



Department for Communities and Local Government

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Our Ref: APP/C3620/W/14/3000674
Your Ref:

24 November 2015

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 APPEAL BY MYNTHURST FARMS LIMITED: MYNTHURST FARM, MYNTHURST, LEIGH, SURREY RH2 8QD

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Phillip J G Ware BSc DipTP MRTPI, who held a site visit on 20 May 2015 in relation to your clients' appeal against the refusal of Mole Valley District Council to grant planning permission for the construction of a 32.5 hectare solar park, to include the installation of solar panels to generate electricity, with a control room, fencing, landscaping and other associated works in accordance with application ref: MO/2014/0061/PLAMAJ, dated 10 January 2014, at Mynthurst Farm, Mynthurst, Leigh, Surrey RH2 8QD.
2. The appeal was recovered for the Secretary of State's determination on 14 August 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because the proposal is significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation and dismisses the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy considerations

4. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Mole Valley Core Strategy (CS) (2009) and the saved policies of the Mole Valley Local Plan (LP) (2000). The Secretary of State considers that relevant development plan policies include those set out in IR13-14.

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5. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* (The Framework) and the associated Planning Guidance; the UK Solar PV Roadmap of October 2013 and subsequent policy publications; and the Written Ministerial Statement “Planning Update March 2015” which, amongst other matters, concerns solar energy and the protection of the local and global environment. The main parties were asked by the Planning Inspectorate for their comments on this statement, and their responses have been taken into account by the Secretary of State in his determination of the appeal.

Main issues

6. The Secretary of State agrees with the Inspector that the main considerations in this case are those set out in IR45.

Green Belt policy

7. The Secretary of State agrees with the Inspector that due weight should be given to the CS policy CS1 as it is essentially consistent with the Framework (IR46). He notes that there is no dispute between the parties that the proposal represents inappropriate development in the Green Belt and that this would be, by definition, harmful to the Green Belt (IR47). Overall, for the reasons in IR46-50, the Secretary of State agrees with the Inspector that the proposal is in conflict with development plan and national policy as it relates to the Green Belt, and would therefore cause definitional harm, additional harm to openness and harm to one of the purposes of designation (safeguarding the countryside from encroachment) (IR51). He agrees with the Inspector that this weighs heavily against the proposal (IR51). He has gone on to consider whether there are any material considerations which would overcome the conflict he has identified with the development plan.

Effect on the landscape and visual amenity of the area

8. For the reasons set out in IR52-60 the Secretary of State agrees with the Inspector that the proposal would harm the character and appearance of the surrounding landscape and conflict with landscape policies, and that the visual amenity of the area, as experienced by receptors on the footpaths, would be significantly harmed (R61).

Benefit arising from the provision of renewable energy

9. Given the extent of the Green Belt in the District, the Secretary of State considers that other sites in the area would be likely to give rise to the same issue of inappropriate development in the Green Belt as the appeal site (IR63). He notes that the proposal would have an installed capacity of 13.5MW, which is estimated by the appellant to produce sufficient electricity to power 3,060 average homes (IR62). Overall, for the reasons in IR63-66, he agrees with the Inspector that the provision of renewable energy attracts significant weight in favour of the proposal (IR67).

Other matters

10. For the reasons in IR69-70, the Secretary of State agrees with the Inspector that the absence of a **Planning Obligation/bond** to fund the decommissioning of the development does not add any weight to the arguments against the proposal (IR70).

11. For the reasons in IR72, he agrees with the Inspector that the loss of **agricultural land** in this case does not weigh against the proposal; and that the intention that sheep would graze between and beneath the solar arrays carries very little weight. For the reasons in IR73-74, he agrees with the Inspector that the **ecological** considerations in this case add very limited weight to the arguments in favour of the proposal (IR74); that for the reasons in IR75-76, **farm diversification** adds some weight to the arguments in favour (IR76); and that, for the reasons in IR77-78, there is no evidence that the proposal would harm **vehicle or pedestrian safety**, and that this matter is neutral in the planning balance (IR79).

Conditions

12. The Secretary of State has considered the proposed conditions, as set out in the Annex to the IR, and the Inspector's comments on them at IR80-90. He is satisfied that these conditions are reasonable and necessary and would meet the tests of the Framework and the guidance. However, he does not consider that the imposition of these conditions would overcome his reasons for refusing the appeal.

Planning balance and overall conclusion

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out in this letter, the Secretary of State concludes that the appeal proposal would not be in accordance with the development plan. He has gone on to consider whether there are any material considerations which would overcome this conflict.
14. The Secretary of State agrees with the Inspector that the proposal is inappropriate development in the Green Belt, that it would harm the openness of the Green Belt, and conflict with one of the purposes of designating the Green Belt (IR91). He agrees that this weighs heavily against the proposal (IR91).
15. In terms of the economic dimension of sustainability, he agrees with the Inspector that there would be a short term employment benefit during the construction phase but, of greater significance, a benefit to the diversification of the farm holding (IR92). However, in environmental terms he agrees that there would be significant harm to the landscape and visual amenity of the area, albeit that there would be some very limited ecological enhancements (IR93). He also agrees that the proposal would be sustainable in terms of the need to mitigate and adapt to climate change, including moving to a low carbon economy (IR93). While he notes the Inspector's view that the temporary nature of the proposal weighs in its favour (IR94), the Secretary of State considers that 25 years is a considerable period of time, and the proposal's temporary nature is not a matter he has taken into account in his consideration of whether the scheme should go ahead. He agrees with the Inspector that this is case where the balance is clearly against the development due to the significant weight accorded to the harm to the Green Belt and the character and appearance of the area (IR94). He notes that national policy advises that renewable energy proposals should be located where impacts are, or can be made, acceptable (IR95), and agrees with the Inspector that this is not the case here and therefore that the proposal cannot be said to be sustainable when assessed against the Framework as a whole (IR95). He also agrees that the level of harm significantly and demonstrably outweighs the benefits of the proposal in terms of paragraph 14 of the Framework (IR95).

16. Overall, the Secretary of State agrees with the Inspector that the benefits of the scheme do not clearly outweigh the harm to the Green Belt and the landscape and visual amenity of the area and that very special circumstances do not exist to justify allowing the inappropriate development (IR96). He also concludes that there are no material considerations sufficient to overcome the conflict he has identified with the development plan.

Formal Decision

17. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the construction of a 32.5 hectare solar park, to include the installation of solar panels to generate electricity, with a control room, fencing, landscaping and other associated works in accordance with application ref: MO/2014/0061/PLAMAJ, dated 10 January 2014, at Mynthurst Farm, Mynthurst, Leigh, Surrey RH2 8QD.

Right to challenge the decision

18. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. From 26 October 2015, this must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

19. A copy of this letter has been sent to the Council.

Yours faithfully

Jean Nowak

JEAN NOWAK

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Phillip J G Ware BSc DipTP MRTPI

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

Date: 8 September 2015

MOLE VALLEY DISTRICT COUNCIL

MYNTHURST FARM, MYNTHURST, LEIGH

APPEAL BY MYNTHURST FARMS LIMITED

Site visit made on 20 May 2015

Mynthurst Farm, Mynthurst, Leigh, Surrey RH2 8QD

File Ref: APP/C3620/W/14/3000674

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Mynthurst Farm, Mynthurst, Leigh, Surrey RH2 8QD

- 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 Mynthurst Farms Limited against the decision of Mole Valley District Council.
- The application Ref MO/2014/0061/PLAMAJ, dated 10 January 2014, was refused by notice dated 9 June 2014.
- The development proposed is the construction of a 32.5 hectare solar park, to include the installation of solar panels to generate electricity, with a control room, fencing, landscaping and other associated works.

Summary of Recommendation: That the appeal be dismissed.

Procedural matters

1. On 25 March 2015 the Secretary of State for Communities and Local Government issued a Written Ministerial Statement entitled "Planning Update March 2015" which, amongst other matters, dealt with solar energy and the protection of the local and global environment. The main parties were asked for their comments on this statement, and their responses have been considered.
2. I undertook an accompanied site visit to the site and the surrounding area on 20 May 2015.
3. The appeal was recovered for decision by the Secretary of State on 14 August 2015. The reason for recovery is that the proposal is significant development in the Green Belt.

The site and surroundings

4. The appeal site is around 32 hectares of undulating agricultural land located in largely undeveloped countryside between the settlements of Leigh and Charlwood¹. The site comprises four fields which are currently in arable production, and is part of an overall landholding understood to extend to some 312 hectares. The external and internal field boundaries are generally defined by hedgerows.
5. There is an area of woodland to the west, with hedgerows and some trees to the north, east and south. There are public rights of way² to the north and south of the site.
6. The wider area includes a number of residential properties³, most of which do not have a view of the appeal site. Exceptions are Chantersluer Farm to the east/southeast of the site and Rickettswood Farm to the south, from which views can be obtained of parts of the appeal site.
7. The site is within the Low Weald National Landscape Character Area, which is an area of broad low-lying gently undulating clay vales. It comprises a generally pastoral landscape with arable farming, and characteristic field boundaries

¹ Shown at the appellant's Planning Statement, Appendix 2

² Shown at the appellant's Planning Statement, Appendix 3

³ Shown at the appellant's Planning Statement, Appendix 4

formed by hedgerows and remnant strips of cleared woodland⁴. The Surrey Hills Area of Outstanding Natural Beauty lies around 3.8 kms to the northwest.

The proposal

8. The proposal is the construction of a solar farm, with an estimated lifespan of 25 years. The solar panels would be aligned in an east – west direction, and would be located in four separate (but adjoining) fields. The solar panels would be 2.2 metres at the highest point, would have a gap of around 5 metres between rows, and would be mounted on steel frames. They would be set back from the boundaries. The proposal would retain and enhance existing boundary vegetation and there would be a buffer zone alongside a watercourse.
9. In addition, there would be a number of related structures including nine inverter stations (each 3.6 metres high and sited in 0.6 metre depressions), a grid connection building, 2 metre high deer fencing between 2.5 metre high posts, CCTV cameras on 2.5 metre high galvanised poles, and access tracks⁵.
10. A temporary access track would be formed from Smalls Hill Road (to the south of the existing access). A temporary building compound would be established within the site.

Development plan policy

11. The appeal site is within the Metropolitan Green Belt.
12. The development plan comprises the Mole Valley Core Strategy (CS) (2009) and the saved policies of the Mole Valley Local Plan (LP) (2000)⁶.
13. The policies of the CS include:
 - Policy CS1, which directs development towards built up areas and refers to (amongst other matters) to then-extant national policy related to Green Belts, landscape, and sustainable development. Those national policies have since been superseded by the National Planning Policy Framework (the Framework).
 - Policy CS12 relates to the promotion of a diverse and sustainable rural economy. This policy also refers to superseded national policy documents.
 - Policy CS13 requires new development to respect and, where appropriate, enhance the character and distinctiveness of the landscape character area.
14. The LP includes the following policies:
 - Policy ENV60 relates specifically to renewable energy projects, and the need to have regard to a range of matters - including the visual impact on the surrounding area and the contribution towards reducing emissions of greenhouse gases.

⁴ Similarly described in the Council's Landscape Supplementary Planning Document (SPD) (2013) - Open Weald Character Area

⁵ Appellant's Planning Statement, Appendix 3

⁶ All policies are on the case file

- Policies ENV22 and ENV23 are general policies which (amongst other matters) require that development respects the character and appearance of the locality.
- Policy RUD17 supports farm diversification.

The case for the appellant

15. Although the development taken as a whole could be taken to amounting to inappropriate development in the Green Belt, very special circumstances exist to outweigh the limited harm. This was recognised by the Council officer's recommendation for approval. There are no extant development plan policies related to development in the Green Belt, and the Framework is the basis for the assessment.
16. The development would impact on the openness of the Green Belt in that the solar panels and related equipment would be placed on currently open fields, and this weighs against the development. However this harm is tempered by two factors:
 - The development would be limited in height, with the solar panels at 2.3 metres and no other structures taller than 3 metres high. As such, the development can be effectively screened by existing vegetation and the proposed mitigation planting.
 - The proposal is for a limited period of 25 years, after which the site would be returned to open agricultural land. There would be no permanent loss of openness.
17. LP policy ENV60 is supportive of such projects where there are no unacceptable impacts. The proposal would have an installed capacity of 13.5MW, estimated to produce electricity to power 3,060 average homes. The Framework and the development plan provide strong support for renewable energy development. This environmental benefit carries substantial weight.
18. The proposal is a diversification of the overall Mynthurst Farms Limited enterprise. Particularly due to the fall in milk prices and the general volatility of the market, the solar farm would provide a consistent income to support the operation of the wider farm and enable the development of new facilities for which planning permission has been given. These matters are addressed in the Agricultural Assessment submitted with the application and should be given significant weight.
19. The proposal includes the retention and strengthening of existing hedgerows, along with other planting. A range of ecological benefits, including the provision of an area to be used as an apiary, represent a moderate ecological benefit.
20. Turning to the effect on the landscape⁷, the site is within the Low Weald National Landscape Character Area and within the Open Weald Character Area as defined in the Council's Landscape Supplementary Planning Document (2013). The site is set in a characteristically pastoral landscape of arable farming, with hedgerow field boundaries and remnant strips of cleared woodland.

⁷ Assessed within the Landscape Statement of Case and the Landscape and Visual Impact Assessment

21. The proposal can effectively be accommodated in landscape and visual terms. There would be a change in land use for the time-limited operational phase of the development but, rather than have an adverse effect on the landscape, there would be overall net benefit on the tree and hedgerow resource. All the existing hedgerows, and the majority of trees and woodland on and surrounding the site, would be retained and enhanced by way of infill and reinforcement hedgerow and tree planting.
22. The area is a not unattractive rural landscape, although it is not subject to any statutory or non-statutory landscape protection. It is a pleasant environment but quite unremarkable in scenic quality terms – on that basis it has a medium value and a medium susceptibility to change arising from the proposal. The appeal site has a medium sensitivity and a corresponding medium capacity to accommodate a solar farm.
23. The enclosed nature of the landscape would help to diminish the perceived size of the development by restricting views so that only discrete sections of the solar farm would be seen. Except from limited locations and at very close quarters the proposal would not be seen against the skyline. Where views of the development were gained, these would be largely confined to areas in close proximity to the boundary, particularly from the footpaths/bridleways to the north and south.
24. Overall the proposed development would not materially change the perception of the Open Weald landscape character area, mainly due to the layering effect of surrounding vegetation and the existence of other forms of infrastructure such as roads, buildings and settlements.
25. Turning to the visual amenity of receptors, these would not be so harmed as to be unacceptable. The appreciation of users of the road network would not be so great as to significantly change the users' appreciation and enjoyment of the rural character of the countryside through which they were passing. Views of the development from public rights of way would be constrained by topography and vegetation, and the only significant visual effect would be limited to locations in the immediate vicinity of the site – and these views would be mitigated by planting⁸. The appreciation by users of the rights of way would not be significantly changed. Two residential properties (Chantersluer Farm and Rickettswood Farm) may have views of the nearest edge of the solar farm, but such views would be heavily filtered and would not be materially significant.
26. The Ecological Appraisal submitted with the application demonstrates that there would not be a harmful impact on any designated sites or protected species, and the proposal includes a number of habitat enhancements, including an apiary. There are no heritage assets within the site, and the Heritage Assessment demonstrates that there would be no harmful effect on the setting of any asset. There is a limited probability of any archaeological assets being present, and this could be addressed by a condition. The Flood Risk Assessment shows that the site is in Flood Zone 1 and it is therefore at the lowest risk of flooding.
27. The site is Grade 3b agricultural land, and is therefore outside the Framework definition of Best and Most Versatile agricultural land. The Written Ministerial Statement (Planning Update) therefore has no effect on the consideration of the

⁸ As illustrated in the submitted viewpoint photographs and montages

appeal as it was concerned solely with the protection of such land. In any event a decision by the Secretary of State⁹ in Suffolk illustrates that the use of agricultural land is not necessarily a negative factor.

28. During the operational phase traffic generation would be very limited. During the construction phase there would be around 242 vehicle loads, at a maximum of 6 HGV deliveries per day. A temporary access road, which is acceptable to the Highway Authority, would be put in place.
29. There would be some time limited impacts on neighbours during the construction period but conditions could address these matters. No properties would be subject to an overbearing impact, and the Residential and Visual Amenity Study demonstrates that only limited views of the development would be possible from Chantersluer Farm (the nearest property).
30. The Council's third reason for refusal, related to the absence of a bond to address the decommissioning of the development, is unnecessary. Although there would be a cost associated with the removal of the development, this would be relatively modest. A planning condition could address that matter, as has been done in many other instances.
31. Overall the solar farm would make a valuable contribution to sustainability objectives. There are very special circumstances which mean that planning permission should be granted.

The case for the Council

32. The proposal is inappropriate development in the Green Belt which is, by definition, harmful.
33. The proposal includes over 30 hectares of solar panels, various structures, fencing and ancillary buildings. This would represent a major adverse impact on the openness of the Green Belt and be contrary to two of the purposes of the designation of the area – safeguarding the countryside from encroachment and assisting in urban regeneration (in that the development could be located on the roofs of existing commercial properties).
34. The Council recognises the importance of delivering renewable energy, as set out in national policy. This is a significant factor to be weighed in the balance in favour of the proposal. However national policy is moving away from large scale solar projects towards smaller schemes associated with brownfield sites and existing buildings, and this reduces the weight to be accorded to this matter.
35. National policy is that the appellant should demonstrate a need, not for the renewable energy generation, but for development of this particular location. In this case the appellant has considered only their own landholding and have not otherwise demonstrated why the project has to be located in the Green Belt.
36. Little weight should be accorded to the proposed 25 year lifespan of the proposal. Unacceptable development is not rendered acceptable because it will only be in place for 25 years. Additionally, allowing sheep to graze amongst the panels would do little to maintain the character of the area.

⁹ 2192543

37. Overall, very special circumstances to justify the harm to the Green Belt in principle and by reason of impact on openness and the purposes of the designation have not been demonstrated.
38. The CS included a commitment to prepare a Landscape Character Assessment. The Landscape SPD (2013) was published to fulfil that commitment. The Low Weald character area has a more open and undulating character than other parts of the District.
39. The appellants maintain that the proposal would be perceived as a number of discrete elements, interspersed by retained and proposed vegetation. But in reality the development would be perceived as a single large scheme due to its unnatural and homogeneous form, colour and materials stretching across the site. The degree of visibility would vary through the seasons, but there are a number of potential public viewpoints from nearby bridleways and footpaths as well as from residential properties. It is not accepted that the rows of solar panels would be visually comparable with the appearance of crops in fields.
40. Overall, the development would have an adverse impact on the character and appearance of the site and the surrounding area.
41. The lack of a legal agreement to provide a bond to secure the removal of the development remains an issue. Whilst the Council has no objection to the proposed wording of the suggested condition to deal with the matter, enforcement of the condition may be difficult if financial resources are not available.

Other written representations

42. A wide range of representations from local residents and organisations were received in relation to the application and the subsequent appeal¹⁰. In particular representations were received from the Council to Protect Rural England (Surrey Branch), the Surrey Wildlife Trust, Reigate and Banstead Borough Council, the Ramblers Association, Newdigate Parish Council, Charlwood/Leigh/Salfords and Sidlow Parish Council, the Norwood Hill Residents Association, the Charlwood Society, and Crispin Blunt MP.
43. Those respondents who objected to the proposal (around 25 letters were also received stating their support in general terms) raised the following main matters in addition to Green Belt and landscape impact:
 - Lack of continuing demand for solar power
 - The unsuitability of the land for sheep grazing
 - The loss of agricultural land
 - The safety of users of the footpaths and bridleways during the construction period
 - The length of the proposed temporary period and the uncertainty that the land will eventually revert to agriculture

¹⁰ Representations at both stages on file.

- Ecological impact
- The effect on neighbouring properties
- Heath issues
- Impact of construction traffic
- Precedent for other similar proposals

Inspector's conclusions

[Numbers in square brackets denote source paragraphs]

Background and main considerations

44. The appeal site comprises a number of open agricultural fields within the Metropolitan Green Belt [4]. The proposal is for a large scale solar farm [8-10].
45. With this background the main considerations are:
- Whether the proposal represents inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework ('the Framework'), and the effect on the openness and purposes of the Green Belt
 - The effect on the landscape and visual amenity of the area
 - The benefit arising from the provision of renewable energy
 - Other considerations
 - Whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Green Belt policy

46. Development plan Green Belt policy is to be found at Core Strategy (CS) policy CS1. Although the CS is of a certain vintage (having been adopted in 2009) and refers to national policy which has been superseded by the Framework, due weight should be given to the policy as it is essentially consistent with the Framework. The general policy approach is to resist inappropriate development in the Green Belt [13].
47. The Framework states that elements of many renewable energy projects comprise inappropriate development and that, in such cases, developers will need to demonstrate very special circumstances if projects are to proceed. These very special circumstances may include the wider environmental benefits associated with the increased production of energy from renewable sources. In this case, there is no dispute between the parties that the proposal represents inappropriate development [15, 32] and that this would be, by definition, harmful to the Green Belt. This is a matter to which substantial weight should be given.
48. In addition to the harm caused by inappropriate development, openness is an essential characteristic of the Green Belt. The existing four arable fields would be replaced by a solar farm. The appellant has noted that the development would be limited in height, with the panels at 2.3 metres and no other structures above 3 metres high [8-10]. It has also been stated that the development could be effectively screened by existing vegetation and proposed mitigation planting [8, 19]. However the scale of the development, comprising arrays of solar panels and related fencing and other structures, across a site of over 30 hectares, is such that it would clearly have an impact on the openness of the area. This is an additional harm to the Green Belt.

49. The appellant has stressed that the proposal is for a limited period of 25 years, after which the structures would be removed and the land would revert to open fields [16]. Although it is agreed that the harm to the openness of the area would be time-limited, the period involved is such that the effect of the reduced openness would last for a about generation – this matter does little to reduce the harm to openness.
50. The Framework sets out a number of purposes related to the designation of a Green Belt. The proposal would conflict with one of these, namely safeguarding the countryside from encroachment, as the proposal would introduce an essentially manufactured form of development into the largely natural environment. This would harm one of the purposes of the Green Belt. The Council has suggested that the development would also conflict with another purpose of designation – namely to assist in urban regeneration. But, although the preference in policy terms is towards the use of brownfield and commercial locations for solar generation, it is not considered that this proposal is in direct conflict with this reason for designating the Green Belt.
51. Overall, the proposal is in conflict with development plan and national policy as it relates to the Green Belt, and would therefore cause definitional harm, additional harm to openness and harm to one of the purposes of designation. It should be noted that Green Belt policy has been dealt with briefly in this report, due to the extent of the agreement between the parties. However this does not imply any reduction in the importance of this matter, which weighs heavily against the proposal.

The effect on the landscape and visual amenity of the area

52. The site is not within an area specifically protected at national or local level for its landscape beauty. However there are a number of policies aimed at the protection of the countryside in general. The policy context is provided by CS policy CS13 and policies ENV22 and ENV23 of the Mole Valley Local Plan (2000) (LP) [13, 14]. These policies require development to respect the character and distinctiveness of the landscape character area. In addition LP policy ENV60, which relates specifically to renewable energy projects, explains the need to have regard to the visual impact on the surrounding area [14]. This is supported by the approach of the Framework, which is to protect and enhance the natural environment and recognise the intrinsic character and beauty of the countryside.
53. The area is part of the Low Weald National Landscape Character Area and is described as being broad, low-lying gently undulating clay vales, comprising a generally pastoral landscape with arable farming, with field boundaries of hedgerows and remnant strips of cleared woodland. This is also reflected in the more localised Open Weald Character Area (assessed in the Council's 2013 Landscape SPD) which emphasises the small scale of the landscape and the importance of the patchwork of fields and hedgerows [20]. The appeal site is typical of this landscape character in terms of field size, shape and landscape elements. From everything I have seen and read, these documents provide a good assessment of the landscape character in the vicinity of the appeal site.
54. The appellants maintain that the enclosed nature of the landscape would help to diminish the perceived size of the solar farm. In that way they argue that the proposal would be perceived as a number of discrete elements [24]. However although the field boundaries and planting would be retained and enhanced, it is

considered that this substantially overstates the softening effect brought about by the retention of the field boundaries and additional planting.

55. The solar farm would be perceived as one single development, albeit divided by hedges, stretching over a wide area. The horizontal extent of the scheme, allied to its not inconsiderable height, would make it appear as a single large development stretching over a wide area of the landscape. In place of the current agricultural landscape there would be serried ranks of solar arrays, which would be seen as man-made and alien to their rural surroundings. The fence, CCTV cameras and poles, and associated structures would add a further sense of urbanisation in this isolated rural area.
56. The extent of the visibility would vary from one season to another but, whatever the time of year, the eye would be drawn to the ranks of the solar panels and the sense of the open arable landscape would be lost. Views of the development could be gained from a number of locations, particularly from the footpaths/bridleways to the north and south.
57. The site is an important part of the small scale pastoral landscape. The result of the proposal would be that a substantial area of land would cease to be agricultural in visual character, whatever the use between and beneath the arrays might be, and therefore the site would no longer contribute to the established character of the landscape. In my assessment, the landscape is not capable of absorbing the development without changing and harming its essential character.
58. In addition, the visual amenity of receptors using the public footpaths/bridleways would be significantly affected to such an extent as to be unacceptable. From the right of way to the north of the site, which would run to around 25 metres of the security fence at the nearest point, there are few existing detractors in the landscape and the appellant's assessment is that there is a high susceptibility to change. This is accepted. Although the effect would reduce over time as the proposed planting matured, the experience of those using this route would be materially harmed by the proposal. This is illustrated by the appellant's Viewpoints 2A, 2B, 3 and 4. Similarly, from Viewpoints 8, 9A, 9B, 10, 10B and 11 [25] on the footpath to the south of the site – which partly crosses open fields with less boundary vegetation - there would be major adverse visual effects. The appreciation of users of the road to the east would not be significantly changed due to the distance involved and the angle of view.
59. Two residential properties (Chantersluer Farm and Rickettswood Farm) would have views of the part of the development, but such views would be obtained from a significant distance. Although residents might find the change unwelcome, the visual element of residential amenity would not be affected to such a degree that the properties concerned would come to be regarded as unattractive and thus unsatisfactory (but not uninhabitable) places in which to live.
60. The proposed additional planting would mitigate the effect of the proposal to a degree, both in relation to the character of the landscape and visual amenity. However this would take some time to mature and would not mitigate the proposal to a significant degree.

61. Overall, the proposal would harm the character and appearance of the surrounding landscape and conflict with landscape policies. The visual amenity of the area, as experienced by receptors on the footpaths, would be significantly harmed.

The benefit arising from the provision of renewable energy

62. The proposal would have an installed capacity of 13.5MW, estimated by the appellant to produce sufficient electricity to power 3,060 average homes [17]. As mentioned previously LP policy ENV60 is supportive of such projects where there are no unacceptable impacts. There is strong support for renewable energy in the Framework and Planning Practice Guidance. The UK Solar PV Roadmap of October 2013 and subsequent policy publications are further material considerations. All these add weight to the case in favour of the scheme.
63. The importance of renewable energy is common ground [17, 31, 34]. It is not necessary for the appellants to demonstrate the overall need for the proposal. Although the appellants have not discussed potential locations outside their extensive landholding, the location of the site within the Green Belt means that other sites in the area would be likely to raise the same issue of principle.
64. The renewable energy benefit carries substantial weight, as both national and local policy provide strong support for this type of proposal. However this support for renewable energy is generally caveated by the need for siting of developments to be appropriate and for the impacts to be acceptable or capable of being made so.
65. The fact that the development could be decommissioned after 25 years, and the land returned to its former state, should not be ignored. However, as noted above, this means that the development and its effects would be in place for a significant period.
66. The policy emphasis is arguably moving away from large scale solar projects such as the appeal scheme [34]. However, the application and appeal have to be determined in accordance with the development plan and other material considerations and the current policy is generally supportive of renewable energy projects subject to the caveats above.
67. As with Green Belt policy, this matter has been dealt with briefly in this report, due to the extent of agreement between the parties. The provision of renewable energy is a matter that attracts significant weight in favour of the proposal. The issue between the parties is the weight to be ascribed to this factor and other positive and negative aspects of the scheme.

Other matters – the lack of a Planning Obligation/Bond

68. The Council's third reason for refusal related to the absence of a Planning Obligation providing a bond to fund the decommissioning of the development at the end of the limited period or if the installation ceases to generate energy before that time.
69. Whilst the Council has no objection to the proposed wording of the suggested condition to deal with the matter, the authority considers that enforcement of the condition could be difficult if financial resources are not available [41]. However such a condition would run with the land and, although there would be a cost

associated with the removal of the development, this would be comparatively modest.

70. The Council has not explained why a planning condition could not effectively address the removal and restoration issue, as has been the case in many other instances of solar farms and other temporary developments. This is the recommended approach in Planning Practice Guidance. In the absence of any evidence to the contrary, a condition could address the removal of the installation and the reinstatement of the land. This matter does not add any weight to the arguments against the proposal.

Other matters – the loss of agricultural land

71. Residents have raised concern over the loss of the existing agricultural land. National policy provides that the economic and other benefits of the Best and Most Versatile (BMV) agricultural land should be taken into account. Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be used in preference to that of a higher quality. This approach has been reaffirmed by the 2015 Written Ministerial Statement entitled "Planning Update March 2015".
72. The definition of BMV land is found in the Framework, and comprises land in Grades 1, 2 and 3a of the Agricultural Land Classification. The appeal site was shown as Grades 3 and 4 on the 1979 land classification map and the appellant's uncontested survey shows it to be Grade 3b. It is therefore outside the type of agricultural land which policy seeks to protect, and this matter does not weigh against the proposal. The scheme also includes the intention that sheep would graze between and beneath the solar arrays, although there is no mechanism to ensure that this takes place throughout the lifetime of the development, and this intention carries very little weight.

Other matters – ecology

73. The impact of the proposal on ecology has been assessed by the appellant's unchallenged Ecological Appraisal, which conclusively demonstrates that there would be no harm to designated sites or protected species [26]. In addition the proposal includes the retention and strengthening of existing hedgerows, along with other planting including a buffer zone by Deanoak Brook. An area of land is shown as being used as an apiary [26].
74. However, although no designated sites or protected species are identified as being affected, the construction of the solar farm would be a significant undertaking, and there would be inevitable harm caused to the existing ecology of the site and the immediate area. Some aspects of the ecological enhancements can fairly be regarded as mitigation for this harm, and other elements as mitigation in relation to landscape harm. Overall, this matter adds very limited weight to the arguments in favour of the proposal.

Other matters – farm diversification

75. The proposal represents a diversification of the appellant's overall farming enterprise. The uncontested evidence is that, partly due to the fall in milk prices and for other reasons, the farm needs a reliable source of income. In part this would fund other farming projects which have received planning permission [18].

76. This would be in line with local and national policy aimed at supporting a prosperous economy and promoting the development and diversification of agricultural enterprises. This adds some weight to the arguments in favour of the development.

Other matters – vehicle and pedestrian safety

77. Once the solar farm was built, the number of vehicle movements would be very small [28]. Although the access at that time would be shared with a public bridleway, this is the case with the existing farm access, and there is no reason to suppose that the addition of limited vehicles accessing the solar farm along this route would lead to any problems.
78. The traffic generation during the construction phase would be significant [28], and therefore a new access would be created leading from Smalls Hill Road [10, 28]. No objection has been raised to the details of this access or the capacity of the surrounding network to carry the additional traffic.
79. Overall, there is no evidence that the proposal would harm vehicle or pedestrian safety, and this matter is neutral in the planning balance.

Conditions

80. In the event that planning permission is granted, conditions were set out in the Council's committee report and a further set was included in the appellant's appeal statement. The two sets of conditions are generally similar, but the parties have not commented on the limited differences between the two versions. These conditions have been slightly modified in the light of Planning Practice Guidance and are set out in the Annex to this report.
81. Aside from a condition specifying the approved plans (2), a number of details of the development would need to be submitted for approval, in the interests of the appearance of the area (3).
82. Given that the proposal is for a period of 25 years and the land would then be restored, a range of conditions would be necessary to ensure the long term clearance and remediation of the site (4, 5).
83. The hours during which construction could take place should be limited in order to protect residents' amenity (13). Both parties also put forward a condition prohibiting the use of floodlights or other external lighting during the operation of the solar farm (6). This is reasonable in the interests of the amenity of the area and the need to avoid light pollution. However the Council's condition would have extended this to include the construction phase – but, given that the permitted working hours include some hours of darkness, this additional control would be unreasonable.
84. A temporary access road would be necessary during the construction phase, and conditions are necessary in the interests of highway safety and the appearance of the area to ensure the provision and subsequent removal of this access (7, 8 and 9).
85. To protect the watercourse and promote biodiversity, a buffer zone would be necessary alongside Deanoak Brook (10) together with a further condition to implement the recommendations of the Ecological Appraisal (11).

86. It would be necessary to require a programme of archaeological investigation in order to evaluate any heritage assets which may be present (12).
87. A landscaping scheme would need to be submitted and implemented, in the interests of the appearance of the development (14, 15).
88. The Council also put forward two additional conditions, which were not included in the appellant's list.
89. The first sought to control noise levels at the boundaries of the site so as to protect the living conditions of residents in the wider area. However during the construction phase residential amenity would be protected by a condition restricting hours during which work could take place, and there would not be any potential noise sources during the operational phase. The first condition is therefore unnecessary.
90. The second Council condition related to a possible Construction Method Statement. However this is unnecessary given the other conditions relating to construction traffic.

Planning balance and conclusion

91. The proposal is inappropriate development in the Green Belt and would harm its openness. It would conflict with one of the purposes of designating the Green Belt. This weighs heavily against the proposal.
92. In terms of the economic dimension of sustainability, there would be a short term employment benefit during the construction phase but, of greater significance, a benefit to the diversification of the farm holding.
93. In environmental terms, there would be significant harm caused to the natural environment in terms of the landscape and visual amenity of the area, albeit there would be some very limited ecological enhancements. However the proposal would be sustainable in terms of the need to mitigate and adapt to climate change, including moving to a low carbon economy.
94. The fact that the proposal is temporary in nature (albeit for a long period) is a matter which weighs in favour of the proposal, as it would limit the harm both in terms of Green Belt policy and in relation to landscape impact. However, this is case where the balance is clearly against the development due to the significant weight which is accorded to the harm to the Green Belt and the character and appearance of the area. Despite the acknowledged benefits these harms outweigh the benefits – even given the weight to be accorded to the production of renewable energy.
95. National policy advises that renewable energy proposals should be located where impacts are, or can be made, acceptable. That is not the case here and hence the proposal cannot be said to be sustainable when assessed against the Framework as a whole. The level of harm significantly and demonstrably outweighs the benefits of the proposal in terms of paragraph 14 of the Framework.

96. Overall, the benefits of the scheme do not clearly outweigh the harm to the Green Belt and to the landscape and visual amenity of the area. Very special circumstances to justify inappropriate development do not therefore exist.

Recommendation

97. I recommend that the appeal be dismissed.
98. In the event that the Secretary of State disagrees with me and allows the appeal, I recommend that the conditions contained in the Annex below be applied.

P. J. G. Ware

Inspector

Annex – Recommended conditions if permission were granted

- 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 (only in respect of those matters not reserved for later approval): Nos. G.0221_06C; G.0221_07C; G.0221_09A; G.0221_10A; G.0221_11A; G.0221_12A; G.0221_13A; M335/03; M335/6 RevA.
- 3) Notwithstanding condition 2) no development shall take place until details of the colour, finish and position of the boundary fencing, CCTV cameras, inverter stations and grid connection building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The local planning authority shall be notified within one month of the date that the solar array hereby approved has started to export electricity to the Grid (the 'First Export Date'). The development shall cease to generate electricity on the date no later than 25 years from the date of the first export.
- 5) The solar panels, frames, inverter housings, grid connection cabin, fencing, CCTV cameras and all associated structures shall be permanently removed from the site and the land shall be returned to full agricultural use within 25 years and 6 months of the First Export date, or within 6 months following electricity ceasing to be generated if in advance of that date. Within 6 months of the First Export Date, a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the local planning authority. The decommissioning and restoration of the site shall be carried out in accordance with the approved scheme.
- 6) No floodlights or other forms of external lighting shall be installed on the site during the operational phase.
- 7) Before any development or other operations are commenced or any materials are brought onto the site, the temporary construction access shall be built and provided with visibility zones in accordance with plan no. M335/6 RevA. The visibility zones shall be kept clear of any obstruction during the construction phase.
- 8) Construction access shall be taken from the approved temporary access only. All construction vehicles shall turn right into the site from Smalls Hill Road when entering the site, and left onto Smalls Hill Road when exiting. There shall be no means of access for construction vehicles from the existing site access to the north of the site via Bridleway 433.
- 9) Within one month following the completion of the construction of the development hereby permitted the temporary construction road shall be removed from the site. The land shall be restored no later than one month following the removal of the temporary construction road, in accordance with a scheme which shall have been submitted to and approved in writing by the local planning authority.

- 10) Prior to the First Export Date a scheme for the provision and management of an 8 metre wide buffer zone alongside the Deanoak Brook shall be submitted to and approved in writing by the local planning authority. The scheme shall include:

- Plans showing the extent and layout of the buffer zone
- Details of any proposed planting scheme
- Details demonstrating how the buffer zone will be protected during development and managed/maintained in the longer term
- Details of any proposed footpaths

The buffer zone shall be free from built development, lighting and formal landscaping, and be protected from the storage of materials and plant moving during the construction phase. Thereafter the buffer zone shall be provided and managed in accordance with the approved scheme.

- 11) The recommendations set out in Section 5 of the Ecological Appraisal Report (8 January 2014 Avian Ecology) shall be carried out in full throughout the lifetime of the development.
- 12) No development shall take place until a programme of archaeological work has been undertaken, in accordance with a written scheme of investigation which shall have been submitted to and approved in writing by the local planning authority.
- 13) Construction works, including the use of any machinery, maintenance/cleaning work, deliveries, and vehicle movements shall not take place outside 0730 hours to 1800 hours Mondays to Fridays, and 0800 hours to 1300 hours on Saturdays, nor at any time on Sundays or Bank Holidays.
- 14) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development
- 15) All planting or seeding comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.