

**Solar PV
Appeals**

DLP BRIEFING NOTE 166

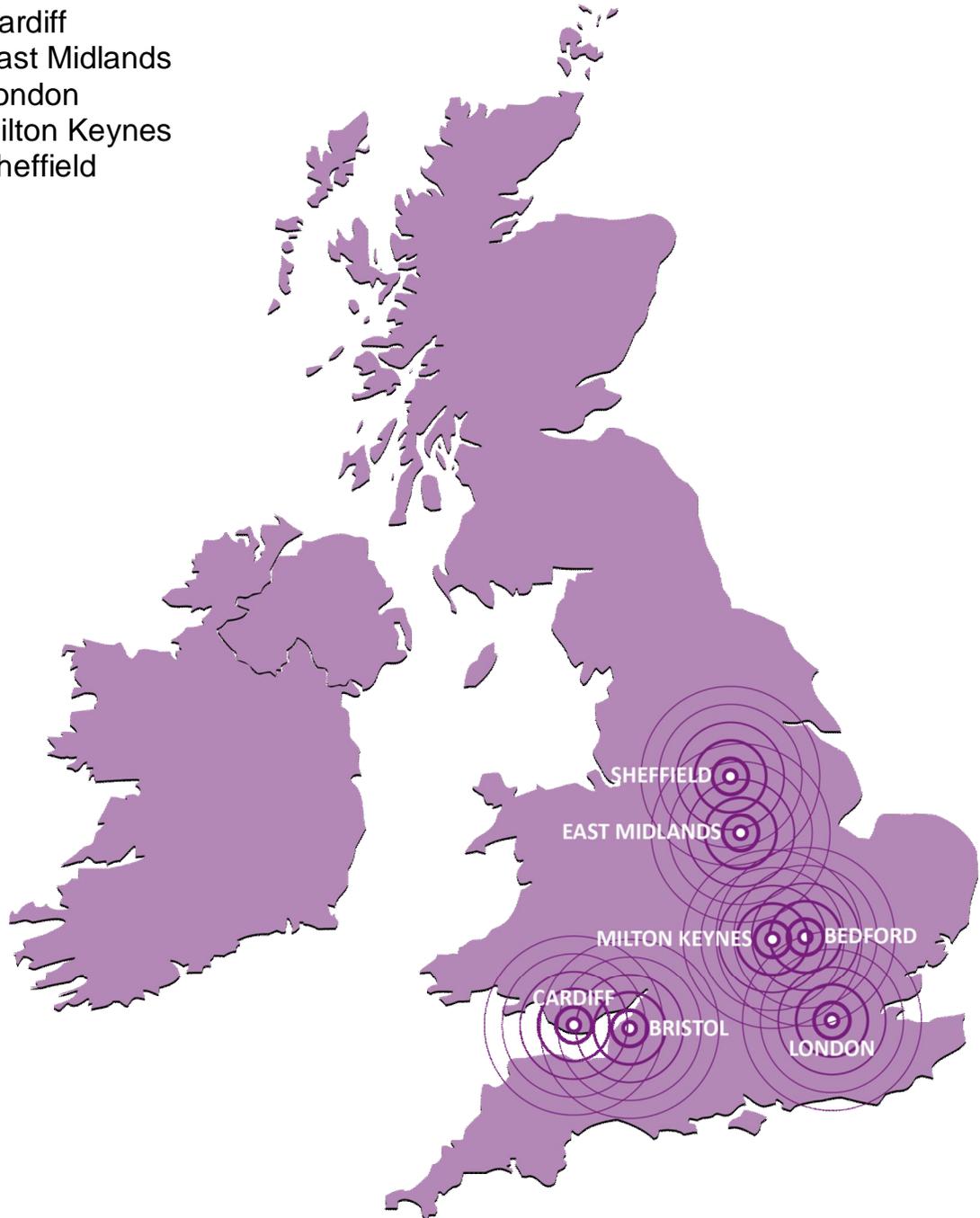
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Solar PV Update

This briefing note has been compiled to update our clients on the recent movements within the Solar PV sector. Various media reports over the past few weeks have outlined some of the changes and challenges currently facing the solar industry. Over recent years solar farm applications have increased sixfold in the UK, however recently applications have faced controversy over their environmental and visual effects and their extent of community engagement. Furthermore on the 13th May 2014 the Department for Energy and Climate Change published a consultation on changes to reduce the financial support for Solar PV, with a proposal to withdraw the 1.4 Renewable Obligations Certificates (ROC) rate for schemes above 5MW from the 31st March 2015.

Recent Appeal Decisions

Two recent appeal decisions are being used in some quarters as an example of the change in perception of large scale solar PV development.

An appeal was dismissed at Tattingstone, Suffolk for the development of a 38.43 hectare solar park. This appeal is significant in that it drew upon the Planning Practise Guidance released in March 2014 and was dismissed on the grounds of the following environmental effects:

- Landscape character and visual amenity of the area;
- Agricultural quality of the land;



The Inspector stated that the site was clearly visible from many vantage points especially from a nearby public rights of way. Although the appellant proposed mitigation by landscape planting, the success of this mitigation depended on variables out of their control, and in the short term it was concluded that there would be a significant localised adverse impact on the landscape.

With regards to agricultural issues, the site had historically been used for arable production and comprised a mixture of Grade 2 and 3a - the best and most versatile agricultural land. The proposal was deemed to result in a loss of production for the life of the development. The Inspector found the appellant had not demonstrated that there were alternative sites including brownfield sites or lower agricultural quality sites that could be developed within the locale.

In summary the Inspector referred to PPG paragraph ID 5-007, which states the need for renewable or low carbon energy does not automatically override environmental protections and concluded that the site did not represent a well-planned and well-screened solar farm. The Inspector did however reference the Solar PV Strategy stating that there is still a place for larger scale field based solar, where robustly justified.

More recently an appeal at Hatcheston, also in Suffolk, was also dismissed. In this case the Inspector found that there would be a loss of 17.4 hectares to agricultural production and that there was no evidence that the site would actually be used for sheep grazing. He also considered that there could be an adverse effect on the local tourism industry and that overall, the development would not contribute to the rural economy.

Moreover the Inspector found that there were both designated and undesignated historic assets including a Grade II* listed building whose setting would be directly affected.

Taken cumulatively the Inspector concluded that the scheme provided no appreciation of the overall adverse effect+and failed to recognise the cumulative and combined effects+of the proposal. The Inspector concluded that:

When the Government has placed such emphasis on ensuring the large scale solar proposals are sited in the right location, with the support and engagement of local communities, the Secretary of State is invited to form the view that because the

appellant has chosen to promote a greenfield site in a protected landscape, with residual adverse visual effects, harm to the setting of listed buildings, a loss of best and most versatile land, it should have shown that it was necessary to do so because no other sites were suitable+

These contrast with a scheme at Ellough in Suffolk in which DLP secured the recommendation of an Inspector to the development of a solar farm on the former Ellough Airfield. The Secretary of State's decision not to accept the recommendation has been overturned by the High Court. In making his decision Lindblom J. stated that this was a case:

in which the proposal is found to comply in substance with one of the two most relevant policies in the development plan and to conflict with the other. The policy offended . Policy DM27 . is a general policy, which is concerned with the protection of landscape character. The policy complied with . Policy DM03 . is the one the Council has deliberately produced for proposals for renewable energy, recognizing the importance of such development both nationally and in Waveney. It does not make other policies irrelevant. But it is, on its face, a comprehensive policy for proposals of this kind. And it includes tests relating to the effects of development on the landscape

He concluded that the Secretary of State had failed to ask himself whether the proposal was or was not in accordance with the plan, read as a whole, and provide clear reasons for his conclusion.

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DLP appraise sites against development plan policy and the National Planning Policy Guidance as well as the key considerations set out in the Solar PV Strategies 2010 commitments to ensure that potential sites do not utilise the best most versatile agricultural land and would not result in unacceptable landscape visual impacts. Furthermore DLP take a holistic view of schemes and seek to establish high degrees of public participation with local communities and Local Planning Authorities prior to the submission of an application ensuring that local engagement is as robust as possible.

DLP Planning Consultants have strong partnerships with several solar energy firms and have extensive experience in dealing with a variety of scales of solar installations. DLP get involved at varying levels of involvement ranging from initial land identification through to planning application submission and discharge of conditions processes to ensure the best result for our clients.

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