
Appeal Decision

Site visit made on 27 May 2025

by **D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 4th June 2025

Appeal Ref: APP/B3030/X/24/3338657

Daisy Farm, 6 The Green, Upton, Nottinghamshire NG23 5SU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Jonathan Hatton against the decision of Newark & Sherwood District Council.
- The application ref: 23/01480/LDCP, dated 21 August 2023, was refused by a notice dated 19 September 2023.
- The application was made under section 192(1)(b) of the 1990 Act.
- The development for which a LDC is sought is to install solar panels to the south facing roof of Daisy Farm.

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.

Preliminary Matters

2. The Planning Practice Guidance (PPG) makes clear that an applicant is responsible for providing sufficient information to support an LDC application. It says that in the case of an application for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a Local Planning Authority to understand exactly what is involved. For the avoidance of doubt, the planning merits of the development are not relevant in this appeal which relates to an application for an LDC. My decision rests on the facts of the case, on relevant planning law and judicial authority. The test of evidence is made on the balance of probability.
3. The description of the development in the banner heading above is taken from the appeal form.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant the LDC is well-founded.

Reasons

5. An application made pursuant to section 192 of the 1990 Act seeks to establish whether proposed development would be lawful if instituted or begun at the time of the application. It is not the equivalent, in law, of a planning permission.

6. The appeal property is a detached, vernacular, 2-storey dwelling with small, pitched roofs over the first-floor windows. It is located within Upton Conservation Area (UCA) and the evidence before me indicates that a listed building, Hall Croft, lies to the south-east. The dwelling is set back behind other buildings and as such it is a significant distance from The Green. It is accessed off a private drive from The Green.
7. The appellant contends that the proposed development constitutes permitted development under Class A (Class A), of Part 14, of Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). This concerns permitted development rights in relation to renewable energy and permits the installation, alteration or replacement of microgeneration solar PV or solar thermal equipment, subject to certain limitations and conditions.
8. There is no dispute that permitted development rights relating to Class A have not been removed and that the limitations listed at A.1. (a) through to (e) of Class A would all be met by the proposal. I have no reason to disagree with those findings. Nevertheless, the Council considers that the proposed solar panels would not meet the conditions (a) and (b) at A.2 of Class A. Those conditions are: *(a) solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the external appearance of the building; (b) solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the amenity of the area.*
9. The GPDO does not provide a definition for the term '*so far as practicable*'. Ordinary definitions of the term '*practicable*' include '*able to be done or put into practice successfully*' and '*able to be used; useful*'. Additionally, ordinary definitions of '*minimise*' include '*reduce something to the smallest possible amount or degree*'.
10. The conditions at A.2 of Class A do not require a conventional assessment of whether the effect of the proposal would be harmful or not on the external appearance of the building and/or the amenity of the area. Rather, an assessment as to whether the **siting** of the solar panels minimises its effects on the external appearance of the building and the amenity of the area, so far as practicable, is required (my emphasis). There is no reference to the design, colour or general appearance of the solar PV or thermal equipment in those conditions.
11. The Council considers that the solar panels would cover the majority of the southern roof slope '*resulting in a cluttered roofscape and would be harmful to the character and external appearance of the property*'. It also considers that '*this building, its traditional palette of materials/roof covering makes a positive contribution to the character and appearance of the Conservation Area and the setting of adjacent Listed Buildings, and the introduction of solar PV equipment that would cover the majority of the front facing roof slope would result in a cluttered roofscape and would be harmful to the visual amenity of the area and character and appearance of the Conservation Area.*' Even though the Council cites adjacent listed buildings in that paragraph only one listed building, Hall Croft, is identified in the evidence before me.
12. The solar panels would be in 2 rows one made up of 10 panels and the other 6 panels on the southern roof slope. The appellant has stated that the dimensions of

the 10-panel row would be 11.34metres(m) in length by 1.762m in height and the dimensions of the 6-panel row would be 6.804m by 1.762m. The overall height of the 2 rows would therefore be 3.524m. He has also indicated that the southern roof slope is 13.8m by 6.07m. Those dimensions have not been disputed by the Council and I have no reason to dispute them.

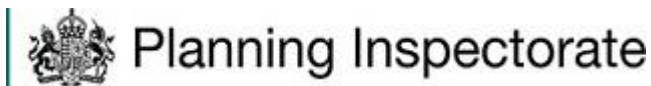
13. I acknowledge that the solar panels would be visible when approaching Daisy Farm on the private drive. Whilst the 10-panel row would cover most of the length of the roof the 6-panel row would be restricted to the area between the small pitch roofs over the windows. As such, appreciable sections of pantiles on the southern roof slope would remain visible. Moreover, the solar panels would not detract from the building's simple and traditional vernacular form, nor would they obscure any of its architectural details. As such, the siting of the panels would, so far as practicable, minimise its effect on the external appearance of the building.
14. Moreover, the contribution that the external appearance of the building makes to the character and appearance of UCA would not be materially altered. In addition, even though the southern roof slope faces towards The Green the solar panel's visibility from that road, and its associated pavements, would be limited due to the significant distance from it, intervening buildings, boundary treatments and mature landscaping including a large Fir tree. If the solar panels were sited on the northern roof slope then they would not be visible from The Green. However, on the day of my site visit, I noted that numerous tall, mature trees are close to that northern side which would, more likely than not, make it not practicable to site solar panels on that roof slope due to overshadowing. Therefore, I consider that the solar panels would be, so far as practicable, sited so as to minimise their effect on the amenity of the area which includes a listed building and UCA.
15. On the basis of the above, in my judgement and on the balance of probabilities, the proposed solar panels would be, so far as practicable, (a) sited so as to minimise its effect on the external appearance of the building; and (b) sited so as to minimise its effect on the amenity of the area. Consequently, the appeal scheme would be permitted by Class A, of Part 14, of Schedule 2 of the GPDO.

Conclusion

16. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a LDC to install solar panels to the south facing roof of Daisy Farm is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act.

D Boffin

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 21 August 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black 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 solar panels would be, so far as practicable, (a) sited so as to minimise its effect on the external appearance of the building; and (b) sited so as to minimise its effect on the amenity of the area. Consequently, the appeal scheme would be permitted by Class A, of Part 14, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

D Boffin

Inspector

Date: 4th June 2025

Reference: APP/B3030/X/24/3338657

First Schedule

Install solar panels to the south facing roof of Daisy Farm, as shown on the details submitted with the LDC application ref: 23/01480/LDCP.

Second Schedule

Land at Daisy Farm, 6 The Green, Upton, Nottinghamshire NG23 5SU

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 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, 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 operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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: 4th June 2025

by D Boffin

Land at: Daisy Farm, 6 The Green, Upton, Nottinghamshire NG23 5SU

Reference: APP/B3030/X/24/3338657

Scale: Not to Scale

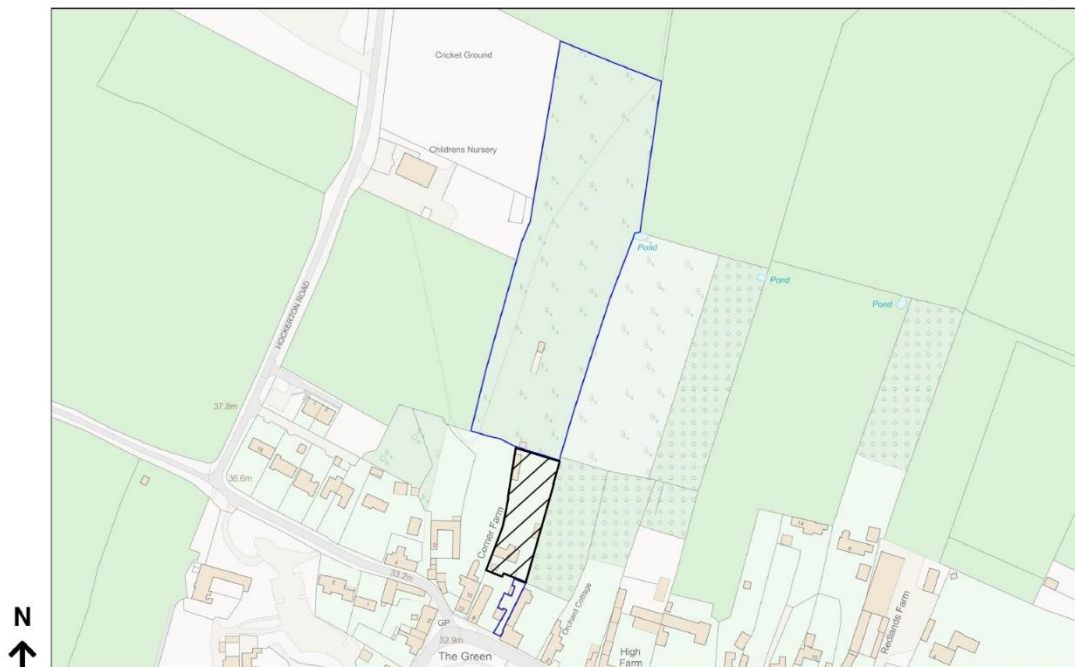
Location Plan

Site Address: Daisy Farm, 6, The Green, Upton, NG23 5SU



Date Produced: 21-Aug-2023

Scale: 1:2500 @A4



Planning Portal Reference: PP-12402185v1



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