

Committee	PLANNING COMMITTEE (C)	
Report Title	4 ELIOT PLACE SE3 0QL	
Ward	Blackheath	
Contributors	David Jeffery	
Class	PART 1	Date: 27 MARCH 2014

Reg. Nos. DC/13/85794

Application dated 08.01.2014

Applicant Mr B Birnberg

Proposal Planning Permission and Listed Building Consent for the installation of 6 no. solar panels in the rear roof slope and 2 no. solar panels in the side roof slope.

Applicant's Plan Nos. EP100A, EP101A, EP102A, EP103A, Heritage, Design and Access Statement and email from the applicant dated 4th March 2014

Background Papers

- (1) Case File LE/680/4/TP
- (2) Adopted Unitary Development Plan (July 2004)
- (3) Local Development Framework Documents
- (4) The London Plan

Designation [Core Strategy or Adopted UDP] - Existing Use

1.0 Property/Site Description

1.1 The subject property is a Grade 2 Listed late 18th Century three-storey plus mansard roof property on the South side of Eliot Place. The property is organised as flats and is located approximately 100 meters east of the intersection of Eliot Vale and Baizdon Road.

1.2 The property faces out onto the open area of the heath and is open to long views from the north. The property is located within the Blackheath Conservation Area and the existing building (including its curtilage) is a Grade 2 Historic Building as a result of its historical and aesthetic significance.

2.0 Planning History

2.1 In April 1972 planning permission was granted for alterations and conversion of the four storey house and basement at 4 Eliot Place, to form a ten roomed self contained maisonette on basement, ground, first and part second floors, and a two roomed, self contained flat on part of the second floor and a three roomed, self contained flat on the third floor.

- 2.2 In February 1973 planning permission was granted for a limited period for the use of the semi-basement of 4 Eliot Place for the purpose of a preschool group for 16 children between the hours of 9am and 4 pm Mondays to Fridays during school term times.
- 2.3 In July 1974 planning permission was granted for a limited period for the continued use of the semi-basement of 4 Eliot Place for the purpose of a preschool group for 16 children between the hours of 9am and 4 pm Mondays to Fridays during school term times.
- 2.4 In September 1982 planning permission was refused for the erection of 2 semidetached two storey houses in the rear garden of 4 Eliot Place, together with the erection of 4 garages. A subsequent appeal was dismissed by the Planning Inspectorate.
- 2.5 In December 1992 planning permission was granted for the use of the semi basement at 4 Eliot Place as a pre school playgroup for 16 children between 9am and 4pm Mondays to Fridays during school term times.
- 2.6 November 2006 Planning permission granted for construction of a glass lean-to for use as a studio/greenhouse in the rear garden (06/64176)

3.0 Current Planning Applications

The Proposals

- 3.1 Planning permission and Listed Building Consent is sought for the installation of 6 solar panels in the rear roof slope and 2 solar panels in the side roof slope of 4 Eliot Place SE3. The solar panels would be located on the upper slope of the mansard roof and would not be visible from the surrounding area.

Supporting Documents

- 3.2 Design & Access and Heritage Statements. The applicant has also sent a supporting email (dated 4th March) outlining the energy efficiency measures which have already been utilised at the property.

4.0 Consultation

- 4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.2 Site notices were displayed and 14 letters were sent to neighbouring properties. The relevant ward Councillors were notified. No letters of objection have been received from neighbouring properties.

Pre-Application Consultation

- 4.3 The applicant engaged in pre-application discussions with the Council's Conservation Officer. Discussions focused on the potential impacts on the fabric and significance of the Listed Building and the suitability of potential locations for the solar panels which would not be visible from the public realm.

Amenity Societies Panel

- 4.4 The Panel had reservations about the principle and precedent of solar panels on listed buildings, even if on roof slopes not visible from public realm. They will be seen from the rear of the building. The Panel recommended that a location in the rear garden should be considered instead.

Letter of objection from the Blackheath Society

The letter is set out below in full;

“The Government’s commitment to sustainable development in the National Planning Policy Framework is shared by the Society and it is recognised that “there is a balance to be drawn between the benefits to society in responding to climate change and any harm caused to heritage assets.”

We have therefore had serious discussions about this and I have talked to other residents in the Blackheath area and to other members of the Amenity Societies Panel. I have also carefully studied the English Heritage Publication (2010) on small scale solar energy and traditional buildings and also the more recent Guidance Note (September 2012) for listed places of worship, which throws an interesting and relevant light on listed buildings in general. I quote:

“The principle of minimum intervention and reversibility should be adopted whenever and wherever possible.” One of the criteria to be met within the English Heritage Policy is that “the consenting authority imposes a condition requiring the removal of the equipment as soon as it falls out of use.” I am satisfied that in this instance these 8 photovoltaic panels can be removed at any future date without harming the fabric of the building.

It is the “minimum intervention” principle that is at issue here and whilst it is agreed by almost everyone that these panels are ugly, the main argument presented in their favour is that because of their location, they ‘cannot be seen’ from the public domain. By this reasoning, upvc windows on rear elevations of listed buildings might also be acceptable, but this is never the case.

Photovoltaic panels unfortunately have the characteristic of being very highly reflective and in sunlight they can be seen for miles around. The idea that the panels in this prominent and open location will not be visible is just not correct. Several people have told me that in other parts of Lewisham and Greenwich, solar panels have had a deleterious visual effect on the surrounding environment and in this case we are talking about a listed building within a Conservation Area of major importance.

Another of the EH criteria is that the proposal should have a “net environmental benefit”. This is difficult to demonstrate beyond approx. 1500kWh of free electricity per annum worth £200. Another of the EH criteria is that “other energy-saving measures should have been considered first” (eg. boiler efficiency, insulation, draught stripping) and in nine times out of ten this has not been done. Such measures would certainly save more than £200.

Lastly, if the Council were to allow this proposal, it would set a precedent the effects of which would certainly not preserve or enhance the characteristics of the Conservation Area”.

5.0 Policy Context

Introduction

5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

A local finance consideration means:

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)

5.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011). The NPPF does not change the legal status of the development plan.

National Planning Policy Framework

5.3 The NPPF was published on 27th March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation of the NPPF. In summary this states that (paragraph 211), policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that '...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

5.4 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, and 215 of the NPPF.

Ministerial Statement: Planning for Growth (23 March 2011)

5.5 The Statement sets out that the planning system has a key role to play in rebuilding Britain's economy by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. The Government's expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.

Other National Guidance

- 5.6 English Heritage's guidance note 'Small-scale (photovoltaic) solar electric and traditional buildings' (2010)

London Plan (July 2011)

- 5.7 The London Plan policies relevant to this application are:

Policy 5.1 Climate change mitigation
Policy 5.2 Minimising carbon dioxide emissions
Policy 5.3 Sustainable design and construction
Policy 5.4 Retrofitting
Policy 5.7 Renewable energy
Policy 7.4 Local character
Policy 7.6 Architecture
Policy 7.8 Heritage assets and archaeology

Core Strategy

- 5.8 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, the London Plan and the saved policies of the Unitary Development Plan, is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Lewisham Core Strategy as they relate to this application:

Spatial Policy 1 Lewisham Spatial Strategy
Spatial Policy 5 Areas of Stability and Managed Change
Core Strategy Policy 7 Climate change and adapting to the effects
Core Strategy Policy 8 Sustainable design and construction and energy efficiency
Core Strategy Policy 15 High Quality Design for Lewisham
Core Strategy Policy 16 Conservation Area, Heritage Assets and the Historic Environment

Unitary Development Plan (2004)

- 5.9 The saved policies of the UDP relevant to this application are:

STR URB 1 The Built Environment
STR ENV PRO 3 Energy and Natural Resource Conservation
URB 3 Urban Design
URB 6 Alterations and Extensions
URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas
URB 18 Preserving Listed Buildings

Residential Standards Supplementary Planning Document (August 2006)

- 5.10 This document sets out guidance and standards relating to design, sustainable development, renewable energy, flood risk, sustainable drainage, dwelling mix, density, layout, neighbour amenity, the amenities of the future occupants of developments, safety and security, refuse, affordable housing, self containment, noise and room positioning, room and dwelling sizes, storage, recycling facilities and bin storage, noise insulation, parking, cycle parking and storage, gardens and amenity space, landscaping, play space, Lifetime Homes and accessibility, and materials.

Emerging Plans

According to paragraph 216 of the NPPF decision takers can also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

5.11 The following emerging plans are relevant to this application.

Development Management Plan

5.12 The Council submitted the Development Management Local Plan (DMLP) for examination in November 2013. The Examination in Public took place on the 26th and 27th February 2014.

5.13 As set out in paragraph 216 of the National Planning Policy Framework, emerging plans gain weight as they move through the plan making process. The DMLP has undergone all stages of public consultation and plan preparation aside from examination, and therefore holds significant weight at this stage.

5.14 However, there are also a number of policies contained within the plan that hold less weight as the Council has received representations from consultees or questions from the Inspector regarding the soundness of these policies. These policies cannot carry full weight until the Inspector has found the plan legally compliant and sound.

5.15 The following policies hold significant weight as no representations have been received regarding soundness, and are considered to be relevant to this application:

DM Policy 31 Alterations/extensions to existing buildings

5.16 The following policies hold less weight as representations have been received or questions have been raised by the Inspector regarding soundness, and are considered to be relevant to this application:

DM Policy 1 Presumption in favour of sustainable development

DM Policy 22 Sustainable design and construction

DM Policy 30 Urban design and local character

DM Policy 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens

DM Policy 37 Non designated heritage assets including locally listed buildings, areas of special local character and areas of archaeological interest

6.0 Planning Considerations

- 6.1 The primary considerations for this application are the effect of the proposals on the fabric and historic interest of the Grade II listed building and also any wider impact on the character and appearance of the Blackheath Conservation Area.
- 6.2 Core Strategy Policy 16 states that the Council will ensure that the value and significance of the borough's heritage assets and their settings, conservation areas, listed buildings, archaeological remains, registered historic parks and gardens and other non designated assets such as locally listed buildings, will continue to be monitored, reviewed, enhanced and conserved according to the requirements of government planning policy guidance, the London Plan policies, local policy and English Heritage best practice.
- 6.3 Policy URB 16 'New Development, Changes of Use and Alterations to Buildings in Conservation Areas' states that the Council will not grant planning permission where alterations and extensions to existing buildings are incompatible with the special characteristics of the area, its buildings, scale, form and materials. There is a statutory duty placed on the Council to only approve development which preserves or enhances the character and appearance of the Borough's Conservation Areas.
- 6.4 Policy 36 of the Development Management Local Plan (submission version) states that 'The Council encourages the adaption of historic buildings to improve energy efficiency in line with the detailed guidance provided by English Heritage. Careful consideration should be given to the most appropriate options for insulation, power use and power generation. Intrusive interventions, such as externally mounted micro-generation equipment or external wall insulation, should be avoided where these would unacceptably alter the character and appearance of the heritage asset'. This policy also states that 'the Council will only grant consent for alterations to Listed Buildings which relate sensitively to the building's significance and sustain and enhance its significance and integrity'.
- 6.5 English Heritage's guidance note Small scale solar (photovoltaic) energy and traditional buildings(2010) states that 'it is generally not considered sympathetic to a building's appearance to have solar collectors or other equipment fixed to any of its main elevations, ie the face or faces seen from the principle view point, towards which it is mainly viewed'.
- 6.6 The proposal involves the installation of six photovoltaic panels on the rear shallow secondary pitch to the mansard roof slope and two panels on the side. Owing to the orientation of the property, the location of a chimney stack and a side facing dormer window the proposed solar panels will not be visible from the public realm. The lack of visibility of the proposed solar panels is also assisted by the considerable height of this three and a half storey property, its elevated position above land to the rear and that the panels would be located on the upper slope of the mansard roof which is of a shallower pitch and therefore less visible.
- 6.7 Officers recognise that a lack of visibility from the public realm cannot in itself be considered as suitable justification for alterations to the fabric of a listed building. In the case of Grade II* and Grade I buildings this justification would rarely be enough in itself. Each application needs to be considered on a case by case basis and the unique historic and architectural significance and its contribution to the area needs to be taken into account alongside the likely degree of physical impact of the proposals.

- 6.8 However, in this instance, taking into consideration the minimal visual impact, that there is no loss of historic fabric and that any impact on the fabric of the building is completely reversible, the proposal is considered to safeguard the historic interest and fabric of this Grade II Listed Building. In order to ensure that the proposals have no permanent impact it is considered necessary to add a condition to any consent which would require the removal of the solar panels when they reach the end of their lifespan.
- 6.9 In their letter of objection, The Blackheath Society make reference to English Heritage Guidance stating that 'other energy saving measures should be considered first' before the addition of renewable energy to historic buildings. In response to this the applicant has provided information documenting energy saving measures they have implemented including the installation of a new boiler, the refurbishment of all their windows and the addition of secondary glazing. Officers consider that having regard to the energy efficiency measures already installed, the proposal to install solar panels are not without justification.
- 6.10 The Council's Conservation Officer was involved in pre-application discussions and raised no objection. It is considered that the impact of the proposed panels on the character and appearance of the conservation area would be neutral.
- 6.11 Taking into account the lack of visibility of the proposed solar panels, the minimal impact upon the historic fabric and significance of the building along with the reversibility of the works, the proposal is considered to be acceptable.

Community Infrastructure Levy

- 6.12 The above development is not CIL liable

7.0 Equalities Considerations

- 7.1 Section 149 of the Equality Act 2010 ("the Act") imposes a duty that the Council must, in the exercise of its functions, have due regard to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.2 The protected characteristics under the Act are: Age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.3 The duty is a "have regard duty" and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.
- 7.4 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

8.0 Conclusion

- 8.1 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 8.2 Officers consider that the proposal would not result in material harm to the character, appearance and historic interest of the Listed Building and accords with Policy 16 'Conservation areas, heritage assets and the historic environment' of the Core Strategy (June 2011), Policy URB 16 of the Unitary Development Plan (2004) and relevant guidance from English Heritage.

9.0 RECOMMENDATION

GRANT PLANNING PERMISSION AND LISTED BUILDING CONSENT subject to the following conditions:-

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

- (2) The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below: EP100A, EP101A, EP102A, EP103A, Heritage and Design and Access Statement and email from the applicant dated 4th March 2014

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

- (3) The solar panels hereby permitted shall be removed as soon as practicable once they cease to function and the roof shall be reinstated and repaired to match its former condition prior to the installation of the solar panels.

Reason: To ensure that the installation of the solar panels and any associated works are completely reversible and that there will be no permanent impacts on the historic interest or fabric of the Grade II Listed building in accordance with Policy 16 'Conservation areas, heritage assets and the historic environment' of the adopted Core Strategy (June 2011), URB 16 'New Development, changes of use and alterations to buildings in Conservation Areas' and relevant national guidance provided by English Heritage.

INFORMATIVE

Positive and Proactive Statement : The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive pre-application discussions took place and further information was submitted during the application process.