

Proposals for solar panels at St Mary's Church

**STATEMENT OF CASE PREPARED ON BEHALF OF
THE APPELLANT, ST MARY'S CHURCH**

Introduction

1. This is an appeal made in respect of the non-determination by Camden Council ("the Council") of an application for planning permission for the reversible installation of photovoltaic ("PV") technology mounted on the southern slope of the nave roof of St Mary the Virgin, Primrose Hill. ("the Church") together with associated supporting equipment.
2. The plans submitted with this appeal detail proposed PV roof arrays of varying extent. These are proposed to the Planning Inspector for consideration as alternative schemes. Despite failing to determine the planning application, the Council's planning officer indicated support for an array comprising two rows of PV panels towards the base of the roof. The Planning Inspector is invited to grant planning permission for the largest array set out in the plans, which comprises four rows of PV panels and covers the southern slope of the nave roof, or alternatively to grant permission for the largest array that is considered to be appropriate.
3. For completeness, all drawings prepared in relation to these proposals (extant and superseded) are appended to this statement of case.

Background

4. The Church's proposed plans for the PV array have developed iteratively throughout the process of applying twice for planning permission and requesting pre-application advice. The extant plans before the Inspector are designed to respond to the concerns raised by Council officers, whilst balancing these against the Church's desire to maximise the capacity of the proposed scheme, to enhance the public benefits it will generate.

5. This appeal is made in respect of a repeat application, following the Council's rejection on 26 February 2019 of an initial planning application for 108 solar photovoltaic (PV) (LPA Ref: 2018/4741/P). The array applied for at that time would have covered the Church's south facing roof. The principal basis for refusal of the first application, as set out in the officer report [MB Pack – St Mary the Virgin Church], was the less than substantial harm the proposals would cause to the significance of the Church (Grade II Listed) and the Elsworthy Conservation Area (in which the Church is located) through visual change.
6. The conservation officers who considered that application suggested that they would take a different view if the proposals involved fewer PV panels. This suggestion was taken up by the Church. In its request for pre-application advice submitted in October 2019, the Church sought the views of the Council on four alternative schemes involving PV panels of varying extent [PP.001 Proposed South Elevation - Options 1-3]: Option 1 would consist of installing solar panels on the eastern half of the south facing roof [PP.002 Proposed South Elevation - Option 1]; Option 2 would consist of installing two rows of solar panels covering the width of the south facing roof at its bottom [PP.003 Proposed South Elevation – Option 2]; Option 3 is similar to the scheme refused planning permission, which consists of covering the entirety of the south facing roof [PP.004 Proposed South Elevation – Option 3].
7. During a meeting on 13 November, the planning and conservation officers stressed the importance that part of the original grey slate tiling should remain visible, and on that basis indicated support for Option 2. Option 1 (which was proposed on the basis that the array, in this position, would be partially screened by the trees directly in front of the roof) was objected to on aesthetic grounds due to the asymmetry of the roof's appearance, and is no longer pursued by the Church as a possible scheme. The Church also does not pursue an option for a single row of 29 PVs because its generating capacity would fall significantly short of the Church's electricity demand [Paragraph 47, Feasibility Study of Renewable Energy Technologies] and was therefore never proposed to LB Camden as an option.
8. Following that meeting the Church developed an additional proposal, Option 2B [PP.003B Proposed South Elevation – Option 2B], comprising three rows of PV panels that would maximise the capacity of the scheme whilst ensuring part of the original grey slate tiling remained visible, as desired by the Council officers.

9. As a result of the Council's delay in providing the requested pre-application advice, the Church was forced to submit its second planning application on 25 February 2020, without the benefit of pre-application advice, in order to ensure the avoidance of paying a fee for a second repeat application. The application was validated on 1 April [2020_0964_P – St Mary the Virgin Church].
10. One indicative elevation plan was put forward for consideration with the planning application, Option 2B, comprising three PV rows. As the Design & Access Statement explained, this plan was put forward for consideration, however the applicant was prepared to consider submitting amended plans showing altering layouts following the receipt of pre-application advice.
11. The Council provided pre-application advice on 9 April [2019_5273_PRE - St Mary The Virgin Church], which concluded that – notwithstanding its strong concerns in relation to visual change – Option 2 (involving two rows of PV panels) would be preferred on the basis that it would allow for “a good proportion of the original slate roof to remain visible” and “the panels would be viewed as a later addition that respects the character and appearance of the host building”, and that would be even more the case with respect to having a single row of 29No PV panels. No comment was made in respect of Option 2B.
12. The deadline for Camden to determine the application expired on 21 April. Following repeated chasers, agents for the Church finally managed to speak with the Council's planning officer, Kate Henry, on 22 April, during a conversation over Zoom. It was agreed during that meeting that, subject to the submission by the Church of further details, Ms Henry would write an officer's report supporting Option 2, i.e. a scheme comprising two rows of solar panels on St Mary's Church.
13. The further details were provided on 1 May. These included plans/details showing the routing of the cables that would serve the PV array, as well as showing a two row scheme [PL.002 Proposed Roof Plan Revision A, PL.004 Proposed South Elevation Revision A, PL.005 Proposed Section AA Revision A] so as to minimise visual change, and a plan showing the re-routing of an existing submain [7009-01 Existing, 7009-02 Proposed, St Mary's Church – Submain relocation], which was agreed to constitute an additional benefit of the scheme in securing a positive visual change (see the final bullet of the pre-application advice). In addition, to further explain the necessity of the

scheme, the Church provided a note explaining that the Church arrived at the decision to install solar panels after first considering and implementing all feasible strategies to reduce its energy usage to the greatest possible extent, and after considering and excluding (as unfeasible) other potential sources of green energy [Feasibility Study of Renewable Energy Technologies].

14. It was on this basis that the Church compromised and put forward Option 2 – two rows – for approval. However, the promised officer report supporting the proposals was not provided, and a new planning officer took over the case in June, who indicated that he will look at the matter afresh. No progress has been made on the determination of the application. On 17 August the Church put the Council on notice that it intended to appeal for non-determination and to submit an application for costs.

The schemes put forward for consideration

15. In this appeal the Church invites the Planning Inspector to grant planning permission for Option 3, comprising four rows of solar panels, on the basis that this proposal will generate greater public benefits through creating more generating capacity whilst the heritage harm will not be materially different from Option 2 which the Council has indicated its approval of. In that regard the Planning Inspector is invited, under the Wheatcroft principles, to consider for determination the elevation plan for Option 3. Alternatively the Inspector is invited to grant planning permission (in descending order of preference) for either Option 2B, or Option 2.
16. The planning permission should set out the following description of development: “Reversible installation of photovoltaic technology mounted on the southern slope of the nave roof of St Mary the Virgin Primrose Hill together with associated supporting equipment”. The Inspector is further invited to include within the conditioned list of approved plans the elevation drawing for Options 3, 2B or 2, as appropriate.
17. Whilst plans for Options 2B and 2 were submitted to the Council as part of planning application 2020/0964/P, a plan for Option 3 was not. The Planning Inspector is invited to consider the drawing for Option 3 [PP.004 Proposed South Elevation – Option 3] under the Wheatcroft principles. Under this proposed array the development is not so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation.

18. The Option 3 scheme is materially identical to the scheme put forward for consideration (and rejected) in the initial planning application (2018/4741/P) and those interested in the proposals had an opportunity to comment. As the officer report notes (appended), 14 letters were sent in support of the proposals, together with a hand written petition in support with 32 names and a digital petition with 318 names in support. The report notes only one objection as received, and the text is copied out in the officer report. The objection unsurprisingly refers to the visual change the proposals would create to the Church's southern roof elevation. There is no prospect that anyone interested in these proposals have missed an opportunity to be consulted upon the proposals if Option 3 is approved by the planning inspector.
19. Furthermore, whilst Option 3 is larger in scale than the proposed arrays detailed in the plans submitted with the planning application, the power to consider amendments is not limited to cases where the effect of a proposed amendment would be to reduce the development (*Breckland DC v. Secretary of State for the Environment* (1992) 65 P&CR.34).

The Appellant's Case

20. The two main issues that fall for determination in this appeal are considered to be, firstly, the effect of the proposals on the character and appearance of the Grade II Listed Building and the Elsworthy Conservation Area, and, secondly, the public benefits of the proposals.
21. In relation to the first, it is common ground that all iterations of the proposals would cause less than substantial harm, in NPPF/196 terms, through visual change to the significance of the Church as a Grade II listed building and the Elsworthy Conservation Area.
22. In relation to the second, it is also common ground that the proposals would generate public benefits in so far as they would enable the Church to meet its energy needs through a renewable energy source and any surplus could be fed into the Grid, and consequently the proposals would lead to significant net reductions in CO₂ emissions.
23. The areas of dispute concern the weight to be given to the heritage harm as against the weight to be given to the public benefits when striking the planning balance. In its pre-application advice, and the Zoom call in April, the Council indicated its view that

the balance falls to be struck in favour of either a single or two rows of PV panels. It is expected therefore that the Council will not oppose the granting of planning permission on appeal for Option 2. The battle ground is expected to be in respect of Option 3.

24. In assessing the public benefits of the scheme the Inspector is invited to have regard to the generating capacity of the alternative arrays as against the Church's current demand for electricity (and the predicted increase in demand), as well as the analysis in the feasibility study [Feasibility Study of Renewable Energy Technologies].
25. The Church's current need for electricity is estimated to be 15,126 kWh per year [Paragraph 47, Feasibility Study of Renewable Energy Technologies]. In addition to meeting this current need, the proposed PV array would – if of sufficient capacity – be used to enable the Church to transition its heating system from gas to electricity. In addition any surplus electricity generated by the scheme would be fed into the grid leading to CO₂ savings elsewhere.
26. With respect to the generating capacity of the alternative options that are extant before the planning inspector, as the Design and Access Statement notes, Option 2B (three PV panel rows) would generate 25,200 kWh per year, creating a surplus of approximately 10,074 kWh, compared with the Church's current estimated need. Option 2 would provide approximately 18,300 kWh, meeting the Church's current need for electricity whilst allowing for a small surplus. Option 3 is the preferred option, which would generate 36,500 kWh, leading to sufficient capacity to comfortably meet the Church's ambition to transition to an electrical based heating system and to contribute to efforts to reduce CO₂ emissions.
27. The Planning Inspector is invited to accept the analysis in the Design and Access Statement as to the significance of the heritage assets, the extent of visual change the proposals would create *vis* the public benefits they would generate, as well as the weight to be given to these matters. The Statement notes local plan policy that is supporting of development such as this that creates renewable energy capacity (CS13 and DP 22). The officer report prepared for application 2018/4741/P correctly notes that the proposal would meet the NPPF's environmental and social objectives in terms of adapting to climate change and supporting strong communities (paragraph 3.24), although fails to note the support for the proposals within the above two local plan policies.

28. The Design and Access Statement in addition notes support for solar panel proposals of this nature in the Historic England's guidance 'Energy Efficiency and Historic Buildings: Solar Electricity (Photovoltaics) (October 2018) and Chris Dunham's report commissioned by Camden Council entitled Camden Carbon Scenarios for 2025 to 2030 – an Update to the 2010 Study. Mr Dunham's report concludes that in order for Camden to meet the Council's ambition of securing net zero carbon by 2030 "a vast increase in solar PV capacity would be needed on Camden's buildings" (p 6).
29. In addition the Inspector should note the additional public benefit the proposals would generate in re-routing and obscuring an existing sub-main.
30. The Statement concludes that very significant weight should be placed on the public benefits of the proposals which outweigh the harm they would create.

Conclusion

31. For these reasons, the Planning Inspector is invited to grant planning permission.

St Mary's Church
22nd September 2020