



Appeal Decision

Site visit made on 9 October 2024

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2024

Appeal Ref: APP/D3830/W/23/3333427

Paxhill, Park Lane, Lindfield, West Sussex RH16 2QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Christopher Bradbury against the decision of Mid Sussex District Council.
 - The application Ref DM/23/1713, dated 29 June 2023, was refused by notice dated 6 October 2023.
 - The development proposed is Installation of Photovoltaic Array comprising 168 panels and associated infrastructure.
-

Decision

1. The appeal is allowed, and planning permission is granted for the Installation of a Photovoltaic Array comprising 168 panels and associated infrastructure at Paxhill, Park Lane, Lindfield, West Sussex RH16 2QS in accordance with the terms of the planning application Ref. DM/23/1713, dated 29 June 2023, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The appeal is in relation to an application for planning permission under the Town and Country Planning Act 1990. It does not give consent for any consent, were it necessary, for works to any listed building or curtilage structures that might be required under the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main Issue

3. The main issue is the effect of the proposed development upon the setting and significance of Grade II listed designated heritage assets.

Reasons

4. The appeal site lies to varying degrees within the setting of four Grade II Listed Buildings, being Paxhill Park Nursing Home (herein Paxhill Park House), its Garden and Forecourt Walls and Gate-Piers, the Coach House, and Gazebo to the East. Section 66(1) of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCAA) requires special regard is had to the desirability of preserving the setting of a listed building or any features of special architectural or historic interest it possesses.

5. Paragraph 195 of the National Planning Policy Framework (2023) (the Framework) highlights designated heritage assets are an irreplaceable resource. Paragraph 205 requires when considering the impact upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. Harm to significance, including from development within its setting, requires clear and convincing justification (paragraph 206).
6. Paxhill Park House is a large stately home within generous grounds, built in 1606 by Ninian Borde, and extended by Peter Northall Laurie who undertook substantial renovation and extension works in 1865 creating the listed garden walls and Coach House. Further later additions were made by William Sturdy in 1877. The interior was entirely remodelled in the 19th century. The estate was requisitioned during the World War II, leased to Preston College, Brighton around 1960, and subsequently became a nursing home, until its sale and conversion back into a private residence in 1999.
7. Paxhill Park House is a three storeys plus basement ashlar stone building, primarily in the Elizabethan style with some Gothic Revival elements. Features include its gabled projections with ball finials to the apexes and kneelers, window projections which include bay, canted and curved examples, and an octagonal turret. Its special architectural and historic interest and significance, derives from its Elizabethan and Gothic architecture, its grandeur, design, construction, materials, and historic methods, its prominence in the landscape, and its history, evolution and contribution to the morphology of the area.
8. The square 17th century Gazebo is believed to be contextual with the original property, within its formal gardens. It is of matching ashlar construction with a plain tile pyramidal roof, with access to both storeys from the changing garden levels. Its significance derives from its age and architectural style consistent with that of the main house, being a good example of its type.
9. The Garden and Forecourt Walls encircle the south and west of Paxhill Park House and its gardens, with Gate-Piers flanking the carriageway drive and entrance. The walls date from 1865, comprising stone surmounted by balusters and stone coping. The piers are stone with obelisks. They are good examples of their type and period. Their significance is from their aesthetic value for the contribution they make to the property, garden and landscape.
10. The Coach House was constructed during the 1865 works, originally as stables but since converted to residential use. Its original form was as a square two-storey block with a L-wing added post construction. It is defined by its Flemish gables, post construction red brick stacks and tile-hung clock turret with cupola and casement windows. Its significance derives from its architectural and aesthetic value, its demonstration of construction methods and fashions of the period, and its contribution to the setting of the Paxhill Park House. The four individually listed designated assets also have a collective group value.
11. The setting of each of the heritage assets is quite extensive. Historic mapping and records illustrate structures to the south and west of Paxhill Park House and human interventions in the management of the landscape. From what I saw and the evidence before me, in the present it can be defined as the historic grounds of Paxhill Park House with the general topography sloping from the north and east above the house down to the south and west. It includes fields to the north and some occasional glimpsed visibility from the B2028.

12. The setting can be characterised by the formal gardens and driveway, extensive areas of countryside comprising fields in most directions, hedgerows, forested areas and tree belts particularly to the west, northwest, south and east, the lake, and a small number of residential properties and buildings. Some of the setting can be accessed via the drive, private roads, and public footpaths generally to the south, which afford middle distance visibility with some partial filtering by trees. The extent of and visibility within the setting is subject to seasonal variation in vegetation, although some blocks of tree cover are extensive, limiting longer views.
13. The setting contributes to the significance of the assets by virtue of being a largely open rural landscape in which the architectural and historic interest of the assets have historically been and can still be viewed, experienced and appreciated. The appeal site is part of a hedge-lined grassland field outside the formal garden. It comprises a small quite discrete proportion of the setting, positioned behind dense mature boundary hedge of the formal gardens, and enclosed by vegetation on three sides. However, its proximity, the topography and the intervisibility with the assets at various points means it makes a positive contribution to the setting and significance of the heritage assets.
14. The appeal scheme includes a ground array of panels covering an area of approximately 42.6m by 9.7m, with a utility cabinet of approximately 1.4m x 0.66m x 1.52m high to the rear corner. The panels would be mounted at an angle such that their highest point would be only approximately 87cm above ground level. Once constructed the scheme would therefore introduce a sizeable area of low-level structures into the hillside setting, for a prolonged but albeit 25-year temporary period. The panels would not require hardstanding, with limited physical harm to the ground which could be restored within a time limited period, and so their effect can be regarded as reversible.
15. The array and cabinet would be well away from the heritage assets outside the formal gardens. They would appear subservient in scale to Paxhill Park House and the wall and gates. Though introducing a dark and potentially at times glaring surface, they would be enclosed by an approximately 1.5m high hedgerow. The hedge would be parallel with mature surrounding hedges on three sides, the existing hedgerow to the rear, and also framed by sizeable landscape trees. The new hedge would grow in time to provide a strong screening barrier viewed against the backdrop of the mixed field hedgerows and the more formal mature hedge around the formal gardens.
16. The species, numbers, size at planting, hedgerow retention and maintenance for the life of the panels can be the subject of a scheme secured by means of a suitably worded condition. If chosen carefully, the hedging would take quite a limited time to establish to become an effective screen, resulting in very limited discernibility of the array and box. Viewed in the context of surrounding vegetation, it would have limited perceptibility if at all, as a separate landscape feature, or be visible as conflicting with the surrounding field pattern, from many of the vantage points I viewed.
17. I see no reason why the hedge would die over the duration of the development and even were some plants to fail they could be easily replaced. Landscaping would have the effect of screening most, if not all of the array from many positions and perspectives in the landscape setting including the public right of way and the open land due south of the appeal site. Due north is an existing

field hedgerow. From due east the formal gardens and landscaping means there would be little discernibility. From due west the existing and new hedge and the trees would mean much of the array is screened and filtered.

18. There might be some visibility of the utility cabinet, although this is a very small structure, its appearance could be suitably conditioned and would be part screened by and viewed in the context of surrounding vegetation. Due to its size, the position, topography and landscape features the array and cabinet would have very limited perspectives within the settings. I could not gain any visibility of the appeal site from the drive approaching the main house. A small percentage proportion of the array would be visible from the top floor of the house. However, this would be over a high quality landscaped terraced garden with mature, visually attractive planting and features, and over the garden hedge at distance, equating to a small proportion of the main house.
19. The trenched cable route around the south of the wall and under the gate to the master box and battery modules would be of some length and in proximity to the wall and gates. However, the trenching would of itself be likely to have a very short-term construction period, after which the land surface can be promptly restored to back to its former state, approved by the landscaping scheme. The cable insertion into the plant room is to be under a re-built stone plinth. Within the plant room, the apparatus would have very little visibility, only being around its entrance in the context of existing plant.
20. The appeal site slope is partly embanked but shallow. Given this and the low-profile of the development, particularly when viewed from the south up the hill, the topography would serve very much to limit any discernibility from the south. Views from the right of way are some distance and their discernibility would be quite limited, and filtered by vegetation when in leaf, although this is only one constituent of the setting. Once the hedgerow is established the development would do little to adversely affect the positive contribution the site makes to the settings and the way in which the special architectural and historic interests of the assets are appreciated.
21. Having regard to all of the varying constituents, timescales and landscaping mitigation of the appeal scheme, and the extents of visibility in the landscape, I consider the effect upon setting and significance upon Paxhill Park House and the gate piers and wall would be short-term limited harm, and very minor longer-term harm. Due to its much more limited visibility and quite comprehensive screening the effect upon the setting and significance of the Gazebo and the limited intervisibility and perspectives with the Coach House, there would be minor short-term harm and very minor longer-term harm.
22. Reference is made by the appellant to a number of other arrays that appear to have obtained either deemed or express consents, or may in some cases have been exempt altogether, located on, or within the setting of designated heritage assets. Noting their locations and the little information I have of their circumstances, none appear directly comparable to the appeal proposal which must be considered on its own merits and effects.
23. That there might be other potential solutions to heating the property are noted, although little detail is given by the Council, only substantively that there might be other solutions or more suitable locations for solar panels to the north. The appellant's evidence suggests other means of securing energy efficient low carbon heating are not viable. Of the appellant's landholding, the location

appears to be the most discrete and sensitively located and will limit the distance between the array and battery to optimise power collection. The appellant advises there is insufficient space for locating an array within the bounds of the formal gardens. This could also bring them closer and more prominent within the setting of the listed building from within it, and result in the loss of valued historic garden features.

24. However, for the reasons set out above the proposed development would result in less than substantial harm to setting and significance of four designated heritage assets. Therefore, it would neither preserve nor enhance their settings, in conflict with the aims of the LBCAA. It would also conflict with the aims of Policy DP34 of the Mid Sussex District Plan (2018) (the MSDP) which requires that development protects the settings of listed buildings, and that special regard will be given to this aim.
25. There would also be a conflict with Policy DPB2 of the emerging plan, which has similar objectives. While it has been submitted, it is yet to be examined, so the conflict with this policy should be attributed minor weight.

Other Matters

26. The appeal scheme would not make any incursion into the root protection areas of neighbouring trees, and the cable routing and tree protection measures can be secured by suitably worded planning conditions, consistent with the aims of Policy DP37 of the MSDP. The appeal site is located within the High Weald National Landscape (HWNL) and the countryside. The Council has assessed the scheme in relation to its statutory obligations under the Countryside and Rights of Way Act 2000 as amended by the Levelling-Up and Regeneration Act 2023, and having regard to Policies DP12, DP16, DP26 and DP40 of the MSDP. It confirms no objection in these regards. I have had regard to these, and also to Policies DPB1, DPS3 and DPC4 of the emerging plan.
27. Subject to the imposition of suitably worded conditions, the appeal scheme would maintain the quality of the rural and landscape character of the district. It gains some support from the strategic objectives referred to in Policy DP40 of the MSDP, and related objectives in the AONB Management Plan (2024-2029) (the NLMP). The proposed development would have some overall benefits having regard to biodiversity, landscaping and mitigating the effects of climate change upon the natural environment. Any adverse local impacts can be made acceptable, and the development as a whole would conserve and preserve the natural, landscape and scenic beauty of the HWNL, local character, distinctiveness, and conserve wildlife and local heritage. In this regard it meets relevant objectives of the development plan and the NLMP.
28. Having regard to the provisions of Policy DP26 of the MSDP and what I saw, the scheme will have some visibility to neighbouring properties. However, given the distances and degrees of visibility, the effects would be limited, not amount to significant harm, and not be regarded as resulting in harmful living conditions to neighbouring occupiers.

Heritage and Planning Balance

29. Framework paragraph 208 states that where a development would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the development. Great

weight should be given to an asset's conservation, and less than substantial harm should not be equated with a less than substantial planning objection. Framework paragraphs 163 and 164 recognise even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and give significant weight for the need to support low carbon heating improvements. However, this is to be considered in the context of heritage policies.

30. It is estimated the proposal would generate in the region of 67,416 kWh of energy, against an estate requirement (averaged from the last 2 years) of 113,510 kWh. The appellant estimates it would save approximately 51 tonnes of CO₂. It would increase the proportion of renewable low carbon energy used, reduce energy drawn from the national grid in the face of increased national electricity demands, and improve the property's carbon footprint and associated carbon emissions from how supplied energy is derived.
31. The proposed 68kw system could export 22.89 kw. However, it is acknowledged by the appellant that the estate will use the majority of energy used. The generation figures suggest at peak panel output and low consumption there might be some export, but this in practice is likely to be relatively minor at best. Nevertheless, I do not share the Council's view that reducing energy draw from the wider grid and reducing CO₂ are private and so not regarded as public benefits under Framework heritage policies.
32. The proposal would also future proof against future potential rises in energy costs, particularly for the upkeep of a large historic house and the stable internal climates essential to preserving the condition of the historic fabric, including the 19th century interior. Therefore, the appeal scheme would help to sustain and aid the longevity of the heritage asset served by it, which is a nationally designated building of heritage significance, and a large valuable prominent historic feature in the HWNL. These are very important benefits.
33. There would be a modest temporary economic benefit from and during construction, with very minor benefits from aspects of maintaining the development, including to the green economy. Overall, it is likely a minor ecological benefit could be secured from habitat creation and management, through measures such as the new hedgerow.
34. The overall benefits of the appeal scheme are of a high order. Having regard to the considerable importance and weight I must give to the desirability of preserving the setting and significance of designated heritage assets, the harm that would arise from the appeal scheme would be outweighed by the public benefits. Accordingly, there is clear and convincing justification for allowing the proposed development. Therefore, for the reasons set out above the proposed development is compliant with paragraphs 206 and 208 of the Framework.

Conditions

35. I have considered the Council's suggested planning conditions in the context of the advice in the Framework and Planning Practice Guidance. Conditions specifying the time limit and the plans and materials, are necessary in the interests of certainty. A condition to require the development is carried out in accordance with the arboricultural method statement is necessary to ensure important trees and landscaping are protected. A landscaping and biodiversity enhancement scheme condition is necessary to be pre-commencement to ensure the measures are implemented as soon as practicable, in the interests

of the setting of designated heritage assets. For the same reasons a condition ensuring its retention for the duration of the development hereby permitted is also necessary.

36. A condition securing the colour of the utility cabinet is necessary in the interests of the character and appearance of the landscape and the setting of heritage assets. To ensure the panels are temporary and retained for their expected useful life only, and the land is restored to a satisfactory condition, a condition securing a decommissioning and restoration plan is necessary. Informatives are not legally binding and cannot be used in place of planning conditions. Viewing the consultation response from the Newt Officer at West Sussex, the appellant will be aware of their legislative duties in this regard.

Conclusion

37. The proposed development conflicts with Policy DP34 of the MSDP so conflicts with the development plan as a whole. However, as I consider the public benefits of the development outweigh the harm to the setting and significance of designated heritage assets, the proposed development is compliant with the Framework read as a whole. The public benefits are such that the material considerations indicate the proposed development should be determined other than in accordance with the development plan. Therefore, for the reasons given, the appeal is allowed.

Dan Szymanski

INSPECTOR

--- Schedule of Conditions ---

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 2301.1193.L Rev B;
 - 2301.1193.ES;
 - 2301.1193.PS Rev B;
 - 2301.1193.PE Rev B;
 - 2301.1193.PB Rev B;
 - 2301.1193.Solar Rev C;
 - 2301.1193.PLR Rev B;
 - 2301.1193.Trenches Rev C;
 - ET9.
- 3) Notwithstanding the approved plans, the development hereby permitted shall be carried out in accordance with the Arboricultural Method Statement by arbtech dated 20 July 2023 and Plan Ref. Arbtech TPP 02.
- 4) No external materials shall be used other than those specified on the approved plans and application details without the prior written approval of the Local Planning Authority.
- 5) Notwithstanding the approved plans, the colour of the of the utility cabinet shall have been previously submitted to and approved in writing by the Local Planning Authority, prior to its installation. The utility cabinet shall thereafter be maintained in accordance with the approved colour finish for the life of the development hereby permitted.
- 6) Notwithstanding the approved plans, no development shall take place unless and until full details of soft landscaping, biodiversity enhancement, and its maintenance has been submitted to and approved in writing by the Local Planning Authority. The details shall include, amongst other things, the species, position, number, and size of plants around the array, turfing and seeding of the cable route, the timing of the planting and works, and the details of maintenance over the life of the development hereby permitted.
- 7) The planting, seeding and works shall be carried out in full compliance with and maintained in accordance with the approved details under condition 6 above, unless otherwise previously agreed in writing by the Local Planning Authority. The planting and seeding shall be maintained for the life of the development hereby permitted. Any trees or plants which, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 8) Decommissioning of the development and restoration of the site shall take place no later than 25 years from the final date of the commissioning of the development hereby permitted.
 - i) Unless otherwise agreed in writing by the Local Planning Authority a decommissioning and restoration plan shall have been submitted to and approved in writing by the Local Planning Authority 6-months before the end

of the 25-year anniversary of the date of final commissioning of the development or 6 months after the cessation of electricity generation by the development, if before.

ii) No decommissioning may take place unless the decommissioning and restoration plan has been approved in writing by the Local Planning Authority.

The decommissioning and restoration plan must be implemented as approved.

End of Schedule.