

SAVE ALDINGTON GROUP LIMITED



Tel: [REDACTED]

Email: s [REDACTED]

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol BS1 6PN

6th December 2022

Dear Sirs

**Re: Proposed Solar Generating Station in Aldington, Kent.
Application by EPL 001 Limited**

Please find enclosed Save Aldington Group Limited's application to the examining authority to call a preliminary meeting under Section 88 of the Planning Act 2008.

Yours faithfully




John A King

Director

Save Aldington Group Limited

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Dear Sirs

**Re: Proposed Solar Generating Station in Aldington, Kent.
Application by EPL 001 Limited**

Save Aldington Group Limited hereby applies to the examining authority to call a preliminary meeting under Section 88 of the Planning Act 2008 for the following purposes:

1. To establish exactly who the Applicant is.
2. To determine whether the Applicant has complied with its duty under section 42 of the Act.
3. To determine whether the Applicant has complied with its duty to consult the local community in accordance with Section 47 of the Act.
4. To determine whether the Applicant has publicised the proposed application in the prescribed manner in accordance with Section 48 of the Act.
5. To direct that the Applicant carries out its obligations under the Act and in particular carries out a further and proper consultation process with the local community that complies with the law.

In making this application Save Aldington Group Limited seeks to rely upon the judgments in:

R (Moseley) v London Borough of Haringey [2014] UKSC 56

R (Osborn) v Parole Board [2013] UKSC 61, [2013] 3 WLR 1020

R v Brent London Borough Council, ex p Gunning, (1985) 84 LGR 168

R v Devon County Council, ex parte Baker [1995] 1 All ER 73

British Dental Association v General Dental Council [2014] EWHC 4311 (Admin)
(18 December 2014)

R (Capenhurst) v Leicester City Council [2004] EWHC 2124 (Admin), [2004] A.C.D.
93.

GROUNDS for making this application are as follows:

The Applicant

1. It is not clear from the documents provided to us who the Applicant is.
2. This is not just a pedantic point of law but is fundamental to the whole application and consultation process as set out in the Planning Act 2008 (the Act).
3. The general public and in particular those people living in the vicinity of Aldington are entitled to know who they are dealing with.
4. What is clear from the Act is that the whole application and consultation process is required to be carried out by the same legal entity, in the Act called the Applicant.
5. Throughout the Statutory Consultation process the public were led to believe that the application being made under Section 37 of the Planning Act 2008 to the Secretary of State was being made by Evolution Power Limited. For example: Paragraph 1 of the Statement of Community Consultation dated September 2022 states that:
“Evolution Power Limited (Evolution Power) is intending to develop a renewable energy generating project.”
And the same statement is made in the Statutory Consultation Feedback Form.
6. Whereas the letter sent to consultees dated 21st October 2022 and the notice published in accordance with Section 48 of the Act makes it clear that the above is simply not true and that the application is to be made by EPL 001 Limited.

7. According to the records at Companies House, EPL 001 Limited, formerly known as Powerfuel Solar (Kent 1) Limited is a management consultancy and environmental consulting company and as at 28th February 2021 only had net current assets of £1,333.
8. In the year up to 28th February 2021 EPL 001 Limited employed no staff.
9. It appears that EPL 001 Limited has never constructed a solar generation station and has no experience in such matters.
10. The alleged consultation process was carried out by Evolution Power Limited who is not the Applicant and therefore the consultation process is void ab initio. The consultation process must be carried out by the Applicant which in this case is EPL 001 Limited.
11. In the circumstances, either the application must now be made by Evolution Power Limited or if EPL 001 Limited is still going to be the applicant then they must carry out a proper Statutory Consultation.
12. This question is an issue that must be resolved and the public informed before any further steps can be taken.
13. Save Aldington Group Limited makes the remaining parts of these grounds and in response to Evolution Power Limited's statutory consultation process on the bases that Evolution Power Limited is in fact the applicant.

Failure to Meet Legitimate Expectations

14. Evolution Power has failed to meet the legitimate expectations of those people living in the vicinity of Aldington that they would be consulted in a fair and open way and be provided with enough and proper information and evidence, so as to make an informed decision and to be able to comment in an intelligent manner.
15. Therefore, the company reserves the right to amend its response once a full and proper statutory consultation has taken place.
16. Evolution Power failed to address the common law duty of procedural fairness in its consultation.

Sham, Unfair and Unlawful process

17. Evolution Power is fully aware that from the outset its consultation process has been a sham, unfair and unlawful process expressly designed by it to keep those living in the vicinity of Aldington in the dark as to the true requirements and the significant adverse effects upon the environment of constructing solar generating stations in Aldington.

18. Evolution Power has knowingly failed to comply with the law as expressed by the Courts in
 - R (Moseley) v London Borough of Haringey* [2014] UKSC 56
 - R (Osborn) v Parole Board* [2013] UKSC 61, [2013] 3 WLR 1020
 - R v Brent London Borough Council, ex p Gunning*, (1985) 84 LGR 168
 - R v Devon County Council, ex parte Baker* [1995] 1 All ER 73
 - British Dental Association v General Dental Council* [2014] EWHC 4311 (Admin) (18 December 2014)
 - R (Capenhurst) v Leicester City Council* [2004] EWHC 2124 (Admin), [2004] A.C.D. 93.

19. In particular, Evolution Power has failed to:
 - a. Let those who have a potential interest in the subject matter know in clear terms what the proposal is.
 - b. Why the proposal is under positive consideration.
 - c. Tell them enough (which may be a good deal) to enable them to make an intelligent response.

20. Evolution Power failed to understand that the following basic requirements are essential if the consultation process is to have a sensible content.
 - a) First, that consultation must be at a time when proposals are still at a formative stage.
 - b) Second, that the proposer must give sufficient reasons for any proposal to permit intelligent consideration and response.
 - c) Third, that adequate time must be given for consideration and response and,
 - d) Finally, that the product of consultation must be conscientiously taken into account in finalising any proposals.

21. Evolution Power failed to understand that the criteria set out in paragraphs 19 and 20 above are in Sir Stephen Sedley's words "a prescription for fairness. It is an aspect of fairness that a consultation document presents the issues in a way that facilitates an effective response: see, for example, *R (Capenhurst) v Leicester City Council* [2004] EWHC 2124 (Admin), [2004] A.C.D. 93."

Location of Proposed Solar Generation Station

22. Evolution Power started its alleged consultation with the public with a preconceived statement that its proposed solar generation station would be constructed at Aldington. In paragraph 5 of the Statement of Community Consultation Evolution Power states that:
“The project will be located approximately 2.4km to the south-east of Ashford and approximately 13.7km to the west of Folkestone Town Centre, in the county of Kent.”
23. Evolution Power deliberately failed to produce any proper rationale for this statement nor did it invite any consideration of any alternative site for its proposed solar generation station.
24. That preconceived statement by itself is enough to render the whole consultation process a sham.

Connection to the National Grid.

25. Evolution Power deliberately and falsely led the public to believe that its proposed solar generation station needed to be situated near to a National Grid station and in particular as near as possible to the Converter Station at Sellindge, whereas that is simply not true.
26. Evolution Power started its alleged consultation with the public with a preconceived notion that its proposed solar generation station needed to be connected to the Converter Station at Sellindge.
27. Evolution Power’s preconceived notion was presented to the public without producing any evidence that it had entered into any heads of agreement with National Grid PLC.
28. Evolution Power’s preconceived notion was presented to the public without producing any evidence as to the capacity available at the Converter Station at Sellindge.
29. Evolution Power deliberately failed to produce any proper statement or reason or explanation as to why its proposal needed to be connected to the Converter Station at Sellindge nor did it invite any consideration of any alternative National Grid station where its proposal could be connected.

30. As a result, the people living in the vicinity of Aldington are unable to make an informed decision and to be able to comment in an intelligent manner upon the proper location of Evolution Power's proposal, save to say that there is no proper evidence produced by Evolution Power that its solar generation station needs to be constructed anywhere near to the village of Aldington.

Collective Impact of Evolution Power's Proposal with EDF's Proposal

31. Evolution Power deliberately failed to mention in the following documents the solar generation station proposed by EDF.
- a) Community Newsletter June 2022.
 - b) Community Information Leaflet October 2022.
 - c) Letter dated 21st October 2022.
 - d) Statement of Community Consultation.
 - e) Statutory Consultation Feedback Form October/November 2022
32. Evolution Power deliberately failed to produce or display any information about the solar generation station proposed by EDF, at the local information events held at:
- a) Mersham Village Hall on Friday 4th November 2022.
 - b) Aldington Village Hall on Saturday 5th November 2022.
 - c) Sellindge Village Hall on Tuesday 8th November 2022.
 - d) Bilsington Village Hall on Wednesday 9th November 2022.
33. Evolution Power deliberately failed to produce, display or discuss any information about the solar generation station proposed by EDF at its Public Presentation on Tuesday 8th November 2022.
34. As a result of Evolution Power deliberately failing to produce, display or discuss any information about the solar generation station proposed by EDF as set out above, the people living the vicinity of Aldington are unable to make an informed decision and to be able to comment in an intelligent manner upon the collective adverse environmental impacts of Evolution Power's proposal with EDF's proposal and the existing solar generation station in Church Lane.

Cost of Solar Generation

35. Evolution Power deliberately failed to produce any proper statement of the likely percentage of each month that generation would take place.

36. Evolution Power deliberately failed to produce any proper statement of the costs and alternative costs of solar generation, in particular it failed to explain and discuss the significant costs of having standby generation stations.
37. Evolution Power deliberately failed to produce any proper statement as to how and by what means that standby generation would take place.
38. Evolution Power deliberately failed to produce any proper statement on the costs to third parties of its proposal.

Planning Blight

39. Regardless of whether the DCO is made or not, the mere publication of the two proposed solar generation schemes has and will continue to cause generalised planning blight within and surrounding the village of Aldington.
40. Generalised planning blight applies to properties who do not meet the statutory blight criteria, but whose property value is nevertheless adversely affected by the general level of market uncertainty that major development schemes and proposals of this magnitude can cause.
41. In this case both EDF and Evolution Powers proposals will cause not only very significant planning blight to those houses adjacent to the schemes but given the huge nature of both schemes there is bound to be a general planning blight in the whole village.
42. If constructed, these two huge schemes, on a truly industrial scale, will cause a significant reduction in house values. That financial loss to individual residents is part of the costs of these schemes, for which no compensation is offered by either company.
43. At present when driving south along Station Road and crossing the railway line one is presented with a truly impressive view of the open countryside across the valley and up to the ridge at Roman Road, a distance of over a mile. This view amongst other views sets Aldington in a rural location, whereas in the future if Evolution Power's and EDF's proposals are constructed the view from this position and other important viewpoints will be of a huge industrial landscape.
44. Instead of being a rural village set in attractive countryside it will become a village set in a huge industrial area.

45. Evolution Power deliberately failed within its consultation statement and other public documents to discuss the significant adverse effects the proposed solar generation stations are having and will have upon the desirability of people living in the rural village of Aldington and thereafter failed to discuss the reduction in the value of houses within the village.
46. As a result of Evolution Power deliberately failing to produce, display or discuss any information about the planning blight, as set out above, the people living in the vicinity of Aldington are unable to make an informed decision and to be able to comment in an intelligent manner upon the planning blight and the reduction of the value of their homes.

Other issues that need to be addressed

47. We have no doubt that other people within the village of Aldington will make numerous submissions concerning the adverse effects upon the environment, for example: habitat loss, loss of agricultural land and food production, pollution of the soil, air and water resources, loss of important views across the open landscape etc., most of which are matters with which we would agree, if Evolution Power had dealt with the major concerns which we have set out above.
48. As stated in paragraph 15 above, the company reserves the right to amend its response and to deal with many of the issues which concern other villagers once a full and proper statutory consultation has taken place.

Yours faithfully



John A King

Director

Save Aldington Group Limited