Town and Country Planning Act 1990
Appeal by AMP Energy Services Ltd
Site Address: 62 Marlborough Road, Lancing Business Park, Lancing, BN15 8UQ
PINS reference: APP/Y3805/W/21/3274190
LPA reference: AWDM/1966/20

Appeal Statement of Adur District Council

Introduction

This Statement of Case has been prepared in respect of a planning appeal against the refusal of a full planning application (LPA reference AWDM/1966/20) described as:

> *Proposed Urban Reserve Flexible Energy Facility including 2 x 2.5MW power units in steel containers, with 7m high exhaust stack and ventilation/cooling equipment, 2 substations, a gas kiosk, oil storage tank, 4m acoustic fence on part of southern boundary, 2.1m high palisade fence and gate on eastern boundary.*

It was refused by Notice dated 10 March 2021 for the following reasons:

1) *The proposal, by reason of the proposed use of fossil fuels, a lack of renewable energy provision and the resultant emissions, proposes an unsustainable form of development and is consequently contrary to the current principle of working towards achieving sustainability, emission reduction and renewable energy objectives, as contained within policies 1 and 19 of the Adur Local Plan and the NPPF*
2) *The proposal would result in the loss of land currently used for B8 storage use and, in the absence of any justification, the proposal is contrary to policy 25 of the Adur Local Plan, Demonstrating Genuine Redundancy of Employment Sites SPD and the NPPF*

This Statement sets out the Council's full case and elaborates on the reasons for refusal given on the decision notice.

Appeal Site

The appeal relates to a site within the Lancing Business Park which is accessed off Blenheim Road. The site is narrow and rectangular in shape. It has been used for HGV parking and large skip storage.

The Appeal Proposal

The appeal proposal is for the creation of an Urban Reserve Flexible Energy Facility including 2 x 2.5MW power units in steel containers, with 7m high exhaust stack and ventilation/cooling equipment, 2 substations, a gas kiosk, oil storage tank, 4m acoustic fence on part of southern boundary, 2.1m high palisade fence and gate on eastern boundary.

Planning History

None relevant to this site

Relevant Planning Policy

Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning law in section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Proposed development that accords with an up-to-date Local Plan should be approved without delay, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF indicates where policies which are the most important for determining the application are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The statutory development plan for Adur is the Adur Local Plan 2017 and a list of those policies which are relevant to the appeal proposal is set out below:

1 The Presumption in Favour of Sustainable Development

4 Planning for Economic Growth

9 Lancing

15 Quality of the Built Environment and Public Realm

18 Sustainable Design

19 Decentralised Energy and Standalone Energy Schemes

25 Protecting and Enhancing Existing Employment Sites and Premises

34 Pollution and Contamination

35 Water Quality and Protection

36 Flood Risk and Sustainable Drainage

The following documents are material considerations that are of particular relevance to this proposed development.

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Demonstrating Genuine Redundancy of Employment Sites SPD (March 2019)
- CarbonNeutralPlan (Adur&Worthing Dec 2019))
- Carbon Neutral Study for Adur & Worthing June 2020
- National Planning Policy Framework (July 2021)

The NPPF states in para 152 that:

The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Para 155 states that plans should:

consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and

identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

One of the main visions and objectives of the Adur Local Plan is to make progress "*towards a low carbon, sustainable community through sustainable construction, energy efficiency, the use of renewable energy, water efficiency measures, waste reduction measures and appropriate location of development and transport infrastructure to reduce air pollution and noise; and to make a significant contribution to low and zero carbon energy production*."

Policy 19 encourages the use of "*low carbon energy, renewable energy and residual heat/ cooling for both domestic and non-domestic developments.*"

Policy 25 of the Local Plan states that within the Lancing Business Park, proposed conversions to uses other than employment (B1, B2 and B8 of the Use Classes Order) will be resisted.

The Council's Case

The Council considers that the proposal, in its entirety, relies exclusively on the use of gas which is then converted to electricity. The development is therefore contrary to the fundamental framework for sustainable development objectives contained with the NPPF and the aims of the Council to achieve carbon neutrality.The Council's case is set out in the Officer's report forwarded earlier but it is necessary to respond to the Appellant's case here.

The Appellants' Statement only includes generic information that flexible energy facilities are required to support the development of renewable energy systems and there is no site specific evidence that there is a requirement in this location for such a facility.

Further, as stated in the original decision, the use of a gas fired facility is not in line with Adur's net zero and climate change policies and the Appellants' Statement has not addressed the issue of increased carbon emissions in the area from the operation of the plant. The appellant has stated that it will contribute to lowering carbon emissions due to supporting increased renewable energy; however, at the time of the application they confirmed that the proposal would generate 4,778 tonnes of carbon per year.

The Appellants' Statement is also largely dependent on classifying the plant as "supporting infrastructure" for renewable energy plants. Supporting infrastructure is not defined in the NPPF however the Council considers supporting infrastructure to comprise of grid substations, cabling and the like and not including separate stand alone power plants.

Overall, the Appellants have not included location specific evidence that there is a need for this plant and rather depend on generic information. The Council does not consider that there is sufficient justification for this facility.

Fossil fuels will run out and the continued emissions from burning such are unsustainable and this facility cannot be seen as ensuring that development meets the needs of existing and future generations and is therefore unsustainable. As the Council's Sustainability Manager said at the time of the application, "*there are other low carbon solutions such as large scale battery storage with or without renewable energy such as wind or solar that could perform this function, without emitting greenhouse gas emissions that contribute to climate change, and these would also have no impact on local air quality."*

The site is currently an occupied vehicle storage yard for a company based on the park. Lancing Business Park in their representations have stated that it is very difficult to identify vehicle storage land in Adur and Worthing and that there are currently several companies based on the park who are looking for land of this type

to support their operational needs. The loss of the land to enable a non sustainable development such as this is not considered to be justified.

Conclusion

The proposal would increase carbon emissions and lose valuable storage land contrary to development plan policies.

Taking account of the social, environmental and economic factors of sustainable development, overall, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits. As such, according to planning law and the NPPF amongst other material considerations, planning permission should be refused for the appeal proposal. It conflicts with the provisions of Policy 1, 19 and 25 of the Adur Local Plan 2017 and guidance contained within the National Planning Policy Framework. Accordingly, the Inspector is respectfully requested to dismiss this appeal.

Notwithstanding these conclusions, should the Inspector be minded to allow the appeal, it is respectfully requested and without prejudice to the Council's case, that the conditions appended to this statement, be included in the decision.

List of Conditions should Appeal be Allowed (Without Prejudice)

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 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the approved plans. [As listed in the Decision Notice]

Reason: For the avoidance of doubt and in the interests of proper planning.

3. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

• the anticipated number, frequency and types of vehicles used during construction,

• the method of access and routing of vehicles during construction, • the parking of vehicles by site operatives and visitors,

• the loading and unloading of plant, materials and waste,

• the storage of plant and materials used in construction of the development, • the erection and maintenance of security hoarding,

• the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),

• details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and amenity having regard to policies 28 and 34 of the Adur Local Plan

3. All details contained within the Noise Impact Assessment (SLR report no. 404.0871.00001, version no: Issue 4 January 2021) shall be implemented, prior to first operation of the plant hereby approved and shall thereafter continue for the lifetime of the development

Reason: To reduce the noise impacts of the development in the interests of amenity having regard to Policy 34 of the Adur Local Plan

4. The development hereby permitted shall not be commenced until details of the surface water drainage and means of disposal have been submitted to and approved by the Local Planning Authority and the facility shall not be brought into use until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority. There shall be no discharge of contaminated drainage into either ground water or any surface waters whether direct or via soakaways.

Reason: To ensure adequate drainage, to protect groundwater and to comply with the National Planning Policy Framework and policies 35 and 36 of the Adur Local Plan