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# Appeal Decision

Site visit made on 22 June 2022

**by Helen Davies MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11<sup>th</sup> August 2022**

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**Appeal Ref: APP/Q3115/W/22/3291889**

**Land off Wallingford Road, Adjacent to Sewage Works, Goring RG8 0JA**

- 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 Jack Hulme of Balance Power Projects Ltd against the decision of South Oxfordshire District Council.
  - The application Ref P20/S4706/FUL, dated 3 December 2020, was refused by notice dated 5 November 2021.
  - The development proposed is described as development and operation of a Transitional Hybrid Energy Project and associated infrastructure including access.
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## Decision

1. The appeal is allowed and planning permission is granted for development and operation of a Transitional Hybrid Energy Project and associated infrastructure including access, at Land off Wallingford Road, Adjacent to Sewage Works, Goring RG8 0JA, in accordance with the terms of the application, Ref P20/S4706/FUL, dated 3 December 2020, subject to the conditions in the attached Schedule.

## Preliminary Matters

2. Whilst not stated within the description of development, the details make clear that the proposal is for a temporary period of 25 years. The small scale (7MW) Transitional Hybrid Energy Project (THEP) will produce electricity from natural gas, to be used at times of peak demand. While the parties disagree about whether the proposal can be classed as low carbon, the Council's officer report sets out that renewable energy is intermittent at present, and so a range of responsive services are needed to maintain a balance between demand and supply to support the transition to net zero. Therefore, THEP developments such as this are needed in the short to medium term. For the avoidance of doubt, I have considered the appeal on the basis that it is not, in itself, a proposal for low carbon or renewable energy.

## Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the extent to which it would conserve or enhance the landscape character and natural beauty of the Chilterns AONB.

## Reasons

4. The site is located in the countryside, within the Chilterns AONB and close to the border with the North Wessex Downs AONB. The main body of the site is a

modest portion of a larger agricultural field. It is bounded on 2 sides by existing trees, where it borders a large agricultural building and a sewage works. Next to these are an electricity sub-station and a busy main railway line. The railway line is set on banking with multiple power gantries that are highly visible within the landscape. The other two sides of the main body of the site are open to the wider field.

5. Policy ENV1 of the LP gives the highest level of protection to the landscape and scenic beauty of AONBs. It sets out that development will only be permitted where it conserves, or where possible, enhances the character and natural beauty of the AONB. Policy 11 of the Goring Neighbourhood Plan (NP) supports this and adds that adverse impacts in an AONB should be avoided unless they can be satisfactorily mitigated. Policy DES2 of the LP is also of relevance in that it requires development to reflect the positive features of the character of an area. These local policies are in line with Framework Paragraphs 174 and 176 which seek to protect and enhance valued landscapes and give great weight to conserving and enhancing landscape and scenic beauty in AONBs. There is also guidance contained within various national energy policy documents<sup>1</sup>, although the Council contends that they are not relevant to developments this small. Importantly, though, they set out the importance of designated landscapes in the consideration of energy projects.
6. The land is at the start of the 'Goring Gap', and as set out in landscape assessments<sup>2</sup> and as was evident from my site visit, the predominant characteristics of the area around the site include rolling hills with relatively few trees, large open agricultural fields without hedges, and dispersed villages. The site is in a discrete section of a field, adjacent to trees and the existing built form of utilities, and major infrastructure in the form of the long established but recently electrified Great Western Railway. As such, the site and its immediate surroundings are not particularly representative of the predominant characteristics of the area and do not currently make a positive contribution to the character and natural beauty of the Chilterns AONB.
7. The proposal would add additional built form into the landscape, but the area would be relatively small. The main body of the site would occupy an area a lot smaller than the sewage works, and similar to the area of the large agricultural building and yard, as well as to the electricity substation. The rest of the field would remain open. In this context, the proposal would not introduce built form into an otherwise undeveloped area and would not appear as an unacceptable encroachment into the open countryside.
8. The height of the proposed buildings would be relatively modest but would be higher than those at the sewage works. I have been provided with no detail on the height of the adjacent agricultural building but it is a substantial structure. A combination of lowered ground level and the creation of bunds would provide screening for the lower sections of the buildings leaving only a modest amount above the bunds. Four flues on top of buildings would add extra height and are likely to be the most visible element of the proposal. Despite this, the mass of the flues, particularly when viewed from two of the sides, would be relatively small. Visibility of the development from certain wider perspectives would also

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<sup>1</sup> Overarching Policy Statement for Energy (OPSE) (EN-1) (2011); UK Government Energy White Paper: Powering our Net-Zero Future 2020; and Draft Overarching National Policy Statement for Energy (dNPSE) (EN-1) (2021)

<sup>2</sup> The Oxfordshire Wildlife and Landscape Study 2019; South Oxfordshire District Council Landscape Character Assessment 2017; Goring-on-Thames Neighbourhood Plan 2019

- be restricted by topography as the site is generally lower than the surrounding land.
9. The buildings would have a simple appearance not unlike some agricultural buildings. The overall design and colour of materials would help the development assimilate into the surrounding landscape and it would not appear overly industrial.
  10. The existing trees and agricultural building would provide significant and immediate screening on two sides. A mix of native planting, in a deep strip across the bunds, would provide screening on the other two sides, once implemented. Some mature specimens would be planted to provide an immediate reduction in visibility of the elements of the buildings which are above the bunds. I acknowledge that even at a good rate of growth, it would take a number of years for the planting to reach a level that would fully screen the whole of the development. However, on balance, a sufficient level of screening would be achieved within a relatively short period of time to mitigate the visual impact of the development on the landscape to an acceptable level.
  11. The bunds would introduce a new form into the landscape but given the proximity to the railway line with its distinct banking, the form would not appear out of keeping with the surroundings. The bund and planting would also afford some additional screening to the existing built form, when viewed from some perspectives.
  12. The vegetated site access track would largely blend into the surroundings once completed. The temporary construction compound would be sited on an existing area of hard standing close to the large agricultural barn and it would be in place for a limited period of time. Any visual impact from the compound and its access would be mitigated by its small scale and temporary nature. These elements would not have a detrimental impact on the character of the area, beyond a very modest temporary impact during construction.
  13. A Landscape and Visual Impact Assessment (LVIA) was submitted with the original application. It states that, beyond the construction phase, the significance of change to the landscape character would be moderate adverse as a worst case and that following mitigation the visual impacts would be ameliorated from the local landscape. It concluded that the type of development would not be out of character within the receiving landscape. Concerns have been raised about the LVIA process, but it appears to have been produced by a qualified person. Whether or not it has been prepared in full accordance with Landscape Institute guidance, an appropriate selection of viewpoints, including from the Ridgeway have been considered. Furthermore, I have made my own observations during a site visit.
  14. I have no detail of any potential mitigation related to the railway gantries. Regardless of this, the electrification has had a significant landscape and visual impact on the area, and the site itself, and is now part of the context within which the proposed development would be viewed.
  15. The LVIA was produced prior to amendments to the proposal which introduced additional mitigation. This additional mitigation addressed the initial concerns of the Council landscape officer and the Chilterns conservation board, who raised no objections to the amended proposal, subject to conditions. The amended proposal is the one which the Council decision is based on and

therefore is considered under this appeal. As such, my conclusion that the proposal is acceptable in terms of landscape impacts reflects the conclusion of the LVIA, the landscape officer and the Chilterns conservation board.

16. In summary, the development would be modest in scale and would include significant mitigatory screening. It would be viewed in the context of the existing utilities and major infrastructure close to the site. Consequently, I conclude that the proposed development would not be out of keeping with the character and appearance of the area and would conserve the landscape character and natural beauty of the Chilterns AONB. Therefore, taking into account its nature, scale and setting, and that it would not have a significant adverse impact on the purposes for which the area has been designated, the proposal is not 'major development' in an AONB. Consequently, the development would comply with Policies ENV1 and DES2 of the LP, Policy 11 of the NP, and paragraphs 174, 176 and 177 of the Framework, which seek to protect local character and landscape, especially within AONBs.

### **Other Matters**

17. A range of other matters have been raised by interested parties. These include light pollution; noise; air pollution including nitrous oxide emissions; increased traffic and highways safety issues; loss of agricultural land; archaeological implications; harm to wildlife and biodiversity; harm to human health; neighbour living conditions during construction and operation; health and safety concerns; the existence of hydro-electric schemes in the area; possible alternative uses; and compliance with Policy DS9 of the LP. The Council officer report clearly concludes that the proposal is acceptable other than in respect of the main issue. I have been presented with no substantive information which would lead me to conclude that the development would result in unacceptable harm in regard to these matters. In addition, whether or not Didcot B power station is decommissioned and replaced does not change my decision as its scale and purpose is different to the proposal.
18. Questions have been raised about whether other sites would be more suitable for the development. The appellant has stated that this is the only suitable and viable site to utilise an available connection to the National Grid at the nearby substation. No details of a site search have been provided but they are not required and I have found the proposal to be acceptable at this site.
19. I note reference to various examples of other appeal decisions relating to sites in different locations and, in some cases, different forms of development. Therefore, they are of limited weight.
20. The Council Committee are not obliged to accept an officer recommendation, and in this case did not do so. In reaching my decision I have considered the transcript of the Committee meeting and the matters raised within it.

### **Conditions**

21. The Council have suggested a range of conditions, which the appellant has been made aware of and raised no objections to. I have considered the suggested conditions and amended and reordered them as necessary in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance. I have limited the use of pre-commencement clauses to where they are essential for the condition to achieve its purpose.

22. A condition specifying the approved plans is necessary to provide certainty. The proposal is promoted as a temporary facility for 25 years. It is likely that technological advances in energy storage within that time scale will reduce reliance on fossil fuels for back up electricity generation. Conditions limiting the development to 25 years and securing removal and restoration after that time are therefore necessary and reasonable.
23. The site is within an area of archaeological interest. Due to this, conditions are necessary and reasonable to ensure the identification, safeguarding and recording of any remains before any work commences on site.
24. In order to protect the setting of the AONB and the character and appearance of the wider landscape, conditions to secure appropriate exterior materials, site levels, hard and soft landscaping, tree and hedge protection, site management and lighting are all necessary and reasonable. Given the integral nature of these elements to achieving an acceptable development in the AONB, it is necessary to secure most of the details prior to commencement as well as securing their implementation, maintenance and retention.
25. Conditions have been used to secure appropriate surface and foul water drainage, in the interests of ensuring the development does not increase the risk of flooding or pollution. Conditions have also been attached to ensure construction traffic management arrangements are in place and that parking and a suitable access are implemented, to ensure highway safety is maintained.

## **Conclusion**

26. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed.

*Helen Davies*

INSPECTOR

## **Schedule of conditions**

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the attached schedule of details and drawings.
- 3) The permission is for a limited period of 25 years from the date of commencement of the development hereby permitted. Written notification of the date of commencement shall be provided to the Local Planning Authority no later than 14 days after commencement.
- 4) No later than 12 months before the end of this permission, a site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of works to remove the buildings, plant and related equipment. The scheme shall be fully implemented in accordance with the approved details within 12 months of the expiry of this permission.

- 5) No development shall take place until an archaeological Written Scheme of Investigation covering the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a staged programme of archaeological evaluation and mitigation, outlining the processing, research and analysis necessary to produce an accessible and usable archive.
- 6) No development shall take place other than in accordance with the approved Written Scheme of Investigation. A full report for publication shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.
- 7) No development shall take place until a scheme to protect existing trees and hedges has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved scheme, with protection measures implemented prior to commencement of, and retained for the duration of, the construction works.
- 8) No development shall take place until a construction traffic management plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall provide details for the routing of construction and delivery vehicles and delivery times for construction materials and equipment. The approved CTMP shall be implemented prior to any works being carried out on site and shall be maintained throughout the course of the development.
- 9) No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of drainage works and be designed to accommodate a 1 in 100 year storm plus a 40% allowance for climate change. The approved scheme shall be implemented prior to the first use and operation of the development and retained as such thereafter.
- 10) No development shall take place until a foul water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the foul water drainage, along with calculations to evidence the suitability of the proposed drainage. The approved scheme shall be implemented prior to the first use and operation of the development and retained as such thereafter.
- 11) Notwithstanding the approved plans, no development, other than implementation of approved tree and hedge protection measures, shall take place until detailed contour plans have been submitted to and approved in writing by the Local Planning Authority. The contour plans shall show the existing and proposed ground levels of the site with a minimum of 3 cross sections through the site in each direction. The development shall be carried out and retained in accordance with the approved details.
- 12) Notwithstanding the approved plans, no hard landscaping works shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all hard surfacing materials, any earth moving operations, and an implementation programme. The approved scheme shall be carried out in full prior to the first use and operation of the development and retained as such thereafter.
- 13) Notwithstanding the approved plans, no soft landscaping works shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all soft landscaping,

including the planting of live trees and shrubs and an implementation programme. The approved scheme shall be carried out prior to the first use and operation of the development and maintained in accordance with the approved scheme thereafter. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced no later than the next planting season with others of similar size and species.

- 14) Prior to their use within the development, a schedule of all external materials and finishes shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the approved details.
- 15) Prior to the first use and operation of the development the parking and turning areas shall be provided in accordance with the approved plans. The parking and turning area shall be retained and shall be unobstructed at all times and available for the parking and turning of vehicles associated with the development.
- 16) Prior to first use and operation of the development details of the means of access onto Wallingford Road shall be submitted to and approved in writing by the Local Planning Authority. The access shall be formed, laid out, constructed and thereafter maintained in accordance with the approved details.
- 17) Prior to first use and operation of the development details of a scheme for the management, maintenance and upkeep of the development and surrounding landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out thereafter.
- 18) External lighting will only be permitted in accordance with a lighting scheme which has been submitted to and approved in writing by the Local Planning Authority prior to installation. Any such lighting shall be implemented and maintained in accordance with the approved scheme.

### **Schedule of details and drawings**

- Location plan - 045 - PL - RG80HS - 001 REV J
- Aerial plan - 045 - PL - RG80HS - 002 REV J
- Proposed plan - 045 - PL - RG80HS - 101 REV J
- Proposed plan - compound - 045 - PL - RG80HS - 101 REV J
- Drainage strategy - 101
- Proposed elevation - AA - 045 - PL - RG80HS - 201 REV J
- Proposed elevation - AA-LEV - 045 - PL - RG80HS - 201 REV J
- Proposed elevation - BB - 045 - PL - RG80HS - 202 REV J
- Proposed elevation - BB-LEV - 045 - PL - RG80HS - 202 REV J
- Proposed elevation - CC - 045 - PL - RG80HS - 203 REV J
- Proposed elevation - CC-LEV - 045 - PL - RG80HS - 203 REV J
- Proposed elevation - DD - 045 - PL - RG80HS - 204 REV J
- Proposed elevation - DD-LEV - 045 - PL - RG80HS - 204 REV J
- Section EE and FF - 045 - PL - RG80HS - 301 REV J
- Section GG and HH - 045 - PL - RG80HS - 301 REV J
- Soft landscape proposals - ENZ1160-11 Rev B
- Landscape and visual impact assessment (ref: ENZ1160lvia).
- Landscape specification (ref: ENZ1160spec).

**\*\*\*End of Conditions\*\*\***