
Appeal Decision

Inquiry opened on 4 February 2025

Site visits made on 12 February 2025 and 5 March 2025

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State

Decision date: 8th July 2025

Appeal Ref: APP/E2205/W/24/3352427

Land south of the M20, Church Lane, Aldington, Kent

- 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 EDF Energy Renewables Ltd (trading as EDF Renewables) against the decision of Ashford Borough Council.
 - The application Ref.22/00668/AS, dated 14 April 2022, was refused by notice dated 29 April 2024.
 - The development proposed was described as 'installation of a solar farm comprising ground mounted solar panels; access tracks; inverter/transformers; substation; storage, spare parts and welfare cabins; underground cables and conduits; perimeter fence; CCTV equipment; temporary construction compounds; and associated infrastructure and planting scheme'.
-

Preliminary Matters

1. The Inquiry opened on 4 February 2025 and closed on 13 February 2025 after 6 sitting days. I carried out a comprehensive, accompanied site visit on 12 February 2025. As indicated at the Inquiry, I carried out a further, unaccompanied visit to the site and its surroundings on 5 March 2025.
2. In their decision notice the Council added some wording to the description of development to make it clear that the solar farm proposed would have a generating capacity of up to 49.9MW. I have proceeded on that same basis.
3. The originating application was accompanied by an Environmental Statement (ES) submitted pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended). In their evidence, prepared in advance of the Inquiry, the Council highlighted the likelihood of impacts on the setting and thereby the significance of a series of heritage assets, both designated and non-designated. The appellant pointed out that this evidence went well beyond the range of designated heritage assets identified in the ES as potentially sensitive to the development, and covered in the Officers' Report, and based on that, the relevant reason for refusal. The Council promptly withdrew the elements of their heritage evidence that went beyond the Officer's Report and the relevant reason for refusal.
4. When I carried out my accompanied visit on 12 February, I looked at the additional heritage assets that the Council had raised issues about in their evidence, amongst other things. Having done so, I formed the view that the Council was correct to say that the proposal would affect the setting of these additional assets in a way that could affect their significance.

5. The appellant submitted some assessment work to address that shortfall¹. However, it appeared to me that this situation could be argued to have brought the adequacy of the ES into question. So, I requested this formally as further information (FI) under Regulation 25, and it was duly submitted as such. While not strictly necessary, I opened the information up for consultation, through the Council, and responses to the FI were duly received. I have to say that some of these responses went well beyond the confines of what the FI was intended to address. However, I have taken the ES, along with this FI, and the responses to it, so far as they are relevant to the FI, into account in my determination of the appeal.
6. In advance of the Inquiry, the parties helpfully agreed on a range of Core documents, and I gained access to them before, during and after the Inquiry electronically. They are listed and stored at <https://www.ashford.gov.uk/east-stour-solar-farm-inquiry> so I have not set them out again at the end of this decision. I have however listed out the documents received in the course of the Inquiry in Annex 2.
7. During the Inquiry, it became clear that the layout of the solar panels as depicted on the application drawings appeared to interfere with the course of a public footpath (AE432). A series of revised drawings were prepared and submitted to address this issue². This change in layout, while important, is relatively minor in its scope. I am therefore of the view that I can take it into account in determining the appeal without causing any difficulties in consultation terms.

Decision

8. The appeal is dismissed.

Main Issues

9. The Council refused planning permission for the proposal for five reasons encompassing, in brief, impacts on the landscape and public rights of way; the setting of designated heritage assets; archaeology; highway safety; protected species; and the safeguarding of minerals.
10. However, in the lead up to the Inquiry, the appellant and the Council were able to agree a main Statement of Common Ground (Main SoCG) and two supplementary Statements of Common Ground – the first dealing with landscape and visual impacts and the second archaeology, traffic and transport, and ecology. This meant that the Council's case as presented to the Inquiry was largely confined to impacts on the landscape and public rights of way (PRoWs) and the setting of designated heritage assets.
11. Reflective of that position, in opening the Inquiry I set out the main issues as: (1) the effect of the proposal on the character and appearance of the area, encompassing questions around PRoWs (the landscape and visual impact issue); (2) the effect of the proposal on the setting and thereby the significance of a series of heritage assets, both designated and non-designated (the heritage issue); and (3) the acceptability, or otherwise, of the proposal having regard to the development plan and national policy, the benefits of the proposal, and the need for a 'planning balance'.

¹ ID19

² ID11, ID12, ID15 and ID16

12. Having heard the evidence, and visited the site, I intend to deal with these same matters, but for reasons that will become clear, in a different order.

Reasons

Background

13. The appeal site is on land south of the M20 motorway, straddling the Channel Tunnel Rail Link (the HS1 railway line), and lies to north-east of Aldington.
14. The proposed array would be arranged in three distinct parts. The northernmost element would lie between the motorway and the railway to the west of the recently permitted (and it seems under construction) battery storage facility and condenser plant that lie to the west of Church Lane. The existing Sellinge Converter Station sits on the opposite side of Church Lane with the sewage works lies beyond that.
15. The second element would lie to the south of the first on the opposite side of the railway, to the west of Church Lane. The third element would lie to the east of the second element, on the opposite side of Church Lane, to the south of the operational Partridge Farm (or Sellinge) Solar Farm.
16. As set out in the Main SoCG, the proposal would consist of an array of ground mounted, solar photo-voltaic panels set at an angle of about 20 degrees, with a maximum height of 3 metres with associated ground anchors and concrete feet; the upgrading and/or widening of existing access tracks, together with the creation of a new access point on to Church Lane and new access tracks; up to 20 containerised inverter/transformer units of up to 6 metres long by 3 metres wide, 3 metres high; up to three cabinets containing welfare facilities, security and solar farm control systems, and equipment for general maintenance and spare parts; up to four sub-stations of up to 6 metres long by 3 metres wide, 3 metres high; underground cabling; a security perimeter fence in stock style up to 2.15 metres high, together with gates; CCTV cameras; and up to three temporary construction compounds with temporary lighting.
17. The scheme also includes the planting of new hedgerows, and the improvement of existing hedgerows, some native trees, and wildflower/grassland/ riparian mix planting.

Policy

18. The development plan for the area includes the Ashford Local Plan (LP), adopted in February 2019, and the Aldington and Bonnington Neighbourhood Plan (NP) that was adopted in October 2024. The relevant policies from both are set out in the Main SoCG, with those most relevant highlighted.
19. The principal policy aimed at proposals like that at issue is LP Policy ENV10 that deals with renewable and low carbon energy. It is permissive provided that, amongst other things, the development either individually or cumulatively does not result in significant adverse impacts on the landscape, natural assets or historic assets, having special regard to nationally recognised designations, such as AONBs, conservation areas and listed buildings, and their settings.
20. NP Policy AB10 takes a broadly similar approach with projects supported where the benefits of renewable energy can be shown to outweigh landscape and (other) environmental impacts.

21. LP Policy ENV13 is directed towards the conservation and enhancement of heritage assets. Of particular relevance in this case, it says that where a development would lead to less than substantial harm to the significance of a designated heritage asset, or where a non-designated heritage asset is likely to be impacted, that harm will be weighed against the public benefits of the proposal.
22. Put simply, NP Policy AB11 says that development proposals affecting designated heritage assets either directly or indirectly, should preserve or enhance the significance of the asset, including those elements of the setting that do not contribute to significance. Given the lack of any integral balancing mechanism, and the questionable approach to elements of setting that do not contribute to significance, I do not consider this policy to properly accord with Government policy in the National Planning Policy Framework (the Framework) but in the event, nothing turns on it. NP Policy AB4 refers to the protection of locally significant views. These views are set out in Figures 8 to 10. Figure 9 refers to View 4 from the rear of St Martin's Church.
23. LP Policy ENV3a covers landscape character and design and expects all development proposals to demonstrate particular regard to a series of landscape characteristics, in a proportionate way according to the landscape significance of the site. These include a) landform and topography; d) the pattern and composition of field boundaries; and f) the presence and pattern of historic landscape features. Alongside that, LP Policy ENV5 seeks to protect and where possible enhance features like rural lanes that have a landscape, nature conservation or historic importance; PRoWs; and other local historic or landscape features that help to distinguish the character of the local area.
24. The Main SoCG covers the Framework and Planning Practice Guidance, and wider Government policy and guidance in so far as it relates to renewable energy. The obvious importance of renewable energy nationally is ably summarised in the quotation from the Written Ministerial Statement of 30 July 2024: *Turning to green energy, boosting the delivery of renewables will be critical to meeting the Government's contribution to zero carbon electricity generation by 2030. That is why on this Government's fourth day in office we ended the ban on onshore wind, with that position formally reflected in the update to the National Planning Policy Framework published today. We must however go much further – which is why we are proposing to: boost the weight that planning policy gives to the benefits associated with renewables; bring larger scale onshore wind projects back into the Nationally Significant Infrastructure Projects regime; and change the threshold for solar development to reflect developments in solar technology.*
25. The National Policy Statement for Renewable Energy Infrastructure (EN-3) makes it clear that energy production from solar projects is a key part of the Government's strategy for low-cost decarbonisation of the energy sector and that the Government has committed to sustained growth in solar capacity.

The Benefits

26. While the Council did raise some (legitimate) issues around overpowering, the scheme as presented would have a generating capacity of up to 49.9MW. It would export this energy to the grid through the nearby Converter Station. Importantly, the scheme has a pre-2030 grid connection offer meaning that it could contribute to the zero carbon electricity generation by the 2030 target.

27. Once operational the array would produce sufficient power to meet the equivalent annual needs of around 17,000 homes in the Council area, or 32% across the Borough. I am told that it would save the equivalent of 14,300,000kg of carbon dioxide for each of the 40 years it would operate for. On top of that, as the appellant sets out, the scheme would deliver a range of biodiversity benefits including a net gain of 250.94 habitat units which equates to a 116.84% net gain on habitats and a 230.36% net gain of hedgerows. Moreover, the scheme would create jobs in the construction, operational and decommissioning phases, with attendant socio-economic benefits.
28. There can be no doubt that the generation of renewable energy on this scale, so quickly, would be a significant benefit that must attract substantial weight in the planning balance. The added biodiversity and economic benefits add significantly to that. That said, while Government policy generally, and the LP and NP locally, are supportive of renewable energy projects, there is no carte blanche. There are other matters to consider, and I turn first to the impacts of what is proposed on the historic environment.

The Heritage Issue

29. The two designated heritage assets that the Council relies on in evidence are the Church of St Martin, a Grade I listed building, and Court Lodge Farm, a Grade II* listed building. These are now a Parish Church and a farmhouse but were once a chapel and associated hunting lodge serving the Archbishop of Canterbury. Both lie within the Aldington Conservation Area.
30. The tower of the Church is located at the highest point of the ridge and is a notable presence in the landscape, especially on the approach from the north. Moreover, the group formed by the Church and Court Lodge have an historic association with the surrounding landscape, which may well have formed part of the historic ecclesiastical manor. While this landscape is much changed since the time the archbishop hunted within it, one is still able to appreciate and understand that link. In that way, while there is undoubtedly a great deal of significance locked into the fabric of these buildings, they do derive an important element of their overall significance from their place in the landscape, whether that is their immediate setting, or their wider setting.
31. The wider setting of the Church and Court Lodge has already been undermined by the M2 motorway, HS1, the Sellingle Converter Station, the battery storage battery storage facility and condenser plant under construction, and the operational Partridge Farm solar array. However, these significant elements of infrastructure have the benefit of sitting in the base of the valley so the extent to which they impact harmfully on an appreciation of the listed buildings in their settings is limited.
32. On my analysis, the same is true of much of the solar array proposed. However, that is not the case for the southernmost projection of the eastern blocks, towards Hungry Down, and the southern projection of the block to the west of Church Lane, that would expand over the crest of Bested Hill and down its south facing slope. The latter would be readily apparent on the approach along the footpath towards the Church from Aldington village, to the west, while despite some screening from trees and hedgerows, both would appear in views from the east of the Church³.

³ As illustrated by Viewpoints 7 and 6

33. In my view, the presence of the array in these views in particular would be most incongruous. It would give the strong impression that infrastructure is spilling out from the valley floor into the rural hinterland of the Church and Court Lodge. This intrusion would undoubtedly dim the link between these important listed buildings and the surrounding landscape. As a result, there would be harm caused to their settings, and as a consequence, the significance of both individually, and as a group.
34. There was some useful discussion at the Inquiry about the scale of any harm that would be caused. As all accept, the threshold for a finding of substantial harm is very high. It seems to me that in a case like this, where it is the setting of the listed buildings involved and the contribution that makes to significance that is affected, the harm caused would be less than substantial⁴. Notwithstanding that conclusion, one is still left with the question of where on the scale of less than substantial harm, which ranges from the merest scintilla of a harmful impact to something not very far short of complete destruction, the harm in this case lies.
35. Unsurprisingly perhaps, the parties have rather different views about where on that scale the impacts lie. As I have set out above, by far the greatest proportion of the significance of both buildings lies in their fabric. However, both derive an important element of their overall significance from their settings, and the same is true of the grouping. As a consequence, my judgment is that the scale of less than substantial harm that would be caused to the significance of the Church of St Martin and Court Lodge is between the lower end of the scale and its mid-point.
36. Reflecting the workings of the Planning (Listed Buildings and Conservation Areas) Act 1990, and associated Case Law, paragraph 212 of the Framework tells us that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.
37. Paragraph 215 explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. There is then a need to balance this less than substantial harm against the public benefits of the proposal that I have set out above. That is also what the development plan requires.
38. However, the harm to the significance of designated heritage assets in this case is not limited to the Church of St Martin and Court Lodge. On my analysis, having regard to the FI submitted on behalf of the appellant, and what I saw during my site visits, the setting of other designated heritage assets would be affected by the proposal.
39. First of all, the Church and Court Lodge lie within the Aldington Conservation Area and are the principal buildings within it. Unlike the other listed buildings in the conservation area, the Church and Court Lodge derive some significance from their wider setting. Given the contribution these buildings make to the significance of the conservation area, it follows that it does too.

⁴ On the basis that the fabric of both buildings, where most of their significance is found, would be unaffected

40. It must also follow that if the significance of the Church and Court Lodge would be harmed by the proposal, then so would the significance of the conservation area. However, a good deal of the significance of the conservation area would be unaffected so I would assess the level of harm caused as lying at the lower end of the less than substantial scale.
41. Just to the south of the eastern element of the array, on the southern slope of Bested Hill, lie Hogben Farmhouse and its associated former dairy and former barn). All three are Grade II listed buildings. As a farm group, they derive something of their significance from their rural setting. Notwithstanding the planting proposed in the southernmost corner, the elements of the array on the southern slope of Bested Hill would be uncomfortably close to this complex. That proximity would undermine the rural setting of these listed buildings and as a result, their significance individually, and as a group. Bearing in mind that the fabric, and other elements of the rural setting of these buildings would be unaffected, my view is that the level of less than substantial harm that would be caused would be at the lower end of the scale.
42. I recognise that there are other listed buildings covered in the FI, as well as some non-designated heritage assets, but bearing in mind their relative importance, and the degrees of separation involved, I am of the view that while the setting of these buildings would change as a result of the proposal, it would not do so in a way that would harm their significance.

Interim Conclusion

43. At this stage then, having regard to the workings of LP Policies ENV13 and ENV10, and the Framework, I must weigh the less than substantial harm against the public benefits of the proposal. As I have set out above, those public benefits of the scheme would be substantial indeed. However, the harmful impacts I have found, and in particular those affecting the Church of St Martin, a Grade I listed building, and Court Lodge, a Grade II* listed building, are matters of considerable importance and weight too.
44. It is my conclusion that the public benefits of the proposal do not outweigh the less than substantial harm that would be caused to the significance of the Church of St Martin and Court Lodge. The harm I have found to the significance of the Aldington Conservation Area and the Hogben Farmhouse complex tips the scales even further against the proposal. I reach that conclusion notwithstanding the fact that the impact of the proposal would be temporary, albeit I note that 40 years is a relatively long time, and reversible.
45. The central reason behind that conclusion is the fact that a good deal of the benefits offered by the scheme could be provided without any harmful impact at all on the setting and thereby the significance of these two very important designated heritage assets, or for that matter, any others. The benefits that would be secured by the elements of the array on the south facing side of Bested Hill, and edging towards Hungry Down, are not sufficient to justify their attendant harmful effects on the setting of the Church and Court Lodge.
46. I have carried out this balancing exercise on the basis of the scheme as it is presented and formed my conclusions accordingly. However, having regard to the way the matter was explored at the Inquiry, I am firmly of the view that a better designed scheme using the appeal site in a way that avoided these impacts, could bring forward most, if not all, of the same benefits.

47. Paragraph 213 of the Framework says that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. On the basis of the foregoing, I am not persuaded that this requirement has been met.
48. Bringing those points together, for the reasons I have set out, I find that the proposal is contrary to LP Policies ENV10 and ENV13, and NP Policy AB10, and as a result, the development plan considered as a whole. The scheme also falls foul of the Framework. There are no material considerations that would justify a decision contrary to the development plan so it is my conclusion that the appeal should be dismissed.

The Landscape Issue

49. On the basis of that conclusion, I can deal with the landscape issue relatively quickly. From what I saw, the appeal site is strongly representative of the two Landscape Character Areas (LCAs) in which it sits⁵.
50. Notwithstanding the screen planting included as a part of the scheme, the imposition of a solar array on the various land parcels is bound to have a significant adverse effect on the receiving landscape. Moreover, notwithstanding the revisions to the layout referred to above, the experience of walking along the PRoWs that pass through and near to the proposal would undergo a change that would be a negative one.
51. That said, if solar arrays are to be brought forward in order to secure the benefits of renewable energy, then landscape and visual impacts of this sort are inevitable. The key point though is that these impacts must be controlled, in an appropriate way.
52. Bearing in mind the infrastructure already in place, the landscape and visual impacts of those elements of the proposal that lie within the 'valley floor', as I have put it in my findings above, demonstrate that appropriate level of control.
53. Notwithstanding the screen planting, that would in any case take some time to become established, those elements of the proposal that spill out of that area - the southernmost projection of the eastern blocks, towards Hungry Down, and the southern projection of the block to the west of Church Lane, that would expand over the crest of Bested Hill and down its south facing slope - would not. These elements of the scheme would appear incongruous and have a significantly harmful impact in landscape and visual terms.
54. On that basis, the proposal does not accord with LP Policy ENV3 and ENV5 and as a result, LP Policy ENV 10 and NP Policy AB10. This conclusion adds weight to my central conclusion that I have set out above.

Other Matters

55. Issues were raised about the potential impact of the proposal on highway safety. Given the nature of Church Lane, in terms of its width and alignment, I agree that the construction traffic would need to be carefully managed to avoid undue difficulties with congestion, and the safety of road users.

⁵ The Evegate Mixed Farmlands LCA and the East Stour Valley LCA

56. However, I am satisfied that a Construction Traffic Management Plan (CTMP), secured by condition in the event planning permission was granted for a scheme on the appeal site, could effectively control those potential impacts. Whether that CTMP needed to include a road closure on Church Lane would be a matter for those with oversight of the process for discharging such a condition to consider.
57. I am conscious of the implications of my conclusions for the Stonestreet Green DCO – another solar array to the west of the proposal that is also likely to have an impact on the setting and thereby the significance of the two listed buildings I am so concerned about. That said, I would note that the public benefits of that scheme will be on a different scale to those before me and in any event, my findings are matters that those examining the DCO, and in time the Secretary of State, will have to grapple with.

Final Conclusion

58. For all the reasons given above, it is my conclusion that the appeal should be dismissed.

Paul Griffiths

INSPECTOR

Annex 1: APPEARANCES

For the Local Planning Authority

Annabel Graham Paul, Counsel

Instructed by Cheryl Parks,
Senior Planning and
Development Lawyer, Ashford
BC

She called:

David Withycombe MSc CMLI

Director, Land Management
Services Ltd

Graham Rusling MIPROW

Head of PROW and Access
Service Kent CC

Grace Connolly MA(Hons) MSc

Senior Conservation Officer,
Ashford BC

Matthew Durling MA MRTPI

Deputy Team Leader (Strategic
Applications), Ashford BC

For the Appellant

Shemuel Sheikh, Counsel

Instructed by Peter Nesbit,
Partner and Kirsty Smith,
Senior Legal Manager,
Eversheds Sutherland

He called:

John Ingham BA(Hons) DipLA CMLI

Director of Landscape Planning,
Stephenson Halliday

Rob Bourn BA MA MCIfA

Managing Director, Orion
Heritage Ltd

Steven Longstaff BA(Hons) MSc MRTPI

Director, ELG Planning

Interested Persons

Jonathan Tennant

Local Resident and
Representative of the Church
Lane Group

Edward Evans

Local Resident

Derek Burks

Local Resident

Linda Harman

Chair of Aldington and
Borrington Parish Council

Annex 2: INQUIRY DOCUMENTS

ID1	Opening Statement and List of Appearances on behalf of the appellant
ID2	Opening Statement and List of Appearances on behalf of the Council
ID3 (1) and (2)	Submissions of Mr Tennant
ID4	Submission of Mr Evans
ID5	Proposed Planning Conditions
ID6(1) and (2)	PRoW Overlay Drawings
ID7	Submission of Mr Burles
ID8	Copy of Memo from Ms Dee to Mr Durling dated 28 March 2024
ID9	Further Submission from Mr Evans
ID10	East Stour Capacity Note
ID11	Plan 1: ENGN1006-100n.1
ID12	Plan 2: ENGN1006-100n.2
ID13	Copy of email relating to grid connection agreement
ID14	Revised East Stour Capacity Note (to replace ID10)
ID15	Revised Layout Plan 1 (to replace ID11)
ID16	Revised Layout Plan 2 (to replace ID12)
ID17	Closing Statement on behalf of the Council
ID18	Closing Statement on behalf of the appellant
ID19	Additional Heritage Assessment