
Appeal Decision

Site visit made on 17 November 2015

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 January 2016

Appeal Ref: APP/A1530/W/15/3013657

Holmwood Farm, Brook Hall Road, Fingringhoe, Colchester CO5 7DG

- 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 Holmwood Solar Limited against the decision of Colchester Borough Council.
 - The application Ref 142446, dated 14 February 2014, was refused by notice dated 6 February 2015.
 - The development proposed is solar photovoltaic panels and associated works, including inverter housing, access tracks, security fencing and CCTV.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect on the surrounding landscape.
 - The effect on highway safety.
 - The effect on the nearby listed building.

Reasons

3. The development plan includes the Colchester Borough Council's Local Development Framework Core Strategy [CS] and the Local Development Framework Development Policies [DP].
 4. DP Policy DP1 requires development to be designed to a high standard, avoiding unacceptable impact on amenity, and to be sustainable. It should respect and enhance the character of the site, its context and surroundings, including in terms of scale, materials and landscape setting. DP Policy DP8 supports proposals for farm diversification schemes where they are compatible with the rural environment. DP Policy DP14 does not permit development that would adversely affect a listed building. DP Policy DP17 notes that access to all development should be created in a manner which maintains the right and safe passage of all highway users.
 5. DP Policy DP23 notes that within the coastal protection belt development will only be supported where it is demonstrated that a coastal location is required, it would not be significantly detrimental to conserving the historic environment, would provide social and economic benefits and would provide opportunities
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and scope for adaptation to climate change. Public and community benefits are to be weighed against any harm. DP Policy DP25 relates to renewable energy. Schemes should be designed to mitigate visual impacts through siting, design, layout and landscaping measures.

6. CS Policy ENV1 aims to conserve and enhance Colchester's natural and historic environment, countryside and coastline. Within the Coastal Protection Belt development will not be permitted that would adversely affect the open and rural character of the undeveloped coastline. DP Policy ER1 notes that the council is committed to carbon reduction, encouraging the delivery of renewable energy projects.

Landscape

7. The site was previously used to quarry sand and gravel and this use is continuing in the area, with Ballast Quay nearby where there is a processing plant. Currently there are conveyor belts here and tracks used in association with the gravel extraction.
8. The landscape and visual assessment identifies that the site is in National Character Area 81, the Greater Thames Estuary and Regional Character Area F5 North Blackwater & Colne Coastal Farmlands. Locally the site is within E3 Langenhoe Coastal Farmland Local Character Area. About it are the A2 Roman River Valley and A3 Roman River Valley Floor, D3 Colne Drained Estuarine Marsh and C1 Fingringhoe Estuarine Marsh/Mudflats.
9. The E3 Langenhoe Coastal Farmland is an area of open, coastal farmland that slopes gradually down towards the coast. There are farmsteads and small villages generally located on knolls overlooking the coastal farmland. The area is generally swathed in large scale arable farmland interspersed by small patches of rough grassland. The report concludes that the combination of open farmland enclosed by wooded areas, together with scars of sand and gravel workings, suggest the area has some capacity to accommodate change, and that the area has a moderate quality with moderate landscape value and medium sensitivity to change to the type of development proposed.
10. The study acknowledges that direct views of the existing site are generally contained to the immediate area, but wider distant partial or filtered views may be possible during winter months, generally from the public right of ways, but also from a small number of residential properties. The report suggests that the immediate visual context of the site is mostly contained by the mixture of mature trees in hedgerows and trimmed hedgerows immediately bordering the site boundaries. It is accepted that the development would introduce a significant change in the materiality and texture within the fields and would result in a shift in land use away from arable farming but in the longer term there would be little change. It is indicated that the development would fit into the site without undue visual impact due to its appropriate scale, height and mass, minimising visual intrusion, through bunds, existing woodland, hedgerows and additional planting.
11. While I agree with many aspects of the assessment, I do not accept the overall conclusion of the impact of the development. I acknowledge that in the wider context of the various character areas there would be little impact. However, locally there would be significant impact. Even where there is current screening around the appeal site, there are good views into the site. The panels would be

very prominent and would, because of their size, character and industrial appearance, have a substantial impact on the character and appearance of the area. It would be likely to be a little less visible in summer months. However, there are also large lengths of the rights of way where there is currently very little to screen the site. From these locations there would be a great impact on the users of the rights of way and their perception of the character of the area. The study indicates that the localised effect would be slight and adverse in the year of opening, reducing to neutral after about 15 years. To my mind the harm at the beginning would be substantial and 15 years would be a considerable length of time, particularly given the length of the permission.

12. In terms of use of the land, the agricultural land itself is relatively low grade, being classified grade 3b/4. The Framework and Planning Practice Guidance indicate that brownfield land should be used in preference to greenfield land. The principle has been supported by ministerial statements. This development is not focussed on brownfield land. The framework also indicates that significant development of agricultural land should be shown to be using low grade land in preference to that of higher quality land.
13. However, while this would be a significant development, its impact on the land use itself would be limited, as the land would remain usable for agricultural purposes, particularly the grazing of sheep. In addition, the land can be returned to its agricultural use at the end of the period. I accept that the recommendation for larger deployment is towards brownfield land, but the ministerial statement noted that use of ground-mounted projects should not be incentivised in inappropriate places, such as greenfield land, not that it cannot take place. I conclude that the proposal would accord with the aims and objectives of the Framework given the grade of land, continuing agricultural use and time limit of the proposal. This matter does not count against the proposal.
14. The proposal would not accord with DP Policy DP23 as it has not been demonstrated that a coastal location is required, but benefits of the proposal are to be taken into consideration and that is for the planning balance below. While it would provide renewable energy, it would not accord with DP Policy DP25 as I do not consider the harm from visual impacts would be adequately mitigated. It would not accord with the aims of CS Policy ENV1 as it would adversely affect the open and rural character of the undeveloped coastline.
15. It would accord with DP Policy DP8 and would be beneficial in terms of farm diversification, and DP Policy ER1 promoting carbon reduction and renewable energy projects, which is to be taken into the planning balance.
16. Overall, I conclude that the proposal would have a substantial adverse impact on the character and appearance of the land, which would, in particular, be very evident to users of the rights of way, which pass close to and around a substantial length of the site boundary. It would not accord with the aims and objectives of DP Policy DP1, as there would be an unacceptable impact on amenity and it would not respect and enhance the character of the site or its context.

Highway Safety

17. The proposal would result in significant traffic passing through the village, although this would considerably reduce once the development is completed. I

acknowledge that the road is narrow in places and this would include part of the route that local school children use to get to their 'outside classroom'. This is an outside area that from the school is accessed along the road and down a public right of way. The classroom is near the appeal site.

18. There are no footpaths at the side of the road, so with the bends and narrowness of the road, walking along it, particularly with a party of school children, would be hazardous and an increase in traffic would make some difference to the risks involved. However, any construction project would have to consider such health and safety matters. The management of traffic would have to be controlled and could be ensured by condition.
19. Traffic could be coordinated with the school, and the appellant has also suggested that a bus could be arranged. I consider that there is no reason why the development could not be undertaken in a safe manner in regard to highway safety and in particular taking account of children attending the school. In this respect I have also taken into account the views of the highway authority which has not advised refusal of the scheme on the basis of highway safety. I conclude that the proposal would accord with the aims and objectives of DP Policy DP1 and DP17 and could be completed while maintaining highway safety.

Listed Building

20. The council did not allege an effect on the listed building identified as Jagers Farmhouse, which is located just across the lane from the appeal site. Jagers Farmhouse is a grade II listed building, which according to the listing was constructed around 1790, in brickwork with a gabled pantile covered roof. There are later extensions and old farm buildings nearby forming a yard at the front. The farmhouse faces into the yard, with the side elevation of the house facing towards the road and appeal site. In this elevation there are only two windows facing the appeal site, one at ground level and one at first floor level.
21. The appellant's Landscape and Visual Assessment did identify some harm to Jagers Farmhouse, being moderate adverse in the winter and slight adverse in the summer, particularly associated with the first floor window facing the appeal site.
22. The immediate setting of the farmhouse is its curtilage and the courtyard formed by the buildings and this is a major part of the setting. However, the wider landscape is also important, providing the setting for a farm building in the countryside. I appreciate that there have been workings here in the past, but the setting of the building is that of a rural landscape, which I consider is important and this makes a contribution to the significance of the listed building.
23. The development as proposed would involve solar panels in the field opposite the farmhouse, originally indicated as coming up close to the boundary hedge, although I note the appellant would move the panels away from the listed building and hedge. However, even with this and hedging in place the fields beyond are visible and the presence of solar panels would not be sufficiently masked. Even if not visible the character of the area would be altered. The impact that they would have on the character and appearance of the land would be substantial. This would change the rural setting of the listed building to a more industrial type setting. This would impact on the listed building by

causing harm to the special architectural and historic interest and significance of the listed building as a historic farmhouse in a countryside setting. This in terms of the Framework would be 'less than substantial' harm, which needs to be balanced against the public benefits.

Other Matters

24. I note that the route of the bridleway as shown on ordnance survey maps is across part of the appeal site, but on the ground the route is along a track just outside the appeal site and boundary trees, and this has been the case for many years. It is not for me to decide whether the route of the bridleway can be diverted, and should that process resolve to maintain the route as defined on the map, a decision to grant planning permission does not mean that the route can be blocked by the solar panels proposed. Therefore, I have not carried the potential obstruction to the official route into the planning balance.

Planning Balance

25. I note the difference that the council identifies between the statement of case and design and access statement in relation to the assessment of output from the panels. However, even taking the lower figure, this still represents a significant output of renewable energy and consequent reductions in CO₂. The Framework also notes that authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and it is also recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The appellant has identified the local and national guidance and policies strongly promoting and encouraging renewable energy production which I concur with and attach substantial weight to the energy produced and the benefits this would bring to the environment. I have also noted the proposal would accord with some aspects of the development plan.

26. The production of renewable energy by solar panels is a sustainable form of energy production, but for the Framework that is only one aspect of 'sustainable' development. In the terms of the Framework, sustainable development is that which conforms to its guidance and accords with the economic, social and environmental roles identified. In my view, the proposed panels would meet some of these roles in some respects, providing economic benefits in terms of energy production and diversification for the farm and some local benefit, particularly during construction particularly from jobs created. I have also taken into consideration that the appellant intends to set up a Charitable Trust and that the proposal would generate some continuing local employment. The development would provide an important social role in the provision of renewable energy, available to feed in to the national grid and help to protect the environment in terms of climate change. However, against that has to be weighed the harm identified above to the landscape, policy conflict and the 'less than substantial' harm to the setting of the listed building, including the weight associated with Section 66(1) of the Listed Building and Conservation Areas Act.

27. I have also taken into consideration that approval was given for a similar development at Langenhoe, which is in the Coastal Protection Belt and accept that simply being within such an area does not preclude such development. However, it is the balance of impact at this appeal site that I find harmful, with

the proposal being very close to long lengths of rights of way and also affecting the setting of the adjacent listed building.

28. I conclude that on balance, taking into account the great weight to be attached to the benefits of renewable energy, benefits to biodiversity, social and economic benefits this would not outweigh the great harm to the landscape and setting of the listed building and that overall this would not be sustainable development.

Graham Dudley

Inspector