
Appeal Decision

Site visit made on 18 February 2015

by **A D Poulter B Arch RIBA**

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

Decision date: 23 June 2015

Appeal Ref: APP/E2205/A/14/2215733

Land south of Dowle Street, Pluckley, TN26 3ED.

- 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 Sunsave8 (Pluckley) Limited against the decision of Ashford Borough Council.
 - The application Ref 13/00789/AS, dated 16 July 2013, was refused by notice dated 26 February 2014.
 - The development proposed is a ground based photovoltaic solar farm with access, grid connection and associated works.
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Decision

1. I dismiss the appeal.

Main Issues

2. These are: the effect of the proposed development on the character and appearance of the area, having special regard to the desirability of preserving the settings of listed buildings and conservation areas; the compatibility of the proposed development with policy in respect of the generation of energy from renewable resources; and whether the benefits of the scheme would be sufficient to outweigh any harm that might be caused.

Reasons

3. The roughly 17 hectare site is currently an arable field. It is part of a larger area of arable land bounded to the south by the London – Ashford railway line, and to the north and east by rural roads (Dowle Street and Sparrow Hatch Lane respectively). A cluster of development known as Chambers Green, which includes the Pluckley Station Conservation Area, lies roughly 1 Km from the western edge of the site. The nearest residential properties lie about 250m - 300m north of the site and are accessed from Dowle Street. They include Dowle Street Farmhouse and Dowle Street Cottage which are listed buildings (Grade II and II* respectively). Two public footpaths (AW151 and AW154) run through the land to the west of the site. A 'TROT' (Toll Ride (off road) Trust) riding route runs east-west though the site. This would be diverted around its northern perimeter.
4. The proposed development would be a 9MW solar farm with 47,040 modules. The arrays, which would be supported on steel frames, would be 3.3m wide and spaced 2.65m apart. There would also be associated inverter and transformer cabinets and substations. The grid connection would be via a

buried cable to a nearby existing 33kV overhead line. The site would be surrounded by a 2.2m high security fence. Buffer strips would be left between the array area and existing hedgerows and a pond, in the interests of wildlife including badgers and great crested newts. The land would be sown with grass seed and managed by sheep grazing. Native hedgerow planting is proposed around the perimeter of the fenced array area. Passing places would be constructed on Sparrow Hatch Lane to accommodate construction traffic.

Character and Appearance

5. In accordance with the *Ashford Landscape Character Assessment* (2009) the site falls within the Mundy Bois Mixed Farmlands Character Area. Its key characteristics include its gently undulating landform, fields set within a regular framework of native hedgerows, narrow hedge and ditch lined lanes, and large, traditional and often converted buildings scattered along lanes and clustered around junctions. The geology predominantly comprises Weald Clay, and the soils are loam to clay. I saw that it is a generally attractive rural landscape, though in moderate condition. As noted in the Character Assessment, detractors include inappropriate fencing types, pylons, and some built development that is inappropriate or in poor condition.
6. The land rises via a series of undulations to the north, where there are a number of large well established orchards and the landscape is distinct from that of the appeal site and its surroundings. On my journey to the site by train through the Kent countryside I saw several areas of intensive horticulture, including extensive areas of polytunnels and glasshouses. I also saw some large poultry units which were enclosed by security fencing of the type proposed. However, such features are not characteristic of the local area.
7. The proposed solar arrays, associated structures and security fencing would be utilitarian and largely metallic man-made features in a dense regular arrangement, and would therefore be at odds with the generally natural rural character of the local landscape. The proposed hedgerow planting around the perimeter fencing would in effect create a tall hedged enclosure within a larger field, which would not be in keeping with the field pattern that characterises the area. Like the pylons and inappropriate fencing and building types found elsewhere in the Character Area, the proposed development would therefore detract from the attractive qualities of the landscape, and would thus be harmful to its character.
8. A Landscape and Visual Impact Assessment (LVIA) undertaken for the appellant company has been reviewed by consultants for the Council. They generally agree with the overall conclusions and findings of the LVIA. There is no dispute that the proposed development would have a 'Moderate Adverse' impact on existing landscape character, and that this would be reversible at the end of the life of the development. I have no reason to disagree with this assessment in relation to the wider character area, but I agree with the Council's consultants that the impact on landscape character at the local scale would be 'Major Adverse', albeit over a relatively localised area. Although the effects would be reversible they would last for 25 years, which is a substantial period, equivalent to a generation. In the terms of the relevant planning policies I consider that there would be significant harm.
9. The proposed highway improvements would be small in extent and the areas affected would quickly revert to a natural rural appearance. I therefore do not

consider that the visual impact of works required to local rural roads would be significantly harmful. I saw that the existing hedgerows along Sparrow Hatch Lane and Dowle Street would provide generally good screening when in leaf. Gaps could be quickly filled with new planting and through better management. Although the land rises gently to the north, because of the effects of distance and the orientation of the solar arrays (which would be such that reflections would not be seen) the visual impact of the proposed development when seen from higher ground would be very small. Railway passengers would experience only fleeting views as the track is in a cutting for much of the length of the southern boundary. For much of the time, even from some nearby viewpoints, the visual impact of the proposed development would therefore be small.

10. However, the existing hedges would provide less effective screening during the winter months. The proposed development would be clearly seen at a close distance from the site entrance on Sparrow Hatch Lane and the public footpaths to the west. It would also be seen from the houses and through some field gates on Dowle Street. The proposed native hedge planting would take several years to mature and would be of limited effectiveness as a screen in the winter months. I consider for these reasons that, whilst the visual impact of the proposed development could be mitigated, it could not be eliminated and the proposed development would therefore be harmful to the appearance of the area.
11. The Council's consultants also generally agree with the conclusions of the LVIA with regard to visual impact. I accept that in the terms used for LVIA's, the overall mitigated visual impact would be 'Low to Medium' and would affect only a small and highly contained area. Nevertheless, there would be harm, and as the local footpaths and TROT riding route appear to be well signposted and used, and the proposed development would be seen from local houses and roads, I consider that in policy terms the proposed development would have a significant adverse effect on the appearance and amenity value of the countryside, and local residents' and visitors' enjoyment of it.
12. Turning to consider the effect on heritage assets, the appeal site would be sufficiently removed from the Pluckley Station Conservation Area for there to be no significant effect on its setting or significance, which appears to derive largely from its association with the railway and associated buildings rather than the surrounding countryside. However, the proposed development would be close to Dowle Street Farmhouse and Dowle Street Cottage. These are buildings that were historically closely associated with the farming of the land. As noted by English Heritage and in a built heritage report prepared by a specialist expert consultant for the Pluckley Solar Group (PSG), the agricultural land surrounding them contributes to their significance by providing a context that explains their original purpose. That significance would in my view be harmed by the proposed development, which would introduce modern development at odds with the historically rural character of the area into the close setting of the listed buildings.
13. The test of 'substantial harm' referred to in national planning policy represents a high bar, and I accept that in those terms the harm to the setting of the listed buildings would be 'less than substantial'. I also acknowledge that the proposed solar farm would have a limited life in comparison to the age of the listed buildings. Nevertheless, the anticipated life of 25 years is a substantial period. In view of the statutory requirement to give special regard to the

desirability of preserving listed buildings or their settings, the harm that I have identified carries considerable weight in the balance with the benefits of the proposal.

Compatibility with Policy

14. The development plan for the area predates the *National Planning Policy Framework* (the Framework). Weight is therefore to be given to the relevant local planning policies according to their degree of consistency with the Framework.
15. There is a presumption in favour of sustainable development at the heart of the Framework, which should be seen as a golden thread running through plan making and decision taking. There is a need to meet the challenge of climate change, and the framework recognises that all communities should contribute to energy generation from renewable and low carbon sources¹. It advises that applications should be approved if their impact can be made acceptable². There is therefore a balance to be drawn between the benefits of renewable energy schemes and their impacts.
16. This is reflected in the national Planning Practice Guidance relating to renewable and low carbon energy. The guidance in respect of the particular planning considerations that relate to large-scale ground-mounted solar voltaic farms recognises that the visual impact of such proposals can be properly addressed if planned sensitively. However, factors that need to be considered include making effective use of land by focussing on previously developed and non agricultural land that is not of high environmental value. Where a proposal involves green-field land the use of agricultural land should be shown to be necessary, and poorer quality land should be used in preference to higher quality land. A speech by the Minister for Energy and Climate Change (April 2013) makes it clear that solar energy is not acceptable at any cost, and that the focus should be on deployment on buildings and brown-field land – not green-field. Where solar farms are not on brown-field land only low grade agricultural land which works with farmers to allow grazing in parallel with generation should be considered.
17. The most relevant of the local development plan policies that I have been referred to is Policy CF8 of the *Ashford Local Plan* (LP, 2000). It permits renewable energy proposals provided that there would be no significant impact on the landscape or features of natural, historical, cultural or archaeological interest; and that there would be no significant impact on existing uses (for example through visual impact, noise or traffic generation. This policy is consistent with the core planning principles set out in paragraph 17 of the Framework, which include that the intrinsic character and beauty of the countryside should be recognised. It is also consistent with the recognition that all communities should contribute to energy generation from renewable and low carbon sources, provided that their impact can be made acceptable.
18. Other relevant local development plan policies that I have been referred to include Policy CS1 of the adopted *Local Development Framework Core Strategy* (CS, 2010). This is a strategic policy that seeks to focus growth ambitions to existing centres, in part to protect and enhance the natural and built

¹ Paragraph 97

² Paragraph 98

environment of rural areas. Policies TRS14 and TRS17 of the *Local Development Framework: Tenterden & Rural Sites Development Plan Document* (DPD, 2010) seek to protect the character of the landscape and the amenity of rural areas. DPD Policy TRS18 seeks to protect specific rural features, but these would not be affected by the appeal scheme. LP Policy GP12 seeks to protect the countryside for its own sake, and for its scenic value.

19. The *Local Development Framework Landscape Character Supplementary Planning Document* (SPD, 2011) promotes regard for the landscape and seeks to ensure that new development makes a positive contribution to it, by supporting CS and DPD policies and the Landscape Character Assessment approach to understanding landscapes.
20. These local plan policies do not specifically require a balance to be drawn between the benefits of renewable energy schemes and their impacts. Nevertheless, they are largely consistent with the Framework and carry weight accordingly.
21. The Council has adopted informal practice guidance for solar farm developments, but as it is unclear to what extent it has been subject to local consultation it is a consideration of limited weight. Whilst it advises on good practice, this does not mean that all schemes that adhere to that advice would be acceptable.
22. I have concluded that the proposed development would be significantly harmful to the character and appearance of the area. It would conflict in this respect with policies to protect the countryside, including the requirement of LP Policy CF8 that renewable energy proposals should have no significant impact on the landscape. There would also be conflict with LP Policy GP12, CS Policy CS1, DPD Policies TRS14 and TRS17, the aims of the Character Assessment SPD, and with the core planning principle of recognising the intrinsic character and beauty of the countryside set out in paragraph 17 of the Framework.
23. On the evidence before me the appeal site is Grade 3 agricultural land, though it does not appear to have been surveyed in sufficient detail to establish firmly if is Grade 3(a) ('Good') or 3(b) ('Moderate'). It is therefore not of the highest agricultural quality. Nevertheless it is green-field rather than brown-field, and it is not low-grade agricultural land. Whilst I accept that the land could be used for sheep grazing in conjunction with energy generation this would be a relatively unproductive agricultural use, given that the land is of moderate to good agricultural quality.
24. The PSG has brought my attention to a former brickworks less than a mile from the site which is said to be over 20Ha in area and to have been disused for some time. However, I have no convincing evidence that it would be suitable or available as an alternative site. In any event, the policies I have referred to do not require an analysis of what brown-field land may be suitable and available in the area to be provided by the appellant, or any other form of 'sequential' test. Nevertheless, whilst the site has the advantage of a close connection point to the grid, I have no convincing evidence that in this instance would justify a departure from the approach of directing large-scale ground-mounted solar voltaic farms towards previously developed and non agricultural land that is not of high environmental value. I consider for these reasons that the proposed use would also conflict with national guidance in relation to the use of agricultural land for solar farms.

25. I conclude for the above reasons that the proposed development would not be compatible with policies relating to renewable energy proposals, and in particular to large-scale ground-mounted solar voltaic farms.

Balance of Benefits and Harm

26. The proposed development would generate enough electricity to power the equivalent of 2,800 households for 25 years from renewable resources, with consequent reductions in carbon emissions and benefits for climate change. It would contribute towards binding targets for the reduction of greenhouse gasses and improving the security of the UK's energy supply. These are substantial benefits. Sheep grazing in conjunction with energy generation would improve biodiversity, but as this would be a relatively unproductive agricultural use I do not consider that creation of pasture under and around the proposed arrays would be a significant net benefit. Measures would be put in place to protect wildlife, but whilst no harm would come to any protected species no significant net benefit has been identified in this respect. The proposed solar farm would provide an additional income for the landowner and farmer and diversify his enterprise, but this would be of limited benefit to the local economy and other matters of public interest.

27. On the other hand the proposed development would cause significant harm to the character and appearance of the area, and therefore to the enjoyment of the countryside by local residents and visitors to the area. I have concluded that the proposed development would not be compatible with relevant local and national policy, and it would conflict with the policy approach of making effective use of land by focussing such development on previously developed and non agricultural land that is not of high environmental value. I have also identified harm to the setting of two listed buildings which although 'less than substantial' in the terms identified in the framework nevertheless carries considerable weight in the overall planning balance. These are considerations that together weigh heavily against the proposal.

28. I conclude on balance that the benefits of the proposal would be clearly outweighed by the harm and conflict with planning policy that I have identified.

Other Considerations

29. The appellant's rebuttal to the Council's case and third party representations contends that a large proportion of the PSG's submissions are not relevant as they are not cited as reasons for refusal in the LPA's decision notice. It is also contended that the built heritage report prepared for the PSG is previously unseen and therefore inadmissible. However, the appellant company has seen these submissions and other representations from other local residents and organisations. It has had sufficient time and opportunity to consider and comment on them in accordance with the normal appeal timetable procedures. Indeed, the appellant's rebuttal statement includes comments on PSG's submissions. They are therefore admissible and it is necessary that I take them into account.

30. Whilst there should be opportunities for local communities to influence the decisions that affect them this does not necessarily mean that a proposal would be unacceptable simply because of significant and widespread opposition. Nevertheless, in this instance local residents have raised valid, relevant and material planning concerns, including the quality of the agricultural land and

historic heritage issues. It is the merits of these concerns that have influenced my decision, rather than the strength and extent of local opposition.

Conclusions

31. I am required to determine this appeal in accordance with the development plan for the area, unless material considerations indicate otherwise. I have found that there would be harm to the character and appearance of the area which would bring the proposal into conflict with several relevant local development plan policies, and consider that it would conflict with the development plan for the area when read as a whole. I have found on balance that the benefits of the proposal would be clearly outweighed by the harm and conflict with planning policy that I have identified, and that the proposal would conflict with national guidance relating to the use of agricultural land for solar farms. I therefore do not consider that national planning policy is a consideration that would indicate that the appeal should be determined other than in accordance with the development plan. No other material considerations have been raised that would indicate the appeal should be allowed.

32. I conclude that the appeal should be dismissed.

A D Poulter

INSPECTOR

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