



Date: 13th February 2023

Dear Ms Curtis,

Ref: Full Planning Application DC/20/05895

This application is one part of a cross-boundary application. The other part being DC/21/00060 which was heard by Babergh Planning Committee on 8th February 2023.

Given some of the questions that were raised at the Babergh meeting, and the almost identical nature of the DC/20/05895 Committee Report, we wish to provide some additional information to this application.

These include:

- Relevance of Hazardous Substances Consent
- Relevance of other refused decisions, including appeals, in the decision for DC/20/05895
- Temporary nature of the application
- Photos shown during the Planning Officers presentation
- Lack of alternatives for using BMV land
- Landscape harm
- Heritage harm
- Impact of air and water pollution
- Flood risk
- Permitted Development Rights

Relevance of Hazardous Substances Consent

There are grave concerns about the conclusion in the Committee Report about Hazardous Substances Consent for this site. The report states at paragraph 13.3 “officers consider that hazardous substances consent is not required.” But this isn’t how it was explained to Councillors in the Babergh meeting when officers were pushed on the issue.

Dr Edmund Fordham has written a letter in response to the Committee Report which is attached to this letter, along with his latest paper and the letter from the DLUHC that he refers to.

Considering that this was submitted as Supplementary Papers to the Babergh meeting, but the Committee Report for Mid Suffolk has not been corrected to reflect the new thinking of officers, we feel it is important they are submitted again for Councillors to read.

At the very least, **a condition requiring Hazardous Substances Consent to be granted prior to construction should be included.**

Relevance of other refused decisions, including appeals, in the decision for DC/20/05895

One of the hot topics in the Babergh meeting was the issue around precedent and the relevance of previous decisions, including appeals, on this application. This is because two other solar developments are currently proposed around the Bramford substation, along with several others in the wider Babergh and Mid Suffolk Districts.

Applications must of course be decided on their merits, but **previous decisions, including appeals, are a material consideration in a planning decision**. A previous planning decision can indeed probably be found to support any argument. But a previous decision using the same policies and in the same administrative area will obviously have great relevance.

On 3rd August 2022 Mid Suffolk Planning Committee voted, against officer recommendation, to refuse application DC/21/06825 for a smaller 11.3ha solar farm in Rickinghall. It was refused for reasons of harm to the setting of heritage assets (a Grade 1 listed Church and a Grade 2 listed farmhouse), and that the alteration of the landscape (from agriculture to solar panels) would result in a loss of visual amenity and harm to the landscape character. It is easier to screen a development in flat land such as at Rickinghall than it is undulating land here, and yet it was still deemed that no mitigation of any amount would be able to make the development acceptable.

The Rickinghall application was refused against the same Mid Suffolk policies that this proposal is being considered against.

Other decisions can be put forward as evidence as a material consideration both in objection to a scheme, and in support of a scheme. The Rickinghall decision is being appealed against, and it is common practice for applicants to put forward other decisions, especially ones by the same Council, to contest the refusal. It would be very difficult for a Council to refuse the Rickinghall application, approve this larger similar application, and then defend the original Rickinghall decision at appeal all under the same policies.

If this application is approved today Councillors risk undermining Mid Suffolk's defence in the Rickinghall appeal.

This applies to other applications already in the planning system in Mid Suffolk, and that may come forward in the future.

There are also two refused solar farm appeals in the Babergh District which are relevant – APP/D3505/A/13/2204846 in Wherstead and APP /D3505/A/14/2218072 in Boxford. Both were refused for the inappropriate use of BMV land, harm to landscape, and harm to the setting of heritage assets. One was also in a Special Landscape Area. One Babergh Councillor asked for the details of these refusals during the Babergh meeting and was not given them, so a copy of all three refusals are attached with this letter as evidence.

Temporary nature of the application

One question raised during the Babergh meeting was how much can we guarantee that the land would be returned to agriculture? It is indeed possible, and it is included in the recommendation, to include a condition specifying that at the end of the 40 years everything is removed and the land goes back to producing food. But it is also possible that in 39 years' time the owner of the site could very well submit an application to extend it for another 40 or however many permanent years they feel like applying for. And the Council would have to consider that application.

Given the amendments in the draft NPPF 2023 currently under consultation - which calls for renewable energy sites to be re-powered and their life extended – this places important doubt on the claim it is temporary.

It is also possible that as a limited company the site owner could, prior to decommissioning, go into liquidation. **A financial bond should be secured as a S.106 condition in order to protect against this risk**, but this is missing from the list of proposed conditions.

Photos shown during the Planning Officers presentation

The Committee Report describes the site as being enclosed and contained within the landscape. And the photos chosen for the presentation certainly go some way to support this. But no wireframe photos were included in the Babergh presentation to give Councillors an idea of what the scheme might actually look like in the landscape. Perhaps figure 6.8.4 from viewpoint 14 should be included too for balance. Not only does this visualisation show what the proposal will actually look like, but it shows the proposal in the wider open landscape, sitting on the highest elevations of a prominent valley slope.

It should probably be noted that this photo is taken just outside Flowton Hall to the right (a non-designated heritage asset – one of the white outbuildings can be seen in the photo), and with St Mary’s Church, Flowton (Grade 1 listed) a few hundred metres down the road to the left out of shot. So the site is within the setting of these heritage assets. The photographer is standing on National Cycle Route 48, also known as Flowton Road. **All of the land shown in this photo is designated as a Special Landscape Area, including the full extent of the site.**

Mature hedges are already in place between this viewpoint and the site, and additional screening is not proposed but would clearly be obsolete as mitigation anyway.



Lack of Alternatives for using BMV land

The use of BMV land is strongly discouraged in national and local policy, with the use of brownfield and poorer quality land being preferred. As such, it is a requirement of EIA Developments such as this to assess other alternative sites. This was also demonstrated as a requirement in a relevant appeal refused in Babergh reference APP/D3505/A/13/2204846, with the basics of a sequential test included.

Paragraph 6.4 of the Committee Report states that the applicant has assessed other alternatives to this site. Considerations of why this site were chosen are included, which seems to simply be a grid connection and a willing landowner, but no alternative sites are actually considered. According to appeals APP/W0530/W/15/3012014 & APP/W0530/W/15/3013863 in Sawston a connection is not a material consideration, so a grid connection and a willing landowner isn’t sufficient justification for this location in planning terms.

There doesn’t even appear to be a soil survey and grade analysis for the other fields in the landowners’ farm holding to see if those are of a lower grade. If a substation connection is of such importance, it would be logical to deduce that selecting a substation in an area of poorer quality land would be a more suitable starting point for a connection, but no consideration of other substations has been put forward as evidence by the applicant either.

Landscape harm

Policies and government guidance set a high bar for landscape impact. Words such as protect, conserve, maintain, contribute and enhance are widely used.

Paragraph 7.12 describes 'large scale effects', 'significant change to the character', 'medium scale effects', and 'small scale effects'.

Paragraph 7.13 confirms that the landscape officer largely agrees with the applicants' assessment of effects, though the conclusion of both parties is still that '**adverse visual impacts will occur as a result of the development**'.

Given the inherent landscape characteristics it is a very sensitive location and an excellent example of a valued Suffolk landscape. It is after all in a designated Special Landscape Area and afforded greater protection within the development plan. The magnitude of the adverse harm would be high due to the large scale of the project.

Oddly though, at paragraph 7.19, the impact of effects is a little misleading when it concludes the impact would be neutral. Perhaps the earlier part of the paragraph where it talks about the temporary nature of the proposal gives a clue to the neutral conclusion. If the site is indeed returned to agricultural use, then the full life cycle of the application would indeed be neutral. **But to dismiss 40 years of adverse visual impacts, the majority of the proposals lifetime, is extreme and should not be dismissed so lightly.**

Heritage harm

The Committee Report states that all of the heritage experts concluded the site would not affect any heritage assets. The heritage consultant for the applicant, and the Heritage England officer both stated that they did not visit the site to confirm any of their conclusions. The heritage officer for Place Services did not specifically state whether they did or not, but since a site visit is an important fact in the strength of evidence provided and it was not mentioned, then it is likely that no site visit was done either.

Given the number of objections from local residents stating the site could be seen prominently from two heritage assets it would be very reasonable to conclude differently to the heritage experts. Especially when photos are included in the objections. As demonstrated further above the site lies within the setting of two heritage assets. St Mary's Church in Flowton and Flowton Hall. As a Grade 1 listed building the church obviously takes precedent in importance, but Flowton Hall as a non-designated local asset must not be ignored either.

The proposed site sits within the historical agrarian landscape setting of the church, and has a historical functional link with Flowton Hall. The current agricultural use of the site contributes positively to the significance of these assets as landmark features within a sensitive rural agricultural village setting. To change the site to an industrial solar site would be a significant change and in conflict to the historical reference the buildings are appreciated in. In NPPF terms this is 'less than substantial harm'. However, less than substantial harm does not equal less than substantial weight. Quite the contrary. Policy and guidance states that harm to a heritage asset or its setting of any level should be given 'significant weight' against granting approval, and that decision makers should '**give special regard to the desirability of preserving listed buildings and their settings**'. Significant weight is rare in policy, and even carbon dioxide savings aren't given 'significant weight' in planning policy.

Impact of air and water pollution

At paragraph 11.17 it states that in the event of a fire "**water and air pollution may be possible.**" This relates to the battery storage part of the site. Given that public safety and the environmental effects of pollution are a material consideration in deciding an application, it is surprising that no further consideration is given to the impact of this revelation. The site is in a drinking water safeguarding zone, the ground water here feeds into a drinking water aquifer, and the surface water feeds into a nearby watercourse and the Gipping River.

Flood risk

There is no dispute that the site itself would not be safe from flooding. But the Committee Report seems to automatically conclude from this that it would not increase flooding elsewhere. This is baffling when the surface-water run-off rate is predicted to more than double from the current greenfield rate of 0.58l/s to 1.4l/s for parts of the site, and feed this into the Flowton Brook watercourse. The Flowton Brook area already floods on a regular basis. This makes roads impassable and causes disruption to local residents. Increasing the flow rate of surface water into this area would only intensify this problem.

Conclusion

There are indeed benefits in terms of carbon dioxide savings as a renewable energy development, and solar energy is important in the overall goal of climate change. Especially at a time when there is added pressure on the security of energy supplies. However, national and local planning policies and guidance also require careful consideration of the landscape and visual impacts of solar farms within the countryside. Even under current circumstances, increasing energy supplies from renewable sources does not override all other considerations.

In this instance, the 'adverse visual impacts [that] will occur as a result of the development', the significant weight that must be assigned to the demonstrable harm to the significance of a designated heritage asset through inappropriate development within its setting, and the failure to demonstrate the need to use BMV land, all significantly outweigh the benefits of the proposal. The impact is not considered to be acceptable, nor can it be mitigated by provision of additional landscape screening to make it acceptable, as required by the NPPF.

Given the potential for re-powering currently under consultation in the new draft NPPF, this changes the fundamental "temporary" basis on which this application is being assessed by officers. And really highlights even more the importance of solar schemes being in the right place and with community support, since they would essentially be a permanent feature and a permanent loss of BMV land.

Saying no to this application is not saying no to solar. There are better places for solar like on rooftops and car parks. Saying no here is simply saying no to solar on prime arable farmland in a sensitive Special Landscape Area.

The application fails to accord with policies GP1, HB1, CL2, CL11, E10, SC4, CS05 and FC1.1, and as a result with the development plan as a whole. The NPPF accords with the development plan, and there are no other material considerations to indicate a departure from the development plan would be justified, quite the opposite. The application should be **REFUSED**.

Yours sincerely,



Samantha Main

Chair