



Appeal Decision

Site visit made on 22 November 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2024

Appeal Ref: APP/P3040/W/23/3324608

Land at Barton in Fabis, Nottingham, NG11 0HA

- 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 NZED ProjectCo 1 Ltd against the decision of Rushcliffe Borough Council.
 - The application Ref 22/01832/FUL, dated 21 September 2022, was refused by notice dated 7 March 2023.
 - The development proposed is an energy storage facility, together with associated equipment, infrastructure, and ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. However, the amendments therein do not alter the consideration of the main issues in this appeal.

Main Issues

3. Section 13 of the Framework establishes the national policy objective to protect the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It continues that very special circumstances will only exist if the harm to the Green Belt by its inappropriateness, and any other harm, would be clearly outweighed by other considerations.
4. Paragraphs 154 and 155 thereafter define different types of development that would not be inappropriate development in the Green Belt. Policy 21 of the Rushcliffe Local Plan Part 2: Land and Planning Policies 2019 (the Local Plan) deals specifically with development in the Green Belt and is broadly consistent with the provisions of the Framework. Policy 4 of the Rushcliffe Local Plan Part 1: Core Strategy 2014 (the Core Strategy) sets out the extent of the Green Belt boundary. Whilst reference is made to 'exceptional circumstances' therein, this is in relation to alterations to the boundaries meaning that this policy is not determinative to this appeal.
5. It is uncontested by the main parties that the appeal development would fail to comply with the exceptions set out within the Framework and the development plan. Based on the evidence before me, I have no reason to disagree with this conclusion. Consequently, the proposed development would be inappropriate development in the Green Belt. Accordingly, the main issues in this appeal are:

- the effect of the proposed development on the openness of, and purposes of including land within, the Green Belt;
- the effect of the proposed development on the character and appearance of the area; and,
- whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Green Belt – openness and purposes

6. The appeal site lies adjacent to Nottingham Road which connects the villages of Gotham and Clifton. This stretch of highway is predominantly characterised by agricultural fields on either side of the road which are typically free of built form. The site relates to part of a large, relatively flat field which is defined around the perimeter by low level vegetation and is crossed by overhead power lines. A public right of way travels from the south-eastern boundary to the north-east of the appeal site. Vehicular access to the site is via an existing vehicular entrance off the highway.
7. The proposed Battery Energy Storage System (BESS) would comprise of a variety of buildings and structures which would be set within a compound, enclosed by a weldmesh fence. The submitted plans indicate that some 660 modules would be positioned in the northern part of the appeal site and would be laid out into 15 strings across the site, each consisting of 44 battery modules, 2 inverters and 1 transformer. Other built development would include a metering substation compound and building, auxiliary transformer, a control/office building, switch gear container, lighting columns, storage building, connection mast and hardstanding, the height and scale of which vary.
8. The fundamental aim of the Green Belt policy is to prevent urban sprawl and keep land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness can have both spatial and visual aspects and is the counterpart to urban sprawl. Assessing the impact of a proposal on the openness of the Green Belt requires a judgement based on the circumstances of the case¹.
9. In spatial terms, the introduction of industrial features including extensive areas of hardstanding set within an enclosed compound would undoubtedly erode the open, undeveloped nature of the appeal site. In so doing, it would result in the loss of openness.
10. The Landscape and Visual Assessment² (LVA) supplied by the appellant does not explicitly state the effect of the proposed development on the openness of the Green Belt from a visual perspective. It does however indicate that intervisibility of the proposed BESS and the surrounding countryside would be largely concentrated to the north, northeast and east of the appeal site. The greatest level of visual effects would be relatively localised and experienced predominantly by users of the highway and the adjacent public right of way.

¹ Planning Practice Guidance - Paragraph: 001 Reference ID: 64-001-20190722 Revision date 22 07 2019

² Nottingham BESSS Landscape and Visual Assessment dated September 2022

Despite the large part of the development being relatively modest in height, the development would nevertheless be highly visible to these receptors and would alter the rural appearance of the site. Based on the evidence, I am in no doubt that the considerable change from an open, agricultural field into an industrial style setting would harm the openness of the Green Belt in this regard.

11. Paragraph 143 of the Framework defines the five key purposes of the Green Belt. These are to check unrestricted sprawl of large built-up areas, prevent neighbouring towns merging into one another, safeguard the countryside from encroachment, preserve the setting of historic towns and assist in urban regeneration (by encouraging the recycling of derelict and other urban land). The proposal would introduce a range of industrial plant within a fenced compound into an area of countryside which is devoid of built form. For these reasons, and in contradiction in of a Green Belt purpose, the development would fail to safeguard the countryside from encroachment.
12. In coming to this view, I have had regard to the case law³ presented by the appellant. The referenced case related to an extension to an existing quarry within the Green Belt. Although there are some similarities, the quarry extension did not introduce development into an area of a scale considered to conflict with the aim of preserving the openness of the Green Belt. It therefore differs to the appeal proposal.
13. The appeal proposal, being inappropriate development would, by definition harm the Green Belt. The spatial and visual effects combined would result in the loss of openness whilst the proposal would also result in the encroachment into the countryside. All harm to the Green Belt carries substantial weight.

Character and appearance

14. For the purpose of the East Midlands Region Landscape Character Assessment 2010, the appeal site lies within the Unwooded Vales Landscape Charter Type (LCT), which is characterised as a low-lying rural landscape with limited woodland cover but with shelter belts and hedgerows. A regular pattern of medium sized fields are typically enclosed by low and generally well-maintained hedgerows and ditches.
15. The appeal site occupies a prominent location adjacent to the main road which connects the nearest settlements and extends to approximately 2.4 hectares of agricultural land, the topography of which is generally flat. Large, open fields with few hedgerows and small blocks of woodland surround the appeal site. Whilst it may be the case that the appeal site does not show any rare, unusual, or distinctive features that differentiate it from other areas of land in the arable landscape, the site together with its immediate surroundings nevertheless exhibits some of the typical landscape characteristics of the Unwooded Vales LCT, and positively contributes to the overall rural character of the locality.
16. The LVA was conducted in accordance with best practice guidance and is supported by a scheme of native species landscaping. The accompanying photographs have recorded winter views when deciduous trees are not in leaf and thus it has been put to me that this represents the worst-case scenario in terms of visual screening. Having visited the site at a similar time of the year,

³ R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020]

my observations were also made when the natural screening was at its least favourable. The findings of the LVA suggest that the landscape of the site and its immediate surroundings is of a 'community value' and overall, has a medium susceptibility to change. Having regard to the evidence before me and my own assessment on site, I do not disagree with this conclusion.

17. Beyond a radius of 2km, and notwithstanding higher ground to the east, the proposed development would not have a discernible effect on landscape character or visual amenity. The topography, including the landform of Gotham Hill, greatly reduces the extent of intervisibility and influence on the south and west and from more distant locations, the development would be largely filtered by intervening vegetation. As such, I am satisfied that the proposal would not result in substantial harm to the wider landscape character.
18. However, the attractive, open qualities of the appeal site would be replaced by regimented rows of industrial style modules together with ancillary buildings. The homogenous and general geometric form of the proposal combined with its industrial appearance would erode the rural character of the appeal site and its immediate surroundings, diminishing its contribution to the key landscape characteristics of the Unwooded Vales LCT. Whilst these effects would be localised, the proposal would nevertheless read as a highly obtrusive and discordant form of development and would result in significant harm to the landscape as result.
19. Due to the exposed and plateaued nature of the surrounding landscape and relatively low-lying vegetation, there are far reaching open views across the area in which the appeal development would be appreciated. The appeal proposal, by virtue of its prominent location and overall scale would be readily perceived by road users when approaching the site from Gotham and Clifton and users of the adjacent public right of way as demonstrated by the respective viewpoints. Instead of viewing pleasant, open fields and panoramic views of the countryside, these receptors would experience row upon row of utilitarian, industrial structures which would be at odds with the undeveloped nature of the site and its rural surroundings.
20. The submitted evidence indicates that a species rich, native hedgerow would be planted along the eastern site boundary in addition to a native tree and scrub mix across the site. The LVA indicates that at Year 1, the overall effect on the identified receptors would be 'major adverse', however, following the establishment of the proposed mitigation planting, the long-term visual effects would be 'moderate or minor adverse' when viewed from a localised geographic area. Whilst these green buffers would indeed filter the views of the proposal to some extent and soften the adverse visual effects, given the overall scale of the development and the time needed for the landscaping to establish, I do not consider that the planting would adequately mitigate the harm identified, particularly during the winter months when the leaves have fallen.
21. In coming to this view, I acknowledge that there is a pylon supporting an overhead line running through the north-eastern corner of the site. However, the combination of its set back from the road and the distribution of the other pylons means that this infrastructure is not unduly dominant in the landscape, nor does it significantly erode the pastoral nature of the area.
22. Accordingly, for the above reasons, I find that the proposed development would significantly harm the character and appearance of the area. It would

therefore conflict with Policy 2 of the Core Strategy and Policies 1 and 16 of the Local Plan. Amongst other objectives, these policies seek to ensure that development is sympathetic to the character and appearance of the surrounding area. It would also be inconsistent with the design objectives of the Framework where they seek to safeguard the intrinsic character and beauty of the countryside.

23. The Council's reason for refusal alleges conflict with Policies 1 and 4 of the Core Strategy together with Local Plan Policy 21. These policies, in turn relate to the presumption in favour of sustainable development, Green Belt boundaries and development in the Green Belt. However, my attention has not been drawn to any wording therein which relate to character and appearance. As such, these policies are not determinative to this main issue.

Other considerations

24. The Framework outlines policy support for the delivery of renewable and low carbon energy and associated infrastructure to mitigate climate change. Whilst not a renewable energy project per se, battery energy storage systems are regarded as one of the key solutions to effectively integrate high shares of solar and wind renewables into the National Grid and play an important role in contributing to energy reliability and security. Furthermore, such schemes actively support the UK Government's 2050 net zero target. The proposal would also support the Council's commitment to delivering carbon neutral services and renewable energy projects whilst also stimulating investment in new jobs and businesses.
25. As the UK moves towards a cleaner electricity generation in line with net zero targets, there has been an increased deployment of renewables onto the electricity grid including wind and solar energy. However, by their very nature, these sources intermittently generate energy and thus can be unstable and unpredictable. Storage facilities maximise the usable output from intermittent low carbon generation and reduce the total amount of generation capacity needed on the system. The proposed BESS would facilitate the storage of some 100 megawatts of surplus electrical energy which would be exported back to the National Grid during times of peak demand.
26. There is strong national policy support from the National Policy Statement EN-1⁴ and the Government's Energy White Paper⁵ for the development of battery energy storage facilities which aid the absorption and storage of surplus energy and speed up the transition to a low carbon economy. Storage is necessary to reduce the costs of electricity, reduce emissions and aid the transition to increased dependency on renewable energy. Consequently, the energy storage benefit of the proposal must be accorded substantial weight.
27. The limitation to the number of alternative sites available on the Nottingham-East and Ratcliffe-on-Soar 132kV network are acknowledged as are the reasons for discounting the Ratcliffe on Soar Power Station. It is clear that a viable grid connection is a determinative factor in the filtering of feasible sites, and I recognise that the scale of land necessary to provide such infrastructure often necessitates a countryside location. Nevertheless, as the assessment focuses solely on the Nottingham-East and Ratcliffe-on-Soar 132kV network as the

⁴ Overarching National Policy Statement for Energy (EN-1) (2011)

⁵ Energy White Paper: Powering our net-zero future (2020)

agreed point of connection and in the absence of any substantive evidence to indicate why any other sites in the operational area of the provider were discounted, I cannot be certain that there are no alternative sites located in other areas of the district, outside of the Green Belt. Consequently, whilst having had regard to the Alternative Sites Assessment, and mindful that this is not a policy requirement, the evidence does not persuade me that the proposed BESS could not be provided in a less harmful location elsewhere in the locality.

28. I have had regard to the appeal decisions⁶ referenced by the appellant and acknowledge that the associated environmental benefits amounted to the very special circumstances necessary to justify the development in the Green Belt. Whilst there is limited detail before me, it appears to me that these schemes by virtue of their form, scale, and site context were materially different to the appeal proposal.

Other Matters

29. My attention has also been drawn to recent planning permissions granted by the Council for renewable energy projects in the surrounding area⁷. As I do not have the benefit of detailed information in relation to the location and scale of the respective proposals, I cannot make any informed comparisons. That said, it is noted that no unacceptable harm was identified by Officers. This is not the case in this instance. Even so, assessing the impact of a proposal on the openness of the Green Belt requires a judgement based on the circumstances of the case. Accordingly, I do not agree that the consenting of these schemes indicates that such development is acceptable in the locality.
30. The site is located within Flood Zone 1 and therefore is at low risk of flooding. Further, the site does not lie within a designated landscape, heritage, or ecological area or within or adjacent to an Air Management Area. These however are neutral factors and neither weigh in favour or against the proposal.

Green Belt Balance and Conclusion

31. I have concluded that the appeal scheme would result in harm to the Green Belt from inappropriateness and through the encroachment of the countryside and the loss of openness. Consistent with Paragraph 153 of the Framework, I attribute substantial weight to the harm identified. Further, for the reasons outlined, the proposal would harm the character and appearance of the area.
32. Paragraph 156 of the Framework advises that very special circumstances will need to be demonstrated if renewable energy projects are to proceed in the Green Belt. It states that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. The proposed development would contribute to reducing greenhouse gas emissions, increase reliability and maximise output from renewable energy sources which would be regarded as a wider environmental benefit. This factor attracts substantial weight.
33. The policy support given for renewable energy projects in the Framework is caveated by the need for the impacts to be acceptable, or capable of being

⁶ APP/C3430/W/22/3292837, APP/W1525/W/22/3300222 and APP/K0425/W/22/3294722

⁷ 22/00319/FUL and 23/00254/FUL

made so. Despite the implementation of additional landscaping and the temporary nature of the proposal, by virtue of the scale of the development proposed and it is siting, this would not be the case.

34. The BESS would be in place for a temporary period of 40-year period, after which time, it would be decommissioned, and the land returned to its former condition. Although the development would not be permanent and the land would be reinstated to its former, open character, in the context of the level of harm identified, the adverse effects would be experienced over a significant period of time.
35. Accordingly, for these reasons, I find that the environmental benefits of the proposal are not sufficient to clearly outweigh the harm to the Green Belt. Therefore, the very special circumstances necessary to justify the proposal do not exist. As such, the proposal would not accord with Policy 21 of the Local Plan and the national Green Belt objectives set out within the Framework. The appeal is therefore dismissed.

H Wilkinson

INSPECTOR