



Appeal Decisions

Site visit made on 7 February 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 February 2023

Appeal A Ref: APP/F0114/W/22/3302121

Burnett Manor, Watery Lane, Burnett, Keynsham, Somerset, BS31 2TF

- 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 and Mrs David Oliver against the decision of Bath and North East Somerset Council.
 - The application Ref 21/03965/FUL, dated 25 August 2021, was refused by notice dated 8 April 2022.
 - The development proposed is installation of solar PV panels and ground source heat pump pipe work to eastern paddock to provide renewable energy source for manor house and connecting to plant room of listed building.
-

Appeal B Ref: APP/F0114/Y/22/3302122

Burnett Manor, Watery Lane, Burnett, Keynsham, Somerset, BS31 2TF

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs David Oliver against the decision of Bath and North East Somerset Council.
 - The application Ref 21/03966/LBA, dated 25 August 2021, was refused by notice dated 8 April 2022.
 - The works proposed are installation of pipe work to service ground source heat pump in lower ground floor plant room and forming of 2no 100mm diameter holes below ground in external wall.
-

Decision – Appeal A

1. The appeal is allowed and planning permission is granted for installation of solar PV panels and ground source heat pump pipe work to eastern paddock to provide renewable energy source for manor house and connecting to plant room of listed building, at Burnett Manor, Watery Lane, Burnett, Keynsham, Somerset, BS31 2TF, in accordance with the terms of the application, Ref 21/03965/FUL, dated 25 August 2021, subject to the conditions in the attached schedule.

Decision – Appeal B

2. The appeal is allowed, and listed building consent is granted for installation of pipework to service ground source heat pump in lower ground floor plant room and forming 2no 100mm diameter holes below ground in external wall, at Burnett Manor, Watery Lane, Burnett, Keynsham, Somerset, BS31 2TF, in accordance with the terms of the application, Ref 21/03966/LBA, dated 25 August 2021 and the plans submitted with it, subject to the following condition:
 - 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.

Applications for costs

3. Applications for costs were made by Mr and Mrs David Oliver against Bath and North East Somerset Council. These applications are the subject of separate decisions.

Preliminary Matters

4. The appeals relate to the same proposal under different legislation. Appeal A is made in respect of the planning application, which includes the installation of solar PV panels and ground source heat pump pipe work to eastern paddock. Appeal B is made in respect of the listed building consent, which is limited to the work to the basement of the listed building to facilitate the above. I have considered each appeal on its own merits.

Main Issues – Appeal A

5. The main issues are:
 - 1) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies,
 - 2) The effect of the proposal on the openness of the Green Belt,
 - 3) The effect of the proposal on the character and appearance of the area, including the setting of nearby grade II listed buildings, known as Manor House and Church of St Michael, and the unlisted Whitson Lodge,
 - 4) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Main Issue – Appeal B

6. The effect of the proposal on the significance of the listed building, known as Manor House.

Reasons – Appeal A

Whether inappropriate development in the Green Belt

7. The proposal would not fall within any of the exceptions set out in paragraphs 149 and 150 of the Framework. Therefore, the starting point is that the proposal would be inappropriate development which, by definition, is harmful to the Green Belt and should not be approved except in very special circumstances. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Policy CP8 of the Core Strategy¹ seeks to protect the openness of the Green Belt from inappropriate development in accordance with national planning policy.

Openness of the Green Belt

8. A fundamental aim of Green Belt Policy is to keep land permanently open. The essential characteristics of Green Belts are their openness and their

¹ Bath and North East Somerset Core Strategy 2014

permanence. The openness of a Green Belt has a spatial aspect as well as a visual aspect.

9. In terms of the spatial aspect, the proposal would introduce an area of development to the paddock, in the form of two rows of fixed PV panels that would stand at 2.5 metres tall and be surrounded by a 2.5 metre mesh security fence. As a result, the openness of the paddock would be reduced in one corner. Given the low height of the panels relative to the scale of Whitson Lodge and the small part of the overall area of the paddock that they would occupy I am of the view that the level of harm to the spatial aspect of Green Belt openness would be no more than moderate.
10. In terms of the visual aspect, the panels would be no higher than the surrounding fence, which would be enclosed by a hornbeam hedge that would be left to grow to the same height. There would be some visual harm until the hedge has reached the height of the fence. However, once it has reached that height the development would be hidden and would present itself as an enclosed area of the field that would be visually associated with Whitson Lodge. The new hedge boundary would be very similar to the existing beech hedge that defines the boundary of Whitson Lodge and is viewed across the depth of the paddock from the south and southeast and would not cause harm to the visual aspect of Green Belt openness.
11. The proposal would therefore have a moderate adverse impact on the openness of the Green Belt in spatial terms and no adverse impact on the visual aspect of Green Belt openness once the hedge is established.

Character and appearance

12. The appeal site is within Burnett, which is a small and well preserved historic village with little modern development. Buildings are traditionally arranged at a low density and are unified by a consistent use of pale natural stone and prominent roadside walls. The appeal site comprises part of a paddock, known locally as The Park. The paddock is largely undeveloped and interspersed with a few isolated trees. Views of this area are limited from the main village by the presence of buildings and roadside boundary walls. Indeed, the area of the appeal site is distant from the lane to the south. It is largely screened from those walking along the lane by the height of the wall and is on land that falls away to the north which further limits its prominence.
13. The area is however prominent to view from the B3116, that runs to the east and is separated from the site by a post and rail fence. From this perspective it can be seen to contribute to the rural setting of the village.
14. The paddock is in the same ownership as Burnett Manor to the southwest and is also bound in part by the Church of St Michael. Both are Grade II listed buildings. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires me to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
15. According to the submitted heritage statement, the Manor was largely constructed circa 1750, although has much earlier origins. It sits within a generous formal garden to the south and east, with a driveway and kitchen garden to the west and southwest. Historic maps show that the formal areas of

garden were extended during the 20th century. They currently appear well established and have taken in mature trees to the east that provide a substantial screen between the paddock and the immediate and more refined environs of its formal gardens.

16. The east elevation of the Manor is a formal symmetrical composition with a direct view out through a gap in the trees over the paddock and towards the fields beyond the main road. In this respect the open and agrarian appearance of the paddock and the land beyond is significant to the setting of the building in what would appear to be a designed view away from the village towards open countryside. The Manor's substantial and well composed east elevation gives the impression that it was deliberately conceived to be seen by those passing by on the main road. In this perspective however, the more distant location of the proposal does not play a significant role. It is not visible from the Manor and is a distant component in views towards the Manor from the main road, as the land drops away to the north and is to one side of its formal east face.
17. The Church of St Michael is a small building that stands back from the road alongside and somewhat dwarfed by the Manor. It is not prominent to view from the road owing to its scale, position, and the dense canopies of intervening trees within the churchyard. From within the churchyard views out are limited. The open land to the east contributes to the rural setting of the Church as experienced from within the churchyard, however the interrelationship between the Church and this area is limited. It is not an aspect of its setting that contributes meaningfully to its significance.
18. The proposed development would be distant from both heritage assets and would occupy a portion of land that does not appear to contribute to its significance. Once the hedge is established the enclosed area would have a similar appearance to the existing boundary enclosing the south side of the garden to Whitson Lodge. The use of a single species would not appear out of place in this context close to an existing domestic boundary. The hedge and fence would enclose a roughly square area, which would assimilate well with the regular division of space in the area including the land that makes up the curtilage of Whitson Lodge. For these reasons I am satisfied that the significance of neither building would be harmed by the proposal.
19. The proposal would abut the curtilage of Whitson Lodge. This characterful former school building is prominent to view from the main road, where its prominent steeply pitched roof and elaborate stone framed windows can be enjoyed. Given its architectural interest and its historic use it can be regarded as a non-designated heritage asset. This building is most readily appreciated from the north where it stands prominently at the road junction. The low level of the proposal relative to the scale of the building means that it would have no impact on its setting from this perspective. Additionally, hedge planting would read as an extension of its domestic curtilage.
20. The view of the building from the south is already less prominent than the north as it is partly screened by its domestic curtilage, garden planting and the tall beech hedge. The proposed hedged enclosure would extend this area further south, but it would be to no greater height than the current beech hedge and would read as a portion of land associated with this dwelling. Views of the prominent upper parts of the building would remain unchanged.

21. In terms of the proposal's impact on the character and appearance of the area more generally, it would occupy a relatively small part of the paddock. It would not be prominent to view from the village owing to the gentle fall of the paddock to the north and its separation from the core of the village by existing walls and buildings. From the B3116 it would be seen to occupy a portion of land alongside the existing developed area of Whitson Lodge where it would not cause visual harm and would leave the wider area of the paddock undeveloped, retaining the overall character and appearance of the paddock that contributes to the settlement's rural setting.
22. I appreciate that the hedge would take some time to establish. However, if the appeal is allowed, a condition can ensure that good sized initial plants are sourced and a specification for planting agreed to ensure that the hedge establishes as quickly as possible and is planted to ensure it provides a dense screen. Hornbeam has been specified, which has similar characteristics to beech. Even when it is not in leaf, once the canopy of the hedge is established its intertwining tracery would still largely screen the panels behind, which would be dark in colour and thus not visually prominent through any thinner parts of the hedge. A condition would also ensure that any plants that fail would be replanted. Therefore, whilst the panels would be visible for a short while before the hedge establishes, there is no reason why the proposed hedge would not establish quickly, sufficient to provide the necessary screening to ensure that the panels do not cause visual harm.
23. It is suggested that an alternative location should be considered. As I have found that the proposed location would not cause harm to the character and appearance of the area or the setting of the heritage assets referred to above, I am satisfied that this is not a matter that I need to consider.
24. In summary, the proposal would not harm the character and appearance of the area or the setting of heritage assets. It would accord with the requirements of the LBCA and paragraph 193 of the Framework, which states that great weight should be given to the conservation of heritage assets. It would also accord with Policies SCR3, HE1 and NE2 of the Placemaking Plan² and Policy CP6 of the Core Strategy. Together these Policies seek to ensure that development proposals minimise visual impact, safeguard heritage assets and conserve landscape character.
25. Whilst I have referred to Policy SCR3 above I am not satisfied that it is directly related to a solar PV array of this scale, which although beyond a normal domestic scale, would not be a solar farm or solar field as referred to in the supporting text to the Policy. Therefore, beyond matters of visual impact I am of the view that this Policy is not directly relevant to the proposal before me.

Other considerations

26. The proposal would provide renewable energy sources for the Manor. Evidence submitted shows that the reduction in carbon emissions that would result from the proposal would be substantial. The submissions demonstrate that the proposal is part of a wider scheme to reduce the energy consumption associated with the occupation of this large historic dwelling. It would appear to

² Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan District-wide Strategy and Policies

be a carefully considered proposal that has been developed to make the dwelling more energy efficient and reduce its carbon output.

27. A reduction in energy use and carbon output to any building is in the wider public interest that should attract significant weight, particularly in the context of the Council declared climate emergency. Paragraph 158 of the Framework establishes that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.
28. I accept that the production of electricity from the PV array is only part of the appellant's plan to reduce carbon emissions. However, it is a very significant component of that plan and whilst some improvements could be made without the PV array, I am not satisfied that this should reduce the weight I give it.
29. In addition, by securing a more sustainable source of energy for the dwelling the proposal would also sustain its significance as a heritage asset in a use that is consistent with its ongoing conservation. Heritage assets are an irreplaceable resource with wider social, cultural, economic and environmental benefits that go well beyond those enjoyed by a building's occupants or its day to day users. As such this is also a benefit of the proposal that should attract considerable weight.

Very special circumstances

30. The proposal would be inappropriate development in the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt, and development should not be approved except in very special circumstances. In addition, I have found that the scheme would also have a moderate adverse impact on the openness of the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
31. The other considerations before me are substantial. The valuable contribution that the proposal would make to cutting greenhouse gas emissions and sustaining the significance of the heritage asset carry significant weight. I am satisfied that these benefits are sufficient to outweigh the harm to the Green Belt. I therefore find that the very special circumstances exist which justify the development. On this basis the proposal would accord with Policy CP8 of the Core Strategy and the Framework.

Reasons – Appeal B

32. The Council's refusal reason for the application for listed building consent only refers to those elements of the scheme that require planning permission. The elements of the proposal that constitute works to the listed building are set out in the description above. There is nothing before me to suggest that the Council considers these elements of the proposal to harm the significance of the listed building.
33. At my visit I viewed this area of the building and am satisfied that the minor work proposed would not harm the significance of the heritage asset, having regard to the duty placed upon me by Section 16(2) of the LBCA.

Other Matters

34. The Council's third refusal reason refers to the proposal's impact on the living conditions of the occupiers of Whitson Lodge. The erection of the array would be visible from the first floor window of the dwelling that faces south over the paddock. From this elevated position the panels would be low lying and the pleasant outlook over the remainder of the undeveloped paddock and out to the countryside beyond would remain. Therefore, whilst the view from this window would change, the impact of the development would not be so overwhelming or dominant from this perspective that it would harm the outlook currently enjoyed from this window.
35. The impact at the garden level or from south facing ground floor openings would be minimal as the area of the proposal is entirely obscured by the tall dense beech hedge that separates it from this dwelling. I am therefore not satisfied that this is a matter that should weigh against the proposal or be considered a main issue of the appeal.
36. There are numerous comments before me relating to the proposal's impact on highway safety. At my visit I could see that the proposal would have no impact on visibility to those using the junction to the north of Whitson Lodge. Visibility here is already restricted by the Lodge building and various plants growing in its garden. The proposed site area is beyond this and would not make the present situation any worse.
37. The proposal stands well away from the junction to the south of the paddock. Owing to the slight curve of the B3116 it would fall within the current visibility splay that gives road users sight of traffic on this road when emerging from the smaller lane.
38. Visibility in this direction from the junction is however already significantly impeded by the existing post and rail fence, and particularly the vertical posts which appear tightly spaced when viewed at an angle from the junction and already significantly restrict the view of approaching traffic. It is suggested that the proposal would make the situation particularly worse at night. However, road users would rely on the illuminated path of approaching vehicles, which would be easy to see at night given the lack of streetlighting and would not be meaningfully impacted by the proposed hedge.
39. I therefore find that whilst there would be a minor adverse impact on the visibility associated with this junction it would not constitute the unacceptable impact in highway safety referred to at paragraph 111 of the Framework. I am not satisfied that this is a matter that should weigh against the proposal or be considered as a main issue of the appeal.

Conditions

40. I have had regard to the conditions suggested by the Council. I have considered these against the tests in the Framework and the advice in the Planning Practice Guidance. I have imposed a condition specifying the approved plans for the planning permission as this provides certainty.
41. I have imposed conditions to secure archaeological monitoring of all groundworks and publication of the results. I note the appellant's concern about the appropriateness of the condition, however the ground source system is part of the proposal, and in any case further excavation would be required

for the frames for the PV panels and the posts for the fence. Taking into account the proximity of the site to the Church and previous finds of Roman material in the area I find the conditions to be necessary to ensure that disturbance of any buried archaeology is minimised.

42. I have imposed a condition to protect existing trees at the site for the duration of the construction work and a condition to secure a landscaping scheme, including the planting of the hedge around the PV array. These conditions are necessary to safeguard the character and appearance of the area.
43. I have also imposed a condition to ensure that the recommendations of the ecology reports are carried out in a way that can be managed and secured by the Local Planning Authority. Whilst I note the comments of the appellants on this matter I consider this condition to be necessary to ensure the recommendations made in the submitted reports are carried out and can be enforced by the Council if necessary. I do however not consider it necessary to impose the second ecology condition suggested by the Council as the implementation of the agreed scheme is already built into the condition I have imposed, which the Council can enforce.

Conclusion

44. For the reasons above, I conclude that the appeals should be allowed.

A Tucker

INSPECTOR

Schedule of Conditions

Appeal A Ref: APP/F0114/W/22/3302121

- 1) The development hereby permitted shall not begin later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SMH/16/19/18-20, SMH/16/19/18-06, SMH/16/19/18-40, SMH/16/19/18-41, SMH/16/19/18-50, MH1001-GEO-EE-00-02-DR-PV-1401, SMH/16/19/18-51 and SMH/16/19/18-52.
- 3) No development shall commence, except archaeological investigation work, until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site, with provision for excavation of any significant deposits or features encountered and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.
- 4) No occupation of the development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of post-excavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.
- 5) No development shall take place until an Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority and details within the approved document implemented as appropriate. The final method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and compliance statements to the local planning authority. The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, service run locations and movement of people and machinery. The development shall be carried out in complete accordance with the approved Arboricultural Method Statement.
- 6) Within two months of the commencement of works a soft landscape scheme with a plan and a programme of implementation shall be submitted to and approved in writing by the Local Planning Authority showing the species, planting size and location of two replacement trees and the proposed perimeter hedging for the PV array. The hedge plants shall be a minimum of 150cm root stock. All soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the solar photovoltaic array being brought into use or in accordance with the programme of implementation agreed in writing with the Local Planning

Authority. Any trees or plants indicated on the approved scheme which, within a period of 10 years from the date of the development being completed, die, are removed, or become seriously damaged or diseased shall be replaced during the current or first available planting season with other trees or plants of species, size and number as originally approved unless the Local Planning Authority gives its written consent to any variation. All soft landscape works shall be retained in accordance with the approved details for the lifetime of the development.

- 7) No development shall take place until full details of a Wildlife Protection and Enhancement Scheme have been submitted to and approved in writing by the Local Planning Authority. Such details shall be in accordance with (but not limited to) the recommendations and proposed mitigation measures described in the recommendations section of the submitted Preliminary Ecological Assessment dated 26.08.21 and the Bat Survey and Assessment dated 19.11.21 both by Alder Ecology UK LTD including:
- i) Method statement for pre-construction and construction phases to provide full details of all necessary protection and mitigation measures, including protection of the trees and beech hedgerow, translocation of 5 x fruit trees, compensatory tree planting and where applicable, proposed pre-commencement checks and update surveys, for the avoidance of harm to bats, reptiles, nesting birds, hedgehogs, badgers and other wildlife, and proposed reporting of findings to the Local Planning Authority prior to the commencement of works; and
 - ii) Detailed proposals for implementation of the enhancement measures and recommendations of the approved ecological reports, with specifications and proposed numbers and positions to be shown on plans as applicable. All works within the scheme shall be carried out in accordance with the approved details and completed in accordance with specified timescales and prior to the development being first brought into use.