



Department for  
Communities and  
Local Government

Mr Conor Rafferty  
Eversheds LLP  
115 Colmore Row  
Birmingham  
B3 3AL

Our Ref: APP/P0119/W/15/3004513

21 December 2015

Dear Mr Rafferty

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY AEE RENEWABLES UK 19 LIMITED  
AT GREEN FARM, FOLLY ROAD, IRON ACTON, BRISTOL, BS37 9TU  
APPLICATION REFERENCE PK14/1755/F**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Jessica Graham BA(Hons) PgDipL, who made a site visit on 8 June 2015 into your client's appeal against the decision of South Gloucestershire Council (the Council) to refuse planning permission for a 7.76MW solar farm and associated works at Green Farm, Folly Road, Iron Acton, Bristol, BS37 9TU in accordance with application reference PK14/1755/F dated 6 May 2014.
2. On 17 August 2015 the appeal was recovered for the Secretary of State's determination in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for significant development in the Green Belt.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation, dismisses the appeal and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

**Policy and Statutory Considerations**

4. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

5. In this case the development plan consists of the saved policies of the South Gloucestershire Local Plan adopted in 2006 (the Local Plan) and the South Gloucestershire Local Plan: Core Strategy adopted 2013 (the Core Strategy). The Secretary of State considers that the development plan policies of most relevance to this appeal are those identified by the Inspector at IR4.2-4.6.
6. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework*, March 2012 (the Framework), the planning practice guidance first published in March 2014 (the guidance) and EN-1, the *Overarching National Policy Statement for Energy*, July 2011. He has also had regard to the guidance documents identified by the Inspector at IR4.9-4.14, including the Written Ministerial Statement of March 2015 which, amongst other matters, concerns solar energy and the protection of the local and global environment.
7. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal scheme or their settings or any features of special architectural or historic interest which they may possess.

### **Main Issues**

8. The Secretary of State considers that the main issues in this case are those identified by the Inspector at IR9.2.

#### *Harm to the Green Belt*

9. The Secretary of State has taken account of the Inspector's remarks at IR9.1 and her statement at IR9.3 that the appeal site lies within the Green Belt, where the proposal would constitute inappropriate development. For the reasons given by the Inspector at IR9.4 and 9.5, he agrees with her that the proposed solar farm would reduce, rather than preserve, the openness of this part of the Green Belt and that, for the duration of its existence, it would constitute the encroachment of development into the countryside. In conclusion on this matter, like the Inspector (IR9.6) the Secretary of State attaches substantial weight to the totality of harm that would be caused to the Green Belt.

#### *Whether any other harm would be caused*

10. The Secretary of State has given very careful consideration to the Inspector's analysis at IR9.8–9.17. For the reasons set out in those paragraphs he sees no reason to disagree with the Inspector's view (IR9.17) that the appellant has not provided persuasive evidence that there are no alternative previously-developed sites suitable to accommodate a solar farm or that the existence of alternative potentially developable greenfield sites of poorer agricultural quality can be ruled out. Like the Inspector, the Secretary of State considers that the evidence in this case falls short of the very high bar of being "the most compelling evidence" necessary to justify the construction of a solar farm on best and most versatile (BMV) agricultural land (IR9.17). Like her (IR9.18), he also concludes that, in this respect, the proposal would conflict with guidance and with the objectives of Local Plan Policy L16 and the aims of Policy CS9 of the Core Strategy.
11. Turning to the scheme's impact on character and appearance, for the reasons given by the Inspector at IR9.19-9.24, the Secretary of State shares her view that the proposed development would conflict with the objectives of Policies CS1 and CS9 of the Core Strategy, which together seek to ensure that new development respects and enhances the character, quality, distinctiveness and amenity of the landscape, and that existing landscape features and Public Rights of Way are safeguarded and enhanced (IR9.25). He

also concurs with her view that the proposed development would conflict with Policy L1 of the Local Plan, but that this policy attracts greatly reduced weight given its conflict with the Framework (IR9.26) and he therefore attaches little weight to this policy.

12. For the reasons given by the Inspector at IR9.28-9.29, the Secretary of State concurs with her view that the proposed development would not result in any harm to the setting or significance of the Grade II listed Latteridge Green Farmhouse and that it would not materially harm the setting or significance of the Grade II listed Commonwealth House. The Secretary of State also concurs with the Inspector that the appeal scheme would adversely affect the setting of the Grade II listed Sheephouse Farm (IR9.30), albeit that the impact would be relatively minor (IR9.31). As the harm would be less than substantial for the purpose of paragraph 134 of the Framework, this has been weighed against the public benefits of the proposal in the planning balance below. The Secretary of State gives considerable weight to the harm which he has identified.

#### *Considerations that weigh in favour of the proposed development*

13. The Secretary of State has taken account of the Inspector's remarks at IR9.35-9.37 including that the currently proposed solar farm would achieve an output of 7.72MW each year and that this equates to producing electricity sufficient to power 2,200 average homes (IR9.37). He agrees with the Inspector (IR9.37) that this would make a significant contribution to the attainment of national and local renewable energy policy objectives and targets; it would help to improve the security of the energy supply through diversifying the range of resources, would have direct and indirect economic benefits, and would reduce carbon dioxide and greenhouse gas emissions, thereby helping to mitigate climate change. The Secretary of State has taken account of paragraph 91 of the Framework which states that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Like the Inspector, the Secretary of State attributes great weight to these benefits (IR9.37).
14. The Secretary of State has given careful consideration to the Inspector's remarks at IR9.38-9.40 and he too has proceeded on the basis that the proposed development benefits from the support of Core Strategy Policy CS3.
15. In common with the Inspector (IR9.41), the Secretary of State attaches some positive weight to the ecological benefits which would ensue from the operations set out in the appellant's Landscape and Ecological Management Plan.

#### **Conditions**

16. The Secretary of State has had regard to the Inspector's remarks on conditions at IR8.1-8.6, the suggested conditions at appendix B of the IR, paragraphs 203 and 206 of the Framework and the guidance. He is satisfied that the proposed conditions are reasonable and necessary and meet the tests of paragraph 206 of the Framework. However, he does not consider that the suggested conditions would overcome his reasons for dismissing the appeal.

#### **Conclusions**

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out in this letter, the Secretary of State concludes that the appeal proposals would not be in accordance with the development plan and he has gone on to consider whether there are any material considerations which would overcome this conflict.

18. The Secretary of State has given very careful consideration to the Inspector's remarks at IR9.42-45. He considers that the appeal amounts to inappropriate development in the Green Belt and he has concluded (at paragraph 9 above) that the totality of the harm that the scheme would cause to the Green Belt carries substantial weight. He also endorses the Inspector's conclusion (IR9.42) that the harm the proposal would cause to the character and appearance of the area, including its adverse impact on the visual amenity of the footpaths which cross the appeal site are factors of considerable weight. With regard to the harm the development would cause to the setting and significance of listed buildings, the Secretary of State has had special regard to the desirability of preserving those buildings or their settings or any features of special architectural or historic interest which they possess as set out in Section 66(1) of the LBCA Act. He has given considerable weight to the harm identified in this case (paragraph 12 above). As he considers that the harm to heritage assets would be less than substantial, he has weighed that harm against the public benefits of the proposal in accordance with paragraph 134 of the Framework. The Secretary of State has concluded (paragraph 10 above) that the proposal conflicts with guidance and with development plan policies on BMV agricultural land and, having also taken account of the Inspector's view at IR9.42, he attributes moderate negative weight to the scheme's use of BMV agricultural land.
19. Turning to the other considerations in this case, the Secretary of State has concluded that the appeal scheme would make a significant contribution to the attainment of national and local renewable energy policy objectives and targets. He has also concluded that the scheme would help to improve the security of the energy supply and that it would have direct and indirect economic benefits. The Secretary of State has attributed great weight to these benefits (paragraph 13 above). In addition, he has attributed some positive weight to the ecological benefits that would ensue (paragraph 15 above).
20. The Secretary of State agrees with the Inspector's remarks at IR9.44. He too takes the view that the harm which this scheme would cause to the Green Belt and any other harm would not be clearly outweighed by other considerations and that very special circumstances have not been demonstrated in this case.
21. The Secretary of State agrees with the Inspector (IR9.45) that the scheme gives rise to conflict with Core Strategy policies CS1, CS5 and CS9 and Local Plan Policy L16. He is of the view that the scheme conflicts with the development plan overall. Whilst the Secretary of State has identified a number of benefits in this case, he does not consider that those amount to material considerations of sufficient weight to justify him determining the appeal other than in accordance with the development plan.

### **Formal Decision**

22. Accordingly, for the reasons given above the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for a 7.76MW solar farm and associated works at Green Farm, Folly Road, Iron Acton, Bristol, BS37 9TU in accordance with application reference PK14/1755/F dated 6 May 2014.

### **Right to challenge the decision**

23. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

24. A copy of this letter has been sent to South Gloucestershire Council. A letter of notification has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Christine Symes**

Authorised by Secretary of State to sign in that behalf