
Appeal Decision

Site visit made on 16 June 2015

by Neil Pope BA (Hons) MRTPI

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

Decision date: 28 August 2015

Appeal Ref: APP/Y1138/W/15/3004976

Dunsmore Farm, Babylon Lane, Silverton, Exeter, Devon, EX5 4DT.

- 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 Ms Jenny Line of juwi Renewable Energies Limited against the decision of Mid Devon District Council (the LPA).
 - The application Ref. 14/01501/MFUL, dated 5 September 2014, was refused by notice dated 5 December 2014.
 - The development proposed is a temporary change of use of agricultural land to a solar farm and associated infrastructure to generate up to 4.45 megawatts with continued agricultural use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The LPA's decision relates to revised drawings which, amongst other things, clarified the proposed surface water drainage arrangements. I have taken these revised plans into account in determining the appeal.
3. Historic England (HE) was not consulted at application stage but has been notified of the appeal. I have taken into account HE's comments and the response made on behalf of the appellant.

Main Issue

4. Whether the benefits of the scheme, including the production of electricity from a renewable source, outweighs any harmful effects, having particular regard to the impact upon: the best and most versatile (BMV) agricultural land; the character and appearance of the area and; the settings of various designated heritage assets.

Reasons

Planning Policy

5. The development plan includes the Mid Devon Core Strategy 2026 (CS), which was adopted in 2007 and the Mid Devon Development Management Policies (DMP) which was adopted in 2013. The most relevant policies to the determination of this appeal are: CS COR 5 (climate change); CS COR 18 (development in the countryside) and; DMP DM5 (renewable and low carbon energy). These policies broadly accord with the provisions of the National Planning Policy Framework (the Framework) which was published in 2012.

6. Whilst not planning policy, I have taken into account the contents of the Written Ministerial Statement (WMS) dated March 2015 relating to solar energy, the April 2013 speech to the solar PV industry by the Minister of Energy and Climate Change and the advice in the Government's Planning Practice (PPG) relating to renewable and low carbon energy.
7. My attention has also been drawn to the provisions¹ of the document 'An Assessment of the Landscape Sensitivity to Onshore Wind Energy and Large Scale Photovoltaic Development in Mid Devon District' (ALS) prepared for the LPA in 2013. Amongst other things, this describes solar farms of between 5 ha – 10 ha as 'Medium' scale and assesses the 'lower rolling farmed and settled valley slopes' landscape character type² (LCT) as having a 'moderate' sensitivity to medium scale solar farm developments. The ALS also identifies the 'river valley slopes and coombes' LCT as 'high' sensitivity to medium scale solar farms and the 'lowland plains' LCT as 'moderate' sensitivity.

Other Documents

8. I have taken into account the provisions of various Acts³, Directives⁴, Strategies⁵ and statements⁶ relating to renewable energy, including the 2007 energy white paper⁷. Amongst other things, these set out and identify progress towards achieving the legally binding target of reducing UK emissions by at least 34% by 2020 and 80% by 2050, as well as achieving the UK's obligation of 15% of energy consumption from renewable energy resources by 2020. They reflect the Government's commitment to renewable energy. However, amongst other things, the PPG advises that the need for renewable energy does not automatically override environmental protection.

Benefits

9. The proposed development would have a maximum installed capacity of 4.45 MW. On behalf of the appellant, it has been calculated that this would generate sufficient electricity to meet the needs of approximately 1,300 homes / annum and offset about 1,882 tonnes of CO₂ emissions / annum.
10. The proposal, in combination with other renewable and low carbon energy schemes, would assist in tackling climate change and provide a valuable contribution to cutting greenhouse gas emissions. Notwithstanding arguments regarding local and national renewable energy targets, these are not upper limits which cannot be exceeded. The development would accord with CS policy COR5. There is also general support within the Framework for renewable energy schemes. In addition, the proposal would secure some limited ecological enhancement in terms of new tree planting and the creation of a wildflower meadow.
11. The development would assist in increasing the security of electricity supply and contribute towards replacing the UK's dated fossil-fuel based energy infrastructure. The regular income the landowner would receive from the scheme would also diversify a mixed arable and livestock enterprise and

¹ This does not comprise planning policy but it is a material consideration of limited weight.

² As defined in the Mid Devon Landscape Character Assessment 2011.

³ The Climate Change Act 2008.

⁴ Renewable Energy Directive 2009/28/EC.

⁵ Including the UK Renewable Energy Strategy (2009) and the UK Renewable Energy Roadmap and its updates.

⁶ Department of Energy & Climate Change Annual Energy Statement (2013).

⁷ 'Meeting the Energy Challenge' DTI (May 2007).

enhance the economic viability of this rural business. This in turn would enable a degree of planning for future investment in the wider farm business.

12. The above economic and environmental benefits can be given considerable weight in the overall planning balance.

BMV Agricultural Land

13. The appeal site comprises about 8.1 ha of predominantly improved / semi-improved grassland. It forms part of a larger (12.2 ha) triangular-shaped field. The gradient of this field falls from north to south and south east⁸. The appeal site is used for hay / silage on a 283 ha farm holding.
14. Under the Agricultural Land Classification Map (ALCM) published by Natural England this field is identified as Grades 1 and 2 agricultural land. A detailed Agricultural Land Classification Survey of the field, undertaken on behalf of the appellant, reveals that about a third and the upper part of the field is Grade 3b agricultural land whereas the larger, lower part (the appeal site) is Grade 2.
15. DMP policy DM5 includes a requirement for the quality and productivity of the BMV agricultural land to be taken into account when considering renewable and low carbon energy developments. Paragraph 112 of the Framework includes a requirement for the LPA to take into account the economic and other benefits of the BMV agricultural land. Where significant development of agricultural land is demonstrated to be necessary, the LPA should seek to use areas of poorer quality land in preference to that of higher quality.
16. The appeal site comprises BMV agricultural land. However, national and local planning policies do not assist in defining "*significant*" in the context of development on BMV agricultural land. Whilst not planning policy, I note that 20 ha of BMV agricultural land is a trigger⁹ for consulting on proposals which are not in accordance with the provisions of a development plan. This could be a very broad indication of significant development on BMV agricultural land.
17. The above noted WMS includes references to "*large-scale solar farms*" and "*any proposal*". However, not all proposals would be significant in the context of national or local planning policies. Elsewhere¹⁰, developments with an installed capacity of more than 5MW are treated as large-scale solar schemes. The ALS also defines large solar schemes as sites between 10 ha – 15 ha. Such definitions are of further limited assistance in considering what may be significant development. However, from the evidence before me, an assessment of "*significant*" depends on the circumstances of the case.
18. The proposed ground mounted solar panels would occupy about 2.92 ha of the site. Other parts of the site would be used for the access track, inverters, transformers, substation and the proposed fencing. A sizeable part of this field and the appeal site would remain free of development. It has also been argued on behalf of the appellant that the space alongside and underneath the proposed solar panels would be available for grazing by sheep. This is likely to be intermittent. Whilst I note the LPA's scepticism, I have observed sheep grazing on solar farms elsewhere in south west England. Some agricultural activity would continue in this field, including within the appeal site.

⁸ The upper part of the site is about 75m AOD and the lower part of the site is about 45m AOD.

⁹ Schedule 4 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

¹⁰ Article 2(2) of The Renewables Obligation Closure (Amendment) Order 2015.

19. I also note from the information submitted in support of the application that the presence of lower grade agricultural land (Grade 3b) within part of the field limits the agricultural potential of the appeal site. The field is managed as one and, in effect, the appeal site is farmed as lower quality agricultural land. As noted above, there is evidence that the proposal would enhance the viability of the existing farm business. From the extract of the ALCM that has been provided there is much other Grade 1, 2 and 3b land in this part of the district. The appellant's agent has calculated that the proposal would represent 0.08% of Grade 2 land and 0.01% of the BMV agricultural land in Mid Devon.
20. There is no evidence before me to demonstrate that the proposal either on its own or in combination with any other development would harm the agricultural industry. It would also be limited to a 25 year period and would be reversible. In my experience, the proposal would be a modest-sized solar farm. In the context of relevant national and local planning policies relating to BMV agricultural land it would not comprise significant development.
21. I have noted above the provisions of the WMS and the PPG. It is clear that preference should be given to development on land of lower agricultural quality and that there must be "*the most compelling evidence*" to justify solar farms on the BMV agricultural land. In this regard, an Agricultural Assessment has also been undertaken on behalf of the appellant. Amongst other things, this considered the availability / suitability of alternative sites on previously-developed land (including installation on roof tops) and lower grade agricultural land within the district¹¹.
22. When constraints are also taken into account, including landscape sensitivity, proximity to residential properties, heritage assets and grid connection¹², the Assessment indicates that there are no sites of lower agricultural quality available or more suitable to accommodate the proposal. Whilst the LPA is critical of aspects of this Assessment it has not identified any other site, whether this is 'brownfield' land or lower quality agricultural land. It is reasonable to expect a LPA to have knowledge of such sites within its area.
23. On the basis of the evidence before me, the proposal would not result in a significant loss of BMV agricultural land or harm the agricultural industry. Whilst each case must be determined on its own merits, my attention has been drawn to the LPA's decision to approve a 5 MW solar farm on a larger site (comprising Grade 2 and 3a agricultural land) at Westcott in 2014. This tends to support the appellant's argument that there may be some inconsistency in approach by the LPA. However, I do not have all the details of that case. I shall return to the matter of "*the most compelling evidence*" below.

Character and Appearance

24. The appeal site does not form part of any designated landscape. However, the Framework also requires the intrinsic character and beauty of the countryside to be recognised when assessing development proposals.
25. As I saw during my visit, this 8.1 ha of land is situated within an area of very attractive open countryside. The proposed solar panels and associated

¹¹ A district-wide search appears to be a reasonable approach.

¹² I understand that there is no additional capacity in the grid for further commercial-sized renewable generation connections and that this situation is unlikely to be resolved in the next 3 years. I also understand that due to a prior agreement with the network operator the appeal scheme, if approved, would be able to connect to the grid.

infrastructure, including the access track and security fencing would be new elements within the landscape. Whilst the countryside is able to accommodate many forms of development, the long rows of panels, internal access track and ancillary buildings would comprise a rather utilitarian form of development that would contrast awkwardly with the unspoilt open qualities of the site.

26. For the duration of the development (25 years) the proposal would markedly alter the character of the site. Although the panels would be confined to the lower part of the field they would be seen from the public realm. The likely arrays of dark grey coloured panels would disrupt the harmonious pattern of open fields and would appear as a discordant element amongst the patchwork of green, yellow and red sandstone coloured fields. The proposal would detract from the pleasing rural scene and erode the qualities of the 'lower rolling farmed and settled valley slopes' LCT, as well as the adjoining 'river valley slopes and coombes' LCT to the north and the 'lowland plains' LCT to the west.
27. The area is popular with visitors and, as a consequence, even small-scale changes are likely to be apparent to those who spend their time enjoying / relaxing in this attractive rural area. The proposal would result in moderate adverse visual impacts rather than 'negligible' visual change as described within the appellant's Landscape and Visual Impact Assessment.
28. However, renewable energy schemes are, by their very nature, likely to result in some adverse impact upon the character and appearance of the countryside. They are not precluded from rural areas and are identified as an appropriate use under CS policy COR 18. There is no suggestion of any conflict with the provisions of this policy or the ALS that was commissioned by the LPA.
29. The adverse effect upon the character and appearance of the area weighs against an approval. However, in this instance, the extent of harm would not, by itself, be sufficient to justify withholding permission. I note that the LPA did not refuse permission on the basis of landscape or visual harm.

Settings of Designated Heritage Assets

30. The appeal site forms part of the surroundings in which the Grade I listed Parish Church of St. Mary the Virgin, the Grade II* listed early 16th century Dunsmore Farmhouse and elements of the 100 ha Grade II* Registered park and garden at Killerton are experienced. It forms part of the settings of these heritage assets. I have therefore had regard to the relevant provisions of the Framework and the duty¹³ regarding the settings of listed buildings.
31. The significance of the Parish Church of St. Mary the Virgin at Silverton, which dates from the 15th century, lies primarily in its inherent architectural qualities and historic fabric. However, as I saw during my site visit, the west tower is a focal point within the landscape, especially when viewed at a distance from higher ground to the north / north east of Silverton. From here, the church tower is a prominent feature on the hillside above the valley floor.
32. The appeal site forms part of the harmonious patchwork of fields and largely unspoilt surroundings that enables an appreciation of the church tower as a historic 'beacon' for religious worship within this part of rural Devon. The site makes a very modest but positive contribution to the setting of this Grade I listed building.

¹³ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

33. The arrays of solar panels would be about 1km from the church and would face away from the church tower. In views from the north / north east the proposal would form part of a wide panorama. Nevertheless, the utilitarian form of the proposed development and the likely dark colour of the panels would be evident in views of the church tower. This discordant addition to the landscape would be a distracting element in views of the church tower.
34. To a limited extent the proposal would disrupt the landscape setting of the church and diminish the significance of the church tower as a historic focal point within this part of the countryside. It would have an adverse impact upon the setting of a building that is recognised as being of exceptional interest. In the context of the Framework, it would result in less than substantial harm. This weighs against an approval.
35. The significance of Dunsmore Farmhouse lies primarily in its inherent architectural qualities and historic fabric. As noted by HE, this is a particularly fine example of a fully developed Devon vernacular farmhouse. The surrounding farmland, including the appeal site, forms part of its agricultural setting. The site contributes to an appreciation and understanding of the inherent qualities of the farmhouse and the historic landscape setting to this important building.
36. The proposed development would be approximately 500m north west of Dunsmore Farmhouse. Views from the farmhouse in the direction of the appeal site would largely be restricted by intervening buildings and vegetation. However, the arrays of solar panels, access road and some ancillary buildings would appear in views of this listed building from the south east.
37. As I saw during my visit, Dunsmore Farmhouse forms part of a historic farmstead set in attractive rolling Devon countryside. The unspoilt open qualities of the surrounding fields (including the appeal site, which forms part of the rising back-drop to this listed farmhouse) makes an important and positive contribution to the setting of this listed building.
38. I concur with HE that whilst views from the south east do not reveal the principal elevation of the farmhouse they convey the impression of a substantial historic farmhouse with its farm buildings grouped around it, in an unspoilt and picturesque rural setting. Such views are important in anchoring this ancient Devon farmhouse within a landscape with which it has historic functional associations. This affords a timeless quality to the listed building and contributes to the sense of history in this part of the countryside.
39. The proposal would loom large in the back-drop to the farmhouse. The scale, form and appearance of the proposed development would contrast awkwardly with the architectural qualities of this listed building. Although public views of the farmhouse are limited, the proposal would intrude into views of this heritage asset from the south east. The development would considerably erode the historic and picturesque landscape setting of a building which is recognised as being of more than special interest. In the context of the Framework, it would result in less than substantial harm.
40. The significance of the gardens and pleasure grounds at Killerton appears to relate primarily to an area of early 19th century parkland, set within wider parkland which developed from the late 17th century, as well as the works commissioned in 1900 from William Robinson. I note from the Heritage

Statement submitted on behalf of the appellant that a study¹⁴ on Killerton Park, prepared on behalf of the National Trust, includes important views to and from the park. These views are of significance to this designated heritage asset.

41. The appeal site is about 1.7 km from the edge of Killerton Park. I understand that within the 2013 study the appeal site lies within an area of landscape that has been identified as having high significance to Killerton Park. It is within a 'Zone of Potential Influence' in which 'forces for change'¹⁵ are considered most likely to impact on the setting of the Park.
42. As part of my site visit I viewed the appeal site from the public rights of way that run around the north western edge of Killerton Park. These paths were popular with dog-walkers and others. I also viewed the site against the background of Killerton Park. As I noted, the site forms a small part of a wide view available from within the Park. It comprises part of a rising hillside. Intervening landform and vegetation screen some of the site. This view also includes the main line railway.
43. The proposed development would be visible in views out of the Park especially during the winter months. I agree with the findings in the appellant's Heritage Statement that the visual effects from within the Park would be slight. However, the form and scale of the proposed development would appear at odds with the unspoilt open qualities of the hillside and would detract from the rural landscape setting of the parkland. The proposal would erode the quality of a view which is of significance to this designated heritage asset. In the context of the Framework, it would result in less than substantial harm.
44. The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed through development within its setting.
45. Less than substantial harm does not amount to a less than substantial planning objection when undertaking the necessary balance. The development would be temporary and reversible and the LPA did not withhold permission on the basis of any such harm. However, having carefully considered all of the evidence, for the reasons given above, I disagree with both main parties on this issue.

Planning Balance/Overall Conclusion

46. I have found that considerable weight should be given to the benefits of the appeal scheme and it would not result in a significant loss of BMV agricultural land or harm the agricultural industry. This could amount to the most compelling evidence for approving a solar farm on BMV agricultural land. The 'Other Documents' above also weigh in favour of an approval. However, I have found harm to the character and appearance of the area and harm to the settings of important designated heritage assets.
47. Notwithstanding the temporary nature of the development, when all of the above matters are weighed together, I find that the balance tips against an approval. The proposal would conflict with DMP policy DM5 and would not

¹⁴ Killerton Setting Study (2013). I have not been provided with a copy of this Study but note the commentary / extracts contained within the evidence submitted on behalf of the appellant.

¹⁵ I also understand that these include solar farms.

amount to sustainable development. Even if there is the most compelling evidence for a solar farm on this BMV agricultural land this would not outweigh the harm I have identified or negate the special regard that must be given to the desirability of preserving the settings of the listed buildings.

48. Given all of the above and having regard to all other matters raised, I conclude that the appeal should not succeed.

Neil Pope
Inspector