
Appeal Decision

Hearing held on 26 and 27 January 2016

Site visit made on 28 January 2016

by David M H Rose BA (Hons) MRTPI

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

Decision date: 23 March 2016

Appeal Ref: APP/K1128/W/15/3135465

Land at Lower Blakemore Farm, Harberton, Totnes, Devon, TQ9 6DN

- 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 New Energy For The World GmbH against the decision of South Hams District Council.
 - The application Ref 23/2373/14/F, dated 29 August 2014, was refused by notice dated 18 June 2015.
 - The development proposed is the installation of ground-mounted solar arrays (total site area 94,000m²) estimated output of 5 megawatts and associated infrastructure, cable route and Distribution Network Operator substation.¹
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-
 - (a) the effect of the proposal on its own, and in combination with other renewable energy development in the locality, on the character and appearance of the landscape having particular regard to the use of nearby public rights of way and local highways;
 - (b) the extent to which potential below ground archaeological remains might justify prior intrusive investigative work;
 - (c) the effect of the proposal on the setting of Little Belsford, a Grade II Listed Building;
 - (d) whether the noise from inverters would affect the enjoyment of Watery Lane for outdoor recreation;
 - (e) would the proposal have an adverse effect on the rural economy having particular regard to the role of heritage tourism; and
 - (f) whether, in light of the above and any other material considerations, any identified adverse impacts would outweigh the benefits of the project.

¹ At the point of determination the proposed development comprised approximately 4.9MW based on Site Layout Drawing Rev 05 and Landscape Mitigation Drawing 2685_200_RevC

Reasons

Issue (a): character and appearance of the landscape

3. The appeal site is located within Devon Character Area (DCA) 37. This is a plateau landscape with steep valleys with views of Dartmoor from higher land. Most of the landscape feels remote and tranquil; it is lightly settled; and it has a strong sense of time-depth and intactness. It is an agricultural landscape consisting of a patchwork of medium-sized fields defined by hedgebanks on the plateau and smaller fields in the valleys.
4. The appeal site lies towards the north-western edge of DCA 37 which, in turn, gives way to DCA 38 with inter-visibility as one area merges subtly with the other. This is a landscape which differs by degree with a less dramatic landform of rolling hills and slopes and a tendency towards larger agricultural fields. It enjoys tranquillity away from transport routes and views of Dartmoor. DCA 38 contains solar farms at South Downs (approximately 1.5 kilometres north of the appeal site); at Hazard Hill (a similar distance to the west); at Blue Post (about 2.5 kilometres to the west); and at Marley Thatch (around 1.0 kilometre to the north-west of Blue Post) where there is also an adjoining medium-sized wind turbine. All of these solar installations are larger in scale than the proposed development.
5. In landscape character terms, the appeal proposal, in isolation, would occupy a generally well-contained valley landscape; and it would bring benefit to the structure of the landscape by the formation of a new hedgebank along the northern boundary of the site and a reduction in the size of an uncharacteristically large field. Whilst the character of the appeal site, as agricultural land, and its immediate surrounds, would undergo a marked change, the effect of the proposal on the Landscape Character Area as a whole would be minimal.
6. Looking next at the visual impact on the immediate surroundings,² the southern boundary of the appeal site is adjoined by, or runs close to, Watery Lane, a public bridleway some 500 metres in length, running from Belsford towards Copperthorn Cross and linking into a public footpath and bridleway in the direction of Dorsley Barton. The site rises steeply above the lane from 110 metres to 151 metres above Ordnance datum.
7. Watery Lane is partly sunken and bordered by intermittent hedgebanks of varying scale. The lane has an intimate character, lost in the unspoilt countryside, with rising land each side. Part of its attraction is the contrast between its more enclosed sections and those with a more open aspect and a tangible relationship with the wider open countryside.
8. Walking out from the hamlet, the proposed solar farm would be well-shielded from the initial section of the route by a combination of topography and established and proposed planting. However, the point would come, beyond the proposed block of native species woodland, where the solar panels would run close to the boundary and would be seen ahead of the user of the lane spreading across the hillside and rising in elevation towards the break in slope along the northern boundary of the site.

² The Statement of Common Ground (paragraph 5.7) confirms that there are no site specific objections on countryside appearance grounds – this position is not accepted by CAHSIE

9. Thereafter the installation would run alongside the lane to the point where the public right of way crosses the minor road from Blakemore Level to Harberton. Forward views along the steeply rising lane are limited with greater interest from the land on either side.
10. Whilst it would be possible to minimise the impact of the scheme by allowing supplemented hedgebanks to grow to a height of some three metres, and to retain existing, and add new, trees, given the nature of the topography, the character of the lane and the close proximity of the viewer, the proposal would continue to have a looming, imposing and incongruous impact on the enjoyment of the countryside.
11. The journey down the lane, with the growth of the hedgebanks and the proposed planting in place, would commence with no particular interplay with the appeal site given the effect of the existing hedgebank and the focus of the viewer towards Belsford and the backcloth of the Dartmoor hills. However, as the vista and outlook subsequently opens and broadens across the appeal site, the foreground countryside makes a significant contribution to the wider, extensive and attractive rural landscape. The proposed installation would add significant man-made intrusion and result in a substantial loss to the appearance, experience and enjoyment of the countryside.
12. It is also relevant to note that the new tree planting would be unlikely to achieve the desired level of mitigation in anything less than a period of ten years and well into the lifespan of the development. Moreover, the extended height of the hedgebanks would result in a greater, and generally uncharacteristic, degree of enclosure on one side of the bridleway. This would have the effect of reducing the inherent qualities of the lane in its changing aspect and the contrast between containment and openness and the ability to appreciate expansive views which are a feature of the area.
13. In turn, in the view north-westward, from the footpath to the east of the minor road to Harberton (Harberton FP.10), the depression and enclosure of the route rises to an open crest where the broad vista of Dartmoor and nearby hills spreads in panoramic form. Views would be available across the marginally lower lying appeal site and whilst hedgebank growth would obscure the nearer part of the proposed scheme, the remaining strings of arrays, and related structures, would draw the eye as the most obvious element in the view and result in substantial harm to an attractive countryside aspect.³
14. Moving on to the minor road leading into Belsford from Harberton, much of this narrow lane is contained by tall hedgebanks. However, views towards the appeal site, high on the valley side and rising above the nestling hamlet, are not entirely absent. In this regard, the proposed solar farm would be perceived as dominant, sprawling across the hillside with a near skyline backdrop, and wholly alien in this setting. Whilst planting along the northern boundary of the site would give some added backcloth definition, the overall effect would be highly intrusive in the rural landscape.

³ The Statement of Common Ground (paragraph 3.3) states:- '*..... effects would be no more than minor adverse*'.

15. Turning to cumulative effects, from Harberton FP.10, the proposed scheme, taking account of the intended optimum hedgebank growth, would occupy the foreground with Marley Thatch and Blue Post forming a mid-ground backdrop. The three sites in combination would result in a very marked concentration of installations, more-or-less central to the view, and a consequential and adverse cumulative impact on the character of the landscape.
16. Whereas Marley Thatch and Blue Post are seen from a distance, with the panels merging to form a seemingly flat, contrasting, tone to the natural landscape, the appeal scheme would appear prominently in the foreground with individual elements of the installation clearly visible. The cumulative visual effects would be very damaging to the appearance of the landscape.
17. In addition, to the above 'in combination' effect, it is also relevant to consider the 'in succession' impact on the character of the landscape. In the journey from Harberton, the existing view into the site, through the field gateway at the top of Watery Lane, would be capable of being stopped-up with a new hedgebank. On this basis there would be no association with other solar farms.
18. The route westwards from Blakemore Level, after South Downs, encompasses, in succession and in varying combination, Hazard Hill, Blue Post and Marley Thatch; and similarly in the opposite direction. The nearest installations can also be glimpsed from the road between Shorter Cross and Lincombe Cross. The degree to which a relatively small part of the proposed installation might be seen from Plymouth Road, with Blue Post and Hazard Hill in the foreground, would be limited to occasional roadside glimpses where hedgebanks and/or other vegetation provides an incomplete screen. To my mind, with the impact of the appeal proposal further diminished by distance, and the often moderate speed of traffic on Plymouth Road, the scheme would not add anything of material significance to the existing effects.
19. In the journey from Kerswill (along the indirect, via Langford Farm, route) to Harberton, Marley Thatch and Blue Post would be seen together, followed, in short succession, by Hazard Hill and thereafter the appeal scheme would come into view along a short stretch of the minor road. The 'in succession' effect would be particularly acute along this route and the overall impression gained would be of a landscape where large-scale solar farms comprise a defining characteristic.
20. Whilst the appeal proposal would not be seen in the same field of view as the other installations, and the lane is substantially enclosed, people walking, cycling or on horseback, and out to enjoy the countryside, would inevitably seek to take advantage of glimpsed views and to look around the landscape. On this basis, the appeal proposal would have the effect of spreading the visual impact of solar farms more widely across the landscape, and in a highly intrusive manner, on to a site, unlike its counterparts, without any significant landscape backdrop.
21. In summary, although the appeal site is not widely visible in the landscape, it is apparent from the foregoing that the proposal would, in isolation, result in adverse effects on the appearance of the countryside and, cumulatively, adverse effects on both the character and appearance of the landscape.

22. The strategy for DCA 37 includes the protection of the area's scenic quality, open unspoilt skylines, agricultural landscape and tranquil valleys; the retention of views across the plateau; and to avoid visually intrusive development. The proposed development would generally be at odds with these aims.
23. Furthermore, the proposal would conflict with South Hams Core Strategy Policy CS9(3) which seeks to conserve and enhance the quality, character, diversity and local distinctiveness of the natural and historic environment; and also with South Hams Development Policy DP2(1) which requires development proposals to demonstrate how they conserve and/or enhance the South Hams landscape character by (amongst other things) reflecting the needs and issues set out in identified landscape character areas and respecting the unspoilt nature of the area.

Issue (b): potential below ground archaeological remains

24. The appellant's desk-based archaeological assessment concluded that whilst the potential for Roman and Saxon remains was low, and low-medium for the Medieval period, it was acknowledged that it was not possible to conclusively assess the prospect of remains within the development site. It was further admitted that given the lack of archaeological recording in the study area, the assessment was unreliable and some further investigation might be necessary.
25. A subsequent geo-physical study showed only a small area of potential ridge and furrow and a small potential quarry site, which were interpreted as showing natural ground. The Council has also referred to the possibility of the identified 'anomalies' (indicators of activity) in the eastern part of the site as being potentially indicative of earlier field systems or settlement in some form. However, the survey as a whole was incomplete insofar as parts of the site were 'corrupted' by the magnetic properties of the underlying geology which had the potential to mask any archaeological features.
26. Given the discovery of a Romano-British encampment to the north, and the potential for earlier field systems within the appeal site, the possibility of some form of early settlement or other activity cannot be dismissed lightly. Even if the prospect of archaeological interest were to be low or minimal, the position here is that the desk-based assessment and the geophysical survey have added little to the ability to understand the site and to make an informed judgement of its potential interest or importance.
27. Although the piles supporting the solar array frames would be driven into the ground to a maximum depth of 1.5 – 2.0 metres, and cable trenches would generally be no deeper than 1.2 metres, the risk of damaging below ground features could not be ruled out without a clear appreciation of the sub-surface nature of the site.
28. Whilst evaluation has to be proportionate to an asset's importance, without a clearer comprehension of the extent to which a heritage asset with archaeological interest might exist, and the manner in which development authorised by a planning permission might damage the asset or undermine its preservation, it is apparent that further appraisal would be justified.

29. Although the appellant would be prepared to accept a conditional grant of planning permission, requiring preliminary intrusive investigation, such a condition, in the event of important finds, could prejudice the implementation of the planning permission as a whole and/or compromise the preservation of the asset.
30. On the basis of such superficial knowledge, and the not improbable existence of below ground archaeological remains, prior intrusive investigative work would be a necessary prerequisite to an informed and balanced planning decision.
31. Paragraph 3.69 of the South Hams Development Policies confirms that where a lack of information precludes the proper assessment of a site with archaeological potential, developers will be required to arrange appropriate prior evaluation in advance of any decision. The Framework also indicates that local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. In this instance, that necessity derives from the inconclusive nature of the earlier work.
32. Finally, Core Strategy Policy CS9(4) requires the quality of the historic environment, including archaeological features, to be conserved and enhanced; and Development Policy DP6(5) sets out that development should not harm archaeological remains of local importance, except where the benefits of the development are considered to outweigh the value of the remains. To assess such importance, or otherwise, it remains evident that the appellant has not submitted sufficient information to inform that balance.

Issue (c): Little Belsford

33. Little Belsford is a Grade II Listed Building. It is a sixteenth century former farmhouse (now a house) with a later (probably eighteenth century) wing at the rear.
34. It is acknowledged that the buildings around the Listed Building have undergone change and that the former farmhouse does not have any formal setting or direct association with the appeal site. However, the adjacent agricultural fields, and the building's entrenchment deep within the rural landscape, comprise the surroundings in which the asset is experienced. The appeal site forms part of the countryside backdrop to Little Belsford.
35. Even with intervening planting, the extent, elevation and quasi-industrial nature of the proposed solar farm would remove the characteristic context of the Listed Building and result in less than substantial harm to the significance of the designated heritage asset. The ability to see the site, or otherwise, from the heritage asset, is of no material consequence to this assessment.⁴
36. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires, in considering whether to grant planning permission for development which affects a Listed Building or its setting, special regard shall be had to the desirability of preserving the building or its setting.

⁴ The Statement of Common Ground (paragraph 5.10) records:- *'The small number of windows in the east upper elevation of Little Belsford are not visible, therefore there is no apparent view from this listed building to the site*'

37. The National Planning Policy Framework indicates that when considering the harm to an asset, great weight should be given to the asset's conservation; and, the more important the asset, the greater the weight should be. Where it is found that a development proposal would lead to less than substantial harm to the significance of the designated asset, the harm should be weighed against the public benefits of the proposal.
38. In addition to Core Strategy Policy CS9(3) and (4), Development Policy DP6(1) states that development should preserve or enhance the quality of the historic environment; and that the design, siting, bulk, height, materials, colours and visual emphasis of proposed new development should take into account local context and in particular the character and appearance of the historic building and its environment.

Issue (d): inverter noise and the enjoyment of Watery Lane

39. The appellant's noise analysis of the PV boxes, each containing two inverters and a transformer, provides guaranteed sound power levels of 64 db, outside the equipment housing, at a distance of 20 metres. However, there is no information on the likely cumulative levels at the site boundary with Watery Lane. In addition, existing background noise levels have not been established.
40. Although the Council did not require any form of noise assessment, it is, nonetheless, a legitimate objective to balance the needs of the development with the reasonable expectations of those seeking to enjoy the countryside. Whilst the area does not have any formal status in relation to tranquillity, the Framework acknowledges that such areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason should be identified and protected.
41. Such protection might be secured by planning condition. However, in framing such a condition it would be necessary to establish background noise levels to determine what level above background would be reasonable; and whether that limit could be met by the installation and any additional, necessary, mitigation. Whilst endeavours were made to draft and agree a condition, the setting of any limit would be arbitrary and run the risk of failing to safeguard amenity and/or being unduly onerous in regard to the operation of the site.
42. In conclusion, it cannot be determined whether the noise from the inverters and transformers would affect the enjoyment of Watery Lane for outdoor recreation. However, without reasonable certainty as to whether the impacts of the development would be acceptable, or could be made acceptable by means of a planning condition, this represents a further consideration to be applied in the final planning balance.

Issue (e): the rural economy

43. The importance of heritage tourism to the Devon rural economy is undisputed in terms of tourism business turnover, visitor spending and employment. Locally, in the parish of Harberton, some 131 self-catering beds have been identified and Belsford itself is home to five holiday cottages.

44. The inherent attraction of Belsford includes its timeless quality and the escapism it offers deep in the countryside and away from through traffic. Watery Lane provides a ready outlet for walking and cycling with an opportunity to complete a circular route using lightly trafficked country lanes. Whilst there is no evidence to suggest that solar farms, in general, might deter visitors, the countryside asset of the immediate locality would be rendered less attractive by the appeal proposal. To my mind, the proposed solar farm would rob the area of its natural attributes and run the risk of undermining the draw of Belsford Court Cottages should new or repeat visitors be deterred by the inescapable proximity and presence of the proposed solar farm.
45. However, in the context of the Devon heritage tourism industry, as a whole, there is nothing to suggest that the proposal would have an adverse effect on the rural economy.

Issue (f): other material considerations and the planning balance

46. Turning to the benefits of the scheme, the proposal would contribute towards the Government's long-standing and well-documented commitment to renewable energy generation,⁵ with an anticipated output of some 4.9MW of electricity per annum. This would be the equivalent of powering approximately 1,250 homes resulting in savings of around 54,000 tonnes of carbon dioxide emissions during the anticipated lifetime of the development.⁶
47. The local context is that whilst the South West has made progress in doubling its renewable energy, the outlook is for the region to achieve approximately 9% of its energy from renewable sources by 2020 compared to the government's 15% UK-wide target by the same date.⁷
48. In light of the guidance in the Framework, that even small-scale projects can provide a valuable contribution to cutting greenhouse gas emissions, significant weight attaches to this aspect of the proposal.
49. As to the biodiversity enhancements, the replacement of the current agricultural regime with a meadow mixture of grasses and flowers would provide enhanced foraging potential for a range of species; and the absence of chemical use would allow new botanical species to become established. The extension and reinforcement of hedgerows would also add significantly to the ecological value of the site. These could be secured for the lifetime of the project through a landscape and ecological management plan to be secured by condition.
50. The proposed ecological management regime reflects common practice in the development of solar farms. It also accords with the expectations of the development management regime and the Framework's call for the planning system to contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible. However, as the construction of a new hedgerow along the northern boundary of the site would be of considerable benefit, the weight to be attached would rise from limited to moderate.

⁵ For example see the Appellant's Planning Appeal Statement of Case – paragraphs 6.9 – 6.28; & the Council's Appeal Statement – paragraphs 8.1 – 8.3

⁶ The equivalent of 1,048 homes based on OFGEM's average for South Hams (local consumption figures are above the national average)

⁷ Potential Energy – Potential Jobs: building a low carbon economy in South West England

51. In terms of socio-economic benefits, the proposal would provide employment during the short construction phase and thereafter in the management and maintenance of the site. The growth in renewables has generated a significant number of jobs nationwide with scope for a further marked increase in employment. It is also to be noted that approximately 7 jobs are created per 1MW of ground mounted solar.⁸ Overall, the proposal would contribute to the government's commitment to securing economic growth whilst meeting the challenge of a low carbon future. Moderate weight attaches.
52. The proposed development would be for a duration of twenty-five years and it would be fully reversible at the end of the permitted period. However, the scheme would have a marked impact on the locality over a considerable number of years. As such, the temporary nature of the development does not merit material weight in the overall planning balance.
53. It is to be noted that the proposal would not result in the loss of best and most versatile agricultural land, which is a factor of neutral weight insofar as planning decisions should favour the effective use of brownfield land and land of poorer agricultural quality in preference to that of a higher quality.
54. Similarly, although the appeal site does not carry any form of landscape designation, the Framework identifies a need to recognise the intrinsic character and beauty of the countryside in general. There is nothing to suggest that promoting a site outside an area with a higher status of protection attracts any material weight.
55. The availability of a nearby grid connection is often prayed in aid of renewable energy proposals. However, the mere removal of such a constraint in the site search and selection process is not a factor of any particular weight in the determination of the overall planning balance.
56. In terms of the search for alternative sites, the Council has accepted the absence of appropriately sized and available previously developed land sites within the search area identified. The search identified five possible greenfield sites within the locality with only two of those, including the appeal site, being potentially suitable.
57. Whilst I do not seek to question the differences between the respective sites, the promotion of the appeal site was founded on, amongst other matters, its lower visual impact and on the basis that Little Belsford would not be adversely affected. Although that might lead to the conclusion that there is no better site in the immediate locality, it remains incumbent to consider the appeal site on merit in light of the main issues which I have identified.
58. Moreover, whilst there is a need, generally, to increase electricity generation from renewable sources, there is no specific target for South Hams, or Devon, and thus no reconcilable basis to determine the importance or otherwise of a lack of alternative sites. Accordingly, no more than limited weight is to be carried into the planning balance.
59. In summarising the overall level of harm, the degree to which the proposal would have an adverse impact on the character and appearance of the countryside merits significant weight. Similar importance attaches to the

⁸ BRE National Solar Centre

shortcomings in establishing the potential archaeological importance of the site. Special regard is to be given to the desirability of preserving the setting of Little Belsford and great weight is to be given to the asset's conservation commensurate with its importance. The uncertainty relating to potential noise impacts, insofar as it cannot be determined whether the impacts of the development would be acceptable, or could be made acceptable, represents a factor of moderate weight.

60. At the heart of the Framework is a presumption in favour of sustainable development which has three interdependent dimensions:- an economic role; a social role; and an environmental role. In this case the proposal would not represent sustainable development in light of the harmful environmental impacts identified. It follows that the presumption in paragraph 14 of the Framework does not apply.
61. In terms of the development plan, the appellant and the local planning authority agree that Core Strategy Policy CS9 and Development Policy DP2 are not consistent with the Framework in that there is, in particular, no express balance of benefits and harm. However, Policy CS9, in seeking the conservation of the natural and historic environment, addresses the strategic objective of promoting development which will help to reduce the consumption of fossil fuels and the emission of greenhouse gases as set out in Strategic Objective SO23. It also has to be read alongside Policy CS11: Climate Change.
62. Similarly, Policy DP2 acknowledges that the protection of important landscapes can conflict with the benefits of developing renewable energy schemes; and that renewable energy schemes will be tested on a case by case basis considering the diverse objectives of developing renewable energy schemes in the countryside and protecting and enhancing landscape character. On this basis, both of these policies can be considered to closely align with the balance reflected through the Framework, when read as a whole, and significant weight attaches.
63. In light of the above, I conclude that the identified adverse impacts of the development would outweigh the benefits of the project. The proposal would thus be in conflict with the development plan, with particular reference to Core Strategy Policy CS9(3) and CS9(4) and Development Policies DP2(1), DP6(1) and DP6(5), and with the Framework when read as a whole.
64. From my consideration of these and all other matters raised I find nothing of sufficient materiality to change my conclusion to dismiss the appeal.

David MH Rose

Inspector

APPEARANCES⁹

For New Energy For The World GmbH

Dale Evans	Alder King Planning Consultants
Nick Roberts	The Landmark Practice
Jochen Kleimaier	Director New Energy For The World GmbH

For South Hams District Council

Alex Sebbinger	South Hams District Council
Alex Whish	South Hams District Council
Stephen Reed	Devon County Council

For the Campaign Against the Harberton Solar Industrial Estate (CAHSIE)

Andrew Parkinson of Counsel	Instructed by Richard Buxton Environmental and Public Law
Shona Duncan	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Extracts from the Devon Landscape Character Assessment
- 2 Letter of representation from S Blackler – 4 December 2015
- 3 Appeal decision: Butchers Lane, Aughton, Lancashire (APP/P2365/W/15/3002667)
- 4 Appeal decision: Tawside Farm, Lathom, Ormskirk, Lancashire (APP/P2365/W/15/3011997)
- 5 Appeal decision: Burthy Farm, Summercourt, Newquay (APP/D0840/A/14/2212340)
- 6 Appeal decision: Hawkers Farm, Theale, Wedmore, Somerset (APP/Q3305/W/14/3000543)
- 7 University of Bradford: Tranquillity
- 8 Extracts from Harberton Parish Neighbourhood Plan
- 9 Extracts from South Hams LDF – Development Policies Development Plan Document
- 10 Aerial photograph
- 11 Additional/redrafted conditions
- 12 Closing comments on behalf of CAHSIE
- 13 A1 sheets – site layout and photographs

⁹ The names below comprise those who 'registered' to speak – several interested persons also made observations or raised questions during the course of the Hearing; and Georgina Fox, the Council's Environmental Health Officer, contributed to the discussion on noise/noise condition. Professional qualifications, where stated, are shown on the attendance lists.
