
Appeal Decision

Site visit made on 11 March 2025

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2025

Appeal Ref: APP/Z5630/W/24/3354873

Land North of Rushett Lane, Malden Rushett, Chessington

- 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 Enso Green Holdings Limited against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/00756/FUL.
 - The development proposed is installation of a battery energy storage system with associated infrastructure and works.
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Decision

1. The appeal is allowed, and planning permission is granted for the installation of a battery energy storage system with associated infrastructure and works at Land North of Rushett Lane, Malden Rushett, Chessington in accordance with the terms of the application, Ref 24/00756/FUL subject to the conditions in the attached schedule.

Preliminary Matters

2. A Great Crested Newt Survey Report (GCN report), Biodiversity Net Gain Plan and Biodiversity Net Gain Headline Results were submitted at the outset of the appeal. They did not result in significant changes to the scheme considered by the Council at the time of their decision and parties have had the chance to comment on them. As such, no one would be prejudiced by my taking them into account in my reasoning.

Main Issues

3. As the proposal does not meet any of the exceptions set out in the National Planning Policy Framework (Framework) it would be inappropriate development.
4. The main issues are the effect of the proposed development on:
 - the openness and purposes of the Green Belt,
 - the character and appearance of the area,
 - biodiversity; and
 - whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Openness

5. Whether or not all the elements of the development constitute a building, they form part of the scheme before me. They would be spread over a large area of the field and be of various sizes, some several metres high. These cumulatively would impact and reduce the spatial openness of the Green Belt.
6. While existing and new landscaping would screen the proposal in many views, it would be partially visible, more so until landscaping matured. Furthermore, the utilitarian appearance of the structures and buildings proposed would contrast with and disrupt views of the site which is currently an undeveloped field and is surrounded by similarly open areas. As such, the development would result in some encroachment into the countryside and harm to visual openness.
7. The activities and comings and goings associated with the construction of the development would affect openness. However, once constructed the site would generate limited traffic and other movements.
8. While a temporary period is sought for the development, the duration would still be several decades. As such, the development would have a greater impact on the openness of the Green Belt and lead to encroachment of the countryside. Although the harm would be moderate, this would be contrary to the Framework where it states openness is an essential characteristic of the Green Belt and Policies CS3 and DM5 of the Core Strategy where they seek to protect open space.

Character and appearance

9. The functional utilitarian appearance and rigid layout of the various different elements of the scheme would be discordant with and untypical of the undeveloped and mostly open fields with verdant boundaries the appeal site is part of and seen with. There would be some loss of existing features, although native planting is proposed and measures to protect existing features. These can be secured by condition. Nevertheless, the proposal would also subdivide the existing field in a somewhat arbitrary way.
10. Longer range views of the site would be limited and mostly screened by existing vegetation. However, it would initially be prominent from closer locations, such as those from the roads adjacent, the nearby junction and the public right of way and bridleway alongside the appeal field. New planting would take some time to mature and effectively screen the scheme. Although mostly in passing views and only glimpsed in part, even then elements would still be seen from nearby views and intrude on views of the open countryside. The proposal seeks temporary permission. Nevertheless, the harm would still be in place for a number of years.
11. As such, the proposed development would harm the character and appearance of the area. Given the scale of the scheme and time for planting to take effect, the harm would be moderate. It would fail to accord with Policies D3 of the London Plan and CS8 and DM10 of the Core Strategy where they seek to protect and respond to local character and landscape setting.

Biodiversity

12. The GCN report indicates that nearby ponds did not support breeding populations, based on eDNA survey results. Although one was not surveyed, given the distance for the site and lack of evidence at the other ponds along with the type of habitat at the site, it is reasonably unlikely that the species would be active there. It was also concluded that it was reasonably unlikely that GCN were active within suitable terrestrial habitat nearby. A Method Statement for Reasonable Avoidance Measures is provided and in the absence of compelling evidence to the contrary, this would be sufficient.
13. The proposal would fall short of the required watercourse gain element for biodiversity net gain on site. However, the appellant can purchase statutory biodiversity credits, and this would be confirmed as part of a Biodiversity Gain Plan. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the biodiversity gain condition that development may not begin unless a Biodiversity Gain Plan has been submitted to the planning authority, and the planning authority has approved the plan. Therefore, no specific condition is required in the schedule in relation to this matter.
14. For other elements there would be biodiversity net gain considerably greater than 10% and as such, the scheme would result in additional enhancements in that regard.
15. Consequently, the proposed development would enhance biodiversity. Due to the extent of the gain, this attracts small weight. The proposal would accord with Policies G6 of the London Plan and Policies CS3 and DM6 of the Core Strategy where they, in part, state developments should manage impacts on and promote biodiversity and net gain.

Other Considerations

16. The significance of the Second World War pillboxes at and near the site is, in part, from their historical significance. Currently, they are largely screened by vegetation and their setting does not contribute to their significance. There would be limited, if any, direct views between the scheme and the pillboxes. Therefore, the proposal would not harm the significance or setting of them.
17. Due to the distance between the site and them, along with the scale of the elements proposed, there would be no harmful effects on sunlight or daylight at nearby properties. There is no compelling evidence that there would be any harm to nearby residents regarding fumes or hazardous substances from the scheme.
18. A Construction Management Plan would reduce any noise, disturbance or traffic implications of the scheme during that period. Details of cabling works would also assist in this. Due to lower levels of activity, during operation the scale and type of movements and noise at the site would not be harmful. Although I saw the nearby roads to be relatively busy, there would be sufficient visibility at the access to allow vehicles and other road users to see vehicles emerging and vice versa.
19. The lack of harm from the above is a neutral factor.

20. The Fair Oak Lane appeal related to a different site, and extent of development. Therefore, it would have had different factors to weigh in the balance and is materially different to the scheme before me.
21. There is a need for improved facilities, such as the appeal scheme proposes and capacity in the south of England due to the higher energy demands in the region. While not all of the components of the scheme are directly related to renewable energy, they form part of the facilitating and associated infrastructure to enable it. The scheme would assist in the transition to low carbon electricity generation by allowing greater use of renewable energy electricity without concerns of shortfalls in supply due to the flexibility the scheme would allow. It would reduce risks from shortfalls in supply, energy security and blackouts. Moreover, it would contribute to a low carbon economy.
22. These aims are supported in local and national planning policy. The Framework indicates that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. The scheme would align with the Framework in meeting the needs of the present without compromising the ability of future generations to meet their own needs, support the transition to net zero by 2050 and take full account of all climate change and support renewable and low carbon energy and associated infrastructure. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience.
23. I give the benefits towards energy security and supporting the transition to low carbon energy and reducing climate change emissions each substantial weight.
24. There would be economic and social benefits associated with the construction and maintenance on the site. Those related to construction would be temporary and ongoing jobs and works would be limited. Hence, these attract small weight, as do benefits relating to soil generation due to the extent of the land involved and biodiversity enhancements.
25. The other considerations in this case clearly outweigh the harm that I have identified. Looking at the specific considerations of the scheme, very special circumstances exist which justify the development. It would therefore accord with Policy G2 of the London Plan and the Framework.

Conditions

26. In addition to the standard time limit condition, I have imposed one requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. A condition limiting the duration of the permission and requiring restoration of the site is necessary to return the land to its previous condition at the end of the period sought.
27. A construction logistics and management plan is necessary to prevent harm to highway safety and the living conditions of nearby residents and combines related elements of other suggested conditions such as working hours. Conditions for a landscape scheme, along with ecological plans, surface water drainage and safety management are imposed. These are necessary to prevent harm to character and appearance, biodiversity, to reduce the risk of flooding and prevent harm to nearby

residents and users of the site. These details are needed prior to commencement as it relates to and affects the early parts of the development.

28. Compliance with the Reasonable Avoidance Measures for Great Crested Newt is secured to prevent harm to the species. The provision of the access and visibility splays is conditioned in the interest of highway safety. A condition relating to further noise assessment is not necessary as sufficient details have already been provided in that regard. Final details of the noise mitigation measures are required to prevent harm to living conditions of nearby residents.

Conclusion

29. For the reasons given above the appeal should be allowed.

Stuart Willis

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 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 RL-01-P01 Rev 05
 - Proposed Site Plan RL-01-P02 Rev 04
 - BESS Inverter/Transformer Elevations RL-01-P03
 - Internal Access Road Detail RL-01-P04
 - BESS Switchroom Elevations RL-01-P05
 - BESS Control Room Elevations RL-01-P06
 - CCTV Elevations RL-01-P07
 - BESS Battery Container Elevations 40ft RL-01-P08
 - BESS Battery Fence and Gate Elevations RL-01-P09
 - Water Tank RL-01-P12
 - Landscape Strategy Plan P23-2365_EN_04_
- 3) The planning permission hereby granted shall be for a temporary period only, to expire 40 years after the date of the first import of electricity to the development. Written confirmation of the first import date shall be provided to the local planning authority within one month after the first import date.
- 4) The development hereby permitted shall be removed and the land restored to its former condition on or before the end of the period for which planning permission is granted, or in accordance with a scheme of restoration work and implementation programme that shall first have been submitted to and approved in writing by the local planning authority.
- 5) No development shall commence until a Construction Logistics and Management Plan in line with the outline Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Logistics Plan shall thereafter be implemented in accordance with the approved details.
- 6) No development shall commence until a detailed soft landscaping and planting scheme, implementation programme and management plan have been submitted to and approved in writing by the local planning authority. The development shall be carried out and managed thereafter in accordance with the approved details.
- 7) No development shall commence until a Construction Environmental Management Plan and ongoing Landscape and Ecological Management Plan have been submitted to and approved in writing by the local planning authority. The development shall be carried out and managed thereafter in accordance with the approved details.
- 8) No development shall commence until a detailed surface water drainage scheme for the site, including an implementation programme and

management and maintenance plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 9) No development shall commence until a Battery Safety Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall prescribe measures to facilitate safety during the construction, operation and decommissioning of the battery storage system. The development shall be operated in accordance with the approved Battery Safety Management Plan at all times.
- 10) No development shall commence until noise mitigation measures and an implementation programme, in line with section 5.1.4. Mitigation by Design of the Noise Impact Assessment for Planning Application (March 2024) have been submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved details and retained thereafter.
- 11) Prior to any other part of the development, the access and visibility splays of 2.4m x 120m from both directions shall be provided and retained as such thereafter.
- 12) The development shall be carried out in accordance with the Reasonable Avoidance Measures for Great Crested Newt set out within Section 7 of the Great Crested Newt Survey Report (July 2024).