



Appeal Decision

Site visit made on 28 January 2025

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 30 January 2025

Appeal Ref: APP/M9496/X/24/3350153

Waterfall Parochial Hall, Waterfall Lane, Waterhouses, Staffordshire, ST10 3HY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Clerk to The Trustees Waterfall Educational Charity against the decision of Peak District National Park Authority.
 - The application ref NP/SM/0624/0578, dated 31 May 2024, was refused by a notice dated 23 July 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the installation of roof mounted solar PV on non-domestic building.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

Main Issue

2. Section 192(2) of the Town and Country Planning Act 1990, as amended (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or began at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. The planning merits of the proposed development are not relevant in this appeal and the burden of proof is on the applicant to make out their case on the 'balance of probabilities'. The main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded.

Reasons

3. The appeal property is the former village primary school, now utilised as a community hall/venue and run by the Waterfall Educational Charity.
4. The proposed development is for 20 x 435W roof mounted photovoltaic (PV) panels with associated battery storage system. The inverter and battery would be located internally within the building. The PV panels would be arranged and mounted on the south facing roof slope of the building.
5. The appellant contends that the proposed PV system would be permitted by Class J, Part 14, Schedule 2 of Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order, 2015, as amended (GPDO).

Class J provides for the installation or alteration of solar equipment on non-domestic premises, including at Class J (b) micro-generation solar PV equipment.

6. The National Park Authority (NPA) accept that Class J is the relevant Class of Part 14, Schedule 2 of GPDO, and that the development relates to the installation of microgeneration solar PV equipment on a building (Class J (b)). However, it is their view that the proposal shown on the application plans/details, would conflict with J.1.(c) of Part 14, as the PV equipment would be installed on a roof and within 1 metre of the external edge of that roof. The NPA contend that the ridge of the roof is an external edge, and thus as the PV equipment would be within 1metre of the ridge of the roof, it would not be permitted by Class J.1.(c) and planning permission is required.
7. On the other hand, it is the appellant's view that the ridge, which in this case is part of a dual pitched roof, is not the roof's external edge for the purposes of Class J.1 (c). In support of their interpretation, they include advisory text from PV providers¹, and some technical/maintenance explanations which they believe support their view². Furthermore, the appellant's contends that as Paragraph J.1. (a) of Part 14 requires that the PV panels should not protrude more than 0.2m beyond the plane of the roof surface, this requirement has the effect of limiting how far above the ridge the PV panels could protrude. Consequently, Paragraph J.1.(a) includes an in-built edge case specific to the ridge.
8. The GPDO does not provide any guidance on how Class J.1.(c) should be interpreted. The NPA has provided some definitions found in the New Shorter Oxford Dictionary (1993 Edition). Those definitions include:
 - Ridge - 'the line or edge formed, specifically on a roof, by the junction of two surfaces sloping upwards towards each other.'
 - Edge - 'the crest of a narrow ridge...a line along which two surfaces of a solid intersect...a boundary, a margin, the boundary line of a surface or region...'
 - External - 'of or situated on the outside or visible part of something.'
 - Internal - 'of or pertaining to the inside or interior of something.'

The NPA's contend that these definitions support their view that the ridge of the roof is an edge, and that in the absence of any evidence that would suggest it is an internal edge, then on the balance of probability it is an external edge for the purposes of J.1.(c) of the GPDO.

9. There is no dispute between the parties that the building's ridge is an edge formed along the line where the two roof slopes meet as they slope upwards. However, recognising that Class J.1.(a) provides a limitation on an edge, which is case specific to the ridge, and Class J.1.(b) refers to the highest part of the roof (excluding any chimney) when looking at installations on a flat roof, it seems to me that in Class J.1.(c) the reference to 'external' edge of the roof, is not concerned with the roof ridge. Instead, it relates to the external edge of the roof as a whole,

¹ Paragraph 6.8 Appellant's Statement of Case.

² Paragraph 6.10 Appellant's Statement of Case.

i.e. the roof's perimeter, where it meets the walls or overhangs them (e.g. eaves and verges).

10. The drawings and details submitted with the application show that the PV panels would not be within 1m of the external edge of the roof, and thus there is no conflict with J.1.(c). The NPA do not dispute that the proposal would comply with J.1. (a), (b), (d), (e) and (f) and that there would be no conflict with the limitations in J.2. From the evidence before me, I see no reason to disagree. However, the proposed development must also comply with conditions set out in J.4 (1) (a) and (b) which state:

(a) 'the solar PV equipment or solar thermal equipment must, so far as practical, be sited so as to minimise its effect on the external appearance of the building and the amenity of the area; and

(b) The solar PV equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed.'

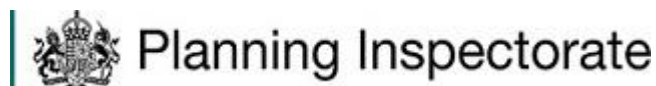
11. The appeal property is a simple vernacular stone building with a blue clay tiled roof. It is situated in an area of countryside just outside of the settlement of Waterhouses. The PV panels would be sited within the southern roof slope, and their visibility from the road would therefore be limited. The hedgerow planting to the south of the site screens the building from more distant views across the fields. Whilst the PV panels would be visible when traversing the Public Footpath, which runs close to the site's southern boundary and from within the car park to the building, the PV panels would not detract from the building's simple and traditional vernacular form, nor would they obscure any of its architectural details. The dark colour of the PV panels would reduce their overall visibility on the roof, and I am satisfied that their proposed siting would minimise their effect on the external appearance of the building and the amenity of the area. Thus, there is no conflict with J.4 (1) (a). Condition J.4 (1) (b) is not for my consideration in this appeal.

Conclusion

12. For the reasons given above I conclude, on the evidence available, that the Council's refusal to grant a certificate of lawful use or development in respect of the installation of roof mounted solar PV on Waterfall Parochial Hall, Waterfall Lane, Waterhouses, Staffordshire, ST10 3HY was not well-founded and the appeal should succeed. I will exercise the powers transferred to me under section 195 (2) of the 1990 Act, as amended.

Elizabeth Pleasant

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 (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 10 June 2024 the operation described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed installation of roof mounted solar PV on Waterfall Parochial Hall is "permitted development" falling within Class J of Part 14 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, for which planning permission is granted by Article 3(1) of that Order'

Signed

Elizabeth Pleasant

Inspector

Date: 30 January 2025

Reference: APP/M9496/X/24/3350153

First Schedule

Installation of roof mounted solar PV (as shown/detailed in: Location-1-1250 A4; dwg No 1 Panel Configuration-1-50 A0; dwg No 2 Glare-1-5000 A3; dwg No 3 Schedule-1-200 A4; dwg No 4 Visualisation; Supporting Statement).

Second Schedule

Land at Waterfall Parochial Hall, Waterhouses, ST10 3HY

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 30 January 2025

by Elizabeth Pleasant

Land at: Waterfall Parochial Hall, Waterhouses, ST10 3HY

Reference: APP/M9496/X/24/3350153

Scale: Not to Scale

