Recommendation Report for Application under Section 73 for the Removal or Variation of Conditions Under a Previously Approved Permission

REF NO: BE/56/26/S73

LOCATION: Manor Farm, Solar Farm
Shripney Lane
Bersted
PO22 9UR

PROPOSAL: Application under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 4 attached to planning permission BE/68/21/PL (which previously varied condition 4 of BE/63/14/PL, as already varied by BE/61/15/PL) to amend the lifespan of the development from 50 to 53 years.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks to vary the condition which relates to the duration of the consented solar farm. It seeks to increase the consent from 50 years to 53 years.
BOUNDARY TREATMENT	The site is surrounded by mature hedgerows on the south, north and eastern edges of the site. The majority of the western boundary is marked by a drainage ditch.
SITE CHARACTERISTICS	The site comprises an arable field with a reservoir on the western end. There is a small breeze block building and antenna centrally located within the site. An access track runs across the site from east to west. The site is currently used for agricultural purposes, primarily for tillage.
CHARACTER OF LOCALITY	The site is located in a rural area and accessed via a farm access track. There is very little evidence of built development in the area apart from a number of small farm buildings. There are no public rights of way crossing the site. The site is open to views from the west.

RELEVANT SITE HISTORY

BE/163/15/PL	Variation of condition 2 imposed under planning reference BE/63/14/PL relating to approved plans.	ApproveConditionally 22-01-16
BE/68/21/pl	Variation of condition 4 imposed under BE/63/14/PL (as varied by BE/163/15/PL) relating to the lifespan of the development (change from 30 to 50 years)	ApproveConditionally 28-07-21
BE/63/14/PL	Installation of Solar Farm comprising erection of solar	ApproveConditionally

arrays, inverters, transformers, equipment housing, security fencing, internal tracks & ancillary equipment. Departure from the Development Plan.	12-08-14

BE/63/14/PL - approved the installation of a solar farm.
BE/68/21/PL - varied the lifespan from 30-50 years.

REPRESENTATIONS

Bersted Parish Council provided no objection.

1 letter of support from a nearby occupier.
- Will the land return to agricultural if needed.
- Does the solar farm have plans to expand.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted. The permission is for 53 years only and the land would be restored after this period.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC Ecology - No concerns or comments.

Environmental Health - No objection.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Outside Built Up Area Boundary
High Pressure Gas Pipelines
Archaeological Notification Area
At Risk of Flooding from Climate Change 2070-2125

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
ECCDM1	ECC DM1 Renewable Energy
CSP1	C SP1 Countryside

Bersted Neighbourhood Plan 2014 Policy ES7	Development outside of the Built Up Area Boundary
Bersted Neighbourhood Plan 2014 Policy ES8	Renewable energy

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework
NPPG National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal would conflict with relevant Development Plan policies in that it would be sited on land located outside of the defined built-up area boundary. However there are material considerations that that outweigh this conflict such as the need to promote economic growth and promoting the use of renewable energy in the District.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -
(a) the provisions of the development plan, so far as material to the application,
(aza) 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.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background (see above).

BIODIVERSITY NET GAIN

The application is exempt from biodiversity net gain (BNG) as the application is a section 73 and the original permission which the section 73 relates to was granted before 2 April 2024.

CONCLUSIONS

PRINCIPLE
The principle of the development has already been established and was approved under BE/63/14/PL. There have been some amendments over the years which altered the orientation of the solar panels and to phase the development. The most recent amendment (BE/68/21/PL) varied the time period from 30 to 50 years.

This application seeks to extend the duration of the consented solar farm from 50 years to 53 years.

Whilst the planning permission was formally implemented on the 15th December 2015, and Phase 1 subsequently completed, works for Phase 2 are yet to commence. As such, this application seeks to extend the temporary duration of this planning permission to ensure that Phase 2 has a suitable operational lifespan.

The increase to the duration of the solar farm by 3 years is minor in the context of the existing approved temporary time limit of 50 years.

The proposed extension of time will not result in any impacts additional to that which have already been considered under previous applications. The extension will ensure that the solar farm has a suitable operational lifespan and will deliver renewable energy to the network.

Landscaping is already well established and the site will continue to provide ecological benefits for the duration of the operational life of the solar farm.

SUMMARY
The proposal would accord with relevant policies and the variation of the condition to extend the time period of the solar panels would not result in adverse impacts. The application is recommended for approval.

As this is a Section 73 application any new permission sits alongside the original permission, which remains intact and unamended. Government guidance states that for the purpose of clarity to reinstate the conditions imposed on earlier permissions that continue to have effect.

It is not necessary to reimpose any conditions requiring the submission of details that have already been discharged. However, for completeness, those that have been discharged will be retained in an amended form to make reference to the details approved by the relevant condition discharge applications.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

CIL DETAILS

The application is not CIL liable.

RECOMMENDATION

APPROVE CONDITIONALLY

1 The planning permission hereby granted is for a period from the date of this decision until the date occurring 53 years after the date of commencement of the development hereby permitted (15th December 2015).

2 The development hereby approved shall be carried out in accordance with the following approved plans:

- Block Plan 2849_L_BP_0_01 Rev. 01
- Proposed UKPN Freestanding Brick Built 33kV switch Room E13.45-05 A
- Typical Fence Details 2605-5
- Typical Panel Elevations GM-281.1
- Typical E+1 House Arrangement (69) 901 P1
- Site Boundary Details 2563_502
- Site Location Plan 2849

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1.

3 The details of the associated inverter stations, transformers, substation, CCTV (including the pole mountings) and deer fence security fencing shall be carried out in accordance with the plans approved under BE/164/15/DOC approved on 02/12/15.

4 The landscaping scheme shall be implemented in accordance with the plans approved under BE/143/15/DOC approved on 02/12/15.

5 The development shall be constructed in accordance with the construction management plan approved under BE/164/15/DOC approved on 02/12/15.

6 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the NPPF.