KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning (General Permitted Development) (England) Order 2015 - Schedule 2, Part 3, Changes of Use

DELEGATED DECISION FOR DISCHARGE OF CONDITION - NOTIFICATION OF A CHANGE OF USE UNDER THE ABOVE PROVISIONS

Reference no.	**2023/CL/92517/E**
Site Address	**Gallery, 53, North Road, Kirkburton, Huddersfield, HD8 0RH**
Description	**Prior notification for installation of roof mounted solar photovoltaic equipment (within a Conservation Area)**
Recommending Officer	**Nicole Helliwell**

DECISION - REFUSED

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Kevin Walton

AUTHORISED OFFICER

Date: 17-Oct-2023

Officer Report
Reference No. 2023/CLASS J/92517/E
Site Address: Gallery, 53, North Road, Kirkburton, Huddersfield, HD8 0RH
Proposal: Prior notification for installation of roof mounted solar photovoltaic equipment (within a Conservation Area)

Site Description

Gallery, 53 North Road, is a two storey semi-detached building located in Kirkburton, Huddersfield, which currently operates as a hair salon. The wider area comprises a combination of residential and commercial properties of similar architectural styles and materials. The site is also located within the Kirkburton Conservation Area.

Description of Proposal

The proposal seeks prior notification for the installation of solar photovoltaic equipment within the west facing roof planes of the building. There will be 10 panels in total, each measuring 1134mm in width and 1722mm in height. The application form states that no part of the equipment would protrude more than 0.2m beyond the plane of the roof slope, would not be within 1m of the external edge of the roof and the capacity of the panels would not exceed 1 megawatt. A drawing showing the position of the panels has also been provided.

The application has been applied for under Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

History of Negotiations

No negotiations have taken place and no amendments were sought or received during the course of the application

Relevant planning history

2010/92621: Change of use of store building to hairdressers, and alterations (within a Conservation Area). Planning application details | Kirklees Council – **Conditional Full Permission**

Representations

The application was publicised by site notice, press advertisement and neighbour notification letters, which expired on 3rd October 2023. As a result of the above publicity, one representation has been received. A summary of the neighbour's comments can be found below:

- I am not sure why the application form asks if the proposed solar panels overlook a highway and not ask if they overlook other properties gardens and outlooks.

Response: *This is to assess whether the proposal accords with Paragraph (d) of Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).*

- I understand why the application has been put in due to the nature of the business but would ask that they consider putting the solar panels on the opposite roof pitch as this will not look over any gardens only the back of the business.
  Response: *The solar panels would not result in any overlooking of the neighbouring gardens and would be acceptable in this regard.*

Kirkburton Parish Council – No comment.

Consultation responses

K.C. Conservation and Design

KC Conservation and Design were informally consulted on the application and have expressed that they do not support the scheme.

Legislation

The relevant legislation is Schedule 2, Part 14, Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Assessment

Paragraph J.4(2) of Class J requires the developer apply for PV solar or thermal panels other than microgeneration equipment to apply in writing to the local planning authority for a determination as to whether the property approval is required for the design and external appearance of the development.

As part of the assessment the Local Authority shall also determine whether or not the proposals comply with the requirements and conditions of the Town and Country Planning (General Permitted Development) (England) Order 2015(as amended) Part 14, Class J.

The applicant has submitted details providing information of the criteria within which the development must fall to be Permitted Development.

Permitted development

J. The installation, alteration or replacement of—
(a) microgeneration solar thermal equipment on a building;
(b) microgeneration solar PV equipment on a building; or
(c) other solar PV equipment on the roof of a building,

Other than a dwellinghouse or a block of flats J1.

Development is not permitted by Class J if –

(a) the solar PV equipment or solar thermal equipment would be installed on a pitched roof and would protrude more than 0.2 metres beyond the plane of the roof slope when measured from the perpendicular with the external surface of the roof slope.

Comment: *The solar PV equipment would be installed on a pitched roof, however, it will not protrude more than 0.2m beyond the roof of a roof slope when measured from the perpendicular.*

(a) the solar PV equipment or solar thermal equipment would be installed on a flat roof, where the highest part of the solar PV equipment would be higher than 1 metre above the highest part of the roof (excluding any chimney);

Comment: *Not Applicable.*

(b) the solar PV equipment or solar thermal equipment would be installed on a roof within 1 metre of the external edge of that roof;

Comment: *The application form states that the panels would not be within 1 metres of the external edge of the roof. However, the submitted plans showing dimensions of the roof slope and panels clearly demonstrate that the panels cannot be installed without being within 1 metre from the edge of the roof due to their scale and would therefore fail to comply with the limitations under Paragraph (c).*

(d) in the case of a building on article 2(3) land, the solar PV equipment or solar thermal equipment would be installed on a roof slope which fronts a highway; ***Comment:*** *The site is within article 2(3) land, however, the equipment would not be installed on a roof slope which fronts a highway.*

(e) the solar PV equipment or solar thermal equipment would be installed on a site designated as a scheduled monument; or

Comment: *The site is not designated as a scheduled monument.*

(e) the solar PV equipment or solar thermal equipment would be installed on a listed building or on a building within the curtilage of a listed building.

Comment: *The site is not a listed building or within the curtilage of a listed building.*

<u>J2 Development is not permitted by Class J (a) or (b) if –</u>

(a) the solar PV equipment or solar thermal equipment would be installed on a wall and would protrude more than 0.2 metres beyond the plane of the

wall when measured from the perpendicular with the external surface of the wall;

Comment: *The panels would not be on a wall.*

(b) the solar PV equipment or solar thermal equipment would be installed on a wall and within 1 metre of a junction of that wall with another wall or with the roof of the building

Comment: *The panels would not be on a wall.*

(c) in the case of a building on article 2(3) land, the solar PV equipment or solar thermal equipment would be installed on a wall which fronts a highway

Comment: *The building is on article 2(3) land but not installed on a wall.*

J.3 Development is not permitted by Class J(c) if -

(a) the capacity of the solar PV equipment installed (together with any solar PV equipment) installed under Class J (b)) to generate electricity exceeds 1 megawatt.

Comment: *The application form states that the total electronic generation capacity would not exceed 1 megawatt.*

Conditions

In the event the Local Planning Authority consider the proposal complies with the limitations in Class J, which in this instance they do not, and in the case where the proposal is not microgeneration equipment, which in this instance they are given the power output, the Local Planning Authority needs to assess whether or not prior approval is required for the design and appearance of the development and impact of glare under Condition J.4 —

(1) Class J development is permitted subject to the following conditions–

(a) the solar PV equipment or solar thermal equipment must, so far as practicable, be sited so as to minimise its effect on the external appearance of the building and the amenity of the area; and

(a) the solar PV equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed.

Notwithstanding, the proposal does not comply with the limitations in Class J and as condition J.4 is not applicable to microgeneration proposals, the assessment is undertaken nonetheless.

Design and Appearance

The application site is located within the Kirkburton Conservation area. The solar panels would be located within the west-facing roof planes of the building and would have some visibility from public vantage points along North Road. However, they are not considered to be visually intrusive or out

of keeping with the wider street scene given that solar panels have been installed on other commercial premises within the Kirkburton Conservation Area (2022/91133). Whilst in some limited contrast to the building roof materials, the panels would not consist of an unacceptable alteration to the building. The appearance of the buildings and wider Conservation Area would also not be harmed by the introduction of PV panels and as such, acceptable within the street scene.

Glare

The building incorporates pitched roof forms and therefore the proposed panels would have some visibility from public vantage points. The submitted information does not confirm whether or not the panels will be anti-glare and therefore a condition would be required to protect the amenity of the neighbouring residential properties.

Conclusion

On this basis, it is concluded that the proposal is not permitted under Part 14, Class J of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) as the panels will be sited within 1 metre from the external edge of the roof slope and is therefore recommended for refusal.

Recommendation: Prior approval refused
Decision Authorisation - Delegated Powers
Application Number: 2023/92517
Officer Recommendation: Refuse

The installation of solar PV equipment is not considered to benefit from a general planning permission under Article 3(1) and Part 14, Class J of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) as the solar panels would be installed within 1 metre of the external edge of that roof.

Plans and specifications schedule:-

Plan Type	Reference	Revision	Date Received
Location Plan	-	-	23/08/2023
Proposed Plans	-	-	23/08/2023

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees

Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. For the reasons outlined in the officer report, the development cannot be considered as a ‘prior notification’ submission.

Dated: 09/10/2023