



Appeal Decision

Site visit made on 27 September 2024

by N Perrins BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/P1133/D/24/3348851

Mikindani, Road Past Webberton Court, Dunchideock, Devon EX2 9TY

- 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 Mrs Judith Phythian against the decision of Teignbridge District Council.
 - The application Ref: 23/02044/FUL.
 - The development is two mobile pole mounted solar panels.
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Decision

1. The appeal is allowed and planning permission is granted for two mobile pole mounted solar panels at Mikindani, Road Past Webberton Court, Dunchideock, Devon, EX2 9TY in accordance with the terms of the application, Ref: 23/02044/FUL dated 14 November 2023, subject to the following conditions:
 - 1) The development shall be carried out in strict accordance with the following approved plans (i) Block Plan Dwg No: PHYTH.P.01, (ii) Location Plan Dwg No: PHYTH.P.02, and (iii) Solar Panel Array Plan & Elevations Dwg No: PHYTH.P.03;
 - 2) Should the solar panels hereby permitted permanently cease to generate electricity, they shall be removed from the land within 1 month of the date when they cease to permanently generate electricity.
 - 3) Within 21 days from the receipt of a written request from the Local Planning Authority confirming that problems of glint and glare are occurring (following a complaint to the local planning authority from the occupant of a dwelling which lawfully existed or had planning permission at the date of this decision), the owner, of the development hereby permitted shall submit a scheme of measures to prevent further glint or glare, for the approval of the Local Planning Authority. Within 48 days of obtaining approval for the scheme, the operator of the development hereby permitted shall fully implement the approved scheme; and
 - 4) Within 2 months of the date of this decision a scheme for landscaping to provide screening for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The scheme must include full details for the landscaping including written specification of plants, location, programme for planting, maintenance and shading impacts

on the development. The approved scheme for landscaping must be carried out in accordance with the approved details and retained thereafter.

Preliminary Matters

2. The development has been completed as confirmed on the planning application form and as observed on my site visit. I have assessed the appeal on this basis.

Main Issues

3. The main issues are the impact of the development on (i) the character and appearance of the area, and (ii) living conditions of the neighbouring property, Cronin.

Reasons

Character and appearance

4. The appeal site comprises a detached chalet bungalow with spacious grounds. The appeal property is part of a small cluster of dwellings set within similarly spacious plots. The appeal site and nearby dwellings have large garden areas bounded by front hedges and low boundary walls. The front garden areas are generally visible from the road due to the changing levels of the land. Accordingly, some domestic paraphernalia and structures within front gardens are visible from the road. There are also longer distance views of undulating countryside to the east of the site, which provide for an attractive rural landscaped setting to the site. Beyond the appeal site to the north and west as the land rises are trees, hedgerows and fields that further contribute to the rural landscape character of the area.
5. The site is within an Area of Great Landscape Value (AGLV) as designated in the Teignbridge Local Plan 2013-2033 (LP). Policy EN2A of the LP states that development in an AGLV should conserve and enhance the qualities, character and distinctiveness of the locality and protect specific landscape features that contribute to the local character and quality. I have also considered Policy S22 of the LP; this was not included in the Council's reasons for refusal but highlighted as being relevant by the appellant. Policy S22 provides support for energy facilities in the countryside subject to taking account, amongst other matters, the distinctive characteristics and qualities of the Landscape Character Area.
6. I have not been provided with a landscape assessment specifically relating to the AGLV, which is a local designation included in the LP. The appellant has, however, provided information on landscape character, which identifies that the site is within the Haldon Ridge and Foothills Devon Character Area that is part of the larger Devon Redlands National Character Area.
7. The key landscape characteristics identified are the area comprising a narrow band of steeply sloping land immediately below a plateau edge, mixed woodland and semi-improved or unimproved pasture, pastoral cultivation with small-scale irregular field patterns, lightly settled, narrow winding lanes with well treed banks, occasional long views out over adjoining valleys, and semi-natural habitats. Valued landscape attributes are identified as being peaceful landscape, dramatic distant views from scarp slopes, coniferous plantations, woodlands and relic heathland and importance for recreation and 'escapism'.

8. The appeal site and its garden area contribute positively to the rural landscape character of the area due to its openness, hedgerows and other vegetation along boundaries. Therefore, the site does not exhibit the majority of the most important landscape features identified although it does evidently contribute to a peaceful rural landscape adjacent to a narrow winding lane with well treed banks.
9. The two mobile solar panels have been erected along the site's northern boundary. The appellant refers in their statement to these as "PV Panel 1" and "PV Panel 2". PV Panel 1 is positioned in the appeal property's front garden area near to the road. PV Panel 2 is located further back in the garden adjacent to the appeal dwelling's northern elevation.
10. Each of the solar arrays are around 3.5m in height and 3.1m in width with two rectangular modules, sitting on a support frame with a diagonal brace back to the ground. The solar panels are tracker installations that track the sun's position, which I understand optimises the amount of renewable energy generation to the property.
11. PV Panel 1 is prominently visible from those sections of the road near to the appeal site due to its height, colour and appearance. The visual impact is notably different when compared with other domestic features nearby, which mainly comprise wooden structures that blend in more sensitively with the landscape. As such, the height, functional design and overall scale results in the front array appearing as an overly prominent feature that undermines the landscape setting of the site in its immediate context. This impact is, however, very localised to the area immediately around the site.
12. I have considered the appellant's position that a smaller sized solar panel array could likely be installed in the front garden as permitted development under the provisions of Part 14 Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015; there is nothing before me that indicates that these permitted developments are not available at the appeal site.
13. Whilst a solar panel erected under permitted development would be smaller than the development in this case, it would still likely be of a substantial size and visible from the road if placed in the front garden area due to the generally open boundary to the appeal site that currently exists. I also acknowledge the appellant's point that given their investment and commitment to reduce the appeal property's carbon footprint, it is likely that they would explore the permitted development fallback in the event of this appeal being dismissed. I, therefore, give moderate weight to the permitted development fallback and relative impact that it would have on landscape character and the AGLV.
14. I also acknowledge the Government's support for renewable energy infrastructure as set out in Paragraphs 157, 159 and 160 of the National Planning Policy Framework (the Framework). The provision of renewable energy at the appeal property is also consistent with the aims of Policy S7 of the LP that establishes a target to achieve a reduction of about 42% in carbon emissions per person from 2009 levels by 2030, as well as the declaration of climate emergencies by Devon County Council and Teignbridge Borough Council. I, therefore, attach significant weight to the benefits of the development in terms of providing renewable energy to the property.

15. Moreover, however, I note that the appellant indicates they would accept a condition to secure non-shading roadside landscaping to provide natural screening to the development. As observed on my site inspection, I am satisfied that there is scope for such additional landscaping to be provided along the site's boundary with the road.
16. Once established, this additional landscaping would help mitigate the localised visual impacts of the development and enable the overall landscape character of the area and AGLV to not be materially harmed or undermined. Additional landscaping would also ensure the proposal can be made acceptable in accordance with the approach set out in Paragraph 163 (b) of the Framework. I am satisfied that additional landscaping can be secured by condition, which I discuss later in this decision.
17. PV Panel 2 is located further back into the site adjacent to the dwelling along the northern boundary and is not prominently visible or perceptible from the road or surrounds. Accordingly, the level of harm to the landscape from PV Panel 2 is significantly less than PV Panel 1. With the additional landscaping to be secured by condition, I am satisfied that the retention of PV Panel 2 would not result in material harm to the landscape character of the area and AGLV.
18. In conclusion, whilst I have identified that there is some very limited localised harm to the landscape and AGLV from the development, I give weight to the benefits of renewable energy in this case as well as the permitted development fallback. I have also identified that additional landscaping can be secured by condition, which once established would enable the very limited localised impacts on the landscape identified to be addressed. Accordingly, I find that the development with conditions accords with Policies S1, S2, S22 and EN2A and the relevant sections of the Framework.

Living Conditions

19. The Council contend that the development has an overbearing impact on the neighbouring property, Cronin. However, Cronin is located around 23m from the boundary with the appeal site, which is a substantial distance. The solar panels are also situated further again into the appeal site as well as being located behind intervening vegetation.
20. When considering the fallback position where a broadly similar solar panel could be installed as permitted development, the distances involved and the intervening landscaping, I am not satisfied that the development results in an unacceptable impact on the living conditions of Cronin. I find, therefore, that the development accords Policy WE8 of the LP in this regard.

Other Matters

21. Other concerns raised through objections to the planning application are the frustration that the development has proceeded without first obtaining planning permission, and there is room for the panels on the two outbuildings at the site. Whilst I acknowledge the frustrations with the appellant not first obtaining planning permission, this is not of itself sufficient reason to refuse planning permission. I also note that there could be other places for the solar panels to be installed. However, I am not required to consider this in this decision as I can only assess what is in front of me, which I have found to be acceptable for the reasons stated.

Conditions

22. I have considered the Council's suggested conditions against Planning Practice Guidance and the Framework. I agree that a condition is required to ensure the solar panels are removed as soon as practical after they stop being used to produce electricity. I have made some changes to the Council's wording to make the condition requirements more precise and clearer. I also agree that the Council's proposed condition to mitigate the impact of glare is necessary to ensure the amenities of adjoining residential properties are protected.
23. I have also included a condition specifying the development must be carried out with the approved plans, which is necessary to ensure there is clarity over what has been granted planning permission.
24. Finally, I have included a condition requiring a landscaping scheme to be submitted to and agreed with the local planning authority to ensure the localised impact on the landscape is mitigated. I have included timeframes for the submission of the scheme to ensure it is provided as soon as practical. I acknowledge the appellant's point that it would need to be non-shading, which would need to form part of the detailed scheme to be submitted and approved.

Conclusion

25. For the reasons given above, the development subject to conditions is consistent with the policies of the development plan as a whole and there are no material considerations that would lead me to a different conclusion. I therefore conclude that the appeal should be allowed.

N Perrins

INSPECTOR