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Appeal Decision

Site visit made on 27 August 2014

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 November 2014

Appeal Ref: APP/V2255/A/14/2215517

Land on the south-east side of Yaugher Lane, Hartlip, Sittingbourne, Swale ME9 7XE

- 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 Greig Cooper against the decision of Swale Borough Council.
 - The application Reference SW/13/0583, dated 9 May 2013, was refused by notice dated 17 September 2013.
 - The development proposed is use of the grounds as a temporary means to support solar PV panels, which will generate electricity for the use of the national grid. Small storage blocks will accompany the alteration to house electrical equipment and will as such not include any extension or demolition.
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Decision

1. I dismiss the appeal.

Preliminary matters

2. The appeal site lies within the Kent Downs Area of Outstanding Natural Beauty (AONB), where the *National Planning Policy Framework* (hereinafter the *Framework*) provides that great weight should be given to conserving landscape and scenic beauty. It adds that AONBs have the highest status of protection in relation to landscape and scenic beauty. The site is bounded to the south by Potters Wood/Queendown Warren, a designated Site of Special Scientific Interest (SSSI) managed by Kent Wildlife Trust. It lies within 100 m of a Special Area of Conservation (SAC).
3. The Council refused the application against officer recommendation for approval. The reasons for refusal provide, amongst other things, that the scheme would be situated in a prominent location within the AONB where it would be highly visible from surrounding public vantage points in a manner harmful to the character, appearance and amenity value of the protected landscape and the wider surrounding countryside.

Main issues

4. The main issues in this appeal are:
- (a) The effects of the proposed development on the character and appearance of the area, and on the AONB.
 - (b) The compatibility of the proposed development with policy in respect of the generation of energy from renewable sources.
 - (c) Whether the benefits of the scheme would be sufficient to outweigh any harm that might be caused.

Reasons*Character and appearance*

5. The 4.95 ha appeal site comprises agricultural land to the south of Hartlip. It is located about 100 m from landscaping along the M2 motorway, which here is set within a cutting. Notwithstanding the proximity of the M2 and scattered houses in the wider area, the area has a strong rural character. The pattern of woodland and fields provides an attractive countryside setting. The site has a long frontage to Yaughner Lane, which to the north passes over the M2 by means of a bridge. There is an existing access to the appeal site from Yaughner Lane, which provides vehicular access to an agricultural building set behind dense planting along this part of the lane. Views of the appeal site, or parts of it, are possible both through the existing field access and through parts of the roadside hedgerow to the south of the access where the vegetation does not screen out views. It was also evident from my site visit that the north-eastern part of the appeal site is visible from the Yaughner Lane bridge over the M2, notwithstanding the height and depth of the mature landscaping alongside the motorway cutting. Limited glimpses at times would also be possible from Warren Lane, and from informal footpaths in the adjoining woodland. More prominent views of the site from these nearby vantage points would be possible in winter when the trees were not in leaf.
6. In term of national character areas, the site lies within CA113 North Kent Plain, which is an open, low and gently undulating landscape characterised by high quality, fertile loamy soils dominated by agricultural land uses. In the *Swaile Landscape Character and Biodiversity Appraisal* SPD 2011 the site lies within Area 37 Hartlip Downs. This is characterised by large open arable fields on rolling slopes, with areas of ancient woodland, and settlement restricted to historic farmsteads and scattered dwellings of various age. It notes that the area is divided by the M2 corridor. In terms of sensitivity the SPD provides that the rural character could easily be further degraded. The SPD guidelines for this area include conserving the rural setting of the AONB.
7. The proposed panels would have a maximum height of 2.5 m and would be bounded by a 2 m high netting fence. The panels and associated infrastructure would be utilitarian structures in this countryside setting. The metal structures of the frames and the construction of the panels, along with their regular arrangement in long rows, would be out of keeping with the character of the area. The panels would be a dark ocean blue colour. The man-made structure would be of a colour and texture that was not typical of this agricultural landscape, and so the proposed development would introduce a discordant element. This would harm the character of the area. Furthermore, the scheme

proposes removing an existing, albeit gappy, hedgerow between the field entrance off the lane and the north-eastern corner of Potters Wood, and providing a new hedgerow on a different alignment that would not converge on the woodland. The proposal would not, therefore, maintain the existing field pattern and would introduce an arbitrary boundary that did not relate well to the natural features in the area. I consider that this area has high sensitivity to the type of development proposed. With a high magnitude of effect, the proposal would have an adverse effect on the landscape resource of major significance. The proposal would not conserve the landscape of the AONB.

8. In terms of visual effects, although there would be no long distance views of the proposed development, it would be prominent in views from the bridge over the M2, from the woodland, and through the entrance to the site. This would be so until the proposed replacement hedgerow on the revised alignment, and the new hedgerow adjacent to the woodland, both matured. During this time the panels would appear as an intrusive feature in this part of the AONB. This would have an adverse effect on the appearance of the area. In time, matured hedgerows would limit the visual impact of the scheme. However, the harm to the appearance of the area would endure for a considerable period. The proposal would not conserve the scenic beauty of the AONB.
9. I find that the proposal would harm the character of the area, and for a considerable time would have an adverse effect on the appearance of the area. The development proposed would be temporary, but the harm to the landscape and to the AONB would last for 25 years, and so would be significant. This harm is a consideration that weighs heavily against the proposal.
10. I consider that the proposal would harm the character and appearance of the area, and would have an adverse effect on the AONB. The proposed development would conflict with Policy E1 of the Swale Borough Local Plan 2008 (LP), because it would not reflect the positive characteristics and features of the site and locality, would not protect and enhance the natural environment, or be both well sited and of a scale, design and appearance, that would be appropriate to the location. It would also be at odds with LP Policy E6, which aims to protect and where possible enhance the quality, character and amenity value of the countryside. For similar reasons, it would be contrary to the objectives of LP Policy E9, which gives priority to the protection of the AONB. The proposal would not reinforce local distinctiveness or strengthen the sense of place, and so would not achieve the high quality of design expected by LP Policy E19.

Other considerations

11. With appropriate buffers to the woodland, management of grassland, and the planting of new hedgerows, which could all be required by conditions, the appeal scheme would have some nature conservation advantages. I am satisfied that the evidence indicates that the scheme would have no significant adverse effects on the SAC or SSSI. Subject to the imposition of appropriate planning conditions the proposal would have some benefits for biodiversity, and would accordingly gain some support from LP Policy E12.
12. The Council's appeal statement records that the site is Grade 1 agricultural land, but its earlier report states that the land classification is not sufficiently detailed to confirm the grade of the appeal site. This refers to grades 1-4

converging in the vicinity. The appellant notes that the solar panels would not prevent grazing. Furthermore, intensive agricultural use of the appeal site could adversely affect wildlife in the adjoining woodland. If the appeal site were to comprise the best and most versatile agricultural land, these are considerations that might weigh in the overall balance. On the evidence adduced, I am not convinced that any temporary loss of agricultural production, or underuse of the site for agricultural purposes resulting from the appeal scheme would justify dismissing the appeal.

13. Heritage assets in the area are well screened from the appeal site and the proposal would not materially affect Hartlip Conservation Area, the setting of the listed buildings at Place Farm, or any other listed buildings. Archaeological interests could be safeguarded by securing a programme of archaeological works.

Renewable energy

14. The *Framework* provides that applicants do not need to demonstrate the overall need for renewable energy development and notes that even small-scale projects provide a valuable contribution to cutting greenhouse gas (GHG) emissions. The solar panels would have a peak capacity of 2 MW and would meet the electrical requirements of 1,600 dwellings, displacing the equivalent of approximately 971 tonnes of carbon dioxide emissions. The proposal would also contribute to the rural economy. It would make a significant contribution towards meeting national targets for renewable energy and towards energy security. The proposal therefore gains support from national and local policies which promote renewable energy generation. I find that the contribution of the appeal scheme to renewable energy and the reduction of GHG is a consideration that should properly be given significant weight in determining this appeal.

Planning balance

15. The economic, social and environmental roles for the planning system, which derive from the three dimensions to sustainable development in the *Framework*, require in this case that a balancing exercise be performed to weigh the benefits of the proposed solar panels against their disadvantages. The proposed development would make a significant contribution to renewable energy targets and towards the reduction of GHG. It would contribute to the local economy and would have energy security benefits. It would also improve biodiversity. These benefits should be given significant weight. Against the benefits of the appeal scheme must be weighed the harm I have identified to the character and appearance of the area, and to the AONB.
16. The proposed development would be temporary and the reversibility of the development after 25 years is a relevant consideration. However, the harm would affect the area and the AONB for a considerable time. The harm to the AONB would be significant, and I have given great weight in the planning balance to conserving its landscape and scenic beauty. In my judgement, the benefits of the proposed development would not be sufficient to outweigh its disadvantages.
17. There is no evidence that this scheme is needed on the grounds of the economic or social well-being of the community for the purposes of applying LP Policy E9. Furthermore, I am not satisfied that the scheme would gain support

from LP Policy U3, which permits proposals for renewable energy schemes where they demonstrate environmental, economic and social benefits and minimise adverse impacts. The appeal scheme would conflict with the development plan when read as a whole. However, LP Policy E6 does not provide for the balancing exercise for sustainable development that is implicit within the *Framework*. The core planning principles set out in the *Framework* encourage the development of renewable energy, whilst recognising the intrinsic character and beauty of the countryside. However, in this case the adverse effects I have identified would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* as a whole. I have taken into account all other matters raised in evidence, but have found nothing to outweigh the main considerations that lead to my conclusions.

Conclusions

18. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. Notwithstanding the benefits of the scheme to RE targets and GHG emissions, and the important contribution it would make towards the local economy and biodiversity, I do not consider that the impacts of the appeal scheme are, or could be made, acceptable. The proposal would conflict with relevant policies of the LP, and would not accord with the requirements for sustainable development set out in the *Framework*. There are no material considerations here that would indicate that a determination other than in accordance with the development plan was justified. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Woolcock
Inspector