



Appeal Decision

Site visit made on 14 May 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2024

Appeal Ref: APP/E3335/W/23/3323270

Chapel Farm Barn, Knoll Lane, Faulkland, Frome, Somerset BA3 5GD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Dr Gordon Morse against Somerset Council.
 - The application Ref is 2022/2392/FUL.
 - The development proposed is change of use from agricultural use to residential garden and installation of ground mounted solar panels.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from agricultural use to residential garden and installation of ground mounted solar panels at Chapel Farm Barn, Knoll Lane, Faulkland, Frome, Somerset BA3 5GD in accordance with the terms of the application, ref 2022/2392/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three 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 (unnumbered); Site Plan 1:500 (unnumbered); GM Upright Assy 2inP Ballasted 30° Panels Drawing number 0627-PAA-BAL-30-deg Revision 1; Modular Design Table Revision 1 (unnumbered).
 - 3) Within three months of the solar array ceasing to be used for the generation of electricity, the arrays and associated infrastructure shall be permanently removed from the site and the site restored to its former agricultural use and condition in accordance with details submitted to, and approved in writing by, the local planning authority prior to these works being carried out.

Preliminary Matters

2. I have used the above description of development as it more succinctly describes the proposal. I have also used the appellant's title as it appears on the appeal form as one was not provided on the planning application form.
3. The planning application was originally submitted to Mendip District Council. However, the Council became part of Somerset Council in April 2023 and therefore the appeal is against Somerset Council. I have referred to this in my banner heading above. For the avoidance of doubt, the Mendip District Local

Plan 2006-2029, adopted December 2014 (LP) remains the adopted development plan and I have determined the appeal accordingly.

4. For the avoidance of doubt, this appeal relates to the change of use of the land identified within the red application site boundary only and I have determined the appeal accordingly.

Main Issues

5. The main issues in this appeal are whether the appeal site is a suitable location for the proposed development and its effect on the character and appearance of the area.

Reasons

6. The appeal site is located in the open countryside, adjacent to the host dwelling. There is an established hedge along the boundary with the road which prevents direct views of the appeal site. The proposed size, height and siting of the solar array is such that it would not be visible from the road.
7. Views of the array would be possible but only at a distance across the open fields to the east. Intervening hedges and trees would significantly limit its visual impact and it would also be read against the host dwelling, and the hedge forming the boundary between its garden and the appeal site. For these reasons, the harm to the character and appearance of the area would be very slight.
8. Nevertheless, the introduction of solar panels with their functional and somewhat industrial appearance would extend development beyond the existing boundary of the residential property. This would encroach into the countryside, thereby eroding some of its rural character, albeit to a very limited extent. This would be contrary to Core Policy 1 of the LP which seeks to control development in the open countryside.
9. Given that the harm I have identified to the character and appearance of the area would be very slight, there would also be a limited degree of conflict with some of the provisions within Development Policies 1, 4 and 7 of the LP in respect of achieving high quality design that contributes positively to local identity and distinctiveness.

Planning Balance

10. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration in planning decisions.
11. The Framework supports the transition to a low carbon future with Paragraph 163 recognising that even small-scale projects provide a valuable contribution to significant cutting of greenhouse gas emissions. Development Policy 7 of the LP is consistent with this, providing support for proposals which maximise opportunities for renewable energy generation on site.
12. The appellant has provided details of a 4.92 kWp system and a 6.56 kWp system but has not confirmed which one is applicable to the appeal proposal. However, even if I took the lower of the two, the details provided indicate that there would be a 55% reduction annually in carbon dioxide emissions over the

current situation. I have given significant weight to this as a benefit of the appeal proposal. I have also given significant weight to the need to support low carbon heating improvements to existing buildings through the installation of solar panels as set out in Paragraph 164 of the Framework.

13. Whilst I have identified that the proposal would fail LP policies for the location and distribution of development and would result in harm to the character and appearance of the area, I have also found that the harm which would arise from this would be very slight. On the other hand, there are benefits to the scheme which I have afforded significant weight such that they outweigh the conflict with the development plan. In these circumstances, I am satisfied that a decision other than in accordance with the development plan is merited.

Conditions

14. Neither party have provided me with any suggested conditions. I have had regard to the advice in the Planning Practice Guidance and I have also sought comments from the main parties on conditions which are necessary but have not been put forward in the submissions. I have undertaken some minor editing where required.
15. Although a solar array was on the land at the time of my site visit, I cannot be certain that what is in place is the same as shown on the submitted drawings. For the avoidance of doubt, I have therefore attached the standard time condition. It is necessary to specify the approved plans in the interests of certainty. Given that the benefit of the development in respect of the generation of renewable energy has weighed in the balance in my decision, I have attached a condition requiring the removal of the panels and the restoration of the land once they cease to be used for this purpose.

Conclusion

16. The proposed development would be contrary to the development plan but in this instance material considerations, namely the Framework, indicate the proposal should be determined otherwise than in accordance with the development plan. Thus, for the reasons given, the appeal has succeeded, and planning permission is granted.

Alison Fish

INSPECTOR