



Appeal Decision

Inquiry held 10-13 & 17-19 March, and 10 April 2026

Accompanied Site Visits made 16 March 2026

by Helen Heward BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2026

Appeal Ref: APP/U1105/W/25/3369854

Land Just South of Hazlehurst, Raymonds Hill, Axminster, Devon, EX13 5UH

- 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 Clearstone Energy Limited against the decision of East Devon District Council.
 - The application Ref is 24/0096/MFUL.
 - The development proposed is the construction, operation and maintenance of a Battery Energy Storage System (BESS) with associated infrastructure and works including highway access, landscaping and biodiversity enhancements.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In late 2025 the Government issued draft proposed revisions to the National Planning Policy Framework (the Framework). The draft revisions could yet be subject to change. They carry little weight in the determination of this appeal.
3. The Council's Decision Notice, 14 May 2025, gave one reason for refusal: *"It has not been demonstrated that the proposed development would not, in case of a fire, result in pollution of aquifers and/or water courses within an area where local residents are reliant on the use of aquifers. As such the proposed development could have adverse impacts on health and the environment contrary to Strategy 39 and Policies EN14 and EN18 of the East Devon Local Plan, 2013 to 2031 and the provisions of the National Planning Policy Framework, 2024 (as amended)"*.
4. Following a Case Management Conference, 14 January 2026, with the Appellant, the Council and the Hawkchurch and Monkton Wyld Action Group (the Rule 6 Party) the Council formally withdrew the sole reason for refusal. In a Statement of Common Ground (SoCG), 12 February 2026, the Appellant and Council record that the Council raises no issues in dispute with the Appellant and is in agreement with the Appellant that the appeal should be allowed, and planning permission granted.
5. At the opening of the inquiry the Council's Advocate stated that the changed position aligned with the Council's professional officers' earlier recommendation to grant planning permission. The Council did not submit any further evidence and

- did not call witnesses. During the inquiry I held round table sessions for landscape and planning matters. All other evidence was heard by formal examination.
6. Some representations by interested parties include that it was emphasised at the Grenfell Inquiry that manufacturer's, or manufacturer's commissioned, tests and assessments of the safety of their products should not be relied on as guarantees of safety of operation in real-life conditions.
 7. Counsel for the Appellant submitted that the Grenfell Inquiry (Phase 2 Report) found that a very significant reason why Grenfell Tower came to be clad in combustible materials was systematic dishonesty on the part of those who made and sold the rainscreen cladding panels and insulation products, noting that they had engaged in deliberate and sustained strategies to manipulate the testing process, misrepresent test data and mislead the market. The report found that those strategies succeeded partly because the certification bodies that provided assurance to the market of the quality and characteristics of the products failed to ensure that the statements in their product certificates were accurate and based on test evidence.
 8. The Appellant's case did not rely on marketing materials but test reports which were compiled by an independent third party, Fire & Risk Alliance, in accordance with the relevant test method, UL 9540A. Evidence given by expert witnesses to this inquiry includes their interpretation of test results and their professional views. Proofs of Evidence for all witnesses include statements of truth. There is no requirement at a planning inquiry for evidence to be taken on Oath, but in this case all expert witnesses, giving formal evidence, gave their evidence on Oath.
 9. Some reports upon which the Appellant relies contain information which is subject to intellectual copyright. The Appellant provided hard copies of documents at the inquiry for members of the public to view. The documents are referenced in the Core Documents List with a note added to let people know that they could be viewed at the inquiry. Counsel for the Rule 6 Party confirmed that their expert witnesses had seen the reports. They were not aware of any other interested persons who had wished to view them but had not been able to. I am satisfied that the requirements of section 321(2) of the Town and Country Planning Act have been fulfilled, that interested parties have had access to all evidence upon which the Appellant seeks to rely, and that no party has been prejudiced. I have seen the evidence submitted and taken the contents into consideration.
 10. At the opening Counsel for the Appellant clarified errata in evidence from the Appellant's landscape, fire safety and contamination expert witnesses. The Rule 6 Party raised no objections, and the errors were all dealt with in evidence in chief.
 11. A number of interested parties addressed the inquiry about their concerns and on behalf of others. Amongst other things reference was made to a species for which locational information is not public. The Council verified the information and the main parties all agreed that no issues relevant to this inquiry were raised. I did not view weblinks or a YouTube video referred to by some, but with the agreement of all parties, I accepted an image of a panoramic view toward Golden Cap.
 12. At the inquiry, witnesses for both the Appellant and the Rule 6 Party were examined and cross-examined on drainage matters and the capacity of the appeal proposal to accommodate firewater in the event of a thermal runaway and subsequent fire. At my request, it was agreed that a note be submitted to confirm

the capacity of the scheme in terms of the number of hours of firefighting that could be accommodated before the firewater storage would be exceeded. On 31st March 2026, the Appellant submitted additional material. The Rule 6 Party objected arguing that the submitted table introduced a new penstock arrangement between the middle and lower terraces which was tantamount to a new drainage scheme design that was not presented in evidence at the inquiry. Whilst Mr Rigby may have alluded to the additional penstock in his evidence, it was not addressed in his proof or rebuttal, unlike an additional valve for the upper terrace. Counsel for the Appellant accepted that the additional penstock between the middle and lower terraces could potentially raise issues that would go beyond just a matter of mathematics and agreed to withdraw the disputed spreadsheet. For the avoidance of doubt a cover email from Mr Bradshaw and tables remain as inquiry documents.

13. During the round table planning session there was discussion about grid connection. The Rule 6 Party submitted correspondence from National Grid Electricity Transmission (NGET) dated 10 February and 16 March 2026. Also submitted were the Appellant's response, 31 March 2026 and the Rule 6 Party comments 2 April 2026.

Main Issues

14. At the Case Management Conference, it was agreed that the main issues are:

- i) The risk of a fire event and whether, in the event of a fire, the proposed fire safety and pollution control measures would be sufficient to prevent pollution of aquifers and control the quality of groundwater, with particular regard to the health and safety of local residents.
- ii) The effect of the proposal upon the character and appearance of the local area including the Dorset National Landscape.

Reasons

Fire safety

15. Advice in the National Fire Chiefs' Council (NFCC) Grid scale energy storage system planning - Guidance for fire and rescue services, December 2025 (Section 10 Explosion control) includes that UK fire safety principles and design documents are based on the assumption that an incident or fire will occur (typically one fire at one time).
16. There can be several different causes of battery cell failure, including manufacturing defects, installation errors, physical damage, environmental effects, electrical overheating, aging and lithium dendrite formation, maintenance incidents, vandalism and cyber-attacks.
17. The Electric Power Research Institute (EPRI) maintains a database of global BESS failures. Analysis of failure rates between 2018 and 2023 concluded that the global installed capacity of utility-scale BESS dramatically increased over the last five years. The Appellant argues that as the industry has grown a broad range of health and safety standards have developed; that international good practice has been reviewed, and this has been incorporated into battery safety standards.
18. While failure incidents continue to occur, the overall rate of incidents decreased by 98% from 2018 to 2024. The joint DESNZ/NESO/Ofgem Clean Flexibility

Roadmap notes that the latest available five-year annual average fire incidence rate for GB batteries is 0.7% for BESS in Great Britain (2020/21 to 2024/25), lower than that for wider non-domestic building fires in England at 0.8% (2019/20 to 2023/24). According to the Volta Foundation 2025 annual report total worldwide BESS capacity was 610GWh at the end of 2025, an increase of 257GWh from 2024. In 2025 the number of international BESS fires reported was 10. Two more than in 2024 but on a 70% larger base of installed BESS capacity.

19. Incident data has established that 72% of incidents occur within 2 years of final site commissioning and Lithium Iron Phosphate batteries have a lower incident rate than Nickel Manganese Cobalt.
20. The 'Quantum 1' lithium iron phosphate (LFP) modular battery unit, manufactured by Wärtsilä has been specified. Quantum 1 BESS cabinets would be connected together in a 'string' with a 10cm air gap between cabinet walls. The proposed site layout utilises rows of 3 or 6 units with a spacing of 3.2m between rows. In total there would be 52 x Quantum 1 BESS cabinets 2.1m (w) x 3.2m (l) x 2.7m (h). The Appellant's case is that in the unlikely event of a fire, the specification of the BESS technology and the site design would enable any fire arising to be safely contained without giving rise to any unacceptable impact on the aquifer.
21. The Quantum 1 LFP module can store 1.49 MWh of energy. Each Quantum 1 BESS cabinet has a 1hr fire resistant rating. When connected together in a string with a 10cm air gap between the outer steel cabinet walls a 4hr fire resistant rating is achieved. The Appellant argues that this system breaks up a larger container type BESS into smaller sections with fire breaks between them. By contrast, a standard 20ft container type BESS can store 4 to 6 MWh of energy.
22. Mr Blunden gave Expert Evidence on Battery Fire Safety for the Appellant. He is a Member of the Institute of Fire Engineers (MIFireE), a former Chief Fire Officer of the Scottish Fire and Rescue Service with extensive experience in the UK Fire and Rescue sector, including roles for the National Fire Chiefs Council on Health and Safety. His Evidence was given on Oath. Evidence that is given on Oath can attract more weight than that which is not.
23. Mr Blunden was of the opinion that the marked reduction in incident rate per deployed GWh from 2020 onwards suggests that the risk of BESS fires in newer design types, like the Quantum 1, is significantly lower. Nevertheless, Mr Blunden acknowledged that due to the limited detail available regarding the design type of BESS containers that have experienced a fire, it is difficult to ascertain the reduction in risk due to recent design improvements and international standards and large-scale fire testing (LSFT).
24. Mr Blunden used his expertise to calculate an incident likelihood or fire probability for the development proposed. After correcting his evidence about the likely frequency of an event, he maintained that there would be an annual fire probability of 1 fire event in 102 years during the first 2 years and 1 in 397 years for the remaining life. Mr Blunden's calculations used accepted best practice, but there is no standard UK-endorsed methodology for calculating failure rates.
25. Using Mr Blunden's figures from the 2025 base failure rate, Professor Ramsden, for the Rule 6 Party, accepted that there was a 99.76% chance of no fire in any given year. He calculated that would equate to an approximate 10% probability of at least one fire over the 40-year lifetime.

26. The likelihood of a fire in any one year would be very low, and low over the lifetime of the development. However, the evidence draws on data from a limited time frame. There is no industry endorsed method for calculating the probability of an incident. With the rapid increase in deployment of BESS the EPRI database will likely include a large percentage of systems that are not very old.
27. The 2025 rate includes a large amount of recently installed capacity. Some of which may have only been operating for a very short time. The appeal is considering a lifetime of 40 years, with probable replacement of batteries around year 15 or so. The wide variety of reported and acknowledged possible causes of battery cell failure leads me to conclude that even though statistically the probability would be very low/low, there remains a risk of a fire on the appeal site over the lifetime of the development.
28. Planning Practice Guidance (PPG) encourages applicants to engage with the relevant local fire and rescue service before submitting an application to the local planning authority. This is so matters relating to the siting and location of battery energy storage systems, in particular in the event of an incident, prevention of the impact of thermal runaway, and emergency services access can be considered before an application is made.
29. The Applicant engaged in pre-application consultations with Devon and Somerset Fire and Rescue Service (DSFRS) in late 2023 and provided technical information and supporting evidence to substantiate performance claims and a compliance chart to demonstrate compliance with the then relevant standards and test certification. Wärtsilä was involved in the site design process and provided evidence to support a reduction in separation distance from the relevant standards at that time. The evidence included heat flux modelling and the results of full large scale fire testing (LSFT) conducted by an independent third party.
30. To ensure they consider any potential risks when determining the planning application, the PPG encourages local planning authorities to consult with their local fire and rescue service as part of the formal period of public consultation prior to deciding the planning application. This is to ensure that the fire and rescue service are given the opportunity to provide their views on the application to identify the potential mitigations which could be put in place in the event of an incident so these views can be taken into account when determining the application. Local planning authorities are also encouraged to consider guidance produced by the NFCC guidance when determining the application.
31. The Local Planning Authority consulted the DSFRS on the planning application in 2024. The relevant NFCC Guidance for the development and planning of grid-scale battery energy storage systems at that time was published in 2023. The NFCC updated its guidance which was approved for publication in December 2025 (formally updated 6th February 2026). (Herein referred to as the latest NFCC guidance).
32. The latest NFCC Guidance replaced the 2023 guidance and is that which is material to this planning appeal. It includes advice that local planning authority departments should not use the NFCC guidance as a mandatory set of recommendations but prioritise discussions with the local fire and rescue service.
33. The latest NFCC Guidance outlines that developers and operators should undertake a comprehensive risk management process, supported with appropriate evidence, to identify hazards and risks specific to the facility. In relation to separation distances it

includes that any further reduction in distance beyond 0.914m (3ft) should only be made based on technical advice from a competent person and that it is important for the reader to consider the NFPA 855 Standard for the Installation of Stationary Energy Storage Systems in its entirety to ensure that separation distances are not taken out of context.

34. The Wärtsilä Quantum 1 BESS system proposed has been installed at 100 sites worldwide and 9 sites in the UK, including the UK's largest BESS facility at Blackhillock in Scotland. The cabinets are fitted with explosion protection / deflagration venting and comply with regulatory controls, including NFPA 855 minimum standards for BESS hazard mitigation, NFPA 69 Standard on Explosion Prevention Systems, and NFPA 68 standard on Explosion Protection by Deflagration Venting.
35. The LSFT for the Quantum 1 replicated the proposed layout. A fire was ignited within a ventilated unit and allowed to free-burn to test whether one unit on fire would propagate to a single adjacent unit through a shared wall. The test mimicked a post-deflagration fully involved fire where the deflagration panels had blown off in accordance with the cabinet design and demonstrated that a sustained, ventilated fire burning for 8.5 hours within a fully populated Quantum 1 cabinet at 100% State of Charge did not propagate to adjacent units 10cm apart. The testing was overseen by Wärtsilä's fire safety partners, stakeholders, the independent Fire and Risk Alliance, CSA Group, and Energy Security Agency.
36. Mr Blunden's professional opinion was that the BESS specified meets or exceeds all of the standards required to comply with NFPA 855:2026. He described NFPA 855:2026 as the rule book that tells energy storage system installers what safety requirements they must meet to get approval that the BESS specified is structurally designed to inhibit the propagation of fire between units, meets or exceeds all of the product safety standards, and that the independently verified LSFT demonstrated that there is no fire propagation between cabinets and a reduced spacing is permitted.
37. Mr Blunden described the LSFT as a comprehensive test designed to test the worst-case scenario where everything has failed or gone wrong. However, whilst the test may have represented a worse case for fire propagation, the deflagration panels had been removed to create conditions akin to them having blown off.
38. Under cross examination, Mr Blunden accepted that the risk of failure in measures designed to prevent explosion cannot be ruled out and that the LSFT did not test a scenario where the cabinet was damaged at the beginning of the fire. A report by Clean Energy Associates found that 26% of BESS units inspected had defects in the fire suppression system, 18% had thermal management system defects, and system-level defects accounted for nearly 50% of all quality assurance findings.
39. Mr Blunden claimed that LSFT on the Quantum HE cabinet, from the 'same product family' and successor to the Quantum 1, to be materially relevant. That testing was undertaken in 2024 to current UL 9540A aligned protocols and "worst-case" abuse conditions, with independent verification of gas composition, flame spread and venting behaviour. However, the Quantum 1 is specified in the planning application, and I do not know exactly how comparable the Quantum HE is.
40. The Appellant submits there is no better data than the LFST for this particular scheme, and no other documentary evidence from any other tests to indicate that fire would propagate from unit to unit. Nevertheless, Mr Blunden's evidence

informs me that the Quantum 1 LSFT was carried out prior to any codified language or published guidance. Responding to a clarification question I put to him, Mr Blunden told the inquiry that more recent testing has improved and more recent LSFT has been carried out on more up to date BESS units, with more advanced anti-explosion measures than are proposed for this scheme.

41. The DSFRS's written response to the planning application consultation is dated June 2024. It states that a distance of 3.2m complies with NFPA 855 but does not meet the standard minimum spacing in the [2023] NFCC guidance. The DSFRS letter advises that the NFCC recommendation of a minimum of 6m is based on out-of-date information and that the [2023] NFCC guidance supports reductions in the separation distance between units where a clear, evidence-based case be shown.
42. The letter went on to say that for this proposal, reports provided by Fire & Risk Alliance, a 3rd party who specialise in Fire Protection Design and Hazard and Risk Assessment were based on results using data obtained from Computational Fire Dynamics (CFD) modelling and LSFT, and demonstrated that it is unlikely that the design of the cabinets, and the fire loading within them, will lead to heat fluxes of a sufficient level that promotes fire propagation to adjacent units within the same string of cabinets, or from one string of cabinets to a neighbouring string where a separation distance of 3m is used.
43. DSFRS was satisfied that an adequate evidence-based approach had been adopted and that suitable design features, including a 1hr fire resistant rating of each cabinet's walls, has been proposed in support of a 3.2m separation distance.
44. DSFRS did not have any concerns to raise and did not request any amendments to the proposal, but the DSFRS letter notes that some information and documentation was indicative and still in draft format and that dialogue would continue regarding the formulation of the Emergency Response Plan (ERP).
45. The Planning Officer's Report concluded that the design of the proposed installation has suitable design features to minimise risk of uncontrolled fires and adequately reduces risks of contaminated fire-fighting wastewater leaching into the local water supply.
46. The DSFRS review of the fire safety strategy for the appeal proposal predates the latest NFCC Guidance. There is no evidence before this inquiry in writing from DSFRS post June 2024. Nor were there any witnesses at the inquiry representing DSFRS, the Local Planning Authority or Joe Hassell Command, the organisation with operational fire incident management expertise who had been responsible for site design and engagement with DSFRS at the planning application stage.
47. Mr Blunden recognised that DSFRS did not specifically reference that the Quantum 1 BESS cabinets would be connected together at 10cm spacing. Mr Blunden told the inquiry that he had no doubt that the DSFRS knew what they were considering and his professional interpretation of this was that DSFRS considered a row of Quantum BESS units to equate to a standard 20ft or 40ft BESS container and that DSFRS had commented on the separation distance between rows of Quantum cabinets.
48. But Mr Blunden had not been involved at the application stage. He had attempted to discuss the appeal proposal with a representative of DSFRS prior to the inquiry, but

they had not acceded to his request. Therefore, even though he gave his evidence under Oath, his interpretations of DSFRS's response were just that.

49. The DSFRS letter does refer to the 1 hour fire resistance rating of each cabinet's walls, but does not mention the 10cm spacing, rather it states that the 1 hour fire resistance rating has been proposed in support of the 3.2m separation distance. There are ambiguities in the evidence. I do not share Mr Blunden's confidence.
50. Moreover, although the Appellant had followed PPG advice to engage with the relevant local fire and rescue service before submitting the application to the local planning authority; it is evident that guidance in relation to spacing subsequently changed.
51. The NFCC requirements that any further reduction in distance beyond 0.914m (3ft) should only be made based on technical advice from a competent person and that it is important for the reader to consider the NFPA 855 Standard for the Installation of Stationary Energy Storage Systems in its entirety to ensure that separation distances are not taken out of context post-date the DSFRS consultations.
52. Even if the DSFRS had applied themselves as Mr Blunden suggested at the time they were consulted in 2023 and 2024, there is nothing before this inquiry to say how DSFRS would have applied the latest NFCC guidance. In particular there is nothing to say what the DSFRS views of the proposed Quantum 1 technology and submitted site layout with 10cm cabinet spacings would be in light of the latest NFCC Guidance and other updated guidance, and nothing to say that they would have concurred with the conclusions of Mr Blunden.
53. Submission and approval of the ERP and Battery safety Management Plan (BSMP) could be secured via a planning condition. Amongst other things they could cover the means by which the DSFRS would be alerted to an incident, the location of firefighting resources, the recommended fire-fighting strategy and post-incident recovery plan. The Appellant's draft ERP includes providing a Wärsilä approved BESS Subject Matter Expert who would be allocated in response to an incident and who would alert and guide members of the fire services through the response to an emergency.
54. A fire alarm system would be accessible by fire service personnel through first responder panels located at the two site access points. Digital displays would provide information on the location of the affected battery unit; the status of battery modules and fire suppression systems within the cabinet; and temperature data for that cabinet and adjacent cabinets so that personnel can monitor a fire situation.
55. The Appellant advises that these documents are typically developed in consultation with the fire service once planning permission has been granted and that the evidence exceeds that normally put forward with an application submitted under the ' Rochdale Envelope' principle. I am also mindful that this appeal is under S78 of the Town and Country Planning Act and pollution control is subject to other regulatory regimes and pre-commencement conditions could secure detailed design matters.
56. But there are limitations to the extent to which changes could be dealt with by submission of details under planning conditions. The site layout, cabinet specification, separation distances of cabinets, the number of cabinets in strings and the arrangement of rows are all matters for determination in this appeal. The

ERP and BSMP would be limited to providing additional details and could not overrule or change the submitted plans.

57. The area is designated as being of low groundwater vulnerability; it is not located in a Source Protection Zone or a Designated Drinking Water Safeguard Zone. The Environment Agency did not comment on the application and a holding objection from the Lead Local Flood Authority relating to discharge water into an adjacent drainage ditch was withdrawn post submission of a legal agreement with the neighbouring landowner. There are no objections from the Environmental Health Officer. The Planning Officer's Report concluded that the design of the proposed installation has suitable design features to minimise risk of uncontrolled fires and adequately reduces risks of contaminated fire-fighting wastewater leaching into the local water supply. The Council had not taken issue with fire-safety and now agrees that the severity of contamination in such an event would be low, short lived and would not pose lasting impacts.
58. The Appellant refers me to other appeals including APP/B3030/W/23/3334043 and APP/Z3635/W/25/3374044. A number of other BESS developments and major incidents are also drawn to my attention. I do not know all of the details of these other cases and incidents. I have noted that the scheme before me is different from Carnegie Road where the BESS technology involved a NMC battery which had been installed in 2017 and been subject to a product recall but had not been replaced. At 'Pound Road', APP/U1105/W/23/3319803, differences include that the technology had not been specified, and continuous application of firewater was proposed, and at 'Wareham Road' APP/U1105/W/24/3351691 the firewater containment system had not been submitted.
59. My attention is also drawn to a conclusion reached in APP/N4720/W/24/3354875, that *"whilst there was no guarantee that there would not be a fire at the appeal site, the evidence before me indicates that this is a rare occurrence within both the United Kingdom and United States of America. Moreover, the evidence before me, including specialist advice from the WYFRS (West Yorkshire Fire and Rescue Service), indicates that the design of the scheme has been informed by the most up to date information available and there are no locational reasons from a fire safety perspective to prevent a BESS facility on the appeal site."* But I do not have specialist advice from the local fire service in respect of the appeal scheme and in relation to the most up-to-date NFCC guidance.
60. The Appellant has specified a BESS technology with a 100% safety track record, and I have found that the risk of an incident is very low/low. Nonetheless a risk exists, the latest NFCC Guidance advises that it should be assumed that an incident will occur.
61. I found Mr Blunden to be a competent expert witness and I attach significant weight to his evidence which was given on Oath. However, I have found shortcomings in the evidence presented to support the specified Quantum 1 BESS cabinets and the detailed site layout with strings of cabinets separated by less than 0.914m (3ft).
62. There is an absence of clear advice from the local fire and rescue service to advise on any potential risks in the light of the latest NFCC Guidance when determining this planning appeal, and the proposal is not supported by sufficient evidence to be able to conclude that the proposal meets the updated NFCC Guidance.

63. I am not persuaded that there is sufficient robust evidence to demonstrate that the deflagration/explosion mitigation strategies would work effectively and that explosion hazards would be satisfactorily controlled for cabinets 10cm apart. Nor that it would not give rise to unacceptable risks in respect of fire and safety. Whilst the issue may be finely balanced, as a matter of fire safety, this weighs very heavily against the proposal. And, as the evidence for pollution control is predicated on the fire safety evidence, it follows that I cannot be confident that pollution control measures, such as the extent and size of the fire water retention blanket, would be sufficient to prevent pollution of aquifers and control the quality of groundwater.
64. Section 38(6) of The Planning and Compulsory Purchase Act 2004 states determination must be made in accordance with the plan unless material considerations indicate otherwise. The parties agree that Strategy 39 of the East Devon District Local Plan, 2013 – 2031 (adopted 2016) for renewable and Low Carbon Development is the determinative policy. Under Strategy 39 support for low-carbon energy projects is subject to proposals following current best practice.
65. As I am not satisfied that the evidence demonstrates that the proposal follows current best practice, the application does not comply with Strategy 39 of the Local Plan. It follows that I am not able to conclude that the development would meet requirements of Policies EN14 and EN16 of the Local Plan to satisfactorily demonstrate that in an incident, firewater would not result in contamination of the aquifer, adversely affect the quality of ground water and give rise to unacceptable levels of pollution. This attracts more weight against the proposal.

The effect of the proposal upon the character and appearance of the local area including the Dorset National Landscape.

66. The main site access would be from Stammery Hill and a second access provided from the B3165 for construction and emergency access. Internal access roads would be 4m wide and formed with crushed stone. In addition to the BESS compound, development would include 2.4m high palisade fencing, double gates surrounding the battery storage compound, 4m high acoustic attenuation fencing enclosing 3 sides of the compound, and 19 CCTV and infrared cameras mounted on poles up to 3m in height.
67. The site is on a landscape plateau to the northwest of Blackpool Corner. The north-western, southern and western site boundaries are enclosed by hedgerows and trees. The site is set back with a layering of vegetation screening the site where the compound would be located.
68. The majority of the site is within the Open Inland Planned Plateaux Landscape Character Type in the East Devon and Blackdown Hills Landscape Character Assessment. It is characterised by straight lines, which typically contrast with the smaller scale, irregular patchwork of fields and wooded landscapes on the lower slopes which surround it and solar farms are considered to have been generally well-integrated into the landscape and not visually prominent. Landscape guidelines seek to direct development away from the plateau edges.
69. The BESS compound would be relatively large in scale, and the substation would be 7.5m tall. The compound would be alien in this location. There would be a noticeable change. The sensitivity of the site is medium to high. In the area of the compound landscape and visual effects would be moderate to major adverse.

70. However, the compound would not be on the edge of the plateau, rather it would be set back from the roads behind layers of vegetation, effects would be limited in area and views would be restricted. The existing field pattern would remain largely unchanged; the compound being situated within an existing field area. Over time the landscape strategy would reinforce hedgerows. Development would not impact the perception of field pattern and size, nor would it affect qualities of rurality and tranquillity beyond the immediate site area.
71. There are few public rights of way in the immediate locality and none where there are clear views of the site. There are solar farms adjacent to the southern and western boundaries of the site and development would be visible at close range from a permissive path that has been created through an adjacent solar farm. Given the surrounding energy infrastructure, I do not consider that the proposal would come as a shock to users of this path, although its character and appearance would be a detractor.
72. The proposed access from the B3165 lies within the Dorset National Landscape (DNL), and the remainder of the site is adjacent to it. I have a duty to seek to further the purpose of the DNL to conserve and enhance natural beauty and the Framework adds that development within the setting of National Landscapes should be sensitively located and designed to avoid or minimise adverse impacts on the designated area.
73. Development would not amount to 'major development' in terms of Framework paragraph 190. From my visits I found that the B3165 was quite a busy road, I do not consider that the existing perceptions of rurality and remoteness in the DNL would be materially changed. There would be some views from the B3165. During the construction phase works would appear quite jarring and out of character. They would be seen from the B3165. It is proposed that the access to the B3165 would be reduced in width and replanted post construction. Over time adverse impacts would reduce.
74. I was not persuaded by an argument that the northern edge of the DNL has a lower susceptibility to the proposed changes. However, on my visits, I did find that topography, distance and vegetation limit intervisibility. Views would be contained to within 1Km; any visibility beyond that would not be material. When visible, development would only be glimpsed. The BESS would be located some distance back from the DNL boundary. Even from the B3165 close by the site I expect that views of the BESS compound would be intermittent and partial. At most, initial effects would be moderate adverse, reducing over time.
75. Notwithstanding solar farms close by, given the limited size of the appeal site and limited visibility of the BESS compound, I do not consider it would result in a negative cumulative impact either visually or upon landscape character.
76. The landscape planning officer for the DNL Partnership advised that the relatively level and contained nature of the selected site is such that what might be considered significant impacts on the character and appearance of the DNL area are not expected to arise. Their overall opinion was that the landscape and visual impacts that relate to DNL would be relatively localised and limited to impacts from the point of access from the B3165, and potential filtered views toward the compound from the road. The Council's landscape officer and the DNL

Partnership's officer concluded that the scheme should not be refused in relation to landscape.

77. Overall, the proposal would result in localised minor-moderate adverse landscape and visual effects which would satisfactorily reduce over time. There would be no conflict with the requirement of Strategy 39 that adverse impacts on features of environmental sensitivity, including any cumulative landscape and visual impacts being satisfactorily addressed.
78. However, there would be some limited conflict with requirements of the second part of Local Plan Strategy 7 that development in the countryside would not harm the distinctive landscape, amenity and environmental qualities within which is located. This attracts limited weight against the proposal.
79. There is also conflict with Local Plan Strategy 46 for landscape conservation and enhancement in [National Landscapes] that development be undertaken in a manner that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon, in particular in [National Landscapes]. Albeit that harm to the DNL would be minor, advice in the Framework states that great weight should be given to conserving and enhancing National Landscapes, therefore I attach moderate weight against to this

Other Matters

Ecology

80. The District Ecologist requested a habitat for dormice close to the B3165 access point and a condition that seeks to ensure foraging habitat for lesser horseshoe bats is enhanced. It was agreed with EDDC and the County Ecologist that the detailed Habitat and Landscape Management and Monitoring Plan (draft condition 12) will allow the LPA to increase specific habitat for foraging bats, the details of which could be agreed post application decision.

Toxic Gas

81. The reason for refusal solely concerns the impact on the aquifer in the event of fire. The Rule 6 Party also raised concerns regarding the Appellant's BESS Fire Plume Assessment Study which concluded that there would be no impact due to toxic gas or visibility impairment on any receptor. The release of hydrogen fluoride gas dissolving into hydrofluoric acid was also a health concern of local residents, who live within less than 300m of the site. Local residents were particularly concerned about local climatic conditions which they told me resulted in the locality being covered in an 'upslope fog' known as "Raymonds Hill Fog". Given my earlier conclusions on fire safety this issue is not determinative.

Need

82. It is common ground that whilst the development is not a renewable energy generator, it is a form of low carbon development, that BESS are a significant element of a renewable and low carbon energy system and have a role to play in achieving net zero and providing flexibility to the energy system.
83. The Climate Change Act 2008 (as amended) sets a target for the UK to bring all greenhouse gas emissions to net zero by 2050. Achieving this goal will require a

significant shift to low carbon and renewable forms of energy, which the Appeal Scheme could contribute to.

84. The Clean Power Action Plan 2030 (CPAP), December 2024, sets a target that clean sources of energy should produce at least 95 per cent of energy generation by 2030. The CPAP 2030 sets a requirement for 23-27 GW of battery storage capacity by 2030 and the government expects the majority of the 'very significant level of increase' required to come from grid-scale batteries. The CPAP 2030 makes clear that the acute need for BESS developments is to meet the government's clean power and also energy security targets. Future Energy Scenarios: Pathways to Net Zero, November 2025, highlights the importance of BESS developments and emphasises the importance of storage infrastructure across all pathways to 2050.
85. The need for developments such as the Appeal Scheme will therefore remain beyond 2030 as the country transitions towards net zero in 2050. National Policy Statement EN-1, makes clear that it is 'not the role of the planning system to limit any form of infrastructure. The 23-27 GW requirement should not be seen as a cap and Framework paragraph 168(a) makes clear that local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy. It also requires local planning authorities to give 'significant weight' to the benefits associated with such schemes.

Grid Connection

86. The 'Appeal Site is well located in terms of connectivity to existing renewable energy infrastructure and a point of connection to the National Grid Network. However, the Rule 6 Party argued that the Appellant's presentation of its connection position relied on a superseded connection position; mischaracterised the positions of National Grid Electricity Transmission (NGET) and NGED and conflated physical substation space with deliverable network capacity.
87. The Appellant's position was that the Appellant's initial connection offer was issued by National Energy System Operator (NESO) in November 2021, on the basis of network modelling undertaken by NGET and NESO, and the Appellant countersigned this offer in January 2022 forming a Bilateral Connection Agreement (BCA). The BCA is for a grid connection date of 31st October 2028 which will be reviewed as part of NESO's Connection Reform process.
88. The Appellant argues that in practice, the acceptance of the connection offer means that the Appeal Scheme is factored in to forward network planning. The Appellant also argues that there is sufficient physical capacity within the existing boundaries of the NGET substation at Axminster to connect the Appeal Scheme and that connection of the Appeal Scheme to the electricity grid would not require NGET to undertake additional network reinforcement works.
89. The Appellant does not consider that this has changed, and it remains the Appellant's case that the Appeal Scheme is protected under Connections Reforms and guaranteed a Gate 2 grid connection in the event that the Appeal is allowed and planning permission is granted. The Appellant considers that the readiness of the Appeal Scheme and its grid connection means that it could make a valuable contribution to the government's 2030 clean power target.

90. The Appellant argues that the scheme would make an important contribution to the legally binding net zero 2050 target. Whilst uncertainties may exist about the short-term prospect of a connection, I agree that this 'fallback position' should be given significant weight in accordance with paragraph 168 of the Framework.

Planning Balance

91. There is an absence of advice from the local fire service in relation to the proposed scheme and the latest NFCC Guidance. The proposal is not supported by sufficient evidence to demonstrate that the specified Quantum 1 BESS cabinets and the detailed site layout meet the latest NFCC Guidance and would not give rise to unacceptable risks in respect of fire and safety. This attracts very considerable weight against the proposal.
92. Section 38(6) of The Planning and Compulsory Purchase Act 2004 states determination must be made in accordance with the plan unless material considerations indicate otherwise.
93. The parties agree that Strategy 39 of the East Devon District Local Plan, 2013 – 2031 (adopted 2016) for renewable and Low Carbon Development is the determinative policy. Under Strategy 39 support for low-carbon energy projects is subject to proposals following current best practice. As I am not satisfied that the evidence demonstrates that the proposal follows current best practice, the application does not comply with Strategy 39 of the Local Plan. This attracts further weight against the proposal. Failure to demonstrate compliance with Policies EN14 and EN16 of the Local Plan is consequent of failure to demonstrate compliance with best practice, therefore I attach limited weight to this.
94. Conflict with requirements of the second part of Local Plan Strategy 7 that development in the countryside would not harm the distinctive landscape, amenity and environmental qualities within which is located attracts limited weight against the proposal.
95. I also found conflict with a requirement of Strategy 46 for landscape conservation and enhancement in [National Landscapes] that development be undertaken in a manner that is sympathetic to and helps conserve and enhance the quality and local distinctiveness of the landscape character of East Devon, in particular in [National Landscapes]. Albeit that harm to the DNL would be minor, advice in the Framework states that great weight should be given to conserving and enhancing National Landscapes therefore I attach moderate weight against to this.
96. NPS – EN1 paragraph 2.5.1 states that: '*Given the vital role of energy to economic prosperity and social well-being, it is important that our supplies of energy remain secure, reliable and affordable.*' The contribution to a national need for energy storage attracts substantial positive weight.
97. EN-1 paragraph 2.6.1 states that '*The government's wider objectives for energy infrastructure include contributing to sustainable development and ensuring that our energy infrastructure is safe.*' The contribution to energy security, reducing the UK's reliance on foreign energy imports by increasing levels of domestically produced renewable energy and balancing and stabilisation of the energy grid all attract significant positive weight.

98. A contribution towards the Council's declaration of a climate emergency in 2019 and Climate Strategy and Action Plan, objectives attract additional limited positive weight. A Grid Connection attracts moderate weight in favour. The scheme would also bring some Biodiversity Net Gain and landscape enhancements, which attract some limited positive weight. The Council agreed that these factors weigh in favour of the grant of planning permission.
99. Framework paragraph 161 states that the planning system should support the transition to net zero by 2050 and take full account of all climate impacts and should support renewable and low carbon energy and associated infrastructure. Paragraph 168 adds that local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and should give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future.
100. However, the Appellant has also taken a precautionary approach to the risk to groundwater in the exceptional event that fire might occur. The scheme provides for a water resource on site which is agreed with the DSFRS to meet the NFCC Guidance to safely contain any fire event and moreover has provided, through design rather than simply relying on geology, a means to collect and retain fire water such that it reduces the risk to the aquifer effectively to nil. There is no dispute as to the efficacy of this design and its fitness for purpose from the consultees charged with considering its suitability. It is on this basis that no objections are outstanding from the relevant consultees.
101. Undoubtedly the scheme offers significant benefits for the delivery of low carbon and renewable energy as set out in the benefits section above. A plethora of national policy statements indicate that these benefits should attract very significant weight in favour of development. This I agree with, notwithstanding any possible delay in the connection to the Grid.
102. Even so, the proposal is not supported by sufficient evidence and up-to-date advice from the local fire service to be able to conclude that the proposal meets the latest NFCC Guidance. I could not rule out that the submitted scheme would not give rise to unacceptable risks in respect of fire and safety, nor conclude that the fire safety and pollution control measures would be sufficient to prevent pollution of aquifers and control the quality of groundwater.

Conclusion

103. For the reasons given, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Helen Heward

INSPECTOR

INQUIRY APPEARANCES

For the Appellant

Thea Osmund Smith and Tobin Byers, No5 Chambers called

Rhys Bradshaw BA(Hons), MSc, MRTPI, DLP Planning Ltd
Martin Blunden, QFSM, MIFireE, Greenfire Solutions
David Reynolds CSci, CChem, FRSC, FCIWM,
Sarah Fletcher MA (Hons), MLA(Dist), CMLI, SLR Consulting
Andrew Fellows BSc (Hons), CEnv, CSci, MCIWEM, ASoBRA, SiLC SQP, RSK
GeoSciences
Alaric Lester – BSc, MSc, IAQM, IES, Krastis Consulting
Joshua Rigby BSc (Hons) MCIWEM – Hydrology and Controlled Water Pathways,
Arthian Ltd

For East Devon District Council

Jack Barber, Cornerstone Barristers represented the Council but did not call witnesses.

For Hawkchurch and Monkton Wyld Action Group; Rule 6 Party

Andrew Parkinson, Landmark Chambers, called

Elliott Jones BSc(Hons), DipTP, MRTPI, Director Planning Potential Ltd
Clive Carpenter BSc (Hons), MSc, FGS, C.Geol, C.WEM, AMAE, GWP Consultants
Professor Jeremy Ramsden MA, DSc, FIMMM
Peter Leaver BA (Hons) Pg Dip LA, CMLI, Robert Davies, John West Ltd
Kieran Laxen – BSc, Meng, IAQM, IES, Kalaco Group Ltd

INTERESTED PARTIES

Dr. Karen Goaman
Andrew Davies
Alison Watson
Jo Gordon
Rhys Bradshaw
Councillor Moe Dodon, Hawkchurch Parish Council
Councillor Paul Hayword electoral ward member and County Councillor
Councillor Duncan Mackinder ward member for Yarty abutting the site

INQUIRY DOCUMENTS (using referencing given by the Council)

ID1A Appellant Opening Statement
ID1B 26 03 10 Appellant note on Inspector queries (FINAL)
ID2 LPA Opening Statement
ID3 R6 Party Opening Statement
ID4 Interested Party Drone View Photograph
ID5 Jo Gordon Interested Party Statement

- ID6 Cllr Mackinder Interested Party Comments
- ID7 Appeal statement from Karen Goaman and statements on behalf of two others
- ID8 Hazlehurst Speech
- ID9 Hazelhurst BESS Appeal - Gordon, New Park
- ID10 Appeal statement Alison Watson
- ID11 Appeal statement Moe Dodson Parish Council
- ID12 Axminster Bats Joint Position Statement
- ID13 Table Produced by Rhys Bradshaw
- ID14 TN03 (00) Proof of Evidence Contamination Erratum_16.03.26 v2
- ID15A Airborne Emissions Explanatory Note - PFAS from cars
- ID15B DfT traffic count data 947055
- ID16A Airborne Emissions Explanatory Note - Plume assessment concentrations
- ID16B FTA Data Analysed (Confidential Cover page online and hard copy at Inquiry)
- ID16B FTA Data Analysed
- ID17 Draft Planning Conditions REVISED
- ID18A Axminster Energy Hub Site Visit Itinerary map1 70326
- ID18B Axminster Energy Hub_ Site Visit Itinerary 170326
- ID19 DEVON SOMERSET FIRE AND RESCUE SERVICE LETTER, 27 Jun 2024
- ID20 CFR7DD8 - DSFRS response - 30 May 2024
- ID21 Devon & Somerset FRS - 6 Nov 2024
- ID22 Devon & Somerset FRS - 24 Mar 2025
- ID23 DSFRS Consultation Timeline - DSFRS Consultation Timeline (2)