
Appeal Decision

Site visit made on 29 August 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2019

Appeal Ref: APP/J1915/W/19/3231172

Highfield Farm, Mangrove Lane, Hertford SG13 8QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Winer against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0343/FUL, dated 14 February 2019, was refused by notice dated 12 April 2019.
 - The development proposed is standalone solar panels 15kW.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Winer against East Hertfordshire District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') and any relevant development plan policies,
 - The effect of the development on the openness of the Green Belt, and
 - If the proposed development constitutes inappropriate development in the Green Belt, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate development within the Green Belt

4. The Framework is a material consideration in determining Green Belt proposals. Paragraph 133 identifies that the fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. At paragraph 143 the Framework states that inappropriate

development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

5. Policy GBR1 of the East Herts District Local Plan (the 'Local Plan') 2018 states that proposals will be considered in line with the Framework. Hence the policy is consistent with the Framework.
6. The proposal is for the erection of 24 standalone solar panels, arranged on a wooden frame structure as two banks of 12 panels. The tilted frame that would support the panels would measure approximately 10m long and 2m deep, with the lower edge of the structure 1m above the ground and higher end 2.1m above the ground. For renewable energy projects located in the Green Belt, paragraph 147 of the Framework requires developers to demonstrate very special circumstances.
7. Paragraph 145 of the Framework states that buildings are inappropriate unless they are one of the seven listed exceptions a) to g). The Council argues that the proposal would constitute a structure and not a building, and therefore paragraph 145 is not applicable. The Framework does not define what is a building for the purposes of paragraph 145. Nevertheless, Section 336 of the 1990 Act¹ states that a 'building' includes any structure or erection. It seems to me therefore, in the absence of evidence to the contrary, that the proposed standalone solar panels and the structure on which they would be mounted would be a building for the purposes of paragraph 145. However, the development would not fall within any of the building exceptions contained within paragraph 145 of the Framework.
8. In addition, the proposal would not meet any of the other exceptions under paragraph 146. The proposal would therefore constitute inappropriate development. I find the proposed development would be inappropriate development, which is by definition, harmful to the Green Belt and to which substantial weight should be given. The development would therefore conflict with Policy GBR1 of the Local Plan as well as the Framework.

Openness

9. A fundamental aim of Green Belt policy in the Framework is to keep land permanently open. The openness of the Green Belt is clearly evident around the site, particularly with views of open fields. The solar panel structure would be located in the corner of a field partially screened by hedgerow. It would be sited to face south and some distance away from the other existing buildings and the nearby woodland so as not to be overshadowed. The solar panel structure would be of a modest size and scale in relation to the surrounding field, and would not be very visible from the wider area, until one approaches the site. Nonetheless the proposal would still have a spatial impact on openness arising from the physical presence of the solar panel structure in an open field surrounded by open countryside where development does not exist.
10. The proposal would therefore cause significant harm to the openness of the Green Belt and would undermine the fundamental aim of keeping land permanently open. As a consequence, it would conflict with Local Plan Policy GBR1 and the Framework.

¹ The Town and Country Planning Act 1990

Other considerations

11. The solar panels are required to provide power to a number of homes and holiday lets on the appellant's land as well as his farming business. On my visit I observed that some buildings had been partially converted into dwellings and some were occupied. Work was yet to start on a new agricultural building and conversion of other buildings into approved holiday units. Renewable energy is supported in Chapter 14 of the Framework as part of a low carbon future in a changing climate. Regardless of whether the buildings have all been converted or built out yet, the solar panels would only be serving a few residential units and a limited farm use, all within the appellant's control. There would be some environmental benefit in helping to address climate change together with some energy and cost savings and I give this moderate weight. However, these would be small, localised and principally be of private benefit to the appellant and would not, in my view, constitute a wider environmental benefit of the sort indicated by paragraph 147 of the Framework.
12. The application is similar to the appellant's previously refused proposal² in that both applications would be for 24 solar panels. The mention of additional policies in the appellant's supporting documentation for the second application, the subject of this appeal, does not change the nature of the proposed development, which is still for 24 standalone solar panels.
13. The appellant refers to a number of examples of solar energy proposals granted by the Council. I have not been presented with sufficient details, the particular circumstances of any of them or the site specifics and the nature of their surroundings to make any meaningful comparisons with the appeal proposal, which in any event I must consider on its own merits. I therefore afford them limited weight. If applications are in the Green Belt, the Council must apply the assessment set out in the Framework. If development is not in the Green Belt, the particular issues of 'inappropriate' development and 'openness' would not need to be assessed.
14. However, from the information before me the Mill Farm, Mentley Lane example for 19,584 solar panels in 48 rows is of a completely different scale to the appeal proposal, and was presumably intended to supply electricity to the national grid for wider community usage and environmental benefit, something the Framework allows. I am unable to comment on the Cherry Green or Bury Lodge examples, apart from the site specifics appear to be different to the appeal site.
15. I acknowledge the appellant's concerns with the Council's handling of the application with particular reference to not visiting the site a second time to see the progress of the various conversion projects. I also note the appellant's reasons for the timing of his solar panel applications. I have visited the site and in reaching my decision I have been concerned only with the planning merits of the case. The lack of objections from local residents does not diminish the harm I have identified.
16. I find that these other considerations do not clearly outweigh the totality of harm, which is the test that they have to meet, in light of the national

² LPA ref: 3/18/2724/FUL refused 7 February 2019

importance given to protecting Green Belt relative to the modest private benefits that would accrue from the appeal development. Consequently, very special circumstances do not exist to justify the proposed development.

Conclusion

17. The appeal proposal would be inappropriate development in the terms set out in the Framework and would lead to a significant loss of openness to the Green Belt. I have given moderate weight to the environmental benefits of solar power to service the appellant's dwellings, holiday lets and agricultural business. However, the substantial weight to be given to Green Belt harm is not clearly outweighed by these other considerations. As such, very special circumstances do not exist to justify this renewable energy proposal. The proposal would also conflict with Policy GBR1 of the Local Plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

K Stephens
INSPECTOR