

Appeal Decision

Site visit made on 26 September 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 5th April 2017

Appeal Ref: APP/J1860/W/16/3149836

Land at Stockton Road, Stockton-on-Teme, Worcestershire WR6 6UT

- 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 Duncan White (Renewable Power Exchange Limited) against the decision of Malvern Hills District Council.
 - The application Ref 15/01017/FUL, dated 21 July 2015, was refused by notice dated 13 April 2016.
 - The development proposed is a Photo Voltaic Solar Energy Farm and ancillary equipment.
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Decision

1. The appeal is allowed and planning permission is granted for a Photo Voltaic Solar Energy Farm and ancillary equipment at Land at Stockton Road, Stockton-on-Teme, Worcestershire WR6 6UT in accordance with the terms of the application, Ref 15/01017/FUL, dated 21 July 2015, subject to the conditions set out in Annex A.

Procedural Matter

2. My attention has been drawn to the fact that the application form indicated that notice had only been served on one of the two owners of the site. The appellant has indicated that notice was served on Mr John Sinnett, one of the two co-directors of WH Sinnett and Son. The other co-director is Mr David Sinnett who is the brother of Mr John Sinnett, and the appellant has confirmed that the former is fully aware of the planning application and appeal. As such he is not prejudiced in any way by my determination of the appeal. In addition, various other typographical errors and issues have been raised regarding the completion of the application form and the appeal statement. However I am satisfied that these have not unduly affected the determination of the application or the appeal in any way.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed solar farm on the character and appearance of the surrounding countryside; and
 - Whether any adverse effects that are identified would be outweighed by the benefits associated with the production of renewable energy.
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Reasons

The site, the surrounding area and the proposal

4. The appeal site is a field approximately 11ha in size that is currently under pasture, and which lies to the north of the village of Stockton-on-Teme. The nearest buildings are Wharf Farm and the adjacent barn conversions to the south east of the site. A power line crosses the site and there are a number of footpaths in the vicinity.
5. The site is located on a hillside and slopes from north to south but within this it is hummocky. The undulating countryside that surrounds the site is largely agricultural but includes woodland areas and hedgerow trees. Woodland areas bound the north east and north west boundaries of the site, and these obscure and filter views of the site from these areas. Views across the area are possible from the higher land of the other side of the valley, although the undulating nature of the land restrict views of various parts of the landscape.
6. The proposal is for the construction of a solar farm on approximately 8ha of the field, with an estimated life span of 25 years. The panels would be mounted on steel frames in rows, and would be 0.8m from the ground at the front, but the highest point would vary according to the topography. The rows would be set in from the field boundaries on all sides by 5 - 6m. There would be a number of related structures including a small substation and 5 inverter cabins. The site would be enclosed by 2m high security fencing, with pole mounted CCTV cameras at intervals along it. Access to the site would be across adjacent fields that are in the same ownership as the site.
7. The existing hedges around the site would be retained and thickened and a new copse is proposed on the south east side. To break up the panels two new hedges are also proposed across the site reinstating historic field boundaries. It is the intention that the land would continue to be used for the grazing of sheep between and beneath the solar arrays.

Landscape effects and visual impact

8. Policy SWDP27 of the *South Worcestershire Development Plan (adopted February 2016)* (SWDP) sets out principles for renewable and low carbon energy. Whilst it is broadly supportive of stand-alone renewable and other low carbon energy schemes, it highlights that these must be appropriately located and designed, and that careful consideration needs to be given to their visual impact. To this end Policy SWDP25 indicates that proposals must ensure that they are appropriate to, and integrate with, the character of the landscape setting.
9. At the national level, the site forms part of the 'Teme Valley' in the National Character Assessment. More locally, at a county level the site lies within the 'West Worcestershire Woodlands' landscape type, and at the local level the Landscape Character Assessment designates the area as the 'Pensax Principal Timberland Farmlands'. This comprises rolling topography, and the main land use is mixed farming with small to medium sized fields. Tree cover comprises relic ancient woodland often associated with densely scattered hedgerow oaks. The settlement pattern is one of farmsteads and wayside dwellings, associated with a moderate to high level of dispersal.

10. Although at certain points panoramic views across the valley are possible, generally this is an intimate landscape. With roads often being narrow and enclosed by hedges, and with small villages, scattered farms and individual dwellings, it is also tranquil. Nonetheless, as a working agricultural area, there has been some amalgamation of fields and the introduction of some modern farm buildings, and, not only does a power line cross the area, but there are telegraph poles, and a radio mast in the vicinity. However, these are relatively minor changes to what is generally an unspoilt rural setting.
11. A Landscape and Visual Impact Assessment was submitted with the application which included an assessment of the Zone of Theoretical Visibility, and specific assessments of the impact of the proposal from 37 viewpoints in the area. I note the critique of this from consultants acting on behalf of the residents who also carried out a site visit, and assessed the impact from 3 viewpoints. At my site visit I was able to see the site from many of the footpaths and viewpoints, and so have been able to form my own conclusions on its impact.
12. The site itself is not covered by any national or local landscape designation, although its qualities and attributes are clearly valued by people. I consider that generally the landscape has a medium sensitivity to change.
13. The arrays of solar panels would be a substantial construction. The straight rows of panels with their horizontal emphasis, together with the other elements of the scheme, to the extent that they would be perceived, would appear out of place in this rural landscape. However, importantly the proposal would not only retain and improve the existing hedgerows and mature trees around the site, but would reinstate the historic field boundaries. This, along with the additional planting of trees and hedgerows would maintain the landscape character and diminish the effect of the uniform rows of panels. The latter would also be assisted by the undulating nature of the landscape and the hummocky nature of the site itself. In addition, off-site mitigation measures across the wider landholding, including the improvement of existing hedges and the reinstatement of historic hedgerows and trees, would also be beneficial to the landscape character and biodiversity.
14. Bearing in mind the sensitivity and capacity of the landscape to absorb change, the degree of containment and enclosure, and the proposed on and off site mitigation, I consider that there would be an adverse, but not substantial, effect on the landscape character of the area.
15. There would be the potential for a development of this scale to be seen from a wide area. The extent of visibility would vary from season to season. However, whatever the time of year, although the landform would restrict a number of views, a mix of close, medium and long range views of the development would be possible from a number of nearby locations.
16. In long range views, such as from the churchyard surrounding St Mary's Church, the development would occupy a very small amount of the wider panorama, and so its effects would be less intrusive, and the visual impact would be minor. Some medium range views are possible from Pensax Road but due to the height of the roadside hedge these are generally only possible from field accesses. Even from these, the distance the panels would be set back from the field boundaries, the proposed planting and the hummocky nature of the site would mean that the development would not be seen in its

entirety. However, even with the proposed mitigation, in certain places the impact of the proposal would be moderate.

17. The greatest impact would be on the visual amenity of receptors using the network of public footpaths and bridleways in the area. Although the localised landforms and intervening vegetation often restricts and filters views from these, nevertheless for some stretches there would be open views of the proposal, and the visual impact would be severe.
18. There are a number of houses in relatively close proximity to the site. To the north-west a house occupies an elevated position in relation to the site. Whilst the panels will be seen from this property, its orientation is such that it does not directly face the site, and it is around 400m from it which reduces the impact. To the south east lies Wharf Farm and a row of converted barns, but it is the gable end of the latter that faces towards the site. Although relatively close to site, views from these properties, or their gardens, would be limited due to the existing and proposed intervening vegetation, and the local topography. Given this the visual impact on the occupiers of nearby dwellings would be moderate/minor.
19. I have not been made aware of any other existing or consented solar developments, or wind turbines, in the immediate vicinity, and saw none on my site visit. As such, there is no cumulative impact to consider.
20. The proposed development is for 25 years after which the panels would be dismantled and removed. Nevertheless, it would still be in place for a significant period of time. For this period harm would be caused to the landscape character, and to the visual amenity, as experienced by receptors in a number of both short and medium terms views. Thus the proposal would conflict with Policies SWDP 25 and 27 set out above.

Benefit arising from the provision of renewable energy

21. The proposal would have an installed capacity of 5MW, estimated to provide sufficient electricity to power around 1,500 homes, and to reduce carbon emissions by 2,500 tonnes per annum. The site benefits from an immediate connection to the grid by way of the existing power line, whereas elsewhere I understand there is a lack of grid capacity, although I note comments raised by residents that 1MW is the maximum export capacity to the grid.
22. The provision of renewable and low carbon energy is central to the economic, social and environmental dimensions of sustainable development set out in the *National Planning Policy Framework* (the Framework). There is strong national policy support for the development of renewable energy sources, including solar power, in both the Framework and the *Planning Practice Guidance* (PPG) to ensure the country has a secure energy supply, and to reduce greenhouse gas emissions. The UK Solar PV Roadmap (October 2013), and subsequent policy publications, are further material considerations. All these add weight to the case in favour of the scheme. In addition, paragraph 98 of the Framework confirms that even 'small-scale projects provide a valuable contribution to cutting greenhouse gas emissions', and it is not necessary for the appellant to demonstrate the overall need for the proposal.
23. The policy support for renewable energy given in the Framework is caveated by the need for the impacts to be acceptable, or capable of being made so, and

local policies require the siting of developments to be appropriate. Nevertheless, the renewable energy benefit of the proposal must be accorded substantial weight.

Other Matters

24. The appellant has indicated that a survey has shown the site is a mixture of Grade 3b and 4 agricultural land, and so falls outside the category of the Best and Most Versatile Agricultural Land. This has been accepted by the Council. In addition, my own observations confirmed that that hummocky nature of the land, and historic disturbance, restrict its agricultural use, and the proposal would allow for the continued use of the field for the grazing of sheep. I note that some people would prefer the panels to be incorporated on to new buildings or brownfield sites. Nevertheless, on the basis of the evidence before me, the proposal would satisfy the advice in the PPG that where a proposal involves greenfield land, poorer quality land should be used in preference to higher quality, and that proposals should allow for continued agricultural use¹. Whilst it has been suggested by some residents that the site is in the Green Belt, or in an Area of Outstanding Natural Beauty, there is no substantive evidence that this is the case. Although the PPG indicates that large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes, it does not preclude the development of sensitively located schemes in such areas.
25. There are a number of Listed Buildings in the area, but the only ones that are visible from the site or vice versa are located a considerable distance away and so only afford long range views. Given this, and the intervening landforms and vegetation, the proposal would not have any impact on their significance or setting. The site does include remnants of the mining history of the area such as an incline that took the coal from pits down to Wharf Farm. However, the county archaeologist has indicated that the site has low potential to contain as yet unknown archaeological remains, and has no objection to the scheme subject to a condition to ensure a programme of archaeological works. I see no reason to disagree with this conclusion.
26. There are stables and bridleways in the area and concerns have been raised that the glint and glare may be an issue for both horses and aircraft in the area. However, as the panels are non-reflective, and a condition can be used to control the colour of all structures, there would be very limited glint, glare or reflection.
27. It is suggested that the proposal would harm tourism. Whilst I accept that tourism in the area may rely considerably on the quality of the countryside, the effect of the proposal on this asset has been assessed above. I am not persuaded that the changes to the landscape in this case would lead to the loss of viability of any existing business.
28. The construction and decommissioning of the solar farm would result in some additional traffic movements, but this would only be for a temporary period. It is proposed that the construction compound would be sited at Stockton Court Farm, and that materials would be taken from there across a road, to the site. I note the findings of the residents speed survey which shows vehicles regularly travel along this road at speeds greater than the 30 mph limit.

¹ Paragraph ID 5-013-21050327

Nevertheless, subject to conditions, there is no objection to the proposal from the Highways Authority. In the light of this, my own observations, and the limited time period where additional traffic movements would be generated, I am satisfied that the proposal would not be detrimental to highway safety. Nor is there any substantive evidence to show that the use of the construction compound would be detrimental to the structure of the nearby church.

29. Some residents have expressed concern related to the manner in which the application was handled by the Council. However, this matter is outside my remit. Whilst it has been suggested that the appellant did not undertake any consultation before the application was submitted, the evidence highlights a number of events that were organised and attended by local residents.
30. My attention has been drawn to other recent appeal decisions in the vicinity. Although I appreciate the need for consistency of approach, this appeal turns on the precise siting of the proposal, and its effect on the surrounding area. Each appeal must be determined on its individual circumstances, and these other decisions are of little assistance in dealing with the current proposal.
31. A Phase 1 Habitat survey was submitted as part of the application which found no evidence of protected species. Residents have indicated that this did not take account of various nearby ponds which are on private land. Nevertheless, I note that as part of the proposed mitigation measures it suggests a precautionary approach is taken during construction, and subject to this, I am satisfied that the proposal would not cause harm to protected species. It is indicated that Pensax Wood, adjacent to the site, is of wildlife interest. However, there is no persuasive evidence to indicate that the proposal would have any adverse impact on wildlife or biodiversity. In addition, I note that the Council completed an Environmental Impact Assessment (EIA) Screening Opinion, which concluded that an EIA was not required.
32. I note the concerns regarding potential noise and light pollution. However, the security cameras use infra-red security lights which are not visible to the human eye and so would cause no light pollution. Noise from the inverters and sub-station would only be audible in close proximity to them, and so would not have an adverse impact on nearby residents, and is unlikely to impact on the horses using adjacent fields. Even if animals were to set off the security measures, as these are remotely monitored it would not affect local residents. Furthermore, any disruption during construction would only be for a limited time period.
33. Due to the size of the site, a Flood Risk Assessment accompanied the application which concluded that, although the proposal would increase the impermeable area, the drainage strategy is acceptable and the scheme would not make surface water flooding worse. This conclusion has been accepted by the Council. Nothing I have seen or read leads me to a different conclusion in this regard. In addition, there is no substantive evidence to indicate that the proposal would cause land slips or soil instability in the area.
34. I have considered the argument that a grant of planning permission would set a precedent for other similar schemes in the area. However, each application and appeal must be determined on its own merits, and a generalised concern of this nature does not justify withholding permission in this case. In addition, there is no firm evidence to suggest that the development would result in a

significant increase in crime, or anti-social behaviour, or a loss of property value.

Planning Balance, conclusion and conditions

35. The Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable future. The appeal scheme would make a valuable contribution to cutting greenhouse gas emissions, and this attracts substantial weight. Set against this, whilst the proposal would provide some additional planting, overall it would cause moderate harm to the character and appearance of the countryside, and significant visual harm for receptors particularly on certain stretches of footpaths in the vicinity. These effects would be reversible, and the most severe aspects would be localised.
36. Taken together, the identified harm arising from the scheme would, on balance, be outweighed by the benefits of the scheme. It can therefore be said to be sustainable when assessed against the Framework as a whole, and it would also accord with Policy SWDP 27.
37. For the reasons set out above, I conclude the appeal should be allowed.
38. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans, as this provides certainty. In the interests of highway safety conditions are needed to ensure the creation of an adequate access to the site and to effectively manage construction traffic. In the interests of visual amenity and ecology, conditions are required to ensure protection of existing trees and hedgerows, the landscaping of the site and the management of landscape features across the wider landholding to ensure ecology is protected during construction, and to require the submission of an ecology management plan.
39. A condition requiring a scheme of investigation is necessary to ensure the recording of any archaeological remains. In order to ensure the adequate drainage of the site and to reduce the potential for flood risk, conditions requiring the submission of a SuDS Managements Plan and detailed drainage diagrams are needed. To avoid glint and glare, and in the interests of visual amenity, it is necessary to control the colour of the panels and associated structures. It is reasonable and necessary to limit the period of the permission, and to require that the site is decommissioned when energy generation ceases.
40. In the interests of conciseness, clarity, and to avoid duplication, the wording of some of the Council's suggested conditions have been altered, and some conditions have been combined.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No 14032-004; Site Location Plan Drawing No 14032-004 Rev A; Solar Panel Arrangement Plan Drawing No 15032 003 Rev C; Solar Panel Arrangement Plan showing CCTV and Copse Drawing No 15032 004 Rev A; Solar Panel Details Drawing No 15032 E1; Solar Panel Details Drawing No 15032 E2; CCTV Pylon and Base Details Drawing No 15032 E3; Site Security Access Gates and Base Details Drawing No 15032 E4 Rev A; Site Security Fencing Details Drawing No 15032 E5 Rev A; Inverter Building Plans and Elevations Drawing No 15032 E6; Substation Plan, Section and Elevations Drawing No 15032 E7; Western Power Distribution Cable Connection Details 2270500 Plans 1 and 2; Single Line Diagram Stockton Drawing No REC-UK-1502-SLD; Site Plan Suggested Grid Connection Route – Unnumbered; and Solar Panel Technical Details – Unnumbered.
- 3) No development shall take place until the construction of the vehicular access has been carried out in accordance with a specification previously submitted to, agreed in writing by, the local planning authority. The access shall be provided with visibility splays from a point 0.6m above ground level at the centre of the access to the application site, and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 43 metres to the easterly direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.
- 4) No development shall take place until a Construction Traffic Management Plan has been submitted to, and agreed in writing by, the local planning authority. The plan shall include details of:
 - i) Parking for site operatives, visitors and delivery vehicles, to include adequate turning areas;
 - ii) Storage of plant equipment and materials;
 - iii) Amenity facilities for site operatives and visitors; and
 - iv) Temporary advance signage to be placed at the site access and 100m either side to warn approaching motorists of the presence of a construction site access.

The approved Construction Traffic Management Plan shall be adhered to throughout the construction period.
- 5) The existing trees and hedgerows shown to be retained on the Tree Survey (Greenway Landscape Architects) shall not be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction period of the development, without the prior written approval of the local planning authority. Any trees and hedgerows removed without such consent, or dying, or being seriously damaged or diseased during that period shall be replaced with healthy trees of such size and species as agreed in writing by the local planning authority.

- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and hedgerows and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to, and approved in writing by, the local planning authority, and the approved fencing has been erected. This protective fencing shall remain in place until all the construction and associated ground works have been completed.

In this condition "retained tree or hedgerow" means an existing tree or hedgerow which is to be retained in accordance with the approved plans and particulars both within the site and those trees outside the site whose Root Protection Areas (as defined in BS 5837) fall within the site.

- 7) No development shall take place until a programme of archaeological works, including a Written Scheme of Investigation, has been submitted to, and approved in writing by, the local planning authority. The scheme shall include an assessment of significance and research questions - and:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

The development shall not be brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme agreed in (i) and provision is made for analysis, publication and dissemination of results and archive deposition has been secured.

- 8) No works or development shall take place until a SuDS management plan which will include details on future management responsibilities, along with maintenance schedules for all SuDS features and associated pipework has been submitted to, and approved in writing by, the local planning authority. This plan shall detail the strategy that will be followed to facilitate the optimal functionality and performance of the SuDS scheme throughout its lifetime. The approved SuDS management plan shall be implemented in full in accordance with the agreed terms and conditions.
- 9) Notwithstanding the submitted Drainage Strategy, no development shall commence until detailed design drawings for surface water drainage have been submitted to, and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

- 10) Works shall be carried out in strict accordance with the conclusions and recommendations of the Preliminary Ecological Appraisal dated June 2015 and Great Crested Newt Presence/Likely Absence Survey Jan 2016 by Worcestershire Wildlife Consultancy.
- 11) No development shall take place (including ground works & vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include the following:
- i) Risk assessment of potentially damaging construction activity;
 - ii) Identification of "biodiversity protection zones";
 - iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - iv) The location and timing of sensitive works to avoid harm to biodiversity features;
 - v) The times during construction when specialist ecologists need to be present on site to oversee works;
 - vi) Responsible persons and lines of communication;
 - vii) The roles and responsibilities on site of an ecological clerk of works or similarly competent person; and
 - viii) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to, and implemented, throughout the construction period strictly in accordance with the approved details.

- 12) No development shall take place until a landscape and ecological management plan (LEMP) has been submitted to, and approved in writing by, the local planning authority. The LEMP shall include:
- i) Description and evaluation of features to be managed;
 - ii) Ecological trends and constraints on the site that might influence management;
 - iii) Long-term (minimum of 10 years) design objectives
 - iv) Aims and objectives of management;
 - v) Appropriate management options for achieving aims and objectives;
 - vi) Prescriptions for management action;
 - vii) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period); and
 - viii) On-going maintenance, monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management bodies responsible for its delivery.

The plan shall also set out (where the results from the monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

- 13) No development shall take place until a scheme of landscaping has been submitted to, and approved in writing by, the local planning authority. The landscaping scheme shall include a plan detailing the disposition of planting, cross referenced to a schedule listing the species, size and number of plants proposed. The approved scheme shall be carried out concurrently with the development, and completed prior to the development first being brought into operation.
- 14) The panels and the associated structures will be finished in a dark colour, the exact details of which shall have previously been submitted to, and approved in writing by, the local planning authority. Once approved works shall be carried out in strict accordance with the details, and thereafter retained.
- 15) When the land ceases to be used as a photovoltaic park for renewable power production or, at the end of the period of 25 years from the date of grid connection (such date to have been given to the local planning authority within one month of grid connection), whichever shall first occur, the use hereby permitted shall cease and all materials and equipment brought onto the land in connection with the use shall be removed and the land restored to its previous state or as otherwise agreed, in accordance with details that have been submitted to, and agreed in writing by, the local planning authority prior to the decommissioning works taking place.

The submitted scheme shall set out:

- i) the final levels of the site on the completion of the scheme;
- ii) the timescales for all of the decommissioning activities;
- iii) details of the storage and collection facilities for recyclable materials and for residual wastes arising as a result of the decommissioning of the facility;
- iv) how and where the different waste materials, including construction and demolition and excavation waste, and hazardous waste, shall be temporarily sorted and stored or re-used on site;
- v) means of access for collection; and
- vi) means to ensure that no unacceptable harm to human health, amenity or the environment is caused as a consequence of these aspects of the development.

Thereafter the decommissioning shall be carried out in accordance with the approved details and timescale.