

Planning Committee: 18 July 2023

Observations received following the publication of the agenda

Item 06 – W/22/1577 – Land West of Honiley Road (A4177), Honiley, Kenilworth

Planning history

To provide some wider context to the application, Members' attention is drawn to a separate planning application within Warwick District that was refused under delegated powers and is currently subject to an appeal. This is:

- W/23/0150 - Installation of a solar farm consisting of bi-facial ground mounted solar photovoltaic (PV) panels, new access tracks, battery storage, underground cabling, perimeter fencing with CCTV cameras and access gates, 2 no. temporary construction compounds, substation and all ancillary grid infrastructure and associated works - Land North of A46, Sherbourne Hill, Sherbourne

W/23/0150 is directly comparable to the current application in so much as it involves a large solar farm with battery storage within the Green Belt. In that case officers considered that very special circumstances did not exist to outweigh the harm to the Green Belt by reason of inappropriateness. Officers' conclusion under the current application is therefore consistent with this previous decision in terms of consideration of the existence of very special circumstances when balancing the harm to the Green Belt against the benefits associated with renewable energy production.

Additional public representations:

Two additional representations have been received raising objections to the application. The concerns relate to the loss of "prime" farmland in the Green Belt, the need to preserve green fields and the damage to the countryside that would result from the proposal.

Officer response: The representations do not raise any new planning issues. The loss of agricultural land and the impact on the Green Belt and rural landscape have been addressed within the main report.

Additional comments received from a resident speaking at Committee:

The submission makes the following points:

- There is a need for renewable energy sources and local planning authorities should require provision of solar panels and battery storage as a mandatory condition for every new build. This will contribute positively to the climate emergency.
- The loss of Green Belt agricultural land and its irreplaceable habitats, ecosystems, ecology and biodiversity is unacceptable where viable alternatives exist.

- NPPF and Local Plan Policy is clear that protection and conservation of the Green Belt and its ecology and biodiversity is paramount unless very special circumstances can be demonstrated.
- The proposal is industrial in size, hugely intrusive and will massively damage the amenity of local residents, wider communities and rural environment, including the openness of the Green Belt and ancient Arden landscape.
- Supporting documents fail to provide an honest appraisal of the inherent dangers of battery storage (BESS) as an emerging technology.
- Neither the CAA nor BHX, as Stakeholders, were consulted on possible impacts on aircraft flying into BHX using ILS (Instrument landing system) and VOR (ground based electronic system). The scale and nature of the proposal under the flightpath raises questions for aviation safety.

Officer response: The points raised have already been covered in the main report, however, officers provide the following additional comments in relation to safety of the battery storage facility and aviation safety.

It is widely accepted practice for a condition to be imposed on applications for battery storage facilities to require the submission and approval of a Battery Safety Management Plan (BSMP), which would prescribe safety measures during the construction, operation and decommissioning of the battery storage facility.

Notwithstanding the use of planning conditions in relation to battery safety, there are other regimes that regulate the safe operation of such installations. National policy is clear that the focus of planning decisions should be on whether a proposal is an acceptable use of land, rather than the control of processes where these are subject to separate regimes. Planning decisions should assume that these regimes will operate effectively.

For the above reasons there is nothing in relation to the safety of the battery storage that would weigh against the proposal.

With regards to any potential impact on aviation safety, the site is approximately 7.5 miles to the south east of Birmingham airport and approximately 7 miles to the south west of Coventry airport. Given these separation distances it is not considered that there would be any significant impact on these airports, as detailed within the submitted Glint and Glare Assessment.

Councillor comments:

Comments have been received from Ward Councillor Kyn Aizlewood. These are summarised as follows:

- My view is that the benefits of generating renewable energy for 6000 homes outweigh the visual and spatial harm to green belt and the element of encroachment, particularly if conditions can be placed that better address the specific concerns.

- I've walked these fields myself and the fields are not that interesting or unusual, making them more productive by harvesting energy sounds like the right thing to do.
- I agree with the argument that it would be better to put solar panels on the rooftops of buildings in preference to agricultural land, however unfortunately I think that WDC has very little authority, at the moment, to insist on this.
- If there is a residual farming element to the proposal, such as the suggested grazing of sheep on the land under the solar arrays, then this secondary use seems to me quite important, particularly as this is a 'temporary' proposal.
- I am also interested in the consistency argument. There was a recent refusal of a battery energy storage system (BESS) in Beausale (W/22/0941), which has now gone to appeal. The current proposal appears to address many of the shortcomings of the BESS application or could be addressed with some sensible conditions.

Officer response: To provide some further detail on the final point, W/22/0941 was for a proposed energy storage facility, together with associated equipment, infrastructure and ancillary works at Land South of Banner Hill Farm, Banner Hill, and Rouncil Lane, Kenilworth. The application was refused by officers and is currently at appeal.

There were six reasons for refusal on application W/22/0941, the first of which related to the impact on the Green Belt and the absence of very special circumstances to outweigh the harm. The scheme for the battery storage facility would not have contributed directly towards the provision of renewable energy and officers had concerns that the applicant had not fully quantified the potential benefits of the battery storage facility in terms of renewable energy. As such, officers afforded only moderate weight in favour of the environmental benefits when assessing that application.

The other reasons for refusal related to the visual impact of the development and lack of information to assess the impacts on landscape character and heritage assets, the absence of a legal agreement to secure a biodiversity net gain, insufficient drainage information and the loss of agricultural land.

Items 07 & 08 - W/22/1744 - 2 Rai Court & W/22/1745 - 3 Rai Court

Additional comments from neighbouring occupiers

A number of objectors have referred to the 5 year supply of housing land and a lack of need for more HMOs. Officers would like to draw members' attention to the fact that there is no Local Plan Policy to restrict the number of HMOs within the District. The only restriction is Policy H6 which protects against localised concentrations.

Objectors have referred to the fact that they believe the application properties and others in the development are already being marketed on specialist student letting websites. This is not relevant to the assessment of these planning applications. The assessment must be based on the lawful use of the development (C3 dwellings) and the development proposed in the application (change of use of 2 of the properties to C4 HMOs).

Objectors refer to a case in Villiers Street where it was judged that the proposals would result in a non-HMO being sandwiched between two HMOs. The Villiers Street case is not a comparable arrangement to the 2 and 3 Rai Court proposals.

In the Villiers Street case the whole length of both sides of the garden of the non-HMO dwelling would have been adjoined by the gardens of the HMOs, resulting in impacts from external noise. In the current case the student accommodation at 104 Trinity Street presents blank elevations along the boundaries with Rai Court and 36 Binswood Avenue. Furthermore, only part of one side boundary of the garden of 36 Binswood Avenue is shared with the garden of 2 Rai Court. So this would not fall within the definition of "sandwiched between two HMOs" in criterion (c).

Further concerns have been raised in relation to the provision for refuse and recycling. Policy H6 (e) refers specifically to refuse rather than refuse and recycling. No refuse will need to be carried from the rear of the properties to the front as the refuse storage will be to the front of the property, hidden from the street scene.

The condition suggested by WDC Contract Services confirms and secures this arrangement.

A condition securing the design of the rear Bin Store may be considered necessary by the committee to protect the recycling from inclement weather.

Following is the definition of refuse:

the unusable by-product that remains once a goods have been used, referring to municipal or household waste that cannot be reused and will instead be disposed and sent to landfill.

Items 09 – W/23/0020 – 70 Mill Hill, Baginton

Additional comments from a neighbouring property

A further objection comment received from the neighbouring property has highlighted how the existing garage at the property is not rendered, as was suggested within the report, and is instead comprised of painted brickwork. Officers can confirm that the only section of the existing property that contains a rendered finish is the ground floor rear elevation of the existing property.

Further correspondence from the neighbour has also suggested that Baginton Parish Council were not reconsulted following the submission of amended plans. Officers note that amended plans were received by the Local Planning Authority

on 20/03/2023, with reconsultation letters sent out to all neighbours and consultees on 24/03/2023, with this consultation period lasting two weeks. Following this reconsultation, no further comments were submitted by Baginton Parish Council, with their stance therefore considered to remain "neutral" as set out in their initial response received on 27/01/2023.

Item 10 - W 23 0625 - The Royal Oak, 36 New Street, Kenilworth

Councillors have reported that a building similar in appearance and position to that proposed has been erected in the garden at the Royal Oak without planning permission. The Planning Enforcement team have been notified.

Additional comments from members of the public

An additional comment in support of the application has been received which states:

This will enhance the enjoyment of the customers that use the public house. As I understand it there is no or very little smoke that comes out of the machines to be used to cook the meat and far less than one would expect from a conventional BBQ whether that be gas or charcoal.