
Appeal Decision

Site visit made on 4 July 2016

by Brendan Lyons BArch MA MRTPI IHBC

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

Decision date: 25 January 2017

Appeal Ref: APP/H0928/W/16/3147740

Land to the East of Towcett Farm, Little Strickland, Penrith

- 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 Lightsource SPV No.128 against the decision of Eden District Council.
 - The application Ref 15/0644, dated 14 July 2015, was refused by notice dated 29 October 2015.
 - The development proposed is described as the installation and operation of a solar farm and associated infrastructure, including PV panels, mounting frames, inverter, transformer, pole-mounted CCTV cameras, substations, composting toilet and fence.
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Decision

1. The appeal is allowed and planning permission is granted for the installation and operation of a solar farm and associated infrastructure, including PV panels, mounting frames, inverter, transformer, pole-mounted CCTV cameras, substations, composting toilet and fence at Land to the East of Towcett Farm, Little Strickland, Penrith in accordance with the terms of the application Ref 15/0644 dated 14 July 2015, subject to the conditions set out in the schedule annexed to this decision.

Preliminary matter

2. The planning application that has given rise to the appeal was recommended for approval by Council officers but was refused by elected members, along with six other proposed solar installations at the same meeting. Some of those applications have already been subject to appeal, and others are currently under consideration, two of which¹ are located close together some 3km to the north.

Main Issue

3. Having regard to the Council's reason for refusal of the application, the main issue is the proposal's effect on the area in terms of landscape character and visual impact.

Reasons

4. The appeal site is made up of three irregularly-shaped fields, roughly forming an L shape, with a combined area of 10.7ha. The fields are surrounded by

¹ Land to the South of Graham Wood: Application Ref 15/0666; Appeal Ref APP/H0928/W/16/3147860
Land to the South of Dallen Bank Wood: Application Ref 15/0663; Appeal Ref APP/H0928/W/16/3147861

other agricultural land, interspersed with occasional small blocks of woodland. The nearest local road passes some 600m to the south of the site, separated from it by open fields enclosed by drystone walls. The nearest farm dwelling is at Dedra Banks, some 350m to the north. There is a small group of dwellings at Sleagill Head, about 500m to the south-east.

5. Permission is sought for the installation over most of the site of an array of photovoltaic ('PV') panels, intended to be in place for a period of 30 years, supplying energy to the national grid. The panels would be mounted on frames laid out in rows running east-west, so that the panels, tilted at 20 degrees to the horizontal, would face south. The typical height of each frame would range from 0.8m to 2.4m. The space between the frames and beneath the panels would be seeded with grass to allow grazing by sheep. The arrays would be enclosed by a 2.0m high stock-proof wire fence, interspersed with 13 CCTV cameras mounted on 2.4m high poles. Power would be collected at two inverter/transformer stations, serviced by an access track. There would also be a small sub-station, communications building and ancillary structures inside the fence at the south-eastern corner of the site, together with a more substantial network operator's ('DNO') sub-station just outside. Access would be taken from a track across the adjoining fields.

Policy context

6. The development plan includes the Eden District Council Core Strategy Development Plan Document, Adopted March 2010 ('CS') together with saved policies of the Eden Local Plan December 1996 ('LP'). Policy CS20 supports renewable energy proposals where there would be 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. Landscape character and local amenity are among the impacts to be considered. Policy CS3 seeks to sustain rural areas by supporting a sustainable agricultural industry, including the facilitation of appropriate rural economic diversification, and by ensuring that new development respects and reinforces the character of the wider landscape and by protecting the open countryside from inappropriate development. The protection of local landscape character is among the criteria set by Policy CS16 and Policy CS18, which respectively seek to protect the natural environment, and to achieve high quality design. Saved LP Policy NE1 also seeks to protect the character of the countryside, only allowing development to meet infrastructure or specific local needs where impacts can be minimised.
7. These policies are generally consistent with those of the National Planning Policy Framework ('NPPF'), whose core principles include the encouragement of renewable energy development as part of the transition to a low carbon future, while also promoting recognition of the intrinsic character and beauty of the countryside. Achievement of radical reduction in greenhouse gas emissions and supporting the delivery of renewable and low carbon energy are seen as central to the three dimensions of sustainable development². The NPPF advises that local policy should seek to maximise renewable energy development, while ensuring that adverse impacts are addressed satisfactorily, including landscape

² NPPF paragraph 93

and visual impacts³. Proposals should be approved where impacts are, or can be made, acceptable⁴.

8. Guidance on the application of national policy is provided by the Planning Practice Guidance ('PPG'), which reiterates the importance of an increased supply of renewable energy. While the PPG encourages focussing large scale solar farms on previously developed and non-agricultural land, it acknowledges the potential use of ground-mounted installations and advises that the visual impact within the landscape of a well-planned and well-screened solar farm can be properly addressed⁵.
9. National planning policy reflects the context of the Government's energy policy. The appellants draw attention to a number of Government documents, including the UK Renewable Energy Strategy (2009), the Renewable Energy Roadmap Update (2013), and the UK Solar PV Strategy Part 2 (2014), and to the EU Renewable Energy Sources Directive (2009). Solar energy is clearly seen as having an important role in achieving national binding targets for the reduction of emissions and obligations on production of energy from renewable sources.

Landscape character

10. The proposal is supported by a Landscape and Visual Impact Assessment ('LVIA'), based on a 2km radius study area, which seeks to evaluate predicted effects on landscape character and visual amenity. The LVIA identifies a Zone of Theoretical Visibility ('ZTV'), assuming 'bare earth', and a more confined Screened ZTV to allow for intervening woodland and buildings. Photomontages have been provided to suggest the likely visual impact of the proposed installation as seen from nearby public viewpoints. In determining the application, the Council commissioned an independent review of the LVIA by expert consultants. The appeal is accompanied by detailed landscape evidence, including a further appraisal of the LVIA on behalf of the appellant. There is some degree of consensus between the three appraisals.
11. The appeal site lies at the point of transition between two Character Areas in the National Landscape Character Assessment. It is common ground that an assessment at more local scale is necessary to assist in the evaluation of landscape impacts. In the Cumbria Landscape Character Guidance and Toolkit (March 2011) the site is identified as lying within Landscape Character Type ('LCT') 12: Higher Limestone, specifically within Sub-Type ('LCST') 12b: Rolling Fringe. This LCST is characterised as comprising large fields of improved pasture in a large-scale undulating topography cut through by small streams and rivers, and with very sparse tree cover but for some coniferous plantations. A much smaller part of the study area to the north-east of the site comprises LCT 6: Intermediate Farmland, which is a transition zone between lowland and rolling upland areas, with extensive areas of improved pasture and some arable farming.
12. From the evidence of the written submissions and of my own visit, I agree with the LVIA that the site and immediately surrounding area conform well to the LCST 12b description in terms of their undulating landform and the incised

³ NPPF paragraph 97

⁴ NPPF paragraph 98

⁵ PPG paragraph ID 5-013-20150327

wooded valley of a stream that forms the eastern and southern boundary of the site, but that tree cover, including woodland and individual trees and hedges on field boundaries, is more extensive than is typical. While large rectangular fields are to be found to the north, the field pattern around the appeal site is more irregular, being influenced by natural features such as the stream.

13. The area offers an attractive rural landscape, whose appreciation by local residents has been confirmed in representations by Newby Parish Meeting and others, but is not formally designated. I agree with the Council's review that, reflecting its lack of rarity or designation, this is a landscape of medium value with a medium sensitivity to change.
14. Within this context, the appeal site does not form a particularly strongly defined element, but is part of the local patchwork of fields, hedgerows and woodland parcels. The evidence suggests that the northern field was added later to the scheme, but the almost domed landform and the absence of a strong natural boundary tends to support its inclusion. The southern fields are also separated only by a wire fence, but form a continuous element. There are connections with the wider landscape on all sides, but the site is not a particularly prominent feature. The existing topography and field pattern would be retained⁶ as part of the appeal proposal, with native species hedgerow to be planted on the western boundary and re-instated along the northern boundaries together with existing hedgerows, which would all be allowed to grow to 3m in height. The retention of these components of landscape structure would help to mitigate the proposal's impact on character, but the open green surface of the fields themselves is also an important component, to which the LVIA does not give specific weight. Overlaying the existing fields with the proposed extensive array of PV panels, would be a fundamental change that would introduce a man-made quasi-industrial character.
15. However, while the magnitude of change would be high on the site itself, the change to overall landscape character would be low, restricted by the site's low visibility and the proposal's limited scale, combined with the enhancement of existing boundary features. There would be no change to the key characteristics and features of the landscape. I accept the finding of the LVIA and the Council's review that there would be only a minor adverse effect on the wider landscape character of LCST 12b and none on LCT 6. Because of the distances involved and the limited intervisibility, as confirmed by the appellants' detailed appeal submission, there would be no adverse effect on the nearest designated landscapes.

Visual impact

16. The Council does not challenge the range of viewpoints selected for examination, which I agree are representative. The Screened ZTV suggests that there would be limited direct views of the proposal beyond a 1km radius and very limited outside the 2km study zone, principally to the north-east, where the proposal would be a very small component of any wide-ranging view. The viewpoints analysed show that many theoretically available views would in fact be well screened by vegetation not plotted by the ZTV. The appeal evidence of the same views under winter conditions shows that in most

⁶ The layout plan indicates the boundary between the southern fields is to be retained, but it is not acknowledged by the proposed landscape plan. Final landscaping proposals can be secured by a planning condition.

cases the impacts would not be significantly altered by lack of seasonal vegetation.

17. Views from public roads would be limited, with the site generally well screened by folds in the landscape and intervening vegetation. There might be glimpsed perceptions of the array from the road to the south of the site, particularly in winter⁷, and occasional fleeting glimpses from the road to the east⁸, but in all cases the impression would be brief and as a very small part of a wider view. I agree with the two LVIA reviews that the overall effect would be negligible.
18. The site is not crossed by any public rights of way, and those in the immediate area appear to be local in nature and not part of any formally designated routes. The most direct view of the site would be from the bridleway from Sleagill Head to New Mill Flatt⁹. The site's domed fields form a central element of views at gaps, such as at field gates, along the generally tightly contained right of way. The submitted photomontage appears to be somewhat inaccurate in representing the extent and alignment of the proposed array, but it is clear that the installation would form a highly incongruous feature in the otherwise pastoral scene, and this would not be significantly mitigated by proposed planting. Users of the bridleway would be sensitive to change. The Council's review seeks to downgrade the LVIA assessment of a major adverse effect, owing to the very localised nature of the view and its long-term reversibility. However, because of the framed quality of the view, which walkers and riders might be inclined to pause to absorb, I consider that the adverse visual impact would be moderate-major over the life of the development.
19. Slightly further north, the footpath from Old Mill Flatt to Howgill would begin with the site placed centrally in the view ahead¹⁰, so that the proposed array would be a prominent feature that would catch the eye, albeit as part of a wider panorama. At the opposite end of the path¹¹ side views back over the site would be well filtered by intervening vegetation. I accept the LVIA assessment of a moderate level of adverse effect on users of this footpath.
20. From the west end of the bridleway from Towcett to Dedra Banks there would be a wide-ranging elevated view¹² in which the appeal proposal would be visible as a distant linear feature, partly screened by trees and hedges. There would be intermittent views along the path¹³, with the array assuming slightly greater prominence but still generally well screened, also with additional mitigation by proposed planting. The LVIA conclusion of a major-moderate impact is not fully justified. I agree with the two reviews that the impact would be minor.
21. The nearest dwelling would be the farmhouse at Dedra Banks, which would look over the site at least from upper floor windows, but only the backs of the nearest panels would be likely to be seen, resulting in a moderate adverse impact reducing to minor as hedge growth mitigation took effect. Similar impacts would be likely for residents of the nearby Field House, which appears to have a conservatory obliquely addressing views of the site, and of the slightly more distant White Stone.

⁷ LVIA Viewpoints 5 and 6

⁸ LVIA Viewpoint 3 approximates

⁹ LVIA Viewpoint 4

¹⁰ To the south of LVIA Viewpoint 3

¹¹ LVIA Viewpoint 10

¹² LVIA Viewpoint 7

¹³ LVIA Viewpoint 8

22. From the south, the existing farmhouse at High Murber would be screened from the development, but the new house under construction nearby would have views over the site from upper floor windows, resulting in a minor adverse impact compared to present conditions. None of the houses at Sleagill Head appears to have a main elevation directly facing the site, but the LVIA acknowledges that some views would be likely from rear windows and gardens, and predicts a potential moderate-major effect during winter months. I agree with the Council's review that this assessment is slightly over-stated and that a moderate impact would be more reasonable.
23. In no case would the adverse visual impact on residents of these houses affect their living conditions to the extent that the house would become an undesirable place to live. There would be negligible effects, if any, on other nearby dwellings.
24. I conclude that the proposal would result in a highly localised moderate-major adverse impact on users of one bridleway and moderate adverse impacts on users of another path and of several dwellings, although this would be mitigated over time for those to the north of the site.

Cumulative impacts

25. The LVIA did not examine the cumulative effects of the appeal proposal with other proposed installations. The Council's consultants produced a separate study of the effects with the two proposals at Dallan Bank to the north¹⁴, as well as of two further proposed arrays to the south-east, at Whitestone¹⁵ and Welltree Brow¹⁶. The appellants' landscape evidence has considered the same schemes. I have less information about the details of the latter two proposals compared to the first two, but on my site visit I was able to gain an appreciation of the relative locations of the five schemes and their likely inter-relationship.
26. The two detailed studies concur that there would be negligible cumulative impacts because of the distance involved, with few if any locations from which actual joint views of the appeal proposal and any of the other schemes would be obtained. The appeal proposal lies in a different LCT, but even if the common characteristics of the adjoining LCTs were taken into account, there would be negligible impact on landscape character. I find no reason to dispute this assessment.
27. The potential proliferation of solar development in the Eden Valley has been of concern to many interested parties. But the evidence suggests that this is a matter of principle rather than of perceptible cumulative landscape and visual impact. I find no grounds to oppose the appeal proposal for this reason.

Other matters

28. The Council does not raise any objection on grounds of the effects on designated heritage assets, and I have found no evidence to lead to a different conclusion. However, I agree that the remains of the post-medieval farmstead on the site are of local heritage value, which would be worthy of protection

¹⁴ See para 2 above

¹⁵ Application Ref 15/0665

¹⁶ Application Ref 15/0668

even though it is not currently proposed to disturb them. Suitable measures can be approved by means of a planning condition.

29. The Council does not dispute the appellants' case for the use of agricultural land, which is supported by an analysis of available previously developed land in the district. The use of poorer quality land, classed as Grade 4 in the Agricultural Land Classification, would be consistent with national policy. A contribution to agricultural output would continue by allowing some grazing in and around the proposed array.
30. The proposal is accompanied by a Flood Risk Assessment ('FRA') which considers the poor permeability of the soil and sets out measures to control surface water runoff, through the construction of shallow swales. I agree that these proposals, which can be secured through a planning condition, would be reasonable and necessary.
31. The Council does not raise any objection to the effects on biodiversity, highway safety or effect on neighbours, including glint/glare and noise. Although concerns on some of these matters have been raised by interested parties, I have found no substantive evidence to cause me to disagree with the Council's assessment. Subject where necessary to suitable control measures, which can be secured by planning conditions, the proposal's impacts in these respects would be acceptable.

Balance of considerations

32. The proposed installation would have an installed capacity of 4.9MW. The appellants calculate that it would be capable of exporting power equivalent to the energy consumption of 1334 average households. There would be an annual predicted displacement of CO₂ emissions associated with electricity generation of some 2277 tonnes. Although the proposal would not be large in solar farm terms, these are very significant benefits entirely in accordance with national and local policy objectives. As outlined above, the NPPF 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. I give substantial weight to the proposal's renewable energy benefits.
33. There would be economic and social benefits from the employment generated by the construction and management of the installation and by the contribution to farm diversification. I understand the concerns raised about the potential impact on tourism, but given the generally low-moderate level of landscape and visual impact, either singly or cumulatively, I do not find any reason to fear significant economic impact. There would be some modest environmental benefits from the proposed ecological enhancements.
34. Set against the benefits would be the change to the landscape character of the site itself and the minor effect on the character of the wider landscape and the generally low or moderate level of visual impacts, apart from one very localised instance, together with the scope for some further mitigation by proposed planting.
35. On balance, I consider that the benefits would significantly outweigh the harm, and that the effect on landscape character and visual impact would be acceptable, so that the proposal would comply with NPPF guidance and with CS

Policy CS20. Any lesser degree of conflict with Policies CS16 and CS18 and with saved LP Policy NE1 would be outweighed. The proposal would produce net benefits across each of the three dimensions of sustainable development so that the presumption in favour of such development set by the NPPF would apply.

Conditions

36. The appellants do not contest the conditions proposed by the Council, all of which I agree would be reasonable and necessary, subject to some amendment in the interests of greater precision.
37. In addition to the standard condition on commencement time, further conditions are necessary to specify time limits for the proposed period of operation and the decommissioning of the site at the end of that period or in the event of the installation earlier falling out of use, in order to limit the development's permanent impact on the landscape. This would accord with the guidance of the PPG.
38. In addition to a condition on the identification of approved plans, which is necessary to confirm the form of development, a specific condition is needed to secure approval of the form and treatment of the DNO substation, which would be of more substantial construction and greater visual impact than the other structures. The DNO building requires external lighting for emergency access, but a restriction on other lighting is justified to avoid adverse impacts on the character and ecology of the area.
39. Protection of the remains of the ruined farmstead is necessary to ensure that the heritage significance of the site is preserved. The implementation of the biodiversity enhancement measures and their subsequent management are required to achieve protection and enhancement of the area's nature conservation value. The submitted landscape mitigation measures will require revision to reflect the latest site layout, in the interests of protecting and enhancing the rural character of the area.
40. The approval of a detailed traffic management plan is required in the interests of the safe and convenient use of the local highway network, as final details have not been provided in the submitted Construction, Decommissioning and Traffic Management Method Statement. The implementation of the construction-specific measures outlined in that document, covering hours of work, and control of noise, dust and waste are needed to protect the amenity of local residents. The implementation of the surface water retention measures outlined in the FRA is justified to ensure no increased risk of flooding would arise.

Conclusion

41. For the reasons set out above, and having taken careful account of the representations made, I conclude that the appeal should be allowed and planning permission granted subject to conditions.

Brendan Lyons

INSPECTOR

Annex

Appeal Ref: APP/H0928/W/16/3147740

Land to the East of Towcett Farm, Little Strickland, Penrith

Schedule of Conditions Nos.1-12

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The permission hereby granted shall expire after 30 years following the date when electrical power is first exported ('first export date') from the development to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the local planning authority no later than one calendar month after the event.
3. Within 6 months of the cessation of the export of electrical power from the site, or within a period of 30 years and 6 months following the first export date, whichever is the sooner, all infrastructure associated with the development shall be removed from the site and the site restored to its original condition in accordance with the submitted Construction, Decommissioning and Traffic Management Method Statement dated July 2015.
4. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan drawing TWC_03
 - Proposed Layout drawing TWC_01_Rev04
 - Communications Building Details drawing CB_01
 - Client Side Substation Details drawing CSR_01
 - Storage Building Details drawing SB_01
 - Toilet Cabinet drawing TC_01
 - Typical Panels Elevation 4 Landscape drawing TYP_P_E
 - Side/Aux Transformer drawing AT_01
 - CCTV Pole Details drawing CCTV_01
 - Transformer Details drawing TD_01
 - Inverter Details drawing ID_01
 - Deer Fence inc Mammal Gate
 - Road Cross Section
5. Notwithstanding the details shown on drawing TWC_04, no development shall take place until full details of the design and external appearance of the DNO building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
6. No fixed lighting shall be installed on the site unless details have first been approved in writing by the local planning authority.
7. No development shall take place until fencing has been erected in a manner approved in writing by the local planning authority around the ruined building remains of Howgill Ings farmstead. Nothing shall be stored or placed

in any area fenced in accordance with this condition, and the ground levels within the fence shall not be altered nor any excavation made. The approved fence shall be retained during the lifetime of the development hereby permitted.

8. The development hereby permitted shall be carried out, and the site subsequently monitored and managed, in accordance with the submitted Biodiversity Management Plan by Avian Ecology dated 14 July 2015.
9. Notwithstanding the details shown on drawing L.0356.006, no development shall take place until a scheme of landscape mitigation measures has been submitted to and approved in writing by the local planning authority. The approved landscape mitigation measures shall be implemented in the first planting season following completion of the development or the first export date, whichever is the sooner, and shall be maintained thereafter for a period of not less than 5 years. This maintenance shall include the replacement of any tree or shrub which is removed, becomes seriously damaged, seriously diseased or dies within that period. The replacement tree or shrub shall be of the same species and of similar size to that originally planted.
10. No development shall take place until a detailed Traffic Management (Construction and Operation) Plan, indicating routes and sizes and types of vehicles and including analysis of known or possible route issues with mitigation measures where necessary, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved plan.
11. The development hereby permitted shall be carried out in accordance with the Construction Specific Information outlined in the submitted Construction, Decommissioning and Traffic Management Method Statement dated July 2015.
12. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment by PFA Consulting dated 8 July 2015 and the mitigation measures detailed therein.