

Appeal Decision

Site visit made on 23 August 2016

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 05 December 2016

Appeal Ref: APP/Y2003/W/16/3145863

**Land at Sweeting Thorns, Holme, Scunthorpe (Grid Ref Easting 492692
Grid Ref Northing 407679)**

- 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 James Wallwork, Rochester 005 Ltd against the decision of North Lincolnshire Council.
 - The application Ref PA/2015/0114, dated 2 February 2015, was refused by notice dated 18 November 2015.
 - The development proposed is the Installation of Standalone Solar PV modules and Associated Infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the Installation of Standalone Solar PV modules and Associated Infrastructure at Land at Sweeting Thorns, Holme, Scunthorpe (Grid Ref Easting 492692 Grid Ref Northing 407679) in accordance with the terms of the application, Ref PA/2015/0114, dated 2 February 2015, and the plans submitted with it, subject to the conditions listed in Appendix 1 to this decision.

Application for costs

2. An application for costs was made by Rochester 005 Ltd against North Lincolnshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. As the application form did not give a full site address, my decision uses the address given on the appeal form. Whilst the Council described the proposal differently in its decision, in accordance with normal practice my decision uses the description of development given on the application form.
 4. The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) prohibit the granting of planning permission for development defined as 'EIA development' unless the decision maker has firstly taken environmental information into account. As the appeal proposal would form an industrial installation for the production of electricity over a site area which would exceed 0.5 hectares, it falls within Schedule 2 of the Regulations. Proposals within Schedule 2 constitute 'EIA development' if they would be likely to have significant effects on the environment by virtue of factors such as their nature, size or location. The Council issued a screening opinion dated 13 August 2014 which confirmed that, in its view, the appeal
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proposal did not constitute EIA development. As there is no evidence before me which suggests otherwise I agree and have determined the appeal on this basis.

Main Issues

5. The main issues are:

- (a) The effect of the proposed development, on its own and in combination with an existing nearby photovoltaic farm, on the character and appearance of the area;
- (b) Whether sufficient evidence has been submitted to justify the use of agricultural land to accommodate the proposal; and
- (c) The overall planning balance between any benefits and any harm that would arise from the proposed development.

Reasons

Policy Context

- 6. Relevant policies from the North Lincolnshire Local Plan (NLLP) 2003 were 'saved' by the Secretary of State for Communities and Local Government in 2007. Planning law requires my decision to be in accordance with these 'saved policies' unless material considerations indicate otherwise.
- 7. The National Planning Policy Framework (the 'Framework') sets out current national policy and is an important material consideration. Paragraph 97 of the Framework states that, to help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on communities to contribute to energy from renewable or low carbon sources. Paragraph 98 confirms that applications should be approved if their impacts are (or can be made) acceptable. The Planning Practice Guidance (PPG)¹ establishes that, whilst the deployment of large scale solar farms can have a negative impact on the rural environment, the impact of a well-planned and well-screened solar farm can be properly addressed if planned sensitively.
- 8. Whilst the Council has referred to a wide range of Policies from the NLLP and the North Lincolnshire Core Strategy in its Statement of Case, as it has only identified conflict with Policies DS1, DS21, RD2 and LC7 of the NLLP I have focussed upon these in coming to my decision.
- 9. The appeal proposal does not fall within the types of development which Policy RD2 of the NLLP identifies as being acceptable in the countryside. This is because insufficient evidence has been submitted for example concerning the nature of the farming operations at the site to show that it would satisfy criterion (vi) (relating to diversification of agricultural businesses). However, by resisting renewable energy projects unless they satisfy at least one of a set of narrowly defined criteria which do not relate directly to their impact on the area, Policy RD2 conflicts with paragraph 97 of the Framework, which requires policies to seek to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed. In accordance with paragraph 215 of the Framework I have therefore attributed reduced weight to Policy RD2.

¹ Paragraph: 013 Reference ID: 5-013-20150327

10. The relevant provisions of Policies DS1, DS21 and LC7 broadly accord with the Framework and I have given them due weight in my decision. I set out my findings in relation to Policy DS21 near the end of my decision as it relates to the overall planning balance.
11. The Council's 'Planning for Renewable Energy Development' Supplementary Planning Document (SPD) and 'Planning for Solar Photovoltaic' SPD are also material considerations. Whilst the Planning for Solar Voltaic (PV) SPD was only available in draft form when the Council determined the application, it was adopted before the appeal was submitted and I have taken the final version into account in my decision.

Character and Appearance

12. The appeal site has a rectilinear plan form covering an area of about 37 hectares. It mainly comprises agricultural fields, separated by ditches and partly broken hedgerows running across the site from east to west. There is also a fenced hardstanding associated with a former transport depot in the north eastern corner of the site, and the northern part of the site and land to the west of it is allocated for future Business/Light Industrial development.
13. The area around the appeal site has both rural and urban influences, including open undulating farmland to its south and south west, the densely wooded scarp slope of the North Lincolnshire Edge to its east, and the large buildings of the Scunthorpe Steel Works which dominate views northwards across the busy A18 dual carriageway. The town of Scunthorpe is located nearby.
14. The site is prominently seen from the public right of way which runs through it alongside its western boundary (PROW 211), and can be seen through gaps in existing vegetation from Holme Lane and the A18, and in part from informal recreational land to its north west. However, due to its almost flat landform, proximity to the North Lincolnshire Edge, and the presence of hedgerows and trees alongside its boundaries the site has a high degree of self-containment in the wider landscape, particularly in summer months when vegetation is fully in leaf.
15. Whilst the site forms part of National Character Area 45 'North Lincolnshire Edge with Coversands', this covers a large area and the Landscape Character Types (LCTs) defined locally² provide more fine grained analysis of the character of the area around the appeal site. Although the site is in the area covered by the Wooded Scarp LCT, its character, whilst lacking in any noticeable undulation, is more typical of the Open Undulating Farmland LCT to its south west³.
16. The parties have not drawn my attention to any national landscape designations in the area. Whilst the woodland and scarp slope to the east of the appeal site form part of a locally designated Area of High Landscape Value (AHLV)⁴, this does not include the appeal site.
17. Whilst the site and its surroundings provide an open, mainly agricultural, landscape, and forms the foreground in views of the AHLV from PROW211, I do not consider that it has distinctive features which form part of a 'valued

² see paragraph 2.1.3 of the submitted Landscape and Visual Report (LVR)

³ See table 4.2 of the LVR

⁴ as defined in the North Lincolnshire Local Plan 2003

landscape' in the context of paragraph 109 of the Framework. This is particularly so given the visual prominence of the Steel Works in views of and from the site.

18. Due to the factors set out above, I consider that the site is suitable in landscape terms to accommodate a suitably designed and laid out solar farm development.
19. The proposal subject to appeal would include 106,364 solar photovoltaic (PV) modules arranged in lines across the site. Buildings to house switchgear and a substation and a storage container would be located in the north eastern corner of the site, whilst 3 metre high CCTV columns, transformer houses and other infrastructure would be located within the site. A new access track would run along most of the length of the site and security fencing, with a height of just over 2 metres and constructed using green coloured weld mesh, would enclose the operational area of the site.
20. The Appellant has confirmed that the proposed development would be present on site for up to 31 years, after which the structures associated with the use would be removed and the land restored to its previous condition. A comprehensive Landscape and Ecological Enhancement Plan is proposed, which would include: retention of existing trees; relaying and management of hedgerows; new tree and hedgerow planting; and provision of grassland buffers between the groups of PV arrays and around the fringes of the site.
21. The proposal would result in a substantial and dense coverage of built development across the site and would, at least in the initial years, be clearly visible from PROW 211. The proposed buffer strip of 10 metres in width along much of the length of PROW 211⁵, whilst providing for some separation between the footpath and the security fence, would be fairly narrow. The proposed landscaped bund, which would run beside PROW 211 over a distance of about 100 metres at its southern end, could also despite its limited height of just 2 metres initially appear as a rather alien engineered feature.
22. Set against these points, however, due to its low-lying form, the almost flat nature of the site, the proximity of the higher land within the North Lincolnshire Edge, the Steel Works and existing planting around the site, the proposed development would not form a dominant feature in the wider landscape. Its effects would not extend substantially into the neighbouring Lincolnshire Edge AHLV due to the heavily wooded nature of this. The Landscape and Ecological Enhancement Plan would also strengthen the field pattern and boundaries within and around the site.
23. The buffer strip through which PROW 211 would run would also be substantially wider than 10 metres along about a third of its length towards its northern end⁶. Furthermore, I have noted that the Appellant proposes to plant a hedge, which would be allowed to grow to a height of 3 metres and then be maintained at this level and run along the whole of the outer side of the fence alongside PROW211, which would in time substantially screen the development from this footpath. Further visual interest for walkers on this route could be added by the use of an appropriate mix of species within the hedge, the

⁵ See for example viewpoints 3 and 4 in the LVR

⁶ Viewpoint 5 in the LVR

- proposed interpretative boards, and additional planting or other landscaping measures within the 10 metre strip.
24. Whilst the fencing would come closer to PROW 211 than 10 metres in places, this would be at only 4 points along its route. The profile of the bund, which I agree is needed to ensure satisfactory physical separation between the operational part of the site and the adjacent property at Mendle Farm, would also become less obvious as the planting on it becomes established and its gradients could be re-considered as part of the landscaping of the site.
25. I agree that Holme Lane, being located at the opposite end of the site from the Steel Works, has a tranquil rural character. However, the proposed development would mostly be located behind an existing line of trees and vegetation which runs alongside much of this stretch of Holme Lane and which the Appellant proposes to strengthen. Subject to the agreement and implementation of an appropriate landscaping scheme, which could be required by condition, the proposal would not be overly prominent when viewed from Holme Lane, including through the two current field entrances into the site⁷, particularly after proposed planting has matured.
26. In views from the A18⁸, the proposed solar PV arrays would be set back behind the existing hawthorn boundary hedge, within which gaps would be filled and which would be maintained at a height of 4 metres, substantially above the height of the proposed panels. The proposed buildings and storage container would also be set well back from this road frontage behind the hedge. I do not consider that the proposal would be excessively prominent in views from the A18.
27. Whilst the proposed development would, at least initially, be visible from part of the recreational area across Bottesford Beck to the west of the site these views would for the most part be fairly distant and filtered to a considerable extent by existing vegetation⁹. The development would either be not visible or not prominently visible in more distant views from the surrounding area¹⁰.
28. The PV modules would be blue-dark grey in colour, and have an anti-reflective coating and matt grey metallic trim to minimise any glint and glare. Having regard to these points and the vegetation which exists and is proposed around the site, I do not consider that the proposal would cause an unacceptable level of glint and glare for walkers, other recreational users of the countryside or for people travelling on nearby highways including Holme Lane. There would also be no requirement for external lighting after the initial construction period, except for an emergency light on the substation and switchgear containers¹¹. These matters can be controlled by conditions, including a condition controlling the angle of orientation of the PV arrays to reduce glare.
29. The Council has raised concerns regarding the cumulative effects of the proposal with the existing extensive development of solar PV arrays at Raventhorpe to the east of the site, which has now been implemented. However, whilst this is only about 1 kilometre away from the appeal site, is clearly seen from some viewpoints in the surrounding area, and like the appeal

⁷ Viewpoints 1 and 2 in the LVR

⁸ Viewpoint 6 in the LVR

⁹ Viewpoints 7 and 8 in the LVR

¹⁰ See for example viewpoints 9, 10 and 11 in the LVR

¹¹ Design and Access Statement – paragraph 5.4

site is close to the A18, it is clearly separated from the appeal site by the extensive woodland and profile of the hillside within the Lincolnshire Edge. The appeal site is also lower lying, flatter and more self-contained in landscape terms than the Raventhorpe site. Travellers on the A18 or other highways would not experience a noticeable or unacceptable sequential effect resulting from the proximity of the two developments. For these reasons, I do not consider that the appeal proposal would cause unacceptable cumulative landscape and visual effects in conjunction with the Raventhorpe development.

30. I consider that the proposed development would, due to the extent and density to which it would cover the site with operational development and due to its effect on the openness of views from PROW211, cause some harm to the character and appearance of the area. As a result, the proposal would not fully accord with Policies DS1(i) or LC7 of the NLLP. However, due to the low lying nature of the proposed structures, the lack of prominence that they would have within the wider landscape, the existing urban influences in the landscape and the beneficial effects of the proposed hedge alongside PROW211 and other landscape proposals, I consider that the resultant harm would be limited in magnitude.

Agricultural Land

31. The Council and Appellant have not disputed that the site, with the exception of the hardstanding at its north eastern corner, is productive agricultural land, but have disputed the quality of the land and, if the land is poorer quality, what implications this may have in terms of policy.
32. In relation to the first of these points, the submitted Land Classification Survey (LCS) indicates that the farmland within the site is Grade 3B which is not 'best and most versatile' (BMV) land. Whilst the Council has stated that reported flooding problems affecting part of the site could be addressed, it has not submitted any detailed evidence demonstrating how this may be done. Furthermore, the identification of the land as Grade 3B land in the LCS is based on soil quality rather than specifically flooding issues. The Council's point that the landowner has been unwilling to dispose of the northern section of the site to facilitate its use for employment development does not demonstrate that it is BMV. There is no substantive evidence before me to show that the site comprises or could readily be improved to comprise BMV agricultural land.
33. The fact that the site is not identified as BMV agricultural land does not, however, mean that there is no requirement for its use as a solar farm to be justified by evidence. On the contrary, the PPG states that when assessing proposals for large scale solar farms, local planning authorities will in particular need to consider, for example, encouraging the effective use of land by focussing such proposals on '*...non-agricultural land ...*'¹² and, where a proposal involves greenfield land, whether the proposed use of '*...any agricultural land...*' has been shown to be necessary¹³.
34. The PPG therefore indicates that, whilst there is a primary focus on the protection of BMV land (in line with paragraph 112 of the Framework), poorer quality agricultural land should also be protected except where it has been demonstrated that the use of such land is necessary. The Ministerial

¹² Paragraph: 013 Reference ID: 5-013-20150327 – first bullet point

¹³ Paragraph: 013 Reference ID: 5-013-20150327 – second bullet point

Statement to Parliament in March 2015¹⁴ and Policy C of the Planning for Solar Photovoltaic (PV) Development SPD follow a similar approach.

35. The Appellant's e-mail to the Council dated 13 October 2015 states that the Appellant sent over 3,000 letters to land owners across the country who own land within viable distance of required High Voltage (HV) lines, and that the site satisfies extensive 'limiting factors' which apply to any solar PV development.
36. The e-mail also confirms that there is no central register of potential sites which are available for solar PV development and there is no land allocated for such development in the District. It then goes on to state that, even if the Council held a list of potential sites for solar PV development it would be impractical to undertake the work which would be needed to establish likely landscape impacts on each candidate site. Furthermore, it would be difficult to assess whether all potential sites would be made available by the site owner at a suitable cost. In addition, the viability of each candidate site for such development can only be understood following necessary investigations with the network operators which are very costly.
37. Whilst I understand these practical issues, the submitted information does not describe a formal site selection process which demonstrates that there is no non-agricultural land which could accommodate the proposal, or which fully justifies why agricultural land is to be used.
38. However, I also note that: the land is not BMV; the Appellant is willing to accept a condition requiring the land to be restored to agricultural use after the lifetime of the development (which is a maximum of 31 years); and the proposed Landscape and Ecological Enhancement Plan would bring biodiversity benefits to off-set the harm caused by the loss of agricultural production within the site. For these reasons, and having regard to the approach set out in the PPG, the 'Planning Update' Ministerial Statement of March 2015 and Policy C of the Planning for Solar Voltaic (PV) SPD, I attribute only limited weight to the shortcomings of the evidence justifying the use of agricultural land in the overall planning balance.

Other Considerations

39. The Appellant states, and the Council has not refuted, that the proposed development would, dependent on solar radiation levels, produce about 25,261 MWh of electricity per year, which would provide power for 5,950 to 6,535 homes. In view of the Government's objective of increasing the use and supply of renewable and low carbon energy, set out in paragraph 97 of the Framework, this would constitute a very substantial benefit of the proposal.
40. The Appellant's Landscape and Ecological Management Plan would, in addition to mitigating landscape and visual effects, deliver biodiversity improvements including a wildflower meadow, tree and hedgerow planting and management, grassland management and erection of bird nest boxes. However, as the extent to which net biodiversity would be enhanced is uncertain these improvements carry limited weight in the overall planning balance.

¹⁴ 'Planning Update March 2015' – Written statement to Parliament, DCLG and Secretary of State for Communities and Local Government, 25 March 2015

41. The Appellant also states that the proposal would assist the viability of the farm business. However, in the absence of substantive evidence demonstrating the nature of the farm business or its remaining scale after the appeal proposal is implemented, this point carries limited weight.
42. The Appellant's proposal to provide interpretative panels would, in addition to adding visual interest, help the local community to understand the nature of the scheme. This would therefore constitute a further benefit, albeit of limited individual weight.
43. The Council has stated that the level of community opposition to the scheme is itself material and in support of this point has drawn attention to the Written Ministerial Statement (WMS) issued by the Secretary of State for Communities and Local Government in June 2015. However, this WMS and the related part of the PPG¹⁵ applied specifically to wind turbines. I also note that only a limited number of objections to the application subject to appeal were received and that a similar number of representations were received in support.
44. Whilst there may be considerable pressure to develop renewable energy facilities of different types in the local area, this does not override the need for me to determine the appeal on its own merits, in accordance with the development plan unless material considerations indicate otherwise.

Draft Unilateral Undertaking

45. Before the application was determined, the Appellant and Council considered potential community benefits which may be delivered in connection with the appeal proposal and a draft Unilateral Undertaking (UU) was prepared. If it had been signed, this would have acted as a planning obligation which would have secured: the payment of a Community Contribution of £1,000 per megawatt of generative capacity of the solar panels installed at the site to be spent on community facilities in Holme parish; payment of an unspecified sum of money to enable the Council to construct a bridge over Bottesford Beck to link PROW211 to the nearby informal recreational land to the west; and the upgrading of PROW211 to a bridleway of not less than 3 metres in width.
46. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. The PPG¹⁶ confirms that planning obligations should not be sought where they are clearly not necessary to make the development acceptable in planning terms. Policy B of the Planning for Solar Voltaic (PV) Development SPD acknowledges that community benefits secured through a planning obligation must meet the statutory tests and states that where developers seek to provide community funds these should be the subject of separate agreement and cannot be considered as part of the planning application decision making process.
47. The harm that the Council claims the development would cause relates to landscape and visual effects and agricultural land quality. The provisions of the draft UU do not address these matters and there is no evidence before me

¹⁵ Paragraph: 033 Reference ID: 5-033-150618

¹⁶ Paragraph: 004 Reference ID: 23b-004-20150326

which shows that the draft UU would, if finalised, be needed to make the development acceptable in relation to any other harm or to ensure that the overall planning balance would fall in favour of the proposal. For these reasons, the provisions of the draft UU are not necessary to make the development acceptable in planning terms and if it had been finalised it would not have complied with Regulation 122(2). Given these circumstances, I have attributed no weight to the draft UU, or to the fact that the benefits which are set out within it are not secured by it as it has not been finalised, in my decision.

Conditions

48. The Appellant has agreed the wording of the draft conditions within the Council officer report on the application. Paragraph 206 of the Framework requires that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. My list of conditions attached as Appendix 1 to this decision closely follows that in the draft list, although with revisions as referred to below and to clarify detailed wording.
49. I have not included condition 2 in the Council's suggested list, which would require the development to be completed within six months of being commenced, as this condition would not be necessary to the granting of permission or readily enforceable if the development is not completed within the required time period. The reference within it to '*...such longer period as may be approved in writing...*' is also imprecise as to what period may be acceptable. I have also not included condition 19 on the Council's list, which would seek to prevent obstruction or damage to PROW 211 as these matters are covered by other legislation.
50. Condition 1 within my list is a standard time limit condition. Condition 2, which defines the approved plans by reference to a separate schedule, is needed for the avoidance of doubt. Condition 3, requiring the implementation of a construction traffic management plan, is needed in the interests of highway safety. Condition 4, which would control the angle of the solar panels, is needed to limit any effects of glint and glare for users of the countryside and nearby highways.
51. Condition 5 is required to prevent flooding by ensuring the satisfactory control of surface water drainage. I have required the approved flood risk measures to be implemented before the proposal is brought into use as it is not clear what 'prior to occupation' means given that the proposal would not involve any permanent on-site jobs or residential occupation.
52. Condition 6, covering land contamination issues, is required in the interests of public safety. Conditions 7, 8, and 10, which respectively control noise levels, external lighting, and the hours within which development activities may take place are required to prevent harm to the surrounding environment and to the living conditions of occupiers of nearby dwellings. Condition 9, requiring the approval and implementation of a Construction Environmental Management Plan (CEMP) is needed for the same reasons.
53. Condition 11, covering landscaping matters, is required to mitigate the effects of the proposal on the character and appearance of the area. I have added the requirements concerning the timetable for completion of the landscaping

(which are in condition 13 on the Council's list) into condition 11 but in a form which ensures there is adequate landscaping if the development is only partially completed or completed in phases. Conditions 12 and 13, requiring the approval and implementation of a revised Landscape and Ecological Management Plan, and condition 14 which would prevent the implementation of site clearance operations within the bird nesting period, are needed to protect and enhance biodiversity interests within the site. Conditions 15 and 16 are needed to ensure the protection and if necessary replacement of trees and hedges within the site to protect the character and appearance of the area.

54. Condition 17, requiring further details for example of the earth bund, construction compound, ground levels and any soil stripping and storage operations, is needed to ensure these aspects of the proposal are carried out in a way which would not compromise the future agricultural re-use of the site and to protect the living environment of occupiers of nearby dwellings. Condition 18, requiring approval of details of the external finishes of the proposed buildings and structures is required to protect the character and appearance of the area. Condition 19, requiring the provision of interpretative boards is needed to add visual interest and identity to the site.
55. My condition 20 would require the restoration of the site after its 31 year lifetime, and is needed to ensure that the proposal would not cause a permanent loss of agricultural land. The wording of this condition is substantially based upon that suggested by the Appellant and agreed by the Council through submissions made after my site visit, which I invited to clarify over what period the development would operate. I have clarified that the 31 year period runs from the start of development.

The 'Planning Balance' and Conclusion

56. I have found that the proposal would make a major positive contribution to the supply of renewable and low carbon energy which the Appellant identifies as being sufficient to provide power for 5,950 to 6,535 homes. In view of the priority given in the Framework to maximising the provision of such sources of energy, this would represent a very substantial benefit. The benefits that the proposal could bring in relation to biodiversity and other matters which I identify earlier in my decision add further, albeit limited, weight to the case for granting permission.
57. Set against these benefits, I have found that the proposal would, taking account of the proposed landscape mitigation measures and other factors set out earlier, cause limited harm to the character and appearance of the area. Due to the limited magnitude of the harm that would be caused and as the site does not form part of a valued landscape in the context of the Framework, this harm is not determinative in the overall planning balance. I have also found that there are shortcomings in the Appellant's evidence concerning the use of agricultural land for the proposal, although as the land is not BMV agricultural land and for other reasons which I have set out earlier these shortcomings carry only limited weight against the proposal.
58. Having carefully considered the matters summarised above, I consider that the benefits of the proposed development would outweigh the harm that it would cause. This being the case the proposal would accord with Policy DS21(i) of the NLLP. Furthermore, the proposal includes the details required under other aspects of Policy DS21 and as it would not cause unacceptable landscape or

other impacts its approval would accord with paragraph 98 of the Framework, the PPG¹⁷, and the Planning for Renewable Energy Development' and 'Planning for Solar Photovoltaic' SPDs.

59. Furthermore, by contributing to the provision of a low carbon economy, the proposal would, despite its limited harmful effects, contribute strongly to the environmental dimension of sustainable development set out in paragraph 7 of the Framework. By broadening the range of energy infrastructure it would also bring economic benefits and I consider that the proposal as a whole would constitute sustainable development.
60. I have identified earlier that the proposal would not accord with, or would not fully accord with, Policies RD2, DS1(i) and LC7 of the NLLP. However, the out of date nature of Policy RD2, the limited nature of the harm that would be caused by the proposal, the positive outcome of the 'planning balance' exercise, the compliance of the proposal with Policy DS21, and the strong contribution that the proposal would make to sustainable development all indicate that permission should be granted.
61. For these reasons, I allow the appeal and grant planning permission subject to conditions.

Jonathan Clarke

PLANNING INSPECTOR

¹⁷ Paragraph: 013 Reference ID: 5-013-20150327

APPENDIX 1)

LIST OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule A.
- 3) No development shall take place until a construction phase traffic management plan showing details of all associated traffic movements, including delivery vehicles and staff/construction movements, any abnormal load movements, contractor parking and welfare facilities, storage of materials and traffic management requirements on the adjacent highway, has been submitted to and approved in writing by the local planning authority. Once approved the plan shall be implemented, reviewed and updated as necessary throughout the construction period. The ingress and egress to and from the site shall be as agreed in the amended Construction Management Plan dated April 2015.
- 4) The angle of the solar panels hereby permitted shall not at any time exceed 20 degrees to the horizontal unless a variation is agreed in writing beforehand by the local planning authority.
- 5) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) report number 1441-4230 V2, compiled by Aardvark EM Limited, March 2015. The mitigation measures detailed within the FRA include: the incorporation of swales as shown in the Indicative swale cross section (in appendix 6.2) and the proposed development layout (in figure 2) which should provide a minimum surface water attenuation volume of 312 square metres; and the construction of any related access tracks with a permeable surface as detailed within section 3.3.4. The mitigation measures shall be fully implemented before the development is brought into use and subsequently remain in place.
- 6) If, during development, any odorous, discoloured or otherwise visually contaminated material is found to be present at the site then no further development shall be carried out until a written method statement, detailing how this contamination shall be dealt with, has been submitted to and approved in writing by the local planning authority. The approved method statement shall be implemented in full prior to the development continuing on site.
- 7) The total rating level of noise emitted from the operation of all plant shall not exceed 35dB measured as LAeq,15min at any residential boundary. The definition of rating level shall be as described in British Standard (BS) 4142:2014.
- 8) External lighting during the construction stage of the development shall not be used before 0700 hours or after 1900 hours on any day. There shall be no external lighting during the operational phase of the development other than an emergency light on the DNO substation and switchgear container.

- 9) No development hereby approved shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. This shall include details of mitigation measures for the control of pollution including noise, vibration, dust and light. The CEMP shall include details of the proposed piling. Details of analysis results and subsequent disposal of contaminated wastes off site shall be provided within the CEMP. All construction and site clearance work shall be carried out in accordance with the approved CEMP unless otherwise agreed in writing by the local planning authority.
- 10) Construction and site clearance operations shall be limited to between the hours of 0700 to 1900 on Monday to Sunday. No construction or site clearance operations shall take place on bank/public holidays without the prior written agreement of the local planning authority. No vehicular deliveries, including HGV movements, shall arrive, be received or despatched from the site outside the hours of 0700 until 1900 on Monday to Friday or 0700 until 1730 on Saturdays without the prior written approval of the local planning authority. Installation of equipment on site shall not be permitted outside these hours without the prior written approval of the local planning authority.
- 11) Notwithstanding the submitted landscape proposals, no development shall commence on site until a detailed landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the numbers, species, sizes and spacing of plants, a new native hedge and trees to be planted along the entire western boundary of the site on the western side of the proposed security fencing, new hedge planting elsewhere including along the southern boundary of the site, and a timetable for completion.

The approved landscaping scheme shall be carried out in accordance with the approved timetable. Any trees or plants which die, are removed or become seriously damaged or diseased within five years from the date of planting shall be replaced in the next planting season with others of similar size and species to those originally required to be planted, unless the local planning authority agrees in writing beforehand to any variation. All hedges shall be allowed to grow and shall be maintained at a minimum height of 3 metres above ground level at all times and shall not be reduced in width.

- 12) No development shall take place until a revised Landscape and Ecological Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
 - (1) details of measures to avoid harm to nesting birds, water voles, hedgehogs and other protected species during construction and ongoing management;
 - (2) details of existing and target acid grassland plant communities, including details of any seed mixes to be used;
 - (3) details of grassland, field margin and other habitats to be created, with prescriptions for habitat creation techniques and ongoing management and detailed evidence to show that the grassland can be established around and under the proposed panels given the proposed separation distances between the solar arrays and the consequent shadowing that would result;

- (4) details of enhanced tree and hedgerow management measures with hedges to be maintained at a minimum height of 3 metres above ground level and details of any coppicing, gapping up with mixed native species and sensitive hedge trimming;
 - (5) details of enhanced ditch management measures, including sensitive cutting especially to protect and create water vole habitats, de-silting and re-profiling where necessary;
 - (6) details of the number, type and position of bat boxes and nest boxes to be installed;
 - (7) proposed timings for the above works; and
 - (8) restrictions on external lighting to avoid impacts on bat foraging areas and sensitive habitats.
- 13) The Landscape and Ecological Management Plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. Prior to the completion of the approved development, a report shall be submitted to the local planning authority providing evidence of compliance with the Landscape and Ecological Management Plan.
- 14) No site clearance shall take place during the bird nesting period unless otherwise agreed in writing by the local planning authority.
- 15) No development shall take place until an arboricultural impact assessment, trees and hedge protection plan and an arboricultural method statement have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details including the timing of works.
- 16) No trees or hedges shall be wilfully damaged or destroyed, uprooted, felled, lopped or topped nor any other works carried out which would cause damage to the root systems or otherwise threaten the lives of the trees/hedges without the prior written consent of the local planning authority. Any trees or hedges removed without such consent, or dying or being severely damaged, or becoming seriously diseased, shall be replaced with trees/hedges of such size and species as may be agreed in writing by the local planning authority.
- 17) Prior to development commencing, a scheme to show the details of the construction compound, details of the proposed earth bund, including materials, cross-sections and drainage, details of any soil stripping, storage of sub soil and top soil, and existing and proposed ground levels shall be submitted to and approved in writing by the local planning authority. All work shall accord with the approved details. The bund shall be created within one month of the completion of the solar panel construction phase and prior to the erection of the security fencing.
- 18) No development shall take place until details of the proposed external finishes of all proposed buildings and structures have been submitted to and approved in writing by the local planning authority. All work shall accord with the approved details.
- 19) Within two months of work commencing on site a scheme showing details of the number, content, size, position, fixing, materials and maintenance of the proposed interpretative boards shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be

implemented in full within one month of the solar farm commencing operation and shall thereafter be retained and maintained for the life of the development.

- 20) After a period of 31 years following the start of development or within 6 months of the photovoltaic park becoming redundant, surplus to requirements or ceasing to be used for the production of electricity (whichever occurs first) the use hereby permitted shall cease and all panels, supports, inverters, cables, buildings and all associated structures and fencing within the site shall be removed and the land restored to its previous condition or as otherwise agreed. The work will be carried out in accordance with details that have been submitted to and agreed in writing by the local planning authority prior to the decommission works taking place.

SCHEDULE A – LIST OF APPROVED PLANS REFERRED TO IN CONDITION 2

1. Location plan - 1441-2910 Rev V1
2. Location plan extra detail - 1441-2300 Rev V2
3. Existing site plan extra detail Plan 1 -1441-D005 Rev V1
4. Existing site plan extra detail Plan 2 - 1441-D006 Rev V1
5. Existing site plan extra detail Plan 3 - 1441 D007 Rev V1
6. Indicative solar PV layout - 1441-2913 Rev V4
7. Inset Plan 1 - 1441-2976 Rev V2
8. Inset Plan 2 - 1441-2977 Rev V2
9. Inset Plan 3 - 1441-2978 Rev V2
10. Indicative solar PV Layout extra detail Plan 1 - 1441-D002 Rev V1
11. Indicative solar PV Layout extra detail Plan 2 - 1441-D003 Rev V1
12. Indicative solar PV Layout extra detail Plan 3 - 1441-D004 Rev V1
13. Location plan with cable route - 1441-2300
14. Proposed site plan - 1441-2930 Rev V2
15. Panel Cross Section - 1441/2939 Rev V1
16. Landscape and Ecological Enhancement Plan 1441-2945 Rev V3
17. Landscape and Ecological Enhancement Plan Inset Plan 1 - 1441-2301 Rev V1
18. Landscape and Ecological Enhancement Plan Inset Plan 2 - 1441-2302 Rev V1
19. Landscape and Ecological Enhancement Plan Inset Plan 3 - 1441-2303 Rev V1
20. Swept path analysis of existing access - 14760/AT01
21. Existing access and egress general arrangement - 14759/T01
22. Existing site access visibility splay - 14759/T02
23. DNO substation elevation and plan 1.0 Rev V1
24. Storage container - 1441/2922 Rev V1
25. Fence and gate elevation - 1441/2944 Rev V1
26. Inverter transformer building elevation and plan 1.0 Rev V1
27. Private substation building elevation and plan 1.0 Rev V1
28. Satellite pole elevation 1.0 Rev V1
29. CCTV pole elevation plan 1.0 Rev V1