



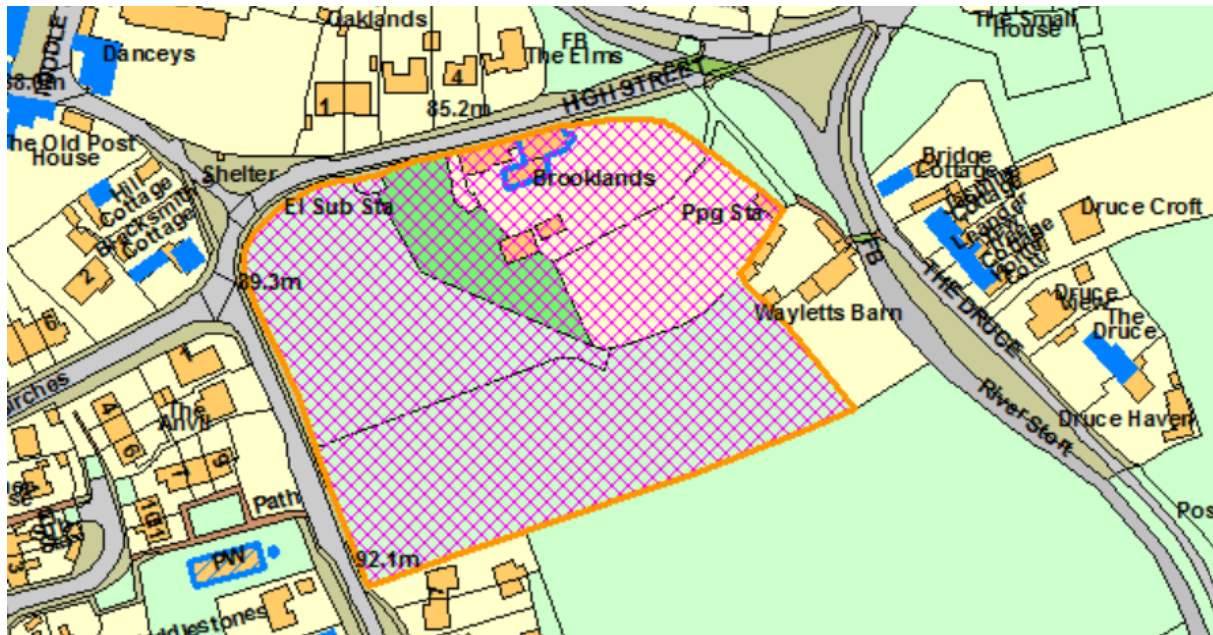
ITEM NUMBER: 7

PLANNING COMMITTEE 22 February 2023
DATE:

REFERENCE NUMBER: UTT/22/3164/FUL

LOCATION: Brooklands Farm, High Street, Clavering

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council Date: 08 February 2023

PROPOSAL: Installation of solar panels to provide green electricity to Brooklands Farmhouse.

APPLICANT: Mr John Noble

AGENT: Mr Shannon Fenlon

EXPIRY DATE: 16 January 2023

EOT Expiry Date N/A

CASE OFFICER: Mr Lindsay Trevillian

NOTATION: Outside Development Limits, Within Clavering Conservation Area, Adjacent Locally Listed Building.

REASON THIS APPLICATION IS ON THE AGENDA: Called in by Cllr Mr Edward Oliver

1. EXECUTIVE SUMMARY

- 1.1** This full planning application seeks permission for the installation and construction of a linear row of solar panels alongside associated works to generate approximately 16.17 MW of energy annually to supply the existing farmhouse owned by the applicant.
- 1.2** This application is a revised scheme following the decision of the Council to refuse planning permission ref: UTT/21/3394/FUL under delegated powers in January 2022 and then subsequently dismissed at appeal under ref: APP/C1570/W/22/3294001 in September 2022.
- 1.3** The applicant has amended the application to reduce the size and scale of the proposals, reposition the row of panels to a different position, and provide mitigation in the form of additional landscaping to address the previous concerns raised.
- 1.4** However, it has been concluded in this report that as part of undertaken the required balancing exercise as per the NPPF, the proposed amendments have failed to address those previous concerns and that the proposed benefits of the scheme would not outweigh the identified harm. It is concluded that the proposals would amount to harm upon the

character and openness of the countryside and harm to the setting of the Clavering Conservation Area contrary to Policies ENV1 and S7 of the Adopted Local Plan and the National Planning Policy Framework.

2. RECOMMENDATION

That the Director of Planning be authorised to **REFUSE** for the reasons set out in section 17.

3. SITE LOCATION AND DESCRIPTION:

- 3.1** The area of land subject to this planning application relates to the land known as 'Brooklands Farm, High Street, Clavering, Essex.' The extent of the application site is as shown by the land edged in red on the site location plan submitted in support of this application.
- 3.2** The application site is located on the south eastern corner of the High Street and Stortford Road within the centre of the village of Clavering. Residential dwellings are located to the north and west on the opposite side of the highways.
- 3.3** The site comprises of a detached double story dwelling house that is locally listed and externally finished from painted render. The dwelling is set within extensive private gardens forming the residential curtilage of the site which is screened by a modest size stone wall along the front boundary and a mature hedgerow along the rear boundaries. Located within the curtilage of the site are several ancillary outbuildings and a tennis court. Access to the site is via a shared crossover along the High Street to the east of the dwelling.
- 3.4** Set behind the residential curtilage is a modest size arable field. The field has been mown for at least the last 20 years, previously used for hay, turf and for occasional grazing. The field has a separate farm access from Stortford Road. A post and rail fence and a low hedge bounds the site to the north and west. The field has a gradual slope that falls away from west to east.

4. PROPOSAL

- 4.1** This application relates to the installation of solar panels and associated works. The panels will be fixed adjacent to one another in a linear row 23 metres long by 3 metres wide. The panels will have a minimum height of 552mm and a maximum height of 2.356 meters above ground level and will set at an angle of 30 degrees.
- 4.2** The panel specification has yet to be decided by the applicant in detail, however, the applicant has provided two possibilities that are very similar in a visual sense. Both options comprise of the same size and colour and

as such there is not a significant difference in respect to their visual appearance.

4.3 The row of panels would be set 2 metres away from the existing hedge on the grass field behind Brooklands Farmhouse and is to generate electricity to supply the house with electricity.

4.4 An electric cable will extend to the existing outbuilding within the residential curtilage of the site where an inverter changing Direct Current to AC will be located. The inverter would be located under end solar panels. It is estimated that the proposed development would generate up to 16170 Kilovalt-Ampere (Kva) which amounts to 16.17 Megawatts (MW).

5. ENVIRONMENTAL IMPACT ASSESSMENT

5.1 The development does not constitute 'EIA development' for the purposes of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

6. RELEVANT SITE HISTORY

6.1 A similar application reference UTT/21/3394/FUL seeking planning permission for the installation of solar panels and associated works was submitted and refused under delegated powers in January 2022. Figure 1 below highlights the proposed block plan that formed part of the refusal.

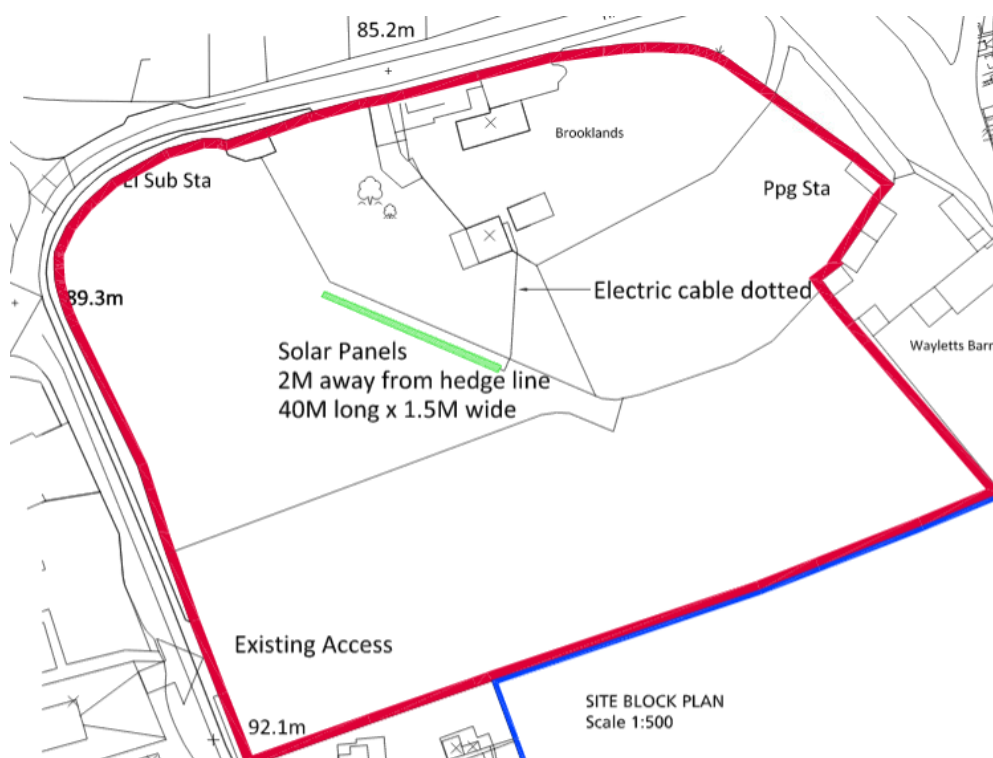


Figure 1: Block Plan submitted as part of refused application ref: UTT/21/3394/21.

- 6.2** The above application was refused for two reasons relating to harm upon the setting of the Clavering Conservation Area and harm upon the openness and character of this part of the countryside due to the developments location, size, and scale contrary to Policies ENV1 and S7 of the Adopted Local Plan and the National Planning Policy Framework.
- 6.3** The application was thereafter subsequently appealed ref: APP/C1570/W/22/3294001 whereby the Inspector dismissed the appeal in September 2022 agreeing with the Council's reasons for refusal. A full copy of the Inspector's decision is provided in Appendix 1 of this report.
- 6.4** As a result of the above refused and dismissed appeal, the applicant has submitted this revised application to address the previous reasons of refusal. This main revision includes reducing the length of the panels from 40m to 23m, position the panels approximately 38m further to the east, and provide further mitigation to reduce the visual impacts by providing natural screening in the form of a 12m long hornbeam hedge and 2 Quercus trees.

7. PRE-APPLICATION ADVICE AND/OR COMMUNITY CONSULTATION

- 7.1** No pre-application advice was sought by the applicant with the Local Planning Authority prior to the submission of this application and no information has been provided as to whether the applicant undertook any community consultation.

8. SUMMARY OF STATUTORY CONSULTEE RESPONSES

- 8.1** There was no statutory duty to consult any relevant statutory consultees regarding the proposals.

9. PARISH COUNCIL COMMENTS

- 9.1** Clavering Parish Council confirmed in their formal response that they have no comments to make regarding the proposals.

10. CONSULTEE RESPONSES

10.1 UDC Environmental Health – No Objection

- 10.1.1** The Environmental Protection Team have no objections to the proposed development.

10.2 Place Services (Conservation and Heritage) – Concerns Raised

- 10.2.1** The Conservation Officer acknowledges the revisions made by the applicant to reduce the size of the proposals and their repositioning, and the proposed mitigation measure to address previous reasons of refusal, however, confirms that the comments made by the Inspector have not been overcome.

- 10.2.2** The Conservation Officer remains concerned that the proposals would still fail to preserve the character and appearance of the conservation area and the rural character of this part of the settlement. The officer concludes that the harm to the conservation area would be 'less than substantial' harm and thereby paragraph 202 of the Framework being relevant.

10.3 Place Services (Ecology) – No Objection

- 10.3.1** Place Services confirmed that they have reviewed all the supporting documentation relating to the likely impacts of development on designated sites, protected species and priority species & habitats and identification of appropriate mitigation measures.
- 10.3.2** They concluded that the mitigation measures identified the Ecological Appraisal (Essex Mammal surveys, November 2021) was appropriate and should be secured by a condition of any consent and implemented in full.
- 10.3.3** It was also concluded that they support the proposed biodiversity enhancements including the installation of two bird nesting boxes, two solitary beehives and a hedgehog nesting box which have been recommended to secure net gains for biodiversity and should also be secured by way of imposing planning conditions.
- 10.3.4** Place Services conclude that impacts arising from the development will be minimal such that the proposals are acceptable subject conditions if permission is granted.

10.4 London Stansted Airport Safeguarding Authority – No Objection

- 10.4.1** The Safeguarding Authority for Stansted Airport has assessed this proposal and its potential to conflict with aerodrome safeguarding criteria. We have no objections to this development subject to imposing conditions providing measures to control dust and smoke during construction and demolition.

11. REPRESENTATIONS

- 11.1** The application was consulted by sending letters to adjoining and adjacent occupiers and displaying site notices on site. No representation from the public have been received by the Council at the time of this assessment.

12. MATERIAL CONSIDERATIONS

- 12.1** In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, The Development Plan and all other material considerations identified in the "Considerations and Assessments" section of the report. The

determination must be made in accordance with the plan unless material considerations indicate otherwise.

12.2 Section 70(2) of the Town and Country Planning Act requires the local planning authority in dealing with a planning application, to have regard to:

(a) The provisions of the development plan, so far as material to the application,;

(a) a post-examination draft neighbourhood development plan, so far as material to the application,

(b) any local finance considerations, so far as material to the application, and

(c) any other material considerations.

12.3 Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, or, as the case may be, the Secretary of State, in considering whether to grant planning permission (or permission in principle) for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses or, fails to preserve or enhance the character and appearance of the Conservation Area

12.4 The Development Plan

12.4.1 Uttlesford District Local Plan (adopted 2005)
Essex Minerals Local Plan (adopted July 2014)
Great Dunmow Neighbourhood Plan (made December 2016)
Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)
Thaxted Neighbourhood Plan (made February 2019)
Felsted Neighbourhood Plan (made Feb 2020)
Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)
Stebbing Neighbourhood Plan (made 19 July 2022)
Saffron Walden Neighbourhood Plan (made 11 October 2022)
Ashdon Neighbourhood Plan (Made December 2022)
Great & Little Chesterford Neighbourhood Plan (Made February 2023)

13. POLICY

13.1 National Policies

13.1.1 National Planning Policy Framework (2021)

13.1.2 The National Planning Policy Framework (hereafter “the NPPF”) was first published in 2012 and was revised in July 2021. It sets out the Government’s national planning policies for England. It identifies the

Government's vision, objectives and goals for the planning system and provides a series of aids in the determination of planning applications.

13.2 Uttlesford District Plan 2005

- S7 – The Countryside
- GEN2 – Design
- GEN3 – Flood Protection
- GEN4 – Good Neighbourliness
- GEN7 – Nature Conservation
- ENV1 – Design of Development within Conservation Areas
- ENV7 The protection of Natural Environment Designated Sites
- ENV8 Other Landscape Elements of Importance for Nature Conservation
- ENV11 – Noise Generators
- ENV15 – Renewable Energy

13.3 Supplementary Planning Document or Guidance

Uttlesford Interim Climate Change Policy (2021)

14. CONSIDERATIONS AND ASSESSMENT

14.1 The issues to consider in the determination of this application are:

- 14.2**
- A. Principle of Development**
 - B. Context of presumption in favour of sustainable development**
 - C. Landscape and Countryside Impact**
 - D. Heritage Assets**
 - E. Neighbouring Amenity**
 - F. Biodiversity and Protection of Natural Environment**
 - G. Flood Risk**

14.3 A. Principle of development

14.3.1 Proposals for development of solar farms are assessed against national and local planning policies including National Planning Policy Statements (NPS), National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG) and the statutory Development Plan for Uttlesford District Council.

14.3.2 The principle of solar development is supported in the National Planning Policy Framework (NPPF) which states that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure.

14.3.3 The Government expects future low cost, net zero consistent electricity to be made up of prominent on shore and offshore wind and solar,

complemented by technologies which provide power or reduce demand when the wind is not blowing, or the sun does not shine.

- 14.3.4** The NPPF talks generally about renewables within the context of planning for climate change and makes no specific reference to solar farms. It favours sustainable energy systems as long as any impacts are (or can be) made acceptable, and states that local planning authorities should approach these as part of a positive strategy for tackling climate change.
- 14.3.5** Paragraph 158 of the NPPF states that when determining planning applications for renewable and low carbon development, local planning authorities should:
- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
 - b) approve the application if its impacts are (or can be made) acceptable.
- 14.3.6** All planning proposals and decisions should contribute and enhance the natural and local environment. NPPF paragraphs 174a and 174b require proposals to:
- a) protect and enhance the valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
 - b) recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 14.3.7** There are several local policies that are relevant to the consideration of a solar farm application. Those being policies S7 and ENV15 of the Adopted Local Plan.
- 14.3.8** The application site is located outside the development limits of Clavering within open countryside and is therefore located within the Countryside where policy S7 applies.
- 14.3.9** This specifies that the countryside will be protected for its own sake and planning permission will only be given for development that needs to take place there or is appropriate to a rural area. Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there. A review of policy S7 for its compatibility with the NPPF has concluded that it is partially compatible but has a more protective rather than positive approach towards development in rural areas.

- 14.3.10** Policy ENV15 of the Uttlesford Local Plan which states that small scale renewable energy development schemes to meet local needs will be supported providing it can be demonstrated that they do not adversely affect:
- I. The character of sensitive landscapes;
 - II. Nature conservation interests; or
 - III. Residential and recreational amenity.
- 14.3.11** The supporting text for Policy ENV15 states that schemes should be sited close to settlements or groups of buildings in rural areas and close to the origin of the energy resource. Development will only be permitted in locations where the local road network is capable of handling any additional traffic generated by the proposal.
- 14.3.12** In May 2021, the Council published its draft Solar Farm Development Supplementary Planning Document Consultation Document (draft SPD). The draft SPD contains local guidance on preparing and submitting proposals for solar farms. It also gives guidance on how planning applications should be considered in light of national and local requirements. The SPD was considered at Policy Board on 14th October 2021 where it was agreed to recommend to the Councils Cabinet that the SPD be adopted subject to a schedule of proposed changes.
- 14.3.13** The approach in the NPPF, local planning policies and the draft Solar SPD is to be supportive to the principle of solar energy developments provided that the environmental impacts can be appropriately managed.
- 14.3.14** A key environmental benefit is that the proposal has capacity to generate up to 16.17 MW of renewable energy, however, this is just for the existing farmhouse. The applicant has confirmed that it is very difficult to estimate whether excess power generated will be fed back into the National Grid as this depends on time of consumption, but electric vehicles will take some excess and possibly use of batteries in future. As such, given the lack of clarity, it can only be assumed that none to very little excess power will be fed back into the grid as a result of the proposals.
- 14.3.15** This in-principle support and the environmental benefit has to be weighed against any environmental and other impacts of the proposal in a balancing exercise. The balancing exercise is a matter of planning judgement.
- 14.3.16** Paragraph 11 requires the decision maker to grant planning permission unless having undertaken a balancing exercise there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.

14.4 B. Context of presumption in favour of sustainable development.

14.4.1 The NPPF considers that achieving sustainable development means that the planning system has three overarching objectives which are independent and need to be pursued in mutually supportive ways so that opportunities can be undertaken to secure net gains across economic, social and environmental objectives.

14.4.2 The proposal is a renewable energy project which in principle is supported by national and local planning policies due to the benefits it would deliver in reducing greenhouse gas emissions. It would also deliver moderate social and employment benefits by providing employment in the construction phase. However, for the reasons discussed further below, the harm to landscape character, visual amenity and heritage assets would occur resulting in environmental harm.

14.5 C. Landscape and Countryside Impact

14.5.1 A core principle of the NPPF is to recognise the intrinsic and beauty of the countryside. Paragraph 174 of the Framework further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

14.5.2 The site and the surrounding slopes are visually sensitive to potential new development, with open views possible along across and the wider countryside. There is strong sense of historic integrity, resulting from a wealth of historic buildings and a historic settlement pattern comprising dispersed hamlets and villages, which are connected by a series of winding lanes.

14.5.3 The landscape of the site itself is not particularly unusual and contains features which are present and expected of an arable field. This does not mean however, that the site has no value, and that it is regarded as having a medium to high sensitivity to change.

14.5.4 During the assessment of the previous refused application which was later dismissed (appealed ref: APP/C1570/W/22/3294001), the Inspector in paragraph 4 of their decision (refer to Appendix 1) provides a comprehensive description of the application site stating, *“The field in which the panels would be set is a large open area in a prominent location given its position on the bend of High Street and its junction with Middle Street and Stortford Road. The views of this open and the presence of grassed areas opposite, which includes the bus stop and interpretation boards, makes this a focal point within the conservation area”*.

14.5.5 The Inspector continues stating in paragraph 7 that *“Although care has obviously been taken to reduce the wider visual impact of the panels by setting them well away from the road and against the backdrop of the hedge, they would nevertheless, be apparent from a number of vantage*

points and they would detract from the appearance of this open area. This would be at odds with the rural character of this part of the settlement”.

- 14.5.6** The Inspector summarises the weight that should be afforded to Policy S7 and acknowledges the applicants’ reasons put forward for the panels being located in the countryside rather than in the curtilage of the house in paragraph 10 of their decision. However, the Inspector states that without a comprehensive site selection process it cannot be assume that the panels need to be in this particular location and thereafter concludes that *“The panels would detract from the character and appearance of this area and would conflict with the policy’s objectivise with regard to the countryside”.*
- 14.5.7** Following on, the Inspector in paragraph 14 stipulates that they would be uncertain without a plan showing detail of a proposed hedge and screen could suitability prevent or satisfactory reduce the visual harm upon the countryside or the conservation area and that it would be inappropriate to impose a condition given the scale of the site without greater detail.
- 14.5.8** Importantly the Inspector acknowledges that in any event, if natural screening formed part of the proposals, they were not certain that the short-term measures suggested would adequately address the short to medium term concern whilst the hedgerow is established as this would take some years regardless of the size of the initial hedging.
- 14.5.9** To address the concerns raised by both the Council and the Inspector regarding the previous scheme, the applicant has revised this current scheme. These alterations include:
- a) The positioning of the panels has been amended so they are located further east, where the topography of the land is lower than previously to reduce the visibility.
 - b) The solar panels proposed measure 23m in length by 3m in width. The previous refused scheme proposed a linear row consisting of 40m by 1.5m.
 - c) The proposal includes a 12m Hornbeam Hedge and 2 No. Quercus trees which have been planted in advance of the submission of the application and a new willow fence.
- 14.5.10** Although it acknowledged that the proposed amendments as per above would be an improvement to the scheme that was refused and later dismissed, concerns remain.
- 14.5.11** Although the position of the panels further to the east by 38m would be on a slightly lower section of ground and further located away from the junction of Stortford Road and High Street, the panels would still be viewed from public vantage points, such as the entrance gate serving the field, adjoining properties and from higher ground near the chapel along Stortford Road. The reposition, although considered to be in more of a

favourable location, provides little to no improvement to the visual harm of the scheme.

- 14.5.12** Under the previous refused scheme, the linear row of panels measured 40m by 1.5m (60sq.m) as stipulated on the supporting drawings and was estimated to produce approximately 13.8 MW annually.
- 14.5.13** This revised scheme has reduced the length of the panels from 40m to 23m. However, the width of the panels as shown on drawing ref: NOB059 221536DWG001 B stipulates that the width of the row of panels will now be 3m resulting in 69sq.m of panels which will generate 16.17 MW of energy.
- 14.5.14** Although it is acknowledged that the length of the linear row of panels has been reduced, given the increase width of the panels from 1.5m to 3m, this in fact result in a larger displacement of panels compared to that of the previous refused application. This is also confirmed that the proposals will generate more energy 16.17 MW compared to 13.8 MW as previously.
- 14.5.15** It is acknowledged that a 12m Hornbeam Hedge and 2 No. Quercus trees have been planted as indicated on drawing ref: NOB059 221536DWG001 B. However, as the Inspector refers to in their decision notice and as pointed out above, the planting would take some years to mature and thereby would not adequately address the short to medium term concerns regarding their visibility.
- 14.5.16** Furthermore, the proposed mitigation measures including the willow fence would also detract from the appearance of this open area and obstruct views out towards the countryside.
- 14.5.17** It is thereby considered that the proposed revisions whether individually or collectively would not overcome the previous concerns raised by the Council or the Inspector.
- 14.5.18** The proposal will lead to a change in the character and appearance of the landscape, which could be argued to lead to a change in the quality of the landscape and loss of character.
- 14.5.19** Although tucked against the existing hedgerow, the size and length of the row of panels is considered to detrimentally alter the character of the locality and would result in a substantial change in the sites character. The proposal would undermine the rural setting of the area and the tranquil nature of a site. The development of the site will impact upon the characteristic views across the enclosed meadow field.
- 14.5.20** The proposed development would result in a detrimental impact to the character and appearance of this part of the countryside contrary to policy S7 of the adopted Local Plan and the NPPF.

14.6 D. Heritage Assets

- 14.6.1** The application site is located within the Clavering Conservation Area and the farmhouse is a locally listed building (Ref: 022) and has been identified as a building which makes a positive contribution to the Conservation Area.
- 14.6.2** Policy ENV1 states *“Development will be permitted where it preserves or enhances the character and appearance of the essential features of a Conservation Area, including plan form, relationship between buildings, the arrangement of open spaces and their enclosure, grain of significant natural or heritage features”*. The guidance contained within Section 16 of the NPPF, ‘Conserving and enhancing the historic environment’, relates to the historic environment, and developments which may have an effect upon it.
- 14.6.3** There is a statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in accordance with section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990. This does conflict to a degree with the policy, which says character and appearance. As such it is regarded that Policy ENV1 can be given moderate weight.
- 14.6.4** Important to the merits of this revised scheme are the comments and conclusions made by the Inspector in their decision of the previous refused scheme in respect to harm upon the Clavering Conservation Area.
- 14.6.5** The Inspector stated in paragraph 5 of their decision *“The proposed row of panels would be clearly evident from the junction of Stortford Road with High Street, beyond the three-bar fence, particular from the footpath at the point where the hedge along Stortford Road begins. Although the panels would be set at an angle which would shorten their perceived length; and they would be of a height that would be below that of the hedge behind them, they would nevertheless be an intrusive and uncharacteristic feature when viewed from the central part of the conservation area”*.
- 14.6.6** The Inspector follows in Paragraph 7 of their decision that *“The proposal would fail to preserve or enhance the character or appearance of the conservation area”*.
- 14.6.7** The Inspector concludes in paragraph 11 that *“Overall, with regard to the development plan, I find clear conflict with policy ENV1. Whilst I have had regard to all of the benefits of the proposal, I am not satisfied that these are sufficient to outweigh this concern”*.
- 14.6.8** The application was consulted to Place Services conservation officer who stated:

- 14.6.9** *“As established from the previously refused application and by the Inspector at appeal, the field within which the panels would be set is a large open area in a prominent location. The open areas within the village, that provide links to the countryside, contribute positively to the character of the conservation area. Additionally, the views of this open area and the presence of grassed areas opposite make this a focal point within the conservation area”. The Inspector within point nine identified the open character of the site and its surrounds to be an essential feature of the conservation area.*
- 14.6.10** *I acknowledge the length as been reduced to 23 metres however I do not consider the comments from the Inspector to have been overcome. There remains concern that the proposed row of panels would be clearly evident from the junction of Stortford Road with High Street and would be an intrusive and uncharacteristic feature when viewed from this central part of the conservation area. It is noted that mitigation measures such as a new hedge row and a willow fence are proposed however this would also detract from the appearance of this open area and obstruct views out towards the countryside. As stated within point seven of the dismissed appeal, the proposal ‘would be at odds with the rural character of this part of the settlement. The proposal would fail to preserve or enhance the character or appearance of the conservation area’. I consider this point to remain relevant given the widely similar scheme presented.*
- 14.6.11** *It should also be noted that a comprehensive site selection process has not been demonstrated and that this was a comment raised by the Inspector previously, ‘in the absence of a comprehensive site selection process, I cannot assume the panels needs to be in this particular location’. I suggest other alternative locations are explored such as within the garden curtilage of Brooklands.*
- 14.6.12** *To conclude, the harm to the conservation area would be less than substantial, Paragraph 202 of the NPPF being relevant. The proposals are considered to fail to preserve or enhance the character and appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990”.*
- 14.6.13** *It has been found that the proposals will result in ‘less than substantial harm’ to the significance of the Clavering Conservation Area as identified by the conservation officer whereby Paragraph 202 of the NPPF being relevant.*
- 14.6.14** *Paragraphs 201 and 202 address the balancing of harm against public benefits. If a balancing exercise is necessary (i.e., if there is any harm to the asset), considerable weight should be applied to the statutory duty where it arises. Proposals that would result in substantial harm or total loss of significance should be refused, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss (as per Paragraph 201). Whereas Paragraph 202 emphasises that where less than substantial harm will*

arise as a result of a proposed development, this harm should be weighed against the public benefits of a proposal, including securing its optimum viable use.

- 14.6.15** It has been submitted by the applicant that the proposals will provide public benefits by helping to support the renewable technology sector providing employment opportunities, will enable a reduction in greenhouse gas emission which contributes towards climate change, and that any potential excess energy back into the National Grid which offers wider environmental benefits for the community.
- 14.6.16** The Council acknowledges that the proposals will help meet some aspects of the Environmental Strand as outline in the NPPF (para 8) in that it would help mitigate climate change because of renewable energy and reduce carbon emissions which weight in favour of the proposals. However, this is just one aspect of the above the Environmental Strand of sustainable development. .
- 14.6.17** The proposals would not meet other objectives of the Environmental Strand of what constitutes as sustainable development as it would result in negative environmental effects on the character and appearance of this part of the countryside and harm upon the setting of the conservation area.
- 14.6.18** In respect to the comments regarding excessive power being fed back into the Grid, the applicant has confirmed that it is very difficult to estimate the amount if any excess power generated will be fed back into the National Grid. Given the lack of clarity in whether there would be any excess power, it can only be assumed that none to very little excess power will be fed back into the grid as a result of the proposals and thereby very limited weight can be given in respect to public benefits can be given to this fact.
- 14.6.19** It is concluded that the limited benefit would not overcome the identified harm upon the heritage asset identified as above. The proposals are thereby contrary to policy ENV1 of the adopted Local Plan and the NPPF.

14.7 E. Neighbouring Amenity

- 14.7.1** The NPPF requires a good standard of amenity for existing and future occupiers of land and buildings. Policies GEN2 and GEN4 of the Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.
- 14.7.2** The nearest group of dwellings are those located along the opposite side of Stortford Road to the west, a row of dwellings to abutting the site to the south that front onto Stortford Road and to the north of the High Street.
- 14.7.3** The proposal would be visible from several of nearby residential properties. The panels themselves, being a single row of panels 23m in

length by 3m wide are not considered to be overbearing in relation to proximity from existing residential properties. The solar panels are not considered to harmfully affect nearby residential amenity by way of adverse glint or glare to warrant a reason for refusal on this ground.

- 14.7.4** Council's Environmental Health Officer raise no objections to the proposal, and it is not considered that the proposal would lead to material adverse impacts on noise.

14.8 F. Biodiversity and Protection of Natural Environment

- 14.8.1** Policy GEN2 of the Local Plan applies a general requirement that development safeguards important environmental features in its setting whilst Policy GEN7 seeks to protect wildlife, particularly protected species and requires the potential impacts of the development to be mitigated.

- 14.8.2** The application site itself is not subject of any statutory nature conservation designation being largely used as an arable land. The application was consulted to Place Services ecologist who confirmed that they had no objections to the proposals and were satisfied with the proposed mitigation.

14.9 G. Flood Risk

- 14.9.1** The NPPF states that inappropriate development in areas of high risk flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

- 14.9.2** Most of the development is solar panels which are supported on piled struts, and thereby the surface area of the site is comparatively small and raised above natural ground level.

- 14.9.3** A check of the Environmental Agency's website and the Councils policy maps has identified the site as being located in Flood Zone 1. The Framework indicates that all types of development are appropriate in this zone and hence there is no requirement for sequential or exception testing. It is considered that the proposals would not lead to flood risk of the site or on other sites nearby.

15. ADDITIONAL DUTIES

15.1 Public Sector Equalities Duties

- 15.1.1** The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers.

15.1.2 The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

15.1.3 Due consideration has been made to The Equality Act 2010 during the assessment of the planning application, no conflicts are raised.

15.2 Human Rights

15.2.1 There may be implications under Article 1 (protection of property) and Article 8 (right to respect for private and family life) of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions; however, these issues have been taken into account in the determination of this application

16. CONCLUSION AND PLANNING BALANCE

16.1 It is acknowledged that the applicant has made several amendments to the scheme that was previously refused and thereafter dismissed at an appeal. However, it is considered that although a slight improvement, the revised proposals have not overcome the previous concerns raised by both the Council and the Inspector.

16.2 Paragraph 11 requires the decision maker to grant planning permission unless having undertaken a balancing exercise there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.

16.3 The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. Being out of date does not mean that a policy carries no weight. A review of Policy S7 concluded that this takes a more restrictive approach to development in the countryside compared to the NPPF which takes a more positive approach. However, it is broadly consistent with the NPPF in terms of seeking to protect the character and appearance of the countryside and thereby it still carries reasonable weight.

16.4 In respect to addressing the benefits of the proposed development, a key environmental benefit is that the proposal has capacity to generate up to 16.17 MW of renewable energy for the existing farmhouse. This in-principle supports an environmental benefit. However, it has not been confirmed by the applicant as to whether any excess power generated

from the proposals will be feed back into the National Grid and as such no to very little weight can be given.

- 16.5** The development would provide some economic in terms of the construction of the development and further consideration has also been given in respect to the net gains for biodiversity.
- 16.6** Thus, taken these together, moderate weight to the benefits of the development have been considered.
- 16.7** The proposals would inevitably result in an adverse impact to the setting and experience of the designated heritage assets of the Clavering Conservation Area contrary to Paragraph 202 of the NPPF. Thereby it would result in 'less than substantial harm' to the setting and significance of heritage asset. It has also been identified that due to its size and position, inappropriate harm would occur to the character and openness of this part of the countryside.
- 16.8** Therefore, and taken together, significant weight to the adverse impacts have been considered in respect of development and the conflict with development plan policies. The adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of development. In the circumstances, the proposal would not represent sustainable development contrary to the NPPF.
- 16.9** For the reasons given above, the proposals would be contrary to policies S7 and ENV2 of the adopted Local Plan and the NPPF. The application is therefore recommended for refusal.

17. REASONS FOR REFUSAL

- 1** The application lies within the Clavering Conservation Area. The Local Planning Authority has a duty under Section 66(1) of the Listed Buildings & Conservation Areas Act 1990 to have special regard to the desirability of preserving the setting and significance of any features of special architectural or historical interest.

The proposals are for a large installation of solar panels in a visually prominent location within the Conservation Area, which has been identified as an important open space. The proposed location and scale of the proposals would have an industrialising effect which would adversely impact the rural character and appearance of the Clavering Conservation Area, resulting in a level of less than substantial harm.

REASON: Having regard to the guidance in paragraph 202 of the National Planning Policy Framework, the Local Planning Authority has considered the public benefits associated with the development but concludes that these would not outweigh the harm caused to the setting of the designated

heritage asset. The proposals are thereby contrary to policy ENV1 of the Adopted Local Plan and the National Planning Policy Framework.

- 2** The proposal would introduce a sizeable new development to an area of open countryside and would result in an unnatural extension of built form in the locality. The proposals by reason of its sitting, size and scale would have a harmful impact upon the rural character and appearance of the area.

REASON: The proposals would significantly harm the intrinsic character and beauty of the countryside resulting in landscape and visual effects from a number of publicly accessible viewpoints and failing to perform the environmental role of sustainability, contrary to policy S7 of the Adopted Local Plan and the National Planning Policy Framework.



The Planning Inspectorate

Appeal Decision

Site visit made on 15 August 2022

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2022

Appeal Ref: APP/C1570/W/22/3294001

Brooklands Farm, High Street, Clavering, Saffron Walden, Essex CB11 4QW

- 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 Mr John Noble against the decision of Uttlesford District Council.
 - The application Ref UTT/21/3394/FUL, dated 17 November 2021, was refused by notice dated 5 January 2022.
 - The development proposed is the installation of solar panels to provide green electricity to Brooklands Farmhouse.
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Application for Costs

1. An application for costs was made by Mr John Noble against Uttlesford District Council. The cost application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character or appearance of Clavering Conservation Area.

Reasons

4. The proposal would result in a row of solar panels 40 metres long, set against the backdrop of a hedge within a field that lies within the southern part of the two areas that make up Clavering Conservation Area. The conservation area is characterised by the generally linear form of this rural village and includes a wide variety of historic buildings, often set in a landscaped setting. The open areas within the village, that provide links to the countryside, also contribute positively to the character of the conservation area. The field within which the panels would be set is a large open area in a prominent location given its position on the bend in High Street and its junctions with Middle Street and Stortford Road. The views of this open area and the presence of grassed areas opposite, which includes the bus stop and interpretation boards, make this a focal point within the conservation area.
 5. The proposed row of panels would be clearly evident from the junction of Stortford Road with High Street, beyond the three-bar fence, particularly from the footpath at the point where the hedge along Stortford Road begins.
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Although the panels would be set at an angle which would shorten their perceived length; and they would be of a height that would be below that of the hedge behind them, they would nevertheless be an intrusive and uncharacteristic feature when viewed from this central part of the conservation area.

6. I acknowledge that views would be more limited when moving further along the field boundary footpath adjacent to High Street to the north due to the angle of view; and from the south due to the position of the Stortford Road section of field boundary hedge. Similarly, the views from the bus stop and when approaching from Middle Street would also offer only a small angle of view, limiting the perceived scale of the works. Views from further up Stortford Road would be obscured from the road and pavement by the hedge, although some views would be available when passing the field gate. There would also be limited views from the raised area to the front of the chapel. The photographs provided by the appellant, from the position of the proposed panels, suggest that there would be some visibility from a number of residential properties.
7. I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Although care has obviously been taken to reduce the wider visual impact of the panels by setting them well away from the road and against the backdrop of the hedge, they would nevertheless, be apparent from a number of vantage points and they would detract from the appearance of this open area. They would be at odds with the rural character of this part of the settlement. The proposal would fail to preserve or enhance the character or appearance of the conservation area.
8. The production of green energy is a matter that I afford considerable weight. I am also mindful that other options have been considered by the appellant with regard to solar production within the curtilage of the house but these have been found to be impractical. Given the status of the house, this is also a matter that weighs in favour of the development. The proposal would represent a relatively large domestic array but would be small in comparison to commercial proposals. The scale of the benefits are commensurate with its size. Although the council have noted that it has not been identified how much surplus energy would be likely to be available once the requirements of the house, swimming pool and vehicles have been provided for, it would in any event, reduce emissions locally and potentially more generally. There would also be other economic benefits from installation and maintenance. I note too that ecological enhancements are proposed with regard to provisions for wildlife which would also represent a public benefit. I have also had regard to the lack of objections; and the support from the Environmental Health Officer.
9. With regard to the development plan, I find conflict with Policy ENV1 of the Uttlesford Local Plan 2005 (LP) as it would fail to preserve or enhance the character and appearance of the essential features of the conservation area. I find this open area and its surrounds to be such a feature. Although not fully compliant with the heritage requirements of the *National Planning Policy Framework*, the policy is not inconsistent with the legislative duty or the general thrust of the Framework's heritage objectives. I afford it moderate weight.

10. There is dispute as to the weight that should be afforded to LP Policy S7 which seeks to protect the countryside from development unless its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there. The appellant has put forward reasons for the panels being located in the countryside rather than in the curtilage of the house, although it is not clear if a range of options, including sites outside the conservation area, were considered. In the absence of a comprehensive site selection process, I cannot assume that the panels need to be in this particular location. The panels would detract from the character and appearance of this area and would conflict with the policy's objectives with regard to the countryside. However, given the inconsistencies between the policy and Framework; and given that I have concerns that the policy was not actually directed at proposals such as this, I afford it limited weight in these particular circumstances.
11. Overall, with regard to the development plan, I find clear conflict with policy ENV1. Whilst I have had regard to all of the benefits of the proposal, I am not satisfied that these are sufficient to outweigh this concern.
12. The Framework is clear that any harm to a heritage asset, such as a conservation area, should be weighed against the public benefits of the proposal. The harm to the conservation area would be less than substantial. There would be public benefits with regard to the production of green energy and the associated economic activity associated with installation and maintenance. I have had regard to Framework's support for the transition to a local carbon future. Although I afford considerable weight to the public benefits of green energy production, I am not satisfied that the scale of these benefits would be sufficient to outweigh the harm to the conservation area. The works therefore conflict with the heritage requirements of the Framework.
13. The appellant suggests that as the proposal represents sustainable development the test of paragraph 11(d)(ii) of the Framework that the development must be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, should be applied. Even if the development plan policies were considered to be out of date, paragraph 11(d)(i) would apply. In any event, I do find that the adverse impacts of this proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework when taken as a whole.
14. I have had regard to the suggestion that a condition could require a planting scheme, particularly a hedge, that would screen the panels from view. The suggestion includes a temporary two metres high willow fence which would be placed behind the hedge to provide immediate screening. Although the correspondence with the planning department includes a reference to a separate plan, I have not been provided with a copy of it. Without full details of the position of a proposed hedge and screen, I am not certain what is anticipated. I am unable to assess if it would prevent or satisfactorily reduce the harm. Given the scale of the application red line, a condition without greater detail would be insufficiently precise in any event. I am also not certain that the short-term measures suggested would adequately address short to medium term concerns whilst the hedge established. This would take some years regardless of the size of the initial hedging whips. As I am not satisfied

that the harm could be prevented and given my conclusions, I dismiss the appeal.

Peter Eggleton

INSPECTOR