



Appeal Decision

Hearing held on 25 March 2025

Site visit made on 25 March 2025

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 May 2025

Appeal Ref: APP/Y3940/W/24/3357286

Land at Stonehill, Minety, Wiltshire SN16 9DX

- 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 Penso Power Limited against the decision of Wiltshire Council.
 - The application Ref is PL/2022/05504.
 - The development proposed is installation of a Battery Energy Storage System (BESS) together with associated ancillary infrastructure, equipment and access arrangements.
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Decision

1. The appeal is allowed and planning permission is granted for installation of a Battery Energy Storage System (BESS) together with associated ancillary infrastructure, equipment and access arrangements at Land at Stonehill, Minety, Wiltshire SN16 9DX in accordance with the terms of the application, Ref PL/2022/05504, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Penso Power Limited against Wiltshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appellant has requested that an amended suite of drawings and documents (Option 2) that did not form part of the Council's decision be taken into consideration within this appeal. Option 2 relates to minor amendments in site layout in order to comply with NFCC draft Guidance on Grid Scale Battery Energy Storage Systems.
4. Option 2 has been the subject of public consultation, and the Council have had the opportunity to comment on it as part of this appeal. Given the minor nature of the amendments, that the amendments do not seek to evolve the scheme, and the further consultation exercise that has been carried out, I do not consider that my acceptance of Option 2 would be procedurally unfair and result in prejudice to other parties. Therefore, I have considered Option 2 in the determination of this appeal.
5. Since the determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published. Parties have had the opportunity to comment on the changes within the appeal timetable and at the Hearing. Therefore, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

7. The appeal site lies within Landscape Character Type 11 'Rolling Clay Lowland' and Landscape Character Area 11B 'Minety Rolling Clay Lowland' of the Wiltshire Landscape Character Assessment, as well as Character Area 4: 'Braydon Wooded Plateau' of the North Wiltshire Landscape Character Assessment. The surrounding area is locally undulating and has a rural agricultural character demonstrating some of the key characteristics of the Landscape Character Type and Areas it falls within, including pasture fields of varying scale and coppice woods.
8. The appeal site itself also reflects these characteristics, being on rising topography, enclosed by hedgerows, and adjacent an area of woodland, and positively contributes to the surrounding landscape character.
9. Nevertheless, existing electricity supply infrastructure including substations, Battery Energy Storage Systems (BESS), pylons and overhead power lines are locally conspicuous in the landscape. There is broad agreement between the main parties that the proposal would contribute to the cumulative landscape and visual impact of this electricity supply infrastructure, although the extent is disputed, including any benefits of proposed landscaping and its effectiveness in mitigating adverse impacts of the proposal.
10. At my site visit, I observed the appeal site from the various viewpoints outlined in the appellant's Landscape and Visual Appraisal (LVA). In terms of landscape effects, the site character would inevitably change due to the use of the site for electricity infrastructure and associated presence of utilitarian structures and paraphernalia which would be seen as an industrialising feature in the agricultural landscape. Moreover, as highlighted by the Council at the Hearing, terracing ground works and changes in landform would further emphasise this change in character.
11. Although a notable area of the appeal site would be subject to landscaping, the presence of the electricity supply infrastructure would result in a fundamental and dominant change to the appeal site, resulting in a major adverse change to the overall site character. Nevertheless, given the enclosed nature of the site, and the scope of the proposed landscaping strategy which includes a native planting mix aligning with the existing surrounding planting typology, I find landscape harm is localised and minor in the context of the wider landscape character.
12. In terms of visual amenity, whilst the Council questions the use of the term 'Neutral' effect by the appellant, this is clearly defined within the LVA as '*no discernible deterioration or improvement in existing views; the proposals would avoid being visually intrusive*'. I observed that this would be the case from views of users of Public Right of Way (PROW) CHAR15, where views of the appeal site are largely obscured due to undulating landform and existing hedgerow planting.
13. Glimpse views of the appeal site are available from the B4940 highway. This highway is subject to a 50 miles per hour speed limit near the appeal site and I observed vehicles on the highway to be fast moving. Users of the highway have

limited opportunities to gain views of the appeal site due to intervening hedge rows and vegetation and in combination with speeds of users of the highway, I find the effect would also be neutral.

14. However, views of the part of the site which is on higher ground are available from viewpoints on PRow CHAR16, such as LVA viewpoint VP01c. Although I heard at the Hearing that the route of this PRow has been informally altered, my observations from the PRow where that this has not fundamentally changed the available views of the appeal site. Where views are available, the proposal would be seen within the context of the existing BESS site which falls within the foreground of the appeal site. Furthermore, the visual effect of the proposal from these available viewpoints would be softened by proposed landscaping. Whilst perceptible, the proposal would not be visually intrusive with minor deterioration of existing views.
15. With regard to cumulative effects, the proposal would increase the quantum of electricity supply infrastructure within close proximity to existing and consented schemes. Nevertheless, whilst spatially the proposal would contribute to the cluster of existing and consented schemes, I observed that opportunities to experience the proposal, and indeed surrounding schemes in isolation, or indeed two or more of the schemes at the same time is limited due to topography and intervening mature woodland and hedge row planting. As such I find that the cumulative effects in planning terms would result in no more than modest harm.
16. Whilst the rural character of the wider area would remain the dominant influence, the proposal would result in a harmful change in the appeal site character, notwithstanding any beneficial effect of proposed landscaping. This would erode the contribution of the appeal site to the surrounding landscape character. Nevertheless, I find that overall, there would be minor harm to the character and appearance of the area. The proposal would conflict with Core Policy 51 and Core Policy 57 of the Wiltshire Core Strategy January 2015 (CS). Amongst other matters, these policies seek to ensure a high standard of design in all new developments, whilst protecting, conserving and where possible enhancing the landscape.

Other Matters

17. A number of other matters have been raised by various parties and I have taken them all into account. These include colour of structures, fire risk, effect of on-site lighting, effect of noise disturbance and highway and bridleway safety both during construction and thereafter.
18. However, whilst I take these representations seriously, I have not been presented with compelling substantive 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. Moreover, some of the issues raised, such as those relating to colour, construction impacts, noise and light pollution, and fire safety can also be covered by the imposition of planning conditions. Consequently, they do not lead me to a differing overall conclusion.

Planning Balance

19. The proposed development would cause a minor degree of harm to the character and appearance of the area. Therefore, the proposal would be contrary to CS Core Policy 51 and CS Core Policy 57. I give significant weight to this harm.
20. The National Planning Policy Framework (Framework) outlines that the planning system should support the transition to net zero by 2050 and support renewable and low carbon energy and associated infrastructure. The Framework also states that significant weight should be given to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future. Furthermore, Wiltshire Council declared a climate emergency in February 2019, with an aim to make the County of Wiltshire carbon neutral by 2030.
21. The Planning Practice Guidance (PPG) also outlines that electricity storage can enable us to use energy more flexibly and de-carbonise our energy system cost-effectively for example, by helping to balance the system at lower cost, maximising the usable output from intermittent low carbon generation (e.g. solar and wind), and deferring or avoiding the need for costly network upgrades and new generation capacity.
22. National Policy Statements (NPS) for the delivery of major energy infrastructure recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. The overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3) both state that the NPSs can be a material consideration in decision making on applications that both exceed or sit under the thresholds for nationally significant projects. The NPS emphasises that it is critical that the UK continues to have secure and reliable supplies of electricity and to meet electricity demand at all times and recognises the important role that electricity storage will play in meeting Net Zero ambitions .
23. The proposal would provide a flexible electricity storage facility with a design capacity of 50MW which would allow the local Grid network to operate more efficiently; taking excess energy, storing it and releasing it onto the network when the Grid needs it at times of peak demand. It would help meet an essential need arising from amongst other things the transition process away from large-scale fossil fuel installations to allow renewable energy installations to fulfil their value to future energy requirement and help to achieve energy security.
24. There is a clear national need for BESS facilities and the proposal would make a modest but nevertheless important contribution to ensuring local and national energy security and supply, serving increasing demand and moving towards a low carbon future. The appeal site is well related to a National Grid substation and the appellant has accepted a grid connection offer, providing a distribution connection date of 1 Jan 2026.
25. The proposal would contribute to achieving net zero, meeting the need for energy storage, achieving energy security, and reducing electricity cost. Collectively these benefits are substantial and attract significant weight in favour of the proposal. Further benefits would also flow from the proposal including to the local economy through employment and associated use of local businesses both during construction, and longer term. The proposal would also be able to achieve a

substantial on-site biodiversity net gain through additional planting and enhancement, both of which I afford moderate weight in favour of the proposal.

26. 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 and associated conflict with development plan policies. Consequently, material considerations indicate that the proposal should be permitted notwithstanding the conflict with the development plan as a whole.

Conditions

27. A revised list of suggested planning conditions was provided following discussions at the Hearing. I have considered these against the advice given in the Framework and PPG. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability.
28. In addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty. A condition setting out the time limit for the operational period of the proposal and its subsequent decommissioning is necessary in the interests of landscape.
29. Pre-commencement conditions requiring a scheme for the protection and retention of trees, details of external finishes, an Arboricultural Method Statement, details of all earthworks, a Construction Ecological Management Plan, a Landscape and Ecological Management Plan, a Construction and Environmental Management Plan, and details of drainage arrangements both during construction phase and operation, are necessary in relation to character and appearance, biodiversity and protected species, living conditions of nearby residents and to manage flood risk and pollution.
30. A further pre-commencement condition is necessary requiring a written programme of archaeological investigation in order to enable the recording of any matters of archaeological interest.
31. A condition requiring an Emergency Plan prior to the delivery of any batteries on site is also necessary in the interests of public safety and prevention of contamination.
32. I have imposed conditions which are necessary to ensure that soft landscaping and ecological recommendations, mitigation and enhancement measures are carried out in the interests of character and appearance and biodiversity.
33. Conditions are also necessary to ensure the proposal does not result in harmful noise levels in order to safeguard the living conditions of nearby residents, and that external lighting is appropriate to minimise light spill in the interests of the landscape and wildlife.

Conclusion

34. For the above reasons, the appeal is allowed.

S Harrington

INSPECTOR

Schedule

Conditions

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
- 2) The permission hereby granted shall be limited to a period of 30 years from the date when electricity is first stored from or distributed to the electricity network (whichever is first) (First Use). Written confirmation of the First Use shall be given to the Local Planning Authority within one month of the First Use. Within six months of the expiry of this permission or within six months of the development ceasing to store electricity and distribute it to the electricity network for a continuous period of six months (whichever is sooner), the development and associated infrastructure shall be dismantled and removed from the site and the land restored in accordance with a decommissioning and restoration scheme that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 3) The development hereby permitted shall be carried out in accordance with the details shown in the following approved plans:
 - 7626-SP-01_Rev 04- Site Location Plan
 - 7626-SP-02_Rev 02 - Site Location Plan
 - 7626-SP-03_Rev 02- Site Location Plan
 - Site Location Plan Option 2 With Two Named Roads
 - 7626-PL-04_Rev 06 - Site Layout Plan (Option 2)
 - 7626-SD-01_Rev 03 - Auxillary Transformer
 - 7626-SD-02_Rev 03 - Battery Modules
 - 7626-SD-03_Rev 03 - Power Conversion System
 - 7626-SD-04_Rev 03 - 10ft DC Container
 - 7626-SD-05_Rev 03 - CCTV & Floodlight Column
 - 7626-SD-06_Rev 03 - Perimeter Fence & Access Gate
 - 7626-SD-07_Rev 03 - Customer Transformer
 - 7626-SD-08_Rev 03 - Customer Switchgear
 - 7626-SD-09_Rev 03 - 132kV Substation
 - 7626-SD-10_Rev 03 - 40ft Spare Parts Container
 - 7626-SD-11_Rev 03 - Access Track
 - 7626-SD-12_Rev 01 - 20Ft Spares Container
 - 7626-SD-13_Rev 01 - DNO Control Room
 - 7626-FS-01_Rev 04 - Fire Strategy Plan
 - 7626-EL-01 Contextual Elevations (Sheet 1 of 2) Rev 04
 - 7626-EL-02 Contextual Elevations (Sheet 2 of 2) Rev 04
 - 862_202 Landscape Mitigation Plan _Rev C
 - 862_203 Details and Notes _Rev C
- 4) Notwithstanding the details shown on the approved plans, no development shall commence on site until details of the materials, colour and finish of any structures and containers, poles, fencing, gates, have been submitted to and

approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being first brought into use and retained as such for the lifetime of the development.

- 5) No demolition, site clearance or development shall commence on site, and no equipment, machinery or materials shall be brought on to site for the purpose of development, until a scheme for the protection and retention of trees as identified within Arboricultural Impact Assessment (November 2024) by Treework Environmental Practice and shown on the Tree Protection Plan (drawing no. 241121-2.2-MIVBS-TPP-NC) has been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented in full.

The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas.

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance with arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practice.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

[In this condition “retained tree” means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later].

- 6) No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS), in accordance with the recommendations of the Arboricultural Impact Assessment (November 2024) by Treework Environmental Practice, prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:
- i. A specification for scaffolding and ground protection within tree protection zones;
 - ii. A schedule of tree works;
 - iii. Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
 - iv. Plans and particulars showing the siting of the service and piping infrastructure;

- v. A full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works;
 - vi. A full specification of the proposed access within the root protection areas of G1 and G17, including details of the cellular confinement system.
 - vii. Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and
 - viii. Details of all other activities, which have implications for trees on or adjacent to the site.
 - ix. In order that trees to be retained on-site are not damaged during the construction works and to ensure that as far as possible the work is carried no demolition, site clearance or development should commence on site until a pre-commencement site meeting has been held, attended by the developer's arboricultural consultant, the designated site foreman and a representative from the Local Planning Authority, to discuss details of the proposed work and working procedures.
 - x. Subsequently and until the completion of all site works, site visits should be carried out in accordance with a timetable to be agree with the Local Planning Authority by the developer's arboricultural consultant. A report detailing the results of site supervision and any necessary remedial works undertaken or required should then be submitted to the Local Planning Authority. Any approved remedial works shall subsequently be carried out under strict supervision by the arboricultural consultant following that approval.
- 7) No development shall commence on site until details of all earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, and the nature and source of the material, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the details approved under this condition.
- 8) No development shall commence on site until:
- i. A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
 - ii. The approved programme of archaeological work has been carried out in accordance with the approved details.
- 9) No development shall commence on site until a Construction Ecological Management Plan (EMP) has been submitted to, and approved in writing by, the local planning authority. The EMP shall provide details of the avoidance,

mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- i. Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- ii. Working method statements for protected/priority species.
- iii. Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- iv. Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- v. Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence. Development shall be carried out in strict accordance with the approved EMP.

10) No development shall commence on site until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and approved in writing by, the local planning authority. The content of the LEMP shall include, but not necessarily be limited to, the following information:

- i. Description and evaluation of features to be managed;
- ii. Landscape and ecological trends and constraints on site that might influence management;
- iii. Aims and objectives of management;
- iv. Appropriate management options for achieving aims and objectives;
- v. Prescriptions for management actions;
- vi. Preparation of a work schedule;
- vii. Details of the body or organisation responsible for implementation of the plan;
- viii. Ongoing monitoring and remedial measures; and
- ix. Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The plan shall also set out (where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented.

The LEMP shall be implemented in full in accordance with the approved details.

11) No development shall commence on site 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 details of the following relevant measures:

- i. An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
- ii. A description of management responsibilities;
- iii. A description of the construction programme;

- iv. Site working hours and a named person for residents to contact;
- v. Details of vehicle routing to the site
- vi. Detailed site logistics arrangements;
- vi. Details regarding parking, deliveries, and storage;
- vii. Details of the measures to control the emission of dust, dirt and noise during construction;
- viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
- ix. Communication procedures with the LPA and local community regarding key construction issues;
- x. Details of the programme of works to secure the mitigation measures to improve visibility at the site access as recommended within the Transport Statement (November 2024) by Miles White Transport; and
- xi. A pre-commencement and post-construction condition survey of the adjoining highway.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 12) Notwithstanding the contents of the Flood Risk Assessment & Surface Water Strategy (November 2024) by nijhus, no development shall commence on site until full details of the proposed scheme for the discharge of surface water from the site (including surface water from the access / gravel areas), incorporating sustainable drainage details together with permeability test results to BRE365 and showing in improvement in discharge rate from the site, has been submitted to and approved in writing by the local planning authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.
- 13) No development shall commence on site until details of the drainage arrangements during the construction phase have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the details approved.
- 14) The proposed soft landscaping scheme, as shown on the Landscape Plans (drawings no. 862_202 Rev C and 862_203 Rev C), shall be carried out in the first planting and seeding season following the first operation of the development or the completion of the development whichever is the sooner, or in accordance with a schedule and timetable to be agreed in writing by the local planning authority. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 15) The development hereby permitted shall be carried out in full accordance with the recommendations, mitigation measures, and enhancement measures detailed within the Preliminary Ecological Appraisal Option 2 prepared by Western Ecology Ltd (November 2024), Biodiversity Net Gain Plan by Western Ecology Ltd (November 2024), Biodiversity Net Gain Metric (November 2024)

and shown on the Landscape Plan (drawings no. 862_202 Rev C and 862_203 Rev C).

- 16) The noise emitted from the site shall not exceed the maximum level detailed within the assessment Noise Assessment Report (November 2024) by inacoustic.
- 17) A post installation noise assessment shall be carried out within 3 months of First Use of the development to confirm compliance with the submitted Noise Assessment Report (November 2024) by inacoustic and submitted to the local planning authority for approval in writing. Any additional steps required to achieve compliance shall thereafter be taken in accordance with a timetable to be agreed with the Local Planning Authority. The details as submitted and approved shall be implemented and thereafter be permanently retained.
- 18) Prior to the delivery of any batteries to the site, an Emergency Plan shall have been submitted to and agreed in writing by the Local Planning Authority. The Emergency Plan shall include measures to address the consequences of any thermal runaway event, and in particular fire-fighting provision, water supply resilience and runoff contamination. The agreed Emergency Plan shall be implemented for the duration of the life of the development.
- 19) Notwithstanding the details shown on the approved plan, no external artificial lighting shall be used or installed on site until lux contour plots/lighting contour plans for all proposed lighting have been submitted to and approved in writing by the Local Planning Authority.

Lighting at the site shall be in strict accordance with the approved details and no additional external lighting shall be installed either during construction or operation.

End of Conditions

APPEARANCES

FOR THE APPELLANT:

David Hardy LLB (Hons), BCL (Hons)	CMS Partner, Solicitor;
Gael Hardie LLB (Hons)	CMS Senior Associate, Solicitor;
Nick Perrett Dip-LA BA(Hons)	Landscape Consultant;
Ben Lewis MRTPI	Planning Consultant;
Anna Murray MRTPI	Principal Planning Manager (The Appellant).

FOR THE LOCAL PLANNING AUTHORITY:

Morgan Jones MRTPI	LPC (Trull) Ltd, Planning Consultant;
Peter Radmall MA, BPhil, CMLI	Landscape Consultant;
Adrian Walker MRTPI	Planning Manager.

INTERESTED PARTIES:

Councillor Elizbeth Threlfall	Wiltshire Council;
Tom Blandon	Resident / Parish Councillor;
Richard Needham	Land Owner;
Ben Harris	Assistant Planner – BW ESS;
James Davis	Head of Planning – BW ESS.

DOCUMENTS submitted following the Hearing –

Draft conditions – as updated following discussion at Hearing.