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# Appeal Decision

Site visit made on 19 October 2016

**by Brendan Lyons BArch MA MRTPI IHBC**

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

**Decision date: 12 April 2017**

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**Appeal Ref: APP/W0340/W/16/3154590**

**Stud Farm, Sulhamstead Road, Sulhamstead Abbots, Sulhamstead,  
Berkshire RG7 4EE**

- 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 Mulbrick Clean Energy LLP against the decision of West Berkshire Council.
  - The application Ref 15/02148/COMIND, dated 14 August 2015, was refused by notice dated 24 March 2016.
  - The development proposed is the erection of a ground-mounted solar photovoltaic array and associated infrastructure.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of a ground-mounted solar photovoltaic array and associated infrastructure at Stud Farm, Sulhamstead Road, Sulhamstead Abbots, Sulhamstead, Berkshire RG7 4EE in accordance with the terms of the application Ref 15/02148/COMIND, dated 14 August 2015, subject to the conditions set out in the schedule annexed to this decision.

## Main Issues

2. The main issues in the appeal are the effects of the proposed solar array on the character of the area and its visual impacts on nearby residents and users of the local lanes.

## Reasons

3. The appeal site comprises two fields, with a combined area of some 11.15 hectares, currently used for grazing horses. The fields lie to the north and south of Stud Farm, which is a detached former farmhouse, and its adjoining outbuildings, which have been converted to business use. To the east, the site is bordered by a block of mature woodland known as Clayhill Copse. On the other three sides, the fields are enclosed by narrow rural roads, from which they are separated by hedges, with some mature trees. Since the appeal was submitted the trees bordering the southern field have been protected by a Tree Preservation Order. The large village of Burghfield Common lies immediately to the south, with other suburban-type development also to the east of Clayhill Copse.
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4. Permission is sought for the installation over most of the site of an array of some 17,820 photovoltaic ('PV') panels, intended to be in place for a period of 25 years to supply energy to the national grid. The panels would be mounted on frames laid out in rows running east-west, spaced some 5.36m apart, so that the panels, tilted at 25 degrees to the horizontal, would face south. The typical height of each frame would range from 0.79m to 2.58m. The space between the frames and beneath the panels would be seeded with grass to allow grazing by sheep. The arrays would be enclosed by a 2.0m high stock-proof wire fence. Power would be collected at four inverter stations, sited in pairs in the centre of each field, and serviced in each case by an access track from the existing field gate. There would also be a pair of small sub-station cabins located next to the northern field access, from which a connection would be made to an existing power line on the opposite side of the road. A temporary compound would be formed during the construction period at the south end of the northern field.

*Policy context*

5. The development plan includes the West Berkshire Core Strategy 2006-2026, adopted in July 2012, ('CS') together with saved policies of the West Berkshire District Local Plan 1991-2006.
6. The Council's reason for refusal does not refer to any CS policy specifically dealing with renewable energy. The committee report on the planning application explains that the CS envisages the provision of decentralised renewable and low carbon energy to be addressed in a future development plan document. However, the report acknowledges that the CS is generally supportive of low carbon energy measures in order to mitigate the effects of climate change and meet national targets. Extracts from the CS vision for the borough quoted by the appellants show a commitment to playing a full role in reducing carbon emissions through, among other measures, increased generation of renewable energy.
7. The CS policies relied upon by the Council in refusing the application relate to the effect of development on the character of the area. CS Policy CS 14 seeks high quality and sustainable design that respects and enhances the character and appearance of the area, and contributes positively to local distinctiveness. Area Delivery Plan Policy 6 ('ADPP 6'), which sets out the spatial strategy for the East Kennet Valley, including the appeal site, reiterates the need for a positive response to local context. Development in the open countryside is to be strictly controlled.
8. The Council's statement also refers to a number of other CS policies covering issues such as infrastructure requirements, the rural economy, transport, flooding, biodiversity, and green infrastructure, and to an adopted Supplementary Planning Document ('SPD') on design quality.
9. The CS policy approach is broadly consistent with the guidance of the National Planning Policy Framework ('NPPF'), whose core principles include the encouragement of renewable energy development as part of the transition to a low carbon future, while also promoting good design and recognition of the intrinsic character and beauty of the countryside. Achievement of radical reduction in greenhouse gas emissions and supporting the delivery of renewable and low carbon energy are seen as central to the three dimensions

of sustainable development<sup>1</sup>. The NPPF advises that local policy should seek to maximise renewable energy development, while ensuring that adverse impacts are addressed satisfactorily, including landscape and visual impacts<sup>2</sup>. Proposals should be approved where impacts are, or can be made, acceptable<sup>3</sup>.

10. Guidance on the application of national policy is provided by the Planning Practice Guidance ('PPG'), which reiterates the importance of an increased supply of renewable energy. While the PPG encourages focussing large scale solar farms on previously developed and non-agricultural land, it acknowledges the potential use of ground-mounted installations and advises that the visual impact within the landscape of a well-planned and well-screened solar farm can be properly addressed<sup>4</sup>.
11. The Council's committee report also refers to a range of Government energy policy instruments that broadly support the potential contribution of solar provision to meeting national commitments on renewable energy generation.

#### *Landscape character*

12. The Environmental Report submitted with the application included a Landscape and Visual Impact Assessment ('LVIA'), which was later supplemented by additional information in response to an appraisal on behalf of the Council by independent consultants. The LVIA defines a 5km study area around the appeal site and identifies a Zone of Theoretical Visibility ('ZTV'), not taking account of screening by buildings and landscape features. The additional material includes on outline of proposed mitigation measures, which would comprise the filling of gaps in the hedges around the southern field and the provision of a second native species hedgerow behind them, together with a belt of 'woodland edge' planting around the proposed deer fence.
13. Landscape characterisation studies show that the site falls within the Thames Basin Heaths National Character Area, and at a more local level within the Burghfield Woodland and Heathland Mosaic Landscape Character Type ('LCT') defined by the Berkshire Landscape Character Assessment ('LCA'), 2003. This is seen as an undulating landscape with a large-scale pattern of fields and woodland blocks, demonstrating a varied landcover mosaic in a deciduous woodland context, a varied field pattern, and winding rural and sunken lanes.
14. There are some large open fields in the vicinity of the appeal site, but the site itself and its immediate surroundings appear somewhat smaller and more irregular than the large-scale pattern of fields and formal geometric blocks of woodland described by the study. However, the area conforms well in other respects with the LCT description. There is clear sense of a landscape mosaic, with a varied field pattern and Clayhill Copse forming a strong element, reflecting its value as ancient woodland. Sulhamstead Road winds around the western and northern sides of the site, while Ash Lane has a sunken enclosed quality as it rises from the ford across Clayhill Brook that marks the edge of the built-up area. The mature deciduous trees along the roadside edges provide a strong feature. Despite the relative closeness of urban development, which can be seen to the south from within the appeal site, the site and its surroundings have a definite rural character.

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<sup>1</sup> NPPF paragraph 93

<sup>2</sup> NPPF paragraph 97

<sup>3</sup> NPPF paragraph 98

<sup>4</sup> PPG paragraph ID 5-013-20150327

15. The land to the east of Sulhamstead Road, comprising the appeal fields and Stud Farm, forms a relatively self-contained element, marked by a high degree of perimeter enclosure. The two appeal fields are more or less level, before sloping down to the east towards the brook, which runs just within the copse. Their rough pasture forms a modest component of the overall mosaic, but is not a prominent feature.
16. The area offers an attractive rural landscape, whose appreciation by local residents has been confirmed in representations by the two parish councils and others, but is not formally designated. The Council's consultants suggest that the LCA's recommended conservation-based strategy is an indicator of some landscape quality. But in my view, it would be fair to describe this as a landscape of medium value, and not one with a high sensitivity to change.
17. Overlaying the existing fields with the proposed extensive array of PV panels, would be a fundamental change that would introduce a man-made quasi-industrial character. But while the magnitude of change would be high on the site itself, the change to overall landscape character would be low, restricted by the site's lack of prominence and the proposal's limited scale, combined with the retention and enhancement of existing boundary features, including the protected trees. There would be little or no change to the key characteristics and features of the wider landscape.
18. I conclude that there would be a minor adverse effect on landscape character, but very limited in its extent.

#### *Visual impacts*

19. The ZTV plotted by the LVIA, which has not been disputed by the Council, suggests that the appeal proposal could potentially be visible in the north-eastern quadrant of the study area, but when landscape screening is taken into account such mid- to long-range views would be highly unlikely. The evidence of my visit to the site and surrounding area tended to confirm that the proposal's visual impact would be confined to the area in close proximity to the site. The LVIA provides photomontages from a number of close-range vantage points which provide some indication of the proposal's likely impact in these views.
20. As the site is not crossed by any rights of way, public views are confined to the surrounding lanes. Apart from one very narrow gap, which could readily be planted up, the northern field is surrounded by a dense high hedge. As a result the only impression of the development gained by most passers-by would be through the field's entrance gate<sup>5</sup>, where the fence and the backs of rows of panels would be seen, as well as the adjoining sub-stations. For those passing in cars, the effect would be fleeting at worst. The users specifically referred to in the reason for refusal, including pedestrians, cyclists and horse riders, would be more sensitive to change, but the adverse effect on their enjoyment of the route would still be moderate/minor, as assessed by the LVIA.
21. The southern field is less effectively screened other than along Ash Lane, where only glimpses of the field are possible through the thinner hedge under the trees, and above the hedge near the ford. The likely restricted views of the dark-coloured panels would have limited impact on users of the lane, and

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<sup>5</sup> LVIA viewpoint VP1

- should very soon be filtered out by the proposed additional planting within the site. There would be a minor adverse impact, which would reduce over time.
22. The most open view of the site is obtained from near the junction of Ash Lane and Sulhamstead Road<sup>6</sup>, where a relatively broad expanse of the southern field is visible through the field gate and over the low hedge. The hedge remains low for the most part further north along the road<sup>7</sup>, with views across the field to Clayhill Copse. Those travelling along the road would have a clear impression of the ranks of panels, which would form an incongruous feature in the rural context. In my judgement, the LVIA underestimates the impact, which would be major/moderate for a number of years after the development was installed. However, as accepted by the Council's independent assessor, the additional planting should ultimately succeed in mitigating the most adverse effects. In the medium-long term, the impact would be moderate at worst.
23. The reason for refusal also cites adverse effects on residents of the three dwellings that face the southern end of the site across Sulhamstead Road. I was able to get some appreciation of these effects under autumnal conditions on my visit to the site. At Rose Cottage, I noted that there were some views over the southern field from parts of the front garden, but that the house's main windows were at an oblique angle to the view. New Cottage and Stud Farm Cottage are set back from the road, and the latter has planting along its front boundary that effectively screens most of the site. New Cottage has a view of the site between trees from its main kitchen/dining room and its conservatory, which appears to be in use as a utility space. Both houses have clear views over much of the site from their bedroom windows. The addition of the proposed development would adversely affect outlook from the houses, but the lower level views should be at least partly screened by the proposed additional planting. Each house would also have the potential to increase screen planting on its own plot. These measures would not completely mitigate the effect on upper floor views, but these are not the principal habitable rooms, and the main component of outlook would continue to be the private gardens. The adverse visual impact on residents would be minor/moderate at worst, but the effect on overall living conditions at the houses would not be significantly harmful.
24. I was also able to inspect the exterior of two other dwellings, about which concern has been raised by residents. Chapel House, to the west, is separated from the site by a small field. It appeared to me that any view of the site from ground floor windows would be well mitigated, but that there could be some adverse effect on views from attic level rooflights. Because of the filtering of views and greater distance, the effect on residents would be less than in the houses above. Moogole House adjoins the ford on Ash Lane and has a diagonal view towards the site, already filtered by intervening vegetation. The additional planting would provide mitigation of adverse impact, which would be minor.
25. Glimpses of the estate to the east were possible from within the northern field. I accept that residents of these houses might experience more open views of the proposed array under bare winter conditions, but the effect on their outlook would not be significantly harmful.

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<sup>6</sup> LVIA viewpoint VP5

<sup>7</sup> LVIA viewpoints VP3, VP4

### *Conclusion on character and visual impacts*

26. I conclude that, apart from an inevitable significant effect on the character of the site itself, the effect on the character of the local landscape would be very minor. Visual impacts would for the most part be restricted to a single section of the site's perimeter, where proposed planting should be effective in mitigating most adverse effects. After an initial period, visual impacts would be generally minor. There would be a modest degree of conflict with the character and appearance and local distinctiveness objectives of CS Policies CS 14 and ADPP 6.

### *Other matters*

27. A number of other concerns have been raised by interested parties, but have not been supported in the Council's refusal of the application. I have found no conclusive evidence to cause me to disagree with the Council's assessment.
28. The appeal site is currently used for grazing horses but interested parties have noted that the land has been agriculturally productive under previous management. The Council does not dispute the appellants' case for the use of greenfield land, noting that the development plan does not offer any policy criteria for the location of renewable energy installations. As outlined above, national guidance does not rule out the use of greenfield land. The proposal is supported by an analysis of site selection constraints within economic distance of the available grid connection, and by an Agricultural Land Classification survey, which shows that the site comprises poorer quality Grade 3b land, whose use would be consistent with national policy. However, a contribution to agricultural output would continue by allowing some grazing in and around the proposed array.
29. Highway impacts would be confined to a very brief construction period and could be controlled by the approval of a construction management plan that would specify routes and timings of deliveries. The site lies within a Biodiversity Improvement Area and Clayhill Copse is designated as a local wildlife site, but no objection is raised by the Council's ecologist or Natural England subject to the approval of an ecological enhancement and management plan. The perimeter fence would allow the passage of small mammals. The appeal proposal would not affect the status of Clayhill Copse as ancient woodland and a priority deciduous woodland habitat.
30. The proposal is supported by a Flood Risk Assessment which shows that the risk of flooding and contamination of Clayhill Brook would be satisfactorily addressed. The assessments of potential effects on neighbours and passers-by through glint/glare and noise have also been favourably endorsed by the Council's specialists.
31. Subject where necessary to suitable control measures, which can be secured by planning conditions, the proposal's impacts in all of these respects would be acceptable.

### *Balance of considerations*

32. The proposed installation would have an installed capacity of approximately 5MW. The appellants calculate that it would be capable of exporting up to 5MWh of power annually, which is said to equate to the energy consumption of 1000 average households. Although these figures have been queried by a

number of objectors to the scheme, taking into account inverter capacity and less than optimum efficiency of transmission of the energy generated, there is little doubt that the output from the site would be capable of matching the consumption of a very considerable number of homes. Thus, although the proposal would not be large in solar farm terms, this is a very significant benefit entirely in accordance with national policy objectives. As outlined above, the NPPF advises that planning for reduction in greenhouse gas emissions and the delivery of renewable and low carbon energy is central to the economic, social and environmental dimensions of sustainable development. I give substantial weight to the proposal's renewable energy benefits.

33. There would also be modest economic and social benefits from the employment generated by the construction and management of the installation. Although the appellants refer to a contribution to farm diversification, that does not appear to be relevant in this instance.
34. Set against the benefits would be the change to the landscape character of the site itself and the minor effect on the character of the wider landscape and the generally minor/moderate visual impacts, which would be greatly mitigated by proposed planting.
35. On balance, I consider that the benefits would significantly outweigh the harm, and that the effect on landscape character and visual impact would be acceptable, so that the proposal would comply with national policy guidance. The low degree of conflict with Policies CS 14 and ADPP 6 would be outweighed. The proposal would produce net benefits across each of the three dimensions of sustainable development.

### **Conditions**

36. The appellants do not contest the conditions proposed by the Council, all of which I agree would be reasonable and necessary, subject to some amendment to eliminate duplication and improve precision.
37. In addition to the standard condition on commencement time, further conditions are necessary to define the permitted development by specifying the approved plans and materials, and the height of the panels relative to the unaltered ground levels. As the permission is sought for a fixed period, a condition is needed to specify the time limit for the proposed period of operation and the decommissioning of the site at the end of that period or in the event of the installation earlier falling out of use, in order to limit the development's permanent impact on the landscape. This would accord with the guidance of the PPG.
38. The approval and implementation of the proposed planting and tree protection measures are necessary for the protection and enhancement of the landscape character of the site, while a condition to secure the implementation of ecological mitigation is necessary in the interests of nature conservation and biodiversity. Archaeological investigation is needed to protect the site's potential heritage value. As outlined above, an additional condition is needed to secure the approval and implementation of a strategy for surface water disposal in order to minimise the risk of flooding and contamination.

39. A number of conditions are required to ensure the safe construction of the development, including the approval of a Construction Method Statement, secure storage on site, formation of site access points, and disposal of spoil. Control of hours of work is needed to protect residents' living conditions. The safe operation of the completed development requires approval of permanent access arrangements and the details of the proposed infra-red security system. In order to protect the character of the area during operation, the erection of external lighting and further fencing needs to be controlled.

**Conclusion**

40. For the reasons set out above, and having taken careful account of the representations made, I conclude that the appeal should be allowed and planning permission granted subject to conditions.

*Brendan Lyons*

INSPECTOR

**Appeal Ref: APP/W0340/W/16/3154590**

**Stud Farm, Sulhamstead Road, Sulhamstead Abbots, Sulhamstead,  
Berkshire RG7 4EE**

**Schedule of Conditions Nos.1-22**

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: PV-0224-01 Rev 9; PV-0224-02 Rev 5; PV-224-03 Rev 7; PV-0224-04 Rev 7 Access Plan & PV Elevations; PV-0224-04 Rev 1 Inverter Station Sections; PV-0224-06 Rev 1; PV-0224-07 Rev 1; PV-0224-08 Rev 1; PV-0224-09 Rev 3; PV-0224-10 Rev 3; 1825-L01 Rev B.
3. There shall be no alteration of existing ground levels.
4. No solar PV equipment shall exceed a height of 2.58 metres from the adjacent ground level.
5. The materials to be used in the development hereby permitted shall be as specified on the plans and the application forms.
6. No electricity shall be generated by the development hereby permitted until 14 days' notice has been submitted to the Local Planning Authority in writing. The development hereby permitted shall be removed in its entirety and the land restored to its former condition within 25 years and 6 months of the date that electricity was first generated by the development, or within 6 months of the development failing to generate electricity for 12 consecutive months, whichever occurs first. The operational development to be removed shall include, but shall not be limited to: photovoltaic modules, supports, inverter/transformer stations, sub-stations, internal access tracks, security fencing, security measures, access gates, all cables and cable trenches. The land shall be restored to its former condition in accordance with a scheme of decommissioning work and land restoration that shall have first been submitted to and approved in writing by the Local Planning Authority.
7. No development or other operations shall commence until a detailed scheme of landscaping for the site is submitted to and approved in writing by the Local Planning Authority. The details shall include schedules of plants noting species, plant sizes and proposed numbers/densities, an implementation programme and details of written specifications including cultivation and other operations involving tree, shrub and grass establishment. The scheme shall ensure completion of the approved landscaping within the first planting season following completion of the development. Any trees shrubs or plants that die or become seriously damaged or diseased within five years of completion of the development shall be replaced in the following year by plants of the same size and species.

8. No development or other operations shall commence until a scheme for the protection of trees to be retained has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the location of protective fencing, and shall specify the type of protective fencing, all in accordance with BS 5837:2012. The approved fencing shall be erected prior to any development works taking place, and shall be maintained and retained for the full duration of works or until such time as approved in writing by the Local Planning Authority. No activities or storage of materials whatsoever shall take place within the protected areas without the prior written approval of the Local Planning Authority.
9. No development or other operations shall commence until a detailed Landscape and Ecological Enhancement/Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include detailed habitat creation and management prescriptions (including costings) for the life of the solar array. The approved Plan shall be implemented in full.
10. No development shall commence until a programme of archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved programme.
11. No development shall commence until a Surface Water Management Plan in accordance with the recommendations of the Flood Risk Assessment dated October 2015 has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken and maintained thereafter in accordance with the approved Plan.
12. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The Statement shall provide for:
  - a. The parking of vehicles of site operatives and visitors;
  - b. The haul route;
  - c. Method of control for accessing and egressing HGVs to mitigate against HGVs passing on Sulhamstead Road;
  - d. Loading and unloading of plant and materials;
  - e. Storage of plant and materials used in constructing the development;
  - f. The erection and maintenance of security hoarding;
  - g. Wheel washing facilities;
  - h. Measures to control the emission of dust and dirt during construction;
  - i. A scheme for recycling/disposing of waste resulting from demolition and construction works.
13. No solar photovoltaic panels, mounts, plant or other associated equipment shall be delivered to the site until the temporary constructors' compound and parking arrangements have been provided in accordance with the approved details.
14. No solar photovoltaic panels, mounts, plant or other associated equipment shall be delivered to the site until either the approved security fencing or temporary construction fencing approved as part of the Construction Method

Statement has been provided. No works shall take place outside the fenced areas except for those necessary to connect the development to the national grid and for landscaping purposes.

15. No development shall commence until details of the surfacing arrangements for the vehicular accesses to the highway have been submitted to and approved in writing by the Local Planning Authority. The details shall ensure that bonded material is used across the entire width of the accesses for a distance of 5 metres measured back from the carriageway edge. The transportation of solar photovoltaic panels and associated equipment shall not commence until the surfacing arrangements have been constructed in accordance with the approved details.
16. Any gates to be provided at accesses where vehicles will enter or leave the site, shall open away from the adjoining highway and be set back a distance of at least 10 metres from the edge of the carriageway.
17. No development shall commence until details of any temporary construction access into the site have been submitted to and approved in writing by the Local Planning Authority. The temporary construction vehicular access and associated engineering operations shall be constructed in accordance with the approved details.
18. No development shall commence until full details of how spoil arising from the development will be used and/or disposed of have been submitted to and approved in writing by the Local Planning Authority. These details shall:
  - a. Show where any spoil to remain on the site will be deposited;
  - b. Show the resultant ground levels for spoil deposited on the site (compared to existing ground levels);
  - c. Include measures for any removal of spoil from the site;
  - d. Include a timescale for any spoil removal and associated works.All spoil arising from the development shall be used and/or disposed of in accordance with the approved details.
19. No demolition or construction works shall take place outside the following hours:
  - 7:30am to 6:00pm Mondays to Fridays;
  - 8:30am to 1:00pm Saturdays;
  - or at any time on Sundays or Bank Holidays.
20. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), no external lighting shall be installed within the application site during the construction, operational and decommissioning phases of the development unless details have first been submitted to and approved in writing by the Local Planning Authority. Any external lighting shall be installed in accordance with the approved details.
21. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), no gates, fences, walls or other means of enclosure (other than those expressly authorised by this permission) shall be erected within the application site.

22. The development shall not be operated until details of the infra-red security system have been submitted to and approved in writing by the Local Planning Authority. These details shall include plans to show the location of the proposed units and written specifications of the proposed security system operation.

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