



Appeal Decision

Site visit made on 22 October 2025

by **P Thompson DipTRP MAUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9th April 2026

Appeal Ref: APP/F1040/W/25/3365887

Land west of Newton Lane, Newton Solney DE15 0RU

- 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 Anesco Ltd against the decision of South Derbyshire District Council.
 - The application Ref is DMPA/2024/1052.
 - The development proposed is installation and operation of a renewable energy generation station comprising ground-mounted photovoltaic panels, inverter/transformer units, DNO substation, site access, internal access tracks, security measures, landscaping, and other ancillary infrastructure.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Anesco Ltd against South Derbyshire District Council, which is the subject of a separate Decision.

Procedural Matters

3. The proposal is not determined under the Planning Act 2008, as a nationally significant infrastructure project, so it is not Critical National Priority infrastructure. Despite this, the Department for Energy Security & Net Zero *Overarching National Policy Statement for Energy* (EN-1) is clear that it may be a material consideration in decision making on applications falling under the Town and Country Planning Act 1990 (as amended). I have dealt with the *National Policy Statement for Renewable Energy Infrastructure* (EN-3) in the same way.
4. As part of the appeal, the appellant submitted amended site layout and landscape strategy plans and an updated *Landscape and Visual Impact Assessment* (LVIA). I have considered the submissions in relation to the 'Holborn Principles'¹. While the layout of panels within the site and landscaping proposed around them differs from that upon which the Council's decision was made, these revisions do not substantively alter the scheme or result in a "fundamental change", so they can be considered as part of the appeal. I also make the same finding in relation to the revised LVIA. Given the nature of these submissions, I am also content that the consultation on the appeal means that there would not be any unlawful procedural unfairness to anyone involved in the appeal. Accordingly, I have determined the appeal in relation to the revised plans and information.

¹ Established in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin).

Main Issues

5. The main issues are the effect of the proposed development on the landscape character and visual amenity of the countryside; and the use of best and most versatile agricultural land (BMVAL).

Reasons

Landscape Character and Visual Amenity

6. The appeal site is situated within the countryside east of Burton upon Trent, and between the settlements of Bretby and Newton Solney. Its southern boundary adjoins Knights Lane, and it lies partly alongside Newton Lane, and is spread across arable fields on land that rises to its centre from the south and falls to the northeast. Moreover, it is undulating, with field boundaries planted, to varying extents, with existing mature hedgerows and scattered hedgerow trees. Two overhead powerlines cross the site southwest to northeast either side of the proposed substation. Despite these, from the evidence before me and what I experienced at the time of my visit, the site appears to share common characteristics with the varied pattern of open and undeveloped fields within the surrounding landscape included in National Character Area 70 (Melbourne Parklands) and Derbyshire County Council 8 (Melbourne Parklands – Estate Farmlands). The presence, or not, and the nature of nearby built forms also helps to distinguish between the interventions made within the landscape by different land use interactions, whether that be development or agricultural influences on the countryside. Taken together these factors, particularly the open and undeveloped nature of the site, give rise to a clear and distinct pattern of development.
7. While this contributes positively to the landscape character and visual amenity of the countryside in this part of the district, the sensitivity to change of different parts of the site and its surroundings are impacted on by the landform and the extent and nature of public vantage points, including Public Rights of Way (PRoW) and the local highway network. PRoW SD33/2/1 runs west from the proposed access at Newton Lane through the centre of the site, beyond the properties north of the Planters Bretby Garden Centre, on to Hawfield Lane. This provides visibility of the parcels of panels to either side in the southern half of the site. Equally PRoW SD33/6/1 is to the north across a neighbouring field and runs from Newton Lane parallel with the northern extent of the site. It provides visibility of the parts of the site that drop down beyond the most northerly overhead powerlines. There are also various points that the site is visible from the adjoining roads.
8. The nature of the proposal means it would introduce development into the site, where it does not currently exist. This would be a distinct built incursion into the countryside surrounding the site that would be spatially distinct from the established pattern of development. Despite the proportions of the proposed panels and associated infrastructure, their appearance would jar with the prevailing characteristics of the surrounding countryside.
9. The presence of such developments in the countryside inevitably brings with it landscape and visual effects, particularly whilst planting establishes during the early stages of their operational life. The degree of prominence of the proposal within the locality would vary because of the topography of the site and its surroundings, and the presence of existing and proposed planting. Many of the

views from the surrounding area are of a shorter range across immediate fields, including westwards from Knights Lane. At its junction with Newton Lane, the land falls, so an elevated view is available of the southern extent of the site. However, the proposed planting would eventually mature to be an integral part of the development and correspond with nearby hedgerow and tree planting. In the long-term, this would soften the visual effect of the physical presence of those parts of the site around PRoW SD33/2/1 and which adjoin Knights Lane and Newton Lane. To a certain extent, it would also visually contain this part of the development. Accordingly, while views may still be available over or through planting, these effects would be transitory and limited in their extent. This aspect of the site and the effect of the proposal's presence therein therefore support the finding in the Derbyshire Spatial Energy Study² that it would have a low landscape sensitivity. Such areas are therefore advised to be less constrained to accommodate solar developments.

10. On the other hand, even with revisions to the site's layout and planting, the evidence before me demonstrates that the proposal would be discernible and appear as a strident form of development on the slopes of the fields opposite PRoW SD33/6/1. This is regardless of whether planting would be allowed to establish and be in leaf. As such, I cannot agree with the findings of the LVIA regarding the magnitude of the impact of the proposal over the lifetime of the development. Receptors of the PRoW would be transient, and the effects would be temporary and reversible, but the harm that would result would endure for a considerable amount of time. Accordingly, this part of the development would significantly detract from the extensive pleasant views available from the PRoW across open countryside for a considerable distance between Newton Lane and Burton upon Trent.
11. Accordingly, while the site and its surroundings are not within a landscape that is of heightened protection or sensitivity, including one that is statutorily designated or classified as a 'valued landscape' by the National Planning Policy Framework (the Framework), the localised effects of this part of the development would, nevertheless, have a significantly detrimental and intrinsically harmful effect on the landscape character and visual amenity of this part of the countryside. This would be contrary to the aims of Policy BNE4 of the South Derbyshire Local Plan – Part 1 (P1LP) regarding landscape character, as it would give rise to unacceptable impacts on landscape character and visual amenity that cannot be satisfactorily mitigated. This would also bring conflict with P1LP Policy SD6.

Best and Most Versatile Agricultural Land

12. Paragraph 168 of the Framework indicates applicants should not be required to demonstrate need for renewable energy developments. However, the WMS2015³ relates to the unjustified use of agricultural land and expects any proposal for a solar farm involving BMVAL to be justified by the most compelling evidence. The WMS2015 was linked to the updated National Planning Practice Guidance (NPPG), which explains that where a proposal involves greenfield land, consideration should be given to whether the proposed use of any agricultural land has been shown to be necessary, whether poorer quality land has been used in preference to higher quality land and to whether the proposal allows for continued

² Derbyshire County Council (2022)

³ Written Ministerial Statement of 25 March 2015.

agricultural use where applicable and/or encourages biodiversity improvements around arrays.

13. This approach is also reflected in the Framework, which requires that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality⁴. EN-3 repeats the aims of the Framework in terms of the approach to the quality of land, but also refers to land type not being a predominating factor in determining the suitability of a site location.
14. The overall site area equates to 28.6 hectares of agricultural land, 22.5 hectares of which would be BMVAL as defined by the glossary in the Framework. Moreover 29% of the site is Grade 2 agricultural land, 49% Grade 3a, 20% Grade 3b, and 2% comprises non-agricultural land.
15. There is no mandate in national planning policies or guidance for alternatives sites to be considered or a sequential approach to their selection. However, P1LP Policy BNE4 aims to protect soils on BMVAL and wherever possible direct development to areas with lower quality soils.
16. The appellant's *Alternative Sites Assessment* (ASA) refers to one other site within a 1.5km search area of the identified Point of Connection (PoC). This is 800m from the site and would have available capacity for the scheme to connect in April 2029. No other POC is available to serve the site. The ASA discounted the site due to the potential for effects to the setting of numerous designated heritage assets, and the efficacy of a scheme given the lesser amount of developable land.
17. The ASA also refers to brownfield land at the former Willington and Drakelow power stations. There is no POC allocated to the former and it is not sufficiently proximate with the POC proposed for the site to be cost effective. I have been referred to P2LP Policy BNE12, which allocates the land at Drakelow for energy-related development. The Council's Emerging Local Plan (ELP) also includes greater protections for BMVAL, but also a draft allocation of Drakelow as the principal location for energy-related development in the district. While this may provide an indication of continued future support for such development, I do not have details of the policy and the allocation, or any unresolved objections to them. Nevertheless, the ASA confirms that the land is allocated for multiple uses and split into several landownerships, with part also proposed to be a solar farm instigated by the landowner.
18. There are also clear benefits to the use of industrial rooftops for the installation of solar panels, particularly in conjunction with ground mounted solar installations. However, the evidence before me indicates that roof spaces on buildings in the area would only be likely to make a small contribution towards the requirement for energy generated by solar power.
19. Consequently, I find that a logical and proportionate approach has been adopted to the consideration of sites that could be served by the PoC, in that it would not be possible to direct the development to areas with lower quality soils.
20. There is no locally or nationally derived figure for what amounts to 'significant' loss of BMVAL. While the area of BMVAL within the site would be comparable with that

⁴ Footnote 65, within paragraph 188.

in the appeal at Cawston in Norfolk⁵, to which I was the appointed inspector, the evidence submitted in the current appeal demonstrates that the temporary loss of BMVAL would not be significant. The Examining Authority's Report for the Oaklands Farm Solar Park Development Consent Order⁶ was clear that the 115 hectares of BMVAL earmarked for that project constituted only 0.5% of BMVAL in the district, so the temporary loss of the land would be insignificant. The Council has indicated the proposal before me would utilise 2% of a much smaller area of Grade 2 BMVAL within the context of the site, but the appellant's figure is 0.0975% of BMVAL overall in the district. For the same reasons, I do not adjudge this to amount to a significant loss of BMVAL.

21. The Framework is clear that planning decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of BMVAL. The proposal would occupy land within the site for a period of forty years. This would be a considerable period, but the temporary nature of the use can be secured by planning condition, with the proposal decommissioned when it is no longer in use, and the land wholly restored to agricultural use afterwards. It is also commonplace and accepted by Natural England, the government's statutory advisor, that a soil management plan can ensure soils can be protected during the construction and operational phases of such developments.
22. I have also been referred to the appeal at Cawston in relation to the effect on food production. However, that decision needs to be read as a whole and in its own specific context in which there was already an approved scheme that could be delivered on less BMVAL. Nevertheless, the position regarding how significant a site is and how the continued grazing of land during the operation of solar farms is considered has moved on since that appeal was determined over three years ago. Equally, it is not clear if similar arguments were made to the inspector regarding the site at Caldwell Road, Drakelow⁷, so I am not able to make reasonable comparisons with the scheme before me.
23. While the land would not be available for arable farming during the forty-year-period, grazing by sheep can be used to manage the grassed areas surrounding panels. I am also mindful it is not compulsory for land to be farmed in a particular way and there is no compelling evidence before me to demonstrate that the proposal would have a significant effect on food productivity or security stemming from farming over this timeframe. A grazing plan could therefore be agreed by planning condition. There are also many competing demands for agricultural land, and some represent total loss, but the effect of taking land out of arable farming use for the proposal would be temporary and reversible.
24. The proposal would also allow for biodiversity and landscape enhancements around the proposed areas of panels, but these conditions need to be met alongside the use of BMVAL. There would be a temporary reduction in the productivity of the subject land, and poorer quality land would not be used in preference to higher quality land, as required by the abovementioned policies and guidance. However, the site selection process demonstrates that such poorer quality agricultural or brownfield land would not be available to serve the development in relation to the PoC. Furthermore, overall, I am satisfied that the

⁵ Appeal Reference: APP/K2610/W/21/3278065 - Land north of The Street, Cawston, Norfolk NR11 7QR.

⁶ DCO Reference: EN010122.

⁷ Appeal Reference: APP/F1040/W/25/3364999 - Land west of Caldwell Road, Drakelow, Burton on Trent, DE15 9TX.

economic and environmental benefits associated with the proposal, that I set out in Other Considerations, would constitute the most compelling evidence to justify the temporary loss of BMVAL throughout the lifetime of the proposed development, as required by WMS2015, NPPG and the Framework.

25. For the above reasons, I conclude that the proposal would not have a harmful effect on the use of BMVAL. Hence, it would not conflict with the key aims of P1LP Policy BNE4, or those of the Framework repeated above.

Other Considerations

Stated Benefits of the Scheme

26. In assessing and ascribing weight to the scheme's stated benefits, I have had regard to the appeal decisions referred to by the appellant, and weight is attributed to each based on the nature and extent of the development.

Climate Change and Energy

27. The UK Government declared a Climate Emergency in May 2019, and the Council followed suit in June 2019. It subsequently adopted its *Climate and Environment Strategy 2021*, a key theme of which was to strive to make the Council carbon neutral by 2030 with all its decisions considering and responding to the potential impact that they will have on the climate and wider environment. The proposal would therefore assist the Council in meeting its own Strategy.
28. The *Climate Change Act 2008*⁸ committed the Government to achieve net zero greenhouse gas emissions by 2050, from a 1990 baseline. The appellant's *Statement of Case* refers to numerous documents that support these aims, not least the *UK Energy White Paper* (2020) and Government's latest approach to energy contained in the *Powering Up Britain Strategy*⁹, which builds on the targeted reduction by committing to a fivefold increase in solar energy generation by 2035. EN-1 also reiterates the urgency of energy development deployment to support this commitment. Furthermore, the *Clean Power 2030 Action Plan*¹⁰ refers to the shift to renewable and low carbon energy by 2030 and its Solar Capacity Update¹¹ states that by 2030, the UK will require 47GW of solar capacity, rising to 69GW by 2035. The latter figure rises to 75GW by 2035 in the *Department for Energy Security and Net Zero Solar Roadmap 2025*. EN-1 and EN-3 also refer to an urgent need for energy generating infrastructure.
29. The proposal would generate over 21MW of energy, enough to power approximately 7,792 homes per annum, in a manner that would reduce the potential implications of CO₂ pollutants generated by equivalent electricity produced from fossil fuels by 4,354 tonnes of carbon each year it is operational. While the development is not significant and amounts to a small step toward that provision, the Framework recognises that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions. In that sense it would be of national importance to mitigating climate change and transitioning to a low carbon economy. The availability of a connection to provide

⁸ The (2050 Target Amendment) Order 2019.

⁹ March 2023.

¹⁰ Clean Power 2030 Action Plan: A New Era of Clean Electricity (December 2024).

¹¹ Clean Power 2030 Action Plan: solar capacity update (April 2025).

the development would ensure that these significant environmental and energy security benefits could be realised.

Site Selection

30. The ASA search area is the starting point in determining the suitability of a site for a scheme of this nature, and another was discounted on various grounds including heritage. There will therefore evidently be various reasons a site may not be appropriate, but I only afford this very limited weight as a benefit of the scheme given the harm that would be caused to landscape character and visual amenity in this location.

Other Environmental Benefits

31. The Biodiversity Net Gain associated with the development is expected to result in a 205% net gain in habitat units and a 101.56% gain in hedgerow units. This would be above the mandatory requirement expected by legislation and would amount to a further environmental benefit of significant weight, particularly as this would be unlikely to materialise without the development and could be a legacy of it. It could also result in offsite benefits through improved habitat linkages.
32. A grazing plan would ensure the land can continue to be used in some capacity for pastoral farming throughout the operation of the solar farm, and it could return to arable use upon decommissioning. The proposal would also utilise recyclable materials, which would enhance the sustainability credentials of the scheme. However, these would respectively be expectations to satisfy policy regarding BMVAL and from a commercial perspective to reduce the overall cost of decommissioning. I therefore afford these benefits no more than limited weight.
33. The proposal would take the site out of agricultural use, which could improve soil quality in the long term. However, the land could be fallowed or sown to grass and grazed with livestock without the proposal. In this context, I am only able to afford this very limited weight as a long-term benefit to agricultural production.

Economy

34. While not utilising brownfield land could enable it to be brought forward for other uses, the proposal would be unlikely to be directly responsible for this occurring, as there could be site constraints to overcome and permission would need to be secured. The Government's revised Industrial Strategy *Invest 2035: The UK's Modern Industrial Strategy*¹² highlights the significant role that low carbon sectors can play in job creation. The construction phase would be a shorter aspect of the development, but there are likely to be some benefits to the economy from the labour market and the procurement of materials and equipment. There could also be continued job opportunities for longer-term maintenance and management of the site. Given the scale of the development proposed these would be benefits of moderate significance.

Heritage Assets

35. The evidence has referred to several Grade II listed buildings within the local area, known as 'Bretby Old School' (List Entry Number: 1031834), 'Newton Park Farmhouse' (1096458) and associated 'Farm Buildings and Cottage' (1334577),

¹² October 2024.

'Geary House' (1096483), 'War Memorial and Pump' (1096484), 'Old School House' (1096485), 'Church of Saint Wystan' (1096486), 'K6 Telephone Box' (1374516), and 'Green View Honeysuckle Cottage' (1374520). The listed buildings draw significance from their settings.

36. The appellant's *Heritage Statement* is reasonable and proportionate for the proposal and indicates that the site does not contribute to the setting of any of the assets, given their distance, presence of landscaping and changes in topography between the site and the assets. There is no substantive evidence before me that would lead me conclude differently in this regard.
37. Accordingly, the proposal would not affect how these buildings are understood or experienced in their respective contexts. With cognisance of the statutory duty referred to in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the settings of the listed buildings would be preserved and there would not be harm caused to their understanding or significance as designated heritage assets. In this respect, the proposal would therefore accord with P1LP Policy BNE2.

Planning Balance and Conclusion

38. The proposed development would not conflict with P1LP Policies BNE2, in relation to heritage assets; and BNE4, in so far as it relates to BMVAL. This would neither weigh for nor against the appeal scheme.
39. Despite the proposal being temporary and reversible, the timeframe of the development would be considerable, and it would be highly prominent from PRow SD33/6/1. Accordingly, the conflict of the proposal with P1LP Policies BNE4 and SD6, that would result from the significantly detrimental harm to the landscape character and visual amenity of the countryside would be afforded substantial weight in this balance.
40. Against this harm, while the weight afforded to the stated benefits ranges from very limited up to significant weight, these would not cumulatively be of such significance to clearly outweigh the harm and conflict with the development plan. While I note that other inspectors have arrived at different conclusions in appeal decisions to which I have been referred, my overall conclusion with the appeal scheme before me is that it would not accord with the development plan and the material considerations, including the provisions of the Framework and the stated benefits, do not indicate the proposal should be determined other than in accordance with the development plan.
41. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

P Thompson

INSPECTOR