

Committee Report

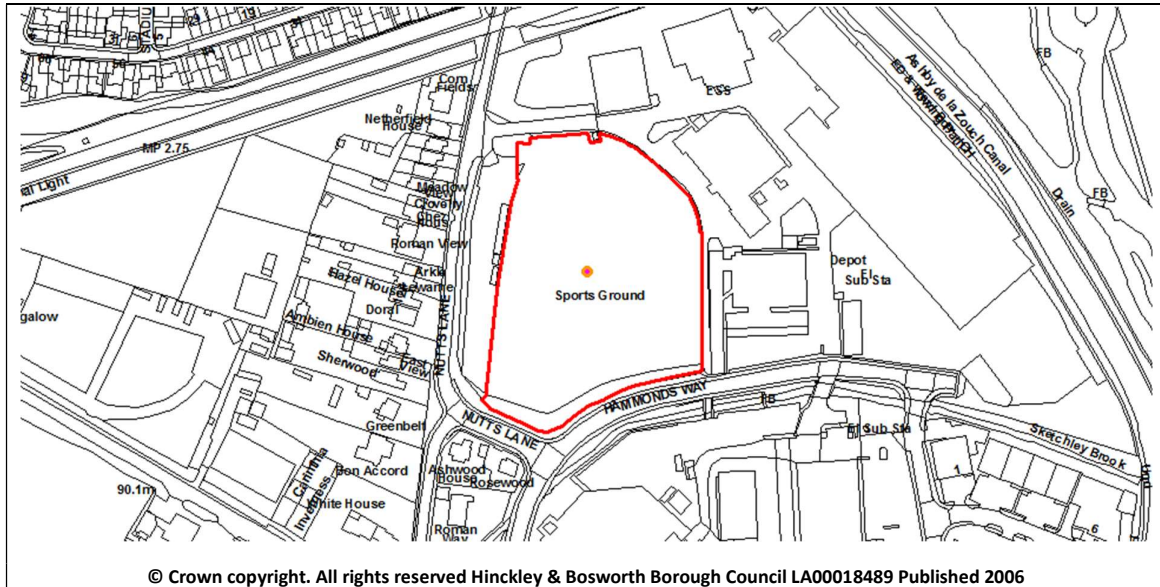
Planning Ref: 23/00368/FUL
Applicant: Hammonds Furniture Ltd
Ward: Hinckley Clarendon



Hinckley & Bosworth
Borough Council

Site: EMEB Sports & Social Club, Nutts Lane, Hinckley,
Leicestershire, LE10 0NT

Proposal: Proposed ground mounted solar array



Recommendations

- 1.1. **Grant planning permission** subject to
- Planning conditions outlined at the end of this report
 - That power to determine the final details of the conditions to be delegated to the Head of Planning

Planning application description

- 2.1. Full planning permission is sought for the ground-mounted installation of a solar array for energy generation. The proposal will include the mounting of Q.Peak Duo XLGL11.3 solar panels across the site, providing 6,876.6 sqm of PV generator surface, mounted on steel frames. The scheme will save 294 tonnes of carbon.
- 2.2. The submitted information on the specification of the panels and mountings provides detail of the panels' dimensions and height above the ground upon installation. The maximum height of the panels across the site would be 2.75 metres above ground level. Each panel measures 2.4 x 1.1 metres.
- 2.3. The proposal will generate energy for the onsite business, Hammonds Furniture, with surplus feeding back to the grid and providing 1.5 gigawatt per annum overall.
- 2.4. An amended site plan was received on 12th July 2023 showing the same red edged site plan but showing a megatron 1000Kw battery storage system on the eastern

side of the site within the red edged site plan. Its dimensions would be 6m x 2.4m x 2.6m.

Description of the site and surrounding area

- 3.1. The application site consists of approximately 1.3 hectares of former sports pitch land. The site is within the palisade-fenced industrial compound of Hammonds Furniture Limited, Nutts Lane, Hinckley which forms part of an industrial area close to the national grid site to the south.
- 3.2. The ground of the site is partially obscured from view from Hammonds Way to the south by the palisade boundary fence and raised bunding around the edges of the site, and the site lies behind the E-On industrial compound along Nutts Lane to the west
- 3.3. Hammonds Furniture Ltd industrial complex includes five main buildings to the north and east of the site, with access to the buildings and the application site coming from the same point off Nutts Lane. Access is only possible to the site through the gated security entrance to Hammonds Furniture and the entire complex is protected by a 1.8 metre high security fence.
- 3.4. No public access is provided into this site at this time, with no sports pitches currently marked out. It is understood that use of the site as a playing field ceased in around 2018.
- 3.5. Although there are some residential properties close to the site, the few properties to the south have an existing view of the high palisade fence around the site and the raised bund behind, which will remain in place. Properties to the west cannot view the site due to the E-on energy site between the application site and those properties. In addition, the solar panels as viewed from ground level are not solid structures, being arranged at a low angle from the ground. Views of the panels will be largely limited to those in and around Hammonds Furniture Compound.
- 3.6. The site is an employment site inside the settlement boundary.

3.7. Relevant planning history

98/00239/FUL

- DEMOLITION OF EXISTING BUILDINGS ERECTION OF OFFICES AND INDUSTRIAL UNIT FOR THE MANUFACTURE AND DISTRIBUTION OF FITTED FURNITURE AND HIGHWAY IMPROVEMENTS
- Planning Permission
- 11.02.1999

00/00757/COU

- CHANGE OF USE TO THE STORAGE OF CARS
- Planning Permission
- 31.08.2000

00/00789/FUL

- Erection of Boiler Plant
- Planning Permission

02/01373/FUL

- Retention of Factory Sales Building
- Planning Permission

Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. No letters of representation were received during the statutory consultation period.

Consultation

- 6.1. No objections have been received from:
 - Environment Agency- standing advice for a site in Zone 2 Flood area
 - HBBC Environmental Services (Pollution)- No objection
 - LCC as Local Highway Authority – No objections
 - National Highways- No objection
 - HBBC Drainage- No objection on sustainable drainage grounds
 - HBBC Pollution- No objections
 - HBBC Waste- No comments or objections
- 6.2. No comments have been received from:
 - Cadent Gas Ltd
 - Hinckley Area Committee
 - National Grid
 - HBBC Planning Policy
 - Compliance & Monitoring Officer
- 6.3 **Sport England-** 'Thank you for consulting Sport England on the above application.

Summary: Sport England objects to this application which is not considered to accord with any of the exceptions to Sport England's playing fields policy or with Paragraph 99 of the NPPF in that the proposal would lead to the loss of playing field land in an area where a surplus in the provision of playing fields cannot be demonstrated.

Sport England –Statutory Role and Policy

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England considers proposals affecting playing fields in light of the National Planning Policy Framework (NPPF) (in particular paragraph 99 and the presumption that playing fields should not be built on) and against its own playing fields policy, which is presented within its 'Playing Fields Policy and Guidance Document:' www.sportengland.org/playingfieldspolicy

Sport England's policy is to oppose the granting of planning permission for and development which would lead to the loss of, or would prejudice the use of all/part of a playing field. Exceptions to this policy are contained in the Playing Fields Policy Document. The Hinckley and Bosworth Borough Council Playing Pitch Strategy Assessment Report (March 2019) (PPS) provides the evidence base for playing fields as required by paragraphs 98 and 99 of the NPPF.

The Proposal and Impact on Playing Field

The proposal would involve the construction of ground mounted solar panels. As shown in the Google aerial imagery below (2018) the proposed solar array would result in the loss of the whole of the playing field land which has previously been

marked out with football pitches. Sport England's Active Places Power database includes the site (Hammond Park) as providing an 11v11 junior football pitch and a 7v7 football pitch for community use which have access to changing facilities and car park. For this site, the database was last updated on 5 January 2023 and states that currently there are no grass pitches marked out on the site.

As stated above, the proposal would result in the loss of 1.3 hectares of playing field land. The planning definition of playing field is the whole of the site that contains a pitch. Sport England's Playing Fields Policy covers the entire playing field site and not just the areas currently marked out with pitches. This is because playing field is seen as a resource for pitches to be marked out on, repositioned to allow areas of the playing field to rest from over play, and to change from one pitch sport type to another to meet demand.

As part of the assessment of this proposal Sport England has sought the views of the Football Foundation (FF) who act as Sport England's technical advisors in relation to football and its facilities. A summary of their comments is provided as follows:

- Pitches were marked out on this site in the 2018 Google Earth image.
- The Hinckley and Bosworth BC PPS (2019) indicates that the site has very limited or no commercial usage at the time of writing due to poor pitch quality impacting on the desirability of the venue. The site acts as an overspill venue with free capacity at weekends and peak slots. There is a need for football pitches in the area with Hinckley Borough FC and FC Burbage playing across multiple sites or even having to leave the catchment area to play. Overall, the analysis has demonstrated that supply in the Borough is very closely balanced with demand both across the week and at peak time. This situation is particularly apparent in youth, 9 v9 and 7 v7 pitches, but even for adult and 5v5 pitches, the amount of spare capacity is relatively limited especially with team numbers predicted to grow.
- Due to the local demand for pitches, coupled with the desirability of the site and limited spare capacity, off site mitigation would need to be provided to compensate against the loss of these playing pitches. One option would be the creation of new grass pitches elsewhere in the catchment.

Assessment against Sport England Policy/NPPF/Development Plan Policy

The proposal would lead to the loss of the whole of this playing field site. The proposal therefore needs to be considered against the exceptions in Sport England's policy which accord with the specified justifications included in paragraph 99 of the NPPF which both protect playing fields from being built on.

Of Sport England's playing field policy's five exceptions – two could potentially cover the proposed development:.

Exception 1 and paragraph 99a) of the NPPF

Exception 1 allows the loss of playing field where a robust and up-to-date assessment has demonstrated, to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which would remain the case should the development be permitted.

The application site is included in the Hinckley and Bosworth BC Playing Pitch Strategy (2019) (PPS) and is known as Hammonds Park. The report states that there are 2 7 v 7 pitches and 1 9v9 pitch of standard quality. The site inspection included details of the low standard quality of the pitches and the lack of existing community use. The summary of the site was that it had the potential to accommodate more play

for football as the site received minimal community use and served as an overspill venue.

The PPS confirms that supply in the borough is very closely balanced with demand and the declining pitch quality and lack of security of tenure having an impact on the capacity of sites. The PPS concludes that there is a need to protect all existing pitches if football participation is to be retained. The pitches at Hammond Park were existing at the time of writing the PPS and so are included in this statement – “need to be protected.”

The comments made by the Football Foundation in association with the County FA confirm that there is a need for football pitches in the area with Hinckley Borough FC and FC Burbage both playing across multiple sites or even having to leave the catchment area to play. They agree with the findings of the PPS in that supply in the Borough is very closely balanced with demand both across the week and at peak time. This situation is particularly apparent in youth, 9 v9 and 7 v7 pitches, but even for adult and 5v5 pitches, the amount of spare capacity is relatively limited especially with team numbers predicted to grow. The FF also confirm that there is a need for off site mitigation to be provided before it can be agreed that this site can be lost.

In light of the conclusions in the PPS and the comments made by the Football Foundation, a surplus of playing field provision in the area cannot be demonstrated to meet exception E1 of Sport England’s policy exceptions or paragraph 99 (a) of the NPPF.

Exception 4 and paragraph 99b):

Exception 4 of the Sport England’s Playing Fields Policy states:

‘The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:

- of equivalent or better quality, and*
- of equivalent or greater quantity, and*
- in a suitable location, and*
- subject to equivalent or better accessibility and management arrangements.’*

It is therefore necessary to assess the existing and proposed playing fields against the above policy to determine whether the proposal would meet Exception 4. To meet E4, replacement must represent a genuine replacement i.e. creation of a new playing field. Improvements to existing playing field do not represent a genuine replacement because the quantity element of the exception has not been addressed only the quality element. The quantity element can be addressed by bringing into use areas of an existing playing field that are currently incapable of supporting a pitch or pitches without significant works, or creating new playing field on land that is not currently playing field. These areas must be assessed by a suitably qualified sports turf specialist/agronomist to provide the evidence required to show these areas will represent a genuine replacement of playing field.

From the information submitted with the planning application there is no reference to the playing field land being replaced. As such, the proposal would be contrary to exception 4 of the Sport England’s Playing Fields Policy and with paragraph 99(b) in the NPPF.

Conclusion

Given the above assessment, Sport England objects to this application which is not considered to accord with any of the exceptions to Sport England’s playing fields policy or with Paragraph 99 of the NPPF in that the proposal would lead to the loss of

playing field land in an area where a surplus in the provision of playing fields cannot be demonstrated..

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

Possible Resolution:

- Submission of further information showing how the 1.3 hectares of playing field land to be lost as a result of the proposed development along with car parking provision and changing rooms would be replaced, prior to the commencement of development, by a new area of playing field of equivalent or better quality, and of equivalent or greater quantity in a suitable location with equivalent or better accessibility and management arrangements.

Sport England would be pleased to comment on any further documents/amended plans which address the above comments. In providing any further information, Sport England would ask that the applicant submits this to the local planning authority and not to Sport England directly. That way it forms part of the planning application submission and its associated audit trail. The local planning authority can then consult Sport England on receipt of this information'.

6.4 In the spirit of fairness the agent's rebuttal to Sport England's consultation response is included below;

'I've been looking at providing a rebuttal to the SE objection as suggested. However, I note initially that Sport England refer in their first paragraph to consultation with Sport England being a statutory requirement for this application.

I've checked their own guidance on this (Sport England Playing Fields Policy and Guidance), and the legislation, and it refers to them as a Statutory Consultee for land currently used as a playing field, or land used as a playing field in the 5 years before the making of the relevant application. Our Planning Support Statement sets out that it has not been used as such for more than six years.

The Sport England guidance notes – 'If its use as a playing field was over five years ago, Sport England would still expect to be consulted, albeit as a non-statutory consultee. In such circumstances, Sport England would continue to apply its Playing Fields Policy.

This seems like an important distinction that needs clarification in the report to Committee. Sport England's consultation response carries less weight as they are not a statutory consultee where a pitch has not been in use for more than five years, and they may not have known that was the case for this site when they made their comments. I hope the Committee Report will note this distinction.

I had seen the section of the DMPO re consulting Sport England, point (ii)(b) and would point out that the site isn't 'allocated' in the development plan as such, it's 'designated', which is a clear distinctive difference in planning policy terms. Sport England's own guidance (para 16) confirms that they consider 'allocated' in that context to mean 'non-playing field land that is set aside for future use'.

The DMPO (ii) appears to be saying if it's 'allocated' as a playing field for future use (b) or has been in use in the last five years (a), then Sport England is the statutory consultee. Our submission is that this isn't the case for this site'.

Policy

- 7.1. Core Strategy (2009)
- None relevant

- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
 - Policy DM19: Existing Employment Sites
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2021)
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
- National Design Guide (2019)
 - HBBC's Landscape Character Assessment (2017)
 - HBBC Landscape Character Sensitivity Study (2017)
 - HBBC's The Good Design Guide SPD (2020)
 - HBBC Employment Land and Premises Review 2020

Appraisal

- 8.1. Key Issues
- Assessment against strategic planning policies
 - Design and impact upon the character of the area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety

Assessment against strategic planning policies

- 8.2 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 Site Allocations and Development Management Policies Development Plan Document DPD (SADMP).
- 8.3 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.
- 8.4 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.
- 8.5 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.
- 8.6 The industrial compound of Hammonds Furniture Ltd is identified on the Local Plan Proposals Map as part of the HIN122 designation for Nutts Lane Industrial Estate/EME

Site, which are Existing Employment Sites defined under Policy DM19, which further defines Category A sites as Key/Flagship employment areas to be retained. Policy states that the Council will seek to retain these Category A sites in their entirety for B1, B2 and B8 employment uses. The development of non -B Class uses will only be allowed in exceptional circumstances. Proposals must demonstrate why they would not have a significant adverse impact on surrounding employment uses. The proposal would provide an energy generation facility in connection with the employment site and there is therefore no conflict with policy DM19.

8.7 The undeveloped part of the site, on which the proposals seek planning consent for the installation of a solar array is designated as Site HIN122 in the Local Plan, encircled by the Category A employment site designation. This site is described in the plan as Hammonds Sports Pitch – an outdoor sports facility, designated within Policy DM8 of the Local Plan.

8.8 Policy DM8 is titled Safeguarding Open Space, Sport and Recreational Facilities and states that planning permission will not be granted for proposals resulting in the loss of land or buildings in recreational or sporting use and areas of open space, as identified in the most recent Open Space, Sport and Recreational Facilities Study, except where:

- a) a replacement of an equivalent typology is provided, as defined by the most recent Open Space, Sport and Recreational Facilities Study, in an appropriate location serving the local community; or
- b) it is demonstrated that there is a surplus of recreational land, facilities or open space of the same typology exceeding the needs of the local community; or
- c) the development of a small part of a larger site in recreational use would result in the enhancement of recreational facilities on the remainder of the site, or on a nearby site serving the same community.

8.9 As is set out in the comments from Sports England paragraph 99 of the NPPF is also relevant. Paragraph 99 states that 'Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- (a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- (b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- (c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.'

8.10 Sports England state that the proposal would lead to the loss of the whole of this playing field site and therefore would need to satisfy two potential exceptions. The first exception allows the loss of playing field where a robust and up-to-date assessment has demonstrated, to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which would remain the case should the development be permitted. However SE conclude that owing to a need for football pitches in the area and the very closely balanced demand for pitches, a surplus of playing field provision cannot be demonstrated to meet the above exception.

8.11 The second exception outlined by SE would allow the loss of playing pitches if a playing field of equivalent or better/greater quality/quantity is provided in a suitable location. The applicants are not proposing the replacement of the playing field. SE therefore maintain an objection to the application.

- 8.12 Whilst officers agree the proposal would not strictly comply with the above, the situation is that whilst designated as a playing pitch the site is not currently in use as a playing pitch and has not been for over five years. The site is enclosed within the fenced compound with no public access permitted and there is no sports team associated with the site. From the information submitted, the opinion of officers is that it is unlikely the use of the playing pitches would be reinstated. Therefore, the whilst designated as playing pitches there is no current use of the site for sport, no previous use in the past five years and it's unlikely it would be used again for such use in the immediate future. Therefore, the proposal would not lead to a loss of useable playing field and it could be argued it is therefore surplus to current requirements. Ultimately this conflict will need to be weighed against the other benefits of the scheme.
- 8.13 Paragraph 152 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. 158) 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.
- 8.14 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. Therefore, the Strategic Objective seeks to highlight the importance of renewable energy and importantly a need to increase the use of renewable technologies, such as for the generation of electricity from renewable sources. With Policy DM2 providing support to renewable energy schemes.
- 8.15 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.
- 8.16 The PPG provides guidance in regard to specific renewable and low carbon energy developments and provides guidance upon key issues to assess when determining an application for large scale ground-mounted solar photovoltaic farms. This provides detailed guidance on particular factors to consider which includes encouraging effective use of land, the quality of agricultural land, the temporary nature of the proposals, visual impact of the proposal, potential impacts of the proposal (which includes arrays which follow the sun), the need and impact of security measures, impact upon heritage assets, potential to mitigate landscape and visual impacts, energy generating potential, cumulative landscape and visual impact. These potential impacts are considered further under the relevant issues below.
- 8.17 Overall, 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. The proposal would generate 1.5 gigawatt of energy per annum and would save 294 tonnes of carbon in the first year alone. As such the provision of the solar array and associated renewable energy generation is judged to be a significant benefit of the scheme.

Design and impact upon the character of the area

- 8.18 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.
- 8.19 The application site lies inside the settlement boundary in an urban area to the south of a railway line and to the north of the A5. Apart from dwellings on the western side of Nutts Lane & a few to the south, the site is characterised by the industrial buildings to the north, east and south east. Whilst the E-ON site & Nutts lane separate the proposed site from these residential dwellings. The site is a purpose built employment site with restricted access and 1.8m high palisade fencing with a raised bund running inside this fencing which further adds to the industrial character of the site.
- 8.20 The proposed development would introduce non-permanent new-built elements of electrical infrastructure on a part of the site which is currently unused. Much of the site is only visible from within the confines of the Hammonds Furniture site, where views are possible they would be in the context of the existing palisade fence. A condition is recommended requiring the submission of further soft landscaping details with particular attention to the southern boundary which is most open to public view. Subject to this, the presence of the bund and fencing, the industrial nature of the surroundings and temporary nature of the solar array the proposals are considered therefore to have limited impacts upon design and the character of the area. As such, the proposal accords with Policy DM10 of the SADMP (2016) and advice set out in the adopted Good Design Guide (2020).

Impact upon neighbouring residential amenity

- 8.21 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.
- 8.22 The nearest residential property from the site is some 40 metres to the west of the proposal with trees, Nutts Lane and the E-on site between these. Due to the distance, intervening screening and the nature of the proposal it is not considered the amenity of these neighbours would be significantly affected. The development would not result in any overshadowing to individual properties or noise impacts. There are a few other dwellings to the south but at a greater distance from the site and with palisade fencing and a raised bund forming the southern boundary the amenity of these few neighbours would not be significantly affected. No letters of representation have been received.
- 8.23 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.

Ecology

- 8.24 Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused. Paragraph 174 of the NPPF states that development should result in a net gain for biodiversity by including ecological enhancement measures within the proposal.

8.25 Due to the non-permanent nature of the proposal on this open grassy field where vegetation would continue to grow and no trees are to be removed negative Ecological impacts are considered unlikely. A survey was not submitted with this application and LCC Ecology were not consulted but a condition will be added to any permission if granted to ensure a net biodiversity gain is obtained as a result of this development in line with advice in the NPPF.

8.26 Based on the above, it is considered that the impact of the proposed development on protected species and biodiversity is in accordance with Policy DM6 of the SADMP (2016) and the general principles of the NPPF.

Pollution

8.27 Policy DM7 of the SADMP seeks to ensure that adverse impacts from pollution are prevented, this include impacts from noise, land contamination and light.

8.28 As previously stated the NPPF, at paragraph 130, seeks to promote health and wellbeing and a high standard of amenity for existing and future land users. Paragraph 183 explains that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risk of ground instability and contamination.

8.29 The Environmental Health Officer has raised no objections to the development proposals. It is however considered reasonable by the LPA to impose a condition to restrict the site hours for the construction phase with a view to minimise the impact on nearby residential properties in respect of odours, noise, dust, smoke and light and to manage any potential contamination. With the use of this recommended condition the development proposals are considered to accord with policy DM7 of the SADMP and the advice contained in the NPPF.

Other Matters

8.30 Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision to serve the development proposed. LCC as Highway Authority have been consulted and commented that as 'the proposed development is contained entirely within a private industrial estate with a gated access suitable to accommodate traffic associated with the construction phase of the proposal'. Once operational, the LHA are satisfied that the proposed development will not result in a material increase or a material change in the character of traffic in the vicinity of the site or would create any highway safety issues'.

8.31 It is therefore considered the development would not have an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe in accordance with Policies DM17 and DM18 of the SADMP and paragraph 111 of the NPPF.

Equality implications

8.32 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.
- 8.33 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.
- 8.34 There are no known equality implications arising directly from this development.
- 8.35 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).

Conclusion

- 10.1. The application site lies within the settlement boundary where Policy DM10 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.
- 10.2. There is some conflict with Policy DM8 of the SADMP and an objection from SE with regards to the loss of a designated playing field with no mitigation proposed with regards to alternative provision. However, this playing field is no longer in use and is unlikely to come forward in the future owing to the lack of public access to the site, the weight given to this conflict is therefore reduced as the use of the site for sport is limited.
- 10.3. The proposal is for energy generation to support the Hammond Furniture Ltd facility, a site identified within the Employment Land and Premises Study (ELPS) (2020) as an existing employment site being a Category A site. The principle of this renewable energy development is accepted under Policies DM2 and DM19 of the SADMP and the provision of renewable energy is judged to be a significant benefit of the proposal which in the specific circumstances of this site outweighs the conflict with policy DM8.
- 10.4. 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, DM7, DM10, DM17 and DM18 of the SADMP (2016). It is therefore recommended that the application is approved subject to the conditions listed below.

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 Plan Drwg Title: 'Overview Rev X'
Battery Storage System information submitted on 12/07/2023
Solarport Carport Technical Datasheet
Solarport Ground Mount Datasheet
Reference Drawing 570W Panel
Q Cell information (Q Peak Duo XL-G11.3) submitted on 17/04/23

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 character and appearance of the surrounding area and landscape in accordance with Policy DM2 and DM10 of the Site Allocations and Development Management Policies Development Plan Document.

4. The planning permission hereby granted is temporary for a period of 30 years from the date of the first export of electricity from the solar array hereby approved. After such time the use shall cease and the solar array and associated equipment shall be removed from site in accordance with Condition 5.

Reason: The development is granted for a temporary period from the first export of electricity, in the interests of protecting character and appearance of the surrounding area and landscape in accordance with Policy DM2 and DM10 of the Development Management Policies Development Plan Document (2016).

5. Not less than 12 months prior to the expiry of this permission a decommissioning Method Statement & Site Restoration Scheme shall be submitted to and in agreed in writing by the local planning authority. This shall include details of:
 - The works for the removal of the solar panels, ancillary equipment and structures
 - works for the restoration of the site
 - the management and timing of any works
 - a Traffic Management Plan

- an Environmental Management Plan to include measures to be taking during decommissioning to protect wildlife and habitats
- identification of access routes and
- a programme of implementation

The decommissioning works shall then be carried out in accordance with the agreed Decommissioning Method Statement & Site Restoration Scheme during the 12 months of the expiry of this permission.

Reason: The development is granted for a temporary period from the first export of electricity, in the interests of protecting character and appearance of the surrounding area and landscape in accordance with Policy DM2 and DM10 of the Development Management Policies Development Plan Document (2016).

6. 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 as per the requirements of Condition 5 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 character and appearance of the surrounding area and landscape in accordance with Policy DM2 and DM10 of the Development Management Policies Development Plan Document (2016).

7. Before the solar array is first brought into use an Ecological Management Plan showing an Ecological net gain for the site shall be submitted in writing to the local planning authority for their approval in writing. The development thereafter shall be managed in accordance with this management plan.

Reason: To provide a net-gain in biodiversity across the site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM2 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. Site preparation and construction shall be limited to the following hours;
Monday – Friday 07:30 – 18:00
Saturday 08:00 – 13:00
No working on Sundays and Bank Holidays

Reason: To protect the amenities of nearby land users in accordance with SADMP policies DM7 and DM1 and the advice contained in the NPPF.

Notes to applicant:

- If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required. All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to. Email: plantprotection@cadentgas.com Tel: 0800 688 588