

Appeal Decision

Site visit made on 7 November 2016

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 1 March 2017

Appeal Ref: APP/Q4625/W/16/3155025

Land at Broad Lane, Berkswell, CV5 7NL

- 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 Mr Tony Wehby of Earthworm Energy against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2015/51636/PPFL, dated 22 July 2015, was refused by notice dated 8 February 2016.
 - The development proposed is a 8.5MW PV solar farm and associated infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 an EIA screening opinion was issued by the Council. On the basis that the site is not in an environmentally sensitive area and the proposals would fall significantly below the indicative threshold identified in Planning Policy Guidance, it was concluded that the development would not comprise EIA development and an Environmental Statement was not required.

Main Issues

3. Accordingly, the main issues for the appeal are:
 - Whether the proposal would cause harm to the Green Belt;
 - Any other considerations that weigh in favour of the proposal; and
 - Whether those other considerations would amount to the very special circumstances necessary to clearly outweigh the harm to the Green Belt and any other harm.

Reasons

Policy

4. The development plan for the district is the *Solihull Local Plan 2013* (Local Plan). Policy P17 of the Local Plan states that the Council will not permit inappropriate development in the Green Belt, except in very special circumstances. Although renewable energy development is not referred to
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- directly in the policy, it seeks to support farm diversification provided it does not harm the Green Belt.
5. The *National Planning Policy Framework* (the Framework) identifies a fundamental aim of Green Belt policy being to prevent urban sprawl by keeping land permanently open. National and local policy establishes a presumption against inappropriate development which, by definition, is harmful to the Green Belt. Paragraph 87 of the Framework states that inappropriate development should only be approved if very special circumstances exist. Paragraph 88 goes on to state that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 91 of the Framework states that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable resources.
 6. Policy P17 also seeks to safeguard the “best and most versatile” (BMV) agricultural land in the Borough. Development affecting “best and most versatile land will be permitted only if there is an overriding need for the development and there is insufficient lower grade land available. Planning Practice Guidance (PPG) also advises that solar farm schemes should be focussed on previously developed sites and that where use of greenfield land is proposed, poorer quality land is used in preference to high quality land. Any proposal for a solar farm involving the best and most versatile agricultural land should be justified by the most compelling evidence. The Written Ministerial Statements of the 25 April 2013 and the 25 March 2015 reinforce this approach.
 7. Policy P9 states that the Council will take full account of national and local targets for reducing greenhouse gas emissions and increasing the generation of energy from renewable and low carbon sources. The Plan acknowledges that tackling climate change is a major challenge requiring local action. The Framework supports the transition to a low carbon future in a changing climate and encourages the use of renewable resources. It seeks to increase the use and supply of renewable and low carbon energy, by encouraging LPA’s to provide a positive strategy to promote energy from renewable and low carbon sources. It also states that when determining planning applications, applicants should not be required to demonstrate the need for renewable energy and that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. In this regard the Framework reflects the National Policy Statement for Renewable Energy Infrastructure which sets out the Government’s strategy for meeting the legally binding target of reducing UK emissions by at least 34% by 2020 and 80% by 2050, as well as achieving the UK’s obligation of 15% of energy consumption from renewable energy resources by 2020.
 8. Policy P10 requires developers to “protect, enhance and restore the landscape, unless it is demonstrated that it is not feasible, disproportionate or unnecessary”. The Framework also recognises the intrinsic character and beauty of the countryside as a core planning principle. The Planning Minister, Nick Boles in a House of Commons oral statement of 29 January 2014, stated “The policies in the National Planning Policy Framework are clear that there is no excuse for putting solar farms in the wrong places. solar farms should be approved only if the impact, including the impact on the landscape – the visual

and the cumulative impact – is or can be made acceptable. That is a very high test.”

9. Policy P10 requires applicants to conserve, enhance and restore biodiversity to create new native woodlands and other habitats and to protect, restore and enhance ancient woodland and green infrastructure assets. The PPG also advises that solar schemes should also be considered in the light of their potential to allow for continued agricultural use and to encourage biodiversity.
10. Policy P14 of the Solihull Local Plan (2013) seeks to “protect and enhance the amenity of existing and potential occupiers of houses, businesses and other uses”. The Framework also seeks to ensure new development which secures a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
11. Policy 16 of the Local Plan requires development to preserve or enhance heritage assets as appropriate to their significance, conserve local character and distinctiveness and create or sustain a sense of place. This is consistent with guidance in the Framework which advises local authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets.

The Nature and Benefits of the Proposal

12. The site is situated within the part of the West Midlands Green Belt known locally as the ‘Meriden Gap’. The land directly to the east of the site is built up and does not lie within Green Belt. The appeal relates to a solar photovoltaic park on 13.9ha of agricultural land. It would include around 34,000 solar panels, 4 inverter units, switchgear, below-ground cabling, 1.8m high perimeter security fencing and 4 pole-mounted CCTV cameras. Access would be achieved via an existing access track to the north of the site. The scheme would provide landscape mitigation measures aimed at assimilating the development into the landscape, including the planting of native hedgerow and habitat enhancements to grassland. Permission is sought for a temporary period of 25 years.
13. The solar farm could produce up to 8.5 MWh of electricity per year, which the appellant advises is equivalent to the average annual electricity consumption of around 2,575 typical homes per year. 3.5MWh is proposed to be owned by the community energy sector. It would also diversify the income from the holding and this would bring some benefits in terms of security of income for the farm enterprise and provide 1 Full Time Equivalent Job (FTE). Although the appellant also contends that a further 35 FTEs would be generated as a result of the proposal, this is based on wider research¹ and has not been substantiated. The proposal would assist in tackling climate change² and help meet national and local targets and ambitions for reducing greenhouse gas emissions. It would also add to the security of supply.

The Effect of the Proposal on the Green Belt

14. The parties agree that the proposal comprises inappropriate development within the Green Belt. The parties also agree that very special circumstances are required to justify such development. The individual panels would sit on

¹ <http://www.bre.co.uk.news/BRE-National-Solar-Centre-measures-job-growth-in-the-solar-sector-965.html>

² Including ‘in combination’ effects with other renewable and low carbon energy schemes.

tables in columns of 2 at around 2.6m above ground level, with space between each row and under each table. Vegetation would be able to grow beneath each panel and within the wildflower and grass areas around the 5 metre wide buffer around the perimeter of the site. The existing perimeter hedging would also be augmented. However, despite the proposed landscaping the panels would still be visible as large built structures in views from public footpaths M212, M209 and M213 which run along north, south and east of the site, in views from Broad Lane in the North and more distantly in glimpsed views from the Millennium Way to the west. In these views the panels and associated security fencing, would have a moderate but nonetheless harmful impact upon openness.

15. This encroachment into the countryside would be contrary to one of the stated purposes of the Green Belt in Paragraph 80, although the limited visibility of the development outside the site would have only a small adverse impact upon the wider character of the Green Belt in this location. These impacts would not be perceived over a large geographical area and would be for a temporary period. Nevertheless, the operational period for the development still represents a significant period of time. Accordingly, the harm identified, along with the harm by way of inappropriateness must carry substantial weight.

Other Considerations

The Effect on the Character and Appearance of the Area

16. The effect of the proposal on the local landscape was a concern raised by the majority of the Parish Council and some local residents. The Appeal Site is located within Natural England's National Character Area 97 - 'Arden'. The Warwickshire Landscapes Guidelines – Arden (1993) further defines the site as being within the Ancient Arden local character area. This identifies the site as lying within an area where the structure and character of the landscape are in decline, and where landscape and habitat restoration is a priority.
17. The site lies within a well-wooded and gently rolling farmland landscape. This features substantial areas of woodland cover, with some individual veteran trees, small ancient woodlands and former wood pasture evident within a diverse field pattern. Smaller well-hedged, irregular fields used for grazing contrast with larger semi regular fields some of which are in arable use. The site comprises open farmland which lies on the edge of the urban conurbation and is immediately adjoined to the east by recent residential development. It comprises most of a large arable field. The field is bounded to the north, south and east by a well established hedgerow which includes some hedgerow trees. To the west it is adjoined by the embankment of the adjoining composting site. It is accessed by an open track which runs from Broad Lane to the north. The site has an established agricultural appearance, which is only slightly diminished by the presence of overhead power lines, and its appearance contrasts sharply with the adjoining built up area.
18. The proposal includes landscaping measures aimed at mitigating the effects of the proposal. These include the conservation and enhancement of the existing hedgerows along the northern, eastern and southern boundary of the proposed development at a height of 2 – 2.5 metres, gapping up with the addition of hedgerow trees and the creation of new woodland at the south western corner of the site. In addition a new row of native hedgerow planting will be provided around 5 metres for the existing hedgerow boundary to the east and along part

of south of the site, aimed at screening the proposal from the public footpaths. A Landscape and Visual Assessment was submitted with the application which included an assessment of the Zone of Theoretical Visibility and specific assessments of the impact of the proposal from 11 viewpoints within 2km of the site.

19. In close range views of the site from the public footpath to the north (viewpoint 4), in views from the public footpath to the east (viewpoints 2 and 3) and from the entrance to the sports ground (viewpoint 1), it is likely that the proposed mitigation would screen parts of the site closest to the perimeter. However, due to the height of the panels and the topography of the site, which rises from south west to the north east, some views of the site would still be available, particularly looking back towards the north. In these views the panels, associated equipment and fencing would appear as manmade and intrusive features in the fieldscape which would detract from the rural character of the area. I also take into account that existing views of the wider countryside would be prohibited by the introduction of the new hedgerow intended to screen the site and this would alter the character of the countryside for users of the footpath. Together these factors would have a moderately harmful effect.
20. In views to the south of the site, from (viewpoint 10), and further afield from the south west (viewpoint 9) it is likely that existing field boundaries, along with the proposed planting will effectively screen the site from wider view. Although glimpsed views could potentially be had from gaps in the hedgerow, and the proposal would have an urbanising effect in these views, their limited availability would limit their harmful effect. From viewpoint 8 to the west, larger sections of the site would be visible in glimpsed views. This would also have a harmful effect on the rural character of the area but again, due to the limited availability of such views the effect would not be widespread.
21. In views from the north, at the site entrance (viewpoint 5) the proposal would not be effectively screened by the field boundary. The site sits on rising land across the small valley formed by the stream to the north. As a result a large extent of the site would be visible when travelling along Broad Lane. I note that the panels would be orientated away from the road, facing towards the south. Nevertheless, due to their height, and the extent to which they would cover the site, they would be seen as a manmade and urbanising feature in the landscape which would have an erosive and moderately harmful effect on its remaining rural character. Furthermore, although some of the planting enhancements would have a positive effect on the appearance of hedgerows, the proposed band of hedgerow to the eastern boundary, which would run parallel to the existing field boundary would not reflect the established pattern of field boundaries within the wider landscape, and this would be apparent in longer range views of the site, emphasising the incongruous and intrusive form of the proposal. This effect would also be evident to a lesser extent in longer range views (from viewpoint 7) when further afield would be entirely obscured by intervening field boundaries (viewpoint 11) and the greater prominence of other manmade features. The impact on the landscape in some midrange views would therefore be moderate and in longer range views would be very slight.
22. I have not been advised of any other solar proposals within the Zone of Theoretical Visibility which indicates that there would be no likely cumulative impact on the wider landscape. The proposed development is for a period of 25

years after which the panels would be dismantled and removed. Nevertheless, harm would occur to the rural landscape in some local and midrange views. This weighs against the proposal in the planning balance.

Living Conditions

23. The nearest residential occupiers are located to the east of the site within the adjoining residential housing estate. Taking into account the depth of rear gardens, the boundary fencing and hedging along the boundary with the site, and the proposed buffer zone and additional planting, the proposed panels would be located some distance from the nearest dwellings. The proposed inverters would be likely to generate some background noise. However, having regard to the likely separation distance from these units, I concur with the Council's Environmental Protection Officer who did not consider that noise from the proposal would detract from living conditions and had no objection to the proposal. It is also unlikely that glint or glare from the panels would cause a nuisance to residential occupiers, taking into account the separation distance to dwellings and the likely orientation of the panels. The effect on living conditions therefore carries neutral weight in the planning balance.

Heritage Assets

24. Residents have raised concerns in relation to the effect of the proposal on the setting of nearby listed buildings. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. A heritage desk based assessment has been submitted, relating to the impact of the proposal on all identified heritage assets within 1 km of the appeal site. There are no heritage assets within the appeal site itself.
25. The submitted heritage assessment identified 15 designated heritage assets within the Zone of Theoretical Visibility within a 1KM search area around the site. It concluded that due to the distance between the identified assets, and intervening vegetation and topography there was no clear visual link between the site and these assets. As a consequence I agree that the proposal would not impact on their significance, either individually or cumulatively. The Berkswell Conservation Area lies approximately 2 km to the west of the site. Taking into account its distance from the site and the intervening development I also agree that there would be no harm to the character of appearance of the Conservation Area. The site is also identified as having low archaeological potential and so I am satisfied that the proposal would be unlikely to impact upon significant archaeological assets.
26. Rough Close is an area of Ancient Woodland which lies around 500m to the south of the site. I note that the Council's conservation officer has expressed concerns regarding the impact of the proposal on views into and out of the woodland and upon the general historic landscape. Taking into account the topography of the surrounding area, the presence of established field boundaries and proposals for planting at the south west corner of the site, I am satisfied that the proposal would not be harmful to views out of the woodland. The proposal and the woodland would be visible in some shared long range views, from the north and east. However, these views are also likely to include other significant features in the landscape, including housing to the east, and would comprise only a very small proportion of the setting in which Rough

Close is appreciated. I am therefore satisfied that notwithstanding my concerns expressed above in relation to landscape character, the proposal would not harm the significance of the historic landscape.

27. I therefore conclude that the proposal would not give rise to harm to the significance of these heritage assets and find no conflict with guidance contained within the Framework in this respect. This is a neutral factor in the planning balance.

Agricultural Land

28. The Framework and Planning Policy Guidance seek to direct solar farms away from land classified as Best and Most Versatile (BVM) agricultural land which is considered to be land within Grades 1, 2, and 3a. The application is supported by an Agricultural Land Classification (ALC) Report which assesses the soil quality at the site. This indicates that due to soil wetness, the land that makes up the site is made up of mostly Grade 3b land, with parts where the slowly permeable layer is deeper found to be Grade 3a.
29. I note that the Council stated in its Committee Report that only 10% of the site was made up of Grade 3a land. However, the submitted ALC relates to a much larger parcel of land than the appeal site. Having regard to the indicative distribution of Grade 3a land shown in the ALC, it is likely that the proportion of higher quality agricultural land is higher within the appeal site than that across the whole site. I note that some grazing could potentially occur between the panels, and that the extent of Grade 3a land that would be lost would be relatively small and would be for a temporary period. Nevertheless, as the proposal would still lead to the loss of some higher grade land from agricultural use, I do not concur that the agricultural benefits of the scheme weigh in favour of the proposal, but rather that the proposal would lead to some limited harm in that regard which weighs against the proposal.

Biodiversity

30. The appeal site is identified as being of low ecological importance. The proposal includes mitigation measures which the appellant considers will enhance the biodiversity of the site. These include increased planting of native shrubs and trees in existing and new hedgerows and the addition of grassland buffers to be managed as a pollen and nectar wildflower margin that will include a species mix to benefit biodiversity in general. The development would also include a grassland link along the southern edge of the solar farm to improve the connectivity between the habitat areas and a previously isolated pond. These enhancements would bring some potential for enhancing habitats at the site which are commensurate with the size of the site and I therefore attribute some limited weight to them.

Grid Connection Availability and the Availability of other Sites

31. It has been put to me that the availability of a grid connection, and the lack of a less constrained site in the locality should be a matter which weighs in favour of the proposal. Based on the information within the submitted Assessment of Alternative Sites I see no reason to dispute that other sites in the locality may be subject to similar constraints. I also note that the Framework recognises that all communities have a responsibility to contribute to energy generation

from renewable or low carbon sources. However, this does not equate to a local target. Therefore, other than the substantial weight I have already attributed to the benefits of energy supply which I have explored above, I see no reason why this matter should be attributed additional weight in the planning balance.

Other Matters

32. I am advised that a proportion of the electricity generated could be owned by the community energy sector. I have also been advised that the scheme could achieve educational benefits. Although I note that such schemes can bring some economic and social benefits I have not been provided with any substantive details of how these aims are to be achieved or secured and so this diminishes the weight I can attribute to them. Local residents have raised concerns in relation to the effects of the proposal on the local road network, particularly during the construction phase of the proposal. The Council's highways officer has recommended that conditions be imposed to control the effects of the proposal on highway safety during the construction phase and I am satisfied that these would be sufficient to mitigate any significant harm in that regard.

The Planning Balance

33. In coming to a view I take into account the harm that would arise to the Green Belt by way of inappropriate development, and the harm that would occur to openness and to the purposes of including land in the Green Belt. The Framework directs that I must attribute substantial weight to Green Belt harm. I add to this the harmful impact upon visual amenity in local views from the public footpaths, and the harm to the wider landscape. The proposal would also lead to a small loss of best and most versatile agricultural land. This harm would be both temporary and reversible but would nonetheless occur for a significant period of time.
34. Against this collective harm I weigh the benefit the development would provide renewable energy, which would contribute up to 8.5 MWh of electricity per year towards national and local targets for reducing greenhouse gas emissions. The reduction in greenhouse emissions and the delivery of renewable energy infrastructure is identified in paragraph 93 the Framework as being central to the economic, social and environmental dimensions of sustainable development. Small-scale projects are also recognised as providing a valuable contribution to cutting greenhouse gas emissions and as a source of local employment. I therefore attribute significant weight to this benefit. I add to this the limited benefits from habitat creation, and to the rural economy.
35. The Framework directs that for the very special circumstances necessary to justify harm to the Green Belt will not exist unless that harm is clearly outweighed by other considerations. In this case, whilst I note that the wider environmental benefits associated with renewable energy production would be significant, even together with the other limited benefits of the scheme they would be insufficient to clearly outweigh both the substantial harm to the Green Belt and the harm to local views which I have identified in this case. The proposal is therefore contrary to Policy P17 of the adopted *Solihull Local Plan 2013*.

Conclusion

36. Accordingly, although the benefits of the scheme carry significant weight, they would not outweigh the harm identified and so the balance weighs against the development and very special circumstances do not exist in this case. I therefore conclude that the appeal should be dismissed.

Anne Jordan

INSPECTOR