
Appeal Decision

Site visit made on 24 November 2014

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 January 2015

Appeal Ref: APP/E2530/A/14/2218270

Copley Farm, Doddington Lane, Claypole, Newark NG23 5AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by TGC Renewables Ltd against the decision of South Kesteven District Council.
 - The application Ref S13/3273/MJNF, dated 28 November 2013, was refused by notice dated 24 April 2014.
 - The development proposed is a solar PV installation and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for a solar PV installation and associated works on land at Copley Farm, Doddington Lane, Claypole, Newark in accordance with the terms of the application Ref S13/3273/MJNF, dated 28 November 2013, subject to conditions set out in a schedule attached to this decision.

Reasons

2. The main issues are; first, whether the proposed solar farm would result in an unacceptable loss of agricultural land; second, the effect of the proposed solar farm on the character and visual amenity of the landscape; third, the effect of the proposal on the setting of the Church of St Peter in Claypole; and fourth, the environmental benefits of the proposed development.

The first issue – agricultural land

3. The appeal site is about 52.3 hectares of agricultural land. Paragraph 112 of the National Planning Policy Framework (NPPF) states that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land and that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. Guidance on this issue is found in the National Planning Policy Guidance (NPPG).

4. The application documents included a soil analysis report by Fisher German, Chartered Surveyors who are experienced in agricultural land analysis. The report refers to the Agricultural Land Classification (ALC), which provides a framework for classifying agricultural land according to its physical or chemical characteristics. The ALC identifies five grades of land though Grade 3 is divided into two grades; Grade 3a and Grade 3b. The ALC Map identifies that the site and the surrounding area is classified Grade 3. Fisher German carried out a site survey and the results

of this are detailed in their report, which also details other relevant factors. The report concluded that "Having inspected the land and studied the soils, and taking into account other information...due to the very heavy nature of the clayey soils with limitations in terms of choice of crops and yield potential the land falls within sub-grade 3b". Visual evidence gained at the site visit, where the heavy nature of the soil was noted, indicates that this is an accurate assessment of the appeal site.

5. Grade 3b agricultural land does not fall within the category of 'best and most versatile' (BMV) land, which comprises Grades 1, 2 and 3a agricultural land. Whilst the appeal site is not the poorest of agricultural land, it is not Grade 4 or 5 land, it is of poorer quality than land that is BMV land. The Council has cited appeal decision ref. APP/D3505/A/13/2204846 in support of their case. The Inspector, in that recent appeal decision and having reviewed the NPPF, the NPPG, recent Ministers' statements and the Government's PV Solar Strategy, concluded that "...from all of this it seems to me that the emphasis from Government is to avoid using BMV agricultural land for large scale solar".

6. The Council argues that the Appellants have not demonstrated that other sequentially preferable land is not available and has mentioned the government's Solar PV Strategy Part 2 which emphasises the priority for utilising south facing commercial roofspace rather than greenfield agricultural land. Whilst the use of commercial roofspace and derelict land is clearly preferable the government's strategy does not rule out the use of agricultural land for the siting of solar PV schemes to generate renewable energy. Furthermore, it is intended that the land would continue in agricultural use, almost certainly for the grazing of sheep, and the Council has suggested a condition to this effect.

7. The proposed solar farm development would not be on BMV land and the land would remain in agricultural use. The development would not thus result in an unacceptable loss of agricultural land.

The second issue – the character and visual amenity of the landscape

8. The gently undulating landscape around Claypole is criss-crossed by country roads and is subdivided into large fields in both arable and grazing use. Small plantations also feature in the landscape and a main railway line passes close to the north-east of Claypole. Doddington Lane extends south from Claypole to the village of Dry Doddington. The site has a very short boundary to the lane where a gate provides vehicular access. From the gate the north-west boundary of the site diverges from the lane and then extends roughly parallel to, and about 350 metres from, the lane. Along the south boundary of the site, which is about 750 metres long, is a hedgerow, and along most of the north-east boundary, which is about 500 metres long, is another hedgerow. The south-east boundary of the site, which is about 700 metres long, is marked by a sparse hedgerow.

9. The angled panels would follow the contours of the land, would be about three metres in height to their top edge, and would be laid out in rows from east to west. The site would be surrounded by a mesh fence about 2.4 metres high and close to the access off the lane would be four small buildings to house, amongst other things, switchgear and inverters. The development includes new and reinforced landscaping around the perimeter of the site but it is inevitable that the introduction of solar panels and infrastructure on the scale proposed would have an adverse effect on the character of the landscape. The adverse effect, however, would be limited to the site and its immediate surroundings and the overall adverse effect on the character of the landscape would be minor.

10. There would be glimpsed views of the proposed solar farm development from Doddington Lane, which is slightly raised in the landscape probably to alleviate flooding of the roadway, and from Coach Road, which is a bridleway that links Dry Doddington and Stubton. The bridleway is roughly parallel with, and about 300 metres from, the south-east boundary of the site. It is also on slightly higher ground and there are clear views north-east across the site towards the village of Claypole. Proposed boundary vegetation would not screen the solar panels in these views from the bridleway.

11. The solar panels would be visible from a section of the bridleway about 600 metres long; to the north they would be screened by a plantation and to the south by substantial vegetation alongside the bridleway, even in winter. The solar panels and other elements of the development, which would be industrial in appearance, would be intrusive in the view from the bridleway. But there are expansive views in the opposite direction and the visual intrusion would be for only a relatively short section of the bridleway. The proposed development would, nevertheless, have a minor adverse effect on the visual amenity of the area in views from Doddington Lane and Coach Road.

12. The proposed development would have a minor adverse effect on the character of the landscape and on the visual amenity of the area. There is thus some conflict with policy EN1 of the South Kesteven Core Strategy (SKCS).

The third issue – the setting of the Church of St Peter in Claypole

13. The Church of St Peter in Claypole is a Grade I listed building. It is located at the west edge of the village and is within a mainly grassed churchyard. From no part of the churchyard or from within the church, given intervening topography, vegetation and other landscape features, would there be any view of the proposed development. The tower of the church, which is high and a distinctive landscape feature of the area, is visible in views across the site from Coach Road. The farmed landscape between Coach Road and Claypole is part of the setting of the church and the proposed development, given its size and industrial appearance, would intrude into that setting.

14. The setting of the Church of St Peter contributes to the significance of this heritage asset. In views towards the Church from Coach Road the solar farm would be intrusive and the setting of the Church would not thus be preserved. But the harm caused to the significance of the heritage asset, given in particular that the only harm would be to its setting by the introduction of a feature in the countryside, would be less than substantial. Paragraph 134 of the NPPF states that where a proposed renewable energy project will lead to less than substantial harm to the significance of a heritage asset this harm should be weighed against the public benefits of the proposal.

The fourth issue – environmental benefits

15. Environmental benefits in favour of the proposed development, to offset the effects of climate change, include the supply of up to 23.3 GWh of renewable energy; a significant contribution to the achievement of the national target of meeting 15% of the United Kingdom's energy demand from renewable resources by 2020. The scheme would provide enough energy to power about 7000 homes. The environmental benefits of the scheme are afforded significant weight.

Other matters

16. To the east of Doddington Lane is a residential property, Sandhills. The solar farm would be visible from this property though it would be screened, in time and to some extent, by vegetation planted along the boundary of the site. It might be considered to be visually intrusive but the dwelling would not become an unpleasant or unattractive place to live. There is no evidence to indicate that a solar farm causes any health issues to those living nearby. The planting that is proposed as part of the development is likely to result in benefit for the ecology and biodiversity of the area and the solar farm would not increase the risk of flooding or result in contamination. Archaeology concerns can be overcome by imposition of a condition requiring the implementation of a scheme of investigation.

17. There are existing solar farms in the wider area but there is no evidence to indicate that there would be any cumulative impact resulting from the proposed development. Traffic associated with the development would be temporary and is not likely to result in damage to property or in any significant harm to road safety or amenity. To the north of Sandhills is an equestrian centre. There is no evidence to indicate that a solar farm development is detrimental to equestrian pursuits. These and all other matters mentioned in opposition to the scheme have been taken into account but they do not, either individually or collectively, contribute to matters that must be considered in the overall planning balance.

The overall planning balance

18. The NPPF supports renewable energy proposals. The transition to a low carbon future is one of its core planning principles and paragraph 93 states that planning plays a key role in supporting the delivery of renewable energy.

19. Farming and other activities, such as an increasing reliance on private transport, have contributed to changes in the global climate that are having an increasingly detrimental effect on, amongst other things, the landscape. The landscape of South Kesteven is not immune from the effects of climate change. Flooding is a serious issue and will have affected the area, and the lives of those who live within the area. This one effect of climate change causes erosion of the landscape and alters how the landscape can be farmed and used. It also causes severe hardship for those who suffer the direct consequences; flooding of their homes and businesses.

20. The balancing exercise that must be conducted requires planning judgement to be exercised. Considerable weight and importance is given to the duty imposed by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and therefore to the strong presumption in favour of the desirability of the preservation of heritage assets. However, the substantial benefits of the solar energy development outweighs the less than substantial harm that would be caused to the setting of the Church of St Peter, notwithstanding its Grade I listed status, and the minor adverse effect on the character of the landscape and on the visual amenity of the area. Furthermore, the development would not result in an unacceptable loss of agricultural land.

21. There is conflict with SKCS policy EN1 but, with regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, material considerations in this case, the environmental benefits of the renewable energy development, indicate that determination of this appeal should be made other than in accordance with the development plan.

Conditions

22. The Council has suggested twelve conditions which have been agreed by the Appellants. They have been amended in the interests of clarity and precision and in accordance with guidance in the National Planning Practice Guidance. The reasons for the conditions are stated in the schedule.

Conclusion

23. The environmental benefits of the proposed development outweigh the harm that would be caused. Planning permission has thus been granted, subject to conditions, for a solar PV installation and associated works on land at Copley Farm, Doddington Lane, Claypole, Newark.

John Braithwaite

Inspector

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission. Written notification of the date of commencement of the development hereby permitted shall be submitted to the Local Planning Authority no later than 14 days after the event.

Reason: to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended.

2. The development hereby permitted shall be carried out in accordance with the following list of approved plans:

- PV 1.00 rev C2
- TGC/PV007/01 rev C1
- TGC/PV007/03 rev C1
- TGC/PV007/01 rev C
- TGC/PV009/01 rev A1
- TGC/PV001 rev A2
- TGC/PV010 rev A3
- Standard Double Gate Configuration
- Inverter Cabin
- Slice View B2 Copley rev A
- 2V Racking System rev A2
TGC/PV004 rev A2
- GCS0015 - 1 rev 04

Reason: to comply with Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

3. The development hereby permitted shall be removed in accordance with condition 4 below after a period of 25 years from the date when electricity is first exported from the solar farm to the electricity grid ("First Export Date"). Written notification of the First Export Date shall be submitted to the Local Planning Authority no later than 14 days after the event.

Reason: To ensure the development is removed at the end of its effective life.

4. No later than 9 months before the end of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the solar panels and associated above ground works approved under this permission. The scheme, as approved, shall be implemented within 6 months of the expiry of this permission.

Reason: In the interests of the character of the area and highway safety.

5. Notwithstanding condition 2, no development shall take place until final details of the size, design, siting and spacing of the solar panels and all buildings

and structures on site have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. In all cases, the panels, buildings and structures shall not exceed in scale and number, those shown on the plans referred to in condition 2.

Reason: In the interests of the appearance of the area.

6. No access track or means of enclosure other than those expressly permitted pursuant to condition 5 shall be constructed.

Reason: In the interests of the appearance of the area.

7. No development shall take place until details of soft landscape works have been submitted to and approved in writing by the local planning authority and the works shall be carried out as approved. The details shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate, and an implementation programme. All soft landscape works shall be carried out in accordance with the approved details in the first planting and seeding season following the commencement of the development, and any trees or plants which during the lifetime 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.

Reason: In the interests of the appearance of the area.

8. A landscape management plan (LMP), including long term management responsibilities and maintenance schedules, shall be submitted to and approved by the local planning authority prior to the First Export Date. The solar farm hereby permitted shall be operated at all times in accordance with the approved LMP.

Reason: In the interests of the landscape of the area.

9. An ecological management plan (EMP) including details of biodiversity improvements identified in the phase 1 habitat survey as well as a detailed scheme for the continued agricultural use of the land between the panels shall be submitted to and approved by the local planning authority prior to the First Export Date. The solar farm hereby permitted shall be operated at all times in accordance with the approved EMP.

Reason: In the interests of the ecology of the area.

10. The delivery of plant, materials and equipment to the development hereby permitted shall be undertaken in accordance with details set out within the submitted Provisional Traffic Management Information.

Reason: In the interests of highway safety.

11. No external artificial lighting shall be installed.

Reason: To prevent unnecessary light pollution.

12. No development shall take place within the application site before the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.

Reason: In the interests of the archaeology of the area.

13. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 14 November 2013 and the

following mitigation measures detailed within the FRA: i) Access tracks shall be constructed using permeable materials; and ii) Swales shall be constructed on downstream boundaries of all fields as recommended in the FRA and illustrated in the Conceptual SUDs layout drawings.

Reason: To prevent flooding.

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