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## Appeal Decision

Site visit made on 11 June 2025

**by B Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 26 June 2025**

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**Appeal Ref: APP/E2340/W/24/3356178**

**Land to the north of Spurn Clough Cottage, Greenhead Lane, Reedley, BURNLEY BB12 9DU**

- 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 Moor Isles Farm Energy Storage Limited against the decision of Pendle Borough Council.
  - The application Ref is 23/0507/FUL.
  - The development proposed is the erection of a battery storage facility with associated infrastructure.
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### Decision

1. The appeal is allowed, and planning permission is granted for the erection of a battery storage facility with associated infrastructure at Land to the north of Spurn Clough Cottage, Greenhead Lane, Burnley BB12 9DU in accordance with the terms of the application, Ref 23/0507/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

### Applications for costs

2. An application for costs has been made by Moor Isles Farm Energy Storage Ltd against Pendle Borough Council. This is the subject of a separate decision.

### Preliminary Matters

3. An amended plan has been submitted showing the height of the acoustic fence at 3.5 metres on the contextual elevation sheets (Ref: EUR001-EL-01 Rev B and EUR001-EL-02 Rev B). This error is described as an oversight by the appellants and the amended plan now aligns the height of the fence with that shown on the acoustic fence plan, the illustrative landscape proposals and the Noise Assessment. As such, no parties would be prejudiced by my taking this amended plan into account, which I have therefore accepted.
4. A screening opinion has been undertaken in accordance with the Town and Country Planning (Environmental Impact Assessment (EIA)) Regulations 2017. Considering the nature, scale and location of the proposed development and nature of the receiving environment, whilst there may be some impact on the surrounding area resulting from this development, it would not be of a scale and nature likely to result in significant environmental effects triggering the need for EIA. As a result, the proposal is not deemed to be EIA development.

## Main Issues

5. The main issues are:

- Whether the proposal would amount to inappropriate development in the Green Belt, its effect on openness, and whether any harm caused by the proposal, by virtue of being inappropriate development, and any other identified harm, would be clearly outweighed by other considerations to result in 'Very Special Circumstances', and
- the effect of the proposal on the character and appearance of the area.

## Reasons

### *Inappropriate development*

6. The appeal site is within the Green Belt. Policy ENV2 of the Pendle Local Plan Part 1: Core Strategy [2015](CS) relates to achieving quality in design and conservation. This includes the requirement for proposals to maintain the openness of the Green Belt by way of siting, size, design and appearance. The policy is silent as to how it seeks to protect the openness of the Green Belt and the Council has not directed me to other local policy that relates to the Green Belt. The National Planning Policy Framework (the Framework) establishes the national policy objective for the protection of the Green Belt. Paragraph 154 (a-h) defines different types of development that would not be inappropriate development in the Green Belt. It is uncontested by main parties that the proposed Battery Energy Storage Site (BESS) would not comply with these provisions. I see no reason, within the evidence, to disagree with this assertion.
7. Nonetheless, the Framework also describes, at paragraph 155, that development should be regarded as not inappropriate in the Green Belt if it would (a) utilise grey belt land and not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the plan area, (b) meets a demonstrable need, (c) would be in a sustainable location and would (d) meet the 'Golden Rules' as defined by paragraphs 156 and 157.
8. The Framework describes the grey belt as "*land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143*".
9. Paragraph 143 refers to the five purposes of the Green Belt. This includes (a) to check unrestricted sprawl of large built-up areas, (b) to prevent neighbouring towns merging and at (d) to preserve the setting and special character of historic towns. The site is within the open countryside, to the west of the town of Brierfield and south of the village of Fence. The site is limited in size, is set away from large built-up areas and separated from Burnley and Brierfield by open fields. Despite the Council's assertions I find that local settlements would not constitute a large built-up area. Consequently, the site only marginally contributes to preventing unrestricted sprawl of a large built-up area and does not therefore make a strong contribution to the purposes of paragraph 143(a).
10. The proposal is for a temporary use, albeit for 40 years. Although this is a long period of time, it demonstrates that the proposal would not be permanent and is reversible. Consequently, the proposal would not result in permanent, irreversible development. Furthermore, it would not result in neighbouring towns or

settlements merging and would therefore not contribute to the purpose of paragraph 143(b). Also, there is no evidence that the site would affect the setting or special character of a historic town and thus would not contribute to the purpose of paragraph 143(d). Accordingly, the appeal site would amount to grey belt land, it is therefore necessary to consider whether the proposal would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan, in satisfaction of paragraph 155(a).

11. The third purpose of the Green Belt, as identified by paragraph 143(c) is to safeguard the countryside from encroachment. The site is within the open countryside, bisected by electricity pylons. The proposed development would alter the appearance of the site, consisting of a range of equipment containers, acoustic fencing, engineering works to reprofile the land and a bund. Nonetheless, whilst having the appearance of an industrial form of development this would be relatively well contained within the site. Therefore, despite the Council's contrary assertion, the site does not make a strong contribution to assisting in safeguarding the countryside from encroachment, particularly when calibrated in consideration of the remaining Green Belt across the area of the Plan. As such, the proposal would not conflict with paragraph 143(c).
12. Paragraph 143(e) of the Framework requires consideration as to whether the proposal would assist in urban regeneration, by encouraging the recycling of derelict or other land. The site does not have a degraded appearance and is currently used for agricultural purposes. I recognise that the proposal needs to be located close to the national grid and the site provides locational benefits in meeting that objective<sup>1</sup>. The Council accepts that the absence of alternative sites weighs in favour of the proposal. Also, whilst several sites in industrial areas were considered by the appellant<sup>2</sup>, these have been reasonably discounted due to an absence of interest from the landowner. Furthermore, whilst a recent planning application, for a BESS at Old Hey Farm, demonstrated a potential alternative site, this was for a much larger BESS (99.9 MW) and was refused permission. This was therefore subject to different search criteria and its existence, as an alternative site, does not counter the appellant's assertion that an alternative feasible and suitable site does not exist.
13. I am cognisant that interested parties have suggested that the alternative site assessment raises some questions. However, the assessment has been accepted by the Council as being robust evidence and I am unconvinced that any alternative sites, identified within the evidence, present a clear alternative suitable location. Also, whilst the Council suggest that alternative sites may have become available, it has not presented alternatives that could be regarded as being reasonably available. Furthermore, there is no requirement in national or local policy for a sequential site assessment to be undertaken to find the most sequentially preferable site and to require this would be to exceed a reasonable approach to this matter.
14. Furthermore, the appellant has demonstrated that there are no industrial sites or brownfield sites, such as consisting of derelict land, that is readily available within sufficient proximity of the site to meet the scheme's requirements. As such, the proposal would not conflict with paragraph 143(e). Thus, in being grey belt land

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<sup>1</sup> Alternative Site Search, axis, November 2023

<sup>2</sup> Such as those of Shuttleworth Mead Business Park, Burnley Bridge and Liverpool Road

and not fundamentally undermining the remaining purposes of the Green Belt, the proposal would meet criteria 155(a) of the Framework.

15. Turning to paragraph 155(b), the proposed BESS would provide network balancing and stabilisation services and would store power from the grid at times of excess supply. This would involve storing energy at times of low demand and exporting stored electricity back into the grid at times of high demand. The facility supports the creation of power from renewable generating sources, such as wind and solar, addressing the fluctuating delivery of such sources into the grid. The provision of the BESS is therefore an important component of national electricity generation and management as the country moves towards a greater reliance on renewable energy and net zero. Moreover, National Grid's 'Future Energy Scenarios'<sup>3</sup> explains that between 29GW and 36GW of total electricity storage capacity will be required by 2030, whilst it records that the UK has approximately 4.7GW at present. As a result, the facility would help meet an unmet need for this type of technology, addressing paragraph 155(b).
16. Paragraph 155(c) of the Framework requires consideration as to the accessibility of the site with particular regard to paragraphs 110 and 115. In the promotion of sustainable transport these paragraphs require development to limit the need to travel, to offer a genuine choice of travel and for sustainable transport modes to be prioritised. However, it is also recognised in paragraph 110 that sustainable transport solutions will vary between urban and rural areas and that this should be taken into account. The site is alongside a country lane. It is close to urban areas and would attract a very low number of visits due to the form of development proposed, albeit construction traffic would provide a short focus of activity over a short period. In contrast, it would require only limited attendance for maintenance through the duration of the operational phase of the proposal. As such, taking the rural location of the site and the limited transport needs of the scheme into consideration, the site is within an accessible location for the purposes of the proposed use and in satisfaction of 155(c).
17. Finally, paragraph 155(d) requires development to meet the 'Golden Rules'. However, as the proposal is not for a major housing development this is not applicable.
18. Accordingly, the proposal would comply with paragraph 155, meaning that it would be deemed to be not inappropriate development in the Green Belt. As a result, the proposal would accord with CS policy ENV2, with respect to the effect on the Green Belt. As the proposal would not be inappropriate, it is unnecessary to consider its effect on openness or whether any very special circumstances exist.

#### *Character and appearance*

19. There is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people observing the development in places where it can be viewed, such as from roads, public rights of way and individual dwellings.

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<sup>3</sup> Future Energy Scenarios, National Grid, July 2024

### Landscape character

20. The appeal site consists of a field used for arable farming and has low wattage pylons running through the southern end of the site. It is adjacent to Greenhead Lane within the open countryside and is close to the small village of Fence and to the west of Brierfield. The site is on a gradual gradient running down towards a valley floor to the west. Despite the pylons on site, the site is largely undeveloped and makes a positive contribution, as an open area of land, to the surrounding open countryside.
21. The site is also around 1 kilometre to the closest point of the Forest of Bowland National Landscape (formerly known as an Area of Outstanding Natural Beauty) whose special qualities include its outstanding landscape, wild open spaces and being a landscape rich in landscape. The appeal site is within National Character Area 35: 'Lancashire Valleys'. On a county level the site, and most of its study area, is within the landscape character area LCA6a 'Calder Valley', with part of the study area being within the 'Industrial Age' character area. This area can be characterised as containing a rolling landscape with arable and pastoral fields interspersed with deciduous woodland. The area has medium to high landscape value and a low capacity to accommodate development.
22. The proposed BESS would include containerised battery units, ancillary infrastructure, an acoustic fence, a substation, a Distribution Network Operator's (DNO) Control room, CCTV system, new gravel tracks, landscaping consisting of an earth bund and new planting. The proposed development would cover a wide area, but due to the relatively low-lying nature of the proposal and the retention of existing boundary hedging, the effect on the wider landscape would be relatively modest.
23. As such, the proposed scheme, would not affect the National Landscape but would result in some localised landscape harm. However, it would retain the field boundaries and thus the field pattern and distribution of boundaries in the area. Consequently, the scheme would result in only a small magnitude of change to the character of the wider landscape. Accordingly, the proposal would result in a moderate impact on the area's landscape character leading to some, albeit modest, harm.

### Visual impact

24. The countryside surrounding the appeal site includes dispersed rural dwellings and some agricultural development, which are generally grouped along the lane. Due to its open and agricultural character the field makes a positive contribution to the character and appearance of the surrounding countryside. Visual amenity relates to the direct visual impacts on receptors (people) rather than on the landscape. Public views of the proposal could be obtained from Greenhead Lane and several public rights of way (PRoW), around the site. Users of the footpaths would be highly sensitive to change.
25. The general topography of the site and its surroundings, and planting, provide some screening from many wider views around the site, forming a degree of enclosure. The appellant's Landscape and Visual Impact Assessment<sup>4</sup> (LVIA), has identified the study area through mapping of the Zone of Theoretical Visibility

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<sup>4</sup> Landscape and Visual Impact Assessment, axis, Revision A April 2024

exploring the extent of visibility of the proposal. The selected Viewpoints (VPs) are shown on figure 1revA. These include key viewpoints along the adjacent highway, from a nearby PRow near Rigg of England, two points along PRow FP1316057 and a view from public open space to the west of the A682. I have adopted the magnitude of change and sensitivity to change descriptors found in the LVIA in my consideration of the proposal.

26. The appellant's LVIA identifies eight VPs which assess the effect of the scheme on Visual Receptors. I am cognisant that these selected viewpoints provide only a snapshot of the site, and these would not necessarily fully reflect the experience of receptors walking alongside and past the site with sequential views. At the time of writing the officer report, the viewpoints were accepted by the council as being the most significant and useful in understanding the visual effects of the proposal. Since then, the Council has identified that a further view would be obtained of the site from the FP1316038, to the west of the site.
27. Trees and hedges around the site were in leaf during my visit and it is recognised that views of the proposed development would be greater in winter months after leaf-fall. I have therefore paid particular regard to the images of the LVIA showing the site in winter months when the site would be most exposed.
28. Users of local footpaths would see parts of the site from sequential views through VP2 and VP3, along this nearby footpath. From Greenhead Lane the footpath provides clear and unimpeded views of the site looking downhill. Nonetheless, views would be screened, in these initial views, by the proposed bund. Only partial views of the DNO building, several containers and associate infrastructure would be visible above the bund immediately post construction.
29. Furthermore, the illustrative landscape scheme in combination with the proposed earth bund would screen views once the planting has matured. Views from this vantage would result in the woodland, beyond the western boundary of the site in Spurn Clough valley, visually connecting to the new bund and its planting, creating a relatively natural linear tree group within the vista. Consequently, the mitigatory screening would result in a small to medium magnitude of change to views along this footpath. Consequently, whilst the Council assert that views from this footpath (FP1316057) would be prominent from its full length, I find the effects would be localised and temporary, taking into account the screening effect of existing and proposed tree and hedge screening.
30. Accordingly, whilst the initial visual impact from VP2 and VP3 would be moderately adverse, this effect would reduce over time to be minor adverse only. Views from walkers and motorists using the footpath along the lane, at VP5, would see areas of the proposal through gaps in the roadside hedging. Here road users, having a medium sensitivity to change, would initially experience a small to medium magnitude of change. It is intended to allow the road-side hedge to grow to a height of 2 metres, providing increased screening. Also, the proposed woodland planting within the site would further screen development. Therefore, over time, the proposal would result in only a minor to moderate adverse impact on these views.
31. The Council has drawn my attention to views it regards as being harmful from footpath FP1316038 which runs to the southwest and west of the site. The Council's image at appendix 1, shows that views from this vantage would be

relatively unobstructed. During my visit I noted that the view provided was taken just beyond the southwest corner of the site, where the footpath and site are relatively level, providing clear views of the site with the proposal creating a medium magnitude of change. However, the footpath soon turns downhill into the embankment of Spurn Clough, preventing further views of the site. This would therefore offer only a limited period that receptors would be able to see the proposal. Also, the proposed boundary hedge would provide screening of the site limiting views of it from this path, resulting in only a minor to moderate impact on this view as new planting matures.

32. The PRoW near Rigg of England, at the intersection of two footpaths, is some distance from the site. Being elevated it would provide receptors with a wide view of the surrounding countryside which would include the appeal site. From VP1, walkers would experience partially open and direct views of the site, but this would be obscured in part by boundary hedge and tree screening and the proposed bund. Consequently, views from this vantage would result in a negligible magnitude of change, and a minor adverse visual effect.
33. Views from VP4, a roadside view from the edge of Higham, provides views towards the site. However, the site is not visible from this vantage, but the pylons passing through it are. The proposal from this point, would therefore result in a negligible magnitude of change with limited visual effects, conveying a neutral effect. The views from VP 6 and 7 are from the edge of Burnley on the Burnley Way and Bronte Way respectively. Although users of these routes would have a high sensitivity to change, views towards the site would be over a significant distance and the proposal would be largely obscured by intervening landscape planting. Although the Council find the harm to be greater, I have found that both of these views would be subject to only a small magnitude of change, resulting in a minor adverse visual effect.
34. The view from VP8, would be from the public open space on land to the west of the A682. This considers the effect on users of the open space and occupiers of nearby residential properties. Sensitivity to change to these users would be medium to high, with views of the proposal largely screened by intervening vegetation. As such, the magnitude of change would be small, with a minor adverse effect.
35. In terms of mitigation, the proposed new planting would help screen the site from views from the north south and east of the site. The Year 15 photomontages of VP2 and VP3 (fig 3a revA (iii) and fig 3b revA (iii)) demonstrate the effect of new planting, anticipated to reach a height of 7.5 metres. Furthermore, the hedgerow along Greenhead Lane would be maintained at a height of at least 2 metres, but is intended to be left to grow higher. Full details of a landscape scheme could be secured by the imposition of a planning condition. The appellant asserts that the proposed landscape planting would take around five years to be 3 metres tall. This and the retention and maintenance of the roadside hedging would reduce the overall adverse visual effects to minor adverse. Residual effects would be localised and these would only be around the site's boundary.

#### Summary of effects on character and appearance

36. Consequently, the proposal would result in moderate adverse landscape harm and moderate adverse visual effects. Accordingly, the proposal would demonstrably

harm the character and appearance of the site and its surrounding area. As a result, the proposal would conflict with CS policies ENV1 and ENV2 with respect to the effect on character and appearance. These seek, among other matters, for development to aim to safeguard or enhance the landscape character of the area and for development to make a positive contribution to the local character and identity of an area.

*Benefits of the scheme - renewable energy*

37. The appellant identifies a national need for energy storage facilities. This both ensures energy security and assists the Country in achieving a net zero economy. The proposed BESS is required to improve energy storage. It would store power from the National Grid at times of excess supply and feed this back into the grid at times of high demand. The appellant describes a clear linear relationship between the amount of renewable energy generation and energy storage. This is required to avoid curtailment and to maximise the use of renewable energy generation. It is especially important to accommodate the fluctuating nature of energy generated from renewable sources which is dependent on time of day and the weather, to support non-renewable sources of energy generation.
38. Therefore, whilst the proposal itself is not a renewable energy project *per se* it would provide enhanced energy resilience in the National Grid. As such, the energy to the proposed BESS would be generated by both renewable and non-renewable energy but over time it would provide greater support for renewable energy production.
39. A material consideration in the determination of planning proposals for renewable energy and associated facilities, are the National Policy Statements (NPS) for the delivery of major energy infrastructure. This application is not an energy development which is a nationally significant infrastructure project under the Planning Act 2008. Nonetheless, the Overarching NPS for energy (EN-1) may be a material consideration for applications under the Town and Country Planning Act 1990 (as amended). This sets out the national policy for energy infrastructure and establishes the Government's approach to meeting its net zero objectives. It recognises that to meet the Government's objectives and targets for net zero by 2050, significant large and small-scale energy infrastructure will be required. Furthermore, the NPS for Renewable Energy Infrastructure (EN-3) sets out national policy in respect of renewable energy and identifies '*an urgent need for new electricity generating capacity to meet our energy objectives*' which would clearly also require storage.
40. The NPS (EN-1) states that:  
  
*"There are several different types of electricity infrastructure that are needed to deliver our energy objectives. Additional generating plants, electricity storage, interconnectors and electricity networks all have a role, but none of them will enable us to meet these objectives in isolation<sup>5</sup>" and that "storage and interconnection can provide flexibility, meaning that less of the output of plant is wasted as it can either be stored or exported when there is excess production. They can also supply electricity when domestic demand is higher than generation, supporting security of supply<sup>6</sup>".*

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<sup>5</sup> National Policy Statement-EN1, paragraph 3.3.4

<sup>6</sup> National Policy Statement-EN1, paragraph 3.3.6

41. Accordingly, I am satisfied that the proposal would directly support the development of new energy generating facilities which will increasingly be delivered from renewable energy sources and therefore the proposal can be regarded as low carbon energy associated infrastructure.
42. The UK Government has declared a climate emergency and set a statutory target of achieving net zero emissions by 2050, and this is also a material consideration. Since the declaration, the Sixth Assessment Report of the Intergovernmental Panel on Climate Change has indicated that there is a greater than 50% chance that global temperature increases will exceed 1.5 degrees Celsius above pre-industrial levels. The report indicates that delay in global action to address climate change will miss a rapidly narrowing window of opportunity to secure a liveable and sustainable future for all<sup>7</sup>.
43. The NPSs recognise that to meet the Government's objectives and targets for net zero by 2050, significant large and small scale energy infrastructure is required. This identifies that *"Storage has a key role to play in achieving net zero and providing flexibility to the energy system, so that high volumes of low carbon power, heat and transport can be integrated"*<sup>8</sup>. It seeks solutions that include *"maximising the usable output from intermittent low carbon generation"*<sup>9</sup>.
44. Planning Practice Guidance (PPG), on renewable and low carbon energy, states that 'there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and critically, the potential impacts on the local environment, including from cumulative impacts.'<sup>10</sup>
45. The Framework explains that when dealing with planning applications, planning authorities should support the transition to a low carbon future, improve resilience and support renewable and low carbon energy and associated infrastructure. It also requires a decision maker to give significant weight to the benefits associated with renewable and low carbon energy generation and its associated infrastructure.
46. These benefits, in support of the provision of battery storage that assist in the delivery of renewable energy, are of significant weight in favour of the scheme.

#### *Other benefits*

47. Since 12 February 2024 it has been a requirement of the Town and Country Planning Act 1990 (as amended) for major planning applications to be subject to a statutory Biodiversity Net Gain (BNG) Assessment and achieve a 10% BNG. The application was made before the statutory provisions came into force and thus the proposal is not subject to these requirements. Consequently, the need for the proposal to achieve BNG derives from CS policy ENV1, requiring proposals to enhance biodiversity, and paragraph 187(d) of the Framework, neither of which seek a specific uplift to be achieved.
48. The illustrative landscape proposal shows that the compound would be largely enclosed by woodland tree groups and with species rich grassland located within

<sup>7</sup> IPCC Sixth Assessment Report - Summary for Policymakers, figure SPM.6

<sup>8</sup> National Policy Statement-EN1, paragraph 3.3.25

<sup>9</sup> National Policy Statement-EN1, paragraph 3.3.27

<sup>10</sup> PPG, Paragraph: 005 Reference ID: 5-005-20150618

substantial pockets around the wooded areas. Furthermore, new hedgerows would be introduced along the south and west boundaries and within the site. The appellant's Net Gain Assessment<sup>11</sup> identifies that the proposal would result in a 30.57% gain in habitat units and a 105.98% gain in hedgerow units<sup>12</sup>. This would be a benefit of significant weight in favour of the proposal.

## Other Matters

### Heritage issues

49. In accordance with my statutory duty<sup>13</sup> I am required to pay special attention and have regard to the desirability of preserving the setting of listed buildings. The Framework identifies that setting of a heritage asset relates to how an asset is experienced, is not necessarily fixed and may evolve over time. Elements of its setting may make a positive or negative contribution to its significance or may be neutral.
50. Guidance from Historic England explains that the extent and importance of setting is often expressed in visual terms but may also include other matters including our understanding of the historic relationship between places<sup>14</sup>. The proposal has the capability to affect a range of designated heritage assets found around the site. These are identified within the Appellant's Heritage Assessment as including twelve listed buildings with 1 kilometre of the site and a further 34 between 1 and 2 kilometres of the site.
51. Greenhead Manor [asset 62 of the appellant's Heritage Impact Assessment<sup>15</sup>] is a grade II listed building that dates from around the mid C17. It consists of coursed rubble and dressed stone walls, with stone mullioned windows and a stone slate roof. It is a high-status house with many surviving features and the building. I understand that it historically shared land ownership with the appeal site. Its significance derives from its architectural and historic interest as a large traditional rural dwelling. It is around 300 metres to the south of the site. Due to topographical changes and the extent of tree and hedge planting to the north of the manor there is limited visibility between the house and the site. Whilst within the historical land holding of Greenhead Manor, the site has a limited visual and functional link to the heritage asset causing a low magnitude of impact and having an adverse effect on its setting. The effect of the proposal would therefore result in less than substantial harm to the significance of the building.
52. The Grade II listed Ashlar House and Ashlar cottage [48] date from 1594 and are reported as originally being a Catholic chapel and priest's house. The significance of Ashlar House and the cottage appears to derive from its ecclesiastical origins and architectural interest. This asset is over 650 metres from the site to the northwest.
53. Bay Horse [51], consisting of 6 cottages and Fencegate House [55], a Georgian public house, are to the north of the site, with a separation distance to the site of around 0.5kms. Bay Horse is a late C18 building with a stone slate roof, coursed rubble walls and a significance that relates to its architectural and historic interest.

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<sup>11</sup> Net Gain Assessment, neo environmental, 31/6/2023

<sup>12</sup> Update to Ecological Assessment, neo Environmental, undated

<sup>13</sup> Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>14</sup> Historic England – The Setting of Heritage Assets 2015

<sup>15</sup> Heritage Impact Assessment, AOC, March 2023, updated July 2023

Fencegate House is a stone building with Ashlar quoins, with significance that derives from its architectural and historic interest.

54. The appellant's Historic Impact Assessment identifies a range of additional listed buildings within Fence, which I have also paid regard to. The open agricultural setting to the south of many of these buildings have extensive views to the south and southeast that help inform the understanding of these buildings. Nonetheless, the overall effect on the setting of the heritage assets around the site would be negligible, with limited intervisibility due to intervening planting. Consequently, visual effects would be limited due to distance, resulting in a negligible impact on their setting and causing less than substantial harm to the significance of the various listed buildings.
55. The Framework explains that where less than substantial harm is found to designated heritage assets this harm should be weighed against the public benefits of the proposal. The proposed BESS would support renewable energy technologies by reducing supply issues with their intermittency. It is apparent that the national need for additional renewable energy generation, and its associated infrastructure such as BESS, is required to support the country's transition to Net Zero by 2050. On this basis the public benefits of the proposal would outweigh the limited and negligible harm found to the significance of the identified heritage assets.

#### Ecology

56. The site is adjacent to Spurn Clough Biological Heritage Site (BHS) and with 0.8kms of Moor Isles Clough BHS. The appellant's Ecological Assessment<sup>16</sup> and subsequent Ecological Update Report concluded that the proposal would be unlikely to have a significant effect on local wildlife. I see no reason, within the submitted evidence to disagree with the submitted assessments, a conclusion shared by the Council.
57. The proposed scheme does not include a lighting strategy. Lighting is proposed for external security to aid the operation of the CCTV cameras and for maintenance visits. This would need to be subdued and unobtrusive to suit the countryside character of the area. There is no reason why such lighting would be intrusive or overt and the details of such lighting can be adequately addressed by the imposition of a condition. On this basis the effect of any lighting upon the local wildlife, or the wider residential area, would be minimal.

#### Flooding

58. Concerns have been raised that the proposal would lead to an increased risk of flooding. However, the appellant's drainage assessment<sup>17</sup> finds flood risk to the site to be low and would be negligible from all potential flood sources. It concludes that the proposal would be unlikely to impact flood risk off-site. It is also demonstrated that surface water run-off can be sustainably managed within the site.

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<sup>16</sup> Ecological Assessment, neo Environmental, 16/5/23

<sup>17</sup> Flood risk and Drainage Assessment, Weetwood, March 2024

### Noise Effects

59. The submitted Noise Impact Assessment<sup>18</sup> identified that noise levels from the equipment on site would range between 34dB and 36dB (equivalent continuous sound level) during maximum site operations. This found that with appropriate mitigation the proposal would comply with the relevant guidance for the site to not exceed measured background noise levels. The Noise Assessment recommends a condition be imposed to any approval that would ensure noise levels are minimised. This condition, and the proposed acoustic fence, would protect noise sensitive receptors from an adverse noise effect.
60. Furthermore, the noise generated by the minimal increase in traffic would not materially increase background noise levels to affect the living conditions of local residential occupiers. Furthermore, the Council has not identified that the proposal would cause an adverse noise impact on local wildlife. I see no reason, within the evidence, to disagree with the conclusion of the noise assessment, a finding shared by the Council's Environmental Health Team.

### Fire risk

61. Interested parties have raised concerns that the facility may be vulnerable to fire, providing reference to fires that have occurred at other BESS. However, the appellant's Fire Statement<sup>19</sup> explains that it is required for BESS to comply with National Fire Protection Association 'NFPA 855' for the installation of Stationary Energy Storage Systems (2023). This standard helps to reduce the likelihood of fires from energy storage equipment and minimize damage and injury if a fire does occur. The safety control system of the BESS would enable the early fault detection of a system fault forcing a disconnection when set parameters are exceeded. Faults will alert the manned control room, off-site, enabling the necessary action to be taken. The proposed development would be subject to a detailed emergency response plan which would include the arrangements for dealing with a fire emergency in consultation with the Lancashire Fire and Rescue Service.
62. Furthermore, the proposal includes a 240,000 litre water tank that would service localised fire hydrants. The local fire hydrants would be positioned to ensure all battery containers and ancillary facilities would be within 90 metres of a hydrant. Run-off contaminated fire related water would be collected in a water attenuation storage tank within the site.
63. Lancashire Fire and Rescue Service (LFRS) was consulted during the application consideration process and ongoing discussions took place between the Council and appellant with respect to fire safety. An amendment was made to the proposal to address ongoing discussion and address LFRS concerns, including the addition of a second 'emergency' access. The Committee minutes<sup>20</sup> state that LFRS had responded positively to further information and accepted that the control of pollution from runoff water could be suitably addressed by a condition. As such, I am satisfied that further details of fire containment and suppression measures and the storage of contaminated water could be secured by conditions. These would be sufficiently robust to prevent any off-site adverse effects.

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<sup>18</sup> Noise Impact Assessment, by Noise and Vibration Consultant, 13/4/23

<sup>19</sup> Fire Statement by Paul Taylor, 18/4/24

<sup>20</sup> Committee minutes of meeting 3 June 2024

64. The site is some distance from the nearest residential property and therefore the risk of a fire effecting neighbouring residential areas would be minimal. There is no compelling evidence to demonstrate that the facility would be hazardous or incompatible with its location within the open countryside. In the unlikely event of a fire, the facility would be readily accessible by a fire tender, and the Council has raised no concerns in this regard. As such, I see no clear reason in the evidence to illustrate why the facility would be especially vulnerable to the risk of fire.

#### Gas Network

65. Interested parties have raised concerns due to the proximity of a gas pipe to the proposal. The site is within proximity to a gas pipeline that runs alongside Greenhead Lane through fields opposite the site. Cadent Gas, the statutory consultees in connection with these matters, has raised no objection to the proposal due to the separation distance that would be retained.

#### Highway safety

66. Interested parties have raised concerns that the proposal would affect highway safety, partly due to poor visibility at the junction of Greenhead Lane and Barrowford Road. It has been reported that Greenhead Lane is a busy road that has been subject to a number of accidents, including one fatality. The number of vehicles attracted to the site during construction is a particular concern.
67. The appellant's Transport Statement<sup>21</sup> and update statement considers traffic generation. Although identifying a relatively high volume of HGV movements for around 6 months of the construction phase, it notes that once operational, traffic levels would be minimal. Having considered the context of local roads and their respective capacities, the Statement concludes that the proposal could be safely accessed without causing detriment to the safety of the local highway network. I see no reason to disagree with the findings of these Statements, a conclusion shared by the Highway Authority.

### **Planning balance**

68. I have concluded that the appeal scheme would result in harm to the character and appearance of the area, causing moderate adverse harm to both the area's landscape character and to visual amenity. This therefore causes conflict with CS policies ENV1 and ENV2 of the development plan and the Framework, to which I afford moderate weight. The limited harm identified to the heritage assets would be outweighed by the public benefits of the proposal. Nevertheless, for the purpose of my overall planning balance this harm contributes to the adverse effects of the proposal.
69. The other matters identified in opposition to the proposal raise issues that either result in no harm or raise technical matters that could be adequately addressed through the imposition of appropriate conditions to negate the harm. Also, the proposal has been found to not be inappropriate development in the Green Belt and would deliver significant biodiversity net gain.
70. Both national and development plan policies recognise the importance of the provision of renewable energy projects. In minimising environmental effects, the proposal would comply with CS policy ENV3 that encourages renewable energy

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<sup>21</sup> Transport Statement, axis, June 2023

generation projects that are appropriate to their setting and make a positive contribution towards increasing levels of renewable and low carbon energy generation in Pendle. Whilst this lends support for renewable projects in the countryside it does not confer an automatic approval of such schemes, where the effects of such development must take into account a broad range of issues in mind of the general presumption to respect the intrinsic character and beauty of the countryside as sought by the Framework.

71. The proposed BESS would support the ongoing shift of power generation to renewable energy and help combat climate change. The site includes pylons and, with mitigation, the proposal would cause only moderate harm to the areas landscape character. This enables the site and wider area to accommodate a degree of change, and the site with mitigation would be well screened causing only moderately harmful visual effects.
72. The proposed BESS would convey substantial public benefits that weigh in favour of the proposal providing benefits that are recognised by CS policy ENV3. These objectives are also sought in guidance and national policy in accordance with the Climate Change Act of 2008 (amended 2019), seeking to achieve net zero by 2050. Furthermore, there is also clear support, in Section 14 of the Framework, to increase the use and supply of renewable and low-cost energy and to maximise the potential for suitable such development. The delivery of suitable renewable energy projects, and those that would support them, is fundamental to facilitate the country's transition to a low carbon future in a changing climate. This attracts significant weight in favour of the proposal.
73. Also, the BESS requires a connection to the national grid. The site provides access to identified available grid capacity along the 132kv from the Padiham Grid Supply Point to the Nelson Bulk Supply Point. The connection would be obtained on site through connecting to the overhead pylon that runs through the site. The appellant's Alternative Site Search report and Sequential mapping exercise considered the availability of alternative sites. This has demonstrated that of the 19 sites considered, only 3 were viable for further consideration, but these were discounted due to a lack of landowner interest. The site search concluded that the appeal site presents the only viable connection to the network. Therefore, it has been demonstrated that a rational approach was taken to site selection lending further support for the selected site.
74. Moreover, the benefits of having a grid connection agreement in place weigh significantly in favour of the scheme. Further benefits of the proposal also relate to the provision of significant biodiversity net gain, to which I also apply significant weight.
75. Accordingly, the benefits of the proposal are of sufficient magnitude to outweigh the moderate conflict found with the development plan with respect to the landscape and visual effects of the development. Accordingly, the proposal would accord with the development plan when taken as a whole.

## Conditions

76. I have considered the use of conditions in line with the guidance set out in the PPG. I shall take into consideration the conditions within the Council's Statement of Case and those suggested by the appellant. I have imposed the standard conditions with respect to timeframes and approved plans as advised by the PPG

for clarity and certainty [conditions 1 and 5]. Also, the appellant's planning statement explains that consent is sought for a temporary period suggesting a timeframe. I find that conditions would be necessary to grant a temporary consent of 40 years, requiring the details of unexpected early decommissioning, and a decommissioning and site restoration scheme to manage and limit the identified moderate adverse impact of the development on the character and appearance of the area [2, 3 and 4].

77. It is necessary for conditions relating to a Construction Method Statement, visibility splays around the southern access, the construction details for both access points, the details of the operation of the emergency access, gates at the southern access and for on-site vehicle manoeuvring to be provided in the interests of highway safety [6, 7, 8, 9, 10 and 11]. Also, conditions are required for details of a surface water drainage strategy and for a Construction surface water Management Plan to ensure the satisfactory drainage of the site [12 and 13]. To manage the surface water flood risks from the development on future and neighbouring users, conditions would be required for Operation and Management Manual and a verification report [14 and 15].
78. Also, a condition for the details of foul and surface water and any contamination from fire suppression systems would be required to ensure that the proposal poses no unacceptable risk of contamination to the water environment [16]. A condition is also required for details of fire containment and suppression in the interests of public safety [17]. Furthermore, conditions to require the proposal to comply with the submitted ecological report and BNG plan and for details to be provided for noise mitigation measures are necessary in the interests of the protection of wildlife and local resident's living conditions respectively [18 and 19]. Details of a landscape scheme and of any proposed lighting would be required in the interests of the character and appearance of the area [20 and 21].

## **Conclusion**

79. For the above reasons, the appeal is allowed, and planning permission is granted subject to the conditions within the attached schedule.

*B Plenty*

INSPECTOR

## Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The permission hereby granted shall expire 40 years and 6 months from the date when electrical power is first exported from the development to the electricity grid 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 power is first exported to the grid.
- 3) If the development hereby permitted fails to produce electricity for supply to the grid for a continuous period of two years and there is no realistic prospect of the development becoming operational again without repairs, a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 2 year period for the remedy, repair or removal of the development. Where repairs or replacements are required, the scheme shall include a proposed programme of remedial works. Where removal of the development is required, the scheme shall include the same details required under Condition 4 of this permission, for the decommissioning of the site. The relevant scheme shall thereafter be implemented in accordance with the approved details and timetable.
- 4) Not later than 12 months before the expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the development and the subsequent restoration of the site. The scheme shall include details of: the extent of equipment and foundation removal and the site restoration to be carried out; the management and timing of any works; a traffic management plan to address likely traffic impact issues during the decommissioning period; an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife, habitats and tree features on the site; location of material laydown areas; full details of the removal of the equipment, associated buildings and plant, any trackways and sub-surface cabling and all associated works of ground restoration including trench backfilling; full details of all other works to restore the land to allow for agricultural production following the removal of structures from the site; a programme of implementation. The approved scheme shall be implemented and then proceed fully in accordance with the agreed details in accordance with the decommissioning programme.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Rev A drawing, Site Layout Plan drawing; EUR001-PL-01 Rev A, Contextual Elevation – Sheet 1 of 2 drawing; Contextual Elevation – Sheet 2 of 2 drawing; EUR001-EL-01 Rev B, EUR001-EL-02 Rev B, Indicative LCESS Battery Unit drawing; EUR001-SD-01, 40ft Customer Switchgear drawing; EUR001-SD-02, 40ft Spare Parts Container drawing; EUR001-SD-03, Indicative Power Conversion System drawing; EUR001-SD-04, Access Track drawing; EUR001-SD-06, Palisade Fence and Security Gate drawing; EUR001-SD-07, CCTV Floodlight Column drawing; EUR001-SD-08, 132kV DNO Substation Plan drawing; EUR001-

SD-09, 132kV DNO Substation Section drawing; EUR001-SD-10, and Acoustic Fence drawing; EUR001-SD-11.

- 6) Prior to the commencement of development, a construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for: i) The parking of vehicles of site operatives and visitors, ii) The loading and unloading of plant and materials, iii) The storage of plant and materials used in constructing the development, iv) The erection and maintenance of security hoarding, v) Wheel washing facilities, vi) Measures to control the emission of dust and dirt during construction, vii) A scheme for recycling/disposing of waste resulting from demolition and construction works, viii) Details of working hours, ix) Routing of delivery vehicles to/from site and x) Details of temporary traffic management on Greenhead Lane including warning signage and temporary speed reduction.
- 7) Prior to the commencement of development details of the visibility splay serving the southern access shall be submitted to and approved in writing by the local planning authority. The visibility splay shall be that land in front of a line drawn from a point 2.4 metres measured along the centre line of the proposed road from the continuation of the nearer edge of the carriageway of Greenhead Lane to points measured 111m to the south of the proposed access and 117m to the north along the nearer edge of the carriageway of Greenhead Lane, from the centre line of the southern access. There shall not at any time be erected or planted or allowed to remain upon the land hereinafter defined any building, wall, fence, hedge, tree, shrub or other device over 1m above road level within the visibility splay of the southern access.
- 8) Prior to the commencement of development, a scheme for the construction of the site accesses shall be submitted to and approved in writing by the Local Planning Authority. Each site accesses shall be constructed in accordance with the approved details prior to the first use of that access.
- 9) Prior to the first operational use of the site, details of the operation of the emergency access, into the northern part of the site, shall be submitted to and approved in writing by the local planning authority. The northern site access shall be constructed prior to the commencement of the use of the development hereby approved and maintained thereafter as an emergency access to be used by emergency service vehicles only. It shall be physically closed at all times other than in the event of an emergency.
- 10) Any gates used at the southern site access shall, at all times, be set-back at least 10m from Greenhead Lane.
- 11) Manoeuvring provision for vehicles to enter and leave the site in forward gear shall be laid out in accordance with the approved plans prior to the commencement of the use of the development and maintained free from obstruction and available for manoeuvring purposes at all times thereafter.
- 12) Prior to the commencement of development, a surface water sustainable drainage strategy for the site shall be submitted to, and approved in writing by, the Local Planning Authority. The detailed surface water sustainable drainage strategy shall be based upon the site specific flood risk assessment

(18th March 2024 / Flood Risk and Drainage Assessment – Version 1.3 / Weetwood) and indicative surface water sustainable drainage strategy (18th March 2024 / Flood Risk and Drainage Assessment – Version 1.3 / Weetwood) submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems. No surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

- 13) Prior to the commencement of development, a Construction Surface Water Management Plan, detailing how surface water and stormwater will be managed on the site during construction, including demolition and site clearance operations, shall be submitted to and approved in writing by the Local Planning Authority. The details of the plan to be submitted for approval shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include for each phase, as a minimum: a) Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site. Details shall also include b) Measures taken to prevent siltation and pollutants from the site entering any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance. The plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.
- 14) Prior to the commencement of the use of the development a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system, shall be submitted to and approved in writing by the Local Planning Authority. The details of this Manual shall include: a) A timetable for its implementation; b) Details of the maintenance, operational and access requirement for all SuDS components and connecting drainage structures, including all watercourses and their ownership; c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues; d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity; e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life; f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and g) Means of access for maintenance and easements. Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.
- 15) The commencement of use of the development shall not be permitted until a site-specific verification report, pertaining to the surface water sustainable drainage system, has been submitted to and approved in writing by the Local Planning Authority. The verification report must, as a minimum, demonstrate that the surface water sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including

photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets, and control structures) and full as-built drawings. The scheme shall thereafter be maintained in perpetuity.

- 16) Prior to the commencement of development, a scheme to dispose of foul and surface water and any contamination from fire suppression activities shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved prior to the commencement of the use of the development unless an alternative timing had been approved in writing by the Local Planning Authority.
- 17) Prior to the commencement of development, a scheme for fire containment and suppression measures shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the commencement of the use of the development and maintained at all times thereafter.
- 18) The development shall be carried out and thereafter maintained in strict accordance with the recommendations of the submitted Ecological Assessment and Biodiversity Management Plan.
- 19) Prior to the commencement of the operation of the development hereby approved details of the noise mitigation design shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and operated in strict accordance with the approved mitigation design. Operational noise from the Proposed Development at any pre-existing residential receptors as listed in Table B of paragraph 7.6 of the submitted Noise Impact Assessment shall not exceed the maximum permissible levels detailed in Table A of that paragraph when assessed at a height of 1.2m to 1.5m above ground and at least 3.5m away from the nearest reflecting surface other than the ground. This is to be determined either by way of direct measurement at the stated locations, or where extraneous ambient noise precludes this, by way of a combination of measurement and calculation.
- 20) Prior to the commencement of the operation of the development hereby approved a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include: a. the exact location and species of all existing trees and other planting to be retained; b. all proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities; c. an outline specification for ground preparation; d. all proposed boundary treatments with supporting elevations and construction details; e. all proposed hard landscape elements and pavings, including layout, materials and colours; f. the proposed arrangements and specifications for initial establishment maintenance of all planted and/or turfed areas. The approved scheme shall be implemented in its entirety within the first planting season following the commencement of the operation of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.

- 21) Prior to the installation of any external lighting details including type, size, location, intensity, direction and timing of illumination of the proposed external lighting shall have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall thereafter at all times be maintained and operated in strict accordance with the approved details.

**End of conditions**