



Appeal Decision

Site visit made on 26 June 2012

by **E A Lawrence BTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 July 2012

Appeal Ref: APP/Q1445/D/12/2175845
17 Wilbury Grove, Hove, BN3 3JQ

- 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 A Henderson against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/03150 was refused by notice dated 16 February 2012.
 - The development proposed is installation of 12 photovoltaic modules.
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Preliminary matters

1. The drawings which show the roof array and proposed elevation are inaccurate. However the Council was fully aware of this when they determined the application and it is apparent from the officer's report that the Council's decision is based upon the photovoltaic modules that have been installed and which appear to be accurately shown on the drawing described as "view of module array." As such it is both reasonable and appropriate to determine this Appeal on the basis of the existing photovoltaic modules, which are shown on this drawing and was as part of the application.

Decision

2. I allow the appeal and grant planning permission for the installation of 12 photovoltaic modules at 17 Wilbury Grove, Hove, BN3 3JQ, in accordance with the terms of the application, Ref BH2011/03150, dated 16 October 2011.

Main issue

3. The main issue is the effect of the proposal on the character and appearance of the host property and whether it would preserve or enhance the character or appearance of the Willett Estate Conservation Area.

Reasons

4. Policy HE6 of the Brighton and Hove Local Plan states that development within conservation areas should preserve or enhance the character or appearance of the area; be of a consistently high standard of design; use materials and finishes which are sympathetic to the area; and should not have a harmful impact on the townscape and roof-scape.
5. Paragraph 131 of the National Planning Policy Framework (NPPF) similarly requires account to be taken of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making

- a positive contribution to local character and distinctiveness. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
6. Paragraph 134 of the NPPF states that where a development 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. Paragraph 135 goes on to state that the effect of a proposal on the significance of a non-designated heritage asset should be taken into account and a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
 7. The Appeal site is located within the Willett Estate Conservation Area which is characterised by large bay fronted, detached, semi-detached and terraced houses set in spacious tree lined streets, behind walls and railings. The Appeal property is located within a mews, which originally served the larger properties in the surrounding area and is subservient to them in terms scale, design and appearance. It is characterised by the modest, flat, uniform and uncluttered front elevations of the two terraces which front onto a narrow cobbled lane. Accordingly, in this instance the heritage asset concerned is the Willett Estate Conservation Area and the Appeal building is a non-designated heritage asset within the conservation area.
 8. The roofscape of the mews is largely hidden from the street scene, other than glimpses of chimneys and dormer windows and the eaves line of the terraces. Within the street scene the bottom edge of the proposed photovoltaic modules, which have already been installed, can just be seen, although they are not immediately noticeable and do not have a material impact on the character or appearance of the host property or the mews as a whole.
 9. The proposed photovoltaic modules would however be visible from the first floor windows of some of the surrounding properties, where they would detract from the uniform and uncluttered roof-scape of the terrace. As a result the photovoltaic modules would fail to preserve or enhance the character of the conservation area. However, having regard to the limited impact the development would have within the street scene and the conservation area in general, the photovoltaic modules would lead to less than substantial harm to the significance of the conservation area.
 10. Paragraph 65 of the NPPF states that planning permission should not be refused for infrastructure which promotes high levels of sustainability because of concerns about incompatibility with an existing townscape, provided those concerns have been mitigated by good design. That is unless the concern relates to a designated heritage asset or its setting and is not outweighed by the proposals economic, social or environmental benefits.
 11. In this instance the photovoltaic modules have been designed to lie close to roof-slope and they are sited in a position where they would not be noticeable within the street scene. In this way they demonstrate elements of good design in mitigating the potential harm photovoltaic modules can cause to the public realm.
 12. At the same time the energy likely to be produced by the photovoltaic modules would materially contribute to the electricity used within the Appeal property as well as contributing to the National grid. The scheme would therefore comply

with the objectives of policies SU2 and SU16 of the Local Plan. In addition, paragraphs 93 and 98 of the NPPF state that planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is seen as central to the economic, social and environmental dimensions of sustainable development and authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

13. As pointed out by the Appellant the only reason the photovoltaic modules could not be installed under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011, is because the property's permitted development rights were removed by a planning condition in 1997. Conversely other properties in the conservation area are able to install photovoltaic modules without the need to first obtain planning permission. For these reasons it is questionable what the removal of this particular permitted development right in relation to the Appeal property achieves within the conservation area, particularly as the roof-slope is screened from the street scene.
14. Finally, as the proposed photovoltaic modules have already been installed there is no need to attach the usual time limit condition. No other conditions have been suggested by the Council and I agree that none are necessary.
15. I conclude that the benefits resulting from the energy generated by the photovoltaic modules would outweigh the limited harm they cause to the character and appearance of the host property and the conservation area and the conflict with policy HE6 of the Local Plan. At the same time the scheme complies with Government's sustainability and energy policies and advice set out in the NPPF and policies SU2 and SU16 of the Local Plan.

E Lawrence

INSPECTOR

