
Appeal Decision

Site visit made on 20 July 2016

by Michael Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 22 November 2016

Appeal Ref: APP/H0928/W/16/3147136

Land to the south of Welltree Brow, Morland, Penrith CA10 3BU

- 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 Martin Cole (Livos Energy) against the decision of Eden District Council.
 - The application Reference: 15/0668, dated 22 July 2015, was refused by notice dated 17 December 2015.
 - The development proposed is a 4.99MW ground mounted solar site with associated infrastructure.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the benefits of the proposed development, including the production of electricity from a renewable source, outweigh any harmful effects with particular reference to the landscape character and visual amenity of the area.

Preliminary Matter

3. Concerns have been expressed about the accuracy of some of the submitted information, including the plans and viewpoint photographs, but I have found them to be generally adequate for the purposes of assessing the appeal proposal in conjunction with my detailed inspection of the site and much of the surrounding area.

Reasons

Planning policy context

4. Saved Policy NE1 of the *Eden Local Plan* (1996) only permits new development in the undeveloped countryside outside settlements and groups of dwellings where it meets a local infrastructure need or a need is established which outweighs environmental costs and where specific criteria are met. They include siting which minimises impact and design and materials appropriate to the location. Although the policy is of some age its general thrust reflects objectives in the *National Planning Policy Framework* ('the Framework') which seek to protect the countryside.
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5. More up-to-date policies are contained in the *Eden District Council Core Strategy Development Plan Document* adopted in 2010. Amongst other things, policy CS3 seeks to sustain rural areas by ensuring new development respects and reinforces the character of the wider landscape and the special character and sense of place of villages and hamlets, and by protecting the open countryside from inappropriate development. Policy CS16 requires development to accord with the principles of protection and enhancement of the District's natural environment, including its landscape. To achieve this, the relationship between development and the natural environment will be managed to minimise risk of environmental damage, and development should reflect and where possible enhance local landscape character.
6. Similarly, policy CS18 requires new development to protect and where possible enhance the District's distinctive rural landscape and natural environment. Policy CS20 supports renewable energy proposals particularly where, amongst other things, there are no significant unacceptable effects which cannot be mitigated or are not outweighed by the national and regional need for renewable energy development or the wider environmental, social and economic benefits that the scheme may bring. Such schemes should consider impacts on various matters, including landscape character, local amenity, habitat and species, farming and the local transport network.
7. One of the core principles in the Framework is support for the transition to a low carbon future in a changing climate, with planning playing a key role in supporting the delivery of renewable and low carbon energy. Another requires planning to recognise the intrinsic character and beauty of the countryside.
8. The *Planning Practice Guidance* (the 'PPG') advises 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 also emphasises the important role that the planning system has to play in the delivery of renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
9. The appellant, Council and interested parties have also referred to various renewable energy protocols, directives, acts, policy and ministerial statements and other documents which I have had due regard to in considering the appeal proposal. I have also taken into account the independent assessment of the appellant's *Landscape & Visual Appraisal* (LVA) undertaken for the Council¹ which concurs with the document's findings, adding that in some circumstances the effects of the proposal have been overstated.

The proposed development

10. The appeal site lies in open countryside between the villages of King's Meaburn and Newby. The overall site consists of two fields which in total extend to about 12.8 hectares and at the time of my visit were down to grass. The northern boundary adjoins a dense line of trees, hedges and undergrowth with a number of gaps, including field accesses from the minor road extending westwards from King's Meaburn. The eastern and southern boundaries are marked by post-and-wire fencing, hedges and some trees. The western

¹ LVIA Review for Eden District Council - Eden Environment Ltd (October 2015)

boundary adjoins the secondary road between Morland and Maulds Meaburn and comprises a hedgerow with a few trees.

11. From the highest part towards the middle of the site, the land falls gradually to the west and more noticeably to the east. There is a copse adjacent to the south-east corner of the field (Butts Plantation) and another copse of dense trees within the site (Johnstone's Hill). Overhead lines diagonally traverse the site from its north-west corner to run alongside the southern boundary before entering Butts Plantation, and other lines extend from the sub-station at the crossroads and cut across the south-west corner of the field. In its revised form following public consultation, the area of the site to be developed was reduced to some 6.8 hectares and excludes Johnstone's Hill and a triangular area defined by the overhead lines and field boundaries in the western part of the site.
12. The solar pv panels would be arranged in south facing rows of varying length arranged on an east-west axis across the site. They would be mounted on aluminium frames up to about 2.9 metres in height and set at an angle of 30-35 degrees to the ground. The overall site would be contained by 1.9 metre high steel mesh security fencing on timber posts with matching pedestrian and vehicular gates. The scheme includes a sub-station in the north-west corner of the site and two inverter housings close to the northern boundary. Five metre wide gravel tracks around the inside boundaries and Johnstone's Hill would be served by a new access off the Morland to Maulds Meaburn road.
13. CCTV cameras would be mounted on 4 metre high galvanised steel poles around the site perimeter, although at this stage the appellant has not confirmed the number or locations. New hedges would supplement the existing boundary vegetation and sheep would graze the land. The development would be connected to the National Grid via the nearby sub-station. At the end of the operational life of the scheme (25 years) all structures, equipment and surfacing materials would be removed from the site.

Landscape character and visual amenity

14. The PPG advises that the need for renewable energy does not automatically override environmental protections and the planning concerns of local communities. It also recognises the potential impact of large-scale solar farms on the rural environment, particularly in undulating landscapes, whilst noting that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.
15. In my view the appeal proposal cannot be considered a 'large-scale solar farm'. Nevertheless, the above objectives set out in the PPG and the principles underpinning them can reasonably be applied to smaller developments such as this, and careful consideration of the impact of the proposal on the area is therefore necessary.
16. The appeal site is within National Character Area 09²: 'Eden Valley'; described as a soft lowland landscape that contrasts markedly with the surrounding rugged upland landscapes, which include the North Pennines. The key characteristics include an undulating valley landscape with managed estate and farm woodlands in the valley floors, numerous shelterbelts, copses and mature

² Published by Natural England

hedgerow trees which give a well-wooded character. Medium to large rectilinear fields are enclosed by mature hedgerows and hedgerow trees.

17. In the *Cumbria Landscape Character Guidance and Toolkit* the site lies within the 'Intermediate Farmland' Landscape Character Type, described as a large-scale open landscape between lowland and rolling upland areas. Its key characteristics include extensive areas of improved pasture with some arable farming, wooded valleys and ghylls and a landscape in parts dissected by the deeply incised or open river valleys.
18. Consistent with these national and local descriptions, I saw that the countryside here is characterised by an undulating landform which includes an extensive patchwork of large arable fields, pastures, woodland, small villages and scattered farmsteads. Although it has no national landscape designation, it is a diverse and attractive area of countryside with a distinctly tranquil quality, sense of remoteness and an unspoilt natural character. Given these attributes, I consider the sensitivity of the site and the landscape of which it forms part to be more than the 'medium' value which the appellant's LVA attaches to it.
19. The operational life of the development is likely to be about 25 years after which the land would revert to agricultural use. Although contained by a reasonably strong tree and hedge belt on the northern boundary and to a much lesser degree by hedging on the western boundary, and with the other boundaries largely open, 25 years is a significant period of time during which the visual impacts of the scheme would be experienced. At close range the landscape character would be significantly affected by serried ranks of solar panels and associated utilitarian infrastructure, resulting in a semi-industrial character alien to this tract of scenic countryside. Indeed, the appellant acknowledges that the scheme would result in an intense change to the landscape character type within the immediate surrounding area. As such, I consider that the impact on localised landscape character would be greater than the moderate adverse effect that the LVA assigns to it.
20. In the wider landscape context and notwithstanding the undulating topography, the proposal would also have a marked effect. It would sit uncomfortably within an attractive mosaic of fields, woods and valleys, and whilst its impact would diminish with distance, intervening vegetation and landform, I consider that the effect on landscape character would be greater than the minor or negligible impact accorded to it in the LVA.
21. The proposal would not result in the loss of hedgerows (other than to form the new access to the site) and existing trees and copses on or adjoining the site would be retained. Supplementary landscaping is also proposed, although it would take some significant time to provide the degree of maturity and screening to offset any of the harm that I have identified, which would be greatly accentuated during the autumn and winter months.
22. Despite these mitigation measures, there would be a very marked change to landscape character, especially at a localised level. In the context of the wider area the impact on landscape character would be less pronounced due to topography and vegetation and mitigated to some extent by additional screening. Nevertheless, I consider that the LVA understates the impact of the panels and associated infrastructure on the landscape character of the area, and find that the proposal would have a major adverse impact on the local

- landscape character and a moderate adverse effect on the character of the wider landscape.
23. Turning to visual amenity, the appellant has provided a Zone of Theoretical Visibility which includes the screening effect of woodland and buildings and suggests that the potential for views of the development from public viewpoints would be most evident within a 3km radius of the appeal site, and particularly so from the south-west.
24. I viewed the appeal site from numerous vantage points in the area including those in the LVA. In the public realm, views of the site are influenced by topography, vegetation and, in some instances, buildings. It is apparent from the representations that local residents who use the roads and public rights of way in the area are sensitive 'receptors' (or viewers) who value the landscape. It is also no doubt appreciated by tourists, including cyclists using Route 71 of the National Cycle Network which runs alongside the northern boundary of the site and those staying at caravan and camping sites and other visitor accommodation in the area.
25. Although there are no public rights of way on the site, two of the boundaries abut roads. The installation would be visible when approaching from the east on the King's Meaburn road near Welltree Brow. The well-established tree and hedge belt would filter views of the development when in leaf once the site is reached. It would nevertheless be visible, and particularly so through the field gates and from a gap in the tree/hedge line at the north-east corner of the site on rising land. It would also be visible from the Morland to Maulds Meaburn road in the vicinity of the western site boundary notwithstanding the hedgerow, part of which would be removed to provide an access. The proposed switchgear building would compound the impact of the development; adding to the negative impact of the existing sub-station at the crossroads.
26. Part of the array would be viewed from the crossroads to the south-west of Low Moor Farm (appellant's Viewpoint Photograph 3) and from Sleagill Moor/ Meadow Lane (Viewpoint Photograph 7). It would also be visible, at some distance, from a number of public viewpoints and private properties on the western edge of King's Meaburn and the eastern side of Newby, although it would not be readily visible from Morland to the north. From a number of these vantage points the impact of the solar panels would be reinforced by the buildings, fencing, gates and other infrastructure in stark contrast with the prevailing rural character of its surroundings. The development is also likely to be visible from roads and public rights of way in the wider area (ie 2-3km radius of the site) although distance would mitigate its impact.
27. During autumn and winter months, when leaf fall takes place, the solar panels and associated infrastructure would be much more prominent, although views would still be filtered to some degree by the denuded boundary vegetation. Nevertheless, depending upon the separation distance between the receptor and site, the impact of the proposal on visual amenity would range between minor adverse and moderate adverse, as identified in the LVA.
28. In summary, I conclude that the proposed development would have a moderate adverse to major adverse impact on landscape character and minor adverse to moderate adverse on its visual amenity. I shall consider these findings further in the overall planning balance later in the decision.

Other Matters

29. The submissions in this case comprise a large number of additional issues, all of which I have taken into account. However, much of it concerns matters unrelated to this particular appeal and do not affect my judgement of the issues that I consider to be relevant.
30. Local heritage assets include listed buildings in King's Meaburn, Morland and Newby. Having regard to the separation distance between the appeal site and these buildings and the intervening landform and vegetation, together with the additional landscaping proposed on the site, I am satisfied that the setting and significance of these listed buildings would not be harmed by the proposed development. Furthermore, the proposal would preserve the character and appearance of the conservation area at King's Meaburn.
31. Reference is made to the impact of the development on the then proposed extension to the Yorkshire Dales National Park. Since the appeal was lodged the boundary changes to the National Park have been confirmed. However, the appeal site is about 1.5km from the new boundary and the scheme would have no implications for the designation.
32. The Framework makes clear that in making decisions which impact on the natural environment, the economic and other benefits of the best and most versatile (BMV) land should be taken into account. BMV land is defined as grades 1, 2 and 3a. The appeal site comprises grade 3b land ('moderate quality'). Nevertheless, the proposal would result in the loss of the land to farming for 25 years (except for sheep grazing), but there is no cogent evidence before me to show that the use of previously developed land for solar development, as advocated in the PPG, is achievable in this case. Accordingly, the use of this poorer quality land is consistent with guidance in the Framework and PPG. The site would not comprise previously developed land at the end of the 25 year operational life of the installation as some parties have suggested.
33. In respect of highway safety, I note that the County Council as highway authority offered no objections in principle to the proposal. There is likely to be some disruption on the local highway network during the construction stage, including the delivery of materials and equipment and the coming and going of the workforce, but thereafter visits to the site would only be for maintenance purposes and would be infrequent. Accordingly, the safety of road users and pedestrians would not be materially compromised by the proposal.
34. Given the attractive qualities of the landscape it is not surprising that the area is a popular tourist destination and contributes to the local economy. However, whilst the proposal may well have some effect on visitors' enjoyment, there is no compelling evidence to show that it would have a marked impact on tourism to the extent that the economy in the area would materially suffer. As to concerns regarding harm to wildlife, the site is not subject to any special protection, and the proposal makes adequate provision for enhancing biodiversity on the site.
35. Once constructed, the operation of the site would not generate appreciable noise and disturbance and no floodlighting or other high level lights are proposed. Glint and glare from the panels is also raised by some parties, but this depends upon the angle of the panels and location of the receptor, and there is no evidence before me to indicate that such intrusion is likely to be

experienced. The Flood Authority advises that concerns regarding increased flood risk that the proposal could be addressed by appropriate planning conditions.

36. Although it is argued that the solar farm would bring no community benefits, the generation of renewable energy has benefits for the local and wider community, as identified in the Framework.
37. Concerns regarding the cumulative effect of solar farm developments in the area have been referred to in relation to similar proposals on land to the east of Towcett Farm, south of Dallan Bank Wood and south of Graham Wood. However, at the time of my site visit these appeals had not been determined and I have not been provided with detailed information regarding the proposals. As such, I am unable to meaningfully take them into account in my decision.

The planning balance and overall conclusion

38. Although the proposal would not be large in solar farm terms the scheme would contribute to the Government's long-established commitment to the generation of renewable energy. Paragraph 98 of the Framework advises that applicants do not need to demonstrate the overall need for a renewable energy proposal and that even small scale projects can provide a valuable contribution to cutting greenhouse gas emissions.
39. The appellant states that the 4.99MW solar farm would generate enough electricity each year to power some 3500 homes. There would also be a consequential reduction in CO₂ emissions over the lifetime of the installation. These considerations should be accorded considerable weight in favour of the proposal.
40. Furthermore, the Framework advises that planning for reduction in greenhouse gas emissions and the delivery of renewable and low carbon energy is central to the economic, social and environmental dimensions of sustainable development. There would be some economic and social benefits from the employment generated by the construction, maintenance and management of the installation, which attracts moderate weight in favour of the proposal. In addition, there would be some modest biodiversity benefits from additional landscaping and the provision of log piles, bat, hedgehog and bird boxes, which attract additional positive weight.
41. Against these benefits must be weighed the environmental dimension of the proposal; namely, the moderate adverse to major adverse impact on landscape character and minor adverse to moderate adverse on its visual amenity. These impacts would conflict with the development plan relevant parts of Policy NE1 of the Local Plan and Policies CS3, CS16, CS18 and CS20 of the Core Strategy when read as a whole, and similar policy objectives within the Framework. There would also be no harm to heritage assets in the area.
42. Taking all these matters into consideration, I conclude that the harm that would result from the proposed development would significantly and demonstrably outweigh the scheme's benefits. Accordingly, the environmental impacts resulting from the proposal would not in my judgement represent sustainable development.

Conclusion

43. For the reasons set out above, and having regard to all other matters raised, I conclude that the proposal is unacceptable and the appeal should fail.

Michael Moffoot

Inspector