

Delegated Report

Planning Ref: 24/00239/FUL

Applicant: Mr And Mrs M And C Schollar

Ward: Twycross Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: Elmsdale House, 23 Ratcliffe Lane, Sheepy Magna

Proposal: Ground based Solar Photovoltaic panels and associated works.

1. Recommendations

1.1. Grant planning permission subject to

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. Full planning permission is sought for the installation of photovoltaic (PV) cells at land to the rear of Elmsdale House, 23 Ratcliffe Lane, Sheepy Magna. The maximum length of the array area is 33m, with the depth 9.5m.
- 2.2. The array consists of two linear runs facing south. The PV panels will be mounted onto a simple metal framework set into a small concrete pad foundation. The PV panels will have a maximum height of 1.1m, installed at approximately 25-30 degrees from the horizontal. The electricity generated will be used by the new-build Elmsdale House.

3. Description of the site and surrounding area

- 3.1. The application site lies at land to the rear of Elmsdale House beyond the residential curtilage. The site runs adjacent to the Sheepy Magna Settlement Boundary and is therefore considered to be within the open countryside.
- 3.2. The site is well screened by mature hedges, with the new Elmsdale House and associated garden to the west.

4. Relevant planning history

- 4.1. 22/00392/FUL - Proposed new two storey dwelling with associated parking and amenity space (following demolition of existing dwelling and outbuilding). Permitted 20.08.2022
- 4.2. 23/00527/FUL - Proposed new replacement dwelling with associated parking and amenity space (following demolition of existing dwelling and outbuilding). Permitted 14.07.2023

5. Publicity

- 5.1. A site notice was posted within the vicinity of the site. No letters of representation were received during the statutory consultation period.

6. Consultation

- 6.1. No objections have been received. Sheepy Magna Parish Council propose a condition regarding removal of the panels if they are no longer in use.

7. Policy

- 7.1. Site Allocations and Development Management Policies (SADPD) (2016)
- Policy DM1: Presumption in Favour of Sustainable Development

- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM10: Development and Design

7.2. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

7.3. Other relevant guidance

- HBBC's Landscape Character Assessment (2017)
- HBBC Landscape Character Sensitivity Study (2017)
- HBBC Employment Land and Premises Review 2020

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity

Assessment against strategic planning policies

- 8.1 Paragraph 2 of the National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 47 of the NPPF states that the development plan is the starting point for decision making. The development plan in this instance consists of the Core Strategy (2009), and the SADMP.
- 8.2 Policy DM1 of the SADMP sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay unless material considerations indicate otherwise.
- 8.3 Spatial Objective 12 of the Core Strategy Climate Change and Resource Efficiency seeks to minimise the impacts of climate change by promoting the prudent use of resources through increasing the use of renewable energy technologies.
- 8.4 Policy DM2 of the SADMP sets out that the Council will support appropriately designed and sited renewable energy developments.
- 8.5 No land is specifically allocated for the generation of renewable energy. The application site is located outside of any settlement boundary and is therefore within the countryside. Policy DM4 seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside from unsustainable development. Development considered to be sustainable in the countryside as identified by Policy DM4 includes proposals for stand-alone renewable energy developments that are provided in line with Policy DM2 when development is also consistent with part i)-v) of policy DM4.
- 8.6 Paragraph 157 of the NPPF states that the planning system should support the transition to a low carbon future in a changing climate and support renewable and low carbon energy and associated infrastructure. It goes on to state (Para. 163) that when determining planning applications for renewable and low carbon development, planning authorities should not require applicants to demonstrate the overall need for renewable energy and approve the application if its impact are (or can be made) acceptable.

- 8.7 HBBC's Renewable Energy Capacity Study (2014) provides additional information in regards to potential renewable energy capacity of the borough and identifies key areas of opportunity. The site is not identified as being within an opportunity area for solar arrays, notwithstanding this, every site is judged on its own merits.
- 8.8 In addition to this, in July 2019 HBBC declared a 'climate emergency' whereby Councillors pledged to take local action to contribute to national carbon neutral targets through the development of practices and policies, with an aim to being carbon neutral in the borough of Hinckley and Bosworth by 2030. However, the Council is yet to publish its Action Plan designed to outline how the council will address this emergency.
- 8.9 Therefore, there is a clear presumption in favour of renewable energy proposals supported by local policies of the development plan and commitment by the Council to be carbon neutral. As such the principle of the proposed development is considered to be acceptable, subject to other material considerations being appropriately assessed.

Design and impact upon the character of the area

- 8.10 Policy DM4 of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside and contributes to the delivery of the National Forest Strategy. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.11 The proposed development would introduce new built elements of electrical infrastructure on the land. The existing field boundary structure would be retained and the new native hedgerow and planting would enclose the proposed development, separating this small part of the field with regular boundaries.
- 8.12 Therefore, the proposal would not have '*a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside*' as required by Policy DM4 of the SADMP (2016). In relation to criterion c) of Policy DM10 of the SADMP (2016), the proposal would contain elements including new planting that would enhance the character of the surrounding area. As such the landscape and visual impact of the proposed development would be consistent with Paragraph 180 of the NPPF which requires that the intrinsic character and beauty of the countryside is recognised in planning decisions.

Impact upon neighbouring residential amenity

- 8.13 Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.14 Given the site is separated from any existing dwellings, with intervening field boundaries present, it is not considered that the development would have a detrimental impact in terms of overbearing. Therefore the proposal would not result in significant harm to the amenity of any surrounding residential dwellings and is considered to be acceptable in accordance with DM10 of the SADMP.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The application site lies within the open countryside where Policy DM4 of the SADMP (2016) is applicable. Policy DM2 of the Site Allocations and Development Management Policies DPD (SADMP) sets out that the Council will support appropriately designed and sited renewable energy developments. Development considered to be sustainable in the countryside as identified by Policy DM4 also includes proposals for stand-alone renewable energy developments that are provided in line with Policy DM2 when development is also consistent with part i)-v) of policy DM4.
- 10.2. The principle of this renewable energy development is accepted under Policies DM2, DM4 and DM19 of the SADMP.
- 10.3. Through the retention and enhancement of the surrounding landscaping, the residual effect upon landscape character of the locality would not be significant and so the proposal would not have '*a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside*' as required by Policy DM4 of the SADMP (2016). Subject to conditions and the implementation of mitigation measures, the proposal would not have a detrimental impact upon residential amenity, highway safety or the ecological value of the area in accordance with Policies DM6, DM10, DM17 and DM18 of the SADMP (2016). It is therefore recommended that the application is approved subject to the conditions listed below.

11. Recommendation

- 11.1 **Grant planning permission** subject to:

11.2 Conditions and Reasons

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - Site Location Plan, 206 PL-SLR-01
 - Proposed Site Plan, Drg No. 206 PL-SLR-04
 - Proposed Site Plan, Elevations, Drg No. 206 PL-SLR-0

All received on 13/03/2024.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the Site Allocations and Development Management Policies DPD (2016).

3. Written confirmation of the date of the first export of electricity from the solar array hereby approved shall be provided to the local planning authority within one month of the date of this taking place.

Reason: The development is granted for a temporary period from the first export of electricity, in the interests of protecting the intrinsic beauty open character and landscape character of the countryside in accordance with Policy DM4 of the Development Management Policies Development Plan Document (2016).

4. Should the solar array hereby approved no longer be required for the purposes of electricity generation or cease to operate for a continuous period of 6 months, a Decommissioning Method Statement & Site Restoration Scheme shall be submitted to and agreed in writing by the local planning authority within 3 months after the end of the 6 months cessation period. The statement must also include the date the site first ceased to operate. The decommissioning works shall then be carried out in accordance with the agreed Decommissioning Method Statement & Site Restoration Scheme.

Reason: The development is granted for a temporary period from the first export of electricity, in the interests of protecting the intrinsic beauty open character and landscape character of the countryside in accordance with Policy DM4 of the Development Management Policies Development Plan Document (2016).

5. The native hedging shall be planted in full within 3 months of the first use of the solar array hereby approved and retained thereafter as long as the solar panels are in place.

Reason: In the interests of protecting the intrinsic beauty open character and landscape character of the countryside and protecting the ecology value of the site in accordance with Policies DM4 and DM6 of the Development Management Policies Development Plan Document (2016).