

Recommendation Report for Planning Permission

REF NO: BN/172/21/PL

LOCATION: Eastergate Pumping Station
Fontwell Avenue
Eastergate
PO20 3RZ

PROPOSAL: Installation of ground mounted solar panels. This application is in CIL Zone 3 (zero rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The development involves ground mounted solar installation at Portsmouth Water's Eastergate Water Treatment Works making an efficient use of the site which currently has an output of 45kw with potential output of 100kW by extending the sites potential.
SITE AREA	0.15 hectares.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the development.
BOUNDARY TREATMENT	Mix of wire mesh fencing, post & rail fencing, hedging, mature trees along southern boundary.
SITE CHARACTERISTICS	The site is predominantly grassland with scrub, tree and hedge lined boundaries. Immediately adjacent to the site to the west is lowland meadow. There are solar panels to the north-west of the site. Site boundaries are formed by residential development to the east, Fontwell Park Racing course to the west. North of the site is Waterwork Cottages.
CHARACTER OF LOCALITY	Semi rural. There are residential properties on the east side of Fontwell Avenue and to the south of part of the site, the racecourse to the west & north and a small solar farm to the immediate north. Planning has been recently granted for the erection of 42 dwellings on the land west of Fontwell Avenue, to the south of Level Mare Lane.

RELEVANT SITE HISTORY

EG/21/17/PL	Application for Variation of condition No.2 following the grant of planning permission EG/22/15/PL relating to colours of building, road layout, landscaping & drainage details. Resubmission of EG/3/16/PL	ApproveConditionally 06-07-17
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EG/3/16/PL	Variation of condition 2 imposed under EG/22/15/PL related to amended colour of building.	Withdrawn 15-04-16
EG/22/15/PL	UV Treatment Building & associated upgrade facilities.	ApproveConditionally 05-06-15

The site history is noted.

REPRESENTATIONS

Barnham & Eastergate Parish Council: An objection.

- The proposal does not take into account the recently granted consent for housing on Level Mare Lane when considering the impact of the solar panels on developments in the locality.

No letters of objection received.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. The recently approved residential development for 42 dwellings to the south was not taken into consideration in the drawings and Planning Statement. The impact of the development on the housing to the south of Level Mare Lane will be discussed in the Conclusions section.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENTAL HEALTH: no objection.

ENGINEERS: Due to the scale and type of application no conditions to request. Alterations to surface water drainage must be designed/constructed in accordance with Building Regulations.

ENVIRONMENT OFFICER: A bat survey is no longer needed subject to suggested conditions.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Outside the Built up Area Boundary;
Singleton and Cocking Tunnels SAC (1200m);
Fontwell Park Race Course, Fontwell SNCI;
Class A Road

DEVELOPMENT PLAN POLICIESArun Local Plan 2011 - 2031:

CSP1	C SP1 Countryside
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCDM1	ECC DM1 Renewable Energy
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM5	ENV DM5 Development and biodiversity
QESP1	QE SP1 Quality of the Environment

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.

At Full Council meeting of 9th March 2022, Arun District Council resolved to 'make' the Barnham and Eastergate Neighbourhood Development Plan 2019-2031 (BENDP). Relevant policies in the Barnham and Eastergate Neighbourhood Development Plan 2019-2031 have been taken into account in the determination of this application.

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 is considered to comply with relevant Development Plan policies in that the it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the natural environment.

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 no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

KEY ISSUES

The key issues are principle, design and visual amenity, residential amenity, highways/traffic and Natural Environment.

PRINCIPLE

The site falls outside the built-up area boundary in the countryside where policy C SP1 of the Arun Local Plan applies.

Policy C SP1 of the Arun Local Plan states in criteria a-f the development which is permitted in the countryside. Criterion a. affirms 'development will be permitted in the countryside where it is for the operational needs of agriculture, horticulture, forestry...' and criterion f. concludes 'development is in accordance with other policies in the Plan which refer to a specific use or type of development'.

Policy D SP1 of the Arun Local Plan requires development to make efficient use of land reflecting the characteristics of the site and local area and policy D DM1 states that a high standard of architectural principles should be demonstrated and new development should have a minimal impact to users and occupiers of nearby properties and land. Policy ECC SP1 supports the generation of renewable and low carbon energy.

Policy ECC DM1 states the Council will support proposal for appropriately located renewable energy development subject to criteria. Criterion a. requires the proposal to be located and designed to minimise adverse impacts to landscape, habitats, the historic environment and residential amenity; according criterion b. proposals need to take account of the Council's landscape assessment; in criterion c. is stressed that priority should be given to proposals that integrate with existing or new development and criterion d. expects all proposals to demonstrate a suitable connection to the electricity distribution network and provide evidence that the connection will not result in unacceptable impact on the landscape, natural environment or visual and residential amenity.

Policy ES13 "Renewable and Low Carbon Energy" of the Barnham and Eastergate Neighbourhood Development Plan 2 states proposals for energy-generating infrastructure using renewable or low carbon energy sources to serve individual properties or groups of properties, will be supported provided that it is located as close as practicable to, is appropriate to the location; its sitting, scale and design avoid any harmful impacts on the significance of heritage assets, the landscape, views and wildlife, do not compromise public safety, not detract from the rural, visual character of the environment and adjoining land users are not adversely impacted in terms of noise, vibration, stroboscopic effect, or electromagnetic interference. Where appropriate, the energy generating infrastructure and its installation complies with the Micro-generation Certification Scheme or equivalent standard.

Paragraph 158(b) of the NPPF advises when determining planning application for renewable and low carbon development, local planning authorities should approve the application if its impacts are (or can be made) acceptable.

The proposal is in a commercial site containing solar panels. The sitting of the development is contiguous with existing solar panels and would appear as an extension to them. The layout and the maintenance of the east and south boundary would assure the requirements set in criteria a.-c. of the above ADC policy would be satisfied. The applicant was asked to provide evidence to demonstrate the connection will not have an unacceptable impact on the landscape, natural environment or visual and residential amenity to be in line with criterion d.

The possible effects of glint/glare from existing/proposed solar photovoltaic development located on surrounding road users and people in the surrounding dwellings have been assessed by Pager Power commissioned by the applicant. Their report concluded no significant impacts have been identified on surrounding road users and no mitigation is required. A mitigation requirement has been identified for two dwellings due to the duration of effects, their proximity to the panels and lack of screening. Any solution that sufficiently obstruct visibility of the reflecting area will mitigate impacts. A condition will be imposed that the landscape plan is progressed with reference to this impact.

The development would accord with policy ECC DM2 of the Arun Local Plan and consequently with policy C SP1, policy ES13 of the BENDP 2 and paragraph 158 of the NPPF.

The policies most relevant to the determination of this application are not out of date.

VISUAL IMPACT/DESIGN/CHARACTER

Policy D DM1 of the Arun Local Plan requires the Council seek to make the best possible use of the available land by reflecting or improving upon the character of the site and the surrounding area.

Arun Design Guide Supplementary Planning Document (SPD), a material consideration in the determination of applications, was published under consultation until 21 February 2020. Part Q.O1 which deals with Rural Development requires any new development in countryside to respect and enhance the distinctiveness of rural character.

Paragraph 174(b) of the NPPF stresses that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

The installation of the solar panels (5 lines of the solar panel in addition to the existing 3) are in the Eastergate Pumping Station site. The solar panels would not be a prominent in the landscape due to its low height and site coverage. The panels will be mounted to their frames at a 20-degree angle.

The highest point will be 2.2m and the distance between lines would be 4.4m. Every line would be approximately 27.5m long apart from the southern one which will be 13.5m. There are no nearby public rights of way and the only partial road view will be from the end of Level Mere Lane. Views from nearby residential properties are reduced by tree and vegetation screening. A condition will be imposed to provide appropriate screening especially if viewed from existing and future residential development.

The proposal will not have an acceptable visual impact on the surrounding area and the open landscape character of the countryside. The proposal accords with policy D DM1 of the Arun Local Plan, the Arun Design Guide and paragraph 147 of the NPPF.

RESIDENTIAL AMENITY

The Arun Local Plan policy D DM1 requires the Council have regard to certain aspects when considering development including having minimal impact to users and occupiers of nearby property and land. Policy

QE SP1 states: "The Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity".

The low height of the structures (the maximum height is 2.2m), the existing trees around and the proposed perimeter landscaping mean there will be no unacceptable impact on amenities of neighbouring residents.

The possible effect of glint/glare from existing/proposed solar photovoltaic development, could be mitigated. A condition will be imposed that a landscape plan is submitted with reference to this impact.

ADC's Environmental Officer has no objection.

The solar panels would not give rise to unacceptably adverse impacts on amenity of neighbouring properties and would comply with policies D DM1 and QE DM1 of the ALP.

NATURAL ENVIRONMENT

Arun Local Plan policy ENV SP1 states Arun District Council encourages and promotes the preservation, restoration and enhancement of biodiversity and the natural environment through the development process and particularly through policies for the protection of both designated and non-designated sites. The Council will ensure by policy ENV DM1, that intrinsic features of particular interest are safeguard or enhanced.

Policy ES17 of the Barnham and Eastergate Neighbourhood Development Plan states proposals for the development of sites which in 12km of Singleton and Cocking Tunnels SAC must evaluate whether there is potential for an adverse effect to arise to qualifying species associated with the SAC due to loss of suitable foraging habitat and/or the severance of commuting flight lines, such as in the form of mature tree lines, hedgerows and watercourses.

Paragraph 174 of NPPF (2021) requires decisions to contribute to and enhance the natural and local environment by: minimising impacts on biodiversity and providing net gains in biodiversity where possible. This paragraph calls for the establishment of coherent ecological networks that are more resilient to current and future pressures.

The site is in the Habitats Regulations Assessment Buffer, in a distance of 1200m from Singleton and Cocking Tunnels SSSI and SAC where barbastelle bats use woodland as a maternity roost and they can forage 10-15 km from roosting sites. The Habitats Regulations require additional consideration during the planning stage to ensure that the development does not affect the reasons for designation. Planning documents should detail fully the potential impacts and how these will be avoided or reduced.

A Preliminary Ecological Appraisal (PEA) was submitted to determine the ecological constraints on the site. Due to inaccurate information further bat surveys were required. After the applicant's confirmation that no trees will be felled and no vegetation clearance or works will be taking place within 5m the Ecology Advisor agreed that a bat survey is no longer needed. The development is likely to have a moderate adverse impact on the Singleton and Cocking Tunnels SAC.

The proposal will need to take into consideration the presence of bats in the local area and to minimise potential impacts to any bats using the trees, hedgerows and buildings. An enhancement for bats have been recommended in the PEA.

The Environment Officer does not object to the development subject to conditions. The development

complies with requirements of ALP policies ENV SP1 and ENV DM1.

BIODIVERSITY

Policy ENV DM5 of the Local Plan requires development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. They shall incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitats (whether designated or not)."

Policy ES10 of the BENDP 2 requires development proposals, where appropriate, to be designed to incorporate biodiversity within and around developments and protect and enhance ecological networks, seeking to retain wherever possible ancient trees, trees of good arboricultural and amenity value and hedgerows to contribute to the Government's target to halt the decline in biodiversity.

The proposal is for ground mounted solar panels in a grassland field with scrub, tree and hedge lined boundaries. The Preliminary Ecological Appraisal includes recommendations for enhancement and biodiversity net gain to be created.

The opportunity to increase biodiversity and mitigation measures will be secured via conditions.

HIGHWAYS, TRANSPORT AND ACCESS

In policy T SP1 of the Arun Local Plan the Council will ensure that development provides safe access on to the highway network.

Paragraph 110 (NPPF) advocates safe and suitable access to the site can be achieved for all users. Paragraph 111 (NPPF) states development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

It is proposed to utilise an existing access. No information with regards to the traffic movements during construction phase and when up-and-running have been provided. The proposal is small in scale with construction likely to be over a limited time.

The development provides for the transport demands created in accordance with paragraphs 110 and 111 of the NPPF, Policy T SP1 of the Arun Local Plan subject to conditions concerning Construction Management Plan.

SUMMARY

The principle of development is acceptable in light of Development Plan policy especially given the support for renewables in the NPP. No significant harm arises from this application and it is recommended that this application is approved subject to the following conditions.

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.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

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

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

90-02015 P03-RE02, Site Plan;
90-02015 P04-RE01, Typical Section;
90-02015 P01-RE01, Location Plan.

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

- 3 No later than 12 months prior to the end of this permission, a site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of works to remove the solar panels, all related equipment, and any areas of hardstanding and shall be fully implemented within 12 months of the expiry of this permission.

Reason: To protect the long term visual amenities of the surrounding area and in order that the Local Planning Authority may be satisfied as to the appearance of the land after the removal of the development in accordance with policy D DM1 of the Arun Local Plan.

- 4 If any of the individual solar panels ceases to export electricity to the grid for a continuous period of 12 months then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months from the end of the 12 month period for the removal of the solar panel(s) and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within 6 months of that written approval being given.

Reason: To protect the long term visual amenities of the surrounding area and in order that the Local Planning Authority may be satisfied as to the appearance of the land after the removal of the development in accordance with policy D DM1 of the Arun Local Plan.

- 5 Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:
- Monday-Friday: 08.00hrs-18.00hrs
 - Saturday: 08.00hrs-13.00hrs
 - Sundays and Bank Holidays: no work permitted.

Reason: To safeguard the amenities of nearby residents and to accord with policies D DM1 and QE SP1 of the Arun Local Plan.

- 6 Prior to the panels being used to generate electricity a landscaping scheme, including details of new hedgerows to be planted and the 'gapping-up' of existing hedgerows in and around the site in accordance with recommendations (mitigations) in the submitted Solar Photovoltaic Glint and Glare Study (August 2021) shall be submitted to the Local Planning Authority. The planting so approved shall take place prior to the panels being used to generate electricity. Any trees/shrubs or plants which die, are removed or become diseased within 5 years of planting shall be replaced during the next planting season with trees/shrubs/plants of a similar size and species.

Reason: In the interests of amenity and of the environment of the development in accordance with policy D DM1 of the Arun Local Plan.

- 7 The development shall be carried out in full accordance with the recommended biodiversity enhancement measures listed in the Preliminary Ecological Appraisal dated 24 September 2021 and retained in perpetuity.

Reason: To enhance the environment for local wildlife and result in net biodiversity gain, in accordance with the relevant legislation and policy ENV DM5 of the Arun Local Plan.

- 8 Prior to its installation, full details of any external lighting together with their mechanisms and timings of operation shall be submitted to and approved in writing by the Local Planning Authority. Lighting shall be installed in strict accordance with the approved details and shall thereafter be maintained and operated in accordance with those details. No other external lighting shall be installed on the site.

Reason: To control the residential amenities of the local environment in accordance with Arun Local Plan policies QE SP1, QE DM2, D DM1 and ENV DM5.

- 9 Any on site brush piles, compost and debris piles which could provide shelter areas and hibernation potential for hedgehogs must be removed outside of the hibernation period mid-October to mid-March inclusive. The piles must undergo soft demolition. If any small mammals including hedgehogs are found they should be relocated away from the construction area into surrounding suitable habitats.

Reason: To enhance the environment for local wildlife and result in net biodiversity gain, in accordance with the relevant legislation and policy ENV DM5 of the Arun Local Plan.

- 10 Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

Reason: To enhance the environment for local wildlife and result in net biodiversity gain, in accordance with the relevant legislation and policy ENV DM5 of the Arun Local Plan.

- 11 **INFORMATIVE:** This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0345 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.