
Appeal Decision

Site visit made on 12 September 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 April 2017

Appeal Ref: APP/X1545/W/16/3150701

Corporation Farm, Hackmans Lane, Purleigh Chelmsford CM3 6RH

- 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 Lightsource SPV 47 Ltd against the decision of Maldon District Council.
 - The application Ref FUL/MAL/15/00779, dated 22 July 2015, was refused by notice dated 30 November 2015.
 - The development proposed is the installation and operation of a solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, access tracks, fencing, pole-mounted CCTV cameras.
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Decision

1. The appeal is allowed and planning permission is granted for the installation and operation of a solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, access tracks, fencing, pole-mounted CCTV cameras at Corporation Farm, Hackmans Lane, Purleigh Chelmsford CM3 6RH in accordance with the terms of the application, Ref FUL/MAL/15/00779, dated 22 July 2015 and the plans submitted with it, subject to the conditions in Annex A.

Main Issue

2. The main issue is the effect on the setting of the listed buildings and conservation area at Stow Maries aerodrome.

Reasons

3. The development plan includes the Maldon District Replacement Local Plan [LP]. Also relevant is the Maldon District Submitted Local Development Plan, which is at an advanced stage and to which I attach considerable weight. The thrust of these policies is similar to those in the LP. LP Policy S2 aims to protect the countryside outside of defined development boundaries for its own sake. LP Policy CC6 aims to protect the natural beauty and traditional quality of the district's landscape. I have taken into consideration that the development plan policy refers to protection of the countryside for its own sake, whereas the National Planning Policy Framework [the Framework] now only requires recognition of the intrinsic character and beauty of the countryside. Also Policy PU6 permits proposals for renewable energy facilities provided they would not have a significant visual impact on the appearance of the surrounding area

including countryside and local landscape and not impact on historical and conservation significance.

4. LP Policy BE1 seeks to ensure development is compatible with its surroundings. LP Policy BE13 relates to conservation areas and requires design of a high standard, protecting important views within, into and out of the area and trees and other landscape features contributing to character and appearance are to be protected. LP Policy BE15 seeks to protect the setting of listed buildings. LP
5. The Stow Maries aerodrome is the largest known surviving group of Royal Flying Corp [RFC] buildings from WWI, being abandoned in 1918 and not adapted for further military use later. The individual building types are rare survivors; only two other RFC Officers' Messes are listed and there are no designated examples of some of the other building types which remain, including the Pilots' Ready Room, Aircrew Mess, Reception Building and Squadron Headquarters.
6. The continued presence of a wide range of technical and domestic or 'regimental' buildings largely in their original form conveys architectural interest and the buildings display good craftsmanship in their construction; the roof structures, for example, are complex in their arrangement and well-made and some retain many original fixtures and fittings.
7. With the exception of some of the Women's Hostels, the hangars and the temporary buildings which have been demolished, this group of technical and regimental buildings is a complete example of a 1914-1918 RFC aerodrome with the associated infrastructure, parade ground and flying field and was part of the defence of London against airships and bombers. The aerodrome is in active use with events, including displays and fly-ins, which are an important element of understanding the significance and role of the aerodrome.
8. An important aspect of the aerodrome is its location in the countryside, which is relatively flat, with gentle undulations. The country is mainly in agricultural use but with some areas of trees. There are also villages and farmsteads dotted around the country. There are a number of public rights of way passing the appeal site and the aerodrome. The significance and importance of the conservation area relates to the aerodrome and its location in the country.
9. The solar panels, with their industrial appearance and large scale, would be an alien feature in the countryside and would not protect the country's natural beauty, traditional quality or be compatible with the surroundings and this would have some conflict with LP Policies S2, CC6 and BE1. However, the panels have been well located in a dip in the landscape and generally with a good screening of vegetation at the perimeter. In terms of its impact when viewed from the ground it would not have a significant visual impact and in this respect would accord with LP policy PU6.
10. The panels would be a good distance from the aerodrome and with the intervening vegetation and farm buildings would not be visible or have any impact upon the setting of the listed buildings or on the conservation area when viewed from the ground. The setting when considered from the air is the surrounding countryside seen on approach to and leaving from the runway, and would be a wide 360 degree vista, viewing a very large area of country. Even at relatively low heights the appeal site would be a small aspect of that countryside, seen by a relatively limited number of people.

11. There would be no impact on the significance of the listed buildings in terms of their layout within the airfield and the rarity of their survival. Its location and setting would remain that of countryside; the provision of the panels would have very limited impact in terms of the overall countryside surrounding the aerodrome as a whole. It seems to me that there can be no expectation that there will be no changes to a vast area of countryside that would be visible from the air in the vicinity of the airfield.
12. Historic England has commented on the application. Initially it considered the impact would be modest and probably no more than minor. It noted a lack of information, particularly an aerial photograph that would include the appeal site. Following viewing of an aerial photograph, that still did not include the appeal site, it concluded that it was probable that the proposed development would cause some harm to the setting and significance of the Stow Maries airfield, but that was still without the information necessary to assess the degree of harm with confidence.
13. For the appeal, aerial photographs have been provided that show the solar panels as seen from the airfield. To my mind, these photographs, while showing that the panels would be visible, also indicate that because of the distance, the visual impact of the panels would be limited and would be a small part of the wide countryside setting; the overall impact would be limited. I therefore consider that with this extra information the Historic England initial assessment of modest impact with no more than minor harm is reasonable.
14. The Framework requires great weight to be given to the conservation of designated heritage assets, which includes conservation areas and listed buildings. It draws a distinction between 'substantial harm' and 'less than substantial harm' to such an asset. I consider that the harm here would be 'less than substantial harm' as defined by the Framework where the test is that the harm should be weighed against public benefits including securing the optimum viable use.
15. In enacting section 66(1), Parliament intended that the desirability of preserving the setting of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but that it should be given 'considerable importance and weight' when the decision-maker carries out the balancing exercise. Even where 'less than substantial' harm is identified, Section 66(1) requires considerable importance and weight to be given to the desirability of preserving the setting of a listed building when carrying out the balancing exercise.
16. I conclude that there would be some harm to the countryside and 'less than substantial' harm to the setting of the listed building and conservation area at Stow Maries aerodrome and it would conflict with LP Policies BE13 and BE15.

Planning Balance

17. Government policy promotes the provision of renewable energy schemes and this is set out in the Framework. This requires planning authorities to increase the use and supply of renewable and low carbon energy schemes, whilst ensuring that other adverse impacts are addressed satisfactorily. I attach great weight to the provision of renewable and low carbon energy, which is a substantial public benefit. I acknowledge that there would be some harm to the countryside and to the setting of the listed building and conservation area.

However, the harm is modest and minor and whilst attaching great weight to impact on these assets, I conclude that the public benefit of the provision of renewable energy out weighs that harm. Overall the proposal would have a significant social role in provision of renewable energy, would generate some economic benefits particularly during construction and overall, while accepting that there would be environmental harm, would on balance be sustainable development. While the proposal would not fully accord with the development plan policy as a whole, I find that the benefits form a considerable material consideration that warrant a decision other than in accordance with the development plan.

Graham Dudley

Inspector

Annex A

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended).

- (2) The development hereby permitted shall be carried out completely in accordance with the approved drawings.

Reason: To ensure that the development is carried out in accordance with the details as approved.

- (3) The date when electricity from the development is first exported to the local electricity grid network, hereafter known as the "Operational Date", shall be notified in writing to the Local Planning Authority within 28 days after its occurrence.

Reason: To establish the commencement date for the 30 year operational life of the solar farm.

- (4) This permission shall expire no later than 30 years from the Operational Date. Within 12 months of the expiration of this permission, all elements of the development shall be removed and the land restored in accordance with the requirements of condition 8.

Reason: For the avoidance of doubt and to establish the duration of the planning permission and in the interests of the visual appearance of the landscape once the plant is redundant in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, and the provisions and guidance of the National Planning Policy Framework and policy D1 of the Maldon District Submission Local Development Plan.

- (5) If, as a result of events or conditions within its control, the solar farm hereby permitted fails for a continuous period of 6 months to produce electricity for supply to the local electricity grid network, then, unless otherwise agreed in writing by the Local Planning Authority, 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 three months of the end of the cessation period. The scheme shall include details for the restoration of the site. The scheme shall be implemented within 12 months of the date of its approval by the Local Planning Authority.

Reason: To ensure the removal of redundant equipment in the interests of amenity and protection of the local environment in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, and the provisions and guidance of the National Planning Policy Framework and policy D1 of the Maldon District Submission Local Development Plan.

- (6) The overall finished height of the installed solar panel structures hereby approved shall not exceed 2.5 metres above ground level.

Reason: To ensure that the development is carried out in accordance with the details as approved and to minimize the impact upon the landscape in accordance with policy BE1 of the adopted Maldon District Replacement

Local Plan, and the provisions and guidance of the National Planning Policy Framework and policy D1 of the Maldon District Submission Local Development Plan.

- (7) No development shall take place, including any ground works or demolition, until a Construction Management Plan, including full details of the location of the construction compound, has been submitted to and approved in writing by the Local Planning Authority. The approved Management Plan shall be adhered to throughout the construction period. The Management Plan shall provide for the following:
- a. safe access into the site
 - b. the parking of vehicles of site operatives and visitors
 - c. loading and unloading of plant and materials
 - d. storage of plant and materials used in constructing the development
 - e. wheel and underbody washing facilities

Reason: To ensure that the development is constructed in an acceptable manner in the interests of highway safety in accordance with policy T2 of the adopted Maldon District Replacement Local Plan, and the provisions and guidance of the National Planning Policy Framework.

- (8) No later than 12 months prior to the end of this permission, a site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of works to remove the solar panels and related equipment, and shall be fully implemented within 12 months of the expiry of this permission.

Reason: To ensure the development is decommissioned in an acceptable manner in the interests of highway safety, nature conservation interests and visual amenity in accordance with policies CC6, BE1 and PU6 of the adopted Maldon District Replacement Local Plan, and the provisions and guidance of the National Planning Policy Framework and policy D1 of the Maldon District Submission Local Development Plan.

- (9) No development, including any site clearance or groundworks, of any kind shall take place within the site until the applicant or their agents, the owner of the site or successors in title, has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the Local Planning Authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.

Reason: To protect the site which is of archaeological interest in accordance with policy BE17 of the adopted Maldon District Replacement Local Plan, the provisions and guidance of the National Planning Policy Framework and policy D3 of the Maldon District Submission Local Development Plan.

- (10) No external form of illumination of the site shall be undertaken without the prior written approval of the local planning authority

Reason: To minimise light pollution in this rural location and in the interests of biodiversity and ecology in accordance with policies CON5, BE1 and CC5 of

the adopted Maldon District Replacement Local Plan, the provisions and guidance of the National Planning Policy Framework and policies D1, D2 and N2 of the Maldon District Submission Local Development Plan.

- (11) The development shall be carried out and completed in accordance with the submitted Preliminary Ecological Appraisal and Biodiversity Management Plan received 23rd July 2015 accompanying the planning application.

Reason: To ensure the conservation interests identified in the report are satisfactorily protected in accordance with policies CC1, CC2, CC3 and CC5 of the adopted Maldon District Replacement Local Plan, the provisions and guidance of the National Planning Policy Framework and policy N2 of the Maldon District Submission Local Development Plan.

- (12) No development, including any site clearance or groundworks of any kind, shall take place within the site until details of the external treatments of all inverters, transformers, substations, and the communications building and composting toilet have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the agreed details.

Reason: To ensure the external appearance of the development is appropriate to the rural locality in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, the provisions and guidance of the National Planning Policy Framework and policy D1 of the Maldon District Submission Local Development Plan.

(13) Notwithstanding the details submitted with the application, no boundary treatment shall be installed until details of the exact height, design, colour and materials of the treatment of all boundaries including gates and fencing have been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be designed with appropriate measures to allow for wildlife corridors through the site as recommended in the Biodiversity Management Plan. The development shall be carried out in accordance with the agreed details.

Reason: In the interests of the visual amenity of the area in this rural location and in the interest of minimizing disruption to biodiversity in the area in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, the provisions and guidance of the National Planning Policy Framework and policy D1 of the Maldon District Submission Local Development Plan.

(14) The public's rights and ease of passage over Public Bridleway no.8 and Public Footpath no. 11 (Purleigh) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive rights of way in accordance with policy T2 of the adopted Maldon District Replacement Local Plan, and the provisions and guidance of the National Planning Policy Framework and policy T2 of the Maldon District Submission Local Development Plan.

- (15) The Rating Level LArTr (to include an agreed tonal characteristic penalty) of the noise emanating from the approved scheme, shall be at least equal to or below the measured background noise level at any time at the curtilage of any noise sensitive premises (not including those occupied by a person with a financial interest in the development) lawfully existing at the time of consent. The rating level (LArTr) and the background noise level (LA90) shall be determined in accordance with the guidance and methodology set out in BS4142:2014.

Reason: In order to ensure the appropriate use of the site and to protect the amenities of neighbouring residents in accordance with policies PU6 and BE1 of the adopted Maldon District Replacement Local Plan, and the provisions and guidance of the National Planning Policy Framework and policy D4 of the Maldon District Submission Local Development Plan.

- (16) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment received on the 23rd July 2015 accompanying the planning application. The mitigation measures shall be fully implemented in accordance with the timing/phasing arrangements detailed within the Flood Risk Assessment unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to ensure the effective operation of the SuDS features over the life time of the development in accordance with the provisions and guidance of the National Planning Policy Framework and policy D5 of the Maldon District Submission Local Development Plan.

- (17) No development including any site clearance or groundworks of any kind shall take place within the site until a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the agreed scheme.

Reason: To prevent the risk of flooding during construction of the development in accordance with the provisions and guidance of the National Planning Policy Framework and policy D5 of the Maldon District Submission Local Development Plan.

- (18) No development, including any site clearance or groundworks of any kind, shall take place within the site until a soil management plan has been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the agreed plan.

Reason: To prevent the risk of flooding and to ensure that soil is kept in good condition during the development's lifetime and during decommissioning in accordance with the provisions and guidance of the National Planning Policy Framework and policy D5 of the Maldon District Submission Local Development Plan.

- (19) The development hereby permitted shall be carried out in accordance with the submitted Arboricultural survey, impact assessment and tree protection plan received on the 23rd July 2015 and Arboricultural

method statement submitted on the 13th October 2015, accompanying the planning application.

Reason: In order to ensure the retention of existing mature trees and hedgerows in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, and the provisions and guidance of the National Planning Policy Framework and policy D1 of the Maldon District Submission Local Development Plan.

(20) Except as detailed within the submitted Arboricultural survey, impact assessment and tree protection plan received on the 23rd July 2015 and Arboricultural method statement submitted on the 13th October 2015, no hedges or trees within the site shall be removed, cut back in any way or damaged, unless otherwise first agreed in writing with the local planning authority. If within five years from the completion of the development a retained shrub, hedge or tree is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, a replacement shrub or hedge shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the Local Planning Authority.

Reason: In order to ensure the retention of existing mature trees and hedgerows in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, and the provisions and guidance of the National Planning Policy Framework and policy D1 of the Maldon District Submission Local Development Plan.

(21) The proposed soft landscaping, including the new native hedgerow along Hackmans Lane, as shown on plan reference L.0357_10-B shall be carried out within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

Reason: To secure appropriate landscaping of the site in the interests of visual amenity in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan, and the provisions and guidance of the National Planning Policy Framework and policy D1 of the Maldon District Submission Local Development Plan