
Appeal Decision

Site visit made on 17 August 2023

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Appeal Ref: APP/E2340/W/23/3317472

Douglas Hall Cottage, Spenbrook Road, Newchurch in Pendle, Burnley BB12 9JG

- 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 William Lancaster against the decision of Pendle Borough Council.
 - The application Ref 22/0627/FUL, dated 15 September 2022, was refused by notice dated 5 January 2023.
 - The development proposed is the installation of a ground-mounted solar array and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a ground-mounted solar array and associated infrastructure at Douglas Hall Cottage, Spenbrook Road, Newchurch in Pendle, Burnley BB12 9JG in accordance with the terms of application Ref 22/0627/FUL, dated 15 September 2022, subject to the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the surrounding area with particular regard to the Forest of Bowland Area of Outstanding Natural Beauty (AONB).

Reasons

2. The appeal site comprises a small area of grazing land located in relatively open countryside on a hilltop position to the east of Douglas Hall Cottage buildings. These include several buildings associated with the small holding and a dog kennelling business.
3. It lies immediately to the north-west of a chain link fenced compound containing a prominent telecommunications mast, large satellite dish equipment and associated single storey buildings. This compound, mast and equipment detracts from the rural qualities of the area. The site is located within the Forest of Bowland AONB. It is currently used for grazing and contains a steel container and a part dilapidated field shelter.
4. The proposed development would involve the construction of a relatively small 133kW solar array, comprising 230 panels in five rows, having a maximum height of approximately 1.62m, together with a GRP Electrical Connection Unit

measuring approximately 2.01m x 1.8m x 2.4m. The Council indicate that the appeal proposal would occupy an area of approximately 60m x 30m. Electricity generated by the array would be used onsite, primarily to satisfy electrical demand at the existing dog kennelling business.

5. The application was accompanied by a Landscape and Visual Appraisal (LVA) which considers a study area of 2Km from the development position and includes a Zone of Theoretical Visibility (ZTV) and visualisations from viewpoints representative of receptors within this study area. From my site visit, which involved viewing the site from numerous positions in the surrounding area, I concur with the Appellant's contention that beyond the 2Km study area the array would not be a significant feature within wider views and would have negligible impact. At such distance, it would likely be absorbed into the landscape by the existing small holding complex buildings and the telecommunications infrastructure.
6. In my view, the study area, encompassed by the viewpoints, is appropriate for consideration of the likely important effects of the proposed development on landscape character and views. The Assessment Methodology in the LVA has been undertaken broadly in line with best practice guidance as set out in the Guidelines for Landscape and Visual Impact Assessment (Third Edition) 2013 (GLVIA3). It includes consideration of both the sensitivity of the landscape character (nature of receptor) and the nature of effect (magnitude of change).
7. In considering the landscape impact of the proposed development, the appeal site is located within the Bowland Fringe and Pendle Hill National Character Area (NCA Profile 33). Amongst many other matters, special qualities within this area include the distinctive stock of field boundaries with dry stone walls common in some areas and a need to maintain the open character of the landscape.
8. The ZTV illustrates that the main envelope of potential visibility of the proposed development would be from elevated positions on the face of hills to the north and north-west and in the immediate vicinity of the array to the south-west. As the appeal site is located on the slope of Sabden Brook Valley, close range views from the north and north-west are not readily attainable due to the steep slopes of the valley side. In longer distance views from the north and north-west, as illustrated in Viewpoint 3, I consider that the array would be barely discernible due to its relatively low height and position that would appear enclosed behind existing stone walls. Moreover, the proposed array would be largely absorbed into the landscape, and significantly dominated by the telecommunications infrastructure and the existing Douglas Hall Cottage complex. As such, I concur with the views of the LVA and the Appellant that from the north and north-west there would be a negligible impact on the character of the landscape.
9. In distant views from the south the array would appear as being positioned behind the telecommunications infrastructure and the buildings of Height Farm. Owing to the low height of the array, I do not consider that it would be discernible in the landscape when viewed at distance from the south. Vistas towards the north would remain unchanged. In any event, the aforementioned farm and telecommunications development is dominant in such views and effectively form the most striking features in the landscape. As such, the

appeal proposal would result in a negligible impact on this part of the landscape.

10. Although located towards the top of a ridge, this has the effect of screening views from the surrounding lower slopes and the settlements of Fence and Spenbrook. Where the appeal site may be visible in views from the roads and footpaths to the north, as illustrated in Viewpoint 2, a small section of the solar array extending to the west of the existing stone wall may be visible against the skyline but the stone wall would remain the dominant linear feature. The array would barely extend above the stone wall and would not alter the character of views from the north. It would not appear as a prominent feature on the ridge.
11. The main visual impact of the proposal would be from the network of public rights of way (PROW) that pass in close proximity to the appeal site, in particular, the PROW to the south-east of the appeal site which offers far ranging views to the north and south. Users of the PROW would be sensitive to the visual change that would be introduced as a consequence of the proposed development. The array would undoubtedly be visible from the PROW but, owing to its low height, it would not interrupt any views of the wider countryside and, in particular, the vista to the north which includes Pendle Hill and beyond which has the effect of drawing the eye. The proposed array would present only a small element in the wider envelope of views.
12. Furthermore, in views from this PROW the proposed array would be seen in the context of the telecommunications compound and existing electricity poles which, in my view, form the most significant localised visual detractors. In my opinion, this compound provides a greater visual and dominant impact. In this context, the proposed array would not appear as being a significantly obtrusive feature and I consider that the visual effects would be slight to moderate adverse. I note the Appellant's suggestion of improvement to field boundary hedgerow planting which would provide some degree of mitigation in closer range views of the array. This matter could be made the subject of a suitable planning condition.
13. I have also taken into account the Forest of Bowland Supplementary Planning Guidance Document (2003) and in particular the Council's concern that the proposal would comprise of shiny panels akin to glazing in appearance that could give rise to glint and glare. The Appellant has indicated that each panel is provided with an anti-reflective coating to mitigate the risk of glint and glare. In my experience, solar arrays are commonly provided in areas of open countryside throughout the country and no technical evidence has been provided in this appeal to suggest that unacceptable glint and glare from the solar array would cause demonstrable visual harm. Consequently, I have attached limited weight to this concern.
14. It is inevitable that a solar farm, even at the modest scale proposed in this appeal, will cause some adverse impact on landscape character and visual impact in a countryside location. However, due to the topography of the site, the low-level nature of the array, the proximity to stone walling and the close presence of significantly more detracting telecommunications development, the overall harm caused would be limited and very localised.
15. Taking the above factors into account, the proposed development would have a negligible impact on the landscape character of this part of the AONB. In this

regard, I am content that, overall, the landscape of this part of the AONB would be conserved. As such, there would be no material conflict with the provisions of paragraph 176 of the National Planning Policy Framework (the Framework). There would be slight to moderate adverse effect on views from nearby PROWs. However, given the locational context of the appeal site, I do not consider that this would be of an extent to warrant the dismissal of this appeal on the grounds of visual impact.

16. Bringing together the above, I conclude on this matter that the proposal would cause limited and very localised harm to the landscape character and appearance of the surrounding countryside. Such harm would not be of a magnitude that would cause material conflict with the provisions of Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) of the Local Plan for Pendle Core Strategy 2011 – 2030 (2015) (Local Plan). This policy, amongst other matters, seeks to ensure that development is of a high standard of design that preserves or enhances the character and appearance of the area.

Other matters

17. I have taken into account the concerns of Goldshaw Booth Parish Council and interested parties that the proposal may set an undesirable precedent for additional development of this nature in the AONB. However, it is an established principle that each development proposal has to be considered on its own individual planning merits.
18. In this case, there are locational circumstances, in particular, but not exclusively, the proximity of the telecommunications infrastructure that contributes to my decision to allow this appeal. Such circumstances are likely to be materially different should proposals for similar development come forward in other parts of the AONB. Consequently, I do not consider that the proposed development would set an undesirable precedent.

Benefits and overall planning balance

19. Policy ENV3 (Renewable and Low Carbon Energy Generation), amongst other things, sets out support for proposals of this nature that are appropriate to their setting and make a positive contribution towards increasing levels of renewable and low carbon energy generation in Pendle subject to the consideration of a number of impacts, including recognised designations (Policy ENV1) and the landscape and visual character of an area.
20. Use of the site for solar power generation would provide a cheap and more sustainable source of power that would support the viability of the kennelling and farming business operation as a whole. Sheep grazing is planned to continue between and under the panels, continuing the agricultural use with improved soil fertility over time. The scheme would also be fully reversible with agricultural use recommencing in approximately 35 years time.
21. It would make an extremely modest contribution to the Government's targets to reduce carbon emissions. However, paragraph 158 of the Framework recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. I have no evidence to suggest that there is any dispute between the parties to indicate that even this relatively small contribution attracts substantial weight in favour of the development.

22. Taking into account my findings above regarding the impact on the AONB, the substantial weight I give to the renewable energy benefits would outweigh the limited and very localised harm caused to the appearance of the area.

Conditions

23. I have considered the suggested planning conditions that have been provided by the Council and also suggested by the Appellant. I have considered these against the advice given in paragraph 56 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the Planning Practice Guidance. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability.
24. In addition to the standard time limit, I have imposed a condition (No. 2) relating to the approved plans in the interests of certainty. In the interests of preserving the character and appearance of the surrounding area, a condition is necessary requiring the external materials of development to be consistent with those specified in the application (No. 3).
25. In order to mitigate the visual impact of the proposed development from nearby users of the PROW network, conditions are necessary requiring the submission and implementation of a scheme of landscaping (Nos. 4 and 5). To minimise the effect of construction operations on the occupants of nearby residential properties, conditions are necessary that restrict working hours and the time period within which deliveries occur (Nos. 6 and 7).
26. In the interests of securing the satisfactory restoration of the site and to protect the character and appearance of the surrounding area, a condition is necessary requiring the removal of the solar panels on their cessation of use for electricity generation and the submission and implementation of a restoration scheme (No. 8).

Conclusion

27. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 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:
Location Plan COG326/APP/001/b
Site Plan COG326/APP/002/d
Solar Panel Elevation Plan COG326/APP/005/a
GRP Unit Elevation Plan COG326/APP/009/a
- 3) All the external materials to be used in the development hereby permitted shall be as stated on the application form and approved plans and there shall be no variation without the prior written approval of the Local Planning Authority.
- 4) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include details of hedgerows to be supplemented/provided and shall include planting plans; written specifications (including cultivation and other operations associated with plant establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities.
- 5) All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 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.
- 6) Construction works shall take place only between 08:00 and 18:00 hours Monday to Friday and between 08:00 and 13:00 hours on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays
- 7) Vehicles associated with delivery or removal of materials to and from the site shall be scheduled to allow for onsite access to and from the site only between the hours of 09:00 and 16:30 hours Monday to Friday and between 08:00 and 12:30 hours on Saturday and shall not be scheduled to take place at any time on Sundays or on Bank or Public Holidays.
- 8) The solar panels hereby approved shall only be erected and remain on the site until as such a time as they are no longer in use for the purposes of generating electricity. Within one month after the date at which they have ceased generating electricity the solar panels shall be removed from the site. Within 3 months of the date at which they have ceased generating electricity, a scheme providing for the decommissioning of any remaining associated infrastructure and the restoration of the site to its former agricultural use, including timescales for any ground works and landscaping works shall be submitted for the written approval of the local planning authority. The site shall thereafter be restored in accordance with the approved scheme and timescales.