
Appeal Decision

Site visit made on 25 April 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/N1730/W/17/3167123

Little Holt, Holt Lane, Hook RG27 9ER

- 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 James McKellar, Grid Battery Storage Limited against the decision of Hart District Council.
 - The application Ref 16/01789/FUL, dated 8 July 2016, was refused by notice dated 11 November 2016.
 - The development proposed is the erection of storage containers, support infrastructure and security fence for Battery Energy Storage facility.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of storage containers, support infrastructure and security fence for Battery Energy Storage facility at Little Holt, Holt Lane, Hook RG27 9ER in accordance with the terms of the application, Ref 16/01789/FUL, dated 8 July 2016, and the plans submitted with it, subject to the conditions on the attached schedule.

Main Issues

2. The main issues are:
 - whether the location of the proposed development would conflict with the Development Plan and the National Planning Policy Framework (the Framework) regarding development in the countryside and whether any conflict is outweighed by material considerations; and,
 - the effect of the proposed development on the immediate and wider landscape.

Reasons

The location of the proposed development

3. Saved Policy RUR2 of the Hart District Local Plan (Replacement) 1996-2006 and First Alterations (LP), says that development in the open countryside will not be permitted unless it is specifically provided for by other policies in the LP and provided that it does not have a significant detrimental effect on the character and setting of the countryside. While the supporting text to the Policy explains that the Council's aim is to protect the countryside for its own sake, its limitation of development which may be permitted is more prescriptive than the provisions in the Framework it predates, which limits the amount of weight I can accord it.
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4. While LP Policy GEN 10, which concerns renewable energy, says that the development of renewable energy schemes will be permitted provided that, amongst other things the impact on the immediate and wider landscape is not significantly detrimental, the proposal is not specifically covered by the Policy. It is therefore of limited relevance.
5. There is a dispute between the parties as to whether the land the subject of the appeal, which lies beyond the settlement boundary of Hook and in the countryside, is previously developed land. While I note the separation of titles to the lands and the appellant's description of the appeal site as a domestic vegetable garden, my impression of the appeal site is that it is more connected physically, visually and in terms of use with the open land to the north, south and east than it is with the land to the west, the back garden of Little Holt.
6. Whereas the back garden of Little Holt, which contains shrubs and a mowed lawn, is enclosed by planted boundaries, the appeal site is largely open and almost surrounded by countryside with an open, exposed character put to agricultural or equine use. The boundary between the back garden of Little Holt and the appeal site is bisected by a line of mature trees and shrubs. This planting continues north on the same line separating the enclosed garden of Holt Farm from the open fields. This reinforces the distinction between farm land and garden land.
7. I saw at my site visit that there is a gate providing access from the back garden of Little Holt into the appeal site. I also noted that part of the ground on the site had a mowed surface, and that it is not unusual for domestic gardens to be separated to include a vegetable patch behind a section put to leisure use, which the site appears to have included in the past.
8. However, the area of the appeal site, comparable in terms of area to the back garden of Little Holt, is far from ancillary in nature. It appears to have a closer visual association to the building and yard to the south-east described as a stable building, whose access to the track connecting Holt Lane to the appeal site it shares. Its character is closer to that of an agricultural small-holding than it is to a back garden.
9. I note that the Design and Access Statement describes the site as not forming part of any larger field or apparent unit and is currently vacant with no specific use. Given all these factors, the lack of enclosure between the site and the adjoining farmland, and the substantial separation between the site and the back garden of Little Holt, on the evidence before me, I conclude that the site is not previously developed land. Accordingly, the Framework's support for decisions which encourage the effective use of land by re-using land that has been previously developed, provided that it is not of high environmental value, is limited in the circumstances of this site.
10. Notwithstanding this conclusion, the appellant describes how in order to maintain the stability of the national grid, electrical storage is required to complement the fluctuations resulting from renewable electricity generation. The battery storage system in this proposal would contribute to the reliability of supply.

11. The increased electricity capacity would support an increased supply from renewables as set out in the National Policy Statement for Energy¹. It would accord with the Government's Policy Paper² on smart energy systems and the frequency response forecasts in the National Grid System Operability Framework 2015. The appellant's statement also describes how the selection of the site the subject of this appeal followed consideration of numerous alternative locations which suggests that regard has been had to limiting the siting impact of the proposal on the environment.
12. I conclude on this issue that while this kind of development is not specifically provided for by other policies in the LP, which would place the proposal, in this location, in conflict with LP Policy RUR2, I give significant weight to the purpose of the development and the more recent policies in the Framework with which it would accord. These include one of the Framework's core principles, that planning should support the transition to a low carbon future in a changing climate, and that decisions should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

The effect of the proposed development on the immediate and wider landscape

13. In terms of the close landscape around the proposal, its use would be passive, with only infrequent maintenance visits. The development would be largely enclosed in an assemblage of containers which would provide a visual order in the site. The overall height of the development at 4.2m above ground would not, in the close context of the trees on the boundaries to the west, appear out of scale. The footprint of the plant would be focused into three areas in the site, retaining a substantial area of unoccupied ground and free space around each area. This would soften the volume of built form within the site.
14. Given these factors, as well as the close context of the overhead power lines and electricity pylons in the vicinity of the site, the scale, arrangement, and form of the proposed development would not harm the immediate landscape setting.
15. The wider landscape is characterised to the north, south, and east by open farmland and by the dwellings of Little Holt and Holt Farm to the west. However, between the back garden of Little Holt and the open countryside stands an agricultural and utilitarian appearing building of low height but of substantial footprint. The location of the development between the garden enclosure of Little Holt and this building would significantly reduce its impact on the wider landscape.
16. The appellant proposes to enclose the site with trees and with hedgerows which would largely screen the development from the surrounding countryside. The appearance of this screening, with species to match those in Holt Lane, would not in itself appear isolated or incompatible with the planted boundaries along the back garden of Little Holt and the land to the north.
17. An important component of this landscape is sound, in which context I noted during my visit the occasional sound of trains on the railway line around 160m to the north and the background noise of traffic on the motorway, around 600m to the south. In this context, the sound levels generated by the

¹ Overarching National Policy Statement for Energy (EN-1), Department of Energy & Climate Change, July 2011

² Towards a smart energy system, Department of Energy & Climate Change, December 2015

proposed development would not harm the sound character of the wider landscape.

18. I conclude that the proposed development would not have a significant detrimental effect on the immediate and wider landscape or the character and setting of the countryside. There would be no conflict in this regard with LP Policy RUR2, or with one of the core principles of the Framework, that planning should recognise the intrinsic character and beauty of the countryside.

Other Matters

19. The views of local residents and Hook Parish Council have been taken into consideration and I have already dealt with what I regard as the main planning issues.
20. I understand that there are two Grade II listed buildings to the north of the site. While the Council does not object to the proposal in terms of the impact on their setting, I have nevertheless undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed buildings or their setting, or any features of architectural or historic interest which they possess. In view of the distance between the site and these buildings, the density of the tree planting along the boundary between them, the modest height of the proposal and the screening planting proposed, I consider that the setting of the listed buildings would be unaffected, and therefore preserved.
21. The appellant's Noise Assessment considered conditions at the closest noise sensitive receivers, 40m and 80m from the proposal. It concludes that the noise rating levels at Holt Farm would be low impact and would not exceed the background levels. In order to achieve a rating level below background at Little Holt, an acoustic fence would need to be erected, which could be secured by a planning condition. I am therefore satisfied that noise from the proposal would not give rise to a significant adverse impact on the health and quality of life of surrounding occupiers.
22. There is no evidence to reject the proposal on the ground being contaminated. Nor is there any compelling evidence that any products used within the development would not be adequately controlled by other legislation. While I note that the Hook Common and Bartley Heath Site of Special Scientific Interest (SSSI) and Odiham Common with Bagwell Green and Shaw SSSI are nearby, I can identify no adverse effect from the proposed development upon them.
23. I note the suggestion that the development would have less visual impact if it were contained within a building. However, given the open nature of the surroundings and the existing tree planting close to the site, given the height of the structures and the space between them, the planted enclosure would in my opinion more sensitively screen the development than might a building.

Conditions

24. The Council has suggested a number of conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of the Planning Practice Guidance (PPG); for clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.

25. In addition to the statutory time condition it is necessary for certainty and clarity to impose a condition requiring the development be carried out in accordance with the approved plans. The landscaping scheme is necessary to mitigate the effect of the proposal on its setting, though I do not consider notification to the Council on completion necessary to make the development acceptable. The ecological measures relate largely to the construction phase, which in the surrounding context are reasonable and necessary. While the Noise Assessment specifies the performance required of the acoustic fence, it does not provide a full description of the fence so I have applied a modified version of the suggested condition requiring details, and given its location behind the hedges, for these to be resolved before operation rather than before construction.

Conclusion

26. While the location of the proposed development would conflict with LP Policy RUR2, this is substantially outweighed by its contribution to maintaining stable electricity supplies during fluctuations resulting from renewable energy generation which is central to the economic, social and environmental dimensions of sustainable development, for which the Framework has a presumption in favour. In addition, there would be no harm to the setting of the immediate and wider landscape. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Patrick Whelan

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan 1:1250 at A4; Site plan 1:500 at A4; EDP3460/03a Landscape Boundary Treatment Plan; EDP3460/04 Detailed Landscape Proposals and Visual Mitigation Plan; EDP3460/05 Tree Pit Specification and Management Operations; SHEET 3 revB 3D GENERAL VIEW 5MW BATTERY SITE; SHEET 4 revB 3D GENERAL VIEW BATTERY AND PCS CONTAINERS/CHILLERS/TRANSFORMER UNIT; SHEET 5 revB 3D GENERAL VIEW SWITCHGEAR CONTAINER; SHEET 6 revB SITE PLAN; SHEET 7 revC ELEVATION "A" AND "B"; SHEET 8 revC ELEVATION "C" AND "D"; EDS 07-0102.01 SHEET 1 OF 3 revE; EDS 07-0102.01 SHEET 2 OF 3 revD; EDS 07-0102.01 SHEET 3 OF 3 revA; and, P201502-02-50 Detail Deer fence.
- 3) All planting, seeding or turfing comprised in the approved details of landscaping as shown on drawings EDP3460/03a Landscape Boundary Treatment Plan; EDP3460/04 Detailed Landscape Proposals and Visual Mitigation Plan; EDP3460/05 Tree Pit Specification and Management Operations, shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 4) Prior to the operation of the development hereby permitted, details of the measures to protect the surrounding occupiers at Little Holt and at Holt Farm from noise from the development hereby permitted as set out in the Noise Impact Assessment by Messrs Sound Planning of 24 August 2016 shall have been submitted to and approved in writing by the local planning authority. These measures shall be completed before the development comes into operation, and shall thereafter be retained.
- 5) The development hereby permitted shall be carried out in accordance with recommendations set out within section 3 of the Ecological Appraisal by The Environmental Dimension Partnership Ltd (EDP) of July 2016 Ref EDP3460_02a.

End of Schedule