Summary Proof of Evidence
Heritage (CD10.3)

By

Rob Bourn

Appeal under Section 78 of
Town and Country Planning Act 1990
By EDF Energy Renewables Limited

Land south of the M20, Church Lane,
Aldington, Kent
(known as East Stour Solar Farm)

Appeal Ref: APP/E2205/W/24/3352427

Application Ref: 22/00668/AS

January 2025

Report
Summary Proof of Evidence – Heritage

Site
Land south of the M20, Church Lane, Aldington, Kent (known as East Stour Solar Farm)

Client
EDF Energy Renewables Limited

Planning Authority
Ashford Borough Council

Prepared By
Rob Bourn BA MA MCIfA

Report Status
Final

Issue Date
January 2025

Orion Ref
PN2968/PoE

1.0 Introduction

1.1 My name is Robert Bourn and I am Managing Director at Orion Heritage Ltd. Orion Heritage is an independent heritage consultancy based in Brighton and Manchester. The company acts for a wide range of private and public sector organisations across the UK and advises on all aspects of the historic environment related planning policy and practice. Prior to setting up Orion in June 2015, I was a Director of the archaeology team at CgMs Ltd for 15 years. Prior to joining CgMs, I was the Planning Archaeologist for Berkshire County Council and its successor Unitary Authorities for 5 years (1995-2000).

1.2 EDF Energy Renewables Limited has appealed against the refusal of planning permission for the installation of a solar farm with a generating capacity of up to 49.9MW comprising: ground mounted solar panels, access tracks, inverter/transformers, substation, storage, spare parts and welfare cabins, underground cables and conduits, perimeter fence, CCTV equipment, temporary construction compounds and associated infrastructure and planting scheme (application ref 22/00668/AS). The Proposed Development is to be known as East Stour Solar Farm.

Key Issues and Analysis

1.3 Reason for refusal no 1 states:

"The proposed development would result in significant adverse individual and cumulative effects on landscape character and on visual amenity that cannot be appropriately mitigated. The development would also harm the amenity and experience of users of the public rights of way network and would cause less than substantial harm to the setting of designated heritage assets. The benefits of the proposed development would not outweigh these harms. The development would therefore be contrary to policies SP1, SP6, ENV1, ENV3a, ENV5, ENV10

and ENV13 of the Ashford Local Plan, policies AB4, AB10 and AB11 of the emerging Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework and National Policy Statements EN-1 and EN- 3."

Historic England Consultations

1.4 Historic England provided their comments on the planning application in a letter to Ashford Borough Council dated 5th September 2022 (CD2.1.9). This letter identified that the Church of St Martin, Court Lodge Farm could potentially be affected by the Proposed Development. Historic England considered that additional visual information was required in order to assess the potential effect of the proposed scheme. They requested an additional view to be taken in the area of Viewpoint 8 and Viewpoint 7 and additional visualisations from Barrowhills.

1.5 This additional material was produced subsequent to receipt of Historic England's letter and submitted as part of the SEI in January 2024 (CD1.14).

1.6 Following receipt of the SEI, Historic England provided a second consultation response dated 11th March 2024 (CD2.2.5). In summary, this concluded that they considered that there would be less than substantial harm to the Church of St Martin and Court Lodge Farmhouse but considered that there was not enough information to advise on the level of less than substantial harm. This was because Historic England considered that a verified rendered view for Viewpoint 8 had not been provided. However, this is not correct. Historic England appears to have not fully understood the additional visualisations provided. A verified rendered view was indeed provided for Viewpoint 8. Historic England also requested an additional viewpoint be provided to the north east of viewpoint 8. This was provided in the SEI.

Ashford Borough Council's Officer Report (CD1.19)

1.7 Paragraph 136 of the Officer's report agreed with Historic England's conclusion that there would be less than substantial harm to the Church of St Martin and Court Lodge Farmhouse. This is also in accordance with Orion Heritage's assessment of the effect on the significance of the two assets. The Officer stated that they did not agree with Orion Heritage's assessment that the harm would be at the lowest of the less than substantial harm range. The Officer considered the harm to be at the higher end of the less than substantial harmful range. While the Officer is entitled to come to their own conclusions on this matter, their conclusion that the harm is at the higher end of the spectrum is not based on any advice that they have been provided by Historic England, or indeed any other statutory consultee. It is therefore unclear as to how the Officer reached this view in the absence of any evidence from heritage experts as to this level of harm arising as a result of the Proposed Development. It should be noted in respect to the Officer's Report conclusion on this matter, that the Case Officer is a planner not a qualified and experienced heritage expert.

1.8 Substantial harm is a very high test and is the point at which the special interest of the asset in question has been either vitiated altogether or very much reduced. Consequently, an effect at the higher end of the less than substantial harm range is one that would be close to an effect that would either vitiate altogether or very much reduce the significance of the assets. The effect of the Proposed Development is far away from such a drastic effect on the significance.

Impact on the Significance of the Heritage Assets

1.9 An assessment of the significance of the grade I Church of St Martin and grade II* Court Lodge Farmhouse in relation to the proposed development has found that the appeal site forms part of the assets' wider rural setting. However, the contribution the appeal site makes to the significance of the cottage is considered to be minor and this contribution is small part of the contribution that the wider landscape provides to the church and Court Lodge.

1.10 The proposed development will have a minor adverse effect on the contribution that aspects of the setting provide to the Church of St Martin and Court Lodge Farm. The majority of the setting of the designated assets will be unaffected by the proposed development. The primary aspects of the significance of the assets (i.e. the architectural of their form and fabric and historical interest connected with the long association with the Archbishops of Canterbury) will be unaffected.

1.11 Due to the very limited visual effect, the significance of the church will be no more than minor (viewpoint 7 is the 'worst' effect). This is considered to be a less than substantial harmful impact on the significance of the Church of St Martin and Court Lodge Farm. This effect is on the lowest end of the less than substantial harmful scale as the significance of the designated assets is almost entirely unaffected.

1.12 Unlike paragraph 136 of the Officer's report, the effect cannot be on the higher end of the less than substantial harm scale. To be at that level, the visual effects of the scheme would have to be far greater than they have been demonstrated to be and the proposed development would have to be closer to the assets so as to be overbearing and dominating the experience of the assets to the point that the significance was significantly reduced. The calibration of harm used by the case officer is considered to be too high and does not accord with Historic England's

assessment of harm. Historic England's issue was that they considered that not enough information had been provided to assess the precise level of harm. However, as discussed above, Historic England have not read the verified rendered photomontage at Viewpoint 8 correctly or apparently taken Viewpoint 16 into account. The reality is that the effect of the proposed development is slight. With the information available before Historic England, the material is considered to be sufficient to enable the assessment of where on the less than substantial harm range the effect is. In my extensive experience, with similar material before it, Historic England has been confident in stating where it considers that the harm would be on the higher end of the less than substantial harm range scale.

1.13 As the effect of the Proposed Development is less than substantial, paragraph 215 of the NPPF applies. That is, the Inspector, having given great weight to the conservation of the designated assets significance, will have to balance the limited less than substantial harmful effect of the scheme against the public benefits of the scheme. Of relevance in this consideration is paragraph 34 of *R (James Hall and Company Ltd) v City of Bradford MDC* [2019] EWHC 2899 (Admin) (CD6.3), where the judge stated:

"In my judgment the three categories of harm recognised in the NPPF are clear. There is substantial harm, less than substantial harm and no harm. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm. It will be a matter of planning judgement as to the point at which a particular degree of harm moves from substantial to less than substantial, but ***it is equally the case that there will be a number of types of harm that will fall into less than substantial, including harm which might otherwise be described as very much less than substantial.*** *There is no*

intermediate bracket at the bottom end of the less than substantial category of harm for something which is limited, or even negligible, but nevertheless has a harmful impact. ***The fact that the harm may be limited or negligible will plainly go to the weight to be given to it as recognised in Paragraph 193 NPPF.*** *However, in my judgment, minimal harm must fall to be considered within the category of less than substantial harm."* (emphasis added)

1.14 It is my view that, as the proposed development results in less than substantial harm to the significance of the Church of St Martin and Court Lodge, as long as the decision-maker has followed the process outlined in paragraphs 212-215 of the NPPF, and the public benefits outweigh the harm (which has been given considerable weight), then the proposed development will not be contrary to local plan policies ENV13 and ENV14 4 and Neighbourhood Plan policy AB11. This planning balance is not a task to be undertaken by the heritage experts.

1.15 In light of the conclusions of my proof, I do not consider that the historic environment provides a constraint to developing the site as per the proposed development.