

Summary Proof: Planning

Hilfield Solar Farm and Battery Storage Facility

Appeal By: Elstree Green Limited

Date: 22/09/2022 | Pegasus Ref: P21-3101

LPA Ref: 21/0050/FULEI

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- 1.1. My name is My name is Paul Burrell. I hold a BSC (Soc Sci) Hons in Geography and Diploma in Urban Planning. I am a Chartered Town Planner having been elected over twenty-five years ago and I hold the position of an Executive Planning Director at the consultancy Pegasus Group. I have considerable experience in advising on planning matters concerning low carbon and renewable energy projects, including solar schemes, onshore wind farms and energy from waste facilities.
- 1.2. My evidence considers matters relating to Planning.
- 1.3. My evidence sets out in **Section 3** to provide a contextual overview of why, in my opinion, it is the case that we need renewable energy generation in the Autumn of 2022, and further why the Proposed Development is part of an overarching comprehensive approach to the future management and objectives of the Aldenham Estate. This sets the scene for the further examination of the more detailed issues that follow.
- 1.4. I rely on the Statement of Common Ground in **Section 4** which considers the Appeal Site and its Surroundings, describing the appeal proposals in **Section 5** and the planning history at **Section 6**.
- 1.5. I then move to consider the relevant Planning Policy framework in **Section 7**. The Development Plan is noted as principally comprising of the Local Plan Core Strategy Development Plan Document 2013 and the Site Allocation and the Development Plan Management Document 2016. National Guidance and Policy and Supplementary Planning Guidance is also identified.
- 1.6. I then summarise the Case for the Appellant in **Section 8**, examining the two reasons for refusal and the main issues identified by the Inspector. In particular, I examine the Green Belt considerations and also draw upon the evidence of Mr Kratt in relation to landscape and visual impact in the context of the Green Belt issue and the impact on visual openness. I then turn to consider heritage setting considerations drawing upon the evidence of Mrs Stoten.
- 1.7. I then proceed to undertake a detailed consideration of the various Development Plan policies which I consider relevant to the determination of this Appeal in **Section 9**. Having regard to the consideration of the various policies, and also relying upon the balance I subsequently undertake in Section 13 of my evidence to demonstrate (a) very special circumstances in terms of Green Belt policy, and (b) the less than substantial harm to heritage assets is outweighed by the public benefits, I reach the opinion that the Proposed Development complies with the Development Plan policies cited by the LPA in their Reasons for Refusal.
- 1.8. In **Section 10** I review in greater detail other material policy and appeal considerations, and in particular the various energy policy statements which have consistently emphasised the need for additional low carbon and renewable energy generation, along with relevant National Policy Statements. I also examine the conclusions of two recent appeal decisions at Halloughton and at Cleve Hill.
- 1.9. In **Section 11**, I turn to consider additional matters raised by the Rule 6 parties in their Statements of Case, including aspects of noise, agricultural land and rural economy, flood risk and surface water drainage, alternative sites consideration and ecology and wildlife.
- 1.10. Further other material considerations which have been raised are discussed at **Section 12**, including aviation safety/glint and glare, traffic and access and residential amenity.



- 1.11. I then turn to consider my judgement of the overall planning balance and undertake an examination of the Very Special Circumstances Case for granting planning permission in the Green Belt in **Section 13** of my evidence.
- 1.12. I explain that the starting point for the determination of a planning application or appeal is the Development Plan. The planning system is “plan led” and planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 1.13. Before reaching a conclusion on this matter, I turn to consider whether, in terms of national Green Belt policy as established in the NPPF, and in terms of the development plan’s Core Strategy Green Belt Policy CS13, there are Very Special Circumstances which clearly outweigh the potential harm to the Green Belt and any other harm resulting from the Proposed Development.
- 1.14. In considering the weight that should be afforded to each consideration in the balancing exercise, I apply the following scale ranging from high to low:
- Substantial
 - Significant
 - Moderate
 - Limited
- 1.15. Such weight may be ‘positive’ as a benefit, ‘adverse’ as a harm, or of ‘neutral’ effect.
- 1.16. I then set out an assessment of each of these material considerations followed by a conclusion on whether the benefits outweigh any adverse impacts identified when taken as a whole.

Material Considerations which are Benefits

- 1.17. I consider that the following material considerations are benefits which are positive:
1. Generation of Renewable Energy and Contribution to Transition to a Low Carbon Economy
- 1.18. The legislative and policy framework has been set out in Section 9 of my Evidence, which establishes the imperative for significant reductions in CO2 emissions.
- 1.19. I consider this clearly demonstrates the immediate and pressing need for deployment of renewable energy generation in the UK, which is derived from the challenging legally binding obligations to reach “net zero” by 2050. Calculations prepared at the time the planning application was submitted indicated that the Proposed Development would make a material and appreciable contribution to meeting the amended Climate Change 2008 targets, having a capacity of 49.9MW and generating electricity to power over 11,160 households in Hertsmere, resulting in savings of carbon dioxide emissions during its operational period of c. 11,515 tonnes of CO2 per annum.
- 1.20. It is clear that in order for the UK to meet the ambitious target of reducing greenhouse gas emissions by 100% or “net zero” compared to 1990 levels by 2050, a presumption in favour of increasing the number and output of low carbon energy sources is necessary. The continued deployment of solar farms and renewable energy technologies more generally are recognised by the Government as a key part of the UK’s transition to achieving a low carbon economy and tackling



Climate Change. The very latest published government strategy statement on Energy Security Strategy confirms that a five-fold increase in solar capacity is required over the next 13 years.

- 1.21. Since the adoption of the current Development Plan documents (in 2013 and 2016), and even since the adoption of the Interim Planning Policy Position statement by the Council in November 2020), the increasing urgency of the need to reduce carbon emissions is self-evident, even with national energy policy being directed towards encouraging further growth in low carbon energy generation as set out in the Energy White Paper published in December 2020, the publication of the Net Zero Strategy in October 2021 and most recently the British Energy Security Strategy in April 2022.
- 1.22. There is further benefit to be derived from the incorporation of the BESS alongside the solar farm.
- 1.23. In summary, the benefits arising from the Proposed Development in these regards include:
 - Making a significant and valuable contribution to achieving carbon reduction emission targets at both a national and a local level;
 - Contributing a source of clean renewable energy which is generated from a secure, distributed and diversified energy contribution, thereby contributing to the UK's energy security needs;
 - The use of high-efficiency bi-facial panels, which have the benefit of absorbing light from both sides of the array, increasing the efficiency of the production of electricity from the site by 4% compared to mono-facial systems;
 - The associated battery storage facility would be used to reinforce the power generation from the solar farm, maximising renewable energy production from the Appeal Site, whilst providing security of electricity supply and reducing the reliance on fossil fuel generation as back-up generation to meet National Grid needs.
- 1.24. I therefore conclude that this consideration should be given **substantial** positive weight in favour of planning permission being granted.

2. Landscape Enhancements

- 1.25. I refer to the submitted Landscape Scheme and to Landscape and Ecological Management Plan which shows a significant net gain on site in terms of tree and hedgerow planting (the biodiversity net gain calculation calculates a 25% gain in linear derived units).
- 1.26. These measures will serve to create a more coherent landscape framework across the Appeal Site which will enhance landscape character both during the operational lifetime of the Proposed Development, and once it is decommissioned.
- 1.27. I consider this to represent an environmental benefit which should be given **moderate positive** weight in favour of planning permission being granted.

3. Ecological Enhancements

- 1.28. I refer the Landscape & Ecological Management Plan and set out a number of measures which are included in the scheme to provide enhanced biodiversity.



- 1.29. In summary, the Proposed Development will provide an overall Biodiversity Net Gain of 90% in area derived units and 25% in linear derived units and that these habitats will endure as a legacy of the scheme that would not be realised without it, I consider these measures to represent an environmental benefit which should be given **substantial positive** weight in favour of planning permission being granted.

4. Improvements to soil and agricultural land quality

- 1.30. I refer to the ALC which notes the conversion of arable land to grassland under solar pv panels can improve soil health, such as increasing soil organic matter and hence soil organic carbon, increasing soil biodiversity and improving soil structure. This is further noted to be consistent with the aims and objectives for improving soil health in the Government's 25 Year plan for the Environment.
- 1.31. I consider this benefit to the soil and facilitating its regeneration to represent an environmental benefit which should be given **moderate positive** weight in favour of planning permission being granted

5. Economic Benefits arising from construction and business rates

- 1.32. The Proposed Development will result in the creation of construction jobs in addition to jobs being created in the supply chain. The capital expenditure in renewable energy infrastructure would help contribute towards funding and securing delivery on low carbon targets. In addition to this, business rates would be paid to HBC.
- 1.33. I consider this to represent an economic benefit which should be given **significant positive** weight in favour of planning permission being granted.

6. Provision of two new Permissive Public Rights of Way

- 1.34. The Proposed Development, through its provision of two new permissive footpaths would confer several social benefits.
- 1.35. The first Permissive footpath route would allow the Belstone Football Club to make use of a corner at the rear end of their playing fields that is currently disused as it is frequently crossed by walkers utilising a Public Right of Way (no.44). Whilst the Public Right of Way would remain in place, it would likely be less frequently used as walker would be encouraged to use the Permissive footpath routes instead.
- 1.36. The second Permissive footpath route connects the existing network of public footpaths on the Appeal Site around the eastern edge of Field 12 with the nearby Hertfordshire Way long distance footpath (no.31) which passes nearby to the north of the Appeal Site, improving connections and contributing to wider Green Belt objectives in the NPPF to provide opportunities for outdoor recreation.
- 1.37. I consider that these two new Permissive footpaths, which would endure for the operational period of the Proposed Development for 35 years, to represent a social benefit which should be given **limited/moderate positive** weight in favour of planning permission being granted

7. Provision on an Educational Strategy

- 1.38. The Proposed Development would facilitate an Educational Strategy which would inform and educate local people and local schools on the principles of renewable energy generation, carbon reduction and nature conservation.



1.39. I consider that this social benefit, which would be secured by means of a planning condition, should be given **limited positive** weight in favour of planning permission being granted.

Other Considerations which are Neutral

1.40. The following material considerations were assessed upon which it was considered the Proposed Development was not held to have an adverse impact:

- Residential amenity;
- Flood risk and drainage;
- Highways and transport (subject to appropriate conditions and a S106 Undertaking); and
- Noise (subject to appropriate conditions).

1.41. In respect of these material considerations, I consider that those should be **neutral** in the planning balance.

Material Considerations which are Adverse

Effect on the openness and purposes of the Green Belt

1.42. I have considered the definitional harm that would result from the effect of the Proposed Development on the Green Belt by reason of it being inappropriate development in terms of the NPPF, and on the openness of the Green Belt, both on the visual and spatial openness of the Green Belt, and harm to the purposes of including land in the Green Belt in Section 8 of my evidence. I concluded that the visual impact on the openness of the Proposed Development is in most cases localised, and mitigated through the proposed screening, whilst there would be a positive legacy which would remain after the solar farm has been decommissioned with the benefit of the increased planting and other biodiversity enhancements; whilst from a spatial impact on the openness of the Proposed Development would not harm 4 of the 5 Green Belt objectives, and there would only be limited harm to the third objective which would be fully reversible upon the decommissioning of the scheme.

1.43. I do however consider that the definitional harm to the Green Belt, the limited extent of harm to both the visual and spatial aspects of the openness of the Green Belt, and the limited harm to the third Green Belt objective, mean that this consideration should be afforded **substantial negative** weight in the planning balance.

Effect on Landscape Character and Visual Amenity

1.44. Having considered the evidence of Mr Kratt, in which he concludes that there would be some moderate adverse effects on landscape character of the Appeal Site itself (albeit these would be localised in extent), and also some minor adverse effects due to the visual effects of the Proposed Development (which would be very limited due to its substantial visual containment), I consider that these limited landscape effects should be given **moderate negative** weight in the planning balance.

Effect on the Setting of Heritage Assets



- 1.45. Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires the decision maker to pay special regard to the desirability of preserving Listed Buildings, their settings and any architectural features they may possess. The NPPF further requires that in case of less than substantial harm, the decision maker should attach great weight to a heritage asset's conservation.
- 1.46. I explain that Mrs Stoten in her evidence accepts that there will be less than substantial harm to three heritage assets, albeit at the low end of the spectrum in each case. This identified harm needs to be balanced against the public benefits of the scheme as NPPF paragraph 202 requires. Given the extent and weight of the public benefits which I have examined above, I consider that these benefits do outweigh the 'less than substantial' harm to the heritage assets in these instances.
- 1.47. Whilst I consider harm to heritage assets should be afforded considerable weight in the overall planning balance, given that the harm identified is at the lower end of the 'less than substantial' scale of harm and such harm would be temporary until the solar was decommissioned, in my opinion means this matter should be given **moderate negative** weight against planning permission being granted. I note that case law explains that the duty to accord "considerable weight" to the desirability of avoiding harm does not mean that any harm, however slight, must outweigh any benefit, however great, or that all harms must be treated as having equal weight.

Demonstration of Very Special Circumstances in respect of inappropriate development in the Green Belt

- 1.48. Having considered the range of material considerations that are positive, adverse and neutral, it is my opinion that any adverse potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by the benefits arising from the Proposed Development.
- 1.49. It is therefore my opinion that very special circumstances have been demonstrated in accordance with the NPPF.
- 1.50. I note that my opinion accords with the advice given by the LPA's Planning Officer to the Planning Committee.

Demonstration of Public Benefits outweighing the Less Than Substantial Harm to the Significance of Heritage Assets

- 1.51. In respect of the less than substantial harm to the significance of the heritage assets identified above, I am further of the opinion that these public benefits arising from the Proposed Development outweigh the less than substantial harm identified by Mrs Stoten, and therefore that the relevant test set out in NPPF paragraph 202 is achieved.

Overall Planning Balance

- 1.52. Having further considered the range of material considerations that are positive, adverse and neutral, it is my opinion that any adverse impacts of the Proposed Development would be significantly and demonstrably outweighed by the benefits, were it to be found that the Proposed Development did not accord with the Development Plan as a whole.
- 1.53. In my opinion the determination which would be in accordance with the Development Plan would be to allow the appeal because the Proposed Development accords, where relevant, with the Development Plan when read as a whole, given the demonstration of very special circumstances in terms of inappropriate development in the Green Belt, and in terms of the public benefits outweighing the less than substantial harm to the setting of the heritage assets.



1.54. However, should the Inspector conclude that the Development Plan indicates that the appeal should be dismissed, then, applying S38(6), there is a need to consider whether material considerations indicate otherwise.

Overall Conclusion

1.55. Following this analysis, my conclusion is that the proposals are in general accordance with the Development Plan when read as a whole. Even if the Inspector were to conclude that there would be some conflict with relevant policies, I consider that the identified public benefits constitute material considerations that would indicate otherwise.

1.56. In **Section 14**, I note progress to date on agreeing without prejudice planning conditions and also a S106 undertaking on highways matters in connection with the implementation of a Construction Management Plan.

1.57. In view of the foregoing, the Inspector is respectfully requested to uphold this appeal and to grant planning permission.

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