
Appeal Decision

Site visit made on 5 October 2016

by B.Hellier BA(Hons) MRTPI

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

Decision date: 21 November 2016

Appeal Ref: APP/D3830/W/16/3151730

Land at Worsted Farm, East Grinstead, RH19 3XP

- 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 Sun4Net Limited against the decision of Mid Sussex District Council.
 - The application Ref DM/15/3056, dated 10 September 2015, was refused by notice dated 24 December 2015.
 - The development proposed is the installation and operation of a ground mounted solar photovoltaic array to generate electricity of up to 5MW capacity comprising photovoltaic panels, inverters, security fencing and cameras and other associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the installation and operation of a ground mounted solar photovoltaic array to generate electricity of up to 5MW capacity comprising photovoltaic panels, inverters, security fencing and cameras and other associated infrastructure on land at Worsted Farm, East Grinstead, RH19 3XP in accordance with the terms of the application, Ref DM/15/3056, dated 10 September 2015, subject to the conditions set out in the accompanying Schedule.

Main issues

2. I consider the main issues are:
 - the effect of the proposed development on the character and appearance of the High Weald Area of Outstanding Natural Beauty (AONB); and
 - whether any harm to the AONB and any other harm would outweigh the benefits of the proposal including those associated with the generation of renewable energy.

Description of the site and proposal

3. The appeal site covers some 15.1ha of countryside immediately adjacent to the east of the built up area of East Grinstead. It consists of six small fields sloping gently down northwards. Apart from two horse paddocks the land is not used and has become overgrown with tree saplings and undergrowth. At one time it was part of the Worsted Farm holding and the farmhouse and outbuildings are situated to the south-east. Access would be from the private farm road, Worsted Lane, which runs for approximately 300m to a junction with the A22. There are several dwellings on Worsted Lane and a ribbon of low density housing on the A22 on its approach to East Grinstead.
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4. Two strips or shaws of ancient woodland lie within the site. They would be retained. One, marking the boundary with the housing development to the west is also protected by a tree preservation order. With the exception of two short stretches other field boundary planting would also remain. Pitlands Wood and Fowl Wood form a large block of ancient woodland to the east.
5. The development would be for a temporary period of 25 years. The panels would be in four arrays separated by existing field boundaries. The panels would be set at a 20° angle and would not exceed 2.4m in height. Each array would be enclosed by a deer fence with pole mounted CCTV cameras at regular intervals. There would be a need for 4 transformers/ inverters adjacent to the arrays. Close to the access point would be a sub-station, control room and storage container together with a laydown area for the construction phase.
6. Until recently local people have been able to walk over the land. The proposed solar farm area has now been partially fenced off and permissive paths have been retained/created along the western and northern boundaries within existing woodland. These provide a link to public rights of way to the east.

Reasons

Planning Policy

Development Plan

7. Planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the saved policies of the Mid Sussex Local Plan (LP)¹. Policy CS19 supports renewable energy proposals where these will not have a significant detrimental effect on the environment. Consideration of the wider economic benefits will be balanced against any likely local effects on the environment, particularly in sensitive locations such as an AONB.
8. LP Policy C4 sets out the statutory purpose of an AONB designation which is to conserve or enhance its natural beauty. Development will only be permitted in exceptional circumstances. These include development for a use which has to be located in the countryside, which is essential for local social and/or economic needs, or which is in the national interest and for which no other suitable sites are available elsewhere. Where development proposals are regarded as exceptions particular attention should be paid to scale, siting, design, external materials and screening of new buildings. Also relevant are LP Policy C1 which is a general countryside protection policy and LP Policy C6 which resists development which results in the loss of woodlands, hedgerows and trees which are important in the landscape, or as natural habitats, or as a historic feature.
9. The East Grinstead Neighbourhood Plan² has recently been made and forms part of the development plan. Policy EG1 reflects the presumption in the NPPF against major development proposals in the AONB. Countryside protection Policy EG2(a) refers, amongst other things, to the need to retain the openness of the countryside gap between the settlements of East Grinstead and Ashurst Wood.

¹ Mid Sussex Local Plan. Adopted May 2004

² East Grinstead Neighbourhood Plan: Made (adopted) by Mid Sussex District Council 8 November 2016

10. I am satisfied that these policies generally conform with national planning policy as set out in the National Planning Policy Framework (NPPF).
11. The Council is preparing a District Plan which will update higher level strategic planning policies for the period up to 2031. These will replace the majority of the existing LP policies. The Plan is at the Submission stage with an independent examination to test its soundness anticipated in the autumn. At this stage its policies carry little weight.

National planning policy

12. The NPPF gives strong encouragement to renewable energy proposals. Paragraph 98 indicates that an application for renewable energy should normally be approved if its impacts are (or can be made) acceptable. However, Planning Practice Guidance (PPG) makes it clear that the need for renewable energy does not automatically override environmental protections and the planning concerns of local communities¹.
13. In relation to development within a designated landscape such as an AONB paragraph 115 of the NPPF gives great weight to conserving landscape and scenic beauty. Paragraph 116 states that there is a presumption against major developments in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest.
14. There is no definition of major development in this context but the extensive land take of the development persuades me that it should be treated as a major development. In assessing the impact on the AONB the NPPF indicates that regard should be had to: need, including any national considerations and local economic benefits; the possibility of a location outside the designated area; and any detrimental effect on the environment, on the landscape and on recreational opportunities and the extent to which that effect could be moderated.

Benefits of the proposal

15. Government policy is to support the development of renewable energy sources, including solar power, to help to ensure that the country has a secure energy supply and to reduce greenhouse gas emissions. As a result of EU Directive 2009/28/EC, the UK is committed to a legally binding target to achieve 15% of all energy generated from renewable resources by 2020. The UK Solar PV Strategy² recognises the potential role and contribution that solar energy can play in meeting this target.
16. The potential electricity output of 5MW is said to be sufficient to supply the electricity needs of about 2150 households. In 2014 there was an estimated installed capacity of about 5.8MW of solar PV in Mid Sussex and very little output from renewable/low carbon energy sources other than solar. The appeal proposal, whilst modest in terms of national energy demands, would result in a considerable increase in renewable energy capacity in the District. The NPPF is clear that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. I consider benefits of the present proposal should be given considerable weight.

¹ Planning Practice Guidance: *Renewable and low carbon energy* Paragraph: 007 Reference ID: 5-007-20140306

² *UK Solar PV Strategy Part 1: Roadmap to a Brighter Future* Department of Energy and Climate Change. October 2013

Character and appearance

Landscape character

17. The site is shown as being within the High Weald Landscape Character Area (LCA) in the sub-regional landscape assessment for the District¹. The appeal site exhibits many of its key characteristics, including; *a wooded, confined rural landscape of intimacy and complexity, perceived as attractive, locally secluded and tranquil; significant woodland cover, a significant proportion of it ancient, including a dense network of hedgerows and shaws, creates a sense of enclosure....*; and *a pattern of small, irregular-shaped assart fields², some larger fields and small pockets of remnant heathland*. These characteristics are also reflected in the Statement of Significance which defines the character of the AONB³.
18. As a designated AONB the landscape is highly valued. It is particularly sensitive to disruption to its sense of seclusion and rurality. However in the vicinity of the appeal site I consider its enclosed form, strong boundary treatments, and varied ground cover reduces its sensitivity to change. The submitted layout allows for the retention of existing woodland and ponds and offers opportunities to increase biodiversity on the cleared land during the operational period.
19. Even so the solar panels would introduce a semi-industrial development form into this setting and result in the loss of two lengths of hedgerow. These hedgerows have an intrinsic value although currently, on the ground, they are screened from view by the established boundary planting and from within the site they are lost within the new tree and scrub growth. There would be a resulting localised adverse effect on landscape character although there would be little impact on the wider High Weald LCA or the AONB as a whole.

Visual effects

20. The development would be well hidden from long and medium distance views. From the south there is a view from Farm Close Meadow, an open access area. This is an unusually open viewpoint looking across the valley to the ridge followed by the A264 Holtye Road. It is a view dominated by woodland with the occasional glimpses of buildings and pastureland. Strong hedgerows in the foreground and the falling ground mean that the solar panels would not be visible from here. From the north a footpath gives occasional views across the valley and from this direction the panels would be on rising ground. However the submitted landscape and visual impact assessment⁴ shows that the tree belt following the stream along the northern boundary would be an effective screen.
21. The wide strip of ancient woodland on the western boundary would shield the development from the adjacent residential area. Upper floor windows of Worsted Farm Cottage overlook the site from the south east but the main outlook from here would be to the rising land on the opposite side of the valley. A public footpath runs along the north-east boundary of the site. It is proposed

¹ A Landscape Character Assessment for Mid Sussex Mid Sussex District Council and A Strategy for the West Sussex Landscape West Sussex County Council both published November 2005

² An assart field is one that has been formed by clearing trees and undergrowth.

³ The High Weald Area of Outstanding Natural Beauty: Management Plan 2014-2019. March 2014 page 26

⁴ LVIA. Broom Lynne (Planning Design Landscape Consultant) dated 15 August 2015 (updated 10 June 2016)

to leave a narrow 10m belt of young trees and scrub here but the panels would nonetheless be intrusive at this range.

22. There would be a noticeable effect on users of the informal paths through the trees on the site perimeter to the west and north. Such users should be treated as less sensitive receptors than those using public rights of way since they are there not as of right but only with the agreement of the landowner. The appellant puts forward proposals¹ for new native tree/shrub planting together with a 2m high brushwood screen fence alongside these paths but this is not shown on a plan and it is not clear how this would work on the ground.
23. There would generally be a moderate visual effect on users of the adjacent public and permissive footpaths increasing to a quite significant level along the north-east edge of the site in the absence of any mitigating screening. Otherwise the development would be well screened from public view and the overall visual impact would be small.

Conclusion on character and appearance

24. The development would have a moderate adverse effect on local landscape character but any wider effects on the AONB would be negligible. Overall the harm to landscape character would be limited. There would be little adverse effect on landscape appearance. This conclusion is reached having seen the site with the vegetation in leaf but I am satisfied that the width and density of the main planting would continue to be an effective filter/screen even in winter.

Alternative sites

25. The appellant has not undertaken a sequential site search. It is normal for solar farm sites to be evaluated once it is known that they are available. A site has to meet a range of technical requirements including an appropriate landform, road access and an economically viable connection to the local electricity grid. It is stated that the latter is a particular restriction in Mid Sussex. The appeal site meets these requirements. Furthermore, whilst it is not a brownfield site, it is helpful that it utilises land that is not in productive agricultural use and that there would thus be no loss of farmland.
26. The evidence from the appellant is that it has not been possible to find suitable available sites outside the AONB. Some 49% of the land area of the District is in the AONB and the remainder includes the main settlements. Having regard to this and the difficulty in finding sites that are both technically robust and available I consider adequate consideration has been given to the possibility of a location outside the AONB and that the search criterion in NPPF paragraph 116 is satisfied.

The East Grinstead/Ashhurst Wood Gap

27. The two settlements are almost linked by ribbon development along the A22 so that development on the appeal site would not, strictly, reduce the gap between the two. It would, however, be in the countryside and might be considered to extend urban sprawl to the east of East Grinstead. In practice the solar panels would be assimilated into the wooded landscape which currently marks the boundary of the built-up area. The development would not be readily visible and would not lead to the perception of openness being

¹ Supplementary LVIA Broom Lynne (Planning Design Landscape Consultant) dated 8 April 2016

unacceptably eroded. Thus I find there would be no conflict with Policy EG2(a) of the Neighbourhood Plan.

Setting of Worsted Farmhouse

28. Worsted Farmhouse¹ is described in the official list as: *Late 16th century farmhouse. Very much restored. All windows modern. One fine chimney stack.* Its closed entrance gates and surrounding hedge block close views from Worsted Lane although its roof and those of its outbuildings can be seen approaching along the lane. It is not clearly seen in any public views.
29. The submitted heritage report² concludes that apart from the original farmhouse most of the steading buildings have been built in 20th century. There is no longer a farm as such. An aerial photograph shows that the farmhouse has extensive residential grounds including a tennis court and a strip of low-lying land with ponds running north alongside the appeal site. Historically the appeal site was part of the Worsted Farm land but it no longer has an agricultural function and there is no significant visual or physical connectivity between it and the listed farmhouse. I conclude that it contributes little to the heritage significance of the farmhouse and any significance it has would be retained as the proposal would have no effect on the structural boundary features. I find there would be no material adverse effect on the setting of Worsted Farmhouse.

Highway considerations

30. During a construction period of 10-15 weeks there would be an estimated 67 HGV deliveries. Residents consider Worsted Lane to be unsuitable for HGVs. It joins the A22 at the crown of a bend where, given that the road is within the 30mph limit, there would be adequate visibility of and for approaching traffic. The lane is initially wide enough for two vehicles to pass and gives access to individual properties. It is also a bridleway. After the bridleway turns east the lane becomes single track. Here it would need to be temporarily widened.
31. The submitted traffic management plan sets out measures to minimise inconvenience and dangers to residents and bridleway users during construction. Subject to these and given the temporary nature of the construction phase I do not consider the development would create unduly hazardous or inconvenient road conditions. I note that this is also the view of the local highway authority.

Site viability

32. The northerly orientation of the site, the significant areas of retained planting and the overshadowing effect of this planting would all tend to reduce the power output from the panels and reduce revenue. However viability considerations are a matter for the appellant. The County Landscape Architect points out that overshadowing would be particularly significant along the south-east boundary and could well lead to pressure to remove or pollard mature trees during the operation of the site. I accept this is a concern but one that could be reviewed and addressed within the landscape management plan.

¹ Described in the List as Worsteds Farmhouse

² *Heritage Desk Based Assessment for S4N Worsted Limited* (CA Report 15765) Cotswold Archaeology. October 2015

Conditions

33. I have considered the need for conditions in the light of those submitted by the Council and the response from the appellant. I have also had regard to the standard conditions tests set out in NPPF paragraph 206.
34. In addition to standard conditions for commencement and for listing approved plans there is a need to restrict the development to the operational period of 25 years that is sought and to ensure that the site is cleared and restored to an agreed end state after that, or at any stage before that if the development ceases to supply electricity to the grid. A key requirement is a landscaping and biodiversity management plan both to protect and enhance existing habitats and landscapes and to create new ones around and under the panels. I agree that a new tree/hedge planting condition is necessary and I have introduced a condition requiring that the retained tree strips are surveyed and protected during both construction and operation and to review the impact of overshadowing on the panel layout.
35. The plans show generic buildings/structures. These will need to be superseded by details of the actuals. Construction and associated traffic management, including hours of working should be tied to the submitted details. Details of further archaeological investigations should be agreed and a condition should clarify that there should be no external lighting.
36. Consultation responses to the application from the engineering section of the Council and from the County Council flood risk management team indicate that there should not be an increase in the speed of surface water run-off. Notwithstanding the view of the appellant I consider a drainage scheme to address this objective would be necessary.

Unilateral Undertaking

37. The appellant has submitted a planning obligation in the form of a Unilateral Undertaking (UU) to provide and maintain a permissive footpath alongside the western and northern boundaries of the site during the operation of the solar farm. This reflects the present informal access situation referred to above (paragraph 6) and would secure a convenient link between existing public rights of way. Unfortunately the UU is neither a signed original nor a certified copy and I do not consider it would be legally enforceable. However I am satisfied that the same objective could be secured by condition and I have imposed one accordingly.

Planning balance and conclusion

38. The strategic environmental and economic benefits of renewable energy proposals are substantial. At a local level the site lies in an area of high energy demand and low operational renewable energy capacity. Overall the benefits should attract considerable weight.
39. On the debit side the engineered form of the panel arrays would jar with the rural tranquillity of the setting. However it would be a very local effect. Whilst great weight attaches to conserving the AONB landscape the detriment to landscape character in this case would be limited. There would be some visual impact on users of the nearby footpath network but with mitigation it would not be significant. None of the other matters before me, including highway, heritage and viability considerations, would weigh against the proposal.

40. In this case I find that the balance is clearly in favour of the development. Major development in the AONB should only be permitted exceptionally. Taking account of the limited harm identified, the lack of suitable alternative available sites, and the limited operational renewable energy capacity in the District, I find the proposal to be such an exception as provided for in LP Policies CS19 and C4. The loss of a length of historic field boundary would be contrary to LP Policy C6 but I find, nonetheless, that the proposal would be in accordance with the development plan as a whole.
41. This would be a sustainable development for which the considerable environmental benefits outweigh the limited environmental harm. With the mitigation proposed and conditions set out I find that the impacts of the development would be acceptable and that, in accordance with NPPF paragraph 98, the proposal should be approved.
42. In coming to this conclusion I have had regard to representations to the contrary, including those from Ashurst Wood Parish Council, East Grinstead Town Council and the High Weald AONB Unit. Nonetheless for the reasons given above I conclude that the appeal should be allowed.

Bern Hellier

INSPECTOR

Schedule of conditions (15)

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 15K61-CV-GS-101 (site location); 15K61-EL-LY-101A/B/C/D (site layout); 15K61-CV-HS-101 (inverter housing); 15K61-CV-HS-102 (control cabin); 15K61-CV-HS-104 (CCTV poles/layout); 15K61-CV-FC-103 (fence/gate); 15K61-SL-PA-101 (array elevation); 15K61-EL-HS-103 (storage container).
- 3) This permission shall expire 25 years from the date electricity is first exported to the electricity grid network, excluding initial testing and commissioning. Written confirmation of the first export date shall be provided to the local planning authority no later than one month after the event. Within 12 months from the end of this expiry date the solar arrays, invertors, access track, sub-station, fencing, cabling and other ancillary equipment hereby permitted shall be removed and the land restored to its former condition or to a condition to be agreed in writing by the local planning authority.
- 4) If the solar farm hereby permitted ceases to operate for a continuous period of 6 months then a scheme for the decommissioning and removal of the panels and any other ancillary equipment shall be submitted to and approved in writing by the local planning authority within 3 months of the end of the cessation period. The scheme shall include details for the restoration of the site and shall be implemented as approved within 12 months of the date of approval.
- 5) No development shall commence until a detailed landscape and biodiversity management plan has been submitted to, and approved in writing by, the local planning authority. The plan shall include the construction and operation phases, make provision for the preparation of a decommissioning plan, and include a timescale for the works. It shall be implemented as approved in accordance with the approved timetable.

- 6) The landscape and biodiversity management plan shall include a survey of the trees bounding the site and within the retained shaws within the site, their crown spread, their root protection area and measures to protect them during both the construction and operation phases. It shall include a review of any unacceptable overshadowing of panels and, if necessary, the setting back of panels from the trees.
- 7) No development shall commence until a full specification of all proposed tree and hedge planting has been approved in writing by the local planning authority. The specification shall include the quantity, size, species, and positions or density of all trees to be planted, how they will be protected and the proposed time of planting. A schedule of maintenance of the trees until successfully established is to be agreed in writing with the local planning authority and implemented. The schedule shall include provision for replacement planting should establishment fail.
- 8) No development shall commence until details (including size, colour, appearance and finish) of the CCTV poles, boundary fencing, solar panels, inverter stations, control cabin, sub-station and storage container hereby approved have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 9) No development shall commence until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. The drainage works shall be carried out as approved before the first export of electricity to the grid.
- 10) No development shall commence until a written scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. The investigation shall be carried out in accordance with the approved scheme.
- 11) The development shall be carried out in accordance with the submitted Construction Traffic Management Plan and the Construction Method Statement.
- 12) Works of construction or demolition, including the use of plant and machinery, shall be limited to the following times
Monday to Friday: 08:00 - 18:00 hours
Saturday: 09:00 - 13:00 hours
Sunday and Bank/Public Holidays: no work permitted
- 13) No floodlighting, security lighting or other means of external illumination shall be provided, installed or operated at the site without the prior approval of the local planning authority.
- 14) The site compound shall be removed and the land restored to its former condition or to a condition to be agreed in writing by the local planning authority on or before the expiration of five months from the commencement of development.
- 15) A permissive footpath shall be retained within the site along its western and northern boundaries as shown on the plan accompanying the submitted unilateral undertaking dated 12 October 2016. The footpath shall be retained for so long as the solar farm is operational.