



Appeal Decision

Site visit made on 18 December 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2024

Appeal Ref: APP/H0724/W/23/3330856

Agricultural land at Hart Moor Farm, north of the A179

- 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 Conrad Energy against the decision of Hartlepool Borough Council.
 - The application Ref H/2022/0302, dated 29 July 2022, was refused by notice dated 19 April 2023.
 - The development proposed is erection of a synchronous condenser with ancillary infrastructure and associated works including access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a synchronous condenser with ancillary infrastructure and associated works including access and landscaping at agricultural land at Hart Moor Farm, north of the A179 in accordance with the terms of the application, Ref H/2022/0302, dated 29 July 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. As the Framework's policy content insofar as it relates to the main issues has not been significantly changed there is no requirement for me to seek further comments on this latest version. I am satisfied no party would be prejudiced by my taking this approach.
3. Since this appeal was lodged appeal decisions¹ have been issued in respect of similar energy related development in the vicinity of the appeal site. One of the decisions relates to land near Hart Moor Farm adjacent to the appeal site and was for the construction of underground electricity cables, substation and associated infrastructure to connect to Hartmoor Substation and was allowed on 6 December 2023. The main parties have had the opportunity to comment on the appeal decisions and I have taken the Inspector's findings into account in my decision. Nonetheless I have reached my own findings based on the circumstances of this appeal scheme.

¹ Appeal Decisions APP/X1355/W/22/3299829, APP/X1355/W/22/3299836, APP/H0724/W/22/3299842, APP/H0724/W/22/3299848, APP/H0724/W/22/3299857

Main Issues

4. The main issues are:

- whether the proposal constitutes an acceptable use outside the limits to development; and
- the effect of the proposal on the character and appearance of the area.

Reasons

Development outside the limits to development

5. Policy RUR1 of the Hartlepool Local Plan (2018) (HLP) and Policy GEN1 of the Hartlepool Rural Neighbourhood Plan (2019) (HRNP) set out the Council's approach for development in its rural areas, considered to be the countryside and defined as land beyond the limits to development. It is not disputed that the proposal would be outside of the limits of development and would therefore be in the countryside.
6. While development outside the development limits is to be strictly controlled, Policies RUR1 and GEN1 outline the types of development that may be acceptable. Policy RUR1 supports development that contributes to the rural economy where it is considered necessary for the efficient or the continued viable operation of appropriate land-based businesses and Policy GEN1 is supportive of essential public infrastructure.
7. The proposal would create some local employment opportunities during the construction and operation phases, however it would not necessarily contribute to the rural economy. In coming to this conclusion, I have had regard to Policy EC1 of the HLP which provides an understanding of what is meant by development of the rural economy.
8. There is a need for the proposal to provide stability within the energy network and to support the growth in renewable energy production in the wider area. There is also a locational need for the proposal to be sited near to the Hartmoor Substation and as such, within the countryside. Nonetheless, based on the evidence before me it has not been clearly demonstrated that the proposal is essential public infrastructure as required by development plan policy. The principle of the proposal outside of the development limits does not therefore attract policy support.
9. There may well be other proposals for similar development in countryside locations that have been granted planning permission, however the examples provided are in different parts of the country and I do not have precise details regarding the context of the other schemes. The circumstances are likely to be different and are not directly comparable. The other examples do not, therefore, lead me away from my above findings.
10. Accordingly, the proposal does not constitute an acceptable use outside the limits to development, in conflict with Policy RUR1 of the HLP and Policy GEN1 of the HRNP.

Character and appearance

11. Situated to the north of the A179 the appeal site comprises an area of agricultural land, located in between an area of woodland and an access track.

Relatively tall tree planting and hedging marks the appeal site's boundary with the A179 which is part of a dense tree belt running along most of the A179. The surrounding area comprises agricultural land that is predominantly open, however there are a number of man-made elements in the area in the form of large pylons and telegraph poles crossing the landscape which results in the area having a semi-rural character. The Hartmoor Substation is located nearby on the opposite side of the A179 to the south of the appeal site.

12. The Strategic Gap Assessment (2017) (SGA) identifies the appeal site as falling within the Undulating Semi-Rural Farmland character area, assessed as having a high landscape value with a medium-high landscape visual sensitivity. While the wider area may provide a natural division between urban areas and outlying settlements, the appeal site itself has not been identified as falling within an important strategic gap within the SGA. Moreover, the scheme is not of such a scale that it would undermine the role and function of the landscape in this regard.
13. The A179 is a key route into Hartlepool and generally the landscape is visually attractive to the north, particularly as part of scenic views of the coastline beyond. Nonetheless, the SGA character area covers a widespread area with localised variations in quality and character. The landscape character in the area surrounding the appeal site is influenced by a number of visual detractors, associated with overhead electricity pylons and transmissions lines, and the visual and audible presence of traffic of the A19 and A179.
14. The Council contend that the landscape north of the A179 provides the best public scenic views in the locality, however I share the view of the Inspector in the recent appeal decision that owing to the absence of any distinctive features the landscape does not exhibit a strong aesthetic quality. The Inspector found the local landscape to more closely align with the definition in the SGA for a landscape of moderate value with a medium sensitivity. Having visited the site, I see no clear reason to depart from my colleague's findings on this matter.
15. The proposed built development would be relatively compact with a modest footprint. The main generator building would be similar in appearance to an agricultural barn and painted a non-reflective recessive colour to help assimilate the proposal into the landscape. The compound fence would largely be screened by vegetation and would be painted an appropriate colour to mitigate its visual effects. Given the proposed use it is not possible to re-use existing buildings and/or materials as indicated in criterion 3 of Policy RUR1. When viewed amongst existing farm buildings such as those at the nearby Hart Moor Farm, the proposed scheme would not be out of scale or read as overly industrial in nature. The proposal would therefore accord with criterion 6 of Policy RUR1.
16. The submitted Landscape and Visual Impact Appraisal (LVIA) establishes a visual envelope covering the appeal site and surrounding area, with viewpoints and sensitive receptor locations. Having considered the photomontages and from my observations, I am satisfied that the selected viewpoints in it are representative of the effects of the proposal and I agree with the conclusions of the LVIA that overall, the proposal would not give rise to any significant adverse landscape or visual effects.
17. Viewpoint 2 in the LVIA and the corresponding photomontage show the proposal would be visible, at relatively close range, from the access road to

Hart Moor Farm. Nonetheless, over time the proposed landscaping would help to screen the development from this private access track. Similarly, while not public rights of way or well used, any glimpsed views of the proposal from the numerous permissive footpaths to the north of the appeal site would be seen within the context of the pylons and telegraph poles crossing the landscape, the infrastructure to the south of the A179 and would not be seen in conjunction with any scenic views of the coast.

18. Viewpoints 4, 5 and 9 show that the proposal would be largely screened by existing vegetation and the undulating topography. While I have no reason to doubt the local value of the landscape, views of the scheme from the permissive paths and woodland areas to the north and east would generally be at some distance, reducing the impact of the proposal. Any views from the footpaths within the woodland to the north of the site would also be heavily filtered by trees and the buildings at Hart Moor Farm. Once the landscaping scheme has established, given the agricultural appearance of the main building and the distance between the majority of vantage points and the proposed development, it would not draw the eye. While views from the permissive paths in the woodland to the west would be at closer range they would largely be filtered by the dense woodland.
19. When travelling along the A179 in both directions views of the proposal would generally be screened by existing mature vegetation, undulating topography and the proposed landscaping. Similarly, from the slip road off the southbound A19 the proposal would largely be hidden from view by existing woodland. Views from these vantage points, in any event, would be in passing rather than as a particular focal point. As such, there would not be any significant interference with any long-distance views of the coast from the A19 and A179.
20. Owing to the presence of existing established vegetation I did not observe any clear views of the appeal site along Palace Row when leaving the village of Hart and joining the A179. Furthermore, as shown in the LVIA the village does not fall within the zone of theoretical visibility and given the distance between the appeal site and the village the proposal would have minimal visual effects.
21. Concerns have been raised that the proposed lighting would add to light pollution in what is described as a darker area between the A19 and main urban area. However, the proposed lighting would consist of motion sensitive lights designed to be downward facing to minimise light spill and there is no detailed evidence that significant detrimental levels of light spill would occur. As such, the proposal would not have a significantly detrimental effect by way of light pollution or visual intrusion and accords with criterion 4 of Policy RUR1.
22. The Hartlepool Borough Council Landscape Assessment (2000) sets out that the Undulating Farmland character area that the appeal site is located within has a pleasing sense of scale and enclosure created by hedgerow boundaries and varied field patterns. The more recent SGA identifies the layout and scale of the Undulating Semi-Rural Farmland character area to include widespread managed farmland fields that vary in size. In time, the proposed additional landscaping along the site's eastern and southern boundaries would add to the variety of field sizes, enhancing the distinctiveness of the immediate area, in accordance with criterion 5 of Policy RUR1.
23. The landscape to the north of the A179 displays different characteristics to the landscape to the south. However, while it is largely free of development, it is

not completely open and there are several detracting elements. Moreover, recently approved schemes would introduce energy related development to the wider area, as shown on the Hartmoor Site Overview Plan. Given the limited detrimental effects of the proposal on the character and appearance of the area, even considering the approved schemes the proposal would not cause significant harm to the landscape in this location. For the reasons set out above, the area would retain its semi-rural character and would not be seen as explicitly urbanised.

24. The Council have concerns that allowing the scheme would set an undesirable precedent which would make it difficult to resist similar energy related development. However, it is unlikely that there are similar sites in the wider landscape that display the same site-specific circumstances as the appeal site. As such I do not find that there is a reasonable prospect of similar development being repeated nearby, to the extent that the cumulative effect would be significantly detrimental to the character and appearance of the area.
25. To conclude on this main issue, while I have found that the proposal would accord with the requirements of criteria 3, 4, 5 and 6 of Policy RUR1, it would, nevertheless, cause some limited, localised harm to the character and appearance of the area. The identified policy compliance does not negate this harm. Therefore, the proposal is in conflict with criteria 9 of Policy RUR1 of the HLP. It also conflicts with Policy QP4 of the HLP and Policies GEN1 and GEN2 of the HRNP. These policies, amongst other things, require developments to not have a detrimental impact on landscape character, and to respect the character of the local countryside and reinforce the character of the rural area.

Other Matters

Renewable and Low Carbon Energy

26. The Climate Change Act 2008 (as amended) commits the UK to 'net zero' emissions by 2050. To achieve this the Government is seeking to reduce reliance on energy production from fossil fuels and boost energy generated from renewable sources. The Overarching National Planning Statement for Energy EN-1 (NPS EN-1) emphasises the need to transform the energy system and tackle emissions while continuing to ensure secure and reliable supply. It recognises that to ensure supplies remain reliable and to keep energy affordable there is a need to reduce the amount of energy wasted.
27. Renewable energy is less stable than energy from fossil fuels resulting in greater fluctuations of power supply entering the grid network and potential wasted energy as a result. The proposal would provide stability to the electricity grid, regulating the frequency and voltage of the network and reducing wasted energy. It is in response to National Grid's Stability Pathfinders Programme which has identified Hartmoor Substation as having capacity to facilitate the proposed infrastructure.
28. The principle of the proposal accords with Policy NE2 of the HRNP which is supportive of ancillary infrastructure associated with renewable and low carbon energy. Policy CC3 of the HLP is primarily concerned with renewable and low carbon energy generation. It is not disputed that the appeal scheme does not, in itself, generate renewable energy. Policy CC3 has not therefore been determinative in my consideration of this appeal.

29. The proposal would align with Section 14 of the Framework which sets out that the planning system should support the transition to a low carbon future in a changing climate and support renewable and low carbon energy and associated infrastructure. In providing resilience to the grid and preventing wasted energy the scheme would also be in line with the NPS EN-1. I also acknowledge the numerous national documents that set out the Government's approach to energy security and achieving net zero emissions which highlight the importance of energy efficiency and energy management.
30. There is clear national support for maintaining essential resilience and reliability in energy supply and at the local level the Council recognise that planning has a major role to play in helping to reduce the impacts of climate change and expressly supports infrastructure associated with renewable and low carbon energy through development plan policy. The proposal would make a positive contribution to these objectives which is a clear benefit of the scheme.

Location

31. I have been presented with no firm evidence to demonstrate that the proposed use would be better suited to a brownfield site or industrial area. While it has been suggested that the proposal would be better located to the south of the A179 next to the existing substation, much of the land surrounding the substation is already used for other development and the appeal site is the most appropriate land available for the scheme. There is also no wording in any development plan policy that requires such infrastructure development to undertake a site selection process. Given the proposed use of the appeal scheme it is not possible for it to be located in or near to villages as indicated in criterion 2 of Policy RUR1.

Agricultural land

32. The appeal site includes land that is classed as best and most versatile agricultural land. While the proposal would result in the loss of agricultural land, this would be for a temporary period and the site would be reinstated to agricultural land following decommissioning which can be secured through an appropriately worded planning condition. Criterion 10 of Policy RUR1 requires proposals in the countryside to avoid areas of agricultural land, however the appeal site is the most appropriate location to meet the locational requirements of the proposal. As such the use of best of and most versatile agricultural land cannot be avoided in the specific circumstances of this case.

Ecology and nature conservation

33. It is suggested that the proposal would have a detrimental effect on local wildlife, however the Council's ecologist raised no objection and was satisfied with the submitted preliminary ecological assessment. There is no detailed evidence to indicate that I should come to a different view. In any event, planning conditions could be imposed to secure appropriate protection for breeding birds, brown hare and badger.

Highways

34. There are concerns that the proposal would compromise the strategy set out in Policy INF2 of the HLP to widen the A179. However, the appeal site is set back from the road by existing vegetation, and there is no clear evidence to suggest that sufficient space for any potential dualling of the road could not be

achieved. Furthermore, there was no objection from the Council's traffic and transport officer on this matter. It is not disputed that appropriate access can be achieved at the site with no detrimental impact on highway safety and therefore the proposal accords with criterion 7 of Policy RUR1.

Safety

35. The potential safety implications, including potential fire risks arising from the scheme have been raised as a concern. However, neither the Cleveland Fire Brigade nor the Council's public protection officer objected to the proposal. I have no clear reason to disagree with their conclusions and that public safety would not be at risk.

Planning Balance

36. The proposal would not constitute an acceptable use outside the limits to development. I have found that the proposed development would cause some limited, localised harm to the character and appearance of the area. The level of harm is limited due to existing screening, topography and the mitigation provided by the proposed landscaping. I give the identified policy conflict moderate weight. The benefits of the proposal, as identified above and relating to the efficient use of energy and the positive contribution the scheme would make to energy resilience and stability during the transition to renewable and low carbon energy are significant. I have carefully considered the risk to these benefits being delivered, should planning permission for this scheme be refused.
37. In this case, the very important contribution the proposed infrastructure would make to the efficient management of energy supply outweigh my findings that the proposal does not constitute an acceptable use outside the limits to development and the limited harm to the character and appearance of the area. As such, even with the identified conflict with development plan policies, there are particularly important and persuasive material considerations that indicate that this development should be approved.

Conditions

38. The conditions suggested by the Council have been considered and amended as necessary to ensure compliance with the Planning Practice Guidance and the Framework. It is necessary to impose a condition identifying the approved plans for clarity. I impose a condition related to the fact that planning permission is granted for a temporary period of 40 years to ensure that this is enforceable. A condition relating to decommissioning and restoration works is also necessary in the interests of protecting the character and appearance of the area.
39. A condition is imposed in relation to implementing the protection measures for the retained trees identified in the arboricultural method statement to protect the character and appearance of the area. This is required before the commencement of development to ensure damage is not caused to trees during the early stages of work. To protect the character and appearance of the area it is also necessary to impose a condition to secure details of materials, a condition to secure the submission of a hard landscaping scheme and a condition to ensure the implementation and the long-term maintenance of the approved landscaping scheme.

40. A pre-commencement condition is necessary to secure proper drainage and to manage the risk of flooding and given the uneven ground levels at the appeal site I also impose a pre-commencement condition so that suitable finished floor levels can be achieved. The submission and approval of a Construction Traffic Management Plan is required in the interest of highway safety before the commencement of development as the details relate to the construction phase. I also impose conditions in relation to remediation and contamination and construction hours to protect the living conditions of local residents.
41. In the interest of protecting biodiversity, conditions are necessary to prevent any habitat disturbance to nesting birds during the clearance of the site and to secure the implementation of measures to provide a means of escape for mammals that may become trapped during the construction phase.

Conclusion

42. For the above reasons, the material considerations indicate that this decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal is allowed.

F Harrison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall cease on or before the expiry of a 40 year period from the date that the development is first brought into use.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: HART-SYNCO-LP-002 LOCATION PLAN, HART-SYNCO-PP-003 PROPOSED PLAN, HART-SYNCO-SEL-RP-006 INDICATIVE SECTIONAL ELEVATIONS PROPOSED ROOF PLAN, HART-SYNCO-BP-008 BLOCK PLAN, HART-SYNCO-EL-007 INDICATIVE ELEVATIONS AND ROOF PLAN and Dwg 03 Rev A Landscape Mitigation.
- 4) Prior to the commencement of development, a sustainable drainage scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall be designed in accordance with the standards detailed in the Tees Valley Sustainable Drainage Systems (SuDs) Guidance Design Guide and Local Standards (or any subsequent update or replacement for that document). The approved drainage scheme shall be implemented in accordance with the approved design prior to completion of the development and maintained and managed thereafter.
- 5) Prior to the commencement of development, details of the existing and proposed levels of the site including the finished floor levels of the generator building to be erected and any proposed mounding and/or earth retention measures shall be submitted to and approved in writing by the local planning authority. The development thereafter shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of development, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority, in consultation with National Highways. The CTMP shall be comprehensive and shall address the following matters:
 - Keeping pedestrians and vehicles apart;
 - Minimising vehicle movements;
 - Consideration of people on site;
 - Vehicles being restricted to turning left out of the site;
 - Visibility; and
 - Temporary signage and instructions.The approved CTMP shall be adhered to throughout the construction period.
- 7) No site clearance works or development shall commence until the trees to be retained adjacent at the site have been enclosed with temporary protective fencing in accordance with the submitted Arboricultural Report dated July 2022 by Tim Moya Associates and in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction. Recommendations' (or equivalent if replaced) and shall be retained for the duration of the development process. Development shall be carried out in strict accordance with the Arboricultural Method Statement as shown on the Proposed Layout and Tree Works Plan (Drawing No 220674-P-11) at Appendix A of the Arboricultural Report.

- 8) Trees shall only be cleared outside of the bird nesting season (1 March to 31 August inclusive), unless, before the clearance commences, a report has been submitted to and approved in writing by the local planning authority to establish whether such trees are utilised for bird nesting. Should the report reveal the presence of any nesting species, then no development shall take place during the period specified above unless a mitigation strategy has first been submitted to and approved in writing by the local planning authority which provides for the protection of nesting birds during the period of works on site. The mitigation strategy shall then be implemented as agreed.
- 9) Prior to above ground construction, final details of the external finishes to the development hereby approved shall be submitted to and approved by the local planning authority, samples (or high quality photographs) of the desired materials being provided for this purpose. The approved finishes shall be implemented and retained thereafter.
- 10) Demolition or construction works shall only take place between the hours of 8am to 6pm on Mondays to Fridays, between 9am and 1pm on Saturdays and they shall not take place at any time on Sundays or on Bank Holidays.
- 11) Any excavations left open overnight during the construction of the approved development shall have a means of escape for mammals that may become trapped, in the form of a ramp at least 300 millimetres in width and angled no greater than 45 degrees.
- 12) Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until the developer has submitted and obtained written approval from the local planning authority for a remediation strategy detailing how this contamination shall be dealt with. The remediation strategy shall be carried out as approved before the development is resumed or continued. Following completion of any remediation measure a validation report must be submitted to and approved in writing by the local planning authority. The program of monitoring and maintenance set out in the validation report shall be undertaken in accordance with the approved details.
- 13) Prior to the laying of any hard surfaces, a scheme of hard landscaping and surface finishes shall be submitted to and agreed in writing by the local planning authority. This shall include all external finishing materials, finished levels, and all construction details, confirming materials, colours and finishes. Permeable surfacing shall be employed for hardstanding areas where possible to provide infiltration and additional attenuation storage. The agreed scheme shall be implemented prior to the development hereby permitted being first brought into use.
- 14) All planting, seeding or turfing comprised in the approved details of landscaping shown on Dwg 03 Rev A Landscape Mitigation shall be carried out in the first planting and seeding seasons following the completion of the development or first use of the development, whichever is sooner. Thereafter the landscaping hereby approved shall be maintained in accordance with the agreed scheme, for the lifetime of the development hereby approved. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die or become seriously damaged or diseased shall be replaced

within the next planting season with others of the same size and species, unless the local planning authority gives written consent to any variation.

- 15) A scheme for the restoration of the site, including the dismantling and removal of all elements, shall be submitted to and be approved in writing by the local planning authority not later than 40 years from the date that the development is first brought into use. The approved scheme shall be carried out and completed within 6 months from the date that the planning permission hereby granted expires.

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