



Appeal Decision

Site visit made on 13 May 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th May 2024

Appeal Ref: APP/J1915/D/23/3324267

Thurlwood House, Bramfield, Hertford, Hertfordshire SG14 2QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Marietta Johnson against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0256/HH.
 - The development proposed is the installation of 40, stand-alone solar panels.
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Decision

1. The appeal is allowed, and planning permission is granted for the installation of 40, stand-alone solar panels, at Thurlwood House, Hertford, SG14 2QG in accordance with the terms of the application, Ref 3/23/0256/HH, and the plan 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 plan: Proposed plan: NH/999/01.
 - 3) The use hereby permitted shall be for a limited period being the period of 25 years from the date of this decision. The solar panels hereby permitted shall be removed and the land restored to its former condition on or before 25 years from the date of this decision.

Preliminary Matters

2. Policy GBR1 of the East Herts District Plan [2018] (DP) states that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework (the Framework). The proposed development is located within the Metropolitan Green Belt. Section 13 of the Framework establishes the national policy objective to protect the Green Belt. Paragraphs 154 and 155 define different types of development that would not be inappropriate development in the Green Belt. It is uncontested by main parties that the proposed solar array would not comply with any such provisions. I see no reason, within the evidence, to disagree with this assertion. The proposal would therefore be deemed to be inappropriate development in the Green Belt.
3. Paragraph 152 and 153 of the Framework state that inappropriate development in the Green Belt is, by definition, harmful and carries substantial weight. Such development should not be approved except in very special circumstances. It continues that very special circumstances will only exist if the harm to the

Green Belt by its inappropriateness, and any other harm resulting from the proposal, would be clearly outweighed by other considerations.

Main Issues

4. Therefore, main issues are:

- The effect of the proposal on the openness of, and purposes of including land within, the Green Belt; and
- whether the harm caused by the proposal, by virtue of being inappropriate development in the Green Belt, would be clearly outweighed by other considerations to result in 'Very Special Circumstances'

Reasons

Green Belt - openness and purposes

5. The fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open¹. Openness has both visual and spatial qualities. The site is part of the large front garden of a dwelling. The property is accessed via a lane that is also a bridle path, this then splits at the entrance to the appeal site and continues adjacent to the site as a bridle path.
6. The proposed development would be partially visible in glimpses from the bridle path through the adjacent tree and hedge cover. Nevertheless, the panels would be modest in mass and footprint. These would also be spaced apart which would visually disaggregate the appearance of the array. As such, visually the harm to the openness of the Green Belt would be limited and would be further reduced through the provision of the proposed planting. From a spatial perspective the proposal would introduce a low-lying group of panels in a part of the residential plot. As such, the proposal would represent a modest intrusion into the surrounding Green Belt having a minor effect on the openness of the site.
7. Consequently, the proposal would have a harmful, albeit minor, effect on the openness of the Green Belt.

Other considerations

8. The Appellant explains that the solar panels are a temporary installation which would be set low in the ground, which would be reversible and could be renewed by a temporary approval. It is also suggested that the site is not overlooked, due to existing and proposed plant screening.
9. Furthermore, it is asserted by the Appellant that the scheme would deliver environmental benefits through its production of energy from this renewable source. The Appellant claims that whilst the proposed scheme would be modest in scale, it would enable the house to be self-sufficient.

Renewable energy

10. The Framework explains, at paragraph 161, that all communities have a responsibility to help increase the use and supply of green energy and decision makers should support community led initiatives. The Framework also

¹ Paragraph 142 of the National Planning Policy Framework

recognises that even small-scale projects provide a valuable contribution to cut greenhouse gas emissions.

11. The Planning Practice Guidance (PPG) explains that increasing the amount of renewable and low carbon technologies will help to make sure the UK has a secure energy supply. Microgeneration projects, by individuals to meet their own needs, also play an important part in combatting climate change.
12. The UK Government has declared a climate emergency and set a statutory target of achieving net zero emissions by 2050, and this is also a material consideration. Since the declaration, the Sixth Assessment Report of the Intergovernmental Panel on Climate Change has indicated that there is a greater than 50% chance that global temperature increases will exceed 1.5 degrees Celsius above pre-industrial levels. The report indicates that delay in global action to address climate change will miss a rapidly narrowing window of opportunity to secure a liveable and sustainable future for all².
13. Furthermore, DP policy CC3, with respect to Renewable and Low Carbon Energy, states that the Council will permit new development of sources of renewable energy generation subject to assessment of impacts on the environment, visual amenity and landscape character, local transport networks, residential amenity, health and the safety of aerodromes. A second requirement of the policy is to ensure that the character of the countryside is protected, including views from public rights of way.

Whether there would be Very Special Circumstances

14. The Framework identifies that many renewable energy projects in the Green Belt will comprise inappropriate development. In such cases, developers will need to demonstrate very special circumstances which could include the wider environmental benefits associated with the increased production of energy from renewable sources. Whilst this lends support for renewable projects in the Green Belt it does not confer an automatic approval of such schemes, where the effects of such development must take into account a broad range of issues in mind of the general presumption against inappropriate development and the resultant substantial harm conveyed to the Green Belt by this.
15. The appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would also result in harm to the openness of the Green Belt, albeit minor. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt.
16. On the other hand, the proposed development would make a positive contribution towards the microgeneration of energy, enabling the associated dwelling to be carbon free and become self-sufficient for its energy needs. Also, being a microgeneration scheme, the scheme's location is necessary to serve the dwelling nearby, limiting the suitability of alternative sites to generate the same benefits. The site is also largely hidden from public view, having a low visual impact and causing no harm to the area's landscape character. Consequently, based on site specific assessment the proposal would cause no harm to the character and appearance of the area. Furthermore, the proposed development could be required to be removed after a set period of time to

² IPCC Sixth Assessment Report - Summary for Policymakers, paragraph D.5.3

prevent a permanent impact on the Green Belt, further reducing its overall effect.

17. The benefits of this renewable energy project would be localised but substantial, nonetheless. These benefits are recognised in local and national policy in accordance with the Climate Change Act of 2008. It is also clearly identified, in Section 14 of the Framework, where it seeks to increase the use and supply of renewable and low-cost energy and to maximise the potential for suitable such development. The delivery of suitable renewable energy projects is fundamental to facilitate the country's transition to a low carbon future in a changing climate.
18. Accordingly, the benefits of the proposal are of sufficient magnitude to outweigh the substantial harm found to the Green Belt. These identified benefits attract very substantial weight in favour of the scheme. In this context, the harm to the Green Belt would be clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development exist. Accordingly, the proposal would satisfy the local and national Green Belt policies I have already outlined.

Conditions

19. I have considered the use of conditions in line with the guidance set out in the PPG. I shall take the Council's suggested conditions into consideration and impose these with some amendments and adjustments for clarity.
20. The Council has suggested a condition that the solar panels be used only in association with Thurlwood House. However, the Council has not justified why this would be required and the objective of such a condition is unclear. Therefore, such a requirement would be unnecessary and would fail the tests of the Framework as set out at paragraph 56.
21. The Appellant has offered that the proposal gain consent for a temporary period only. I am mindful that such facilities generally have a lifespan of 25 years, and this seems to be a reasonable maximum period of time for the panels to be installed, preventing permanent harm to the Green Belt.

Conclusion

22. For the above reasons, the appeal is allowed, and planning permission is granted subject to the conditions.

Ben Plenty

INSPECTOR