



Appeal Decision

Site visit made on 7 October 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/C3430/W/24/3339805

**Land at Littywood Farm, Dunston, Coppenhill, South Staffordshire
ST18 9AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Elgin Energy EsCo Ltd against the decision of South Staffordshire District Council.
 - The application Ref is 22/00936/FUL.
 - 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 Land at Littywood Farm, Coppenhill ST18 9AH in accordance with the terms of the application, Ref 22/00936/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Amended plans were submitted to the Council during the application consideration process. This included a revised layout showing the provision of a landscaped buffer to the rear of The Toft, enhanced hedgerow planting along the route of the public right of way (PRoW) and a new triangular area of panels added to a section in the north part of the site¹. A further revised plan was later submitted to remove an access track from the buffer zone². Although it is not stated whether these revised layout plans were subject to consultation, the latest layout plans was submitted on 22 June 2023 and was therefore within the public domain during the consultation phase of the appeal. Furthermore, given these changes reduce the overall potential effect of the proposal, by being further from the listed building, and do not alter its substance in terms of the nature of the proposal, I see no reason why they should not be accepted in this case.
3. A proposed development at Preston Farm for solar development is around 2.3km to the south of the site. The Council has informed the Planning

¹ Layout Plan Reference: 1091-Littywood-001 Rev H

² Layout Plan Reference: 1091-Littywood-001 Rev I

Inspectorate that this scheme was recently approved but I understand this has not yet been started.

4. A screening opinion, undertaken by the Council in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 concluded that the proposal was not deemed to be EIA development. I see no reason, within the evidence, to disagree with this view.

Main Issues

5. The main issues are:

- The effect of the proposal on the character and appearance of the surrounding area, including landscape and visual aspects,
- Whether or not the proposal would preserve the setting of The Toft, a Grade II Listed building, and
- The effect of the proposed development on, and the potential loss of, agricultural land.

Reasons

Background

6. The appeal site consists of a large main field and part of a second smaller field proposed to make provision for a substation and connection point. The site and surrounding fields are used for arable and pastoral purposes. The site is located alongside Leverdale Road to the southeast and Long Lane to the northeast. The eastern section of the site is bisected by a row of electricity pylons and a radio mast can be seen on a hill to the north of the site. Also, a number of agricultural buildings, large fields with polytunnel enclosures and residential properties can be observed within the local area from the site. Consequently, the site's undulating landform and its surroundings includes several existing man-made interventions.
7. The site is crossed by a number of public rights of way (PRoW), many of which are bridleways. This includes 'Dunston 11/12' that follows the southwestern side of the site and cuts north through the site towards Butterhill Farm. This bisects the site into east and west parts. 'Duston 13' runs through the eastern part of the site and is proposed to be diverted to the edge of the field.

Character and appearance

8. The National Planning Policy Framework (the Framework), in recognising the intrinsic character and beauty of the countryside, does not seek to protect all countryside from development, rather focusing on the protection of valued landscapes. The proposal is located in countryside which has not been given protection through a designation such as National Landscapes (formerly Areas of Outstanding Natural Beauty), National Park status, or through local planning policy. The nearest such designation, Cannock Chase AONB is located around 10km.
9. The appeal site is a large area of arable land of around 70 ha, with Coppenhall village located around a kilometre to the northeast of the site. The site is

gradually sloping, within a local rolling landscape, with a gradual hill found within its central section. The site's perimeter is partly bound by country lanes and is largely enclosed by tree and hedge screening. Views of the site are particularly evident from field gates on adjacent lanes and from local PRow alongside and through the site.

10. Both main parties acknowledge that the proposal would effect the character and appearance of the area. However, there is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people observing the development in places where it can be viewed, such as from roads, public rights of way and individual dwellings.

Landscape character

11. Whilst not a designated valued landscape, Natural England's National Character Assessment places the site within the Shropshire, Cheshire and Staffordshire Plain National Character Area 61. This includes characteristics of gently undulating plains, few woodlands, and strong field patterns with well-maintained boundaries consisting of dense mature hedgerows and hedgerow trees. Farmsteads are large and regularly spaced and consist of mixed farming and arable land. Furthermore, the site is within the landscape character type of Settled Farmland, within the County Council's 'Planning for Landscape Change' landscape character assessment. This describes such areas as having gently undulating landform with pronounced occasional high points and a strong irregular hedgerow pattern. The appeal site appears to generally align with the local and national character assessments, and therefore makes a positive contribution towards the area's landscape character.
12. From the submitted evidence, and my own observations during my extensive site visit, the pattern and arrangement of the site and its surroundings form generally low-lying land with an elevated ridge to the north and land that gradually falls away to the west and south. The proposed development would locate solar arrays within the existing field pattern. It would retain and enhance field boundaries, largely retaining individual trees and keep field patterns intact. As a result, the proposal would have a largely non-invasive impact on the landscape features defined as important to the character area.
13. The appeal site, whilst relatively extensive, represents only a small proportion of the national and county character areas. At a district level, the impact on the landscape would be greater, but as the existing natural features of the site would be largely retained and enhanced, the overall landscape effect would be limited. Furthermore, the solar arrays would be low-lying, open sided features that would be temporary in nature, limiting the overall effect on the wider landscape. However, the proposed development would alter the landscape with the introduction of industrial development and equipment across a relatively broad area. Therefore, this would result in some localised landscape harm. As a consequence, the scheme would result in a moderate adverse impact on the area's landscape character.

Visual impact

14. Visual amenity relates to the direct visual impacts on receptors (people) rather than on the landscape. The Appellant's visual assessment was undertaken in August when trees would be in full leaf, and I have taken this into account. Equally, my visit was undertaken when most trees remain in leaf, whilst this enables me to undertake a similar assessment of the visual effects of the proposal it is appreciated that the site may be more exposed in the winter. The Appellant's Landscape and Visual Impact Assessment³ (LVIA) identified 10 key viewpoints (VPs) which assess the effect of the scheme on Visual Receptors. These selected viewpoints provide only a snapshot of the site and would not necessarily reflect the experience of receptors walking through or around the site, but provide a useful understanding of most visual effects of the proposal from key vantages.
15. Figure 2 of the LVIA, shows the theoretical visibility of the scheme demonstrating that the majority of views outside the site would be from the immediate north and an arc from the east through to the southeast. Most other views from around the site, are obscured by woodland and topography. The LVIA considers the visual effects of the proposal both at year one and at year fifteen, the second assessment taking into account the growth of proposed landscape screening as it approaches maturity.
16. The general topography of the site, and its surroundings, provide screening from many wider views forming a degree of enclosure. Furthermore, buildings, such as The Toft, obscure some views of the site. The combination of these features would disaggregate and limit many views of the site.
17. The local roads provide visual receptors from motorists that have a low sensitivity to change. Road users would primarily be paying due care and attention to other road users and hazards, taking in only limited glimpses of the site, resulting in an only negligible adverse visual effect. Motorists of Long Lane (VP1), Leverdale Road (VP4) and the slightly distant School Lane (VP5) would be travelling close to the site and would have the opportunity to take in only sections of the area affected by development. Nevertheless, such views would result in only a 'minor adverse' effect in the first year, leading to 'negligible adverse' effects (for VP4 and VP5) and 'negligible to minor adverse' effects (VP1) at year fifteen. The view of the scheme from motorists would be largely fleeting and offer only partially glimpsed views of constrained sections of the arrays and equipment. As such, the visual impact on motorists would be of low magnitude, resulting in only 'minor adverse' and 'neutral' effects.
18. Walkers, cyclists and horse riders, among other slow moving road users, using local roads would be highly sensitive to change. However, such views would only experience small pockets of the proposal and would not provide a broad perception of most of the scheme. These views would also be partially obscured by topography and natural screening that would limit the overall visual effect of the scheme from 'minor adverse' in year one to 'negligible' in year fifteen.
19. Users of the PRowWs that pass through the site currently enjoy an open aspect over the countryside. Such users would be highly sensitive to visual

³ Landscape and Visual Impact Assessment, by rps group, May 2023

change of these routes. Views from the routes that cross through and around the site's edge, would fundamentally change from the current outlook over open arable land to largely unfiltered views of the solar arrays and associated equipment. Consequently, users would experience a visual effect where open views would be replaced with an enclosed and limited view of the surrounding area. This effect would be substantial and result in a 'major adverse' visual impact in the first year.

20. Nevertheless, the proposal includes hedgerow planting, of between 2-4 metres wide, that would grow to around 3-4 metres in height. The tree and hedge planting would, over time, soften views for users of the PRoW and create only glimpses and pockets of views of the proposed solar arrays. Furthermore, the solar panels would be recessed from the PRoWs and views to notable features beyond would remain possible. Also, medium to long views into the appeal site would continue to take in an arable landscape with hedgerow boundaries.
21. By year fifteen the planted perimeter hedging would be relatively mature. From the perspective of users of 'Dunston 12', the planting would create a tunnelling view creating a sense of enclosure. Nonetheless, such an effect would be similar to the effect of walking along a rural lane which is lined by high hedgerows or trees, such as seen for existing sections of 'Dunston 11' between Toft House and Leverdale Road. The proposed planting would take some time to provide an effective screen to the solar panels. Also, some views across the open field would be foreshortened by this planting. Accordingly, views from the PRoWs through the site would result in a reduced 'moderately adverse' visual impact by year fifteen. Furthermore, whilst horse riders using the bridleway would experience a higher vantage across the site, such views would also become diffused as new hedge planting matures over time, creating a similar visual impact as that experienced by walkers.
22. Views of the proposal, from nearby PRoWs such as seen from VP 8, 9 and 10, would be limited. VP 8 (Penkridge 36) and VP 9 (Penkridge 33) take in fields and hedgerow planting and the ridgeline to the north, views from here towards the site are mostly obscured by planting and topography. VP 10, on the PRoW of 'Teddesley Hay 1' provides no views west towards the site due to woodland areas alongside this route. The PRoW of 'Coppenhill 1' would provide some views over the site from a high vantage, however such views would be limited by tree and hedge planting resulting in only a 'moderate adverse' visual impact by year fifteen. The natural features of the landscape would limit most views of the solar arrays and their associated equipment from these viewpoints.
23. Taking the above visual affects into account, most views of the proposal would be 'minor' or 'negligible' by year 15. Whilst the visual impacts of the proposal would be 'major adverse' from the PRoWs from Visual Receptors through the site at year 1, these effects would be diminished to 'moderate adverse' once the landscape screening has become established. Consequently, due to the arrangement of local topography the most adverse visual impacts would be largely confined to localised effects only. Accordingly, taking all of the above impacts into consideration the visual impact of the proposal would result in only moderate harm.

Cumulative visual and landscape effects

24. The proposal would be close to a recently approved solar farm at Preston Hill. However, the direction of viewpoints would limit where the proposed development would be seen in shared views. The LVIA suggests that a combined view could be theoretically possible from VP6 'Coppenhall 2' PRow, located on higher land to the north of the site. However, whilst a combined view of both sites could be theoretically possible, the site within the middle foreground view would provide various disaggregated views of the proposal and only a distant view of a small part of the Preston Hill site.
25. The LVIA considers the cumulative visual effects from this viewpoint and in terms of sequential dynamic views. This illustrates that depending on the direction of travel of users of the PRow or local roads, users would only experience parts of both schemes from dynamic views. Also these would be limited due to intervening landform and vegetation. Therefore, the dynamic sequential approach on visual receptors would be a minor adverse effect only. Accordingly, cumulative visual effects of both sites would only increase the visual effects of views of the proposal from 'negligible' to a 'minor adverse' impact. Accordingly, the overall effect on the landscape character would remain as a 'moderate adverse' effect in this geographic context.

Summary of effects on character and appearance

26. To conclude on the character and appearance issue, despite its overall scale, the proposal would result in only a 'moderate adverse' effect on the landscape character. I have also found that the scheme would result in moderate harm to users of the PRows. In wider visual impact terms, the effects would be minor/negligible adverse effects. CS policies OC1, with respect to development in the open countryside, seeks to protect the countryside for its own sake, particularly for its landscapes, areas of ecological, historic, archaeological, agricultural and recreational value. Furthermore, CS policy EQ4 seeks the design and location of new development to take into account the characteristics and sensitivity of the landscape and its surroundings. Consequently, given the moderate/minor effects of the proposal on the character and appearance of the area there would be conflict with CS policies OC1 and EQ4. I shall return to this in the planning balance.

Heritage Assets

27. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or setting or any features of special architectural interest which it possesses. The Framework defines the setting of a heritage asset as the surroundings in which the asset is experienced.
28. The proposal has the capability to affect several designated heritage assets found around the site. These are identified within the Appellant's Heritage Assessment⁴ and include, but are not confined to a number of listed buildings, two Scheduled Ancient Monuments, a non-designated Heritage Asset (NDHA)

⁴ Heritage Statement, rpsgroup, 22 November 2022

and Penkridge Conservation Area. The setting of a heritage asset is not fixed and may change as the asset and its surroundings evolve. Guidance from Historic England explains that the extent and importance of the setting of Heritage Assets is often expressed in visual terms but may also include other matters including our understanding of the historic relationship between places⁵.

29. The Toft is a Grade II listed dwelling, formerly a farmhouse, and originates from C17. This is a two-storey red brick and tiled building located close to the eastern boundary of the site. The original farmstead has been separated into additional residential units with the creation of Croft barn, a NDHA, and the Toft Barn. Its boundaries to the appeal site consist of mature tree and hedge screening, albeit with some gaps providing intervisibility between the plots. The significance of the listed building derives from its historic interest as a traditional rural farmhouse. Its setting includes its position within a retained farmstead and being in a rural position.
30. Existing boundary hedges between The Toft and the application site would be retained and strengthened by infill landscaping. Also, an area of grassland would be retained between the solar array and the boundary providing a spatial buffer. These provisions would assist in the preservation of the building's significance. Nonetheless, the proposed development would erode the setting of the listed building, due to the proximity and scale of the proposal, causing less than substantial harm to its significance.
31. Croft Barn, to the northwest of The Toft, has a greater level of visibility due to limited hedge planting on the boundary. However, the proposed enhancement of hedgerow planting and the biodiversity buffer zone would mitigate the limited harm to the setting of this NDHA.
32. A Grade II listed windmill tower is around 325 metres to the northwest of the appeal site and seems to date from C18. Its significance derives from its interest as a traditional rural building. It is located on relatively high ground on Butter Hill and, as such, its setting takes in wide views of the surrounding area. Views of solar panels would be visible from the tower towards the eastern part of the site. Nonetheless, such views would be over and close to modern agricultural buildings and structures that limited the overall visual impact on the setting of the windmill preserving its significance.
33. The Church of St Lawrence, located in Coppenhall, is a grade II* listed building located around 700 metres to the northeast of the site. This dates from the C13 and its significance appears to derive from its ecclesiastical importance in the area and its relationship to its surrounding rural setting. The separation distance and intervening planting and topography means that the setting of this building would be unaffected by the proposal and thus its significance would be preserved.
34. The effect on the setting of the Penkridge Conservation Area would be unaffected by the proposal due to distance and screening. Furthermore, the impact on the setting of the Scheduled Ancient Monuments would also be negligible resulting in no harm due to topography and distance creating limited intervisibility.

⁵ Historic England – The Setting of Heritage Assets 2015

35. Accordingly, the proposal would preserve the significance of most of the identified heritage assets but would cause less than substantial harm to The Toft resulting in a potential conflict with policy EQ3 of the South Staffordshire Core Strategy [2012] (CS). In finding less than substantial harm of this listed building, paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal and this is a matter that I shall return to below.

Effect on arable land

36. Paragraph 174(b), of the Framework, places value on recognising the intrinsic character and beauty of the countryside including the best and most versatile agricultural land. The Framework's Glossary defines Best and Most versatile (BMV) land as being land of Grades 1, 2 and 3a. The Appellant's Agricultural Representation⁶ identifies that 40% of the site is Grade 3a (good quality land), 10% is Grade 2 (very good quality) and 4% of further land was not surveyed but is adjacent to both Grade 3a and 2 land. As a result, 54% of is deemed to be either Grade 2 or 3a land, being BMV land and represents a typical distribution of BMV land in the area. Accordingly, the site has significant arable value and would no longer be capable of providing such a function. Consequently, most of the site would be precluded from arable farming for the duration of the proposed use and would be restricted to grazing.

37. Written Ministerial Statement (WMS) 2015⁷ BMV land for solar farms would need to be justified by the most compelling evidence. Furthermore, WMS 2024⁸ states that where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land to avoid using BMV land where possible.

38. The Council identifies in application of the Lullington judgement⁹ that an Alternative Site Assessment should be undertaken to provide 'compelling evidence' that the proposed solar farm must be on BMV land in accordance with WMS 2015. However, since 2015, Parliament has declared a climate emergency, and the Climate Change Act 2008 (2050 Target Amendment) Order 2019 requires the achievement of net zero by 2050. Moreover, I have not been directed to any legal or policy requirements which set out the need for a sequential approach to considering alternative sites for developments such as the appeal proposal. Of particular relevance, CS Policy EQ6 does not require the demonstration of any sequential approach to site selection in pursuance of renewable energy projects. Accordingly, I do not consider that planning permission should be withheld on the basis of a lack of identified alternative sites being considered.

39. In any event, the Appellant has demonstrated that the site was selected based on a number of factors including the availability of utilities and grid connection, planning land designation policies, land availability and visual impact. Furthermore, Western Power Distribution has indicated that a connection to the grid can be made via the existing pylon on site, providing a

⁶ Agricultural Representation, rpsgroup, February 2024

⁷ Written Ministerial Statement, 25 March 2015

⁸ Written Ministerial Statement, 15 May 2024

⁹ Lullington Solar Park Ltd v Secretary of State for Levelling up, housing and communities and South Derbyshire District Council [2024] EWHC 295 (admin)

suitable connection. As such, I am satisfied that the site identification provides evidence that an assessment of alternative sites was considered at the initial planning stage taking into account constrained requirements and that the site has been selected taking a range of factors into consideration.

40. The Council also asserts that the Appellant has failed to demonstrate that an adequate amount of BMV land exists within South Staffordshire, and it cannot rely on Natural England's Agricultural Land Classification Strategic Maps as the soil association data is considered by Defra to be relatively crude. However, I note that the Strategic Maps suggest that BMV land could consist of between 20-60% of the site and this has been shown to align with the Appellant's site specific assessment. This suggests to me that BMV land is not scarce within the area, and the level of BMV land on site is not exceptional.
41. Whilst the Council suggests that soil samples could have been taken from other possible sites, such an endeavour would require third party landowner's consent. Furthermore, an alternative site assessment based on soil quality would need to investigate a broad range of other technical requirements associated with the provision of a solar farm, eroding its usefulness. Moreover, while the use of higher quality agricultural land is discouraged by the Framework, the proposal is for a temporary period of forty years which could be secured by a condition attached to any grant of planning permission. In such circumstances, the agricultural land would not be permanently or irreversibly lost, particularly as pasture grazing would occur between the solar panels. This would allow the land to recover from intensive use, and the soil condition and structure to improve.
42. It is noted that Natural England has commented that the scheme would not result in the permanent loss of arable land and would be unlikely to have significant effects on the natural environment. During the operational period the land around the panels would be capable of being used for the grazing of sheep. Given the height and angle of the proposed panels I consider grass will be able to grow under the panels to a sufficient extent to allow grazing to take place. As a result, most of the land will be able to be used for some agricultural purposes and it could be returned to arable farming at the expiry of the temporary period. The Council has suggested that the land under the solar panels would lose richness, due to shadowing, but there is insufficient evidence before me to support this assertion.
43. Furthermore, whilst new hedges are proposed around the central PRow through the middle of the currently open field, this would not render the subdivided land as impractical for future arable cropping as the separate parcels would still be generous in size. Also, the specific way agricultural land is used is not a matter that is subject to planning controls. As such, there would be nothing in planning terms to prevent the farmer using the fields that form the appeal site for the grazing of sheep at present or even leaving them fallow. Given this, the fact that the proposal would limit the ability to carry out any arable farming does not, in my opinion, mean that it results in the loss of agricultural land when it can still be used for other agricultural uses.
44. The affected land would not be lost but instead used for both the purpose for pastoral and solar farming for the duration of the life of the proposal. I do not, therefore, find that the proposal would result in the loss of BMV land or effect

food security, and this would not therefore be justification for the refusal of permission. I am also unconvinced that the substation and other equipment would be permanent as asserted by the Council. As a result, the proposal would not result in the loss of BMV land and would therefore comply with the Framework that seeks development to recognise the intrinsic character and beauty of the countryside, including the economic and other benefits of the best and most versatile agricultural land.

Benefits arising from the provision of renewable energy

45. This application is not an energy development which is nationally significant infrastructure project (NSIP) under the Planning Act 2008. Nonetheless, the Overarching National Policy Statement for energy (EN-1) may be a material consideration for applications under the Town and Country Planning Act 1990 (as amended). This sets out the national policy for energy infrastructure and establishes the Government's approach to meeting its net zero objectives. It recognises that to meet the Government's objectives and targets for net zero by 2050, significant large and small-scale energy infrastructure will be required. Furthermore, the National Policy Statement for Renewable Energy Infrastructure (EN-3) sets out national policy in respect of renewable energy and identifies '*an urgent need for new electricity generating capacity to meet our energy objectives.*'
46. Whether policies in EN-1 and EN-3 are material, and to what extent, should be judged on a case-by-case basis. In this case the proposal is for a solar farm creating up to 40MW of energy. The site benefits from a connection to the grid by way of a proposed substation and short underground connection to an existing 132kV pylon. It therefore falls below the threshold for NSIP but due to its scale, EN-1 and EN-3 are deemed to be policy documents of substantial weight.
47. The Framework explains that the planning system should support the transition to a low carbon future in a changing climate. It states that when dealing with planning applications, planning authorities should not require a developer to demonstrate a need for low carbon or renewable energy projects, and should recognise that even small-scale projects can help reduce greenhouse gas emissions. Paragraph 163(b) also explains that such schemes should be approved if its impacts are, or can be made, acceptable.
48. CS policy EQ6, with respect to renewable energy, requires provision to be made for renewable energy generation to maximise environmental and economic benefits whilst minimising any local adverse impacts. This includes an objective for development to enable opportunities for renewable energy and help minimise environmental impacts through a range of measures including by mitigating the worst effects of climate change. In 2019 Staffordshire County Council and South Staffordshire Council declared a climate emergency, making a firm commitment to achieve the Government target of net zero carbon emissions by 2050.
49. To achieve the Government's ambitious targets, it is clear that considerable growth in large scale solar farms will be necessary and this cannot be achieved solely by the use of brownfield land or roof top installations. The proposed development would make a valuable contribution to achieving these local and national goals. The policy context, in supporting the delivery of a

substantial level of renewable energy projects, conveys significant weight in favour of the proposal.

Other benefits

50. The proposal would encourage the diversification of the farm and would provide income to further support the other farm activities noted at Littywood Farm, encouraging the production of soft fruits across parts of the holding. A gain to which I attribute modest weight.
51. The proposal would result in a net gain of Biodiversity, with an increase of 61.26% habitat units and 114.56% hedgerow units. This would represent a substantial uplift in biodiversity that is of significant weight in favour of the proposal.

Other Matters

52. The Council has referred to the Gaydon appeal decision¹⁰ within its evidence. This seems to share some characteristics with the proposal. In that case the Secretary of State found that the effect on a public right of way would have a significant impact for a number of years and that relying on landscape mitigation that would be less effective at certain times of the year, is a major consideration. Although, proposed planting alongside the PRow would be less effective in year one, I have found in agreement with the LVIA, that once the planting has matured the effect would be greatly reduced. This therefore appears to be different to the conclusions found at Gaydon and I am therefore unable to draw clear comparisons. In any event each case should be considered on its own merits, and I can therefore only attribute limited weight to the Gaydon decision.
53. Interested parties have raised concerns that the proposal would contribute to flooding in the area, which is subject to surface flooding at times of high rainfall. Nonetheless, the site is within flood zone 1, least likely to flood, and is therefore at a low risk of flooding. The submitted Flood Risk Assessment and Drainage Strategy have been agreed by the Council and respective consultees and these have raised no objection to the scheme subject to the imposition of a condition. I see no reason to disagree with these conclusions.
54. Concerns have also been raised with respect to the construction traffic with access to the site via narrow country lanes. The submitted Transport Statements¹¹ and the Construction Management Plan¹² demonstrate that construction HGV's would be subject to a booking system to ensure that vehicles would not be arriving or leaving at the same time. Furthermore, construction times would be limited to daytime weekdays only. This approach would be a suitable method to manage construction traffic and would suitably manage the relatively modest levels of traffic entering the site during the short period of construction. Consequently, the proposal would not lead to adverse traffic impacts, a conclusion shared with the Highway Authority.
55. Health concerns have been raised by interested parties with respect to the effect of electromagnetic waves being emitted from the proposed batteries

¹⁰ Planning Appeal Decision: APP/W2845/W/23/3314266

¹¹ Transport Statement, by rpsgroup, 17 November 2022 and 14 March 2023

¹² Construction Management Plan, by rpsgroup, 14 March 2023

and equipment. However, the evidence submitted on this matter is limited and I note that the proposal received no objection from the Council's Environmental Health Officer, as such I ascribe limited weight to any adverse health effects from the proposed development.

56. The Preliminary Ecological Appraisal¹³ identified that the site had the potential to be used by bats, nesting and overwintering birds and great crested newts (GCN). Supporting survey work for these animals indicated that the likelihood of significant adverse effects for bats and birds would be unlikely due to the retention and the provision of buffer zones around the trees. Interested parties have raised concerns that fencing would prevent transitory animals from their traditional routes and that bird and bat collisions would occur when mistaking the panels for water. However, evidence of these effects is limited and it seems unlikely, based on evidence submitted, that these effects would of substantial scale to be of significant harm to wildlife.
57. The development falls within the Impact Risk Zone for GCNs where there is highly suitable habitat and where GCNs have been recorded within the site. The Conservation of Habitats and Species Regulations 2017 (as amended) includes the designation of 'European Protected Species', which include GCN. To meet the Habitat Regulations, it is necessary to be satisfied that GCN and its habitat would not be harmed by the development. The Council's ecologist is satisfied that GCNs would not be adversely affected subject to the applicant entering into a district level licensing option from Naturespace. This Licensing Scheme considers GCN conservation and seeks three conditions to be imposed on any permission granted, to link it to the License and ensure that the development would be in accordance with mitigation principles. The Appellant has demonstrated adherence to this scheme. As a result, I am satisfied that protected species would not be affected and the proposal would not result in an adverse impact on wildlife.
58. Glint and glare from the panels has been raised as an objection from local occupiers. The Glint and Glare Assessment¹⁴ demonstrates that any distraction to aircraft would be limited, causing a low impact. It also finds that the proposed hedge planting would provide adequate screening and prevent glare to occupiers of The Toft and Toft Barn. I see no reason to disagree with these conclusions.
59. Interested parties have raised concerns that the proposal would create noise and light pollution. Residential properties are located at Toft House and The Toft/Toft Barn on the eastern and southern perimeters of the site. The Noise Impact Assessment illustrates that the plant would be unlikely to result in an adverse noise impact at noise sensitive receptors off site. Furthermore, a condition could be imposed on any approval to limit the sound power level of each inverter to 78 dB. Lighting is not proposed around the solar farm, although some low-level lighting would be located around the substation site. As such, I do not find that noise or lighting would cause material disturbance to adjacent residential occupiers.
60. Concerns were originally raised with respect to the position of some CCTV cameras and the effect on neighbour's privacy. Amended plans were

¹³ Preliminary Ecological Appraisal, rpsgroup, 14 September 2022

¹⁴ Solar Photovoltaic Glint and Glare Study, RPS Group Plc, November 2022

submitted during the application consideration process that removed a proposed CCTV camera in the interests of the privacy of neighbours. Cameras are now off-set from the boundaries with residential properties and would not materially overlook private land causing no overlooking.

Planning Balance and Conclusion

61. I have concluded that proposal would result in moderate harm to the landscape character and convey moderate visual harm to the area, resulting in conflict with the development to which I afford moderate weight. Whereas the proposed scheme would not result in the loss of BMV land, weighing neither for nor against the proposal. Furthermore, the other matters identified in opposition to the proposal raise issues that either result in no harm or raise technical matters that could be adequately addressed through the imposition of appropriate conditions to negate the harm.
62. With respect to matters of heritage, the proposal would result in less than substantial harm to the setting of The Toft, a designated heritage asset. The harm would be minor and would be reversed once the solar farm is decommissioned. Nonetheless, as the proposal results in less than substantial harm it should be weighed against public benefits. The proposal relates to a large solar farm providing power for around 9,330 homes. The proposed scheme would include a landscaped buffer between the listed building grounds and the solar panels and would be temporary in nature. As such, the less than substantial harm found would be of limited overall effect. For these reasons, the harm would be outweighed by the public benefits of the proposal and would therefore comply with CS policy EQ3(b).
63. The proposal would deliver a renewable energy facility that would create up to 40MW of power. This would result in a carbon dioxide displacement of around 480,000 tonnes per annum and therefore help to combat climate change. The appeal site, whilst large is relatively unobtrusive, within a largely flat area of land that prevents most wider views of the site to be experienced. The surrounding landscape also includes a range of man-made interventions. These features enable the area to accommodate a degree of change.
64. Both national and development plan policies recognise the importance of the provision of renewable energy projects. In minimising environmental effects, the proposal would comply with the Council's policies with respect to renewable energy. Whilst this lends support for renewable projects in the countryside it does not confer an automatic approval of such schemes, where the effects of such development must take into account a broad range of issues in mind of the general presumption to respect the intrinsic character and beauty of the countryside as sought by the Framework.
65. The benefits of renewable energy engender substantial support for the proposal. These benefits are recognised in the Council's local policies and national policy in accordance with the Climate Change Act of 2008. It is also clearly identified, in Section 14 of the Framework, where it seeks to increase the use and supply of renewable and low-cost energy and to maximise the potential for suitable such development. The delivery of suitable renewable energy projects is fundamental to facilitate the country's transition to a low carbon future in a changing climate.

66. Also, a solar farm requires grid capacity and a viable connection to operate. As such, this requirement places a locational restriction on site selection that limits the number of appropriate sites for such a facility. The Appellant proposes to connect to the adjacent electrical pylons placing the site in an advantageous location satisfying the connection constraints that exist. The Appellant has therefore demonstrated that a rational approach was taken to site selection lending support for the selected site. Further benefits of the proposal relate to the provision of significant biodiversity net gain and support for the diversification of the existing farm holding, to which I apply substantial and modest weight to respectively.
67. Accordingly, the benefits of the proposal are of sufficient magnitude to outweigh the moderate conflict found with the development plan with respect to both the landscape and visual effects of development. Furthermore, the proposal would attract significant public benefits which would outweigh the identified less than substantial harm to heritage, as set out in the Framework. Accordingly, the proposal would accord with the development plan when taken as a whole.

Conditions

68. I have considered the use of conditions in line with the guidance set out in Planning Policy Guidance (PPG). I shall take the Council's conditions, which have been previously agreed with the Appellant, into consideration and impose these with some amendments and adjustments for clarity.
69. A number of conditions are necessary that relate to the submission of details prior to the commencement of development. These seek details relating to a road condition survey, archaeological investigation, the submission of a Certificate from the delivery partner with respect to GCNs, the submission of a Construction and environmental management plan, and a Landscape and Ecological Management Plan. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse permission. These details are required at a pre-commencement stage as they relate to matters that may influence the configuration of equipment on site and relate to its initial setting out. The Appellant has agreed to the imposition of these conditions in accordance with Section 100ZA(5) of the Town and Country Planning Act 1990.
70. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [conditions 1 and 2]. Conditions are also necessary to grant only a temporary consent to manage the overall landscape impact of the development in compliance with CS policy OC1 [22].
71. Conditions are necessary with respect to the implementation of a tree protection plan, the provision of a landscape scheme, the submission of a Construction and Environmental Management Plan and a Landscape and Ecological Management Plan and to prevent the installation of lighting, in the interests of the character and appearance of the area and to ensure the delivery of a net gain to Biodiversity [14, 15, 16, 17 and 21]. Also, conditions are necessary to protect the habitat of Great Crested Newts through the submission of a suitable licence, a certificate from the delivery partner, and

through the implementation of the licence to comply with the requirements of the Framework, the Habitat Regulations and circular 06/2005 [10, 11 and 12].

72. It is necessary for the approved access and egress details to be implemented, the imposition of a Temporary Traffic Regulation Order, a road condition survey, and for the scheme to comply with the construction traffic management plan, all in the interests of highway safety and ensure the development would function well [3, 4, 5 and 6]. Furthermore, conditions are necessary to satisfy the archaeological interests of the site through the requirement for the submission of a scheme of archaeological investigation, the implementation of its findings, and details of archaeological recording in accordance with CS policy EQ3 and the Framework [7, 8 and 9].
73. It is also necessary for the recommendations of the Flood Risk Assessment and the drainage strategy to be implemented to mitigate against any flood risk [13]. Furthermore, conditions are required to manage on site construction hours, the suitable times for construction vehicles and set the maximum power level of inverters to limit noise levels. These measures would protect the living conditions of adjacent residential occupiers from adverse noise effects [18, 19 and 20].

Conclusion

74. Accordingly, whilst there is some conflict with certain policies of the adopted development plan, these are modest. When read as whole, the proposal would accord with the development plan, moreover there are material considerations which weigh in favour of the proposal such as the significant benefits to renewable energy generation. Consequently, for the above reasons, the appeal is allowed, and planning permission is granted subject to the conditions within the attached schedule.

Ben Plenty

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - Location Plan 1091-LITTYWOOD-003 Rev A,
 - Location Plan 1091-LITTYWOOD-002 Rev A,
 - Planning Layout 1091-LITTYWOOD-001 Rev I,
 - Proposed Plans and Elevations-Substation ELGIN-132KvT-CONNECT-001,
 - Proposed Elevations ELGIN-CCTV-001 A,
 - Proposed Plans and Elevations ELGIN-INVERTER-001 E,
 - Fence details ELGIN-FENCE-001 A,
 - Panel details ELGIN-PANEL-001 rev A,
 - North access details JNY11456-01,
 - East access details JNY11456-02, and
 - Landscape Strategy 100 Rev C.
- 3) Notwithstanding the details shown on the approved plans, the access and egress improvements shown on drawing no. JNY11456/01 and drawing no. JNY11456/02 of the Construction Traffic Management Plan (version 02b dated 14 March 2023) shall be fully completed prior to commencement of the development.
- 4) The one-way system to be put in place via a Temporary Traffic Regulation Order (TTRO) as per details set out in the Construction Traffic Management Plan (version 02b dated 14 March 2023) shall be fully in place prior to the commencement of the development.
- 5) Prior to commencement of the development a road condition survey and inspections of roads bordering the site to the south (Hyde Lea Bank) and to the east (Toft Lane) of the site shall be carried out (the extent of the road to be inspected to be first agreed by the applicant with the County Highway Authority) and submitted to the local planning authority: - Prior to commencement of development; and - Prior to completion of the development. Should any new or significant defects be identified in connection with the proposed construction traffic, the repairs and timeframe for undertaking the works are to be agreed with County Highways Authority. Thereafter the works shall be completed in full accordance with the agreed details.
- 6) All site operations shall be undertaken strictly in accordance with the approved Construction Traffic Management Plan (version 02b dated 14 March 2023) for the duration of the construction programme.
- 7) Prior to the commencement of the development hereby permitted, a written scheme of archaeological investigation ('the Scheme') shall be

submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-excavation reporting and appropriate publication.

- 8) The archaeological site work shall thereafter be implemented in full in accordance with the written scheme of archaeological investigation approved under condition 7.
- 9) The development hereby approved shall not be brought into use until the site investigation and post-excavation assessment has been completed in accordance with the written scheme of archaeological investigation approved under conditions 7 and 8 and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.
- 10) No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a Further Licence) and with the proposals detailed on plan titled Land at Littywood Farm: Impact plan for great crested newt District Licensing (Version 1) dated 29th June 2023.
- 11) No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112, or a 'Further Licence'), confirming that all necessary measures regarding great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the planning authority and the authority has provided authorisation for the development to proceed under the district newt licence. The delivery partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.
- 12) No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence WML-OR112 (or a 'Further Licence') and in addition in compliance with the following: - Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians - Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e., hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development). - Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.
- 13) The development hereby permitted shall not be brought into use until the approved measures set out within the Flood Risk Assessment and Drainage Strategy dated 1st December 2022 have been implemented in full and therefore retained for the lifetime of the development.
- 14) All tree protection measures within the approved RPS Tree Protection Plans (Ref. JSL4559, Dwg Nos. 710 - 717 incl. (Rev P03)) and the

associated Arboricultural Impact Assessment (Ref. JSL4559_770), shall be implemented before any construction related activity commences on site. Once implemented all such measures shall be maintained throughout development unless agreed in writing with the Local Planning Authority. Any trees that are damaged or lost during a two year period, starting from the date of commencement, due to a failure of required tree protection measures shall be replaced. The species, size, nursery stock type and location of such replacements to be specified by the local planning authority.

- 15) Within three months of the development commencing, full details of tree / hedge / screen planting provision shall be submitted and approved in writing by the local planning authority. All measures within the approved landscaping / tree planting scheme shall be implemented within the first planting season (Oct - Mar) following completion of construction. Any trees that die or become unsuitable for retention within 5 years of the initial planting date will be replaced on a like for like basis.
- 16) No development shall take place, including demolition, groundworks or any necessary vegetation clearance until a construction and environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
 - a) A risk assessment of potentially damaging activities and the phases associated with them.
 - b) Identification of biodiversity protection zones.
 - c) Practical measures (both physical measures and sensitive working practices such as timing) to avoid or reduce impacts during site clearance and construction.
 - d) The location and timing of sensitive works to avoid harm to ecological features.
 - e) The times during construction when an ecological clerk of works (ECoW) needs to be present (if appropriate).
 - f) Role and responsibilities of the ECoW if appropriate.
 - g) Responsible persons and lines of communication.

The approved CEMP scheme shall thereafter be fully implemented throughout all construction work and any physical protective measures kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed from the site.

- 17) Prior to commencement of development (excluding demolition or ground works), a combined Landscape and Ecological Management Plan (LEMP) must be submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on the site that might influence management.

- c) Aims and objectives of management.
- d) Appropriate management options to achieve aims and objectives.
- e) Detailed management prescriptions and a work schedule with annual plan.
- f) Detailed species-specific enhancements such as bat and bird boxes, and any associated management/monitoring requirements.
- g) Responsibilities of bodies/organisations for implementation against actions.
- h) Monitoring and remedial measures including monitoring of habitats to ensure the stated condition for biodiversity net gain is met, and species monitoring as appropriate to ensure management is iterative and delivers benefits for species as detailed within the submitted ecological impact assessment report.

The LEMP shall also include details of the management body(s) responsible for delivery and future maintenance. The plan shall also set out (where monitoring shows that aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall cover the life of the proposed development and must be implemented in full accordance with the approved details prior to first use of the development hereby permitted.

- 18) Site working hours shall be in accordance with the Construction Traffic Management Plan version 02b dated 14 March 2023. All work will be conducted between 08:00 and 18:00 hours Monday to Friday with limited construction activities on Saturdays between 08:00-13:00. No construction activities will take place on a Sunday or Bank Holiday.
- 19) In accordance with the Construction Traffic Management Plan version 02b dated 14 March 2023, all deliveries by goods vehicles (>3.5 tonnes) shall be undertaken outside of the school peaks of 08:00 to 09:00 and 15:00 to 16:00.
- 20) In line with the Noise Impact Assessment prepared by RPS dated 24/11/2022, unless agreed otherwise in writing by the Local Planning Authority, the sound power level of each inverter shall be limited to a maximum of 78 dB LWA for the lifetime of the development.
- 21) The permission hereby granted does not grant or imply consent for the installation of any means of lighting on the site. No lighting shall be installed on site other than with the written approval of the Local Planning Authority.
- 22) The development hereby approved shall be removed in its entirety and the land restored to its former condition on or before the expiry of this permission, which for the avoidance of doubt is 40 years exactly after the date of this decision, in accordance with a scheme of work to be submitted to and approved in writing by the local planning authority.

End of conditions