
Appeal Decision

Site visit made on 23 May 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 19 September 2016

Appeal Ref: APP/P1045/W/16/3145328

Land off Derby Lane, Alkmonton, Ashbourne, Derbyshire DE6 3DH

- 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 Mr B Humphries against the decision of Derbyshire Dales District Council.
 - The application Ref 15/00755/FUL, dated 19 October 2015, was refused by notice dated 15 December 2015.
 - The development proposed is the installation of 250KW solar array and associated access.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a 250KW solar array and associated access at Land off Derby Lane, Alkmonton, Ashbourne, Derbyshire DE6 3DH in accordance with the terms of the application, Ref 15/00755/FUL, dated 19 October 2015, subject to the conditions set out in Annex A.

Main Issues

2. The main issues in the appeal are:
 - The effect of the proposed solar array on the character and appearance of the surrounding countryside; and
 - Whether or not any identified adverse effects would be outweighed by the renewable energy, and other benefits of the proposal.

Reasons

The site, the surrounding area and the proposal

3. The appeal site forms part of a field used for the grazing of animals, on the edge of the village of Alkmonton. There are a couple of stable blocks in nearby fields, but other than these the nearest buildings are the houses in the village. A public footpath crosses part of the site. The field has a hedgerow boundary to Derby Lane, but the other boundaries are marked by a timber fence.
 4. The site and the fields to the east and north are relatively flat, but generally the surrounding countryside is gently undulating, with the land to the south and west of the site dropping away. Despite this, the site is at a similar level to the road and fields to the north, and the village to the east, and as such, I do not agree with the Council's view that it occupies an elevated or overly prominent position. The area is generally used for pastoral farming with small
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to medium sized fields surrounded by hedgerows and boundary trees, and occasional areas of woodland.

5. The proposal is the construction of a solar array which would consist of 10 rows of panels with a maximum length of 112m. The solar panels would be aligned in an east – west direction, would be 1.8m at the highest point, and mounted on steel frames. A new access would be created to the site, and the wider field, from Derby Lane. The site is set in from the field boundaries on all sides.
6. Part of the hedgerow along Derby Lane would be removed to create the proposed access to the site. Other than this, the scheme proposes to retain, and augment this existing hedgerow which would also be allowed to grow higher, and to retain the boundary trees. It would supplement this with the introduction of new native hedgerows along the boundaries of the wider field that are currently marked by fences, and some new trees and shrubs. It is proposed that the planting and landscaping scheme would also improve the habitat for pollinating and predatory insects, and provide feeding and nesting opportunities for birds and small mammals. The intention is that the land would continue to be used for grazing between, and beneath, the solar arrays.

Landscape Effects and Visual Impacts

7. Policies CS5, NBE8 and SF4 of the Derbyshire Dale Local Plan (2005) sets out the principles for dealing with proposals within the countryside, and for renewable energy proposals specifically. Amongst other matters they seek to ensure that development preserves or enhances the character, appearance and local distinctiveness of the countryside, and minimises the harm to the landscape.
8. The appellant has indicated that the site forms part of the Needwood and South Derbyshire Claylands as defined by *The Landscape Character of Derbyshire*, and this has not been disputed by the Council. Within this it lies within an area classified as 'Settled Plateau Farmlands' which is characterised by gently rolling farmland, used mainly for pastoral farming, with small to medium fields surrounded by hedgerows, densely scattered boundary trees, and occasional small woodland blocks.
9. The narrow lanes with hedgerows often create a sense of enclosure in what is quite an intimate landscape, although more extensive views are sometimes possible including when looking east near the junction of Derby Lane and Leapley Lane, and when looking south from the footpath that crosses the site. It is a tranquil landscape with scattered farmsteads, small settlements, and only wooden telecommunication poles.
10. The site itself is not covered by any national or local landscape designation and the appellant has suggested that the landscape in the area has a medium/low sensitivity to change. This has not been disputed by the Council and nothing I have seen or read leads me to conclude any differently on this matter.
11. Despite being modest in size, the straight lines of the rows of panels and the horizontal emphasis of the scheme, to the extent that it would be perceived, would appear out of place in this rural landscape. However, importantly, the proposal would retain the field layout and the majority of the boundary hedges and trees. This, along with the additional planting of trees and hedgerows (which, even though it is proposed to plant semi-mature plants, I accept would

still take some time to mature) would not only maintain, but benefit, the landscape character of this side of Derby Lane, which uncharacteristically lacks boundary hedges at present. This new planting would give a much greater level of enclosure to the field and would also diminish the effect of the uniform rows of panels. Biodiversity improvements to the site would also be a benefit.

12. Bearing in mind the sensitivity and capacity of the landscape to absorb change, the degree of containment and enclosure, and the proposed mitigation, I consider that there would be an adverse, but not significant, effect on the landscape character of the area.
13. The extent of the visibility would vary from season to season, but due to the topography of the area, and the existing and proposed vegetation, long distance views of the site would not be possible. Some short to medium range views of the development would be possible from places along Derby Lane and Leapley Lane. However, the proposed planting, together with the proposed increase in height to the existing hedge, would restrict and soften these. From some of the houses on Leapley Lane, views may be possible especially from first floor windows, but even so these will often be interrupted by intervening vegetation, and the development would only occupy a small amount of the wider panorama. The greatest impact would be on the footpath that crosses the site where views will be uninterrupted, and thus there will be significant visual impact, albeit only for a short distance.
14. I have not been made aware of any other existing or consented solar developments in the immediate vicinity and saw none on my site visit. As such there is no cumulative impact to consider.
15. Overall, the proposal would cause slight harm to the landscape character, and the visual amenity of the area, as experienced by receptors on the footpath, would be significantly harmed. Thus there would be some limited conflict with the policies set out above.

Benefit arising from the provision of renewable energy

16. The proposed scheme is expected to generate 233 KWh per year which, on the basis of average household electricity consumption, has the potential to produce sufficient electricity for 70 homes. The development would not discharge any CO₂, and will reduce carbon emissions by 116 tonnes per annum. Even allowing for some CO₂ outputs in the manufacture of the solar panels this represents a sizeable saving over the lifetime of the project.
17. The provision of renewable and low carbon energy is central to the economic, social and environmental dimensions of sustainable development set out in the *National Planning Policy Framework* (the Framework). There is strong national policy support for the development of renewable energy sources, including solar power, to ensure the country has a secure energy supply, and to reduce greenhouse gas emissions. Although the scheme is modest in size, paragraph 98 of the Framework confirms that even 'small-scale projects provide a valuable contribution to cutting greenhouse gas emissions'. Moreover, it is not necessary for the appellant to demonstrate the overall need for the proposal.
18. The policy support for renewable energy given in the Framework is caveated by the need for the impacts to be acceptable, or capable of being made so, and local policies require the siting of developments to be appropriate.

Nevertheless, the renewable energy benefit of the proposal must be accorded substantial weight.

Other Matters

19. The appellant indicates that the land is classified as poor grade agricultural land, and this is accepted by the Council. The proposal would also allow for the continued grazing by sheep below the panel arrays, and I am not persuaded that should there be a need to spray weeds that this would prevent such grazing. I note that some would prefer solar panels to be incorporated onto new buildings rather than using fields. Nevertheless, on the basis of the evidence before me, the proposal would satisfy the advice in the Planning Practice Guidance (PPG) that where a proposal involves greenfield land, poorer quality land should be used in preference to higher quality, and that proposals should allow for continued agricultural use¹. Nor do I find any conflict with Policy SF6 of the Local Plan which seeks to protect the best and most versatile agricultural land. Whilst it has been suggested by some residents that the site is Green Belt land, the Council has not given any indication that this is the case.
20. I understand that both the church and the old schoolhouse, within Alkington are Listed Buildings. Due to the intervening buildings and vegetation the site cannot be seen from either of these buildings, and only the top of the steeple and the bell on top of the school house can be seen from the site. As the setting of a listed building is the area from which its significance can be experienced, given there is no clear visual link between the site and these assets, I consider the proposal would not impact on their significance or setting. It is stated by a resident that the field was one of the best examples of 'rig and furrow' in the county, although it is accepted that it has already been spoilt. Nevertheless, there is no evidence to indicate that this landform is protected, and it has been stated that no levelling of the site needs to take place to enable the development.
21. A number of concerns have been raised about the viability of the scheme given that the Feed-In Tariff is being reduced dramatically, and in the light of this it has been suggested that in the future housing or industrial development will be sought on the site. The viability of the scheme is a matter outside my remit, although the appellant has stated that it is financially viable. Furthermore, a proposal for housing or industrial development is not before me. I am dealing with the appeal on the basis that it involves the development of a solar array. The acceptability, or otherwise, of any other type of development would have to be considered by the Council, and does not constitute a reason for refusing this current application.
22. It has been suggested that the proposal would block the footpath across the site. However, the plans indicate that the only part of the site the footpath crosses is the access road, which would not be an impediment to its use, and that a new stile would be provided within the boundary treatment. As such I am satisfied that the proposal would not prevent the use of the footpath. Moreover, the limited height of the panels means that the scheme would not obscure the long distance views possible from the footpath.

¹ Paragraph ID 5-013-21050327

23. There are stables and horses grazing in the area, and it has been highlighted that advice from the British Horse Society is that arrays should be avoided where the glare will affect a bridleway or equestrian business. Be that as it may, there is no evidence to indicate that there are any bridleways from where the array can be seen, and given the orientation of the panels, any horses using the adjacent stables, or grazing in the adjacent field, would be unlikely to be affected by any glare. I note the comments about whether these stables are being used, but that is not a matter that has any bearing on this appeal.
24. It is suggested that the proposal would harm tourism, although I have not been made aware of any tourism related businesses within the immediate area. Whilst tourism can rely considerably on the quality of the countryside, the effect on this asset has already been assessed above. I am not persuaded that the changes to the landscape in this case would lead to the loss of viability to any existing business.
25. In support of the appeal my attention has been drawn to a case in Suffolk which the Secretary of State dismissed as it was considered it had a major adverse impact on the landscape, and would result in the loss of land from productive agricultural use for 25 years. I do not have the full details of this case, and so cannot be sure that it represents a direct parallel to the appeal proposal. In any case, here the land would still be able to be used for grazing, and I have concluded that the adverse impact to the landscape would be outweighed by the benefits of the proposal. In addition, I have considered the argument that a grant of planning permission would set a precedent for other similar schemes around the village. However, each application and appeal must be determined on its own merits, and a generalised concern of this nature does not justify withholding permission in this case.
26. The construction of the solar array would result in some additional traffic movements, but this would only be for a temporary period. In the light of the lack of objection by the highways authority, and from my own observations, I am satisfied that, subject to conditions, these additional movements could be safely accommodated within the existing highway network. Therefore, this matter does not weigh against the proposal. Whilst I note the concerns about lorries going to existing agricultural enterprises, and other businesses in the area, and commuter traffic that also goes through the village, these are matters outside the remit of this appeal.

Planning Balance, conclusion and conditions

27. The Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable future. Although modest in scale, the appeal scheme would make a valuable contribution to cutting greenhouse gas emissions, and this attracts substantial weight. The proposal would also have some biodiversity benefits to which I give limited weight. Set against this, whilst the proposal would have some benefits to the landscape, overall it would cause some limited harm to the character and appearance of the countryside, and significant visual harm for receptors using a short stretch of the footpath. These effects would be reversible, and the most severe aspects would be localised.
28. National policy advises that renewable energy projects should be located where impacts are, or can be made, acceptable. That is the case here, and hence the

proposal can be said to be sustainable when assessed against the Framework as a whole, and would also accord with Policy CS5 of the Local Plan.

29. For the reasons set out above, I conclude the appeal should be allowed.

30. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans, as this provides certainty. In the interests of visual amenity and ecology, conditions are required to ensure the landscaping of the site, and the submission of a biodiversity management plan. It is reasonable and necessary to limit the period of the permission, and to require that the site is decommissioned when energy generation ceases. In the interests of highways safety conditions are needed to ensure the creation of the new access, and that during construction adequate space is provided for the storage of materials, and the parking and manoeuvring of vehicles.

Alison Partington

INSPECTOR

Annex A

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 be carried out in accordance with the following approved plans: Site Location Plan; Site Plan Drawing No H228/10; Landscape Scheme Drawing No 1411-01; and Section through solar panel scale 1:20.
- 3) This permission shall expire within 20 years from the date when electricity is first exported from the solar farm to the electricity grid (the 'First Export Date'). Written notification of the First Export Date shall be given to the local planning authority no later than 14 days after this event
- 4) Within 3 months of the solar array ceasing to be used for the generation of electricity, or the end of this permission, whichever is the earliest, the array, and associated infrastructure, shall be permanently removed from the land, and the site restored to its former condition in accordance with details to be submitted to, and approved in writing by, the local planning authority prior to these works being carried out.
- 5) All landscaping set out in Drawing No 1411-01 shall be carried out in the first planting and seeding seasons following the commencement of the construction works; and shall be protected from damage from vermin or stock. All proposed hedges and all existing hedges shown on the above plan to be retained, should be allowed to grow to a minimum height of 2m and thereafter retained at least at this height. Any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 6) No other development shall take place until the new access to Derby Lane, shown on the approved plans, has been completed. The access shall be provided with an emerging visibility splay of 2.4m x 103m in the south western direction throughout the construction phase, with the area in advance of the sightline being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
- 7) No other development shall take place until space has been provided within the site for the storage of plant and materials, site accommodation, loading, unloading, manoeuvring and turning of goods, delivery and service vehicles, parking and manoeuvring of employees and visitor vehicles in accordance with details previously submitted to, and approved in writing by, the local planning authority. Once implemented the facilities shall be retained free of any impediment to their designated use throughout the construction period.
- 8) The array hereby permitted shall not be brought into use until a biodiversity management plan for the site has been submitted to, and approved in writing by, the local planning authority. The plan shall include specifications, and positions, of all ecological enhancement

features and habitats, and a programme of implementation for such measures. The biodiversity management plan shall be carried out, as approved, for the lifetime of the scheme.