



Appeal Decision

Site visit made on 15 January 2025

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2025

Appeal Ref: APP/W1145/W/24/3353044

Land at Deptford Farm, Ebberley Hill, near Great Torrington, Devon

- 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 Ms Grainne O'Loughlen, Elgin Energy EsCo Ltd, against the decision of Torridge District Council.
- The application Ref is 1/1225/2023/FULM.
- The development proposed is Construction and operation of a grid-connected solar photovoltaic farm, incorporating battery storage, with infrastructure, landscaping and biodiversity enhancements.

Decision

1. The appeal is allowed and planning permission is granted for construction and operation of a grid-connected solar photovoltaic farm, incorporating battery storage, with infrastructure, landscaping and biodiversity enhancements at Land at Deptford Farm, Ebberley Hill, near Great Torrington, Devon in accordance with the terms of the application, Ref 1/1225/2023/FULM, and subject to the conditions set out in the schedule to this decision.

Application for costs

2. An application for costs was made by Ms Grainne O'Loughlen, Elgin Energy EsCo Ltd, against Torridge District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding landscape; and
 - whether the proposed development would result in the loss of best and most versatile agricultural land (BMVAL).

Reasons

Landscape

4. The appeal site consists of five pasture fields containing various hedges and trees. With its agricultural character and verdant appearance, it positively contributes to its rural setting which contains extensive agricultural land and limited built development. The site is within Landscape Character Area 1F (lowland moorland and culm grassland) of the Joint Landscape Character Assessment for North Devon and Torridge Districts (JCLA). The special qualities of this character area include distinctive culm grassland habitat and associated birdlife, traditional

management regimes, small field patterns enclosed by thick banks and surrounded by open grazing, and high levels of tranquillity and remoteness. The site's condition and situation broadly reflect this.

5. Despite the site's extensive nature, public views of it are restricted to some degree due to much of it being set down in the elevated shallow valley, the widespread presence of hedges and trees in the surrounding countryside, and the undulating topography of the site and locality. In-line with the submitted evidence, and as I observed on my visit, the main less-restricted views of it are therefore from sections of the adjoining lane, including along the site's southern boundary; in both directions further along the lane, up to and including the area around the Natty Cross junction; and from along the highway running south-east from there. Although the site is also visible from other areas, such as from near to Week Park Cross on the B3217, such views include less of the site and are generally limited to longer-distance vistas via glimpses above hedges.
6. Whilst the historic field pattern would remain, the appeal proposal would introduce uncharacteristic, industrial-esque development over a relatively large area and the main parties agree that the development would harm the surrounding landscape. In the near vicinity of the site, where the development would be most noticeable and its extent most apparent, major adverse visual effects would, as identified in the Landscape and Visual Impact Assessment (v2, dated November 2023) (LVIA), be experienced in year 1; and in the first few years of the development, this would equate to a landscape effect of moderate adverse at the site level and minor adverse in the locality.
7. The magnitude of the site and localised landscape effects would reduce to some extent as hedges are allowed to grow and additional planting establishes. This would also contribute positively to some of the character area's special qualities. However, I agree with the Council's LVIA review that the overall level of landscape effect of the proposed development would not reduce markedly over time at the site and local levels. It seems to me that this would be particularly so when trees and plants are not in leaf, in relation to the scheme's larger elements (such as the battery storage compound and substation), and from the nearby elevated vantage points which provide views across much of the site.
8. Given the site's situation, topography and the screening provided by trees and hedges, the development and its extent would be less apparent in the wider area. The level of effect would therefore reduce with increasing distance from the site; and with the development not perceptible beyond the character area, the landscape harm would be limited geographically. Nonetheless, whilst there would be no significant cumulative effects with other similar developments, there would be some limited wider-than-local-level landscape harm given that it would still be visible in some medium/longer distance views in the area surrounding the site. With planting unlikely to provide much further screening of the development in such views, the scale of harm at this level would also not significantly reduce in the longer-term.
9. However, taking account of the above, the overall effect on the landscape would be relatively contained spatially and not significant. In coming to this view, I have taken into account that the Torridge Landscape Sensitivity Assessment to onshore wind energy and field-scale photovoltaic development identifies that the landscape character area has a high sensitivity to the development proposed; and that the

proposed development and changes in land use are identified by the JCLA as future forces for change within the area. The other solar developments built, permitted and proposed in Devon do also not lead me to a different conclusion.

10. Nevertheless, for the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding landscape. I therefore find that it is not supported by Policy ST16 and conflicts with Policies DM08A, ST02 and ST14 of the North Devon and Torridge Local Plan 2011-2031 (LP). Amongst other aspects, these support renewable development where the landscape is best able to accommodate it and expect development to avoid adverse landscape impacts and conserve, protect and respect local character and the natural environment.

Agricultural land

11. The submitted evidence identifies that circa 17.5 hectares (ha) of the site is, as per the Agricultural Land Classification system, grade 3a (good) agricultural land. Approximately 58% of the site is therefore defined by the National Planning Policy Framework (Framework) as BMVAL.
12. The proposed development would clearly extend over a reasonably large area of good quality agricultural land. Some elements, such as the battery compound and substation, would also preclude continued agricultural use. The appeal proposal would therefore result in a reduction in agricultural production of the site.
13. However, the site does not contain the highest grades of BMVAL and the available evidence indicates that its land quality is broadly typical of the area. Given the district's rural nature, it seems to me that there are also likely to be limited alternative brownfield sites suitable for the proposed development.
14. Furthermore, the landowner indicates that, during the scheme's operation, they would continue to farm and manage the land in a similar manner to now, with sheep grazing under and around the solar panels. In addition, the proposed development would be time limited, with the land restored once the scheme was decommissioned and removed from the site. A soil management plan would also ensure that soil quality would be conserved and improved.
15. On this basis, the proposed development would not result in a significant, unacceptable or permanent loss of BMVAL. I therefore find that it accords with the requirement of LP Policy ST14 for development to conserve northern Devon's BMVAL. The land previously being used for growing arable crops does not lead me to a different conclusion.

Planning Balance

16. Inconsistent with the Framework's provisions which to conserve and enhance the natural environment, the proposed development would harm the character and appearance of the surrounding landscape. Although this attracts significant weight, and I recognise that the countryside is of great value to people who live and holiday in the county, the landscape harm would be relatively localised and not significant. Nevertheless, the conflict I have identified with LP policies in relation to this matter leads me to conclude that the appeal proposal, despite its accordance with some other LP policies, conflicts with the development plan as a whole.

17. However, the proposed development would provide significant benefits. This includes the generation of approximately 28 megawatts of renewable energy – enough to power the equivalent of over 6,000 typical family homes – and a consequent reduction in carbon emissions of approximately 13,000 tonnes per annum. Despite the limited details provided, it is clear to me that the battery energy storage units would also be able to store excess energy which would, in turn, maximise the solar farm's output and benefits.
18. The proposal would therefore help to serve increasing demand for electricity and provide a secure, stable supply; and support the decarbonisation of the electricity network and the move towards a low carbon future. It would thus contribute towards UK energy security and addressing the negative impacts of climate change. Consistent with the Framework's provisions on planning for climate change, this is critical to meeting local and national targets and commitments on renewable energy and carbon emissions, and the need to achieve net zero. In addition, the proposed development would support farm diversification, provide additional employment and deliver significant biodiversity net gain.
19. These economic, social and environmental benefits are extensive and attract substantial weight. In my judgement, the benefits are therefore sufficient to outweigh the landscape harm and the conflict with relevant LP policies.

Other matters

20. The redline boundary of the appeal site extends up to Dadlands. On that landholding, which continues in agricultural use, there is the grade II listed 'Dadlands farmhouse' and the grade II listed 'barn, horse engine house, stable, granary and cartshed approximately 20 metres to south east of Dadlands farmhouse'. The available evidence indicates that other outbuildings present but not specifically listed have also been historically treated as curtilage structures to the listed buildings. Based on the available evidence, the significance of these designated heritage assets stems from, amongst other aspects, their history (including, it is said, being centred on an Iron Age/Early Mediaeval ditch and embankment and being owned by Dodda, who was one of the signatories of the Exmoor Charter); their numerous individual internal and external architectural and historic features, as detailed in the official list entries; and their group value in being part of an early planned farmstead. Although the buildings' immediate setting is that of the farmstead and yard, their undeveloped agricultural situation – which includes the appeal site – also contributes to their overall significance.
21. Whilst the site includes land which borders Dadlands and is within only a few metres of the listed buildings, the proposed layout plan shows that the nearest part of the site to the listed buildings would be planted with trees. The closest built development on the site would not therefore be immediately adjacent to the listed buildings. Nevertheless, by introducing development over a relatively extensive area near to the historic farmstead, the appeal proposal would reduce the heritage assets' undeveloped, agricultural context, to the detriment of their settings. In some public views, some of the listed buildings would also be visible together with parts of the development proposed.
22. Although the appeal proposal would not harm any of the listed buildings' features of special architectural or historic interest, the change to their settings would equate to, in the words of the Framework, less than substantial harm to the

significance of the designated heritage assets. In such circumstances, it is necessary to weigh the harm against the public benefits of the proposal.

23. The proposed development would, as detailed above, provide extensive economic, social and environmental benefits, which by their nature and extent would equate to significant public benefits. Accordingly, despite the great weight that I afford to the conservation of designated heritage assets, the proposal's public benefits outweigh the less than substantial harm to the significance of the listed buildings.
24. The submitted Heritage Statement identifies that the proposed development would change the setting of Sugworthy Farm by reducing its agricultural context. Although the resulting effect on the significance of the non-designated heritage asset is said to be very low due to the degree of separation and level of screening, this still equates to harm. Nevertheless, I find that the effect of the appeal proposal on the non-designated heritage asset is, on a balanced judgement, also justified in this instance given the scheme's benefits.
25. The submitted evidence indicates that although much of the site has a low potential for containing significant heritage assets with archaeological interest, evidence of Early Bronze Age activity has been found on part of it and the construction of the proposed development could impact upon such features. However, the Devon County Council Historic Environment Team's submission sets out that any impact that may arise could be mitigated by a programme of archaeological work. Subject to securing this by means of condition, I am satisfied that the appeal proposal would therefore not harm archaeological assets.
26. A number of other matters have been raised by various parties and I have taken them all into account. This includes: the site's location/address; the site originally being culm grassland; the development not being needed due to other solar installations in neighbouring parishes; questioning climate change and the need to reduce carbon emissions; the difficulty for local authorities in assessing the necessity and distribution of such developments across the county and country and whether the number is reasonable and proportionate; the alternatives to the development; the impact of the proposed development on food supply; other proposals on the site, such as a new dwelling or shipping container, would likely be refused permission; overdevelopment; the impact on tourism; the risks associated with the battery storage units, including pollution and fire safety; the lack of a fire risk assessment and consultation with the fire service; the lack of a life-cycle assessment for the carbon footprint of the proposed development; what will happen to the site and equipment at the end of the development's lifetime, and the need for a bond to cover decommissioning costs; the effect of the development on wildlife and the need for further ecological survey work (including for bats and other protected species) and details relating to net gain; the veracity of the various submitted assessments; the effect of the proposed development on the living conditions of existing residents, including with respect to noise, glint/glare and visual amenity; drainage; the risk of ground-water contamination, including of drinking supplies; light pollution; highway safety issues due to construction works and large vehicles using the narrow lanes; the effect of the development on property prices and on the ability to sell nearby properties, and the need for affected residents to be recompensed; the need for further public consultation; the lack of detail relating to the battery storage units and their purpose; and the amount of energy the proposed development would actually produce.

27. However, whilst I take these representations seriously and I recognise the strength of local concern, I have not been presented with compelling evidence to demonstrate that the appeal proposal would be unacceptable with regard to any of these matters or would result in unacceptable effects in relation to them. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed. Some of the issues raised, such as regarding construction works, noise, light pollution, and wildlife and biodiversity net gain can also be covered by planning conditions.

Conditions

28. I have had regard to the various suggested planning conditions and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents, for clarity and consistency, and to ensure that details are submitted for the Council's approval where relevant.
29. In addition to the standard time limit condition, I have imposed a condition requiring the carrying out of the development in accordance with the approved plans in the interests of certainty. Conditions setting out the time limit for the operational period of the solar farm and its subsequent decommissioning and restoration are necessary in the interests of agriculture and landscape character.
30. Given the site's position and the extent of development, a pre-commencement condition securing construction and environmental management plans is necessary and reasonable in the interests of the environment and protected species, the living conditions of residents, and the safe and efficient operation of the highway. This condition is in an amended form so that it covers two of the Council's suggested conditions (regarding the management of construction works in relation to highway matters and in relation to the environment). I have also not included the details of each suggested condition because such aspects could be confirmed and agreed between the parties at the appropriate point.
31. Pre-commencement conditions securing a soil management plan and detailed drainage design are necessary with respect to agricultural land quality and flooding respectively. A pre-commencement condition securing final tree protection measures, to be implemented prior to machinery being brought onto site to prevent any damage to trees, is necessary in the interests of ecology and character and appearance. Pre-commencement conditions requiring ecological and landscaping management plans are necessary for the same reasons.
32. Conditions 12 and 13 are necessary with regards to recording archaeological assets and mitigating any subsequent disturbance arising from the development. I have imposed a condition relating to the surface of the first 10 metres of the site access in the interests of highway safety.
33. A condition relating to battery safety is necessary in the interests of public safety and pollution. However, as the detail only needs to be secured prior to the installation of the battery storage units, it is not necessary for it to be a pre-commencement condition. A condition securing details of the battery storage facility, including its acoustic barrier, is necessary in the interests of landscape and the living conditions of existing residents. However, this condition is in an amended form from that suggested by the Council to ensure that full details relating to the

battery units and compound are also provided and that the acoustic barrier is thereafter retained and maintained accordingly.

34. Conditions 17, 18 and 19 are necessary with respect to the living conditions of existing residents. Condition 20 is necessary with respect to character and appearance. Condition 21 is necessary for the same reason and in the interests of ecology. However, I have amended the condition from that suggested by the Council because only limited details of any external lighting proposed have been provided; and the submitted ecological details indicate that lighting is not expected and highlight the need for appropriate design of any lighting that is subsequently proposed. I have also not included the appellant's suggested reference to temporary emergency lighting in the condition because the terms 'temporary' and 'emergency' are not sufficiently precise. If such lighting may be required during operation or construction, details of any such temporary emergency lighting can be provided via this condition or condition 6 respectively.
35. Condition 22, which combines two of the Council's suggested conditions, is necessary in the interests of waste reduction and biodiversity. However, the Council's 11th and 15th suggested conditions are not necessary because the drainage condition would cover the former whilst the construction management condition would cover the latter. I have therefore declined to impose them.

Conclusion

36. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, material considerations outweigh the harm that would arise, the conflict with development plan policies and the Framework, and the great weight afforded to the conservation of heritage assets. Consequently, material considerations indicate that the proposed development should be permitted notwithstanding the conflict with the development plan as a whole.
37. For the above reasons, the appeal is therefore allowed.

T Gethin

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 be carried out in accordance with the following approved plans: Site Location Plan (Drawing No 1206-DEPTFORD-004, Rev A); Topographical Plan (Drawing No V02, Rev B); Illustrative Landscape Masterplan (Drawing No 100/Figure 9, Rev B); Solar Layout Plan (Drawing No 1206-DEPTFORD-001, Rev P); Site Access Arrangement (Drawing No JNY11771-RPS-0100-002); Site Access Arrangement Swept Path Analysis (Drawing No JNY11771-RPS-0100-003); Post-Development Flow Exceedance Routes (Document No HLEF85858/FC_Proposed_A, Rev B); General Fence & CCTV Detail (Drawing No ELGIN-FENCE&CCTV-001, Rev B); Solar Panel Sections (Drawing No ELGIN-PANEL-001, Rev H); Typical View of Array (Drawing No ELGIN-PANEL-002); Substation 132kV (Drawing No ELGIN-SUB-004); and Typical Inverter Detail (Drawing No ELGIN-INVERTER-001, Rev I).
- 3) The permission hereby granted shall expire 40 years from the date when electrical power is first exported ('first export date') from the solar farm to the electricity network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the Local Planning Authority no later than one calendar month after the event.
- 4) Not later than 12 months before the expiry of the permission hereby granted, a decommissioning and site restoration scheme shall be submitted for the approval of the Local Planning Authority. The approved scheme shall be implemented within 12 months of the expiry of the permission hereby granted.
- 5) Within 12 months of the development hereby permitted ceasing to be used for the generation and storage of energy of electricity, it shall be permanently removed from the land and the site restored in accordance with the approved details as set out within Condition 4 of this permission.
- 6) No development shall commence until a Construction Management Plan and Construction Environmental Management Plan have been submitted to and approved in writing by the Local Planning Authority. The plans shall be implemented as approved during the construction phase of the development.
- 7) No development shall commence until a soil management plan, which provides measures to improve soil quality and ensure that there will be no loss of soil quality within the operational lifetime of the development hereby permitted, has been submitted to and approved in writing by the Local Planning Authority. The soil management plan shall thereafter be implemented as approved.
- 8) No development shall commence until a detailed drainage design has been submitted to and approved in writing by the Local Planning Authority. No power shall be exported from the development until the drainage works have been completed in accordance with the approved details.
- 9) No development shall commence and no equipment, machinery or materials for the purposes of the development shall be brought onto site until a finalised Tree Protection Plan and Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out

as approved, with the fencing erected prior to the commencement of the development and maintained until the development has been completed and all equipment, machinery and surplus materials have been removed from the site (or phase thereof).

- 10) No development shall commence until an Ecological Management Plan (EMP) has been submitted to and approved in writing by the Local Planning Authority. The EMP shall be implemented in full in accordance with the approved details and shall include the following: Biodiversity Net Gain Plan; description and evaluation of features to be managed; ecological trends and constraints on site that might influence management; aims and objectives of management and appropriate management options to achieve them; prescriptions for management and monitoring actions; preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period); details of the organisation responsible for implementation and delivery of the plan; ongoing monitoring and remedial measures; details of the legal and funding mechanisms to secure the long-term implementation of the plan; and how contingencies and/or remedial action will be identified and implemented where monitoring results show that EMP's aims and objectives are not being met.
- 11) No development shall commence until a detailed Landscape Scheme and Management Plan (LSMP), following the principles contained within the Illustrative Landscape Masterplan (Drawing 100/Figure 9, Rev B), has been submitted to and approved in writing by the Local Planning Authority. The LSMP shall be implemented in full in accordance with the approved details and shall include: details of soft landscaping to include the plant type, size, planting numbers and distances; a programme detailing the timing of the landscaping works in relation to the phasing of construction; confirmation that any trees or plants which die, are removed or become seriously damaged or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with plants of the same size and species; details of a long term landscape management plan which includes details for the watering of the new hedgerow plants and trees which will be managed and maintained at a minimum height of 3m when established; confirmation of the maintenance regime to ensure that all the identified landscaping on the site is continually managed for the lifetime of the development with the objective of ensuring that the visual impact of the development is minimised from both close range views and those available from the wider surrounding landscape.
- 12) No development shall commence until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried in accordance with the approved scheme.
- 13) The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved WSI and (ii) the provision made for analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the Local Planning Authority.

- 14) The site access shall be hard surfaced for the first 10 metres back from the carriageway edge prior to the commencement of any other part of the development hereby permitted.
- 15) Prior to installation of the battery storage units, a detailed battery safety management plan shall be submitted to and approved in writing by the Local Planning Authority. The safety management plan shall accord with the recommendations contained within National Fire Chiefs Council - Grid Scale Battery Energy Storage System planning - Guidance for FRS (or equivalent guidance if replaced). The battery safety management plan must be implemented as approved.
- 16) Prior to installation of the battery storage units, full details of the battery storage units proposed (including dimensions and external appearance), the layout of the battery storage compound and the proposed acoustic barrier shall be submitted to and approved in writing by the Local Planning Authority. The battery storage units shall not be brought into use until the units, compound and acoustic barrier have been completed in accordance with the approved details. The acoustic barrier shall thereafter be retained and maintained for the lifetime of the battery storage units.
- 17) The rating level of noise emitted from the plant and equipment serving the development hereby permitted shall not exceed 35dB LAr,Tr, (as defined in BS 4142:2014+A1:2019) at any time when evaluated at the boundary of noise sensitive receptors. Noise levels shall be measured and rated in accordance with British Standard BS 4142:2014+A1:2019.
- 18) Within 28 days from the receipt of a written request from the Local Planning Authority confirming that problems of glint 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 consent), the solar array operator shall submit a scheme of measures to prevent further glint for the approval of the Local Planning Authority. Within 48 days (or other timescale agreed) of obtaining approval for the scheme, the solar array operator shall fully implement the scheme.
- 19) The CCTV cameras proposed as part of the development hereby permitted shall be angled into the site to avoid a loss of privacy to neighbouring occupiers.
- 20) All electrical cabling between the solar panel rows and the on-site connection buildings shall be located underground and the excavated ground shall be reinstated to its former condition.
- 21) No external lighting shall be installed on site until details of any lighting proposed have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed without further details being submitted to and approved in writing by the Local Planning Authority.
- 22) The development hereby permitted shall be carried out in accordance with the details set out within the submitted Waste Audit Statement and the recommendations within section 4 of the Preliminary Ecology Appraisal Report, 2022 (Updated 2023) (version B) and sections 3.2 and 4.2 of the Ecological Impact Appraisal Addendum June 2024.

END OF SCHEDULE