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# Appeal Decision

Site visit made on 22 March 2016

**by Mrs A Wood DipArch MRTPI**

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

**Decision date: 08 June 2016**

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**Appeal Ref: APP/D3505/A/14/2218072**  
**Roger's Farm, Boxford, Sudbury, CO10 5LA**

- 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 Sun and Soil Ltd. against the decision of Babergh District Council.
  - The application Ref: B/13/01107/FUL/JD, dated 19 September 2013, was refused by notice dated 27 February 2014.
  - The development proposed is construction of a solar farm for the generation of electricity from a renewable source. The solar farm would be located on agricultural land and consist of solar panels mounted on frames together with associated infrastructure which would include a security fence, inverters, transformers and a switchgear cabinet to enable the solar farm to the electricity distribution network.
  - This decision supersedes that issued on 25 March 2015. That decision on the appeal was quashed by order of the High Court.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters and Background

2. The previous Inspector's quashed decision on this case is of minimal materiality, other than in respect of matters of evidence-based facts that have not been subject to change since that decision.
3. The 26 Ha of arable land comprising the appeal site forms part of the 242 Ha **agricultural land holding at Roger's Farm**, which extends in a single block of land to the north of the A134 and the A1071. The proposed installation would be capable of generating approximately 15 Megawatts peak of electricity with an annual electricity generation sufficient to provide the power needs of 4,064 average UK households (or 11% of all households in the District)<sup>1</sup>. There is also an expected saving of approximately 7,600 tonnes of carbon dioxide per year.
4. Development plan policies relevant to this appeal are contained in the Babergh Core Strategy and Policies document, February 2014 (CS). A number of the saved policies of the Babergh Local Plan Alteration No.2 (LP), adopted in June 2006, are also relevant to the main issues identified below.
5. CS Policy CS13 is supportive of proposals that include low and zero-carbon technologies, but strikes a note of caution when considering the suitability of

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<sup>1</sup> These figures are taken from the appellant's statement, dated November 2015

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renewable energy proposals and the need to take account of factors such as landscape and heritage assets. Compliance with this policy is dependent on the extent to which the proposed development would meet the landscape and heritage-related policy requirements.

## **Main Issues**

6. The main issues are:

- The extent to which it has been demonstrated that the use of best and most versatile (BMV) agricultural land has been shown to be necessary and that poorer quality land has been used in preference to higher quality land.
- The effects of the proposal on the character and appearance of the countryside in which it would be located.
- The impact it would have on the significance of the Grade II\* listed **farmhouse at Roger's Farm and** on the Church of St Mary the Virgin at Edwardstone, listed as Grade I.
- Whether the benefits of the project would be outweighed by any harmful impacts.

## **Reasons**

### ***Use of BMV agricultural land***

7. The appeal site unarguably comprises entirely of Grade 3a Agricultural Land Classification (ALC)<sup>2</sup>. The Agricultural and Soil Considerations Report<sup>3</sup> (RAC Report), dated April 2015 and submitted with the appeal, records that of the agricultural land in the District graded provisionally as Grade 3 (55.8%), at least half (around 16,000 Ha) is likely to be classified as 3a. With higher quality Grade 1 and Grade 2 land at 0.6% and 41% respectively, the conclusion is that around 70% of agricultural land within the District is considered to be of BMV quality (Grade 1 – 3a). Some 2% is of lower quality Grade 4 land.
8. CS Policy CS15 is an overarching policy bringing together factors relating to sustainable development and principles of good design. These include: addressing climate change through production of renewable energy and making efficient use of greenfield land and scarce resources.
9. The National Planning Policy Framework (the NPPF) and Planning Practice Guidance (PPG) expects poorer quality land to be used in preference to higher quality land, where use of agricultural land is shown to be necessary. In addition to which, one has to consider whether the proposal allows for continued agricultural use and/or encourages biodiversity improvement around arrays.
10. The PPG also encourages the effective use of land by focusing large scale solar farms on previously developed and non-agricultural land; this reflects the sentiments expressed in a speech given on 25 April 2013 by the Rt Hon Gregory Barker MP, the Minister for Energy and Climate Change at that time.

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<sup>2</sup> The classification has not been disputed by the Council

<sup>3</sup> Prepared by Reading Agricultural Consultants Ltd.

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11. Although **the Government's preference is for solar PV to be installed on** commercial or industrial rooftops, there is also a place for large-scale ground-mounted arrays in appropriate locations. With regard to proposals on agricultural land, the Written Ministerial Statement of 25 March 2015 is clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence. The **appellant's case is based on the** paucity of low grade agricultural land, the availability of grid connections and site availability in the Babergh District.
12. Sequentially, rooftops are to be preferred. I note that the Industrial Areas Feasibility Report was submitted with the **appellant's final** comments in July **2014. It appears that the report was prepared in response to the Council's** statement of case, and it is unlikely that the exercise had been undertaken as part of the initial site selection process. Nevertheless, I accept the findings that the potential for industrial roof space to accommodate the scale of output generated by the appeal scheme is limited. Furthermore, the former airfields considered have reverted to agricultural land of Grade 2 or 3 quality. There is no sequential advantage to be gained from locating the development on the former airfield sites and other constraints reduce their potential suitability.
13. The occupants of Butlers Farm raise the possibility of placing solar panels on the roofs of the former grain store and are concerned that the appeal proposal would prevent that from occurring, should it take up the surplus capacity currently available on the line. However, there is no indication of an application for such a venture at Butlers Farm, or the output capable of being delivered should it proceed. The matter carries minimal weight and should not prevent consideration of the merits of the scheme before me.
14. As far as the search for a suitable greenfield site within Babergh is concerned, the evidence shows that the District is at saturation point with respect to existing generation connections. In effect, there is a general lack of available grid connections within the District to accommodate a solar farm of the output proposed. In this case, the District Network Operator indicated the availability of capacity and the potential for connection to the 33 KV overhead power lines that runs along the northern field boundary. Given the capacity constraints, and the need for economical connection to the grid, I accept that there is good reason for locating the proposed solar farm within 2km of an available 33 KV point of connection.
15. **The appellant's statement of case shows that the potential for grid connections** in five areas of Grade 4 land in the District have been considered. None of the five areas identified was suitable, for reasons of remoteness from a suitable grid connection or other constraints such as site size, woodland cover, environmental or landscape designations of national or European importance. I see no reason to disagree with the conclusions regarding the non-availability of Grade 4 land in the District for a solar farm of the size proposed.
16. While there is the possibility that some 16,000 Ha of the Grade 3 land in the District is of 3b quality, this cannot be verified with any more clarity without detailed surveys or auger observations of the 58,000 Ha of agricultural land in Babergh. The availability of Grade 3b land across the District in sequential preference to the appeal site therefore has not been analysed, and I agree that for the purposes of this appeal it would be disproportionate to do so. On the other hand, the lack of evidence showing the efforts made to identify the

availability of Grade 3 land of lower quality within a more limited range of 2 Km of grid connection points **is surprising, given the 'likely'** possibility of the scale of 3b land within the District and the duty to identify lower grade land, as required in the NPPF.

17. Looking at the agricultural and biodiversity implications of the proposal; approximately 8.3 ha of the appeal site would be covered by panels. The 17.7 Ha left as open space would be at the field edges and between the panel arrays. The open space would be managed as wildflower meadows, which is intended to build on the Higher Level Stewardship management of the land<sup>4</sup>. The creation of a wildflower meadow managed by sheep grazing, as proposed, is expected to have the same beneficial effect as long-term fallow, in that it would help re-build soil organic matter and natural fertility on the land. Additional planting around existing hedgerows is also proposed
18. The grazing would be undertaken by Norfolk Horn sheep. This would allow the farm unit to diversify by expansion of the existing flock. The appeal site lies on **the farm's northern** boundary, and there is no suggestion that the agricultural operations of the remainder of the farm would be disrupted by the proposal. **The food production lost would represent only a small percentage of the farm's** output, particularly as the land taken out of production is furthest from the irrigation reservoir and cannot be used for higher value crops. Income generated by the solar farm, in addition to the expanded business from rearing sheep, would be a clear financial benefit and would assist with farm diversification.
19. To sum up; while recognising the constraints of grid capacity and limited connection opportunities, I am not satisfied that the appellant has unequivocally discounted the possibility of using land of lesser Grade 3 quality within range of available grid connections, **given (on the appellant's own evidence)** the likely presence of some 16,000 Ha of such land in the District. The loss of BMV land would be contrary to a general requirement to make good use of resources under CS Policy CS15, but more importantly the case for using BMV land falls short of the compelling evidence required. The benefits described above, alongside the loss of BMV land, are carried forward into the planning balance.

### ***Character and appearance of the landscape***

20. The appeal site does not lie within a nationally designated landscape, but a small corner of the site falls on the western edge of a locally designated Special Landscape Area (SLA). The SLA extends to the east and north of the site.
21. In the quest for sustainable development, CS Policy CS15 expects proposals for development to respect the landscape and landscape features, amongst other matters. Under LP Policy CR04, development within SLAs will be permitted, provided that the qualities of the area are maintained or enhanced and the development harmonises with the landscape setting.
22. The site lies within an area of countryside displaying the characteristics of the 'Ancient Rolling Farmlands' **landscape type**<sup>5</sup> – rolling dissected landscape, mosaic of woodland and hedges, arable fields and land gently sloping down to the River Box and its tributaries. Despite its proximity to the A134 and A1071,

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<sup>4</sup> All of the land at Roger's Farm is in Higher Level Stewardship in an agreement running between 2011-2021

<sup>5</sup> Identified in the Suffolk Landscape Character Assessments

the land around the appeal site is remarkably free of man-made developments and structures. The poles carrying overhead power lines are not overly tall, and in any case are few and far between. The appeal sites slopes down from the south west corner towards the north east and the valley beyond. The planting to be introduced as part of the proposed scheme would mainly comprise new fill-in hedgerows and new tree belts of Poplars and evergreens to reinforce the existing hedgerow screening at the site's boundaries.

23. The array of solar panels extending across the slope of the arable field, alongside the associated infrastructure and fencing, would usher in an industrialised character to the site with significant changes in land use and land cover. The effects however would be localised, as the scale, landform and field patterns of the wider area would not be physically altered by the proposal. The effect on the character of the landscape would be minimal.
24. The impact on landscape appearance is best judged by the extent to which the development would be visible, particularly from the public domain, and the context in which it would be seen. The Landscape and Visual impact Assessment (LVIA) submitted with the application, and supported by further material at the two appeal stages, reviews the impact of the proposed solar farm on the countryside through the assessment of representative viewpoints spread over a wide area.
25. The Council accepts that the effects of the development would be more pronounced from views from the north and north east at points within 2km of the site. My own inspections confirmed that is the case, and views of the site from the south, west and east would be minimal, given landform and intervening vegetation.
26. Footpath 3 runs about 1 km to the east of the site. It extends northwards across a pasture from the church at Edwardstone, and past the church in a southerly direction. From the section of the footpath extending past the church, the countryside towards and beyond the appeal site spreads out, but is only visible for a short stretch before lines of trees and the direction of the path obscure wider views. However, from the pasture land side of the footpath there are clear views to be gained across a wide area of the countryside, and the appeal site is visible as part of the attractive landscape with few interventions to screen it. The development would be similarly visible from the elevated stretch of the footpath. Even with the new screening, the scale of the development and the incongruous nature of the installation would be disruptive to views taking in the wide sweep of rolling countryside.
27. The appeal site is clearly visible from points to the north of it. The view from the lane leading to High Wood towards Viewpoint 26 (VP26), for instance, the site can be seen almost in its entirety extending across the horizon. The panels would similarly appear in views southwards as highly visible features in an arable landscape with little, if any, interventions by buildings or man-made structures to serve as distractions. **The site's topography** would accentuate the intrusive nature of the development.
28. Having viewed the site from the northern stretch of Footpath 3 (VP 28A), I was struck by the extent to which the development would occupy the arc of the views looking south, as the site does presently. It would represent a marked change and a stark disruption to the agricultural landscape of soft hues and

rolling land, which the new planting would only partially screen after a period of at least 10 years.

29. On this main issue my conclusion is that the impact on landscape character would be minimal. The proposal would however cause substantial harm to the appearance of the landscape which would be apparent and damaging when viewed from the north and north east. The screening measures proposed would not alter that position to any significant degree. For the reasons explained, the proposal would not respect the visual amenities of the area nor harmonise with its surroundings; it would be contrary to the policies referred to earlier.

### ***Significance of Listed Buildings***

30. CS Policy CS15 is relevant for the respect that proposals for development are expected to show for heritage assets, in the interest of sustainable development. LP Policy CN06 specifically refers to new works within the setting of a listed building and calls for respect for features, such as views to and from the building that contribute positively to its setting. However, as the policy does not allow for the balancing of harm to significance against public benefits, it is inconsistent with the NPPF (in particular paragraph 134) and has been accorded minimal weight. S66(1) of the (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the settings of listed buildings. I have considered the appeal proposal against the requirements of this statutory duty and the considerations in the NPPF.
31. The PPG calls for great care to be exercised to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. The NPPF and the PPG also recognise that the significance of a heritage asset derives not only from its physical presence but also from its setting.
32. As my colleague observed, the principal significance of the Grade I listed Church of St Mary the Virgin in Edwardstone lies in its history and in its building fabric. The proposed installation would do nothing to alter the fabric nor would it affect the ability to appreciate the architecture and quality of the building. Its immediate setting is the churchyard, but the wider countryside is also part of the setting, given that the church serves a rural community and is historically connected to its rural surroundings. The view from the churchyard across the valley is part of that connection; it includes the appeal site within the sweep of arable fields visible from that location. In other words, the views make a positive contribution to the setting of the church.
33. The appeal site lies nearly 1km to the south-east of the churchyard. Nevertheless, I saw that even from that distance it is visible, particularly the higher slopes of the land. At the time of my visit the hedgerows on the western and south western boundaries of the churchyard had been coppiced sufficiently to allow for such views **to be had. Even with the site's eastern boundary** strengthened with fast growing Poplars and further screened with evergreen and deciduous trees as proposed, the new development would not be obscured. The scale of the industrial installation that would be introduced into this wholly rural setting, compounded by its visibility, particularly on the upper slopes of the site, would be intrusive in views from the churchyard to the same extent as seen from the footpaths described earlier. The visual harm to the landscape **would extend to the building's setting**, and therefore to its significance. As

**recognised in the appellant's statement of case, the harm would be 'less than substantial'.**

34. **As for Roger's Farmhouse;** this is a fine example of a farmhouse dating from the C17. The significance of the building is derived from the historic, evidential and aesthetic value of its built fabric and the wall painting, referred to in the list description. The appeal site lies to the north west of the farmhouse and is clearly a part of the agricultural fields associated with the farm unit. As recognised in the Heritage Settings Assessment, the agricultural fields in the immediate vicinity and the wider landscape of the valley to the north comprise the wider setting to the listed building. Its immediate setting is derived from the gardens associated with the farmhouse.
35. The majority of the proposed development would be screened from the farmhouse but it would feature in views across the valley to the north, albeit in the lower parts of the view. The presence of a modern installation in the **building's** rural setting could not be disguised, but the level of intervisibility between the farmhouse, its gardens and the appeal site would be minimal. The setting would not be altogether preserved but, to my mind, the level of harm to **the building's significance would be on the lower end of the 'less than substantial' scale.**
36. Having identified the less than substantial harm to the significance of the **church at Edwardstone and Roger's Farmhouse, albeit to varying degrees, it** follows that the proposed development would not comply with CS Policy CS15. It also means that the harm needs to be balanced against the public benefits of the proposal, which is undertaken as part of the planning balance below.

### ***The Planning Balance***

37. The project would contribute to the Government's long-standing and well-documented commitment to renewable energy generation. The power output predicted, alongside savings in carbon dioxide emissions, would assist in the drive towards tackling climate change and **reducing the UK's** greenhouse gas emissions. **The project's contribution towards a low carbon future** is a public benefit carrying significant weight. Added to which, it would allow the farm unit to diversify and lead to biodiversity gains. These factors bolster the case for the proposed scheme. That the proposal allows for continued agricultural use is not a benefit, but a factor to be accounted for when a proposal involves greenfield land.
38. The weight to be attached to the temporary nature of the installation is moderated by the length of time the panels would remain in place (25 years), during which time the effects identified are likely to continue.
39. The minimal impact on landscape character is not a matter that on its own would prevent allowing the appeal. The less than substantial harm that would **be caused to the significance of the Church of St Mary the Virgin Roger's Farmhouse** is a matter to which I attach considerable importance and weight. I would go as far as to accept that the low level of **harm caused to the Roger's Farmhouse** would be outweighed by the sum of the public benefits described. However, given the importance of the church as a Grade I listed building, the public benefits of energy generation and biodiversity enhancements are not sufficient to overcome the scale of harm that would be caused to its significance, by the visually intrusive nature of the proposal.

40. Furthermore, notwithstanding that views of the development would be mainly from the north and north east, it would have an adverse effect on the appearance of the landscape. I accept that the appeal site represents only a small proportion of the Grade 2 and 3 land available in the District. Loss of BMV land, nonetheless, without the compelling evidence of availability or otherwise of lower quality land, is also a harmful consequence of the proposed project. All of which means that it would not comply with CS Policy CS15 or LP Policy CR04 and does not benefit from the support expressed in CS Policy CS13. The scale of the combined environmental harm caused would place this proposed development in conflict with the development plan, and render it not sustainable when considered against the policies of the NPPF as a whole.
41. For the reasons explained, the appeal fails. None of the other matters raised are of such weight as to alter the balance of my considerations or my decision.

*Ava Wood*

Inspector