

Richard Redford,
Senior planner,
Rugby Borough Council,

23rd Feb 2016.

Dear Richard,

My apologies that it has taken longer than expected to provide you with information from the windfarm appeal refusal that is also relevant to the solar farm decision. There are also some additional items and appeal cases to bring to your attention. I think the following are the key points:

Landscape and visual

Inspector's Report [IR] [para 281] says: "*I find that the degree of harm to landscape, visual amenity ... is considerably greater than the ... Council acknowledge.*" I have already suggested that this is the same flaw in the solar farm appraisal. To expand, so far as I am aware – please correct me if I have missed something – the only formal appraisal you have received from Mr Collett states:

From: Neil Collett
Sent: 16 January 2015 15:07
To: Richard Redford
Subject: ref. R13/1401 - Proposed Solar Farm, Churchover [NOT PROTECTIVELY MARKED]

Hi Richard,

Apologies for the delay in getting back to you on this one.

Having given the proposals much thought and walked around the area again I feel that the impact of the proposals will be significantly detrimental to the landscape character of this vicinity, particularly during the winter months and notably from the Lutterworth Road and the rear of properties in Church Street. A mitigating measure might be to introduce more hedgerow trees within the existing field boundaries, but these will take some time to have a significant impact.

Any queries, please let me know,

Neil"

I am unable to decide if this recommends an objection on landscape grounds, or whether it is merely an expression of concern; nor do I know if his suggestion of a year ago that "A mitigating measure might be.." has been re-examined against the later amended landscape actually submitted; and, if so, what the view now is.

What I can say with certainty is that, if that email comprises the whole of your internal appraisal, it is utterly inadequate. When a similarly skeletal appraisal was made of the windfarm, you employed a barrister to defend the Council against my criticism of it, with a complete lack of success. In CPC's view, nothing in the solar farm application, nor as it has been subsequently amended, diminishes the unacceptable damage to landscape character, and adverse visual impact, including on PROWs, from the proposal. The ultimate message from the windfarm inquiry is that our landscape assessment ability is rather better than RBC's and CPC therefore concludes you should recommend refusal on LVIA grounds.

Additional comment is required on the impact upon PROWs. The development lies very close to PROW R334, from which it will be visible; it will also be visible from across the Swift Valley from R62 and the latter views, in particular, will encompass both the solar farm and the CA/LBs of Churchover, in particular Holy Trinity listed II* in a single view. So too will views from the A5 southbound encompass the development and the LBs. Recent solar farm appeal refusals have found impacts upon PROWs material to refusing appeals; two are referred to below.

Appeal ref **2218035** (32ha solar farm at Huddleston Farm, near Steyning, Sussex) was a site

bounded by and with public footpaths running through it which would be significantly affected. [SoS 8] accepts that:

“There would be change to the character of the landscape which would be severe, even with proposed mitigation, within and immediately adjacent to the site. In this regard, the introduction of a visibly new ‘feature’ and its uncharacteristic regimentation would appear markedly out of place in the receiving landscape (IR133). The impact of the proposal on the countryside would be dramatic, most notably from the public footpath within the site and from its continuation to the north and from part of the bridleway between Ashurst Place Farm and Heron Farm.”

Appeal ref **3135238** (11ha solar farm at North Chailey, Sussex) is summarised in the press as follows:

“Combined impacts rule out solar farm

18 February 2016 ,

A solar farm in Sussex was rejected due to its adverse visual impact on the countryside, particularly when viewed from a footpath, and the loss of high quality agricultural land.

The proposal included retention of an existing hedgerow and its reinforcement with a native woodland belt. The inspector observed that for the first two to three years following construction of the project, and until the landscaping matured, those using the footpath would be exposed to the sight of an industrial installation extending to the ridgeline marking the northern end of the site, albeit enclosed by woods either side.

The written ministerial statement of 25 March 2015 was clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence, the inspector recorded. Of the 11.1 hectare site, approximately 41.7 per cent was identified as grade 3a land and 58.3 per cent was classified as 3b. The government’s preference was for solar panels to be installed on commercial or industrial rooftops, she noted. However, she held that there was also a place for large scale ground mounted arrays in appropriate locations. She ruled that a site selection process was sufficiently robust and accepted its findings in relation to brownfield land and alternative greenfield sites. However, she concluded that the evidence did not go far enough to show that use of the Grade 3a portion of the site was necessary for a solar farm project to proceed in the locality. The loss of agricultural land of the best and most versatile quality, while on its own not warranting refusal of the scheme, in combination with the adverse impact to the landscape identified would, on balance, outweigh the sum of the benefits.

Inspector: Ava Wood; Written representations”

For some reason, the decision letter has not yet been published, but I shall forward it to you when it can be accessed.

Heritage assets

[IR 281] says: “*I find that the degree of harm to ... heritage interests is considerably greater than the ... Council acknowledge.*” Again, I have already suggested that this is also another flaw in your solar farm appraisal.

PPG Paragraph: 010 Reference ID: 18a-010-20140306 says:

“In most cases the assessment of the significance of the heritage asset by the local planning authority is likely to need expert advice in addition to the information provided by the historic environment record, similar sources of information and inspection of the asset itself. Advice may be sought from appropriately qualified staff and experienced in-house experts or professional consultants, complemented as appropriate by consultation with [National Amenity Societies and other statutory consultees.](#)”

To the best of my knowledge (again I am open to correction), you have no currently employed in-house staff or expertise. Nor have you sought advice from a professional consultant (if you have consulted Joe Mitson on this application I do not, with respect, regard him as an appropriately qualified source of advice having seen his comments on the windfarm re-application which do no more than re-iterate the NPPF and PPG which is what any competent planning officer could do).

However, you already have English Heritage's (now Historic England's) advice, being the statutory advisor on such matters. In their response of 26 March 2015:

“English Heritage recommends the application is refused or deferred until further information is requested from the applicant as it is our view that you are unable to determine this application based on the information currently provided.”

Again, it is unclear if you have requested further advice from the applicant and, if you did, what the outcome was.

For information, on the windfarm appeal, it was stated that:

[SoS 12] *“gives considerable importance and weight to the desirability of preserving the setting of Holy Trinity Church.”*

[SoS 26] *“would fail to protect the ridge and furrow ...and that permanent harm would ensue. He gives this further weight”.*

and

“reversibility of the proposal carries only limited weight as the adverse impacts would last for a generation”.

SoS has repeated his views on reversibility at several recent appeals, including the Huddlestone appeal above:

“However the Secretary of State is of the view that the period of 30 years, being the lifetime of the proposal, is a considerable period of time. Unlike the Inspector therefore (IR132), he has not afforded any positive weight to reversibility.”

For the avoidance of doubt, the heritage issue is that the landscape setting of the CA and LBs, in particular Holy Trinity, is of vital importance to the value of those heritage assets. The landscape setting is currently very open, with many long-range views within which the church spire is the dominating feature in its landscape setting. [SoS 12] *“The Secretary of State gives considerable importance and weigh to the desirability of preserving the setting of Holy Trinity Church.”*

The development will, of itself, severely damage the setting. At Huddletone, [SoS 8]:

“...the introduction of a visibly new ‘feature’ and its uncharacteristic regimentation would appear markedly out of place in the receiving landscape (IR133). The impact of the proposal on the countryside would be dramatic, most notably from the public footpath within the site and from its continuation to the north and from part of the bridleway between Ashurst Place Farm and Heron Farm. Sweeping views across a parkland-like landscape and their seamless integration with the rising slopes of the South Downs National Park would be lost to an unforgiving utilitarian aspect. Even with the degree of landscaping sought by the Council, the development would remain as highly intrusive and damaging to the rural scene. Moreover, the new screening between the footpath within the site and the installation would rob users of a tangible appreciation of the wider open countryside and severely impair the enjoyment of the route (IR134).”

To that harm must be added the harm caused by the proposed landscaping which will diminish

openness and interfere with the current panoramic views of the LB in its setting. Thus, there will be both direct and indirect harm, contrary to policy.

Green infrastructure

Core Strategy policy CS14 is a Green Infrastructure (GI) policy which defines GI as the “green spaces and natural elements that intersperse and connect towns and villages”, in effect “the totality of the outdoor environment” (CS paras 6.3, 6.4). RBC and the appellant fought hard to persuade the windfarm Inspector that this was somehow not a policy that protected the landscape. However the Inspector [IR 264-266] believed the policy clearly applied and said:

“The proposal would conflict with the landscape protection aims of CS policies CS14, It would not conserve or enhance remote rural character, as set out in the management strategy of the Warwickshire Landscape Guidelines.”

The SoS concurred:

[SoS 5] *“The Secretary of State agrees with the Inspector that the most relevant policies for this case are those set out at IR10-12, namely: CS14 (Enhancing the Strategic Green Infrastructure Network)...”* and [SoS 15]

The designated GI corridor and the solar farm are inter-visible and occupy the same river valley. In addition, there are PROWs in the valley and in close proximity to the proposed solar farm. Accordingly, CS14 is a material consideration in determining the solar farm application.

It is important to draw to your attention to the fact that PPG has recently updated its guidance on GI assets (see PPG 027-032), and I would point in particular to the following extracts (my underlining):

“What is green infrastructure?”

Green infrastructure is a network of multifunctional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities.

Green infrastructure is not simply an alternative description for conventional open space. As a network it includes parks, open spaces, playing fields, woodlands, but also street trees, allotments and private gardens. It can also include streams, canals and other water bodies and features such as green roofs and walls.

“Why is green infrastructure important to delivering sustainable development?”

Green infrastructure is important to the delivery of high quality sustainable development, alongside other forms of infrastructure such as transport, energy, waste and water. Green infrastructure provides multiple benefits, notably ecosystem services, at a range of scales, derived from natural systems and processes, for the individual, for society, the economy and the environment. To ensure that these benefits are delivered, green infrastructure must be well planned, designed and maintained. Green infrastructure should, therefore, be a key consideration in both local plans and planning decisions where relevant.

How can green infrastructure help to deliver wider planning policy?

Green infrastructure can help to deliver a variety of planning policies including:...

Promoting healthy communities

Green infrastructure can improve public health and community wellbeing by improving environmental quality, providing opportunities for recreation and exercise and delivering mental and physical health benefits. ...

Conserving and enhancing the natural environment

The components of green infrastructure exist within the wider landscape context and should enhance local landscape character and contribute to place-making. High quality networks of multifunctional green infrastructure provide a range of ecosystem services and can make a significant contribution to halting the decline in biodiversity."

We therefore repeat that, in addition to policies GP2, GP5 and CS16, the proposed development is in conflict with CS14 and that this justifies refusal of planning permission.

Agricultural land quality

As far as I am aware, the position regarding BMV status is unresolved. CPC has originally argued that at least a portion of the site was BMV, and Reading Agricultural Consultants having independently reviewed the application conclude that there is inadequate evidence to say it is *not* BMV. Therefore, this remains an objection.

In that regard, the following review is very relevant; although parts of the review deal specifically with refusal in the Green Belt, others are more general, and I have underlined the points of particular relevance:

"Why the government has refused a series of solar farm appeals
5 February 2016 by Colin Marrs ,

The communities secretary has dismissed a series of solar farm appeals with a combined capacity of nearly 100MW since last November, with the proposals' locations in the green belt or on high-grade agricultural land featuring prominently in the reasons for refusal.

The communities secretary has taken a tough stance on solar farm recovered appeal cases.

So far, 2016 been an unhappy time for promoters of solar farms. Communities secretary Greg Clark has been turning down recovered appeals at the rate of one a week, with a total of eight refused at the stroke of his pen since last November. Experts say that the effect of these decisions, along with the withdrawal of government subsidies for renewable energy, is that the flow of applications for solar farms on non-brownfield sites has now all but dried up.

In each of the rulings, Clark backed the recommendations of planning inspectors, who individually concluded that each appeal against refusal by the relevant local planning authority should be dismissed. Although the inspectors' reasons for dismissal vary, two common themes emerge: inappropriate development in the green belt and insufficient justification for siting the schemes on high-quality agricultural land.

An analysis of the decisions by Planning shows that the solar appeals refused since November have a combined generating capacity of 98.7MW (see infographic, below).

It is almost a year since former communities secretary Sir Eric Pickles made a ministerial statement tightening the rules on locating ground-mounted solar photovoltaic farms. The statement made it clear that any proposal for a solar farm involving the "best and most versatile" agricultural land would need to be justified by the "most compelling evidence". The statement said: "Protecting the global environment is not an excuse to trash the local environment."

Solar Trade Association spokeswoman Sonia Dunlop said the principle behind the statement is sound. "We have a best practice document that all our members have signed up to," she said. "One of its 10 commitments is to focus on non-agricultural land or land of lower agricultural value."

However, planning partner at law firm Eversheds Paul Maile said that, in practice, promoters of solar schemes are finding it difficult to meet the "most compelling evidence" test. He said: "If you want to use higher quality land you have to demonstrate that you have searched for alternative, lower-quality sites. However, there is a lot of subjectivity for decision makers."

He said two of his clients had used different methodologies for sequential tests aimed at ruling out alternative locations for their proposed solar farms. While one was based on searching a radius around a proposed site, another looked at all potential sites within a local authority area. He said: "Both approaches have been frowned upon by inspectors, and as a result it is difficult to tell what 'compelling evidence' means."

The ambiguity is not helped by the government's National Planning Policy Framework (NPPF), Maile continued. "The NPPF has slimmed down guidance so much that it can mean all things to all men," he said. Solar farm developers feel they have neither the time nor resources to challenge the secretary of state through the courts, meaning no case law exists to provide clarity, he added.

The NPPF is also at the root of the second major reason for recent refusals of solar farms. This may come as a surprise, as the document specifically mentions a potential justification for renewable energy projects to be exempted from the general prohibition on development within the green belt. The document says that although "elements of many renewable energy projects will comprise inappropriate development", renewable energy schemes will be permitted if developers demonstrate "very special circumstances".

However, Debbie Marriage, senior consultant at planning consultancy Parker Dann, said the recent decisions prove that in practice it is "nigh-on impossible to convince inspectors that a solar farm is justified in a green belt location".

She said: "What becomes apparent reading these appeals is that the benefits solar farms bring, their generation of energy from a renewable resource and creation of new wildlife habitats, don't require a location either in the green belt or on best-quality agricultural land. These benefits aren't geographically determined but can be – and are – provided by well-designed solar farms in any location."

A number of the decisions also cite harm to landscape and heritage assets as additional justifications for refusal – reasons that can apply even outside the green belt. Here again, Maile said it is generally easy to find reasons for refusal. He said: "Sites that are brought forward are usually in the countryside and, England being what it is, there are likely to be landscape and heritage issues. However, these are judgement calls, and it seems that development in the countryside often has to meet a higher bar than in urban locations to prove the benefits outweigh the harm."

The solar industry is already feeling the effects of Clark's judgements, as well as subsidy withdrawals. One manager, at a renewables developer who is currently serving his redundancy period, told Planning: "Even if the industry managed to become cost neutral, the planning risk would make it a marginal industry. The industry is dead – I don't know of a single developer that is now bringing forward solar farms on any type of agricultural land."

Conclusions

CPC acknowledges that there is a duty upon RBC to work with applicants to overcome difficulties, but this is clearly an instance where the inherent difficulties of a wholly unsuitable location cannot be overcome, at all or by condition or s.106. Nor, in this case, does it appear that the applicant has co-operated in supplying additional information requested, including in relation to heritage and BMV.

In that case, it appears to CPC that all reasonable avenues have been explored and exhausted, and that the application should now be taken to committee with a recommendation for refusal on LVIA, Heritage and BMV grounds.

Regards,

Chris Down
Vice Chair, Churchover Parish Council