
Appeal Decision

Site visit made on 12 November 2013

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 3 February 2014

Appeal Ref: APP/C1760/A/13/2190892

Land West of Somborne Park Road, Stockbridge

- 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 Ms Kate Covill of Steadfast Fairview Solar Ltd against the decision of Test Valley Borough Council.
 - The application Ref.12/01573/FULLN, dated 23 July 2012, was refused by notice dated 26 November 2012.
 - The development proposed is temporary use as a solar farm with static arrays of photovoltaic panels and ancillary plant, fencing and electrical equipment.
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Decision

1. The appeal is dismissed.

Main Issue

2. The Council refused planning permission for the proposal on the basis of the impact of the proposal on Green Place, a Grade II listed building. No issue is taken in terms of any undue impact on the landscape, the living conditions of nearby residents, or anything else. I have no good reason to disagree with that overall approach and in that context, the main issue to be considered is the effect of the solar farm on the setting, and thereby the significance, of Green Place. Bearing in mind advice in the Framework¹, that analysis needs to take account of any public benefits of the proposal.

Reasons

Benefits

3. Reflective of wider Government energy policy, one of the core planning principles of the Framework is to encourage the development of renewable energy. Paragraph 93 explains that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, and minimising vulnerability, and providing resilience, to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure.
4. Paragraph 98 says that applicants for energy development are not required to demonstrate the overall need for renewable or low-carbon energy and recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

¹ The National Planning Policy Framework

5. According to the appellant's figures, which are not disputed by the Council, the proposal would generate 5 MW of renewable energy per year of operation, enough to power 1131 homes, and offset 2525 tonnes of Carbon Dioxide. Bearing mind the approach of the Framework, the renewable energy that would be generated by the proposal would represent a significant public benefit

Green Place

6. Green Place is a single dwelling that dates from 1906-07. The original dwelling and the 1913 extension to it were designed by Baille Scott, an Architect recognised as a notable exponent of the Arts and Crafts style.
7. There is no dispute between the parties that the proposal would affect the setting of Green Place. Bearing in mind the definition of setting set out in the Framework, it is clear that the solar farm would. The dispute between the parties to the appeal is the extent of the harm that would be caused and the weight to be attached to that harm in the light of the benefits of the proposal set out above.
8. It is helpful to consider the statutory and policy background to that analysis first of all. Section 66(1) of the Act² maintains that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision-maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
9. Reference has been made to the implications of the judgement in *East Northamptonshire and others v Secretary of State for Communities and Local Government and another* [2013] EWHC 473 (Admin) on how Section 66(1) ought to be applied and in particular, the conflation of 'special regard' with 'special weight'. However, that case is currently before the Court of Appeal.
10. Moreover, subsequent judgements in *Coleman v Secretary of State for Communities and Local Government and others* [2013] EWHC 1138 (Admin) and *Bedford Borough Council v Secretary of State for Communities and Local Government and NUON UK Ltd* [2012] EWHC 4344 (Admin), have taken a different approach and have not conflated 'special regard' with 'special weight', quite specifically in the second judgement. Nevertheless, the requirements of Section 66(1) are clearly central to consideration of the proposal.
11. In terms of the development plan, LP³ Policy ENV17 sets out that development will only be permitted if it would not have an adverse effect on the setting of a listed building.
12. The Framework takes a less prescriptive approach. Paragraph 132 notes that when considering the impact of a proposed development on a designated heritage asset, great weight should be given to the asset's conservation. However, paragraph 133 goes on to note, of relevance, that where a proposed development would lead to substantial harm to or total loss of significance of a designated heritage asset, consent⁴ should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss.

² The Planning (Listed Buildings and Conservation Areas) Act 1990

³ The Test Valley Borough Local Plan 2006

⁴ I take that term to include permission

13. Paragraph 134 says that where a proposed development will 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.
14. The proposal would lie directly to the south-west of Green Place and would be plainly visible from parts of the house and grounds. The house is on elevated ground and was clearly sited to take advantage of that. There are a number of outside seating areas, some integrated into the external fabric of the building, that were clearly designed as places where views outward over the natural landscape could be contemplated. Notwithstanding how the boundaries between Green Place and the adjacent land have developed over the years, it is very clear that views out over the natural surroundings of Green Place were part of the original design intention. These views out contribute to the significance of Green Place as a designated heritage asset, therefore.
15. The presence of a man-made element as extensive as the solar array, with its attendant fencing, security cameras and so forth, in the close foreground would appear dominant and incongruous in some of those views and as such, have a harmful impact on the setting of Green Place. I note the intention to provide screen planting at the north-east corner of the array in order to mask views of it from the house and its grounds. But, given that views out from the house and grounds were a clear design intention, the effect of the screen planting would itself harm the setting of Green Place.
16. The Council and others maintain that the effect of the proposal on the setting of Green Place would cause substantial harm to the significance of the designated heritage asset. Recent Government guidance⁵ sets out that depending on scale, design and prominence, a large solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset. Nevertheless, while setting is clearly an important constituent of the overall significance of Green Place, most of that significance lies in the architectural design and fabric of the building itself, and the acknowledged expertise of the author. Those elements are the chief reasons why it is considered to possess special architectural and historic interest.
17. According to the recently published (in Beta mode) National Planning Practice Guidance, substantial (or serious) harm is a degree of harm that goes to the heart of the reason for designation. That is consistent with the judgement in *Bedford Borough Council v Secretary of State for Communities and Local Government and NUON UK Ltd* [2012] EWHC 4344 (Admin) where a finding that substantial harm is a degree of harm closely approaching demolition or destruction was found reasonable. The solar farm proposed would have no impact at all on the architectural design or fabric of Green Place, the primary reasons for designation. On that basis, the harm that would be caused to the setting of Green Place, while nonetheless considerable, would not result in substantial harm to the significance of the designated heritage asset.
18. However, there would be less than substantial harm to the significance of the designated heritage asset and any harm to the setting of Green Place is a matter that requires special regard. Moreover, that there would be some harm means that the proposal falls contrary to LP Policy ENV17. Paragraph 134 of the Framework requires less than substantial harm to be weighed against the public benefits of the proposal.

⁵ Planning Practice Guidance for Renewable and Low Carbon Energy

Conclusion

19. The proposal would bring forward significant public benefits in terms of the generation of energy from a renewable source. However, it would cause considerable harm to the setting of Green Place, and thereby its significance. While I have assessed that harm to significance as less than substantial, it nevertheless requires special regard.
20. The recent guidance makes clear that the need for renewable energy does not automatically override environmental protections. In my judgement, while it would be both temporary and reversible, the harm the proposal would cause to the setting, and thereby the significance, of Green Place, while less than substantial, would, nonetheless, be of such an extent that it would not be outweighed by the public benefits the proposal would bring forward.
21. For the reasons given above I conclude that the appeal should be dismissed.

Paul Griffiths

INSPECTOR

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