

Development Management Report

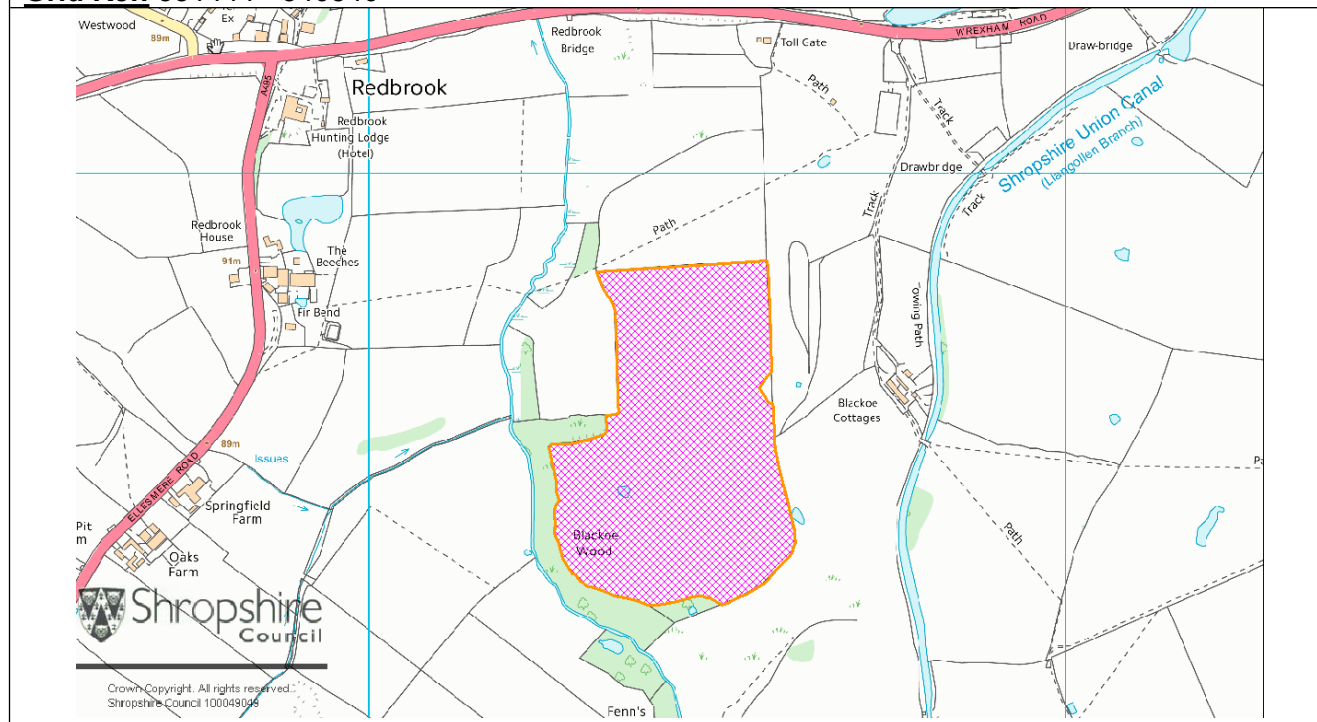
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 18/00693/VAR	<u>Parish:</u> Whitchurch Urban
<u>Proposal:</u> Variation of Condition no 2 (approved drawings) and 9 (external colour of the buildings) attached to planning permission ref 14/02914/FUL to regularise the change in the colour of two inverters	
<u>Site Address:</u> Solar Farm South West Of Hadley Farm Wrexham Road Whitchurch Shropshire	
<u>Applicant:</u> Ms Penny Laurenson	
<u>Case Officer:</u> Kelvin Hall	<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 351444 - 340540



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

1.0 THE PROPOSAL

1.1 Planning permission was granted in 2014 for the construction of a solar farm on land at Hadley Farm near Whitchurch (ref. 14/02914/FUL). The site commenced generation of electricity at the end of 2015. In addition to the solar panels the development includes a number of small support buildings in two clusters towards the central part of the site. These buildings include transformer kiosks, inverter buildings and substations. The approved plans require that the five inverter buildings are coloured green. This application seeks retrospective approval for a change to the colour of two of the these from green to white. No other changes to the approved plans are proposed.

2.0 SITE LOCATION/DESCRIPTION

2.1 The solar farm is located at Hadley Farm, approximately 1.5km to the southwest of the edge of Whitchurch. The solar farm covers an area of approximately 10ha and includes 19,596 pv panels in south-facing rows within a perimeter fence. The area is gently undulating, with the site itself relatively flat. Land to the southwest, south and southeast comprises woodland. A field to the northeast is used for horse riding and jumping. Other surrounding land is undeveloped and in agricultural use. Access to the site is from the A525 to the north, via an existing access which leads to a car park serving the horse riding area and a café.

2.2 The nearest residential properties are the six dwellings known as Blackoe Cottages, located approximately 170 metres to the east of the solar farm boundary. Other individual properties in the vicinity are located approximately 310 metres to the north and 430 metres to the west. The Shropshire Union Canal runs in a generally north-south orientation to the east of the site. At its nearest point it is 95 metres from the application site. Public rights of way in the vicinity include a footpath to the north (approximately 15 metres from the northern boundary) and the Shropshire Way to the east (approximately 145 metres away). The site is crossed by two sets of overhead power lines.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application relates to land which forms the property of a Member of the Council. The Council's Scheme of Delegation requires that such applications are determined by Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Whitchurch Town Council** No response received.

4.1.2 **SC Archaeology** No comments to make.

4.1.3 **SC Conservation** No comments to make.

4.1.4 **Heritage England** No comments to make.

4.1.5 **Natural England** No comments to make.

4.2 **Public Comments**

4.2.1 The application has been advertised by site notice. In addition 10 residential properties in the vicinity of the site have been directly notified. No representations have been received.

5.0 **THE MAIN ISSUES**

- Principle of development
- Siting, scale and design
- Other matters

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.1.1 The solar farm has been generating renewable energy since 2015 and the planning permission allows the site to continue generating electricity for the national grid until 2045 following which the infrastructure is to be removed.

6.1.2 The application states that, due to manufacturer shortages during the construction phase of the solar farm, two of the five inverter buildings were supplied with a white finish instead of the approved green finish. The acceptability of this change is discussed below.

6.2 **Siting, scale and design**

6.2.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity and heritage assets.

6.2.2 The two white inverter buildings each measure 2.5 metres x 0.9 metres x 2.2 metres high. They are situated within one of the clusters of other support buildings located towards the centre of the solar farm. Other buildings within this cluster include a kiosk which measures 5 metres x 2.4 metres x 2.9 metres high, and a substation which is contained within a mesh compound which measures 4.5 metres x 4.1 metres x 3 metres high. The height of the solar panels surrounding these buildings varies between 2.19 metres and 2.36 metres.

6.2.3 The visibility of the white inverters would be concealed by the other buildings and panels surrounding them. As such it is not considered that the proposal to seek permission from a green colour to white would affect the visual appearance of the site. The proposal does not raise any significant land use issues and it is considered that it is acceptable in relation to Development Plan policies.

6.2.4 Condition 9 of the planning permission ref. 14/02914/FUL specifies that the support buildings are coloured moss green. It is considered that the wording of this can be changed to read:

"The external colour of inverters no. 4 and 5, as shown on Drawing 3.24.5 Elevations and Plans, shall be white. All other buildings shall be RAL 6005 Moss

Green. Reason: To maintain an acceptable appearance in order to protect the visual character of the area.”

6.2.5 Condition 2 of the planning permission states that the development shall be carried out strictly in accordance with the approved plans and drawings. This list can be updated to reflect the proposed change to the colour.

6.3 **Other matters**

6.3.1 It is considered that the list of approved drawings in the planning permission should be updated so that it includes details of a composting toilet within the site which was previously approved. In addition a number of conditions have now been discharged and the wording of these conditions should be updated to reflect this.

7.0 **CONCLUSION**

7.1 Due to supply shortages during the construction phase of the solar farm at Hadley Farm, two of the five inverter buildings were installed with a white finish instead of the approved green colour. The inverters are situated towards the centre of the site and, from viewpoints beyond the site boundary, are concealed by other buildings and the solar panels. As such the proposal to change the approved colour from green to white would not adversely affect the visual appearance of the site. It is considered that the proposal for a variation to the relevant conditions of the planning permission (conditions 2 and 9) to allow for a change in the colour of the two inverters and for other minor amendments is acceptable and that planning permission can be granted subject to the conditions set out in Appendix 1.

8. **Risk Assessment and Opportunities Appraisal**

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9. Financial Implications

There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS8 - Facilities, Services and Infrastructure Provision
CS13 - Economic Development, Enterprise and Employment
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD2 - Sustainable Design
MD8 - Infrastructure Provision
MD12 - Natural Environment
MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

NS/06/01838/ENQ erection of 3-4 holiday cabins REC

14/01807/SCR Proposed solar farm EAN 4th July 2014

14/02914/FUL Installation and operation of a solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, fence and pole mounted security cameras. GRANT 24th October 2014

15/02173/DIS Discharge of conditions 4, 5, 6, 7 and 8 attached to planning permission

16/03515/AMP Non Material Amendment attached to Planning Permission 14/02914/FUL for the installation and operation of a solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, fence and pole mounted security cameras GRANT 8th September 2016

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Thomas Biggins Cllr Peggy Mullock
Appendices APPENDIX 1 - Conditions

APPENDIX 1 - Conditions**STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the following approved plans and drawings.

- drawing no. 10.5 Overall Layout, Date 22/12/15
- Camera Elevation Design, Date 13/4/16
- Access Gate Elevation Design, Date 13/4/16
- Panels Elevation Design, Date 13/4/16
- FIG 1, UA007147-06 Planting Plan, Date 30/11/15
- 03 1/1, Rev. Drainage System Proposed Layout, Date 10/9/15
- 3.15.2, Security System Layout, Date 22/12/15
- 3.24.2, Plans and elevations Sheet 1/3 Date, 22/2/16
- 3.24.5 rev. 01, Plans and elevations Sheet 2/3, Date 17/1/2018
- 3.24.2, Plans and elevations Sheet 3/3, Date 22/2/16
- Fence elevation design, Date 22/2/16
- 3.24.3.2, Rev. 01 Foundations and footings, Date 4/8/16
- HDF_02 Site location plan, Date 1/6/14

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. Work shall be carried out strictly in accordance with the Reasonable Avoidance Measures (RAMS) Method Statement for Great Crested Newts by Hyder dated October 2014.

Reason: To ensure the protection of great crested newts, a European Protected Species.

4. The development shall be carried out in accordance with the approved Written Scheme of Investigation (WSI) by Clwyd-Powys Archaeological Trust.

Reason: The site is known to hold archaeological interest.

5. The approved sustainable urban drainage scheme, comprising the documents set out below, shall be adhered to throughout the lifetime of the development:

- Drainage Strategy report dated 15th May 2015;
- drawings 'Drainage Strategy Plan' no. 0100 01;
- drawings 'Existing Contours and Indicative Overland Flow Paths' no. 0200 01.

Reason: To ensure the appropriate implementation and management of the surface water drainage scheme.

6. The badger protection measures set out in the following approved documents shall be adhered to throughout the lifetime of the development:

- Pre-Construction Badger Survey dated May 2015;
- addendum dated 30th June 2015 prepared by Hyder Consulting (UK) Ltd.;
- drawing Fig 1 (Badger Sett Location (Confidential)) ref. UA007147-01;
- drawing Fig 1 (Planting Plan) ref. UA007147-04;
- drawing Fig 2 (Biodiversity Plan) ref. UA007147-02.

Reason: To ensure the protection of badgers.

7. The development hereby permitted shall adhere to the approved biodiversity management plan at all times. The approved plan comprises:

- Landscape and Biodiversity Management Plan dated 27th June 2014;
- addendum dated 30th June 2015 prepared by Hyder Consulting (UK) Ltd.;
- drawings Fig 1 (Badger Sett Location (Confidential)) ref. UA007147-01;
- drawing Fig 1 (Planting Plan) ref. UA007147-04;
- drawing Fig 2 (Biodiversity Plan) ref. UA007147-02.

Reason: To ensure the protection and enhancement of species and habitats on site.

8. The external colour of inverters no. 4 and 5, as shown on Drawing 3.24.5 Elevations and Plans, shall be white. All other buildings shall be RAL 6005 Moss Green.

Reason: To maintain an acceptable appearance in order to protect the visual character of the area.

9. The security fence and CCTV cameras shall be supported by wooden poles as detailed on the submitted documents. Any replacement poles required shall be replaced like for like with wooden poles for the lifetime of the development.

Reason: To ensure that the external appearance of the development is satisfactory.

10. The landscape planting as shown on approved drawing Fig.1 (Planting Plan) shall be completed within 12 months of the commissioning of the development hereby permitted. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

11. Within 6 months of the cessation of energy generation from the site, or by 10/6/2046, whichever is the sooner, all infrastructure associated with the solar farm will be removed from the site.

Reason: Notification was given to the local planning authority by Lightsource Renewable Energy Holdings Ltd. on 12/1/2016 that the completion date was 10/12/2015. This condition is to ensure that the solar farm development is removed from the site following the end of its operational life or within a reasonable period of time to protect the landscape character of the area.