



Appeal Decision

Site visit made on 11 April 2023

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 June 2023

Appeal Ref: APP/P1940/D/22/3309816

Windrush, Common Road, Chorleywood WD3 5LP

- 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 I Umanskiy against the decision of Three Rivers District Council.
 - The application Ref 22/1254/FUL, dated 30 June 2022, was refused by notice dated 26 August 2022.
 - The development proposed is for the installation of solar panels to existing dwelling and ground mounted solar panels adjacent to existing tennis court.
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Decision

1. The appeal is allowed, and planning permission is granted for the installation of solar panels to existing dwelling and ground mounted solar panels adjacent to existing tennis court at Windrush, Common Road, Chorleywood WD3 5LP in accordance with the terms of the application, Ref 22/1254/FUL, dated 30 June 2022, subject to the attached schedule of conditions

Preliminary Matters

2. The proposal subject to this appeal has two main elements consisting of i) the installation of solar panels to the roof of the main dwellinghouse and ii) the erection of a line of solar panels mounted at ground level adjoining an existing tennis court. For the purpose of brevity and clarity the elements of the proposal will be referred to in my decision as follows: i) **roof panels** and ii) **ground panels**.
3. With regard to the **roof panels** the Council have found this element would not result in a disproportionate addition to the original building. As a result, the Council consider that this element would benefit as an exception to policy under paragraph 149 c) of the National Planning Policy Framework (the Framework) and would not be inappropriate development in the Green Belt. From the evidence before me I see no reason to disagree.

Main Issues

4. The main issues are:
 - Whether the **ground panels** would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the **ground panels** on the openness of the Green Belt;

- The effect of the proposal on the character and appearance of the area with specific regard to the Chorleywood Common Conservation Area (CCCA); and
- Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances to justify it.

Reasons

Whether inappropriate development

5. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149.
6. Policy CP11 of the Three Rivers District Council Core Strategy (TRCS) adopted October 2011 has a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purpose of including land within it. Policy DM2 of the Three Rivers District Development Management Policies Local Development Document (TRDMP) adopted July 2013 also sets out that new buildings are inappropriate subject to certain exemptions. These policies are broadly consistent with the approach of the Framework, in that there is a presumption against inappropriate development subject to very special circumstances.
7. Criterion c) of paragraph 149 is the most pertinent to this appeal, which relates to the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The term building¹ includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. In applying this definition, the **ground panels** could be regarded as a 'building' for the purposes of the Framework. However, the appeal site is a large detached residential property, and the proposal seeks the introduction of new development some distance from the original property. As such, this cannot be considered an extension or alteration to that building and this exception would not apply.
8. Consequently, the **ground panels** fail to accord with TRCS Policy CP11 and TRDMP Policy DM2 and paragraph 149 of the Framework. Accordingly, this element of the proposal would be inappropriate development in the Green Belt.

Openness

9. There are spatial and visual aspects to the assessment of the openness of the Green Belt. In spatial terms, the **ground panels** would provide a larger quantum of built development than currently exist on site. Whilst modest and low level these would nevertheless have an adverse impact on the openness of the Green Belt in spatial terms.
10. With regard to the visual aspect, the property and its curtilage have limited public views along Common Road given the existing gated treatment, large

¹ Section 336 of the Town and Country Planning Act 1990

brick boundary wall and well-established vegetation along the roadside boundary. The site itself also occupies a ribbon of residential development, which contrast with the much less developed open spaces that surround the area. The **ground panels** would be located at the rear of the dwellinghouse, adjoining the existing development of the tennis court. As such, I conclude in visual terms, it would have no material effect on the visual aspect of openness of the Green Belt.

11. Overall, whilst I find there would be no harm to the visual dimension of the openness of the Green Belt, there would be to the spatial dimension. Therefore, the proposal would harm the openness of the Green Belt.

Character and appearance

12. The appeal site is a large detached dwellinghouse located on the north side of Common Road in Chorleywood, opposite a large public open space. There are also public houses and a golf club providing local community facilities, however the main character is made up of traditional residential dwellings along with the railway line which provide a ribbon of development adjoining the open space. The appeal site is also located in the CCCA.
13. As such, I have a statutory duty under section 72(1) of the Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
14. The appeal site is located in Character Zone D of the CCCA which is characterised by significant built form including a variety of architectural styles and designs. The appeal site is located close to Childs Farm House and the associated farm buildings. The farmstead has been re-developed as private residential housing losing some of the original character of the group of buildings and having a negative value on the representation of Chorleywood's agrarian history. It is the more traditional frontages that contribute positively to the significance of the CCCA.
15. Given the aforementioned boundary treatment, the **ground panels** would not be visible from any public vantage points, and as such would have an extremely limited impact on either the character and appearance of the surrounding area or indeed the significance of the CCCA. However, despite the extensive boundary treatment, the positioning of the **roof panels** would be visible from the common, albeit limited to glimpse views only. The addition of modern, bulky panels would harm the traditional roofscape of the building and the character and appearance of the area and consequently the significance of the CCCA.
16. The Council are also concerned with the impact of the **ground panels** on the root protection areas (RPA) of the localised trees that benefit from protection under the CCCA designation. From the information before me, the **ground panels** require no hardstanding to be laid and can be installed utilising slabs or

gravel. Furthermore, the use of surface mounted armoured cabling would also negate the need for any digging within the RPAs. As such, the appeal scheme is unlikely to impact on the surrounding protected trees.

17. For the above reasons, I conclude that the proposed development would harm the character and appearance of the area and would not preserve the character or appearance of the CCCA. The proposal would therefore be contrary to Policies CP1 and CP12 of the TRCS; Policies DM1, DM3 and DM6 of the TCDMP and Policies 1 and 2 of the Chorleywood Neighbourhood Development Plan (CHNP) August 2020 which, amongst other things, require all development to be of high-quality design; protecting the natural, built and historic environments and preserving heritage assets in a manner appropriate to their significance. Nor would it accord with the guidance of the Framework which seek to conserve and enhance the historic environment.
18. However, given it would be extremely localised, the harm I have identified to the significance of the heritage assets would be less than substantial. Paragraph 202 of the Framework advises where a development proposal 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 including, where appropriate, securing its optimum viable use.
19. While there would be a private benefit for the occupier of the dwelling the proposal would support the electricity network, providing a source of renewable energy which would enable some reduction in the energy burden in line with the government's aims. This is clearly a significant benefit of the scheme. Accordingly, the public benefits would in my view outweigh the less than substantial harm that would be caused to the significance of the heritage asset identified above.

Other considerations

20. Paragraph 151 of the Framework states where elements of renewable energy projects in the Green Belt are inappropriate, very special circumstances required to outweigh its inappropriateness may include the wider environmental benefits associated with increased production of energy from renewable sources.
21. Paragraph 152 of the Framework states that the planning system should support the transition to a low carbon future and support renewable and low carbon energy and associated infrastructure. While paragraph 158 states that in determining planning applications, applicants are not required to demonstrate the overall need for renewable or low carbon energy; that decision makers should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable.
22. The appellant's Energy Statement confirms the scheme could amount to an emissions reduction of 94.05% compared with the existing situation. The appellant intends to install battery storage within the existing garage and attic areas. These will store any surplus energy generated by the panels during the day for use during the evening periods. The house is heated using a gas boiler and the emissions savings from the solar panels will offset the emissions from the boiler such that the house will be near net zero emissions. Therefore, the energy benefit of the proposal must be afforded very great weight.

23. My attention has been drawn to the issue of a Certificate of Lawfulness² at the site for the installation of solar panels to the existing dwelling. From the information before me this provides for an installation of panels that are akin to the arrangement proposed under the current appeal scheme for the roof panels. This represents a realistic fallback position, given that a similar arrangement could be constructed under permitted development regulations, to which I apportion significant weight.

Green Belt Balance and Conclusion

24. The **ground panels** would be inappropriate development in the Green Belt, they would harm the openness of the Green Belt. As such, the Framework establishes that substantial weight should be given to any harm to the Green Belt. I have also found that the proposal would be harmful to the character and appearance of the area and would have less than substantial harm to the significance of the CCCA, albeit that latter harm is outweighed by public benefits. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

25. Overall, in my view, the material considerations are of sufficient weight to clearly outweigh the substantial harm to the Green Belt, and the other harm I have found, as such the very special circumstances necessary to justify the development exist.

26. Having considered all material considerations and other relevant matters raised, I therefore conclude that the appeal should be allowed.

Conditions

27. I have imposed conditions requiring commencement of the development within three years and for the development to be carried out in accordance with the approved plans for certainty. I have also imposed a condition in regard to tree protection measures in order to ensure an acceptable visual effect and to mitigate any harm to protected trees.

Robert Naylor

INSPECTOR

² Three Rivers District Council Planning Ref: 22/1255/CLPD

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not 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: PV_L0001; PV_L0002 P1; PV_L0201 P1; PV_L0202 P1; PV_L1002 P2; PV_L1201 P1; PV_L1202 P3 and PV_L1203 P1.
- 3) No development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

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