



Appeal Decision

Hearing held on 30 May 2024

Site visit made on 29 May 2024

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2024

Appeal Ref: APP/F0114/C/22/3307537

Midford Castle, Midford, Bath, BA2 7BU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Scott Adams against an enforcement notice issued by Bath and North East Somerset Council.
 - The notice was issued on 26 August 2022.
 - The breach of planning control as alleged in the notice is:
 - i) Without planning permission, the unauthorised engineering works to reprofile land to facilitate, without planning permission, the erection of a two-storey, semi-subterranean building in the approximate location edged blue and marked "A" on the enforcement plan (hereafter referred to as "the building"). For the avoidance of doubt the building is shown at Photo 1, Annex A to the Notice.
 - ii) Without planning permission, the unauthorised engineering works to reprofile and level land to form a hardstanding area adjacent to the north-west of the Building in the approximate location edged orange and marked "B" on the enforcement plan (hereafter referred to as "the Hardstanding"). For the avoidance of doubt the Hardstanding is shown at Photo 2, Annex A to the Notice.
 - iii) Without planning permission, the unauthorised formation of an access track to the hardstanding which runs parallel to the access road serving the Land in the approximate location edged green and marked "C" on the enforcement plan (hereafter referred to as "the Track"). For the avoidance of doubt the Track is shown at Photo 3, Annex A to the Notice.
 - The requirements of the notice are:
 - 1 Demolish the building edged blue and marked "A" and remove all material resulting from the demolition from the Land.
 - 2 Remove all imported spoil and material used to form the hardstanding from the area edged orange and marked "B" from the Land.
 - 3 Remove the access track edged green and marked "C" and all imported materials from the Land.
 - 4 Reinstatement the land in the approximate locations marked "A", "B" and "C" in accordance with the site levels shown on drawing P02 dated 16th July 2019 as submitted with planning application 19/03415/FUL. A copy of the drawing is at Annex B to the Notice.
 - 5 Reseed all areas in the approximate locations marked "A", "B" and "C" with a meadow grass seed mix.
 - The periods for compliance with the requirements are:

Requirement 1 - six months
Requirements 2,3 and 4 - nine months
Requirement 5 - twelve months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (c), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected and varied by:

the deletion of the words "erection of a two-storey, semi-subterranean building" and their substitution with the words "erection of a partially completed two-storey, semi-subterranean building", in (i) of the breach of planning control;

the deletion of the word "imported" from requirement 2; and

the deletion of the three periods for compliance in requirements 1-5 and their substitution with 12 months as the period for compliance in requirements 1-4 and 18 months in requirement 5.

Subject to the corrections and variations, the enforcement notice is upheld and planning permission is refused for the development carried out.

Applications for costs

2. An application for costs against the appellant has been submitted by the Council. This is the subject of a separate decision.

Preliminary Matters

3. A signed Statement of Common Ground was submitted at the start of the Hearing. This described the site, its planning history and relevant local plan policies. It was agreed that the building subject to the appeal is unauthorised development; that it does not cause significant harm to the amenities of any occupiers or adjacent occupiers; that the development does not impact on any significant archaeological remains; that the building represents less than substantial harm to the heritage assets; and, that the built development represents inappropriate development in the Green Belt and as such is harmful to it.
4. Following a short adjournment for the appellant to reconsider the grounds of appeal in the light of their acceptance of the unauthorised nature of the built development, the appellant withdrew the ground (b) and (c) appeals in respect of the building. Grounds (b) and (c) therefore relate to the track and hardstanding.
5. The appellant accepted that as the building is unauthorised and that the implementation of planning permission 19/034/15/FUL was not lawfully commenced, that permission has expired by virtue of the standard time condition and does not represent a fallback position.
6. There is a substantial area of hardstanding to the north of the unauthorised building on ground that has been made up and which is in the order of two metres or so above the natural ground level to one side. It is a very distinctive feature which has not been included as part of the breach of planning control in the notice. The Council has referred to its omission as perhaps having occurred as a result of staff changes.
7. A smaller and less significant area of hardstanding referred to as "B" in the notice and at the Castle end of the track has been partly reinstated as part of the field. However, another area of hardstanding at the Lodge end of the track is not included in the notice.

8. There is large area of domestic style decking at a lower level to the Castle on its east side. This is not included within the notice.
9. Although I have the power to correct and vary the notice to embrace these additional developments, I cannot do so if there would be an injustice to the appellant which I consider to be the case. It will be a matter for the Council to consider the expediency of any further action against unauthorised development.
10. The allegation refers to the "erection of a two-storey, semi-subterranean building". In the interests of accuracy I intend to correct the allegation to refer to "erection of a partially completed two-storey, semi-subterranean building", to which the parties agree. Additionally, the parties agree that the reference to "imported" soil in requirement 2 should be deleted and I shall therefore correct the notice accordingly.

The site and relevant planning history

11. The unauthorised development is located within the grounds of the Grade I listed Midford Castle, which lies within the village of Midford just to the south of the City of Bath. The land is located within the Bristol/Bath Green Belt; the Cotswolds Area of Outstanding Natural Beauty (now referred to as a National Landscape); the indicative setting of the World Heritage Site; and the landscape setting of the settlement of Bath.
12. The estate of Midford Castle includes ancillary Grade II* listed buildings: the Stables; the Old Chapel; walls enclosing the stable yard; the Coach House; and Greenhouse. The Archway and Lodge, and the pair of gate piers and gates at the entrance to the Castle estate, are Grade II listed.
13. The estate encompasses a designed parkland and 18th-century woodland garden (Priory Wood). Priory Wood is identified as Medieval-Modern (semi-natural ancient) woodland. The woodland contains the remains of the Priory, a Grade II listed 18th century gothic-style summerhouse or tea room and former hermitage. The woodland also forms part of the Horsecombe Vale and Priory Wood Site of Nature Conservation Interest ("SNCI").
14. The appellant purchased the Midford Castle Estate in 2009 and has carried out substantial restoration work to various estate buildings including the castle, the stable block and the coach house.
15. The estate has an extensive planning history as set out in the Council's Enforcement Report (Appendix 2). In December 2018 planning permission and listed building consent were issued for the renovation of the Coach House, greenhouse, etc to ancillary residential and occasional holiday let accommodation. Works to the coach house have been completed but not in accordance with the approved plans which has resulted in a building with a different ridge line and alignment on its eastern elevation. This has resulted in a successful prosecution of the appellant in the courts and the Council is considering the expediency of taking listed building enforcement action against this unauthorised work.
16. Application 19/034/15/FUL for the erection of agricultural building and associated landscaping and modelling works (part retrospective) was granted on 4 June 2020 and this permission concerned the site subject to this appeal. However, whilst the Council did not consider the building to be for agricultural purposes it was nevertheless approved in view of considerations amounting to very special

circumstances pertaining to it. The permission did not authorise the construction of the track or hardstanding. As stated above, the permission was never implemented.

17. Following complaints that the building subject to the 2020 permission exceeded the approved scale and dimensions and that other unauthorised works had been carried out, the enforcement notice subject to this appeal was served. The reasons for the issuing of the notice were, in summary, harm to heritage assets, inappropriate development in the Green Belt, adverse effect on the landscape including the AONB and the Bath World Heritage Site (WHA), and potential impacts on nature conservation interests.

The appeals on grounds (b) and (c)

18. An appeal on ground (b) is that the breach of control has not occurred as a matter of fact. An appeal on ground (c) is that there has not been a breach of planning control, either because the breach is not development or is permitted development or has planning permission. The appellant makes a similar case under both grounds for the track and the hardstanding.
19. In respect of the track, the appellant relies on the Town and Country Planning (General Permitted Development) (England) (Order) 2015, as amended. However, Part 9 Class E only permits maintenance or improvement of existing private ways.
20. It is claimed that the track existed before the alleged works were carried out and the timber gateposts for a field gate and pedestrian gate in the vicinity of the arched gatehouse are evidence of this. Additionally, the appellant indicates there is evidence of the continuation of the track from the area of hardstanding marked B on the enforcement plan. Justification for the track is on the basis it was necessary for HGVs to avoid the access drive as tree routes were distorting the drive's surface. I also note that the claimed route avoids such traffic passing in close proximity to the castle.
21. In the appellant's submitted Heritage Impact Assessment¹, reference is made to "the temporary track for construction and landscaping traffic visible at present is due to be removed once work is complete". There is a clear contradiction in the appellant's evidence.
22. Reference by the Council to aerial photographs dated May 2018 and September 2020 do not show the existence of the claimed track, although the later photograph shows a disturbed area of ground where an area of hardstanding was created in the vicinity of the gatehouse. An April 2021 photograph clearly shows the length of the track running parallel and adjacent to the access drive.
23. Although there is evidence of the existence of gateposts in the vicinity of the gatehouse, these do not provide evidence of a track, only an indication of field gates. The appellant has not shown on the balance of probability that such a track previously existed or that it was immune from enforcement action through the passage of time.
24. In respect of the hardstanding marked 'B' on the enforcement plan, the appellant acknowledges that this was created as a temporary measure to facilitate construction of the building and has since been re-seeded to return the land to its

¹ Assessment of the impact of the barn under construction in the context of heritage assets and the historic environment, John Brushe MA

original state. No planning permission existed for the work and it is not immune from enforcement action.

25. As a matter of fact, the track and the hardstanding existed at the time of the notice and both represent a breach of planning control as they did not benefit any planning permission.
26. The appeals on grounds (b) and (c) fail.

The appeal on ground (a) and the deemed application

27. An appeal on this ground is that planning permission should be granted for what has been alleged. The terms of the deemed planning application are derived from the allegation.
28. At my site inspection I saw that the track is apparent but the hardstanding subject to the notice has been re-seeded.
29. The semi subterranean building had been largely completed with the use of natural stone and hit and miss boarding on the east and north elevations and a metal coping to the edges of the roof. It has entrances at the upper and lower levels and contains a large biomass boiler and straw and timber fuel stored within it. The 'L-shaped' concrete structure is substantial and appears to have been constructed to a high specification. To the west part of the building is a mess room/WC and openings on both levels that the Council refers to as windows but the appellant indicates that these were designed originally for pipework. The south and west elevations are set below the new finished ground level. The roof has been grassed over and contains four upstanding rooflights and a substantial green painted industrial-style flue.
30. The dimensions of the structure have been in dispute for some time between the parties although they agree that the height of the building as built is 6.20m compared to 4.33m as approved and as shown on Drawing A2-220C (Document 2). As the structure has been built into the ground by 0.5m, the appellant states that the overall difference in roof height is 0.99m. Notwithstanding this, the building still remains at 6.20m high when viewed externally from the hardstanding to the north of the building. The Council's Document 6 illustrates the approved internal building volume of 664 cu metres compared to the as built volume of 2612 cu metres, which represents a very substantial increase. Despite the measurement differences of the parties, I am satisfied that the submitted measurements provide adequate evidence of the overall magnitude and scale of what has been built.
31. The Coach House shown on Drawings A2-223C and A1-112C has not been built in accordance with the approved Listed Building Consent as the roofline has been built horizontally and not sloping as approved. Furthermore the chamfered part of the Coach House, the wall, archway and window position are not in accordance with the approved plans. I have had regard to the fact that the appearance of the Coach House may give a slightly different impression of the relationship of the unauthorised building with the listed Coach House. The appellant states that the then Head of Conservation approved the scheme at a site visit but no corroborating evidence to this effect was submitted.
32. The appellant has relied on the planning permission 19/034/15/FUL as part of the justification of the development subject to this enforcement action in which it is claimed that the principle of the building was accepted. At the time the

Council acknowledged that the proposed building is primarily for the housing of a boiler system to replace that in the castle basement which posed a fire risk. It was accepted that the benefits to the Grade I listed building and other benefits outweighed any harm arising from the proposal so as to amount to very special circumstances. During the application process the submitted Energy Statement demonstrated the need for a boiler and a building of the scale proposed. I note that the finally approved scheme was the result of revisions to reduce the height, bulk and mass of the structure to make it acceptable in the context of the nearby heritage buildings. The building approved was L-shaped, 18.5m long by 17m wide and a height of c4.6m.

33. The roof the approved building was to have been positioned parallel to the adjacent Coach House with the southern end wall of the new building level with the gable end of the Coach House. The roof was to have been level with the eaves of the Coach House and the building was to be set into the hillside and designed to follow the contours of the bank to the south and west so that when complete, it would not be visible in the medium to long range views or interrupt the setting of the Coach House. The building as constructed is 28.5m long by 19.6m wide at a height of 6.2m (the Council's original measurement was 6.4m). It projects 5.9m to the south of where it should have been located, extending well beyond the gable of the Coach House. Its height is level with the mid-point of the Coach House roof.

Main issues

34. The main issues relate to heritage assets, the Green Belt, landscape and nature conservation.
35. The Development Plan comprises the Core Strategy(2014), the Placemaking Plan (2017) and the Local Plan Partial Update (2023) which updated some existing policies and introduced a number of new policies.

Heritage Assets

36. The heritage assets are described in the site description above. Heritage issues relate to the effect of the development on the character and appearance of the area bearing in mind the special attention that should be paid to the desirability of preserving the setting of nearby Grade I, II* and II listed buildings and other heritage assets.
37. The Framework at paragraph 205 indicates that when considering the impact of a development, great weight should be given to the asset's conservation, irrespective of whether any harm amounts to substantial harm, total loss or less than substantial harm to its significance, including setting. Setting is defined as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
38. The appellant's submitted Heritage Impact Assessment considers that the greater, unauthorised height and footprint of the as-built building does not make it more prominent in the context of the group of heritage assets and does not add significantly to the impact of the development on the heritage assets , which remains less than substantial than the previously approved scheme.

39. Mr Simon Pugh-Jones, on behalf of the appellant, considers that the group value and setting of heritage assets is only partially relevant. Whilst the Coach House is of historic significance, it is of limited architectural significance, subservient to the Castle and Stables. The changes in mass and height is one of local relevance to the Coach House and not of direct impact on the Castle or other listed buildings. He accepts that the unauthorised building does have a greater impact but that this is marginal.
40. Historic England provides good practice advice on the contribution that setting has on the significance of heritage assets². Although the appellant states that public views are very limited, I attach limited weight to this as the contribution that setting makes to the significance of an asset does not depend on there being public rights or an ability to access or experience that setting.
41. The significance of the individual listed buildings varies based on their particular special architectural and/or historical interest. Collectively their significance is enhanced through the hierarchy and historic layout of the Midford Castle Estate. The proximity of the unauthorised building through its discordant and dominant bulk, scale, mass and height disrupts this relationship causing harm to the setting of the listed buildings. This is particularly apparent in the relationship of the unauthorised building to the Coach House when viewed from the hardstanding to the north, resulting from the scale of the east and north elevations and to the setting of the Castle.
42. I viewed the development from a number of different vantage points including the upper floors of the Castle where the extent of the development, including the roof lights and flue, were clearly distinctive, incongruous and obtrusive within the landscape and within the setting of the listed buildings. Additionally, when viewed from the hardstanding or nearby, the industrial style flue is of such significant dimensions that it makes a negative contribution which adversely affects the setting of the Castle and hence its significance.
43. The parties agree that the impact of the development is less than substantial in the context of paragraph 208 of the Framework which requires the harm to be weighed against public benefits arising. The appellant considers that there is a perceived public benefit of the relocation of the boiler from the Castle and this reduces the fire risk of the Grade I listed building. Although the Council believe that there are no public benefits as the development is for the private gain of the appellant, I do not entirely share this view. Indeed, the previously approved scheme was partly justified for its perceived public benefit. There is a public benefit in ensuring the long term protection of a Grade I listed building but that should not be at the cost of accepting a building that is as harmful to the setting of the listed buildings on the Estate as is the case in this appeal, particularly when a more acceptable development having lesser impact has previously been granted permission. I therefore do not consider that any public benefit arising from the unauthorised development outweighs the harm caused.
44. I have had regard to the appellant's reference to the Heritage Balance in paragraphs 78 and 79 of the 2022 Custom House appeal decision³ but this does not lead me to any different conclusions on the effect of the development on the significance of the heritage assets.

² The Setting of Heritage Assets, Historic England Planning Note 3, 2017

³ APP/K5030/W/21/3281630

45. The development does not accord with the Framework and is contrary to Policy HE1 of the Placemaking Plan regarding the historic environment.

Green Belt

46. Green Belt issues relate to whether the development represents inappropriate development; the effect on the openness of the Green Belt; the effect on the character and appearance of the area (including the setting of the nearby listed building); and 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.

47. The parties agree that the development is inappropriate development in the Green Belt as set out in paragraphs 152-156 of the National Planning Policy Framework (the Framework) and by definition should not be approved except in very special circumstances.

48. The development compromises the openness of the Green Belt in both spatial and visual terms through its overall bulk, mass and scale. Its flue is prominent both from lower down on the site and is within the same view as the listed buildings, adversely affecting their settings. It is also prominent when viewed from the upper floors of the castle from where the extent of flat grass roof appears incongruous in the context of the listed buildings and within the wider landscape. The building no longer follows the contours of the land and could be visible within longer range views particularly when the trees are without leaf.

49. Whilst the principle of development was accepted in the context of the much smaller scheme because of very special circumstances that were considered to apply, such special circumstances do not apply to the unauthorised development subject to this appeal.

50. I conclude on the Green Belt issues that harm by reason of inappropriateness, to the openness of the Green Belt, and to the setting of nearby listed buildings would not be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal. The development is contrary to the Framework, to Policy CP8 of the adopted Core Strategy and Policies in the Placemaking Plan for Bath and North East Somerset relating to development in the Green Belt.

Landscape

51. The issue to be considered is the effect of the unauthorised development on landscape setting.

52. Policy NE2 of the Placemaking Plan requires the submission of a Landscape and Visual Impact Assessment (LVIA) for proposals having the potential to impact on landscape character. The appellant submitted a Visual Impact Assessment (VIA) for the previously approved development but the Council considers this to be more limited in scope than a VIA and in any event relates to a different building to the one constructed.

53. Either a new LVIA or an addendum report is required rather than the report submitted as part of the appeal which is limited in scope and is an 'Assessment of the visibility of the barn under construction' (September 2022). Although limited in scope, the 2022 report acknowledges that the flue is 'noticeable, particularly when approaching down the drive'. The report concludes that the

barn is not 'visually prominent' in the landscape but photographs indicate that it would be clearly visible and would be more so in winter.

54. The unauthorised works of the building and track are visibly prominent and fail to contribute positively to the site context thereby adversely affect the landscape setting of the wider parkland, the Cotswold National Landscape and the setting of the Bath WHS. I note however that it is the appellant's case that because of its location the appeal site should be regarded as being outside the Bath WHS.
55. The building and track (and when the notice was issued, the hardstanding) are contrary to Policies B4 and CP6 of the Core Strategy regarding the Bath WHS and environmental quality, and to HE1, D2, NE2 and NE2A of the Placemaking Plan regarding the historic environment, local character and distinctiveness, and landscape.

Nature Conservation

56. The issue to be considered is the effect of the development on nature conservation interests.
57. The site is within the Horsecombe Vale and Priory Wood Site of Nature Conservation Interest (SNCI) and the Council is concerned that it has not been established that the development does not have a negative ecological impact. There is also uncertainty over light spill affecting bats. Policy NE3a requires that biodiversity net gain be demonstrated as required in the Framework but a biodiversity net gain assessment and calculation has not been submitted
58. The appellant maintains that the development does not adversely affect European or UK protected species or habitats. The original mitigation proposals are still relevant. There are no proposals for any external lighting and the building does not significantly change the baseline conditions established at the time of the original planning permission. There will not be any lighting impact on roosting bats, thereby complying with Policy D8 regarding lighting.
59. The appellant indicates (in Document 4) that the building is being used by three species of bat for night roosting and there is evidence of nesting birds but it is acknowledged that the survey does not represent a full bat report as this would require a series of visits over a period of time to establish bat roosts.
60. I conclude on this issue is that insufficient information has been submitted by the appellant to demonstrate that biodiversity net gain would be achieved as required under Policy NE3a.

Other ground (a) considerations

61. A number of representations have been made by interested parties in support of the enforcement action including Cotswold National Landscape, Bath Preservation Trust and local residents, although the appellant has received some limited support including from a local resident at the hearing.
62. At the hearing the appellant indicated that his personal circumstances would severely limit what action he could take should the appeal be unsuccessful. The work to replace the boiler in the castle was essential and he has found that a larger building was needed to house the boiler and the biomass fuel. It was a pragmatic response to this that led to the building being larger than approved.

He dismissed the Council's suggestion that his long term intention was to convert the building to residential based on evidence arising from a building control application in May 2021. Notwithstanding these factors the appellant has had the benefit of substantial professional advice prior to carrying out the unauthorised works and communication with the Council regarding the unacceptability of what was being built. He should have been aware of the consequence of the actions for which he is responsible.

63. The purpose of the enforcement regime is not to punish those who carry out unauthorised development but to ensure that where it is in the public interest to remedy a breach of planning control, then this should be done.

Conclusion on the ground (a) appeal

64. For these reasons I consider the development as built does not accord with the adopted development plan when considered as a whole. It also conflicts with national planning policy expressed in the Framework. In the absence of material considerations to outweigh the development plan conflict, or of any public or other benefits that amount to the very special circumstances required to justify the proposal against the harm to the setting of listed buildings and other heritage assets, and the harm to landscape and nature conservation interests, I conclude that the appeal on this ground should be dismissed and planning permission refused.

The appeal on ground (f)

65. An appeal on this ground is that the steps required are excessive and lesser steps would overcome the objections.
66. Although the appellant indicated in his Statement of Case in respect of Requirement 1 that demolition of the building may be harmful to the structural integrity of the castle, it was only at the hearing that it was indicated the structure may need to be demolished using explosives. However, the appellant has provided no evidence to substantiate the claim that the castle (which is 44 metres away from the subject building) or other listed buildings would be harmed as a result. The appellant also claims that the demolition may be harmful to ecological and landscaping work already carried out.
67. The appellant acknowledged that he is open to lesser measures but none have been put forward. The appellant suggests that these would need to be discussed with the Council but in view of the time that has elapsed since the issuing of the notice the appellant should have progressed such lesser measures at an earlier date.
68. It is open to the appellant to consider whether to submit a new planning application that put forward proposals that would overcome the planning objections to the unauthorised development. I note however that the Council has spent much time in negotiating alternative proposals between October 2021 and October 2022, all to no avail.
69. The appellant argues that in Requirement 4, reinstatement of the site levels shown on Drawing PO2 exceeds what is necessary to remedy the injury on the basis that this refers to work carried out prior to the application and benefits from retrospective permission. However, it has already been accepted that the permission has not been lawfully implemented and is now time expired.

70. The purpose of this notice is to remedy the breach of control and restore the land to its condition before the breach took place and not to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged and therefore I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach.

71. The appeal on this ground fails.

The appeal on ground (g)

72. An appeal on this ground is that the compliance periods are too short. Three compliance periods are given in the notice: 6 months for the demolition of the building; 9 months for removal of spoil, the track and reinstatement of land levels; and, 12 months for reseeding.

73. The appellant claims that it would be reasonable to allow 2 years for all the requirements as the removal of the biomass boiler removes the heat source from the castle and would make it uninhabitable pending the provision of alternative heat sources. It would also be necessary to project manage the removal of the building as explosives are necessary for demolition as this would be an engineering challenge.

74. In response the Council would accept a 12 month period and pointed out that it has the power to formally extend the time for compliance under s173A and would be willing to do so if the appellant shows that further time is required and has done all he reasonably could do to comply with the initial time for compliance.

75. I consider that a period of 12 months for compliance with requirements 1-4 is reasonable and a period of 18 months for reseeding is necessary to provide for this to be done after the other requirements have been carried out. I shall vary the notice accordingly.

76. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Conclusion

77. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

P N Jarratt

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Scott Adams - appellant
Simon Pugh-Jones - Heritage Architect, The Ash Studios Ltd
Scott Bracken – Planning Consultant, The Leith Group
John Nuttall – Landscape Consultant
Roger Martindale - Alder Ecology UK Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Sam Grant _ Senior Planning and Enforcement Officer BANES
Danielle Milson – Planning Officer BANES
Helen Ellison – Planning and Conservation Officer BANES

INTERESTED PARTIES:

Amanda Page – local resident

DOCUMENTS

- 1 Statement of Common Ground
- 2 Set of A3 comparative plans showing the development as approved and as built (BANES).
- 3 Extract from The Bath Magazine (appellant)
- 4 Ecology Statement by Alder Ecology dated 13 May 2024 (appellant)
- 5 Internal photographs showing openings. (BANES)
- 6 Drawings illustrating the approved internal building volume of 664 cu metres compared to the as built volume of 2612 cu metres. (BANES)
- 7 Extent of Policy NE3 sites of Nature Conservation Interest in the vicinity of the appeal site. (BANES)
- 8 LPA suggested conditions (BANES)