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Planning Department
East Devon District Council
Council Offices
Knowle
Sidmouth
EX10 8HL

Our Ref:CVH/SVA

9 September 2013

Dear Sirs,

Re: Planning Application Reference No. 13/1817//MFUL. Land at East Hill Strips, Sidbury, Devon.

Installation of ground mounted photovoltaic solar arrays to provide 7MW generation capacity together with power inverter systems; transformer stations; internal access track; landscaping; security fencing and associated gate access.

We act for the Sid Vale Association (SVA) and are instructed to object to the above-mentioned planning application.

We have seen the objection lodged by CPRE and support its analysis and conclusions in respect of the Applicant's need case.

1. Area of Outstanding Natural Beauty – East Devon Local Plan 2006 (EDLP) Saved Policy EN1

The site for the proposed development is located wholly within the East Devon AONB. The site is some 19.5 ha in area, and the planning proposal represents an industrial use of land. As such it constitutes major development. In addition, the land is not designated for such use in the extant (or emerging) Local Plan and represents a departure from the Local Plan. The Applicants acknowledge as much at para 5.14 of the Planning Statement submitted in support of the planning application, stating that neither the Local Plan nor the emerging plan identify suitable areas for solar development.

Protection of land designated as AONB is set out in the National Planning Policy Framework (NPPF), and Saved Policy EN1 of the East Devon Local Plan 2006 (EDLP).

Para 115 of the NPPF advises that “great weight should be given to conserving landscape and scenic beauty” in AONBs, and para 116 sets out the tests which need to be met in order to allow major development within AONBs.

National policy advises that planning permission should be refused for major developments in AONBs except in “exceptional circumstances” and where it can be demonstrated that they are in the public interest.

Relevant criteria in such circumstances include the need for the development, in terms of national considerations, and the impact of refusal on the local economy, the cost of and scope for developing outside the AONB, and the extent to which any detrimental effects arising from the development may be mitigated.

EDLP Policy EN1, although pre-dating the NPPF, adequately reflects the national policy approach to AONBs, stating that;

“In AONBs the conservation and enhancement of their natural beauty will be given priority over other considerations.”

Furthermore;

“Development will only be permitted (in AONBs).....where the proposal conserves or enhances the landscape character of the area.....and complies with policies on development in the countryside.....or it can be demonstrated that the development is in the national interest and that there are no alternative sites available elsewhere.”

Consequently, the tests that this proposed development needs to satisfy are clearly articulated in Policy EN1.

In terms of the purported need for this proposed development in the context of the national interest and national considerations, the Applicants make reference to NPPF Section 10 on Climate Change and the recognised need to reduce greenhouse gas emissions and to move to increasing use of renewable and low carbon energy. Notwithstanding this broad policy approach, in the same Section of the NPPF, it is advised that although applications should be approved if impacts can be made acceptable, this is also subject to whether “material considerations indicate otherwise” (NPPF para 98). Material considerations in the context of this planning applications clearly include the designation of the site as AONB land.

Consequently, the onus is on the Applicants to establish that the policy tests set out in para 116 of the NPPF have been met.

The Applicants have wholly failed to address the second limb of the first test, namely the impact of permitting or refusing the proposed development on the local economy. No evidence has been produced of local economic impacts whether adverse or beneficial.

Secondly, no evidence whatsoever has been produced addressing the second test set out in para 116 of the NPPF, that is the cost of and scope for developing elsewhere outside the AONB, or meeting the need for the development in some other way.

No alternative site search has been undertaken by the Applicant, no consideration given to meeting the purported need for the development outside the AONB, nor other ways of meeting this need, which leads to the conclusion that there are likely to be other more suitable sites available outside the AONB to meet the need for renewable energy provision which would not adversely impact on a statutory designated area.

Some limited evidence has been produced by the Applicant relating to the third test set out in para 116 of the NPPF, which requires an assessment of any detrimental effects on the environment and the landscape, and the extent to which such could be moderated.

A revised Landscape and Visual Impact Assessment (LVIA) dated 28 August 2013 has been submitted in support of the planning application, but at the time of writing no consultee response has been received from the East Devon AONB partnership.

The Applicant's LVIA provides an accurate description of the local landscape character types of the site area and its environs, and in terms of visual impact sets out a visual baseline by means of a Zone of Theoretical Visibility (ZTV). The assessment states at para 4.17 that the site is only visible from a few locations within a 2 kilometre radius, but fails to include the settlement of Sidbury within its area of assessment, and, more significantly, acknowledges, but fails to explain the reasons for the omission, that the visual impact on residential properties has not been assessed (para 5.2).

The LVIA additionally acknowledges that the site is visible from longer distance views from the South East (para 5.25), including views from the East Devon Way and Hatway Hill (para 5.27), but seeks to downplay any adverse impacts by reference to the fact that the solar arrays proposed will be dark in colour, and that the proposed development will be less visible than the current crop on the land in question, namely oil-seed rape.

Dealing with the latter point first, the current use of the land for rape can only be temporary, in that the land will be subject to crop rotation, is deemed to be an appropriate agricultural use of land within the AONB and does not require planning permission for such use.

Secondly, whilst the solar panels may be dark in colour, no consideration, save in the most abstract and theoretical terms has been given to the impact of glint and glare emanating from the site on residential properties, users of the highways and recreational users of footpaths and bridleways.

The Planning Statement addresses glint and glare in general terms at para 5.35 et seq, but fails to provide any assessment whatsoever of the actual effects of the proposed development in terms of visual and landscape impact. This is a very significant failure given the requirement to conserve and enhance the East Devon AONB, and without such full assessment there can be no confidence in the conclusions asserted by the Applicant that the proposed development will not have any unacceptable impacts on the AONB.

There is no evidence that this scheme will serve to either “conserve or enhance” the landscape character of the East Devon AONB. Given the sensitivity of the site, it is very surprising that such scant regard has been paid by the Applicants to any full assessment of visual impact. No such assessment has been undertaken, and consideration of landscape impact has been, at best, cursory.

The proposed development is therefore considered to be contrary to Saved Policy EN1 of the East Devon Local Plan and the NPPF in respect of the protection of AONB land.

2. Saved Policy EN14 – Development on High Quality Agricultural Land

Policy EN14 only allows for development on land of High Agricultural Value “exceptionally”, in cases of overriding need and where land of lower grade is unavailable, or such land has recognised statutory designation, or where the benefits of the proposed development justify the loss of high quality land.

The planning application and supporting documentation acknowledges that the land in question is Grade 3, which falls within the category of best and most versatile land.

As with the assessment of landscape and visual impact, the Applicant seeks to downplay the conflict with Policy EN14, stating that the proposed development will only be of a “temporary” nature, and that it can easily be returned to agricultural use.

Policy EN14 makes no distinction between permanent or temporary development. The prohibition applies to development per se, irrespective of the time that land will be lost to development and taken out of agricultural use. Secondly, the Applicant has failed to address the exception criteria set out in the Policy, failing to establish a case of overriding need for the development, failing to prove that there is no land of lower grade available, and failing to justify the loss of best and most versatile agricultural land.

The proposed development is contrary to Saved Policy EN14 of the EDLP.

3. Saved Policy S5 – Countryside Protection

LP Policy S5 effectively prohibits development in the open countryside outside the Built-up Area Boundary. The site occupies such a location. Development will only be permitted where it is in accordance with a specific Local Plan Policy, and where it will not cause harm to the distinctive landscape, amenity and environmental qualities within which it is located.

The explanatory text to Policy S5 is set out at paragraph 2.52 of the Local Plan. It advises that those proposing development in the open countryside should pay particular attention to the Environment policies of the Plan and reference is made to a number of specific policies where development may “exceptionally” be permitted. None of the policies set out in paragraph 2.52 apply to the proposed development which is, as a consequence, contrary to Policy S5.

4. Emerging Local Plan.

The emerging East Devon Local Plan is currently subject to Proposed Post Publication Changes consultation. As such it should be afforded little or no weight in the determination of this planning application.

Notwithstanding this observation, it should be noted that proposed Strategy 46 – Landscape Conservation and Enhancement and AONBs states that major development in the AONB will only be permitted where it can be shown that it cannot be reasonably accommodated elsewhere outside the AONB. The proposed development fails to meet this proposed Strategic Policy requirement.

5. Conclusion.

In conclusion the planning policy objections at both a national and local level to the proposed development are overwhelming. The proposal is considered to be contrary to the NPPF and Saved Policies EN1, EN14, and S5, adopted East Devon Local Plan, and should be refused.

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9th September 2013