
Appeal Decision

Site visit made on 5 July 2016

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Decision date: 11 October 2016

Appeal Ref: APP/H0928/W/16/3146738

Land at Town End Farm, Skelton, Cumbria CA11 9TZ

- 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 RALOS new Energy UK Ltd against the decision of Eden District Council.
 - The application Ref 15/0658, dated 22 July 2015, was refused by notice dated 29 October 2015.
 - The development proposed is the installation of a 5MWp SOLAR PV FARM.
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of a 5MWp SOLAR PV FARM at land at Town End Farm, Skelton, Cumbria CA11 9TZ in accordance with the terms of the application, Ref 15/0658, dated 22 July 2015, subject to the conditions set out in the Annex to this decision.

Application for costs

2. An application for costs was made by RALOS new Energy UK Ltd against Eden District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposal on the surrounding area in terms of landscape character and visual impact, the effect on nearby heritage assets and whether any harm, in the light of the development plan, would be outweighed by the national objective of promoting renewable energy generation.

Reasons

Background and policy

4. The appeal site comprises 2 no. level fields that are bounded by hedgerows and laid to grazing pasture. They extend to around 8.6ha of which around 2.94ha would be covered by solar panels. The fields wrap around a linear block of woodland (Roadends Wood) that is aligned north-south. The appeal site and the surrounding landscape are not covered by any statutory landscape designations. The appellant's uncontested *Agricultural Land Classification Report* confirmed that the appeal site is a mixture of moderate and poor quality agricultural land.
-

5. Proposed is the installation of ground-mounted solar arrays, set in rows running east to west across the site, spaced around 6.25m apart, facing due south at an angle of 20-22°, with a maximum height of around 2.2m. Buffer strips are proposed around the perimeter and the central block of woodland. Also proposed are 3 no. transformer buildings (around 2.20m wide, 4.73m long and 2.89m high), a substation (around 2.43m wide, 6.06m long and 3.40m high) and perimeter fencing (around 2.4m in height). Access would be gained by way of the existing 2 no. field accesses, and all existing trees and hedgerows would be retained and enhanced with additional planting to reinforce the screening of the development. The proposal, which would supply electricity to the National Grid, is for a time limited permission of 25 years.
6. The National Planning Policy Framework (NPPF) makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development and paragraph 93 makes clear that the provision of renewable energy infrastructure is central to the economic, social and environmental dimensions of sustainable development. This is reflected in the planning practice guidance (PPG) which states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. It goes on to state that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
7. The PPG also makes clear that there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology, and critically, the potential impacts on the local environment, including from cumulative impacts. The PPG points out that the need for renewable energy does not automatically override environmental protections or the planning concerns of local communities, making clear that "renewable energy developments should be acceptable for their proposed locations". The PPG further advises that "solar farms can have a negative impact on the rural environment, particularly in undulating landscapes" although the "visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively". It is clear from the PPG that the loss of the best and most versatile agricultural land would need to be justified by compelling evidence.
8. Policy CS20 of the adopted Eden Core Strategy Development Plan Document (CS) is supportive of proposals for renewable energy if there is no significant adverse effect on landscape character, biodiversity, natural heritage or local amenity and if all practicable measures are taken to reduce such impacts. CS policies CS3 and CS16 amongst other criteria seek to support rural economic diversification, protect the open countryside, promote sustainable development and protect the natural environment. Saved policy NE1 of the adopted Eden Local Plan (LP) and CS Policy CS18 require new development in the countryside to protect, and where possible, enhance the distinctive rural landscape. These policies reflect those of the NPPF which in paragraph 98 states support for renewable energy development if its impacts are (or can be made) acceptable.

Landscape character and visual impact

9. I observed that the local landscape is undulating with higher ground to the southwest of the appeal site. Hedgerows with occasional trees are common as are areas of woodland and forestry plantations. The nearby Skelton Transmitter Station contains an array of tall masts and pylons while the B5305 passes close by as does the M6 motorway. Surrounding settlements include Skelton (around 1km southeast), Ellonby (around 1km southwest) and Lamonby (around 1.8km west), while local footpaths and stretches of the National Cycle Route/Pennine Cycle Route are all within 500m of the appeal site.
10. The closest dwellings would be Skelton Road End Cottages and Hardrigg Hall located around 80m east and 350m southwest of the proposal respectively. No footpaths cross the site although one is situated immediately to the northwest from where the proposal would be highly visible. The boundaries of the Lake District National Park and North Pennines Area of Outstanding Natural Beauty are located around 5km west and 18km east of the proposal respectively.
11. The proposal would be situated within National Character Area (NCA9) *Eden Valley*. This is characterised as an intimate blend of undulating mixed farmland with significant areas of woodland, farm copses, mature hedgerow trees, stone walls and historic villages. This sense of shelter and containment is enhanced by the juxtaposition with its 'wilder' upland neighbours. NCA9 is also characterised by high levels of tranquillity although this is reduced in the area of the appeal site, due to the presence of the Skelton Transmitter Station with its visual clutter and the B5305 road corridor with its movement and noise.
12. Characteristics of note in the surrounding landscape are the undulating rural valley landscapes which contrast with the nearby uplands; the managed estate and farm woodlands with numerous shelterbelts, copses and mature hedgerow trees giving a well-wooded character; medium to large rectilinear fields with varying condition hedges and field boundaries; the nucleated and linear settlements along with dispersed farms, and the narrow road network often with tall hedges and walls.
13. The local landscape character is assessed as Type 6 *Intermediate Farmland* in the "Cumbria Landscape Character Guidance and Toolkit". This is described as a large-scale open landscape of intermediate farmland that occurs between lowland and rolling upland areas. The land use is predominantly grazing land bound by hedgerows and stone walls. The adjoining landscape character (to the west of the site) is Type 12c *Limestone Foothills*. This is described as rolling undulating topography with occasional plateaus and significant areas of commercial forestry plantations with an overarching sense of remoteness which is sensitive to large scale development.
14. The appellant submitted a Landscape and Visual Impact Assessment (LVIA) which includes 6 representative view points and a Zone of Theoretical Visibility (ZTV). This was supplemented by 15 additional viewpoints. The LVIA concludes that the proposal would have very limited localised landscape and visual effects and that the wider ZTV would not be affected. Given the topography of the land, surrounding land uses and existing planting in the area, I agree with the LVIA conclusions. In my judgement, while the proposal would introduce a significant feature with an industrial appearance into this rural setting, its effect on landscape character and its visual impact would be very limited beyond a

1km radius. In general, views of the proposal would be tempered by vegetation and topography (LVIA viewpoints 1-6 and additional LVIA viewpoints 1-15).

15. The most sensitive receptors are the nearby dwellings which would have limited views of the solar farm particularly once the boundary improvements have established. Views of the solar farm from users of the nearby roads and footpaths would be fleeting and transient, and seen in the context of the Skelton masts, a significant vertical infrastructure installation to the north of the proposal. As such the effect on landscape character would be one of limited harm and in terms of visual impact the effect would be of moderate localised harm.
16. Accordingly, while there would be no significant unacceptable effects in line with CS Policy CS20, the limited harm to local landscape character and the moderate visual impact harm would conflict with CS Policies CS3, CS16, CS18 and LP Policy NE1.

Effect on heritage assets

17. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral. The NPPF makes clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight attaches to the asset's conservation; the more important the asset, the greater that weight should be. Significance can be harmed through development within an asset's setting.
18. Historic England guidance, *The Setting of Heritage Assets*, indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset.
19. The significance of a heritage asset is defined in the NPPF as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. Significance may be harmed by a development and it is necessary to determine the degree of harm that may be caused.
20. I agree with the parties that the heritage assets that would be affected by this proposal as a development within their settings would be the Grade II listed Hardrigg Hall Farmhouse (around 330m south-west) and associated Grade II listed former barn (around 370m south-west) and the Grade II listed Pringle House (around 870m south-west). The fabric of these heritage assets would remain untouched by the proposal and from what I observed that is where the majority of their significance rests.
21. With regard to Pringle House, given the intervening distance, landform and the established trees around this heritage asset, I agree with the parties that inter-visibility between it and the proposal would be negligible. Given this very peripheral location in relation to Pringle House I consider that the proposal

would not impinge on the significance of the listed building. As for Hardrigg Hall Farmhouse and the associated former barn, the setting of these buildings has been significantly altered by modern agricultural buildings which stand between the heritage assets and the proposal. As such they greatly influence the setting of these listed buildings and obscure inter-visibility between them and the appeal site. I find therefore that the proposal would be unlikely to adversely affect the significance of the heritage assets as a development within their settings.

22. Accordingly, giving considerable weight to paying special regard to the desirability of preserving the setting of the listed buildings, I conclude that the proposal would not harm the setting of these historic assets as a development within their settings and would not conflict with paragraph 132 of the NPPF.

Other matters

23. I note from the officer report to the Council's Planning Panel, the conclusion is drawn that subject to conditions that could be attached to any grant of planning permission, there would be no negative effects arising from the proposal in respect of living conditions, glint and glare, loss of agricultural land, highway safety, ecology and flood risk. From my assessment of the submitted evidence, I have no reason to disagree.
24. I am aware of a similarly sized site solar farm proposal located approximately 2km to the south-east of this site for which an appeal has been made ref. APP/H0928/W/16/3143476. However, given the intervening distance and underlying topography I consider that there would be no resulting cumulative impact.

Benefits

25. The proposal would have a capacity of 4.99 Megawatts Peak (MWp) – enough to power approximately 1,300 homes. The development plan provides in-principle support for renewable energy and the NPPF at paragraph 98 recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The development would contribute to the generation of renewable energy which would assist in meeting national targets that seek to reduce carbon emissions in order to tackle climate change. It would also make a contribution to supporting rural enterprise and economic activity.

Conditions

26. I have considered the conditions put forward in the Council's Statement, which the appellant has accepted, in the light of the advice in the NPPF and PPG. In addition to the standard time condition and a condition specifying the approved plans (as agreed at the site visit) in the interest of providing certainty, various other matters need to be submitted for approval.
27. These are conditions in relation to implementing the recommendations of the Flood Risk Assessment, and ensuring the development is carried out in accordance with the Construction Environmental Method Statement and the Landscape and Ecological Management Plan respectively, in the interests of reducing flood risk, highway safety and biodiversity.

28. In addition, in the interests of securing the operational lifespan of the development, a condition is necessary to inform the local planning authority when electricity is 1st exported to the National Grid, along with a condition requiring the approval and implementation of a decommissioning scheme, in the interests of limiting the landscape impact. Finally, in the interest of visual amenity, a condition is necessary in respect of external lighting.

Planning balance and conclusion

29. In terms of the effects of the proposal, I have found that it would cause limited harm to local landscape character and would have a moderately harmful visual impact when seen from nearby vantage points. However, the benefits the proposal would bring which accrue from the generation of renewable energy that would contribute to cutting greenhouse gas emissions and counter climate change, objectives which are enshrined in Government policy and given statutory force in the Climate Change Act 2008, are substantial. Added to which, the economic benefits to a rural enterprise are significant.
30. Accordingly, taking this appeal on its planning merits, I consider that the harm to local landscape character and in terms of visual impact is not significant and is outweighed by the benefits of the proposal in accordance with CS20 and the NPPF paragraph 98. National policy advises that renewable energy proposals should be located where impacts are, or can be made, acceptable. That is the case here where the development would utilise poorer quality agricultural land avoiding the best and most valuable agricultural land. Hence the proposal can be said to be sustainable when assessed against the NPPF as a whole.
31. In my judgement, the harm arising would be clearly outweighed by the acknowledged environmental and economic benefits. Therefore, I conclude for the reasons given above that the appeal should be allowed.

Richard McCoy

Inspector

Annex

Conditions

- 1) The development permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby granted shall be carried out strictly in accordance with the details and plans hereby approved as listed below:

Plans:

- i. Site Location Plan - received 14 August 2015
- ii. Site Layout Plan - received 14 August 2015
- iii. Kaco Data Sheet - received 27 July 2015
- iv. SIK 47-22 R01 'Prefabricated Metal Substation' - received 14 August 2015

- v. SIK 47-22 R02 'Prefabricated Metal Substation' - received 14 August 2015
 - vi. 1038 WPD S – 1012 V3 'Substation Enclosure Outside' - received 14 August 2015
 - vii. 1038 WPD S – 1013 V3 'Substation Enclosure Inside' - received 14 August 2015
 - viii. 1038 WPD S – 1014 V3 'Substation Internal Layout' - received 14 August 2015
 - ix. 2015LYT_002_OA – 'Town End Farm Layout' - received 14 August 2015
 - x. LYT_02_OA – 'Town End Farm Module Layout' - received 14 August 2015
- Reports:
- i. Planning Statement Incorporating the Design and Access Statement
 - ii. Statement of Community Involvement – dated 10 August 2015
 - iii. Flood Risk Assessment – dated 22 July 2015
 - iv. Construction Environmental Method Statement Incorporating Traffic Management Plan – dated 22 July 2015
 - v. Landscape and Visual Impact Assessment – dated August 2015
 - vi. Ecology Habitat Phase 1 Survey – dated 13 August 2015
 - vii. Landscape and Ecological Management Plan – dated 22 August 2015
- 3) The conclusions included within chapter 5 of the Flood Risk Assessment dated 22 July 2015 shall be implemented in full within the first calendar year following the commencement of the development.
 - 4) The development shall be carried out in accordance with the Construction Environmental Method Statement Incorporating Traffic Management Plan dated 22 July 2015.
 - 5) The development shall be carried out in accordance with the Landscape and Ecological Management Plan dated 22 August 2015. All planting shall be carried out within the first planting season following the implementation of the permission with the planting maintained in accordance with the Survey for the lifetime of the permission including the replacement of any tree or shrub which is removed, becomes seriously damaged, seriously diseased or dies, by the same species.
 - 6) The permission hereby granted shall expire 25 years from the date when electrical power is first exported ('first export date') from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the local planning authority no later than one calendar month after the event.
 - 7) Within 6 months of the cessation of energy generation from the site, or a period of 25 years and 6 months following from the date when electrical power is first exported, whichever is the sooner, all infrastructure associated with the solar farm will be removed from the site and the site restored to its original condition in accordance with decommissioning scheme which shall be first agreed in writing with the local planning authority.
 - 8) There shall be no fixed external lighting installed on the site without the prior approval by the Local Planning Authority.