



## Appeal Decision

Site visit made on 29 November 2022

**by Robert Naylor BSc (Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 December 2022**

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**Appeal Ref: APP/R3650/W/22/3290316**

**Land West of Guildford Road, Cranleigh, GU6 8PA, 504538, 140234**

- 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 V Saunders of Conrad Energy (Developments) Limited against the decision of Waverley Borough Council.
  - The application Ref WA/2020/1937, dated 5 November 2020, was refused by notice dated 12 August 2021.
  - The development proposed is the erection of a flexible electricity generation facility including battery storage with associated ancillary infrastructure, access and boundary treatment.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. There is no dispute between parties that the proposal lies within the Green Belt and would constitute inappropriate development within the Green Belt, as defined in development plan policy<sup>1</sup> and the National Planning Policy Framework 2021 ('the Framework'). Furthermore, that the harm by reason of inappropriateness should be given substantial weight and should not be approved except in very special circumstances. I concur with that position.

### Main Issues

3. Given the above, the main issues are:
  - The effect of the development on the openness of the Green Belt;
  - The effect of the development on the living conditions of local residents with regard to noise;
  - The effect of the development on carbon neutrality; and
  - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

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<sup>1</sup> Policy RE2 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites, adopted February 2018 (SPS)

## Reasons

### *Openness*

4. The proposal would consist of 3 x containerised gas-fuelled power units including chimney stacks of approximately 7 metres (m) in height, a containerised battery storage unit approximately 4.5m in height and various other associated paraphernalia bounded by a 2.5m security fence on a plot size of approximately 0.48 hectares. Currently the site is an open field adjoining 'Stonescapes' yard, a stone materials storage and distribution operation.
5. Openness has both spatial and visual aspects and, in this case, apart from the Stonescapes yard, the site and immediate surrounding area are free from any significant development. It is typical of many peripheral areas which provides a sense of spaciousness and openness that positively contributes to the character and appearance of this rural area. Consequently, the introduction of an energy storage facility of the scale and height proposed, would undoubtedly have a greater impact on the openness of the Green Belt in spatial terms, providing development in an area where currently there is none.
6. In regard to the visual impact of the proposal, whilst there are several storage areas, car parking and ancillary single storey offices and buildings at the adjoining site of Stonescapes, the proposed scheme would be substantially taller than these, with the flues rising to a height of approximately 7m. However, it is acknowledged that the site is well screened from public vantage points by the well-established vegetation along the boundaries which is to be retained and enhanced as part of the proposal. Furthermore, from my own observations and the submitted Landscape and Visual Impact Assessment<sup>2</sup> (LVIA), the site is enclosed by the existing terrain and landscape, which would screen the proposals from wider long-range views.
7. The LVIA highlights that the influence of the proposed development on the wider landscape would be somewhat localised and negligible with only limited views experienced from the entrance to Stonescapes Yard. However, despite the screening I find that the development would result in an increased quantum of development and an encroachment of the countryside.
8. The proposal would have a greater impact on the openness of the Green Belt, resulting in an encroachment into the countryside and therefore it would be contrary to the purpose of including land within it. In accordance with Paragraph 138 of the Framework, I attach substantial weight to the harm in terms of openness and the five purposes.

### *Noise*

9. The appellants have submitted a revised Noise Impact Assessment<sup>3</sup> (NIA) which concluded the operation of the facility would have a negligible impact on the nearest noise sensitive receptors (NSR) during the daytime (0700 – 2300hrs) but would have significant impact on the nearest NSR during the night-time, as the facility would be +24 dB above the background noise level at night. The NIA highlights that the background noise level decreases significantly after 2100hrs and indicates that the facility would be operational

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<sup>2</sup> Landscape and Visual Impact Assessment dated November 2020, prepared by Amalgam Landscape Limited

<sup>3</sup> Noise Impact Assessment of an Electric Generating Facility prepared by Nova Acoustics dated 2 November 2020  
Ref: 5072CE v01

until 2300hrs at +24 dB above these background noise levels. When assessed in accordance with BS4142:2014 there would be a significant adverse impact on the noise experienced at the nearest NSR which could lead to noise nuisance being reported.

10. The appellants have indicated that the facility is required to respond to emergency power shortage events 24 hours a day, however it is unlikely that the facility would be required after 2300hrs due to a historical low demand, further highlighting that any emergency night-time use would equate to less than 1%. The NIA suggests mitigation measures, with normal operational hours of the facility restricted to daytime hours (0700 – 2300hrs), except in an emergency and any night-time use does not exceed 30 hours per year.
11. There is dispute between the parties as to what constitutes day and night-time operational hours. The appellants have indicated that the established standard daytime hours are between 0700 – 2300hrs, however the Council are concerned that noise from the use of the facility during the late evening (after 2100hrs) would lead to a significant disturbance for local residents.
12. From the evidence before me, I would concur that daytime hours would be between 0700 – 2300hrs. However, given the significant decrease in background noise after 2100hrs as highlighted in the NIA, I share the concerns of the Council in respect to noise levels after this time. Despite the appellants assurances, it cannot be guaranteed that the mitigation measures proposed would be sufficient to control the sound level and avoid noise nuisance. This could lead to potential conflict between parties, and complaints about noise. Any noise nuisance reported could thus lead to pressure for restrictions to be placed on the facility, such that unreasonable burdens might be placed on it and consequently being unable to operate effectively. Therefore, I am not persuaded that the measures detailed in the NIA can realistically achieve appropriate living conditions for local residents surrounding the site.
13. Consequently, the proposal would have an unacceptably harmful effect upon the living conditions of local residents in respect to noise. The proposal is therefore contrary to the relevant provisions of Saved Policies D1 and D4 of the Waverley Borough Council Local Plan 2002, adopted April 2002 (WLP) which amongst other things, seeks to safeguard the amenities of neighbouring occupiers against noise and other environmental impacts. It would also be contrary to the guidance at Paragraph 185 of the Framework which, is clear, that proposals should amongst other aspects, avoid noise giving rise to significant adverse impacts on health and quality of life. This carries substantial weight against the proposal.

#### *Carbon neutrality*

14. Paragraph 151 of the Framework states where elements of renewable energy projects in the Green Belt are inappropriate, very special circumstances required to outweigh its inappropriateness may include the wider environmental benefits associated with increased production of energy from renewable sources. Whilst flexible electricity generation developments are not considered renewable energy sources, given that they use gas, it is clear that some fossil fuel generating capacity will be required to provide backup for when generation from intermittent renewable generating capacity is low.

15. It is acknowledged that there is some conflict with SGS Policy CC1, given that the facility requires the use of fossil fuels. Notwithstanding this, there are a number of other considerations which bear weight to be given to this lack of accordance with the policy. The increasing dependence on renewable energy, including weather dependant solar and wind technologies, coupled with the inflexible nature of the existing substations has led to an increased need for flexible electricity generation and battery storage facilities. These store excess energy at times of high renewable generation and provide somewhere to get energy from when demands are high and renewable generation output is low, thus assisting with the transition to renewable and low carbon energy supply systems.
16. The need for a more diverse and decentralised energy system and shift to more renewable energy sources is clear, but this will take time as highlighted by the appellant. In the interim, flexible electricity generation and energy storage is seen as a significant part of this strategy. Battery units such as this are seen as positive in terms of being renewable and produce negligible emissions in line with commitments with regard to the climate change agenda and becoming carbon neutral.
17. There is no dispute that the appellant has proven a local need for flexible electricity generation developments as the energy market moves away from an overreliance on large power stations and towards more renewable means of electricity generation. The appellant has highlighted the public, time saving, social and economic benefits of the proposed facility in comparison to upgrading the existing local primary substation at Cranleigh. Furthermore, the proposal would provide significant benefits through the further support with the current electrical demand and future increased demands, to ensure consistent supply thus reducing the risk of brownout or blackout scenarios in this part of Waverley. These factors significantly weigh in favour of the proposal.

#### *Other considerations*

18. The appellant has also undertaken significant work in regard to alternative sites and has produced an Alternative Site Assessment (ASA) as part of the submission. The appeal proposal needs to be close to an existing substation (within 750m) and close to the correctly sized gas pipe in order for the proposed facility to work in terms of supply and demand. The ASA methodology identified six potential sites for the proposal, with the appeal site being the preferred option within this assessment, despite being located in the Green Belt. I note that Alternative Site 2 is located close to the appeal site, on previously developed land under the control of the same landowner, but outside the Green Belt, however this was unavailable for development. As such I am satisfied that a suitable search for alternative sites has been carried out and carries significant weight in favour of the proposal.
19. My attention is drawn to a recent planning appeal<sup>4</sup> at Land West of Cards Road in Cheltenham for a similar development. In allowing the appeal the Inspector found that the harm to character and appearance was outweighed by the need for the development and lack of alternative sites. However, this scheme was not located within the Green Belt and as such the presumption against inappropriate development was not engaged, and therefore these schemes are

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<sup>4</sup> Planning Inspectorate Ref: APP/W1525/W/21/3277346

not directly comparable. In regard to the other appeals<sup>5</sup> and the list of other flexible gas generating facilities that have received planning permission, I have not been presented with the full details of these cases, and as such have afforded these limited weight. Nevertheless, each case must be determined on its own merits.

20. My attention is also drawn to the opportunity for diversification of the existing business at the adjoining site owned by the same landowner, and the potential for the longevity of the existing business and its employees. The economic benefits of the diversification are acknowledged, however there is little evidence to substantiate the need for any form of diversification from the adjoining landowner. Whilst I have no reason to doubt their assertions that diversification would provide further economic streams for the landowner, I have given this consideration limited weight in favour of the proposal.
21. The appellant contends that the installation of the facility is a temporary measure and would have a life span of approximately 30 years. This is not a short-term installation, and whilst a condition could be attached to ensure that the site was reinstated to its original use (open field) after the facility has been decommissioned, this would not overcome the long-term harm to the site and openness in the Green Belt. I apportion this significant weight against the proposal.

#### *Green belt balance*

22. The proposal is inappropriate development in the Green Belt and fails to preserve its openness. It would also result in harm to the living conditions of local residents with regard to noise. These are all matters to which I give substantial weight, in line with the Framework's approach to such matters. The proposal would as a consequence be in conflict with the purposes of including land within the Green Belt.
23. The proposal would support the electricity network, providing extra generating capacity to cover shortfalls that may occur at given times. Whilst not in itself a source of renewable energy it seems to me that the facility would enable some reduction in the energy burden in line with the government's aims. This is clearly a benefit of the scheme. In addition to this the proposal has been supported by a robust justification for the need of the proposal and why it needs to be located on this site. These are, as I have set out above, considerations to which I give significant weight to, and which collectively weigh significantly in support of the proposal.
24. The Framework is clear that not only should substantial weight be given to any Green Belt harm, but that 'very special circumstances' will not exist unless that harm, and any other harm, is clearly outweighed by other considerations. Whilst there are therefore other considerations that weigh in support of the proposal in the Green Belt balance, they would not, either individually or cumulatively, clearly outweigh the Green Belt harm sufficient to amount to the 'very special circumstances' envisaged by the Framework.

#### **Other Matters**

25. The appeal site is located within Flood Zone 1 and is not prone to flooding. The Council is satisfied that the proposal would not increase the risks of flooding

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<sup>5</sup> Planning Inspectorate Ref: APP/R1010/W/17/3172633 and APP/W3330/W/20/3251284

and there is no convincing technical evidence before me to demonstrate that the use itself would suffer from undue flooding. Similarly, whilst I have taken into consideration the concerns of the local residents about the effect of the development on wildlife, trees and ecology no objection to the proposal has been raised by the Council subject to the mitigation measures proposed. There is no evidence before me to persuade me that the proposal would be detrimental to these matters in the long term.

### **Conclusion**

26. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and as such the Framework also indicates that permission should therefore be refused. Material considerations do not indicate that a decision should be made other than in accordance with the development plan and having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

*Robert Naylor*

INSPECTOR