
Appeal Decision

Site visit made on 28 June 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/16/3147861

Land to the South of Dallan Bank Wood, Newby, Penrith CA10 3ED

- 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 179 Ltd against the decision of Eden District Council.
 - The application Ref 15/0663, dated 22 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 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 and fence at Land to the South of Dallan Bank Wood, Newby, Penrith CA10 3ED in accordance with the terms of the application Ref 15/0663 dated 22 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, one of which¹ is located on the same farm as this current proposal and another² is some 3km to the south.

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 two large regularly-shaped fields, forming an L shape with a combined area of 9.74ha, immediately adjacent to the access

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

² Land to the East of Towcett Farm: Application Ref 15/0644; Appeal Ref APP/H0928/W/16/3147740

road to Dallan Bank Farm. The house and extensive farm buildings at Dallan Bank are some 350m to the south. The road from Great Strickland to Morland passes to the north of the site, separated from it by a block of coniferous woodland that extends round into the notch formed by the north-eastern junction of the two fields. A larger area of mature forestry on the opposite side of the access road encloses the western edge, and there are open fields to the east and south. The land is effectively flat, with a very gentle slope to the south.

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 20 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 of the northern field adjacent to the farm access road, together with a more substantial network operator's ('DNO') sub-station just outside. Access would be taken from the farm road, with a temporary site compound to be formed in the field to the south during the construction period.

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 development³. The NPPF advises that local policy should seek to maximise renewable energy development, while ensuring that adverse impacts are addressed satisfactorily, including landscape and visual impacts⁴. Proposals should be approved where impacts are, or can be made, acceptable⁵.

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 addressed⁶.
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 a good 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') 6: Intermediate Farmland. This LCT is defined as transitional farmland between the lowland and upland landscapes, comprising extensive areas of improved pasture with some arable farming, with wooded valleys and ghylls. The LCT description notes that at lower levels the land becomes more undulating and enclosed, with a regular pattern of hedges or hedgerow trees. Part of the study area to the south-west of the site comprises LCT 12b: Rolling Fringe, which has a more expansive larger scale, not reflective of the surroundings of the appeal site.

³ NPPF paragraph 93

⁴ NPPF paragraph 97

⁵ NPPF paragraph 98

⁶ PPG paragraph ID 5-013-20150327

12. From the evidence of the written submissions and of my own visit, I consider that the site and surrounding area conform quite well to the LCT 6 description. The landform is undulating, here sloping down from the site to the south. The field pattern comprises both medium-large rectangular fields, including those that make up the appeal site, and smaller more irregular plots. Fields are enclosed both by stone walls and by hedgerows, not all of which, such as those at the appeal site, are fully intact. Because of the topography and the blocks of woodland which are common in the vicinity of the site, the local landscape is relatively well-contained, without expansive views but with a backdrop of distant fells.
13. The area offers an attractive rural landscape, whose appreciation by local residents has been confirmed in representations by the three parish councils and others, but is not formally designated. I agree with the judgement of the LVIA and of the Council's review that in view of its lack of rarity or designation, this is a landscape of medium value, resulting in a medium to low sensitivity to change.
14. Within this context, the appeal site and the large field encompassed by the L shape, form a relatively well contained element, being enclosed by tree planting on two sides and part of the third. There are connections with the wider landscape on the two more open sides, but the site is fairly level and is not prominent from the adjoining land. The best appreciation of the landscape context can be gained from the southern edge of the site, where the distant outlines of the fells to the north can be seen and an overview of the agricultural land to the south. The existing topography and field pattern would be retained as part of the appeal proposal, with native species hedgerow to be re-instated along the southern and western boundaries of the southern field, and existing hedgerows to be retained and strengthened along the other two open sides. 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 effect on overall landscape character would be low, restricted by the relatively enclosed nature of the site and the proposal's limited scale, combined with the enhancement of existing boundary features. 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 of LCT 6 and none on LCT 12b. 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 representative viewpoints selected for examination, and I find no reason to disagree. 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, 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 cases the impacts would not be significantly altered by lack of seasonal vegetation.

17. Close-medium range views from the public realm would be restricted. From the road to the north of the site, there would be a close-range along the farm access road of the western edge of the array. However, the submitted photomontage gives some confidence that the proposed hedge along this side would soon provide effective screening. The photomontage image was taken in high summer, with lush undergrowth obscuring other views of the site. However, at the time of my visit, slightly earlier in the year, it was possible to see glimpses of the northern field between the trees for some way along the road. The winter image provided with the appellants' appeal evidence shows more open views between the trees. Motorists would have only a fleeting view, but enough to gain an appreciation of the extent of the array. Cyclists using the road, which here forms part of National Cycle Route 71, and any pedestrians, would be more sensitive to visual impact. However, the magnitude of change would be low and any intrusive effect could be mitigated by the addition of a further hedgerow along the northern site boundary. Subject to adequate mitigation, which can be secured by a planning condition, I accept the LVIA conclusion that the effect would be minor tending to negligible.
18. The addition of a hedgerow along the northern boundary would also address the concern raised by interested parties that blocks of woodland, such as this plantation, could be cropped during the lifetime of the development, thereby opening up views not currently taken into account. I have no information about the management of these plantations, and the likelihood of clear felling. However, the potential risk of unforeseen visual impacts could be addressed by the addition of this further screening within the site, which could be secured through the approval of the detailed landscaping proposals for this edge of the site.
19. The LVIA concludes that views from other roads in the vicinity would generally be screened by existing trees and land form, so that there would be no adverse visual impacts. The appellants' appeal evidence acknowledges the potential for views from the road to Newby, to the east of the site. I agree that there could be some perception of part of the development in oblique views from a short stretch of this road, but the magnitude of change would be low, and would be screened by the proposed hedgerow improvements. The effect would again be minor tending to negligible.
20. 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 designated routes. The most direct view of the site would be from some points on the footpath from Great Strickland to Newby Head, which passes to the south. I consider that the submitted photomontages provide a fair representation of the proposal's likely effect, showing a narrow band of the panels in the southern field visible but well filtered by vegetation which would be supplemented by proposed planting. While users of the footpath would be sensitive to change, the visual impact would be moderate, tending to minor as mitigation took effect. Any glimpsed views from other nearby paths would have a negligible impact.
21. The nearest dwelling would be the farmhouse at Dallan Bank. Although its main rear elevation would directly face the appeal site, because of the topography

and enclosure of the house's garden, I consider that perception of the array would be mainly confined to views from upper floor windows, from where the array would be seen against the dark background of the plantation. I agree with the Council's review that the effect on those living at the house, which would be minor-moderate rather than minor, as predicted by the LVIA. But there would not be a significantly adverse impact on living conditions at the house.

22. Other nearby dwellings in the same direction, including Skeels and Field Head, appear to be oriented away from the site. Minor views might include some perception of the array on the southern field, but this would be well screened by the proposed hedge planting. Views from Mealy Syke, to the east of the Newby road, would be very limited. The effect of some potential filtered views would be mitigated by proposed planting. In all cases there would be a minor to negligible effect on residents' outlook. With increasing distance and the effects of topography and landscape screening, any effect on residents of dwellings further away from the site would be negligible.
23. I conclude that the proposal would result in minor-moderate adverse visual impacts at worst, but that these would be limited in their extent and that proposed planting would be effective in mitigating most of the adverse effects.

Cumulative impacts

24. The LVIA considered the cumulative effects of the appeal proposal with the other proposed installation at Dallan Bank and the other current appeal to the south⁷. The Council's consultants produced a separate study of the effects with those proposals, as well as of two further proposed arrays to the south-east, at Whitestone⁸ and Welltree Brow⁹. 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.
25. All studies agree that there would be negligible adverse cumulative effect on landscape character of the two Dallan Bank schemes together, because of their small scale and lack of influence over the key characteristics of the LCT. The two detailed studies also concur that for the same reasons, and because of the distance involved, there would be negligible impacts in conjunction with the two eastern schemes, and that the scheme to the south at Towcett Farm could be discounted because of its separation distance and different LCT.
26. Plots of the ZTVs of the different proposals show the limited range of places from which views of more than one proposal could theoretically be gained. In the few positions, such as the access road to Dallan Bank, where two closely related schemes could be seen together, the visual impact would not increase proportionately. There are no routes where sequential effects would be experienced.
27. The common conclusion is that even if all proposals were to proceed there would be only negligible cumulative effects on landscape character and visual impact. I find no reason to disagree.

⁷ See para 2 above

⁸ Application Ref 15/0665

⁹ Application Ref 15/0668

Other matters

28. Mealy Syke is a Grade II listed building. I agree with the appellants' analysis that the appeal site fields do not contribute to the farm group's heritage significance and that there would be no adverse effect on its setting as a result of the proposed development. The Council does not raise any objection on grounds of the effects on heritage assets, and I have found no evidence to lead to a different conclusion.
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. Interested parties have noted that it would no longer be possible to take an arable crop from the land, which has supported the holding. However, a contribution to agricultural output would continue by allowing some grazing in and around the proposed array.
30. The Council does not raise any objection to the effects on biodiversity, flooding, 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

31. 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 1349 average households. There would be an annual predicted displacement of CO₂ emissions associated with electricity generation of some 2300 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.
32. 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 low level of landscape and visual impact, either singly or cumulatively, I do not find any reason to fear significant economic impact. There would in fact be modest environmental benefits from the proposed ecological enhancements.
33. 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 level of visual impacts, all of which would be mitigated by proposed planting.
34. 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. The slight degree of conflict with Policies CS16 and CS18 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

35. 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.
36. 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.
37. 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.
38. 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 and to provide more detail of hedgerow protection and enhancement, in the interests of protecting and enhancing the rural character of the area.
39. 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.

Conclusion

40. 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/16/3147861

Land to the South of Dallan Bank Wood, Newby, Penrith CA10 3ED

Schedule of Conditions Nos.1-10

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
 - Preliminary Layout drawing DAL_02_Rev02
 - 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 DNO_01, 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. 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 August 2015.

8. Notwithstanding the details shown on drawing L.0367.011A, 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.
9. 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.
10. 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.