



Appeal Decision

Site visit made on 21 October 2025

by H Butcher BSc(Hons) MSc PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2025

Appeal Ref: APP/F1040/W/25/3370609

Land to the North of Main Street, Walton upon Trent DE15 9TY

- 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 TAG Energy Development UK Ltd against the decision of South Derbyshire District Council.
 - The application Ref is DMPA/2024/1643.
 - The development proposed is the installation of a battery energy storage system (BESS), together with substation, transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure, and landscaping and biodiversity enhancements.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a battery energy storage system (BESS), together with substation, transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure, and landscaping and biodiversity enhancements, at Land to the North of Main Street, Walton upon Trent DE15 9TY, in accordance with the terms of the application, Ref DMPA/2024/1643, subject to the conditions in the attached schedule.

Preliminary Matters

2. A site specific Flood Risk Assessment has been carried out which demonstrates that no built development within the site boundary, including access or escape routes, land raising, or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source now and in the future. A sequential test is therefore not required.
3. Some of the plans submitted for approval are titled 'indicative'. However, this is not an application for outline permission. Therefore, I have not treated them as indicative plans.

Main Issue

4. The main issue is the effect of the development on Best and Most Versatile (BMV) agricultural land.

Reasons

5. The appeal site covers an area of approximately 5.26ha of agricultural land to the north of Main Street, Walton upon Trent. The development is for the installation of a Battery Energy Storage System (BESS) and associated infrastructure.

6. Policy SD6 of the South Derbyshire Local Plan Part 1 (LPP1) is supportive of renewable and other energy developments, and ancillary buildings or infrastructure, providing such development would not give rise to unacceptable environmental effects. Policy BNE5 of the South Derbyshire Local Plan Part 2 (LPP2) more specifically sets out that where development is unavoidable outside settlement boundaries planning permission will be granted where it would not unduly impact on BMV land. Similarly, Policy BNE4 of the LPP1, seeks wherever possible to direct development to areas with lower quality soils.
7. An Agricultural Land Classification (ALC) Report submitted with the application confirms that the development would be sited on subgrade 3a agricultural land which is classified as BMV land as defined in the National Planning Policy Framework (the Framework). There is no dispute, therefore, that the development would result in the loss of BMV land for at least 40 years, which is a significant period of time.
8. The appellant has submitted a Site Selection Report (SSR) which sets out a justification for the siting of the BESS here. A point of connection to the electricity network is available immediately adjacent at the former Drakelow Power Station. The SSR, therefore, conducts a search of 3-5km from the appeal site as it is necessary for the BESS to be located near to a point of connection for viability reasons. There is no substantive evidence before me to dispute this approach.
9. Within the 3km search radius the adjacent former power station is not an option as the current owners, E.ON, are unwilling to lease the land for the scheme. There are areas of lower grade, non-BMV land to the north, but these are on the other side of the adjacent river and therefore pose connection issues. On the south side of the river there is an area of land to the west of the appeal site which is lower grade non-BMV land, but this is located within Flood Zone 3. Following the sequential approach of steering new development to areas with the lowest risk of flooding, as set out in the Framework, this site would be less preferable to the appeal site.
10. A 5km search radius of prospective brownfield sites was also carried out. However, none were found to be either suitable or available for the proposed development. Therefore, the SSR demonstrates that there are no alternative, lower grade, non-BMV agricultural land sites which can accommodate the development.
11. The Council query the reliance on ALC survey data rather than site specific surveys. However, the Planning Practice Guidance (PPG) cites the use of ALC as an approach to assess the quality of farmland to enable informed choices about its future use within the planning system. Whilst the ALC does not provide detailed site-specific information it will indicate whether the land in question could be within the category of BMV land. The appeal site has been identified as such and considered accordingly. It is my view, therefore, that this is an appropriate approach for the purposes of this appeal.
12. The Council have raised concerns regarding the impact of the development on the quality of the land over its 40-year lifespan. However, best practice advice is available through Defra in respect of protecting soil during construction projects, including the movement and management of soil resources, as advised in the PPG. Suitable conditions in respect of such matters could be attached to any subsequent planning permission.

13. The Council reference a number of related sites which have either been approved or are being considered at appeal. The cumulative effects of multiple energy schemes in this locality are a material consideration. However, each case must be determined on its individual merits and in accordance with planning policy. The same reasoning applies to any concerns regarding setting a precedent for such development.
14. Whilst there is no connection agreement or equivalent capacity confirmation provided there is no substantive evidence before me to indicate connection to the electricity network would not be possible in the future. Furthermore, a condition can ensure this is submitted to the Council prior to the commencement of works. Applicants are not required to demonstrate the overall need for renewable or low carbon energy. Nor is there a policy requirement to provide specific local benefits.
15. The Council refer to Policy BNE12 of the LPP2 and an emerging Policy STRA3 which provide broad policy support for development for energy purposes at the former Drakelow Power Station. However, these policies do not preclude such development coming forward on other sites.
16. Taking the above points together, I find that the appellant has sufficiently demonstrated that they have searched for alternative, lower quality sites, in terms of BMV agricultural land. The development would therefore not unduly impact on BMV agricultural land, subject to suitable conditions to secure a 40-year permission, the restoration of the site, and a Soil Management Plan. The proposal therefore complies with the relevant provisions of Policies BNE4, and SD6 of the LPP1 and BNE5 of the LPP2. It follows that I find compliance with the development plan as a whole.
17. As set out in the Framework there are economic and other benefits of BMV agricultural land, and this includes the consideration of food security. Where significant development of agricultural land is necessary areas of poorer quality land should be preferred. This has been taken into account in this case. Furthermore, the Framework gives significant weight to the benefits associated with renewable and low carbon energy generation and a proposal's contribution to a net zero future.

Other Matters

18. To the east of the appeal site is a listed building comprising gate piers, adjoining walls, and attached piers, at Drakelow Lodge, Entrance to Drakelow Power Station¹. These once served Drakelow Hall which was demolished in 1934 and latterly replaced with Drakelow Power Station. Given the significant changes to setting which have already occurred and the fact that the appeal site is separated from the former power station site by a woodland belt I am satisfied that the proposed BESS would have no impact on the significance of this listed building through its setting.
19. I note concerns raised over matters including landscape, highways, flood risk, water contamination, archaeology, and fire safety. However, such matters can be dealt with adequately by condition. I also note all technical statutory and non-statutory consultees on such matters now raise no objection to the development. The Council similarly raise no objection on these grounds.

¹ List Entry Number: 1158871

Conditions

20. Suggested conditions have been provided by the Council. I have made some amendments to ensure that the conditions comply with the requirements of the Framework and the PPG. The appellant has provided written agreement to the suggested pre-commencement conditions. The pre-commencement conditions I have included are all matters which are fundamental to be resolved prior to development commencing, as to not do so would mean it would be necessary to refuse the whole permission.
21. Conditions regarding the timescale for development (1) and the adherence to plans (2) are necessary to provide certainty. I have removed reference to any plans which only inform this decision or which form part of the submission of further details in subsequent conditions.
22. Conditions limiting the life of the permission (3) and requiring that the development and associated infrastructure shall be dismantled and removed from the site, and the site restored to an acceptable standard (4) are necessary as temporary permission has been applied for. It is not reasonable in this case to require a bond for such matters.
23. Condition 5 requires confirmation of a National Grid connection as discussed above. Condition 6 concerning archaeological work is necessary to enable any archaeological remains and features to be adequately recorded for heritage purposes. Conditions 7, 8 and 9 are necessary in the interest of highway safety.
24. To safeguard protected and/or priority species from undue disturbance and impacts I have included conditions 10, 11, 12 and 13. To protect the visual amenity of the site and surrounding area I have included condition 14. Condition 15 is necessary to ensure the preservation of the existing soil quality of the appeal site for future agricultural use during construction and for the lifetime of the development.
25. To ensure surface water is managed appropriately for the lifetime of the development and during the construction phase I have included conditions 16 and 17. Condition 18 for the submission of a Details Battery Safety Management Plan is necessary to ensure appropriate emergency and safety procedures are in place for the lifetime of the development.
26. Condition 19 is necessary to control and mitigate noise emanating from the site to protect the local environment. Condition 20 is also necessary to ensure a satisfactory design of development. Finally, conditions 21 and 22 are necessary to protect the amenity of local residents.

Conclusion

27. In line with planning law the proposed development would accord with the development plan. Having had regard to all material planning considerations in this case, I find that planning permission should be approved without delay.
28. The appeal is allowed.

H Butcher

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development shall begin before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documentation:
 - Site Location Plan ref. LH23-040 DW01, Figure 1, Rev D
 - Site Layout ref. LDS/18115 P3, Rev V
 - Indicative BESS Technology ref. LDS/18115 E2, Rev Q
 - MV Transformer General Arrangement ref. LDS/18115 E3, Rev Q
 - Switch Rooms & MV Control Room ref. LDS/18115 E4, Rev Q
 - Storage & Office Containers ref. LDS/18115 E1, Rev Q
 - Indicative HV Transformers ref. LDS/18115 E6, Rev Q
 - Auxiliary Transformers ref. LDS/18115 E5, Rev Q
 - Miscellaneous Infrastructure ref. LDS/18115 E7, Rev Q
 - Site Access ref. 237766/PD02, Rev A
3. The permission hereby granted shall be limited to a period of 40 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 submitted to the local planning authority within one month of the First Use.
4. 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 Plan that shall first have been submitted to and approved in writing by the local planning authority.
5. Prior to the commencement of development a copy of the grid connection agreement for the development shall be provided to the local planning authority.
6. Prior to the commencement of development a Written Scheme of Investigation for archaeological work and preservation in-situ shall be submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and
 - The programme and methodology of site investigation and recording
 - The programme for post investigation assessment
 - Provision to be made for analysis of the site investigation and recording
 - Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - Provision to be made for archive deposition of the analysis and records of the site investigation
 - Provision for preservation in-situ of nationally important archaeological remains including protective measures to be taken during construction, and a management plan for the relevant areas during the operational life of the development

- Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

The development shall not be put into active use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved archaeological Written Scheme of Investigation and the provision to be made for publication and dissemination of results and archive deposition has been secured.

7. Prior to the commencement of development the means of access for vehicles shall have been constructed and completed as approved and shall include visibility splays from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4m back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 160m in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6m from the edge of the carriageway. The visibility splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.
8. Any access gates shall be set back a minimum of 16 metres from the adjoining carriageway edge and shall open inwards only.
9. Prior to the commencement of development an updated Construction Management Plan (CMP) shall be submitted to and approved in writing by the local planning authority. The plan/statement shall include but not be restricted to:
 - Parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction)
 - Advisory routes for construction traffic
 - Any temporary access to the site
 - Locations for loading/unloading and storage of plant, waste and construction materials
 - Method of preventing mud and dust being carried onto the highway
 - Arrangements for turning vehicles
 - Arrangements to receive abnormal loads or unusually large vehicles
 - Highway Condition survey
 - Methods of communicating the CMP to staff, visitors and neighbouring residents and businesses
 - Maximum number of HGV trips per day during construction period

The approved plan shall be adhered to throughout the construction period.

10. Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall be produced by an ecologist and shall include the following: a) Risk assessment of potentially damaging construction activities; b) Identification of 'biodiversity protection zones; c) Practical measures

(both physical measures and sensitive working practices) to avoid or reduce impacts during construction including a pre-commencement detailed badger survey of the site and 30m Zone of Influence; d) The location and timing of sensitive works to avoid harm to biodiversity features; e) The times during construction when specialist ecologists need to be present on site to oversee works; f) Responsible persons and lines of communication; g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period.

11. Prior to the commencement of development a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the local planning authority to include timescales and targets. The HMMP shall be implemented as approved.
 12. Prior to the commencement of development a Species Enhancement Plan (SEP) shall be submitted to and approved in writing by the local planning authority to include timescales for implementation.. The SEP shall include details of the following:
 - External universal nest boxes erected onto suitable mature trees
 - External bat boxes erected onto suitable mature trees
 - Insect towers and/or hibernacula
 - Herptile hibernacula (deadwood)
 - Fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs
- The SEP shall be implemented in accordance with the approved details and maintained thereafter.
13. Prior to the installation of any lighting fixtures on site a detailed lighting strategy shall be submitted to and approved in writing by the local planning authority. Any subsequent lighting shall be installed as approved.
 14. Prior to the commencement of development a detailed Landscaping Scheme (LS) shall be submitted to and approved in writing by the local planning authority. The LS shall set out:
 - Full woodland planting details including species mix, size (standard, select standard, or heavy standard with girth dimensions), density, method of protection, and management/maintenance details
 - The species mix of proposed grassland areas and the proposed locations and sizes of shrub (in litre pots)
 - The proposed methodology of hedgerow translocation and enhancement with sizes of shrub (in litre pots)

All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following first use. Any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed, or become seriously damaged

or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period.

15. Prior to the commencement of development, including any site clearance or preparatory works, a Soil Management Plan (SMP) shall be submitted to and approved by the local planning authority. The plan shall demonstrate as a minimum how damage to soil horizons and ground cover will be mitigated and remediated during and after construction and for future decommissioning, and how soils will be protected and where necessary, stored and managed on the site during construction, and for the life of the development. Development shall be carried out and thereafter operated in accordance with the approved SMP. The SMP shall be implemented and adhered to as approved for the lifetime of the development.
16. Prior to the commencement of development a detailed design and Management and Maintenance Plan for the Surface Water Drainage Strategy for the site shall be submitted to and approved in writing by the local planning authority. The approved strategy shall be fully implemented in accordance with the approved details before the use hereby permitted commences and thereafter managed and maintained in perpetuity in accordance with the approved details.
17. Prior to the commencement of development details indicating how additional surface water run-off from the site will be avoided during the construction phase shall be submitted to and approved in writing by the local planning authority. Construction works shall be carried out in accordance with the approved details.
18. Prior to the commencement of development a Battery Safety Management Plan (BSMP) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and thereafter operated in accordance with the approved BSMP.
19. Prior to the commencement of development a scheme for the control and mitigation of noise emanating from the site shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the use hereby permitted commences and thereafter operated in accordance with it.
20. Prior to their installation detailed elevations and floor plans shall be submitted to and agreed in writing by the local planning authority for the HV control room and 2no. water tanks shown on the Proposed Site Plan LDS/18115 P3, Rev V. The HV control room and 2no. water tanks shall be installed in accordance with the agreed details.
21. During construction no ground, construction, or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.
22. During construction there shall be no clearance of vegetation by burning, or disposal of other materials by burning.