



Appeal Decision

Site visit made on 3 September 2019

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2019

Appeal Ref: APP/C1625/W/19/3229860

Land east of High Green, Longney, Gloucestershire, GL2 3SH.

- 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 Elgin Energy EsCo Limited against the decision of Stroud District Council.
 - The application Ref. 18/0537/FUL, dated 5 March 2018, was refused by notice dated 30 November 2018.
 - The development proposed is the construction of a solar park, to include the installation of solar photovoltaic panels to generate approximately 20MW of electricity, with DNO and client substations, inverters, perimeter stock fencing, access tracks and CCTV. Landscaping and other associated works, together with retention and extension of existing hedgerow.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a solar park, to include the installation of solar photovoltaic panels to generate approximately 20MW of electricity, with DNO and client substations, inverters, perimeter stock fencing, access tracks and CCTV. Landscaping and other associated works, together with retention and extension of existing hedgerow, at Land east of High Green, Longney, Gloucestershire, GL2 3SH, in accordance with the application Ref. 18/0537/FUL, dated 5 March 2018 and subject to the conditions set out in the attached Schedule.

Procedural matters

2. The documents submitted with the appeal include a revised planting plan and landscape management [drawing E.0232_28] which introduces a proposed hedge to the western edge of the western parcel of the site. This is different to the (revised) scheme submitted to the Council and on which the Council's decision on application 18/0537/FUL was based. However, the basic form of the operational development proposed remains the same and only the planting regime differs. Having regard to the principles set out in the case of *Wheatcroft*, I am satisfied that the revisions now put forward with the appeal documents are not material to the overall development as commented on by the local community and decided by the Council. I will therefore consider the proposed landscaping as per the drawing specified above.
3. I also note that a more recent application for a solar farm on the same land as the appeal site was approved by the Council on the 26 July 2019 under ref. 19/0760/FUL (now referred to as the permitted scheme). This is a material consideration. As shown on the approved site layout plan (drawing E0232_03

Rev.P) the main difference between the permitted scheme and the appeal scheme is that in the western field the array of panels is reduced in an easterly direction by about 100m and that the western edge of the panels would be contained by a new 10m wide woodland buffer to supplement the existing hedge. The permitted scheme is the appellant's fallback position.

Main Issues

4. The main issue is the effect of the proposed development on the surrounding rural landscape and whether any harm is outweighed by the benefits said to arise from the renewable energy generated.
5. The Council also refers in the reason for refusal to the adverse effect on 'users and residents', however, this appears to be in respect of these users and resident's appreciation of views of the rural landscape and not a concern about a direct effect on living conditions, for example by the development proposed causing noise and disturbance or a reduction in daylight. I will therefore not treat this concern as a separate issue.

Reasons

Background

6. The appeal site extends to about 48ha of agricultural land which lies to the east of the village of Longney and is generally located between the River Severn and the Gloucester and Sharpness Canal. The surrounding landscape is open and gently undulating and detailed landscape descriptions and assessments are set out in the appellant's and the Council's appeal documents.
7. The proposal is to construct a solar farm to generate approximately 20.5MW of electricity (reduced from the initial submission of 25MW) with photovoltaic panels erected in rows between 2m and 6m apart to avoid overshadowing and at an angle where the height of the top of the panels would be up to 3m above ground, together with ancillary plant and security fencing. The solar farm is intended to have a lifespan of 30 years after which it would be decommissioned and all equipment removed.

Policy context

8. The development plan includes the Stroud District Local Plan (adopted in 2015) (the LP). The reason for refusal also refers to the Longney and Parish Design Statement (2011) but it has not been shown that this document is part of the development plan or is a neighbourhood plan. Further, details of the policy referred to have not been submitted in response to the appeal therefore I have not been able to afford it any weight.
9. The National Planning Policy Framework (NPPF) indicates that the purpose of the planning system is to deliver sustainable development. In terms of the issue in this appeal, paragraph 148 indicates that the planning system should support the transition to a low carbon future and, amongst many other things, supports renewable and low carbon energy and associated infrastructure. Paragraph 154 of the NPPF indicates that such applications should be approved if the impacts of (renewable energy) development are, or can be made, acceptable.

10. LP Policy ES2 relates to renewable and low carbon energy generation and indicates, in summary, that the Council will support proposals provided that the installation will not have a significant adverse impact (either alone or cumulatively). The policy goes on to set out factors that an impact statement must demonstrate compliance with.

Effect on the rural landscape

11. In assessing the effect on the landscape, I have had regard to the detailed landscape assessments submitted by the appellant (A Cook) and the Council (S White). At my site visit I considered the proposal from some of the local public viewpoints as referred to below. I also considered the proposal from two local houses at the specific request of the occupiers of these properties. Moreover, as the permitted scheme can be implemented, subject to the requirements of any conditions imposed, I will concentrate on the impact of the development proposed on the western sector of the site.
12. From my observations on site and in the surrounding area, I agree with the conclusions of the main parties that the proposal would not have a notable adverse effect on landscape designations, including the Cotswold Area of Outstanding Natural Beauty (AONB). Further, generally, the Council accepts that the eight fields of the permitted scheme are contained to an extent within established field boundaries (with hedgerows) which have been allowed to grow to 5 to 6m tall and additional tree screening. It is accepted by the main parties that the development here will not have a significant adverse impact on the landscape.
13. In terms of the western field, I noted on my site visit that the land rises gently up from a point in the western corner of the site and adjacent to Longney Lane, the lane which serves High Green. This arable field is open and not enclosed until the edge of the permitted site is reached. However, there is an extensive roadside hedge along the south-eastern side of the lane and public views over this western area are not prominent, although there are occasional long distance views through gaps in the hedge over the western field towards the Cotswold escarpment. Further south along Longney Lane, the roadside hedge is lower allowing views eastwards across the western field as shown in Additional Viewpoint F1 of Appendix 14 of the Appellant's Landscape Statement. Finally, there is a more distant view of the western field from footpath ELY/28 as shown of Viewpoint 12 of the same document.
14. From the evidence presented and my observations at my visit, it appears to me that the panels proposed in the western field would be visible from a distance to users of footpaths ELY28 and ELY27 but I do not consider that the structures would be as prominent in the landscape or on the skyline as Mr White submits. More locally, around Longney Lane I am satisfied that the screening effect of the roadside hedge would minimise public views of the equipment in the western field save for the relatively minor gap that would be caused by the creation of the proposed access. Overall, I would assess this visual harm to the quality of the landscape as minor to moderate rather than significant. Further this 'early years' impact is based on the position that the western edge of the panels is not contained by a landscaped edge. Although the appeal proposal contains the planting of a new hedge, I consider that a 10m wide woodland buffer, similar to the permitted scheme for that western edge, would make a more effective screen for the majority of the lifespan of the

development, notwithstanding the concerns expressed about the suitability of other woodland planting in the lower and wet areas of the land. The implementation of such new landscaping can be conditioned.

15. I conclude on this issue that the extended form of development in the western field of the site would have a minor/moderate impact on the local landscape at the outset of development. However, the landscaping proposed, and which can be conditioned to be more extensive, would mitigate the effect of the development for the majority of its lifespan. As such I find that the proposal accords with Policy ES2 as it would not have a significant adverse effect. Moreover, the proposal can be mitigated with landscaping to fit in with the established field pattern so that the impact of the renewal energy development can be made acceptable. This accords with NPPF guidance.

Other matters

16. Various other objections have been raised by the local community who question the scale and proportion of the parish that will be developed by the solar park, however, I have judged the proposal on its individual merits and its local impact. The land is not Green Belt as suggested by some and there is no national or local policy requirement that such development should only benefit local people. Neither is there substantiated evidence before me to demonstrate that the development proposed cannot be accommodated safely on the local highway network, especially during the construction period, or that wildlife will be materially endangered by the proposal. I am therefore not able to place much weight on these other considerations.

Planning Balance

17. In balancing the considerations in this appeal, I have placed much weight on the fact that the Council have permitted a similar scheme on the same overall site as the appeal proposal and I have concentrated on the differences between the two schemes. Further, on the main issue I have concluded that the additional area of panels on the western field would not have a significant adverse effect on the local rural landscape. Moreover, its visual impact would be mitigated for much of the life of the development by the implementation of a woodland buffer along the western edge of this additional array of panels.
18. Overall, I find that the proposal accords with the relevant development plan Policy ES2 and national guidance which supports renewable energy development where the impact is or can be made acceptable. The other considerations raised in the appeal do not outweigh this conclusion. I will therefore allow the appeal.

Conditions

19. The Council recommends 20 conditions are imposed if the appeal is allowed. These are similar to those imposed on the permitted scheme and are acceptable to the appellant, with one exception regarding condition 5 which I will consider below, and I take this acceptance as agreement to 'pre-commencement' conditions.
20. Suggested conditions 1 and 2 are necessary to define the permission and to ensure that the development is undertaken in accordance with the submitted plans and details. Conditions 3, 4 and 20 are necessary as the proposal is for development for a limited period only and the development needs to be

removed at the end of the permitted period. Further details are also necessary as set out in conditions 6, 8, 18 and 19 to ensure that the development is not harmful to the landscape and in the interests of providing information/education on sustainable development and on ensuring public safety.

21. Conditions 9, 10 and 11 are reasonable and necessary to ensure that the development does not harm trees and other ecological interests. Further, condition 12 is reasonable and necessary to require a construction and decommissioning method statement to regulate construction and deconstruction work and 13, 14 and 15 are necessary for highway safety. Finally condition 16 regarding the implementation of the agreed drainage strategy is necessary to prevent a risk of flooding or pollution.
22. In terms of the disputed condition 5 regarding areas of archaeological interest, on the evidence submitted I am satisfied that the working of the condition put forward by the Council is reasonable and necessary and meets the tests in the NPPF. However, I have modified the condition to enable the submission and consideration of an alternative site plan if necessary.
23. I have also imposed a new condition to require the submission of a landscaping/planting plan based on the implementation of a 10m wide woodland buffer along the western edge of the array of panels to ensure the appropriate mitigation of the visual effect of the development.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in all respects in strict accordance with the approved plans listed below: Proposed Drawings of 05 March 2018 Site Location Plan – Drawing E0232_06 Sheet __ Rev C Sections Through Modules – Drawing E0232_11 Sheet 1/7 Inverter Cabinet – Drawing E0232_11 Sheet 2/7 Applicant Substation – Drawing E0232_11 Sheet 3/7 Wire Pole Terminal – Drawing E0232_11 Sheet 4/7 DNO Substation – Drawing E0232_11 Sheet 5/7 Security Fence – Drawing E0232_11 Sheet 6/7 CCTV Camera – Drawing E0232_11 Sheet 7/7 Revised Site Layout and Planting Proposals – Drawing E0232_03 Sheet __ Rev K received on 05 September 2018 Planting Plan and Planting Plan and Planting Schedule Appeal Scheme Drawing E0232 dated 29 May 2019.
3. The permission hereby granted shall be limited to a period of 30 years from the date when electricity is first exported from the solar panels to the local electricity grid (hereafter known as 'The First Export Date'). Written notification of The First Export Date shall be given to the Local Planning Authority within 14 days of the event occurring.
4. Within 12 months of the date when the solar panels permanently cease to produce electricity, or the expiration of this permission, whichever is the sooner, the solar panels and its ancillary equipment and infrastructure shall be removed, and the land restored, in accordance with a scheme to be submitted to and approved by the Local Planning Authority. The land restoration scheme shall be submitted within two months of the cessation of electricity production.
5. Notwithstanding the submitted site plan, in areas of archaeological interest as outlined on the submitted plan (Proposed drainage arrangements plan - Drg No. E183/21 Rev B received on 08th September 2018) no inverters/transformers shall be sited and the array panels shall be supported on concrete sleeper foundations placed upon existing ground level unless an alternative plan on the location of all inverters and transformers is submitted and agreed with the local planning authority.
6. Notwithstanding the submitted details, the colour and finish of the proposed inverters/ transformers and substations shall be submitted to and approved by the Local Planning Authority and shall be maintained as such thereafter.
7. All planting, seeding or turfing comprised in the approved details of planting plan and schedule shall be carried out in the first complete planting and seeding seasons following the commencement of the development. Any trees or plants which, within a period of five years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
8. Prior to The First Export Date, a landscape management/maintenance plan (notwithstanding that stated in the submitted Biodiversity Management Plan) shall be submitted to and approved by the Local Planning Authority.

This shall include a management/maintenance schedule which maintains the external hedgerows at a minimum of 5-6m and internal hedgerows at a minimum 3-4m high. The landscape management plan shall be implemented and maintained in accordance with the approved details for the duration of the development.

9. The development hereby approved shall be carried out in full accordance with the recommendations contained in the Avian Ecology Ecological Assessment Report - Ref: Pegas-075-1754 V5 including all appendices and Avian Ecology additional response report received on 28 September 2018. This includes the Biodiversity Management Plan but allow those trees retained to grow to their full height at maturity.
10. Prior to The First Export Date, written confirmation from the Project Ecologist that the mitigation and enhancement measures have been implemented as approved shall be submitted to and approved by the Local Planning Authority. Ecological monitoring reports shall then to be submitted to and approved by the Local Planning Authority annually for the first 3 years after The First Export Date.
11. No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving or operations involving the use of motorised vehicles or constriction machinery), shall commence on site in connection with the development until the Tree protection as outlined on Tree protection plan BHA_261_03 Rev C has been installed. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavations of soil or rubble, lighting of fires or disposal of liquids shall take place within the areas defined by the fencing. The fencing shall be retained for the full duration of the construction phase of the development and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
12. No development shall take place, including any works of demolition, until a Construction and Decommission Method & Logistics Statement has been submitted to and approved by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall:
 - i. specify the type and number of vehicles;
 - ii. provide for the parking of vehicles of site operatives and visitors;
 - iii. provide for the loading and unloading of plant and materials;
 - iv. provide for the storage of plant and materials used in constructing the development;
 - v. provide for wheel washing facilities;
 - vi. specify the intended hours of construction operations;
 - vii. measures to control the emission of dust and dirt during construction;
 - viii. specify the intended construction routes in general accordance with Technical Note 'PFA E183-FN02 Response to GCC April 2018

- ix. notwithstanding Technical Note 'PFA E183-FN02 Response to GCC April 2018' ensure sufficient inter-visible passing places and Local Authority approved traffic management measures based on construction and decommission route topographical/ground surveys
 - x. include confirmation that a construction route highway survey will be undertaken and submitted before, during and after construction and decommission periods based on a Local Authority agreed timescale with any resulting construction or decommission traffic damage along repaired.
 - xi. include key performance indicators based on GCC Freight policy
 - xii. demonstration of adequate welfare opportunities for staff including Banksmen.
 - xiii. specify the intended hours of deliveries and HGV movements to avoid the morning and afternoon peak rush hours along the approved construction and decommission route.
13. No works shall commence on site (other than those required by this condition) on the development hereby permitted until the first 20m of the proposed access road, including the junction with the existing public road and associated visibility splays, has been completed to at least binder course level.
14. The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 121m distant in both directions (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.26m and 2.0m at the Y point above the adjacent carriageway level.
15. The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back in accordance with plan E183/04 Rev A either side of the access to allow for swept path tracking.
16. Prior to The First Export Date, all the drainage works outlined in the drainage strategy (Flood Risk Assessment (PFA ref: E183 Issue 5) received on 08 March 2018 as amended by PFA ref: E183-FN03 FRA supplementary note 24 April 2018 including plan E183/21 Additional Drainage Information) shall be completed in accordance with the details so approved and maintained as outlined in the approved report for the duration of the development.
17. No external artificial lighting shall be installed other than essential for security and the details shall first be submitted to and approved by the Local Planning Authority.
18. Prior to The First Export Date, a public information and education scheme shall be submitted to and approved by the Local Planning Authority. This

shall include details of the provision of the proposed education area and public information boards along with a timetable for their implementation. The scheme shall then be implemented in accordance with the approved details and maintained for the duration of the development.

19. No development shall take place, until an unexploded ordnance survey has been submitted to and approved by the Local Planning Authority, confirming that all risks have been satisfactorily mitigated.
20. The temporary access and storage compound shall only be retained during the construction and decommissioning periods and all material shall be removed from site and the agricultural field reinstated within 1 month or other timetable submitted and approved by the Local Planning Authority.
21. Notwithstanding the details shown on the submitted landscaping schemes, (including the Planting Plan and Planting Schedule Appeal Scheme Drawing E0232 dated 29 May 2019), the development shall not commence until details of the planting of a 10m wide woodland buffer along the western edge of the array of panels in the western field has been submitted to and agreed in writing by the local planning authority. The implementation of the planting proposed shall be carried out as per condition 7 above.