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Planning and Economic Development

Nick Leaney
Aardvark EM Limited
Higher Ford
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Somerset, TA4 2RL
Dear Mr Leaney

Our Ref: 20/1183/E11
Contact: Max Sanders
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Date: 10 September 2020

TOWN AND COUNTRY PLANNING ACT 1990 ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS

Application Number: 20/1183/E11

Site Location: Land North Of Butterfly Lane, Land Surrounding Hilfield Farm, and Land East Of Hilfield Lane, Aldenham, Hertfordshire

Description: Request for a screening opinion (Environmental Impact Assessment) for a proposed solar farm and battery storage facility.

I am writing in response to your application to the Council of 4th August 2020 (our reference for which is 20/1183/E11) in which you asked for a Screening Opinion as to whether an Environmental Statement (ES) should be included with an application that you intend to submit seeking planning permission. You have written that you do not consider that an ES is necessary, but you are seeking our opinion on the matter as the Local Planning Authority. In the event that we disagree with you (i.e. in the event that we consider that an ES is indeed necessary) you have asked for our Scoping Opinion as to what topics it should cover.

The proposal and the site

The development for which you intend to seek planning permission would be a solar farm and battery storage facility. This would cover a total of 123 hectares of agricultural land in the vicinity of Elstree Aerodrome. The site is divided into two parcels, each of which is subdivided into several fields. The first parcel consists of Field 1 (between the A41 and Hilfield Lane) and Fields 2-5 (to the north, east and south of Hilfield Farm). The second parcel consists of Fields 6-20 which are located between Aldenham Road, Butterfly Lane and Watling Street.

Pre-application advice

You have not applied for pre-application advice (although I encourage you to do that) so the purpose of this letter is to address the question of whether an Environmental Statement is required (the *screening opinion*), and the question of what topics it must cover (the *scoping opinion*). The question of whether planning permission is likely to

be granted for the development will not be addressed in this letter, as that would more properly be addressed as a response to a request for pre-application advice.

Comments received from consultees

The Council has notified relevant consultees of this application. The general public has not been consulted on this EIA screening request; although of course we will be consulting them when we receive an application for planning permission.

The comments that have been received are all published on our website, and I suggest that you read them because they will give you a good idea of the issues that are of concern to consultees. Some of the issues that are raised in those letters stray beyond the limited questions of whether an ES should accompany an application for planning permission and of what it should cover (which are all that concern us at this stage) but they are never the less worth considering because they will give you a good idea of what issues will be raised when you do submit an application for planning permission.

For instance the Council receives advice on matters pertaining to conservation of the historic environment from our consultants at Place Services, and they have submitted comments that you should consider. There are several heritage assets near the site that might be affected in terms of their settings. Similarly we take advice from Hertfordshire County Council on archaeological issues, and they have provided some useful comments that you should take account of.

Useful comments have been received on the subject of landscape, Green Belt matters and public rights of way from Hertfordshire County Council's Countryside and Rights of Way Officer, from the Campaign to Protect Rural England (CPRE), from the Ramblers, and from the Open Spaces Society.

Natural England and Cadent have also provided comments that may be of interest to you. Heathrow Airport have written to say that they have no objection; although curiously their comments relate mainly to wind turbines, which are not something that you are proposing to install.

Assessing whether an Environmental Statement is required

In considering applications of this type, a Local Planning Authority must assess the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, schedules 1, 2 and 3. If a proposal is for development of a type that is listed in Schedule 1, then an Environmental Statement *must* be submitted with an application for planning permission. If a proposal is for development that is listed in Schedule 2 and the site is a "*sensitive area*" (as defined in the regulations) then an ES *must* be submitted (regardless of whether the threshold in the second column is exceeded). If the proposal is Schedule 2 development but the site is not a *sensitive area* then a decision must be made by the Local Planning Authority as to whether an ES is required, and in arriving at that decision the LPA should have regard to the principals that are set out in Schedule 3.

Is the proposal Schedule 1 development?

There is no doubt that the proposed development would *not* be Schedule 1 development. That schedule covers development of facilities that might cause a

significant risk of environmental harm such as crude oil refineries, nuclear power stations, new motorways and so on, none of which would apply in this case.

Solar panels produce no pollution, they require no fuel (other than sunlight) and they emit no noise. They are not routinely staffed, and service and maintenance visits are infrequent. A solar farm does not constitute any of the types of development that are listed in Schedule 1.

Is this a “sensitive area”?

The definition of a *sensitive area* is set out in regulation 2(1) of the EIA regulations. An application for planning permission for any development that is listed in the left column of the table in Schedule 2 *must* be accompanied by an Environmental Statement (regardless of whether the site’s area exceeds the threshold in the next column or not) if it is within a *sensitive area*.

The definition in Regulation 2(1) includes a site on which a *scheduled monument* is located. There is a scheduled monument very close to your site. It is the remains of a moated site within the grounds of Haberdasher Aske’s School, near Butterfly Lane. However my understanding is that the regulation refers to scheduled monuments that are *within* the site, not *nearby*, and therefore I consider that the site is not a *sensitive area* as defined by the EIA regulations.

Is the proposal Schedule 2 development that requires an ES?

The proposed development would fall within *Category 3a: Industrial Installations For The Production Of Electricity* on a site exceeding the threshold of half a hectare (your site would total 123 hectares, so it would greatly exceed the threshold). As this would be a Schedule 2 development, the Council must consider, having regard to Schedule 3 of the EIA regulations, whether an Environmental Statement should be required in this case.

Schedule 3, part 1(f) states that:

“The characteristics of the development must be considered with particular regard to... the risk of major accidents and / or disasters relevant to the development concerned.”

Your proposal will be to install a large number of solar panels, extending over an extensive area (123 hectares in total). The panels would be angled upwards and they would be in close proximity to Elstree Aerodrome. Having visited the site, I have seen that small airplanes and helicopters take off and land here every few minutes. There are flying schools for trainee pilots of both airplanes and helicopters at the aerodrome – meaning that some of the pilots taking off and landing here may be inexperienced or not yet fully trained or qualified. The potential risk that pilots might be dazzled by the reflections from these upward facing solar panels is a matter that must be carefully assessed as part of the appraisal of your application for planning permission, so as to avoid any risk of accidents or disasters.

Given that the proposed development would be an EIA development under Schedule 2 part 3a, and given that it might pose a risk of major accidents or disasters, as per Schedule 3 part 1f, the Council considers that your

application for planning permission should be accompanied by an Environmental Statement.

This is not to say that the Council necessarily considers that the development would pose a danger to aircraft – only that it might have the potential to do so. This must be carefully considered. The onus will be on you to demonstrate its safety to our satisfaction.

I have seen the *Glint and Glare Report* that you have submitted – both the second issue which you submitted as Appendix 5 of your application and the more detailed fourth issue revision (dated 7th Sep 2020) which you have submitted this week, following our recent meeting and discussion at the site. It is encouraging to read in this report that there are methodologies that your consultants might employ to demonstrate that such a development could be safely installed near an airfield (I see that this has been done for a solar farm near Bristol Airport for instance). We will look forward to seeing these methodologies put into practice in the Environmental Statement that you will submit with your application for planning permission.

Scoping opinion: topics to be addressed in the Environmental Statement

The Council are mindful of paragraph 002 (ref ID 4-002-20140306) of the Planning Practice Guidance (PPG) in which the government states that:

“Environmental Impact Assessments should not be a barrier to growth... The 2017 regulations should only apply to those projects which are likely to have significant effects on the environment... If required they should limit the scope of assessment to those aspects of the environment that are likely to be significantly affected.”

It is because the site is located near an airfield that the Council is requiring the submission of an ES, and therefore **the only subject that must be included in the Environmental Statement is the issue of aviation safety.**

Other topics

However there are other subjects that we will need to consider in assessing your application for planning permission, and the Council will expect to see plans and documents on these issues. They may be included as chapters within your Environmental Statement, or else they may be submitted as separate supporting documents – as you prefer.

The fact that these topics could be covered by supporting documents that are not part of an Environmental Statement does not mean that they are less important. Planning permission would be likely to be refused unless an application could demonstrate that it would not be harmful to the interests that are listed below (or, in some cases, unless it can be demonstrated that any such harm would be outweighed by other significant benefits).

Those subjects are:

- Impact on the landscape (including views from public rights of way) and on the open character of the Green Belt (including the question of whether “*very special*”

circumstances” can be demonstrated that might justify an inappropriate development in the Green Belt).

- An assessment of the value of the agricultural land.
- Consideration of alternative sites.
- Impact on heritage assets and their settings. You might find our pre-application advice service (which can include advice from our heritage consultant at Place Services) helpful in this regard, as there are several heritage assets nearby whose settings might be affected. Incidentally I have walked the site this week with our heritage consultant, and I can tell you that he is worried about the idea of installing solar panels in the southern part of Field 5 (where the setting of Hilfield Castle might be threatened), and in proximity to Slades Farm, and the gates of Haberdasher Aske’s School on Butterfly Lane, and the scheduled monument that lies within the school’s grounds. He recommends that in locations where you are relying on screening by trees you should take photographs now while the trees are in leaf, and again when the leaves have fallen (from the same positions and angles) and include those photographs side by side in the report that you submit.
- Impact on archaeologically sensitive areas. I suggest that you propose shallow pad bases for the frames in those sensitive areas, rather than piles.
- Wildlife, habitats, trees and biodiversity (I note that evidence has been found of Great Crested Newts, which are a protected species, in two ponds on the site).
- Impacts on the highway network

Conclusion

Your planning application will need to be supported by an Environmental Statement to demonstrate that your development would not pose a threat to the safety of aircraft using Elstree Aerodrome.

As with any major application for planning permission, there are several other issues that the Council will expect to see covered by supporting technical documents. Those can be included as chapters within your Environmental Statement, or else they could be supporting documents in their own right - as you prefer.

Yours sincerely



Max Sanders
Senior Planning Officer