
Appeal Decision

Site visit made on 8 May 2018

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 June 2018

Appeal Ref: APP/M2325/W/18/3196360

Land off Peel Road, Peel Road, Fylde FY4 5LN

- 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 Cairan Dylan of Suncredit Solutions Ltd against the decision of Fylde Borough Council.
 - The application Ref 17/0822, dated 25 September 2017, was refused by notice dated 2 January 2018.
 - The development proposed is a gas powered grid support plant and a battery storage facility with a generating capacity of up to 20MW and all associated ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for a gas powered grid support plant and a battery storage facility with a generating capacity of up to 20MW and all associated ancillary works at Land off Peel Road, Peel Road, Fylde FY4 5LN in accordance with the terms of the application, Ref 17/0822, dated 25 September 2017, subject to the conditions in the attached schedule.

Procedural Matter

2. A plan has been submitted by the appellant as part of the appeal (plan Ref: P17-2890_001). This plan was not considered by the Council in their determination of the planning application. While the appeal process should not be used to evolve a scheme, the plan seeks to address inaccuracies relating to the position of Hawthorne planting on the site's western boundary. While, this plan has not been subject of public consultation, the Council point out that it does not fundamentally alter the proposal or the site area. I agree. I do not consider that interested parties or the Council would be prejudiced by my consideration of this plan. I have determined the appeal on this basis.

Main Issue

3. The main issue is whether the appeal site is a suitable location for the proposed development, having regard to its countryside location and its effect on the site's rural character and landscape.

Reasons

4. The appeal is a parcel of land on the east side of Peel Road. The road is part of a flat open rural landscape, and there are no boundaries to the north, south or east. In the main the road is used by vehicular traffic. There was a consistent, but steady flow of vehicles passing the site during my afternoon site visit in

both directions. The ground level of the site is below that of the road. A roadside hedge roughly 1.5 metres high extends intermittently along the east side of the road. An existing field access is to the south-west corner of the site. Either side of Peel Road there is intermittent development, which includes farmsteads, a business park, dwellings and a camping and caravan site. This is separated by open fields.

5. Opposite the site and to the north-west is an electricity substation. A mixture of fencing, hedgerows and trees line its boundary with the road. The substation forms part of a wider electrical generation, transmission and distribution system, and includes powerlines, transformer, circuit breakers and buildings. To the north of the site there is a group of three electricity pylons. These are connected to three separate overhead power lines. Two of the lines extend in a south-easterly direction; the other in a north-westerly direction. As a result, there are a number of additional pylons in the landscape. Each pylon is of a lattice design and is tall. In the distance, to the south-east, is Staining Wood Solar Farm.

Whether suitable location

6. The Council's development plan is The Fylde Borough Local Plan As Altered (Local Plan), October 2005. With the exception of two policies, all other policies within the Local Plan have been saved. Nonetheless, the Local Plan does pre-date the National Planning Policy Framework (the Framework), which is a material consideration.
7. The appeal site is within an area of open countryside on the Fylde Borough Local Plan (As Altered) October 2005 Proposals Map. I understand that the emerging Fylde Local Plan Proposals Map (Submission Version) (Proposals Map) would not change this. The Fylde Council Local Plan to 2032 (Submission Version) (SLP) has been submitted for examination, and been subject of multiple examination hearings. The closure of the hearings enabled the Council to produce and consult on the proposed main modifications to the SLP and the Proposals Map. This consultation has now ended, and the Council now await the Inspectors report about whether the plan is 'sound'. As such, the SLP does not form part of the development plan, although I do recognise its advanced stage. I do not, however, know the extent of any unresolved objections. For this reason, I attach policies within the SLP moderate weight.
8. Saved Local Plan Policy SP2 states: in countryside areas, development will not be permitted except where proposals properly fall within one of five categories. The first category includes other uses appropriate to a rural area, including those provided for in other policies of the plan which would help diversify the rural economy and which accord with policy SP9.
9. Although the remit of 'other uses appropriate to a rural area' is not defined by the policy, the appellant's approach would allow any other form of development in the countryside. This is not the intention of the policy, having regard to the reasoned justification. Part of this justification does, at paragraph 2.20, discuss tourism development, while other specific forms of development are set out. The proposal does not accord with any of those. As such, the appeal scheme would not accord with the first category of Policy SP2. I note the appeal site is land that belongs to a local farmer. While the scheme may help to diversify the farm, I have no evidence before me to demonstrate by how much or whether the income received is essentially required for the purposes

of agriculture. Thus, I am not convinced that the proposal would accord with saved Local Plan Policy SP9. I note that a tourism element has been inserted into the first category of SLP Policy GD4. Even so, the proposal would not accord with category (a).

10. In terms of other policies in the development plan, saved Local Plan Policy CF1 permits the provision of utility services. The proposal's main function is as an energy generation and storage facility. Thus, I share the Council's view that the appeal scheme is not a utility service. But, even if I am not correct, such forms of development would be subject to a number of criteria. One of which is that the development is located within a settlement, except where it is required to provide a service to a rural area. While energy produced from the appeal scheme would undoubtedly service, in some capacity, the rural area, it would not accord with this criterion as the energy would be distributed across the wider grid network, which would also include urban areas. Thus, conflict would arise with the policy overall, even if the scheme fulfilled all the other criteria.
11. It is submitted by the appellant that the proposal would fulfil Policy SP2(5) and SLP Policy GD4(d). The proposed development would be physically linked to the substation, and the regional gas distribution network, plus the local and national electrical grid transmission system. Hence, it would not be unrelated to the operation of that existing facility. Development must, nevertheless, be essentially needed, and of a type and scale which would not harm the character of the surrounding countryside.

Character and landscape

12. The appeal site forms part of a mossland landscape within the subcategory of South Fylde Mosses according to A Landscape Strategy for Lancashire (LS). The site is part of an open low lying flat landscape. As a result, despite the scheme's low profile, a new vertical element would be introduced into the landscape, which does not accord with the LS strategy. But, an assessment is needed as to whether this would be harmful.
13. I note the findings of the appellant's Landscape and Visual Statement, but views across the landscape from the road, especially when travelling southwards would be interrupted by the development. While the pylons next to the road initially form part of this viewpoint, and pylons do extend to the south-east, there are still long-range views of the open mossland landscape. Even though the pylons are taller than the proposed development, they have for a long time, despite their appearance, been an accepted part of the countryside environment.
14. Siting the scheme next to the road would broadly reflect the type and layout of other infrastructure development along the road. However, the eastern side of the road has a more open character. Despite the use of lower ground levels, the proposal would be just over four metres high in parts. The development would also form an elongated enclosed block of built form that would interrupt views to the south-east, and to a lesser extent to the north-east. Hence, the proposal would not maintain the open low-lying landscape. This would result in harm to the landscape context and type, which would harm the intrinsic value of the countryside and its rural character from these viewpoints.
15. I note that the proposal would have a 35 year life-span. Although the site would be decommissioned and the land returned to its current state, 35 years

is a long period of time in which the harm that I have found would occur. While the Staining Wood Solar Farm was granted planning permission with a 30 year temporary consent, this site is next to a woodland.

16. Nevertheless, I accept that the existing and proposed native landscaping would grow over time, and mature specimens could be planted, which could be managed subject to suitable planning conditions. These would soften the development. I note the Council's Landscape Architect considered that this represented satisfactory mitigation. This is a view that I agree with.

Essentially needed

17. There is a large swell of supporting evidence which is collectively supportive of the appeal scheme, and sets out the consequences of insufficient infrastructure provision to service the country's current and future needs and aspirations to secure economic growth and the homes that we need. The proposal would in this regard primarily provide local electrical grid support.
18. Having regard to SLP Policy INF1, infrastructure includes gas and electricity generation and provision. Such forms of development will be required to support infrastructure requirements as set out in the Infrastructure Delivery Plan (IDP) to protect and create sustainable communities in Fylde. The IDP is, however, in draft form and is part of the emerging plan process. The IDP will identify the infrastructure required to deliver the Local Plan. The SLP proposes to deliver a minimum of 7,768 new homes and roughly 60.6 hectares of employment land up to 2032. Although paragraph 21 of the National Planning Policy Framework (the Framework) states that planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, SLP Policy INF1 does not provide definitive support for infrastructure developments in the countryside. The same applies for SLP Policy CL3, which applies to renewable and low carbon energy generation except onshore wind turbines.
19. Despite the proposal's contribution, and the proposed connection to the substation, the National Grid has stated that the extra growth planned in Fylde is unlikely to have a significant effect upon their electrical transmission infrastructure. While, the reported delay of Moorside Power Station does not seem to have changed the National Grid's position, the proposal would make a valuable contribution to the grid network providing real-time electricity and capacity which can be drawn upon so that there is always a secure supply. The scheme has also been designed to help deliver the overarching aims of the Electricity Market Reform by operating directly under National Grid's Capacity Market. The Capacity Market is aimed at delivering low-carbon energy supplies whilst maintaining supply security and minimising cost to the consumer. Given this, I consider that the development is essentially needed for the continuation of an existing facility, and that it would help minimise vulnerability and provide resilience to the impacts of climate change.
20. I note the Council's view around the specific location of the appeal site, but from the evidence that I have available, it seems to me that the site has been chosen as it is a viable point where both electricity and gas networks intersect. This is said to be a challenging exercise as connection costs increase considerably away from the point of connection, and one which is large enough to accommodate the development; located away from statutory designations and where off-site effects can be made acceptable; and without constraints

from high-quality habitat or built form. I have no reason to doubt this evidence, regardless of any contractual agreements that are in place. Thus, the development would be located to make the most of existing infrastructure.

21. I note the Hilcote Lane¹ decision. While the two schemes may be comparable in terms of the development sought, I do not have the full details of this scheme before me or the environment in which this scheme would be situated and its landscape character. Thus, I give it little weight.

Conclusion on main issue

22. The development plan remains the starting point for determination of the appeal. The appeal scheme would conflict with saved Local Plan Policies CF1 and SP9, and it would harm the character of the countryside, having regard to the LS, but this harm would be satisfactorily mitigated by landscaping, and the development is essentially needed for the continuation of an existing facility. Consequently, this conflict is outweighed, and I conclude that the appeal site is a suitable location for the proposed development, having regard to its countryside location and its effect on the site's rural character and landscape.
23. Thus, I conclude that the proposal would accord with saved Local Plan Policies SP2(5), EP10, EP11 and Framework paragraphs 17(5), 58, 93, 98. Jointly, these policies, among other things, only permit development in countryside areas where proposals are essentially needed for the continuation of an existing enterprise, facility or operation, of a type and scale which would not harm the character of the surrounding countryside so that it is in keeping with the landscape's character type, features and intrinsic value.
24. Added to this, I conclude, for the same reasons, that the proposal would accord with SLP Policies GD4, GD7, ENV1 and INF1; which, jointly seek, among other things, development essentially needed for the continuation of an existing enterprise, facility or operation, of a type and scale which would relate well to its context so that the character of the surrounding countryside and landscape is not harmed.
25. Saved Local Plan Policies CL3 and CF9 are referred to by the appellant, but these policies apply to renewable and low carbon energy generation and wind turbines respectively.

Other matters

26. I agree with the parties that the proposed development would accord with the relevant policies and guidance in terms of air quality, biodiversity, flooding, highways and noise. I also recognise that the appeal scheme would provide employment and economic benefits from the provision of infrastructure, its construction and the supply chain associated of the proposal. Spending would also occur in the local economy. However, these matters have not altered my findings on the proposal before me, which I have considered on its merits.

Conclusion and conditions

27. Comments have been provided by the appellant on the Council's suggested planning conditions. I have also had regard to the appellant's suggestions.

¹ Appeal Decision Ref: APP/R1010/W/17/3172633

28. I have imposed a condition specifying the approved plans and a requirement for the site operator to notify the Council when the development has first become operational as this provides certainty. I have not, however, imposed a condition about micro-siting of substations as this should be considered as part of an application. In the interests of the character and appearance of the countryside, a condition is necessary so that the development hereby permitted is removed and the land is appropriately restored at the end of a 35 year operational period. I have imposed conditions about materials and protective fencing in the interests of the character and appearance of the area. I have imposed a condition so that an archaeological investigation takes place given the past use of the area.
29. Given the use of the road and the speed limit, I have imposed conditions about the design and construction of the site access, access road, vehicle parking and manoeuvring areas and a condition to secure a construction method statement. In the interests of flooding and the noise environment, I have imposed conditions to ensure the identified flood protection measures are implemented and the development achieves rating sound levels. To minimise the effect of the development on biodiversity, a condition is necessary to control the clearance of any vegetation. To provide a net gain in biodiversity, a condition is necessary for habitat enhancement measures.
30. For the reasons set out above, I conclude that the appeal should be allowed.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 11370-003 – Figure 1; 11370-002 – Figure 2; P17-2890_001; 11370-002 – Figure 3; 11370-003-Visibility-R3 – Figure 5A; 11370-003-Visibility-R3 – Figure 5B; Figure 7; Figure 8; Figure 9; Figure 10; Figure 11; Figure 12; Figure 13; 533-5362; and 7814/01.
- 3) Within five days of the energy plant first becoming operational, the site operator shall issue written confirmation notifying the Local Planning Authority of the date upon which that use commenced.
- 4) The generators, site compound and all other associated appurtenances hereby approved shall be removed from the site on or before the expiration of 35 years from the date that the energy plant first became operational and the land restored to its former appearance in accordance with a restoration scheme which has first been submitted to and approved in writing by the Local Planning Authority. The restoration scheme shall be submitted not later than 12 months prior to the expiration of the 35 year period and shall include:
 - (i) Details and a schedule for the dismantling of all apparatus (including hardstandings) associated with the generators and site compound;

- (ii) Details and a schedule of all surface treatment and landscaping works required to return the site to its former use; and
- (iii) A timetable for implementation.

The restoration scheme shall thereafter be implemented in accordance with the approved details and the timetable contained therein.

- 5) Notwithstanding any description of materials in the application and the requirements of condition 2 of this permission, none of the structures or enclosures shown on drawing no. 11370-002 (figure 2) shall be erected or brought onto the site until details of the materials to be used on their external surfaces have been submitted to and approved in writing by the Local Planning Authority. The details submitted shall include the type, texture, colour treatment and finish of the materials. The structures shall be constructed in accordance with the approved details, and retained as such thereafter.
- 6) No development (including any works of site preparation) shall take place until a Written Scheme of Investigation (WSI) outlining a programme and timetable of archaeological investigation has been submitted to and approved in writing by the local planning authority. The WSI shall include:
- (i) a phased programme and methodology of site investigation and recording to include:
 - a desk-based assessment including, where appropriate, historic building assessment(s), detailed survey and interpretative record;
 - a targeted archaeological evaluation; and
 - trial excavation.
 - (ii) a programme for post investigation assessment to include:
 - analysis of the site investigation records and finds;
 - production of a final report on the significance of the archaeological interest represented; and
 - where remains are encountered, a subsequent phase of impact mitigation (which may include preservation in situ by the appropriate design or siting of new roads, structures and buildings, formal excavation of remains or other actions).
 - (iii) provision for publication and dissemination of the analysis and report on the site investigation.
 - (iv) provision for archive deposition of the report, finds and records of the site investigation.
 - (v) nomination of a competent person(s) or organisation to undertake the work set out in the approved WSI.

The development shall thereafter be carried out in accordance with the approved WSI and the timetable contained therein.

- 7) No development shall take place until a scheme has been submitted to and approved by the Local Planning Authority for a Construction Exclusion Zone (CEZ) to be formed around the hedgerows identified as being retained as part of the landscaping scheme shown on plan Ref: P17-2890_001. The CEZ shall be provided in the form of protective fencing of a height and design which accords with the requirements BS 5837: 2012. The protective fencing shall be constructed in accordance with the approved scheme before development commences and shall be maintained as such throughout the construction period.

- 8) No development shall take place until a scheme for the design and construction (including surface treatment) of the site access (the layout and position of which is shown on drawing no. 11370-003-Visibility-R3) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- (i) Provision for visibility splays of 2.4 metres x 46 metres in both directions at the junction of the site access with Peel Road;
 - (ii) Provision for any gates or barriers to be erected a minimum of 5 metres away from the back edge of the carriageway and that they do not open over the highway; and
 - (iii) Provision to ensure that the final surfacing of the first 5 metres of the access road entering the site from the carriageway does not contain any loose material that is capable of being drawn onto the highway.

The site access shall be constructed in accordance with the approved scheme before any works associated with the construction of the energy plant and site compound first take place, and shall be retained as such thereafter for the lifetime of the development. The visibility splays provided in (i) shall be maintained free from any obstruction over 1m in height.

- 9) Before the energy plant first becomes operational, a scheme for the design and construction (including surface treatment) of the access roads, vehicle parking and manoeuvring areas to be provided within the site compound shall be submitted to and approved in writing by the Local Planning Authority. The access roads, vehicle parking and manoeuvring areas shall be constructed in accordance with the approved scheme before the energy plant first becomes operational and shall be retained as such thereafter for the lifetime of the development.
- 10) The flood protection measures identified in the Flood Risk Assessment by S M Foster Associates Limited (Ref: 049/37/peel/fra/0917) shall be implemented in full before the energy plant hereby permitted first becomes operational, and shall be maintained as such thereafter for the lifetime of the development.
- 11) No clearance of any vegetation in preparation for or during the course of development shall take place during the bird breeding season (March to July inclusive) unless an ecological survey has first been submitted to and approved in writing by the Local Planning Authority which demonstrates that the vegetation to be cleared is not utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no clearance of any vegetation shall take place during the bird breeding season until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the Local Planning Authority. Nest site protection shall thereafter be provided in accordance with the duly approved methodology.
- 12) Before the energy plant hereby approved first becomes operational, a scheme for the implementation of Habitat Enhancement Measures (HEM) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate compliance with the principles set out in section 7.3 of the Preliminary Ecological Appraisal by Elliott Environmental Surveyors (Ref: EES17-054 V2). The HEM shall be implemented before the energy plant first becomes operational and shall be maintained as such thereafter.

- 13) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The CMS shall include:
- a) hours of work for site preparation, delivery of materials and construction;
 - b) arrangements for the parking and manoeuvring of vehicles for site operatives and visitors;
 - c) details of areas designated for the loading, unloading and storage of plant and materials;
 - d) details of the siting, height and maintenance of security hoarding;
 - e) arrangements for the provision of wheel washing facilities for vehicles accessing the site; and
 - f) measures to control the emission of dust and dirt during construction.
- The approved CMS shall be adhered to throughout the construction period for the development.
- 14) The landscaping scheme shown on plan Ref: P17-2890_001 shall be carried out during the first planting season after the energy plant first becomes operational and the areas which are landscaped shall be maintained as landscaped areas throughout the lifetime of the development in accordance with the details shown on the approved plan. Any trees, hedges or shrubs removed, dying, being severely damaged or becoming seriously diseased within 10 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.
- 15) The rating sound levels specified in section 6 of the Noise Impact Assessment by 'tnei' (Ref: 11370-006) shall be achieved for all noise sensitive receptors at all times that the development is operational. All sound levels should be measured at or calculated to a position representing the boundary of the nearest noise sensitive receptor which may suffer a loss of aural amenity from sound associated with the development. The measurements and assessment shall be made in accordance with BS4142: 2014 Methods for rating and assessing industrial and commercial sound.

END OF SCHEDULE