
Appeal Decision

Site visit made on 19 May 2016

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 June 2016

Appeal Ref: APP/G1630/W/16/3141634

Land at Highnam Farm, Two Mile Lane, Highnam, Gloucestershire GL2 8DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Highnam Farm Solar Ltd against the decision of Tewkesbury Borough Council.
 - The application Ref 15/00410/FUL, dated 8 April 2015, was refused by notice dated 24 November 2015.
 - The development proposed is construction of a ground mounted solar PV generation project and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for construction of a ground mounted solar PV generation project and associated works on Land at Highnam Farm, Two Mile Lane, Highnam, Gloucestershire GL2 8DW in accordance with the terms of the application, Ref 15/00410/FUL, dated 8 April 2015, subject to the conditions in the attached schedule.

Main Issues

2. Having regard to the reasons for refusal and taking into account the statutory duty set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), that special regard must be paid to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess, the main issues are as follows:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect on the settings of listed buildings and other heritage assets;
 - The effect on best and most versatile agricultural land (BMV): and
 - Whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that might be caused.

Reasons

The site and surroundings

3. The site consists of about 11.8 hectares of arable land in a single much larger field in open countryside between Two Mile Lane and Highnam Woods. The land slopes very gently upwards to the north and has a raised area aligned roughly
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north/south in the centre, marked by occasional trees and formerly the line of hedge field boundaries. The original application included solar panels in the area to the east adjacent to Two Mile Lane but this was removed after consultation. The village of Highnam lies a little further to the east but is not generally visible from the site.

Policy background

4. The development plan includes saved policies of the Tewkesbury Borough Local Plan to 2011 adopted in March 2006 (LP), and the Gloucester /Cheltenham /Tewkesbury Joint Core Strategy (submission version) of November 2014 (JCS). LP policy LND4 advises that in considering proposals for development in rural areas other than the area of outstanding natural beauty (AONB), special landscape area, and landscape protection zone, regard will be given to the need to protect the character and appearance of the rural landscape. The appeal site does not lie within any designated landscape area. LP policy EVT1 advises that renewable energy installations will be supported provided that they do not adversely affect the quality of any designated landscape such as an AONB.
5. JCS policy SD7 expresses similar objectives to LND4 and says that development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being. *'Proposals will have regard to the local distinctiveness and historic character of the different landscapes in the JCS area, drawing, as appropriate, upon existing Landscape Character Assessments and the Landscape Character and Sensitivity Analysis. They will be required to demonstrate how the development will protect or enhance landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement or area'.*
6. Policy INF6 of the JCS advises that proposals for the generation of energy from renewable resources, or low carbon energy development, will be supported, provided that the wider environmental, social or economic benefits of the installation would not be outweighed by a significant adverse impact on the local environment, taking into account a number of factors the impact (or cumulative impact) of the scheme, including any associated transmission lines, buildings and access roads, on landscape character, local amenity, heritage assets or biodiversity. Proposals are more likely to be supported when they demonstrate amongst other things that they have been designed and sited so as to minimise any adverse impacts on the surrounding area.
7. The relevant LP policy is consistent with the corresponding aims of the National Planning Policy Framework (NPPF) of 2011 and attracts very significant weight. The JCS is an overarching strategic plan for the wider area covered by the three Councils and was submitted for examination in late 2015. As it is not yet adopted it carries only limited weight; however its aims are also consistent with the NPPF.
8. National policy as a whole supports and encourages the development of renewable energy sources. Photovoltaic (PV) is a key technology in achieving this. Whilst section 11 seeks to conserve and enhance the natural environment, paragraph 97 indicates that to help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from

renewable or low carbon sources. They should have a positive strategy to promote energy from renewable and low carbon sources; design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts. The NPPF says at paragraph 98 that applicants for energy development should not have to demonstrate the overall need for renewable or low carbon energy. Applications should be approved if their impacts are (or can be made) acceptable. Local authorities (or decision makers) should follow the approach set out in the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3), read with the Overarching NPS for Energy (EN-1), both dated 2011. Most relevant to the appeal proposal is paragraph 5.9.18 of EN-1 which says that all proposed energy infrastructure is likely to have visual effects for many receptors around proposed areas and that a judgement has to be made on whether the visual effects on sensitive receptors, such as local residents and visitors to the area, outweigh the benefits of the project.

9. Paragraph 112 of the NPPF advises that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
10. National planning policy guidance (PPG) advises that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. Particular factors a local planning authority will need to consider include (as relevant to this scheme):
 - Encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;
 - Where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. The guidance makes specific reference to a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013, in which the Minister encourages development on brownfield land, low grade agricultural land and on buildings; and to a Written Statement to Parliament in March 2015. The Written Statement sets out the Government's most recent aims on solar energy development amongst other streamlining objectives. The Secretary of State said amongst other things: *'We are encouraged by the impact the guidance is having but do appreciate the continuing concerns, not least those raised in this House, about the unjustified use of high quality agricultural land. In light of these concerns we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence. Of course, planning is a quasi-judicial process, and every application needs to be considered on its individual merits, with due process, in light of the relevant material considerations.'*

11. The planning guidance also states in relation to all renewable energy development that the need for renewable or low carbon energy does not automatically override environmental protections; cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases; local topography is an important factor in assessing whether wind turbines and large scale solar farms could have a damaging effect on landscape and recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas; and great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting.

Character and appearance

12. The Landscape and Visual Impact Assessment (LVIA) submitted with the application advises that the site lies within the Gloucester Landscape Character Assessment Type (LCT) *Vale Hillocks*. Key characteristics of the *Vale Hillocks* include distinct low hills and ridges rising above the surrounding vale and floodplain landscape associated with a succession of River Severn river terraces; rich fertile alluvial soils; woodland blocks providing a textural backdrop; villages on the upper slopes of some hillocks (such as Highnam); long distance views possible from roads and footpaths crossing the hillocks.
13. The A40 passes near the southern edge of the scheme but does not influence the character of the landscape significantly in this location. The site generally has an air of quiet rural tranquillity. The existing field is of a large scale and this is the most prominent characteristic, defining the area along with the extensive Highnam Woods. The proposed panels would occupy a relatively narrow part of the field to the west with a buffer zone against the edge of the wood. The line of original hedgerows would be reinstated in the centre of the field which would screen the development from Two Mile Lane. Due to the scale of the field, the restoration of the old field boundaries and the limited area utilised, the detrimental impact on the character of the landscape would be moderate to begin with but significantly less when screening and hedgerow planting develops.
14. As for visual amenity, the people affected would include those living, working, walking, cycling, riding and driving through the area, of whom residents and recreational users should be regarded as being of high sensitivity. Importantly, the location of the panels on the other side of a low rise in the land behind a re-instated hedge is likely to prevent any passers-by from knowing that it occupies a fairly significant area of land. Views of solar panels from dwellings would be limited to intermittent locations along Two Mile Lane, cottages on the corner of Two Mile Lane and the A40, and at Beauchamp Lodge on the A40 to the south. In all cases, the reductions to the scheme during the consultation process prevent any significant views being obtainable except at Beauchamp Lodge, where panels are proposed immediately to the rear. However, most windows in this dwelling face south and screening planting is proposed at the field edge to limit the visual impact. I do not consider that with screening, the visual impact would be unacceptable.
15. A public footpath crosses the northern end of the area proposed for development, but extensive screening is intended to be planted in the form of a

woodland buffer. When mature, after 5-10 years, this will effectively prevent walkers from experiencing the detrimental visual aspects of this solar development, which in any case would be a very brief interlude for walkers. This change in experience does not weigh heavily against the scheme.

16. There would be a long distance view of panels from high points in Robinswood Hill Country Park in Gloucester, about 6.5 km away, but it would form only a small element in the view along with industrial sheds and much other built development in the foreground. I conclude on character and appearance that there would be a minor/moderate level of harm in the immediate area in the initial stages of the scheme, reducing with time. The conflict with LP policy LND4 needs to be considered in the balance.

Settings of listed buildings

17. The nearest listed buildings to the development consist of a (now) semi-detached pair of Grade II listed cottages at the junction of Two Mile Lane and the A40. Their heritage interest stems mainly from the original use as a chapel in the 15th century and the subsequent alterations in the 17th, 19th and 20th centuries. The surrounding fields, which have significantly changed in size and farming methods since 1900, make only a limited contribution to their heritage significance. Solar panels would be no nearer than about 200 metres (m) to the west and north. In these circumstances, the effect on heritage significance would be negligible.
18. A listed barn and shelter sheds at Highnam Farm in Two Mile Lane would be too far away to be affected to any significant extent.
19. I have had regard to all the other heritage assets referred to in the representations including the Grade I listed assets of the Church of the Holy Innocents and the 17th century Highnam Court and its Registered Park and Garden (RPG) which lie about 1 km to the east. However there is likely to be no or very little inter-visibility between the site and these assets. The development would not significantly affect views of the church spire from any public viewpoint.
20. The harm identified would fall well within the category of 'less than substantial' in terms of the advice in paragraph 134 of the NPPF. Nevertheless, in accordance with that advice, it needs to be considered in the balance. Considerable importance and weight attaches to the desirability of preserving the setting of listed buildings.

BMV land

21. According to the survey plan ref KCC1975/02/06/15ffi produced by Kernon Countryside Consultants, the original site area of 34.8 ha (of which 19.9 ha were to be developed) consisted of 78% Agricultural Land Classification category 3b land, 11% at grade 3a, and 11% at grade 2. The revised site layout which is subject to this appeal would occupy land of almost all grade 3b land with only a small area at grade 3a. Accordingly, the great majority of the proposed area for development is not BMV land according to the NPPF and is not specifically protected from development. Whilst I appreciate that it is useful for agricultural production, that has to be considered in the balance with the benefits of renewable energy which has its own advantages in terms of helping to reduce emissions and tackling climate change.

Other matters

22. I have taken account of all the other points raised. There would be very little potential for a cumulative impact with a scheme for a solar installation at Over Farm about 2 km to the east because of topography and screening. Whilst both schemes would, in theory, be visible together from Robinswood Hill Country Park, this development would not be a strong feature due to topography and screening. Other more prominent aspects of the view would attract the eye much more such as buildings in the city of Gloucester. The likely effect of the scheme on biodiversity is likely to be positive, given the existing intensive monoculture use. There is no indication that the panels would lead to glare or an unacceptable or unsafe level of reflection.
23. Local occupiers point to difficulties with run off from the fields leading to flooding in Two Mile Lane and the A40. However a mitigation scheme has been provided which assesses the lower risk associated with avoiding heavy farming machinery, reseeding with meadow grass and grazing with sheep as proposed. With French drains around the substation designed to absorb water run-off, I am satisfied that the risks of flooding increasing would be negligible.
24. Objections have been raised based on the effect on property values but this is not a planning matter.

Overall balance

25. The production of up to 6.3 MW of renewable energy producing energy for approximately 1909 homes is a very significant factor in favour, along with the associated reduction in carbon dioxide emissions and the contribution that would be made to addressing climate change. The development would lead to a significant and useful increase in solar renewable energy in the Tewkesbury and Gloucester area, substantially helping the Council in its aim to support and encourage the generation of energy from renewable sources, which all communities have a responsibility to contribute to. The scheme would add a new income stream to the land holding, in line with the diversification objectives of LP policy AGR4. The return of the land to arable production after 25 years means that it would not be taken out of production in the long term and the intention to continue to use the land for grazing, as set out in the LVIA at paragraph 6.7 and in other places, carries important weight.
26. There would be an initial degree of harm to landscape character and visual amenity within a short distance of the site but this would only moderately diminish the overall landscape character of the area and would reduce with time. There would be an insignificant effect on the settings of Grade II listed buildings at 1 & 2 Two Mile Lane. There would be no effect on the listed barn and shelter sheds at Highnam Farm.
27. Overall, the balance lies firmly in favour of the scheme. There is a most compelling argument in favour of granting planning permission. The scheme would comply with LP and emerging JCS policies viewed as a whole. The proposal would be in accordance with national policy in the NPPF and the advice in PPG and should be permitted.

Conditions

28. Conditions are necessary to control the period of the permission and to ensure decommissioning takes place; and to ensure that in the event of the panels

failing to supply electricity to the grid for more than 6 months, the development is removed. It is necessary that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. In the interests of the character and appearance of the area, the external details of inverter housings, the transformer, fencing and CCTV poles need to be approved prior to commencement. There is a likelihood that interesting archaeological features associated are present but no condition is necessary because the supports for the panels would be surface mounted and do not involve ground penetration.

29. The perimeter planting and landscaping measures need to be implemented in accordance with the correct up to date planting plan which is listed. Full details of the proposed landscaping and planting are necessary together with measures to protect existing vegetation and ensure that new hedging becomes properly established. No permanent external lighting is a requirement to avoid the area diminishing the generally dark skies that are typical of rural areas. The use of the land for grazing as set out in the LVIA is an important benefit and needs to be assured by means of a Solar Farm Grazing Management Plan, which needs to include a minimum number of animals or birds during any period of 12 months. Biodiversity interests need to be protected by means of a Construction Environmental Management Plan (CEMP: Biodiversity). The installation of measures to prevent an unacceptable increase in flooding in the form of run-off needs to be assured.
30. A Construction Management Plan (CMP) is necessary to ensure that the works are carried out without undue detriment to nearby occupiers and in the interests of highway safety and wildlife. This includes measures to control construction traffic involved in the construction and dismantling of the scheme to avoid unnecessary highway safety risk on Two Mile Lane, and to protect the character of the area. As no inverters are located near any residential property, no noise condition is necessary.
31. For all the above reasons, the appeal should be allowed.

Paul Jackson

INSPECTOR

Schedule of 12 conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall only be carried out in accordance with the following approved plans:
 - Site layout/Solar design No. S2100-1000 revision D dated 16 October 2015
 - Anthony Jellard Associates Landscape Strategy Plan 2357.02

- 3) Notwithstanding the details submitted with this application, prior to the commencement of the development hereby approved, full details of the PV panels, mounting frames, concrete platform supports, the external appearance of the inverters, substation, boundary fencing and the locations and design of any CCTV cameras proposed shall be submitted to, and agreed in writing by, the Local Planning Authority. The development shall be constructed, operated and retained in accordance with the approved details.
- 4) The ecology bio-enhancement measures for the solar farm scheme hereby approved shall be implemented in accordance with the Habitat and Biodiversity Management Plan dated August 2015 prepared by enims Ltd (Project E809) and the mitigation strategy proposed by Anthony Jellard Associates. The planting and enhancement measures shall be carried out no later than the first planting season following the commencement of development of the solar farm. Any trees/shrubs/plants which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the Local Planning Authority.
- 5) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:
 - a) A risk assessment of potentially damaging construction activities;
 - b) Identification of biodiversity protection zones;
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d) The location and timing of sensitive works to avoid harm to biodiversity features;
 - e) Responsible persons and lines of communication; and the
 - f) Use of protective fences, exclusion barriers and warning signs.The approved CEMP: Biodiversity shall be implemented and adhered to throughout the construction period of the development hereby approved.
- 6) No permanent lighting of any kind shall be erected anywhere within the site without the prior written agreement of the local planning authority.
- 7) The permission hereby granted is for the proposed development to be retained for a period of not more than 25 years from the date that electricity from the development is first supplied to the grid (the First Export Date), this date to be notified in writing to the Local Planning Authority. By the end of the 25 year period the solar panels must be decommissioned. No later than 6 months after decommissioning, all related structures shall be removed and the site restored in accordance with a restoration scheme which has been submitted to and approved in writing by the Local Planning Authority. The restoration scheme shall be submitted to the Local Planning Authority no less than 6 months prior to

decommissioning and shall make provision for the dismantling and removal from the site of the solar PV panels, frames, platform foundations, inverter housings and all associated buildings, structures and fencing. The Local Planning Authority must be notified of the cessation of electricity generation in writing no later than five working days after the event.

- 8) If the development hereby permitted fails for a continuous period of 6 months to produce electricity for supply to the electricity grid network, then, unless otherwise agreed in writing with the Local Planning Authority, the solar panels and the ancillary equipment relating to it shall be decommissioned and removed from the site in accordance with a scheme to be submitted to the Local Planning Authority no more than 3 months after the end of the 12 month period. The scheme shall make provision for the dismantling and removal from the site of the solar PV panels, frames, foundations, inverter housings and all associated structures and fencing; and the repair of land drainage. The land shall be reinstated in accordance with the scheme within a period of 6 months after the end of the 12 month period.
- 9) No development shall take place, including any ground works or demolition, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CMP shall be adhered to throughout the construction/decommissioning periods for the solar farm and shall provide details of the provision of:
 - i. The parking of vehicles of site operatives and visitors;
 - ii. Loading and unloading of plant and materials;
 - iii. Storage of plant and materials used in constructing the development; and
 - iv. Wheel and underbody washing facilities.
- 10) Surface water drainage measures for the site for the development hereby approved shall be carried out in accordance with the revised Flood Risk Assessment as prepared by Callidus Transport and Engineering dated June 2014 ref TE1182/RB/502/A and updated to take account of the impermeable areas now proposed. The approved development shall not come into use until all the specified measures have been provided. The specified measures shall be retained and maintained for the life of the development.
- 11) No development shall take place until a Maintenance Plan detailing maintenance arrangements, including who is responsible for different elements of the drainage system and the maintenance activities/frequencies to be carried out, including yearly logs of maintenance, throughout the life of the development has been submitted to the Local Planning Authority and approved in writing. The Maintenance Plan shall be implemented and retained.
- 12) No development shall take place until a Solar Farm Grazing Management Plan (SFGMP) has been submitted to and agreed in writing by the Local Planning Authority. The SFGMP shall describe the methods by which grazing will be maintained throughout the period during which the development is operational. If for any reason grazing fails to occur for a

period of more than 12 months then, unless otherwise agreed in writing with the Local Planning Authority, the solar panels and the ancillary equipment relating to it shall be decommissioned and removed from the site in accordance with condition 7 above.