
Appeal Decision

Site visit made on 5 July 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 10 October 2016

Appeal Ref: APP/U1430/W/16/3146975

Land to the East of Catsfield Road, Catsfield, TN33 9BB¹

- 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 Iota Solar Ltd against the decision of Rother District Council.
 - The application Ref RR/2015/1745/P, dated 9 July 2015, was refused by notice dated 24 September 2015.
 - The development proposed is the installation of solar farm and associated infrastructure (with a potential capacity of 3.8 megawatts of electricity at its peak).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - What, if any, benefits the proposal may result in, and;
 - The effect of the proposed development on the character and appearance of the countryside (including the local landscape) and;
 - What effect, if any, the proposed development would have on ancient woodland, and;
 - The overall planning balance.

Reasons

Potential benefits

3. The principal benefits arising from the proposed development suggested by the appellant are that it would see the generation of about 3.8 megawatts peak of renewable energy to meet the needs of around 1045 homes. This would be for a period of about 30 years, when the solar panels would then reach the end of their normal operating life. The appellant has sought to address concerns raised in earlier schemes² by reducing the overall size of the appeal site. I note that the proximity to the wider electricity network is reasonably easy to achieve in this location and that there are limited number of areas within the wider Rother district for the erection of solar farms of this size owing to factors such as the High Weald Area of Outstanding Natural Beauty (AONB).

¹ Address taken from the appeal form

² RR/2014/1664/P; Refused by the LPA and;
RR/2015/8142/P; Refused by the LPA and dismissed at appeal ref 3033695 dated 17 February 2016.

4. The reduction in site area from earlier schemes means that the current appeal only includes land rated as 3b or lower in terms of the Agricultural Land Classification – that is towards the poorer end of the spectrum. The existing site mainly consists of grassed areas and grazing sheep and such use could reasonably continue on the appeal site around the solar panels. Added to this are the potential benefits of additional landscaping in providing opportunities for indigenous plants, which in turn could encourage a range of biodiversity benefits locally.
5. The combination of the potential renewable energy generated, the limited number of other locations locally, the availability of the nearby electricity network connections, the use of agricultural land that is not the 'Best and Most Versatile Agricultural Land' and the potential to increase the biodiversity of the area whilst continuing pastoral farming on the land amount to factors that weigh significantly in favour of the appeal scheme.

Character and appearance

6. The appeal site comprises two fields, with a small connecting access track proposed through Ancient Woodland. Access off Catsfield Road, and the wider highway network, would be through an existing Christmas tree farm. Except for the Christmas trees of varying heights growing in fields to the south of the largest appeal field, I saw that the character of the countryside in this location is typified by a network of hedges, small woods, irregular fields with copses, and small undulating valleys. Whilst I note the views of interested parties, the site is not contained within the High Weald AONB as shown in the submitted Landscape Visual Impacts Assessment document.
7. The solar panels in both fields would be mounted on sloping grazing land, bound by areas of dense woodland or hedgerows. Whilst there are some breaks within this existing screening, these are limited in size and number. Furthermore, the appellant has suggested the use of planting to reinforce or further screen the solar panels. The use of such screening, if done sensitively, would not only help obscure the panels from the limited views within the wider countryside, but also reinforce the compartmentalising of the field network that is characteristic of this part of the countryside. Indeed, I saw that views into the fields and the landscape more generally are very limited, with glimpses from nearby footpaths, rather than constant views of the location of the panels in either field.
8. The underlying topography of the area, together with the woodland setting, and the fact that the solar panels would lie relatively low in the landscape means that visually the development would be comparatively self-contained to within the confines of the appeal site. I am reinforced in this view by the fact when standing in either field any signs of residential dwellings are towards the distance, with the nearest dwellings, which include those clustered around Tilton Manor and Twisly, screened by the mature trees or hedges outside of the appeal site. These are also a fair distance from any of the proposed ground works. The proposal would also be screened from nearby public footpath routes, by both existing and proposed landscape buffers. In this respect, any visibility of the solar farm and its associated infrastructure would be extremely localised and not readily visible from the public realm. As such, the impact on the wider rural landscape would be severely limited, and not to an extent so as to be materially harmful.

9. I acknowledge that there are other nearby solar farms, in situ or proposed, for example that at Potmans Lane. However, the proposal in this case would not be seen in the same view as those schemes. I do not, therefore, find that the proposal would result in an unacceptable impact to the character and appearance of the countryside in terms of a cumulative effect.
10. I therefore conclude that the proposed development would not result in a material harmful impact on the character and appearance of the countryside (including the local landscape). It would therefore accord with Policies SRM1(iii), OSS4(iii), RA2(iii)(viii), and RA3(v) of the Rother Local Plan Core Strategy 2014 (RLPCS). It would also accord with Paragraph 109 of the National Planning Policy Framework (the Framework), which seeks to protect and enhance valued landscapes.

Ancient Woodland

11. The proposal would require access into the second field (to the east) in order to construct and maintain the solar panels. I saw that there is currently an unmade access track at this point between the fields that has a metal five bar gate. This track is essentially formed of a steep rutted dirt track about a car's width wide, with trees either side that are part of the Ancient Woodland, rising up to the second field. There is no tree survey before me that assesses what impact, if any, the proposal could have on the soil or roots of these nearby trees. This situation is not aided by the lack of a fully detailed explanation of what form the access track between the fields would take. Such details might indicate features such as the depth of the surfacing material or the weight, frequency, numbers or types of vehicles that could use this track during construction and maintenance periods.
12. Natural England advice provided to the Council at an earlier Environmental Impact Assessment (EIA) screening stage indicated that a 15 metre buffer should be provided between any development and the Ancient Woodland³. The present location and width of the access between the fields would not permit such a distance on either side. It may well be the case that a tree survey would be able to identify the size of any root protection areas and reduce the 15 metre spacing suggested by Natural England. This information, together with details of construction methods for the access, would enable a full and proper assessment of the impact on the Ancient Woodland. However, this information is not before me.
13. On the basis of what I saw at my site inspection and the submitted drawings, there is the potential for an adverse impact on this important habitat. The importance of this is underlined in Paragraph 118 of the Framework which requires that planning permission be refused for development resulting in the loss or deterioration of irreplaceable habitats, including Ancient Woodland. The lack of a tree survey undertaken in accordance with *BS 5837 – Trees in relation to demolition, design and development* (or other such similar documents) means that it is not possible to assess, with certainty, whether the proposal would damage or destroy trees within the Ancient Woodland where the access track serving the second field would be located. It is also unclear as to what impact there could be over 30 year lifespan of the panels.

³ This reflects advice contained in the guidance; *Ancient Woodland and veteran trees: Protecting them from development* 2014 (including 2015 updates) published by Natural England and the Forestry Commission

14. I therefore conclude that the absence of specific details on this element of the proposal means that it is not possible to make a reasoned or balanced assessment as to the potential harm to the irreplaceable habitat of the Ancient Woodland in this case. Accordingly, the proposal would therefore be contrary to Policies SRM1(iii)(b), RA2(ii) and RA3(v) on this issue. Policies, which, amongst other aims, seek to ensure the renewable energy generation do not have a significant adverse impact on ecological assets and ensuring that all developments in the countryside will not adversely impact on the natural resources of the countryside.
15. The proposal would also be contrary to national policy set out in Paragraphs 17 and 118 of the Framework, which, amongst other aims, seek to conserve and enhance the natural environment and prevent the loss and deterioration of Ancient Woodland.

The Planning Balance

16. The Framework recognises at Paragraph 118, that Ancient Woodland is an irreplaceable natural resource, which takes a number of years to establish and is important for its wildlife, soils, recreation, cultural value, history and contribution to landscapes. Without, at the very least, a tree survey and full details of the access route through the trees between the two fields, it is not possible for me to be certain that the proposal would not result in loss or deterioration of this irreplaceable habitat.
17. The benefits arising from the scheme I have identified are important considerations weighing in favour of approving the appeal scheme. However, the need for renewable energy does not automatically override environmental protections. In the absence of information relating to the degree of harm that may arise to the Ancient Woodland, it is not possible for me to make an appropriate assessment as to the degree of any harm to the Ancient Woodland. Nor is it possible to realistically consider what conditions may be imposed to rectify such omissions.
18. In the absence of such detailed information, I am unable to satisfactorily weigh the benefits of the scheme against the dis-benefits to the Ancient Woodland; even though I have found in the appellant's favour on the second main issue relating to character and appearance. Accordingly, and after taking into account all matters raised into account, I can only conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR