Department for Communities and Local Government

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Our Ref: APP/H1840/W/15/3136031 & APP/P1805/15/3136033

23 May 2016

Dear Madam

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY MARKUS WIERENGA (GREEN SWITCH DEVELOPMENTS LTD)
AT RECTORY FARM, RECTORY LANE, UPTON WARREN, WORCESTERSHIRE
APPLICATION REFERENCES: (A) W/15/01035/PN & (B)15/0387

1. I am directed by the Secretary of State for Communities and Local Government to say that consideration has been given to the report of the Inspector, Vicki Hirst BA(Hons) PG Dip TP MA MRTPI, who made a site visit on 4 January 2016 relating to your client's appeals against the decisions of Wychavon District Council (appeal A) and Bromsgrove District Council (appeal B) - (referred to hereafter jointly as "the appeals" and "the Councils") - to refuse planning permission for a 8.94MW solar farm and associated works on land adjacent to Rectory Farm, Rectory Lane, Upton Warren, Worcestershire B61 7EL, in accordance with application references (A) W/15/01035/PN (dated 21 April 2015) and (B) 15/0387 (also dated 21 April 2015) respectively. The proposal covers a single site which straddles the boundary between the two local planning authorities.

2. On 23 December 2015 the appeals were 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 they involve proposals for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that both appeals 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 appeals 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.

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Policy and Statutory Considerations

4. In deciding these appeals, 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 for Wychavon comprises the South Worcestershire Development Plan (SWDP) adopted 25 February 2016; and the Bromsgrove development plan comprises the saved policies of the Bromsgrove District Local Plan 2004. The SWDP replaced the Wychavon District Local Plan which was in force at the time the application was determined, but the Secretary of State agrees with the Inspector (IR4) that the general policies cited in the SWDP are similar to those in the Wychavon Plan. The Secretary of State considers that the development plan policies of most relevance to these appeals are those identified by the Inspector at IR16-23.

6. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* March 2012 (the Framework), and the planning practice guidance first published in March 2014 (the guidance). He has also had regard to the Written Ministerial Statement of March 2015 referred to by the Inspector at IR28 and 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 this scheme or their settings or any features of special architectural or historic interest which they may possess. He has also given special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in accordance with section 72 of the LBCA Act.

Main Issues

8. The Secretary of State considers that the main issues in this case are those identified by the Inspector at IR128.

Harm to the Green Belt

9. The Secretary of State agrees with the Inspector that the appeals site lies within the West Midlands Green Belt (IR9) where the proposal would constitute inappropriate development (IR129). For the reasons given by the Inspector at IR131-134, the Secretary of State agrees with her that the proposed solar farm would have a significant adverse effect on the openness of the Green Belt and that, for the duration of its existence, it would fundamentally conflict with one of the purposes of Green Belts to assist in safeguarding the countryside from encroachment, thereby adding significantly to the harm to the Green Belt (IR134).

Character and Appearance

10. The Secretary of State has given careful consideration to the Inspector's analysis of the scheme's impact on character and appearance and visual amenity at IR135-IR149. Whilst he accepts that the site does not contain any statutory landscape or conservation designations, he shares the Inspector's view that, for the reasons given at IR139, the proposed development would be an incongruous and alien intrusion that would be harmful to the landscape character of the area. The Secretary of State also agrees with the Inspector that the network of paths that cross the site would be dominated by the presence of the proposed development (IR145) to the extent that the enjoyment of a network of public rights of way would be significantly affected and harmed by the proposal.

Heritage Assets

11. Having carefully considered the Inspector's reasoning at IR150-157, the Secretary of State agrees that, whilst the proposed development would not cause harm to the nearby Upton Warren Conservation Area (IR151) or be harmful to the special interest or setting of West Lodge or its barn (IR152), it would be an alien and discordant feature within the pastoral setting of the Bowling Green Farmhouse and barn (IR153-154). The Secretary of State agrees with the Inspector that, for the reasons given at IR154-157, although the harm caused to Bowling Green Farmhouse and barn would be less than substantial for the purposes of paragraph 134 of the Framework, the fact that the overall scheme would be harmful to the setting of these heritage assets and would not therefore accord with the SWDP or national policy weighs significantly against the proposal.

Other matters

12. For the reasons given at IR158, the Secretary of State agrees with the Inspector that limited weight should be given to the benefit arising through additional planting of hedgerows and a wildflower meadow. He also agrees that, for the reasons given at IR159, the proposal would not give rise to any significant highway safety concerns and that potential highways impacts would be neutral in the planning balance. Furthermore, like the Inspector (IR160), the Secretary of State gives limited weight to the fact that the land is predominantly classified as Grade 3b and so would not represent the best and most versatile agricultural land as defined in the Framework.

Renewable energy

13. The Secretary of State agrees with the Inspector that, for the reasons given at IR161-162, the contribution that the proposed scheme would make to energy security and national renewable energy targets weighs significantly in its favour.

Very special circumstances

14. The Secretary of State has given careful consideration to the Inspector's arguments at IR163-174. Taking account of paragraph 91 of the Framework, which states that the very special circumstances for locating a renewable energy project in the Green Belt may include the wider environmental benefits associated with increased production of energy from renewable sources, he agrees with the Inspector that considerable weight should be given to those benefits (IR164). He also agrees that, for the reasons given by the Inspector, some weight should be given to the fact that the scheme would not utilise the best and most versatile land (IR165); but only limited weight to the temporary nature of the proposal which would then be removed after 25 years (IR165).

15. For the reasons given at IR166-167, the Secretary of State agrees with the Inspector that little weight should be given to the argument that there is no other available capacity or alternative sites in the Wychavon area. Like the Inspector, the Secretary of State attaches some weight to the ecological benefits which would ensue from additional planting of hedgerows and a wildflower meadow (IR168), and to the benefits to the local community through the creation of a new footpath (IR169). However, he also agrees with the Inspector (IR169) that any Unilateral Undertaking to provide a "fit for free" scheme would not meet national policy guidance.

16. The Secretary of State agrees with the Inspector (IR170) that the definitional harm to the Green Belt through the scheme being inappropriate development, along with the harm it would cause to openness and in not meeting the purposes of safeguarding the countryside from encroachment, should be weighed against the benefits outlined in paragraphs 14 and 15 above along with the harm to the setting of Bowling Green Farmhouse and barn (IR171). The

Secretary of State therefore also agrees with the Inspector (IR172) that the other considerations in this case do not clearly outweigh the harm identified, with no evidence that the impacts could be made acceptable, so that the very special circumstances necessary to justify the development do not exist. This leads the Secretary of State to also agree with the Inspector at IR173-174 that, considering the appeals proposal on its own merits and with regard to its particular context and circumstances, it would not be in accordance with the relevant development plans and would be in conflict with the objectives of the Framework and Guidance including the presumption in favour of sustainable development.

Conditions

17. The Secretary of State has considered the Inspector's assessment of the conditions at IR175-181 and the suggested conditions at Annex A of the IR. He is satisfied that the proposed conditions are reasonable and necessary and would 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 appeals.

Conclusion

18. The appeals scheme amounts, by definition, to inappropriate development in the Green Belt which would also cause harm to the openness of the Green Belt and to its purpose in assisting in safeguarding the countryside from encroachment. It would also cause harm to the landscape character and visual amenities of the area and to the setting and significance of listed buildings. Against these considerations, the appeals scheme would make a significant contribution to the attainment of national and local renewable energy policy objectives and targets and, by helping to improve the security of the energy supply, it would have direct and indirect economic benefits. Nevertheless, the Secretary of State is satisfied that the harm which this scheme would cause to the openness of the Green Belt and any other harm would not be clearly outweighed by other considerations and that the very special circumstances have not been demonstrated to justify this development in the Green Belt.

Formal Decision

19. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeals and refuses planning permission for a 8.94MW solar farm and associated works on land adjacent to Rectory Farm, Rectory Lane, Upton Warren, Worcestershire B61 7EL in accordance with application references (A) W/15/01035/PN (dated 21 April 2015) to Wychavon DC and (B) 15/0387 (also dated 21 April 2015) to Bromsgrove DC respectively.

Right to challenge the decision

20. 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.

21. Copies of this letter have been sent to Wychavon and Bromsgrove District Councils, with notifications sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak
Authorised by Secretary of State to sign in that behalf