
Appeal Decision

Site visit made on 10 July 2017

by Susan Ashworth BA (Hons) BPI MRTPI

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

Decision date: 4 August 2017

Appeal Ref: APP/R1038/W/17/3173683

Central Electricity Generating Board, Calow Lane, Calow, Chesterfield S44 5XH

- 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 Energy Reservoir 11 Ltd against the decision of North East Derbyshire District Council.
 - The application Ref 16/00845/FL, dated 12 August 2016, was refused by notice dated 13 February 2017.
 - The development proposed is energy storage system comprising battery storage containers, ancillary buildings, security fencing, CCTV, access tracks and landscaping.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues in this case are:
 1. The effect of the proposal on the character and appearance of the area.
 2. The effect of the proposed access on highway safety with particular reference to visibility at the junction of the proposed access with Calow Lane.

Reasons

Character and Appearance

3. The appeal site, which is currently part of a larger field, comprises an area of land some 0.42 hectares in size and an access track leading to it. The site is set within generally open pasture land bounded to the west by a tree-lined brook and to the south by a belt of trees. The topography is generally flat adjacent to the watercourse and steeply sloping to the east. There are two public rights of way in close proximity to the site, one 10m to the west along Hall Flash Lane and another which crosses the site and extends up hill.
4. The site lies outside of a defined settlement boundary and is within the open countryside for planning purposes. Residential development in the area is sporadic. The nearest residential properties are Hall Flash Farm, a detached property which lies to the south-west of the site, and residential properties at Calow Green which sit at a higher level to the east. Opposite the entrance to the north of the site is Nether House Farm and beyond that, the hamlet of

Cock Alley. To the north-east of the site, on the opposite side of Hall Flash Lane is an electricity sub-station which occupies a considerable site area.

5. The proposal is for an electricity storage system which would allow the storage of 20 MW of surplus electrical supply from both conventional and renewable sources, in batteries, which would be fed back into the grid during times of peak demand. The development would include a variety of buildings and structures which would be set within a compound and enclosed by both palisade and acoustic fencing. The batteries would be housed in 10 containers, each some 12.2m in length each with separate transformer units. Other built development would include a control room and a network operator's cabin which itself would be surrounded by security fencing. The compound would be set into the slope of the land and retaining walls constructed on three sides of it.
6. The proposed access to the compound would be off Calow Lane. A proposed permanent access track, some 200m in length, would be around 3m wide and would be surfaced in a permeable membrane and gravel. During the construction phase an aluminium track would be used alongside it to increase the width to 5m. The entrance would be altered by the removal of some hedgerow to form visibility splays and gates would be set back from the roadside.
7. The Development Plan for the area includes the North East Derbyshire Local Plan 2005 (the Local Plan). Policy GS1 of the Local Plan seeks to promote sustainable development including the preservation or enhancement of the environment. Policy GS6 seeks to preserve the countryside and states that new development will only be permitted in specified circumstances. Policy NE1 seeks to preserve the varied and distinctive landscape character of the district.
8. The site falls in the character type 'Coalfield Village Farmlands' within Derbyshire County Council's assessment 'The Landscape Character of Derbyshire', which describes the character type as gently undulating landscape with irregular lanes, and formal urban roads and tree lined waterways. The countryside in this particular location has no statutory protection. It is not designated Green Belt nor within an Area of Outstanding Natural Beauty.
9. The proposed development would have an industrial appearance at odds with the present rural character of the site. I acknowledge that the proposed structures, which would not exceed 4.5m in height, would largely be hidden from view from the road by the existing topography and vegetation. It seems to me that the compound, including a series of retaining walls, details of which do not appear to have been provided, would have the greatest visual impact locally, particularly on users of the public footpath which crosses the site. In addition there would be views of the development from the footpath on Hall Flash Lane, although it would be partially screened by vegetation in the summer. Occupiers of Hall Flash Farm, which is around 150m away, would also be aware of the development although there is a substantial area of mature vegetation between the two sites. In addition the development would be visible from the rear of houses on Calow Lane, albeit from a higher level.

10. Whilst the development would lie close to the electricity substation it would, in effect, be visually and physically separate from it as result of the brook and the trees that surround it. In order to mitigate against the harmful visual impacts of the development, new boundary hedgerows are proposed to the northern, eastern and western edge of the compound, including trees of a mixed species. As the planting matures, I accept that views of the development would be softened. Nevertheless it seems to me that there would be harm to the character and appearance of the area from the loss of an area of open land and from the presence of industrial like structures and retaining walls, particularly during the winter months.
11. The alterations to the field entrance and the access track are also substantial. The loss of 8m of hedgerow and the formation of visibility splays across a wide area of roadside, albeit with new hedgerow planted behind it, would have an urbanising effect on what is essentially a country lane. I note the presence of other entrances in the vicinity, including that to the farm opposite but these are long established features and are not representative of the generally rural character of the lane. During the construction period, the track would also be a harmful feature, although in time I accept that its appearance will weather.
12. For these reasons I conclude on this issue that the proposal would be harmful to the character and appearance of the area. As such it would be contrary to Policies GS1, GS6 and NE1 of the Local Plan as set out above

Highway safety

13. Calow Lane is a narrow, winding lane with no road markings, footpaths or street lighting in the vicinity of the site. It appears to be a lightly trafficked road, although there is no information before me as to how many vehicles use the road at weekends or in peak times. The speed limit is 60mph although speed surveys suggest that the average vehicle speeds are less than that.
14. The proposed access would be located at a point on Calow Lane where there is a gap in the hedgerow, understood to have previously been an informal field access. To form the proposed access, the gap would be widened from 6m to 14m and visibility splays provided. In the critical direction, however, the proposed visibility splay would fall considerably short of the required 2.4m x 51m. No objection to the proposal was put forward by the County Highway Authority only on the basis of conditions requiring, amongst other things, temporary warning signs at the site entrance and the use of banksman in high visibility jackets who would control vehicular movements in and out of the site.
15. I have considered these suggested conditions in the light of advice within the Planning Practice Guidance and it seems to me that the condition requiring a banksman to be present and adequately control traffic would be unenforceable and imprecise. The isolated nature of the site and infrequency of visits would mean that the situation would be difficult for the Council to monitor. As such the suggested condition would not meet the tests set out in the PPG.
16. The highway authority is clear that the provision of warning signs alone will not be sufficient to negate the potential risk to highway safety. Therefore, on the basis of the evidence submitted, I conclude that the proposal would be detrimental to highway safety. I acknowledge that once the development is

operational the access would be used only on an infrequent basis. Nevertheless, in this respect the proposal would be contrary to advice in paragraph 32 of the Framework which requires that a safe and suitable access can be achieved for all people.

Other Matters

17. The proposal will generate a degree of noise although it seems to me that noise mitigation measures in the form of the acoustic fencing and planting would minimise any harm. I note that the Council's Environmental Health officers have not objected to the scheme in principle subject to a condition requiring an assessment of the sounds from the use and the integration of any measures to mitigate against it, where necessary. On that basis I am satisfied that the development would not add to the ambient noise levels in the area or result in undue disturbance to the occupiers of nearby residential properties.
18. Local residents consider that the development should be sited elsewhere and it has been suggested that the use be provided within the electricity substation. Whilst I acknowledge that the Framework encourages the effective use of land by re-using land that has been previously developed, there is no convincing evidence before me that appropriate space is available to the appellants elsewhere. Moreover, it is my duty to consider the proposal on its own merits.
19. The site lies within a Flood Zone 1 and local residents have confirmed that the area is subject to flooding. However, the design of the proposal has taken this into account and the structures would be raised from the ground. I am satisfied that the proposal would not increase the risks of flooding and there is no convincing technical evidence before me to demonstrate that the use itself would suffer from undue flooding.
20. Similarly whilst I have taken into consideration the concerns of the local residents about the effect of the development on wildlife, no objection to the proposal has been raised by the Derbyshire Wildlife Trust subject to the mitigation proposed. There is no evidence before me to persuade me that the proposal would be detrimental to wildlife interest in the long term.

The Planning Balance and Conclusion

21. The proposal would support the electricity network, providing extra generating capacity to cover shortfalls that may occur at given times. Whilst not in itself a source of renewable energy it seems to me that the facility would enable some reduction in the energy burden in line with the government's aims. This is clearly a benefit of the scheme.
22. However, as set out above, the proposal would be harmful to the character and appearance of the countryside from the loss of the area of pasture field and the introduction of an urban form of built development, including a 200m access track. In addition there would be localised harm to the character and appearance of Calow Lane from the provision of the access. Added to that is the harm to highway safety as a result of substandard visibility at the junction of the access with Calow Lane.
23. Consequently the benefits of the scheme do not outweigh the harm I have identified.

24. I acknowledge that the Framework sets out a presumption in favour of sustainable development. It clearly indicates that there are three strands to sustainable development including an environmental role. Indeed one of the core principles of the Framework is to take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside. Whilst the proposal has some economic and environmental benefits, it would harm the character of the countryside for the reasons set out and would be detrimental to highway safety. Consequently, considering the Framework as a whole, the proposal does not constitute sustainable development.
25. Therefore, taking into account all other matters raised, including letters of both support and objection to the proposal from local residents, the appeal is dismissed.

S Ashworth

INSPECTOR