



Appeal Decision

Site visit made on 19 December 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/J1915/W/23/3320046

**Land to the rear of Moat House, 228 Hertingfordbury Road,
Hertingfordbury, Hertford SG14 2LB**

- 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 and Mrs Buckingham against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/2445/FUL, dated 22 November 2022, was refused by notice dated 3 February 2023.
 - The development proposed is described as ground mounted solar PV panel array.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note the application form refers to the site address as No 226 Hertingfordbury Road, however, all other submissions by both parties refer to No 228. This leads me to believe that No 228 is the correct address. I have therefore referred to No 228 in my banner heading above to accurately reflect the address of the appeal site.
3. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. A relevant part of the Framework has been amended, which I will take into account. As a result, I have gone back to the parties to seek any further submissions on the revised Framework.

Main Issues

4. The main issues are:
 - i) whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - ii) the effect of the proposal on the openness of the Green Belt; and
 - iii) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate Development

5. The appeal site is a relatively flat part of a large field, adjacent to the river Mimram. It is situated a significant distance away from Moat House and its garden. The wider field is undulating, rising up to the south with dwellings beyond and a wooded copse on land rising up to the west.
6. The proposed solar array would consist of 3 rows of 10 panels, providing a total of 30 panels, which would have a south facing aspect. The panels would measure approximately 10.5m in length by 5m wide and would be 1.5m at their highest point and would be mounted on black frames.
7. Policy GBR1 of the East Herts District Plan 2018 (District Plan) states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes at Paragraph 156 that elements of many renewable energy projects will comprise inappropriate development, and in such cases, developers will need to demonstrate very special circumstances if projects are to proceed.
8. The solar panels would not fall within any of the exceptions for development identified at paragraphs 154 and 155 of the Framework. The effect of the proposal would be to extend built development into land that is presently open. It would therefore result in encroachment of development into the countryside that would be contrary to the purposes of including land within the Green Belt, as set out in Paragraph 143 of the Framework.
9. Accordingly, the proposal would be inappropriate development in the Green Belt and fails to accord with Policy GBR1 of the District Plan and Section 13 of the Framework.

Openness

10. Openness is an essential characteristic of the Green Belt. There are spatial and visual aspects to the assessment of the openness of the Green Belt. The appeal site forms part of a larger field. It is devoid of any buildings or structures. Whilst the solar array may be a lightweight structure with no foundations or base, and could be conditioned to be a temporary structure only, in spatial terms, the solar panels would introduce built development into an area devoid of any development. Whilst modest and relatively low level the proposed development would nevertheless have an adverse impact on the openness of the Green Belt in spatial terms.
11. In visual terms, the proposed development is likely to be visible from the rear garden of properties along Hertingfordbury Road, to the south of the appeal site. However, given the long separation distance between these properties and the appeal site, coupled with the intervening topography and the relatively low height of the solar panels, the visual impact would be limited. To the north views would be limited from the public footpath, which runs along the north side of the river Mimram, due to the presence of mature vegetation either side of the river. As a result, the visual harm arising from the proposal would be localised.

12. I am not persuaded that a landscaping scheme, that could be secured by condition in any approval, would overcome the harm I have identified above. It therefore follows that even with additional landscaping, the proposed development, albeit to a limited extent, would undermine the approach to preserving the openness in the Green Belt as set out in the Framework.

Other Considerations

13. Paragraph 164 of the Framework states that significant weight should be given to support energy efficiency and low carbon heating improvements to existing buildings, including solar panels. The policy support for renewable energy recognises that the wider environmental benefits associated with increased production of energy from renewable sources may constitute very special circumstances.
14. The evidence before me sets out the benefits of the proposed 10Kw solar array, including that it would supplement the energy needs of the appellants property. I note the appellants assertion of measures already implemented to increase the dwellings energy efficiency and that further options may be limited due to the host property's status as a listed building. Whilst I have no evidence to substantiate this, I have no reason to disagree.
15. The provision of renewable and low carbon energy is central to the economic and environmental dimensions of sustainable development set out in the Framework. There is a strong local and national policy support for the development of renewable energy sources, including solar power, to ensure the country has a secure energy supply, and to reduce greenhouse gas emissions. Although the scheme is modest in size, the Framework confirms that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.
16. Whilst the amount of renewable energy generated overall would be modest nevertheless, the renewable energy benefits of the proposal must be afforded significant weight.

Other Matters

17. I have had special regard to the desirability of preserving the setting of the listed buildings in the area. In particular Moat House, a Grade II listed building. This property derives its significance from its historical association built as the Miller's House to Hertingfordbury Corn Mill. The appeal site currently has a neutral effect on the setting of the listed building. Being sited approximately 140m away from the property with intervening built form and landscaping coupled with the low height of the solar panels I am satisfied that the proposed development would preserve the setting, and thereby the significance of the listed building. This reflects the Council's similar conclusion.
18. Mayflower Place Memorial Hall, a Grade II listed building, is set in an elevated position to the south of the appeal site. Its significance derives from its architectural detail and historical association. The appeal site currently has a neutral effect on the setting of this listed building. Whilst there may be views across the landscape, given the location of the proposed solar panels would be approximately ¼ mile away, the intervening topography, landscaping and the relatively low height of the proposal, I am satisfied that the significance of the designated heritage asset would be preserved.

19. The site lies outside, but adjacent to the Hertingfordbury Conservation Area (CA). The CA derives its significance from a collection of historic buildings and association with the 18th century water mill. The appeal site sits beyond existing properties that lie within the CA and, in my view, has a neutral impact on the significance of the CA. The proposed development would have a greater visual impact on the CA than the existing situation. However, the height and scale of the proposal are limited. Having regard to the plans before me, and as observed at my site visit, I do not consider the proposal would have an adverse impact upon the setting of the CA. I note this reflects the Council's similar conclusion.
20. I note the appellants assertion that the level of movement within the field associated with the proposed use would not change or intensify. I have no evidence to substantiate this. Nevertheless, this issue is not determinative to the appeal.
21. Due to its proposed location, a significant distance, from existing residential properties I am satisfied that the proposed development would not harm the living conditions of nearby properties. I note this is a view shared by the Council. Furthermore, the fact that there were no objections raised to the proposal by consultees or members of the public is of neutral consequence in the overall planning balance.
22. My attention has been drawn to a number of appeal decisions, including a decision¹ for a large solar farm on Green Belt land. From the limited information before me whilst the proposal was found to result in moderate harm the proposal would provide energy for over 16,000 homes. I have also been referred to planning permission² for a solar farm providing energy for up to 5,300 homes. In both circumstances, given the scale of development I do not consider either scheme to be comparable to the appeal before me. Reference has also been drawn to a planning application³ whereby the heritage merits of the case constituted very special circumstances and the generation of renewable energy weighed positively in the planning balance of the consideration of that planning permission. I have limited information before me and so cannot be certain that the scheme is comparable. Reference has been made to a further case⁴, whereby the array is located within a hollow and the presence of existing landscaping. Accordingly, based on the information before me I do not consider the locational context of this scheme to be comparable. In any event, I have determined the appeal on its own merits.

Green Belt Balance and Conclusion

23. The proposed development would be inappropriate development in the Green Belt, which, by definition, is harmful. In addition, there would be moderate harm arising from the loss of openness. As such, the Framework establishes that substantial weight should be given to any harm in the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
24. Whilst significant weight is given to the environmental benefits of the proposal, overall, the other considerations referred to by the appellant do not clearly

¹ APP/W1525/W/22/3300222

² 22/01816/FUL

³ 3/22/1799 at Warrengate Farm

⁴ APP/C1950/W/19/3225810

outweigh the totality of harm to the Green Belt. Therefore, the very special circumstances necessary to justify the development do not exist. Accordingly, the proposed development conflicts with Policy GBR1 of the District Plan and the Framework which seek, amongst other things, to protect the Green Belt from inappropriate development.

25. For the reasons given above I therefore conclude that the appeal should be dismissed.

R. Gee

INSPECTOR