
Appeal Decision

Site visit made on 24 June 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th July 2020

Appeal Ref: APP/G3110/D/20/3247562

45 Richmond Road, Oxford OX1 2JJ

- 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 Lady Wendy Ball against the decision of Oxford City Council.
 - The application Ref 19/02641/FUL, dated 26 September 2019, was refused by notice dated 9 December 2019.
 - The development is described as "retrospective planning application for installation of a 15 panel/5.85kw solar pv system split over front/south and rear/north roof pitches."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the course of the appeal the Council adopted the Oxford Local Plan 2016 – 2036 on 8th June 2020 and therefore, the policies set out within the delegated report have now been superseded. The Council and the appellant had the opportunity to comment on the new adopted policies.
3. The solar panels have been erected, therefore I am considering this appeal retrospectively.

Main Issue

4. The main issue is whether the development preserves or enhances the character or appearance of the Jericho Conservation Area.

Reasons

5. The appeal site is located off Richmond Road and the property is set back from the existing terraces on the road, with the building located adjacent and perpendicular to Walton Lane, a narrow cobbled lane that goes past the property. The property is a 2 storey Victorian dwelling finished in red brick with a grey tiled roof. The Jericho Conservation Area Designation Study (2010) advises that it is a converted stable block. The positioning and design of the property is unique in the immediate area, as it does not front directly on to the road, and it sits in between the rear gardens of the nearby properties.
6. The appeal property sits within the Jericho Conservation Area (CA) and is subject to an Article 4 Direction, and I am conscious of my statutory duty arising from section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The development is for the retention of the erected solar

Panels spread across the front and rear roof slopes. As the development had already taken place, I was able to assess the effect on the CA.

7. The positioning of the property along Walton Lane means that it is a prominent development and it contributes positively to the distinctive character of the area. Due to the set back of the property, the house and its south facing roof, are readily visible from the public realm and highway, particularly from Richmond Road. Although the solar panels on the north facing roof are not all readily visible, they are still recognisable from views along Walton Lane. Whilst not all of the solar panels are visible from the public realm, the positioning and height of the surrounding properties, means the roof of the appeal property is visible from private views at the rear of the nearby properties. Therefore, the effect of the development is not just on views from the public realm.
8. Although the solar panels are relatively uniform in appearance, they appear as an incongruous and unexpected addition to the building due to their size, siting, design and projection. From the public realm the solar panels draw the eye and appear as an unsympathetic addition to the property, which detracts from the character and appearance of the historic roof and the local area.
9. The appellant has provided a photograph of another property with solar panels on it. Nevertheless, I did not observe any other properties with solar panels within the immediate area surrounding the appeal property, and I do not have the full details of what led to its approval. In any case, each development must be considered on its own merits and within its own context. I note that the appellant has suggested that the solar panels not visible from the public realm could be allowed, however, the roof is still visible from the surrounding properties and the harm to the CA would still exist.
10. Paragraph 192 of the National Planning Policy Framework (the Framework) requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, and the desirability of development making a positive contribution to local character and distinctiveness.
11. Paragraph 196 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.
12. Given the size and scale of the development within the context of the CA as a whole, I consider it causes less than substantial harm to the character and appearance of the CA. Nevertheless, any harm to the significance of a designated heritage asset should require clear and convincing justification and in accordance with paragraph 196 of the Framework, any harm should be weighed against the public benefits.
13. The development is associated with a private dwelling, therefore, saving money on energy is not a public benefit. I acknowledge the need to increase the use of renewable energy and to improve the energy efficiency of buildings. However, due to the scale of the development, the public benefits in terms of selling energy back to the national grid, reducing air pollution and the effects of global warming are limited, and do not outweigh, the great weight that is required to be given, to harm caused to the significance of the designated heritage asset.

14. Overall, the development fails to preserve or enhance the character or appearance of the CA. Therefore, it is contrary to Policies DH1 and DH3 of the Oxford Local Plan 2016 – 2036 (2020) and paragraphs 192 and 196 of the Framework. These policies, amongst other things, require development to respect and draw inspiration from Oxford's unique historic environment and respond positively to the significance, character and distinctiveness of the locality.
15. The Council has also made reference to Policies RE2 and RE7. However, these policies are not relevant, as Policy RE2 relates to density and making efficient use of land and Policy RE7 relates to standards of amenity, which the Council has found acceptable in its Delegated Report.

Other Matters

16. I acknowledge that the development has no harmful effect on the living conditions of the occupants of the neighbouring properties. However, this does not outweigh the harm that I have identified above.
17. The appellant has suggested that the rights of the occupants of the building to make a personal contribution in paying for solar panels, to reduce reliance on carbon fuels are being breached by not supporting this scheme, and that it is the legal right to quiet enjoyment of their property. I recognise that the failure of this appeal would represent an interference with their rights under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. However, having regard to the legitimate and well-established planning policy aims to protect the historic environment, specifically the CA, in this case, I consider that greater weight attaches to the public interest. Dismissal of the appeal is therefore necessary, and proportionate, and it would not result in a violation of the human rights of the appellant.

Conclusion

18. For the reasons set out above, the appeal is dismissed.

D Peppitt

INSPECTOR

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