In such circumstances the appeal should be dismissed.

Other Matters

17. 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

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

H Jones

INSPECTOR