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## Appeal Decision

Site visits made on 28 and 29 September 2016

**by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI**

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

**Decision date: 21 November 2016**

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**Appeal Ref: APP/D0840/W/16/3146349**

**Land at Penhalurick Barton, Redruth, Cornwall TR16 6TG**

- 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 Solar Tech Ltd against the decision of Cornwall Council.
  - The Application Number:PA15/02336, dated 10 March 2015, was refused by notice dated 25 November 2015.
  - The development proposed is the "Installation of 5 MW ground mounted solar arrays with transformer stations; internal access track; biodiversity improvements; landscaping; fencing; security measures; access gate; and ancillary infrastructure".
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### Decision

1. The appeal is allowed and planning permission is granted for the installation of 3.637 MW ground mounted solar arrays with transformer stations; internal access track; biodiversity improvements; landscaping; fencing; security measures; access gate; and ancillary infrastructure at Land at Penhalurick Barton, Redruth, Cornwall TR16 6TG in accordance with the terms of Application Number:PA15/02336, dated 10 March 2015, and the plans submitted with it, as amended, subject to the conditions set out in the Schedule of Conditions attached to this decision.

### Application for costs

2. An application for costs was made by Solar Tech Ltd against Cornwall Council. This application is the subject of a separate Decision.

### Preliminary matters

3. The application was accompanied by a revised Environmental Statement (ES) pursuant to The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. I have had regard to the Environmental Information in determining this appeal.
4. Cornwall Council considered an amended application, which reduced the number of field parcels that would accommodate PV solar panels from five to two. The revision also reduced the height of the proposed panels from 2.36 m to 1.6 m<sup>1</sup>, and of the proposed CCTV poles from 4 m to 2.5 m. Fencing would be 2 m high deer fencing. The two proposed transformer stations would be 2.3 m high, and the two switchgear cabinets 2.3 m and 2.5 m high. The revisions to the scheme reduced the proposed area of arrays from 10 ha to 5.9 ha, and

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<sup>1</sup> This is the figure cited in the Report to the Strategic Planning Committee. Elsewhere in the documentation the parties refer to a panel height of 1.55 m. However, Drawing No:7165-1015 issue O shows a height of 1.588 m.

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reduced its installed capacity from 5 MW to 3.637 MW.

5. The amended scheme was the subject of consultation before the application was determined by Cornwall Council. Stithians Parish Council could not support the revised scheme because of concerns about visual and cumulative impact, run-off, loss of agricultural land and impact on proposed housing development in the locality. Lanner Parish Council was also unable to support the proposed development. There were 15 other objections to the revised scheme.
6. Cornwall Council refused the application, against officer recommendation for approval, on the grounds that the proposed development, within an Area of Great Landscape Value (AGLV), would have an unacceptable adverse effect upon the appearance and character of the landscape by reason of its size and siting, with the development appearing inappropriate when viewed by a significant number of receptors of varying sensitivity, including users of the local highway network, occupiers of nearby properties, recreational walkers and visitors to the recreational facilities at Stithians Reservoir. Cornwall Council considered that this harm was not outweighed by the benefits of the proposal in respect to the generation of renewable energy, and that the proposal was contrary to paragraphs 14, 98 and 109 of the *National Planning Policy Framework* (hereinafter the *Framework*).

### **Main issues**

7. The main issues in this appeal are:
  - (a) The effects of the proposed development on the character and appearance of the area.
  - (b) The compatibility of the proposed development with policy in respect of the generation of energy from renewable sources.
  - (c) Whether any harm that might be caused would be outweighed by the benefits of the scheme.

### **Planning policy**

8. There is currently no development plan for the area. I concur with Cornwall Council that little weight can be given to the emerging Cornwall Local Plan given the stage it has reached. I have had regard to the *Framework* and to the *Planning Practice Guidance* (hereinafter the *Guidance*). The latter provides that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. But adds that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. The *Guidance* also refers to particular factors that would need to be taken into account, including that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land restored to its previous use.
9. Paragraph 97 of the *Framework* also draws attention to the requirement that 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). There is no reason to find that EN-1 and EN-3 are not material considerations in determining this appeal.

## Reasons

### *Character and appearance*

10. The appeal site lies within landscape character area (LCA) 10: Carnmenellis in the *Cornwall and Isles of Scilly Landscape Character Study* 2007. This LCA is characterised by a gently undulating open and exposed elevated granite plateau, with small to medium scale fields enclosed by Cornish hedges, and adds that long views are possible from elevated areas. It was evident from my site visits that the locality has a remote and rural landscape character.
11. LCA10 is classified as having 'moderate - high' overall landscape sensitivity to solar PV development in Cornwall Council's broad strategy *Renewable Energy Planning Advice including Landscape Sensitivity and Strategy Matrices for LCAs*, which was adopted in 2016. The strategy here is for a landscape with occasional solar PV development of 1-5 ha (Band B) to 5-10 ha (Band C) located in sheltered folds in the landscape, with clear separation between installations, preservation of the strong field pattern and setting PV panels back from the edge of fields.
12. The fact that the locality was conferred AGLV status following a landscape character analysis undertaken in support of the now revoked Structure Plan is a material consideration. I also note that EN-1 states that such local landscape designations should not be used in themselves to rule out acceptable development. The weight to be given to the AGLV designation is also affected by the fact that it does not currently derive from any development plan policy. In determining the landscape and visual impact of the proposed development, I have given greater weight to the specific landscape evidence submitted about the site and its surroundings, along with what I saw at my site visits, and have had regard to this in the light of the provisions of the *Framework* and *Guidance*.
13. The solar array and associated infrastructure would be utilitarian structures in this countryside location. The construction of the panels, along with their regular arrangement in long rows, would be out of keeping with the character of the area. The man-made structure would be of a colour and texture that was not typical of its agricultural context, and so the proposed development would introduce a discordant element into the local landscape. In terms of the values used in the ES, I consider, with medium sensitivity to the proposed development, along with a moderate magnitude of effect, that the scheme would have an adverse impact of moderate significance on the landscape resource.
14. I turn next to visual effects. In terms of public vantage points the Zone of Theoretical Visibility indicates that the array would be seen from nearby roads, and from more distant vantage points to the east and south of the site. However, the reality, which was apparent on my site visits, is that local vegetation limits the extent of the visibility of these fields considerably. There would be few close up views into the array from local roads. The exception would be the view through the gateway on the lane between Four Lanes and Penhalvean, shown at VP8. Those passing this gateway in vehicles might have a fleeting glimpse of the panels. I suspect that few people would walk this route because it is narrow with little forward visibility for vehicles. I consider that the scheme would have an adverse effect of slight significance from this vantage point.

15. Further to the south-east, in middle distance views of some 700 m to 1 km (VP5, VP6 and VP7 including the Watersports Centre) the array, where visible, would be seen as a sliver of development contained within the existing field pattern, with some large agricultural buildings in the background in some views. The adverse visual effect would be, at worst, of moderate significance. This effect would diminish with greater distance, as is evident from VP11 and VP12 (approximately 1 km to 2 km). There would be some more distant views across the reservoir (VP14 at about 3 km). The array, where visible above the surrounding hedges, would appear as a sliver of development set mid-slope, again with some large agricultural buildings set higher up the slope and to one side of the array. Similar views, in this wider landscape context, would be apparent from those using the lake or bridleways and footpaths in the vicinity of the lake. In some of these views, from well used public vantage points, the scheme would have an adverse visual impact of moderate significance.
16. To the south-west and west (VP1, VP2, VP3 and VP4) the revised scheme would have a negligible effect on the visual amenity of the area. A 6 m long part of the roadside hedge would be removed to widen the existing gateway, but this could be reinstated post construction. This would not have a significant adverse effect on views along this part of the road. Overall, I find that the likely adverse visual effects would be localised and limited. The proposed development would have, at worst, an adverse effect on the visual amenity of the locality of moderate significance.
17. Penhalurick House would be some 90 m from the nearest part of the array. Views of some parts of the array would be possible from this property at times, especially from upstairs windows facing the site. However, it was evident at my site visit that any such views would not result in the scheme having a dominating or overbearing effect on the outlook from this property. Other dwellings in Penhalvean would be further away, and with intervening vegetation and the local topography, would not be significantly affected by the proposed solar array (VP9 and VP10). The same would apply to other properties near to the entrance of Stithians Lake and the Golden Lion Public House, which are further away.
18. There is local concern that the scheme would be too close to the existing array at Pencoose Farm, but given the separation distance of about 2 km, any in-combination or sequential cumulative impact would be unlikely to have a significant adverse effect on local residents or those passing through this area. Collectively, the schemes would not have a defining influence on the overall experience of the landscape.
19. The proposal would preserve the existing field pattern and would be clearly separated from other solar arrays in the wider area. Whether it would lie within a 'sheltered fold' in the landscape is a matter in dispute between the parties. There is nothing before me to indicate how the term is to be applied, and so it is open to some interpretation. From the available contour data it seems to me that there is a shallow depression to the east of the 185 m contour that crosses the two fields proposed for the array. The land then rises up gently again to above 185 m just to the east of the site. It was apparent from my site visit that this gentle undulation is likely to be sufficient variation in the local topography to be described as a 'fold' in the landscape. It is more difficult to say where the fold starts, and to what extent it is 'sheltered', as the western parts of the fields rise up uniformly from 190 m AOD to 195 m AOD.

Nevertheless, it seems to me that the two fields proposed for the array reasonably meet the requirements for Band C development as set out in Cornwall Council's adopted strategy.

20. On the first main issue, I consider that the proposed development would have an adverse effect of moderate significance on the character and appearance of the area.

#### *Renewable energy*

21. Based on an installed capacity of 3.637 MW it is predicted that the proposal would generate the equivalent to the annual electricity needs of approximately 900 Cornish homes. The *Framework* provides that applicants do not need to demonstrate the overall need for renewable energy development. The scheme would provide a valuable contribution to cutting greenhouse gas emissions. It would make a significant contribution towards meeting national targets for renewable energy and towards energy security. The proposal therefore gains support from national and local policies that promote renewable energy generation. I find that the contribution of the appeal scheme to renewable energy and the reduction of greenhouse gas emissions is a consideration that should properly be given significant weight in determining this appeal.

#### *Other matters*

22. The site is classified as Grade 3b agricultural land, and so the proposal would not utilise the best and most versatile agricultural land. The submitted Flood Risk Assessment demonstrates that with the implementation of a Sustainable Drainage System (SUDS) the scheme would not adversely affect run-off from the site or increase local flood risk. Drainage is a matter that could be addressed by the imposition of planning conditions. Noise is also a matter that could be controlled by conditions.
23. The proposed development would have no significant adverse effect on designated nature conservation sites in the wider area. With the implementation of an approved landscape and ecological plan the proposal would conserve and enhance the biodiversity of the site. The proposal would also contribute to diversification of farm income and towards the rural economy.
24. Given the separation distance and local topography, the scheme would not have a significant adverse impact on the Wendron Mining District World Heritage Site, which is located some 900 m to the south-west of the site. There are no listed buildings or other heritage assets in the vicinity that would be adversely affected by the proposal. There is no convincing evidence that the proposal would have a harmful effect on tourism in the locality.
25. Several dwellings in Penhalvean would be sited about 50 m from the proposed site entrance. However, I am satisfied that the Construction Traffic Management Plan, dated February 2015, submitted with the application, demonstrates that construction traffic, subject to the imposition of suitable planning conditions, would be unlikely to result in an unacceptable risk to highway safety on local roads, or give rise to undue disturbance to nearby residents.
26. Local concerns about the capacity of the grid should not be decisive as the grid is affected by many considerations. Not much reliance, for the purpose of

determining this appeal, should be placed upon its capacity at any given point in time.

### *Planning balance*

27. The economic, social and environmental roles for the planning system, which derive from the three dimensions to sustainable development in the *Framework*, require in this case that a balancing exercise be performed to weigh the benefits of the proposed solar array against its disadvantages. The proposed development would make a significant contribution to renewable energy targets and towards the reduction of greenhouse gas emissions. It would contribute to the local economy and would have energy security and biodiversity benefits. These benefits should be given significant weight. Against the benefits of the appeal scheme must be weighed the harm I have identified to the character and appearance of the area. The proposed development would be temporary and the reversibility of the development after 25 years is a relevant consideration. In my judgement, the benefits of the proposed development would be sufficient to outweigh its disadvantages.
28. The core planning principles set out in the *Framework* encourage the development of renewable energy, whilst recognising the intrinsic character and beauty of the countryside. The development plan is absent or silent here so paragraph 14 of the *Framework* provides that the presumption in favour of sustainable development means granting planning permission unless any adverse effects would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* as a whole; or specific *Framework* policies indicate that the development should be restricted. In this case there are no specific policies indicating that the development should be restricted. In my judgement, the adverse impacts I have identified would fall far short of significantly and demonstrably outweighing the benefits. I find that the proposal would be sustainable development, to which the presumption in favour set out in the *Framework* should apply.

### **Conditions**

29. Cornwall Council suggested conditions in both the Strategic Planning Committee Report and its Appeal Statement. I have considered the need for these and their wording, having regard to the appellant's comments, and in the light of the advice contained in the *Guidance*.
30. In addition to the standard commencement time condition (Condition 1), a condition would be necessary to limit the permitted development to a period of 25 years and to require restoration of the site in accordance with the *Guidance* (Condition 10). Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning (Condition 2). A landscape and ecological management plan would need to be approved and implemented in the interests of the appearance of the area and biodiversity (Condition 3). So too, would a construction environmental management plan (Condition 4).
31. An approved construction traffic management plan would be necessary as the CTMP dated February 2015 does not provide sufficient detail (Condition 5). A decommissioning method statement would be required to ensure site aftercare and restoration (Condition 6). Drainage would need to be approved and implemented for flood risk reasons (Condition 7). For heritage reasons an

archaeological condition would be necessary (Condition 8). Noise controls would be required to safeguard the living conditions of nearby occupiers (Condition 9). Control of noxious weeds would be necessary during the operation and aftercare period (Condition 11). A restriction on permitted development rights would exceptionally be necessary in the interests of the appearance of the area (Condition 12). For similar reasons, so too would a restriction on lighting (Condition 13). A restriction on construction and decommissioning hours would be necessary for residential amenity reasons (Condition 14).

## **Conclusions**

32. I have had regard to the opposition to the solar array from local parish councils and residents living in the area. The proposal would result in some harm to landscape character, but its adverse visual effects would be localised and limited. The wider environmental benefits associated with the increased production of energy from a renewable source that would result from the scheme weigh significantly in favour of the proposal. In my judgement, and for the reasons set out above, I find that the planning balance here falls in favour of the proposed development. The proposal would accord with the requirements for sustainable development set out in the *Framework*. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*John Woolcock*  
Inspector

## **Schedule of Plans**

Proposed 7165-1007 Issue K  
Proposed 7165-1007 Issue D  
Proposed 7165-1001 Issue J  
Proposed 7165-1003 Issue O  
Proposed 7165-1004 Issue O  
Proposed 7165-1006 Issue A  
Proposed 7165-1008 Issue A  
Proposed 7165-1009 Issue A  
Proposed 7165-1010 Issue O  
Proposed 7165-1011 Issue O  
Proposed 7165-1015 Issue O

### **Schedule of Conditions (1-14)**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision. The developer shall give written notification to the local planning authority of the date of commencement of the development hereby permitted, and the date electricity from the scheme is first exported to the grid, within five working days of the event occurring.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in the Schedule of Plans included in this decision except as may be modified by the further Conditions below.
- 3) No development shall be commenced until a Landscape and Ecological Management Plan (LEMP) addressing landscape and biodiversity protection and enhancement during the pre-construction, construction, operational and restoration periods has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved LEMP. The issues which shall be addressed in the LEMP shall include;
  - (a) trees and hedges to be protected along with details and location of temporary protective fencing;
  - (b) undeveloped buffer zones shown around hedges and trees;
  - (c) hedge management;
  - (d) employment of an Ecological Clerk of Works and operations to be supervised;
  - (e) buffer zones for any badger setts and fencing;
  - (f) table of times of year when different works will be carried out so as to, amongst other things, avoid bird nesting seasons;
  - (g) table of pre-construction ecological survey walkovers;
  - (h) location and details of proposed permanent site fencing showing mammal gaps around base and badger gates;
  - (i) details and specification of proposed planting;
  - (j) weed control;
  - (k) proposals for the management of the buffer strips, the grass sward between the panels and pre-construction management proposals to deter ground nesting birds;
  - (l) proposals for vegetation maintenance in accordance with the approved biodiversity enhancement management objectives;
  - (m) agricultural land management including details of sheep grazing, stocking levels and times of grazing;
  - (n) any new planting, new hedge creation and other biodiversity enhancements, including bird and bat boxes and reptile refuges;
  - (o) management of the land so as to protect watercourses from pesticide and soil pollution;
  - (p) any other relevant information.
- 4) No development shall be commenced until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The methodology shall include details of ground anchoring, any ground re-profiling works, temporary storage compound areas, management of surface water for the avoidance of pollution, details of construction hours and noise levels. Construction shall be undertaken in accordance with the approved CEMP.

- 5) No development shall be commenced until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include;
- (a) construction vehicle routing;
  - (b) the management of the junctions with, and crossings of, the public highway and other public rights of way;
  - (c) temporary warning signing along the construction route and site access;
  - (d) an access improvement scheme including any construction and drainage details;
  - (e) details of delivery hours;
  - (f) a pre and post construction inspection of the highway network in liaison with the Regional Engineer, between the site and the B3297 so that any damage to the carriageway or verges can be identified and appropriate remedial measures undertaken;
  - (g) proposed accommodation works, provision of construction compound and on-site parking facilities, and where necessary a programme for their subsequent removal and the reinstatement of street furniture, where required along the route;
  - (h) a scheme for liaison with local residents and businesses during the construction period;
  - (i) plan showing access, sight lines, surfacing and drainage;
  - (j) details of construction vehicles, including number, size and type;
  - (k) contractors' arrangements, including compound, storage, parking, turning, surfacing, drainage and wheel wash facilities.
- 6) No development shall be commenced until a Decommissioning Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall include the timing for decommissioning of all, or part of the solar array if it ceases to be operational, along with the measures, and a timetable for their completion and aftercare period, to secure the removal of panels, plant, fencing and equipment. Decommissioning shall be carried out in accordance with the approved Statement.
- 7) No development shall be commenced until details of a scheme for the management of the site's surface water has been submitted to and approved in writing by the local planning authority. The details shall include as a minimum;
- (a) details of the final drainage scheme, including pathways and flow routes for excess surface water during extreme weather;
  - (b) a construction quality control procedure;
  - (c) a plan for the future maintenance of the system and of any overland flow routes;
  - (d) location of Sustainable Drainage System (SUDS) and any swales.
- Prior to the first export of electricity to the grid from the permitted array the local planning authority shall give written notice that the scheme has been completed fully in accordance with the approved details. The scheme shall thereafter be maintained in accordance with the approved details.

- 8) No development shall be commenced until a programme of archaeological work including a Written Scheme of Investigation (hereinafter WSI) has been submitted to and approved in writing by the local planning authority. The WSI shall include an assessment of significance and research questions, and;
- (a) the programme and methodology of site investigation and recording;
  - (b) the programme for post investigation assessment;
  - (c) provision to be made for analysis of the site investigation and recording;
  - (d) provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - (e) provision to be made for archive deposition of the analysis and records of the site investigation, and
  - (f) nomination of a competent person or persons or organisation to undertake the works set out within the WSI.

No development shall take place other than in accordance with the approved WSI.

The development shall not export electricity to the grid until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved WSI and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

The archaeological recording condition shall only be discharged when all elements of the WSI including on site works, analysis, report, publication (where applicable) and archive work has been completed.

- 9) The rating level (to include any relevant penalties) of the noise emanating from the permitted scheme shall be no greater than the measured background noise level at any time at the curtilage of any noise sensitive premises lawfully existing or with planning permission at the time of this permission. The rating level and the background noise level shall be determined in accordance with the guidance and methodology set out in BS 4142:2014. Notwithstanding the above, the noise levels from the development hereby permitted shall not exceed the World Health Organisation guidelines for Community Noise of 50 dB  $L_{Aeq,16hr}$  for outdoor living areas; 35 dB  $L_{Aeq, 16hr}$  for indoors (dwellings); 30 dB  $L_{Aeq,8hr}$  inside bedrooms 23:00-07:00, all at any noise sensitive dwellings.
- 10) Within 25 years of the date electricity from the scheme is first exported to the grid, or within twelve months of the cessation of electricity generation by the solar array hereby permitted, whichever is the sooner, the solar PV panels, racking, electrical control cabinets, substations, fencing and associated structures permitted shall be dismantled and removed to a depth of 1 metre from the surface. The developer shall notify the local planning authority in writing no later than five working days following cessation of power production. The site shall be decommissioned and restored to agricultural use in accordance with the approved Decommissioning Method Statement referred to in Condition 6.

- 11) During the operation of the site and the stated aftercare period approved in the Decommissioning Method Statement referred to in Condition 6, noxious weeds, in particular ragwort and Japanese knotweed, shall not be allowed to colonise the site. Recognised control methods shall be implemented as soon as is practicable following initial infestation until clearance has been achieved.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order amending, replacing or re-enacting that Order), no fixed plant or machinery, buildings, structures and erections, or private ways shall be erected, extended, installed, rearranged, replaced, repaired or altered at the site without prior planning permission from the local planning authority, except for those works permitted by this permission.
- 13) No external artificial lighting shall be installed or operated on the site.
- 14) No construction or decommissioning works shall take place except between the hours of 0800-1800 Monday to Friday and 0800-1300 on Saturday. No material delivery, construction or decommissioning works shall be undertaken outside these hours or on Sunday, Bank or Public Holidays.