



Appeal Decision

Hearing held on 7 June 2016

Site visit made on 7 June 2016

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 5th August 2016

Appeal Ref: APP/B3030/W/15/3141404

Land South off Ollerton Road, Edwinstowe, Nottinghamshire, NG22 9DX

- 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 Anesco Ltd against the decision of Newark & Sherwood District Council.
 - The application Ref 15/00875/FULM, dated 20 May 2015, was refused by notice dated 9 September 2015.
 - The development proposed is construction of a temporary solar farm, to include the installation of solar photovoltaic panels with transformer inverters, substations, security fence and gate and other associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for construction of a temporary solar farm, to include the installation of solar photovoltaic panels with transformer inverters, substations, security fence and gate and other associated infrastructure at Land South off Ollerton Road, Edwinstowe, Nottinghamshire, NG22 9DX in accordance with application ref 15/00875/FULM, dated 20 May 2015 and the plans submitted with it, and subject to the attached conditions.

Procedural Matter

2. A revised landscaping plan was submitted following the refusal of the application and prior to the hearing. The revised proposals included the provision of additional planting along historic field boundaries and were the subject of discussion at the hearing. I am normally required to deal with an appeal on the basis of the same plans that informed the Council's decision. However, in deciding whether to accept amendments to an appeal scheme, I am mindful of the *Wheatcroft* principles¹. The key test in this regard, is whether dealing with the proposal in that way would so change the development that to grant permission on that basis would deprive those who should have been consulted on the changed development, the opportunity to make representations. In this case, the amendment alters the form of proposed landscaping on site. The Council have no objection in principle to the revised proposals and I am satisfied that the amendment would not prejudice the interests of any parties. Therefore, in accordance with the appellants' stated intentions, I have determined the proposal on the basis of the revised landscaping shown on plan ref 24653 L8 C.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, p37]

Main Issue

3. The main issue for the appeal is the effect of the proposal on the character and appearance of the surrounding area, and whether any harm in this regard would be outweighed by the benefits of the scheme.

Reasons

Policy

4. The Development Plan for the district is made up of the *Newark and Sherwood Core Strategy Development Plan Document*, adopted in March 2011 (CS) and the *Newark and Sherwood Allocations & Development Management Development Plan Document* adopted in July 2013 (DPD).
5. Core Policy 10 of the CS and Policy DM4 of the DPD both encourage the provision of renewable and low carbon energy generation within new development. Policy DM4 supports such proposals where the benefits of the scheme are not outweighed by detrimental impacts, including any impact on landscape character.
6. These policies reflect guidance in the *National Planning Policy Framework* (the Framework), which supports the transition to a low carbon future in a changing climate and encourage the use of renewable resources. The Framework seeks to increase the use and supply of renewable and low carbon energy, by encouraging LPA's to provide a positive strategy to promote energy from renewable and low carbon sources. It also states that when determining planning applications, applicants should not be required to demonstrate the need for renewable energy and that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. In this regard the Framework reflects the *National Policy Statement for Renewable Energy Infrastructure* which sets out the Government's strategy for meeting 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.
7. Core Policy 9 of the CS states that new development should achieve a high standard of sustainable design and layout which complements the landscape environment. Core Policy 13 requires that in relation to the effects of new development the landscape character of the surrounding area should be conserved and reinforced. The accompanying Landscape Character Assessment shows the site as lying at the confluence of 3 local landscape character areas (LCAs), although the parties agree that River Maun Meadowlands with Plantations (Policy Zone S15), to be most applicable. This is considered to have a landscape condition as good with moderate sensitivity.
8. Policy DM8 of the DPD seeks to restrict development in open countryside. The Framework also recognises the intrinsic character and beauty of the countryside as a core planning principle. I also note that in the House of Commons oral statement of 29 January 2014 the Planning Minister, Nick Boles, stated the "The policies in the National Planning Policy Framework are clear that there is no excuse for putting solar farms in the wrong places. The Framework is clear that ... solar farms, should be approved only if the impact, including the impact on the landscape – the visual and the cumulative impact – is or can be made acceptable. That is a very high test."

9. Core Policy 12 of the CS and Policy DM7 of the DPD seek to maximize opportunities to conserve, enhance and restore biodiversity and to protect and enhance natural features of importance within or adjacent to development sites. These aims reflect guidance in Paragraph 118 of the Framework. Policy DM5 seeks to ensure that the amenity of residential occupiers is taken into account in considering the effects of new development. Core Policy 14 and Policy DM9 of the DPD both seek to ensure the continued preservation and enhancement of the character, appearance and setting of the district's heritage assets. Paragraph 131 of the Framework also advises local authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets.
10. *Planning Practice Guidance* (PPG) advises that solar farm schemes should be focussed on previously developed sites and that where use of greenfield land is proposed, poorer quality land is used in preference of high quality land. The Framework defines best and most versatile agricultural land as being Grades 1,2 and 3a. Any proposal for a solar farm involving the best and most versatile agricultural land should be justified by the most compelling evidence. The Written Ministerial Statements of the 25 April 2013 and the 25 March 2015 reinforce this approach. The PPG also advises that solar schemes should also be considered in the light of their potential to allow for continued agricultural use and to encourage biodiversity.

The Nature and Benefits of the Proposal

11. The site is made up of 9.86ha of agricultural land, located in open countryside between Edwinstowe and Ollerton. It is bounded to the north by the A6075 Ollerton Road and by the River Maun to the south, and the site is bisected by an elevated single track road which provides access to the sewage works to the rear.
12. The proposal comprises the installation of a 4.64MWp solar farm. It would comprise 16,884 solar panels, which would reach 2.5m in height and would be attached to a fixed ground mounted steel and aluminium rack. The panels would be laid out in east-west rows with approximately 4-5.5m between each row. The supporting infrastructure would comprise 3 transformers and a substation building, a deer fence, access from the A6075 and hardstanding for parking. Landscape mitigation measures would include the introduction of two native hedgerows within the site running north/south to recreate historic hedgerow patterns and augmentation of the existing perimeter hedging which would be allowed to grow to 3m in height.
13. The proposal is intended to produce electricity for export to the national grid. Although the proposal does not include details of how a connection to the national grid would be established, I have no reason to consider that such a connection would not be available. I am advised that the proposal could provide enough renewable energy to power approximately 1,500 average homes and offset 2,500 tonnes of CO₂ per year. The proposed landscaping and biodiversity enhancements would also bring some limited benefits by way of some limited habitat creation for the duration of the use. At the hearing I was also provided with details of the economic benefits of the proposal. It would bring some financial benefit to the Thoresby Estate who state that this diversification of income will assist with the viability of the enterprise. It would provide a small number of temporary jobs during the construction period and a

further very small number of jobs during the life of the project. The proposal would potentially provide local business rates. Finally, although Anesco are committed to making a financial contribution to the local community fund, the proposal is not accompanied by a mechanism for delivering these, and in any case, as they do not appear to serve a planning purpose, or be directly related to the scheme, they carry no weight in the planning balance.

Effect on Character and Appearance of the Landscape

14. The Council's concerns relate to the visual impact of the proposal, and its effect on wider landscape character. The site lies within the Sherwood Regional Landscape Character Area as defined by Natural England's National Character Area profile 49. This is broken down into a number of Local Landscape Character Areas (LCAs). The site lies at the confluence of 3 LCAs: SPZ15 - River Maun Meadowlands with Plantations, SPZ25 Birklands Wooded Estatelands and SPZ26 Budby Estate Farmlands. Notwithstanding the indicative position of these areas, the site comprises a relatively flat area of land on the valley bottom, which the parties agree shows the characteristics of SPZ15 - River Maun Meadowlands with Plantations.
15. The Landscape Character Assessment was adopted as Supplementary Planning Guidance in 2013. It describes the character of this Landscape Character Area as being one of generally undeveloped land given over to permanent pasture or in some places, flood meadow. The narrow river corridor is confined in places by riverside trees and woodland. It also notes that recent development has had a negative impact on the valley with mine sites and urban edges evident in views into and out of the area. Due to the narrow width of the river valley in places, and its linear nature, surrounding landscapes have a large impact on the character of these areas. I noted during the site visit that the river valley varies in its width and the extent to which urban intrusion is evident, and so the character of this landscape area is weaker in some places than others. However, long range views along the river valley provide a sense of continuity which along with the contrast in landscape with the higher land around distinguishes it as a distinct landscape. The guidance identifies the need to conserve and reinforce the pastoral character of these river valleys by avoiding development within the floodplain.
16. The parties agree that the effects of the proposal are relatively localised, and that the solar farm would not lead to cumulative harm in landscape terms. A Landscape and Visual Assessment was submitted with the application which included an assessment of the Zone of Theoretical Visibility and specific assessments of the impact of the proposal from 21 viewpoints within 700m of the site. The Council indicated at the hearing that they were satisfied with the viewpoints selected and agreed that the scheme would be visible from 5 of the identified viewpoints.
17. In short range views the proposal would significantly alter the appearance of the site. In views from the access on Ollerton Road, at viewpoint 1, the rear of the solar panels would be an urbanising presence which due to the elevated position of the road in places would not be entirely mitigated by the proposed landscaping. It would be visible from the front of Cockglode and Woodside Cottage. The site would also be apparent in continuous views for those travelling through the countryside in vehicles and on foot along Ollerton Road. I also take into account that it is likely that routes in and around the site will

become more well used as a result of the relocation of the visitors' centre, and that in many respects, Ollerton Road forms a gateway for many visitors to the area. In these short range views the proposal would have a significantly harmful effect.

18. The effects of the proposal would be less intrusive from viewpoint 6, due to the increased distance from the site, and the screening of parts of the site from the elevated accessway, which traverses the site. The visual intrusion would further diminish in views from further afield. In views from the south, from the footpath adjacent to the railway line as shown in viewpoint 2, the proposal would be seen in the context of other urban intrusions in the landscape, including the adjoining sewage works and the solar panels installed within it, and this would moderate the more intrusive effects of the proposed structures in the landscape. Existing vegetation would also provide partial screening in some views from the elevated land around. From viewpoint 3 to the west of the site the proposal would be visible in more distant glimpsed views which would also take in the existing urban structures in and around the site. Similarly, from viewpoint 7, from east of the roundabout, the structure would be a visible but not prominent in wider views. As a result, the proposal would have only a minor adverse effect on wider views. Beyond this, due to the surrounding topography, the site would not be visible and would have no discernible effect on available long range views.
19. Therefore, whilst I accept that it would have a significantly harmful effect on the appearance of the site in short range views, this effect would be very limited in medium range views with the proposal not visible in long range views. I note that due to the built form of the proposal and the extent to which it would extend across most of the narrow valley bottom, it would intrude upon the character of the River Maun Landscape Area in these views. However, taking into account the size of this character area, and the fact that the continuous form of the river valley would still be clearly evident to anyone passing through the landscape, the extent to which the proposal would fragment or further erode wider landscape character would be localised, and would not harm appreciation of the wider landscape area.
20. The proposed development is for a period of 39 years after which the panels would be dismantled and removed. I also note that additional landscaping could be provided along the Ollerton Road boundary to provide additional screening. Nevertheless, harm would occur to the rural landscape in local views and would thereby conflict with policy CP13 of the CS. This weighs against the proposal in the planning balance.

Other Matters

Living Conditions

21. The proposal is the subject of a small number of objections from local residents. Some have expressed concerns in relation to the effect of the proposal on living conditions. Taking into account the relative position of the nearest dwellings, Cockglode and Woodside Cottage, on the opposite side of Ollerton Road, I do not accept that the proposal would have an overbearing effect on nearby residents, and whilst some disruption may be apparent during construction, I have no reason to consider that the scheme would create disturbance during operation. Therefore, whilst the proposal would be likely to detract from the quality of the view available from some parts of nearby

properties, it would not diminish the living conditions enjoyed by those residents to a significant degree. I therefore find no conflict with Policy DM5 of the DPD and this matter does not weigh against the proposal.

Heritage Assets

22. Residents have raised concerns in relation to the effect of the proposal on the setting of nearby listed buildings. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. A heritage desk based assessment has been submitted, relating to the impact of the proposal on all identified heritage assets within 1 km of the appeal site. There are no heritage assets within the appeal site itself.
23. The assessment identifies Carr Brecks Farmhouse, a Grade II Listed Building, around 250 metres to the south-east of the appeal site. Local residents have raised concerns regarding the effect of the proposal on the building's setting and the Council's Conservation Officer has commented that he considers the proposal to have a minor, adverse effect on the agricultural landscape that forms part of the building's wider setting.
24. The significance of the asset appears to be largely derived from its importance as an example of vernacular architecture from its period, and it remains a working farm, with some large modern agricultural structures within its immediate setting. Whilst I noted on site that the building is visible in some limited shared views with the appeal site, it sits on the valley slope above the appeal site and its immediate setting is physically and visually separated from the appeal site by the River Maun. The proposal would not significantly diminish the agricultural character of the wider landscape as it would intrude upon it to only a very limited degree. Given the lesser importance of this attribute and the limited extent to which it would be affected, I am therefore satisfied that the significance of the heritage asset would not be harmed by the proposal.
25. Ollerton Conservation Area lies around 600m from the appeal site on the opposite side of the A416. Local Residents have also referred to the setting of Ollerton Hall, which is a Grade II* Listed Building which lies within it. Due to the distance from the site to the Conservation Area, and its visual separation by the main road and intervening farmland, there would be no intervisibility between the proposal and these heritage assets and I am satisfied that the proposal would not detract from their significance.
26. Black Hills Farm lies to the west of the site around 250 m west of the appeal site. It appears to be a good example of a farmhouse from its period and although not listed I am advised that the building is shown as a farmstead on mapping from 1835 and that it is identified as a non-designated heritage asset. Due to the distance from the appeal site its immediate setting would be unaffected, although it would have some intervisibility with the appeal site. However, I have no evidence from any party as to how the proposal would be harmful. Therefore, taking into account both the importance of the asset and the limited extent to which the proposal would intrude upon its wider setting, I am satisfied that the proposal would not be materially harmful to its significance as a non-designated heritage asset.

27. I therefore conclude that the proposal would not give rise to harm to the significance of these heritage assets and find no conflict with guidance contained within the Framework in this respect. This is a neutral factor in the planning balance.

Flooding

28. The site falls within Flood Zones, 1, 2 and 3a. The proposal includes flood mitigation measures, including the provision of an 8m easement to the River Maun, and the positioning of equipment housing within Flood Zone 1. The parties agree that the proposal meets the requirements of the Sequential and Exception Test and that provided mitigation measures are employed, the proposal can be considered acceptable in terms of flood risk. On the basis of the information before me, and taking into account the comments of the Environment Agency on the matter, I am therefore also satisfied that the proposal would be safe for its lifetime without increasing flood risk elsewhere. The matter of flood risk is therefore a neutral factor in the planning balance.

Agricultural Land

29. The parties confirmed at the hearing that the agricultural quality of the site was reduced by the effects of flooding and that following assessment the site was considered to fall within Agricultural Land Classification 3b. The Council confirmed that they did not consider the proposal to have an adverse effect on best and most versatile agricultural land. In the absence of any objection from the Council or any substantive evidence to the contrary, I see no reason to disagree with this stance and the matter does not therefore weigh against the proposal.

Biodiversity

30. The site lies close to the Birklands West and Ollerton Corner Site of Special Scientific Interest (SSSI) and the Birklands & Bilhaugh SSSI. The latter SSSI forms part of the Birklands & Bilhaugh Special Area of Conservation (SAC). The parties agree that subject to the implementation of mitigation measures set out in the submitted biodiversity management plan, the proposal can be considered acceptable in relation to its impact on protected species. Taking into account the comments of Natural England I am also satisfied that the proposal is acceptable in this regard, and it therefore carries neutral weight in the planning balance.

Highway Safety

31. Local residents have raised concerns in relation to the effects of the proposal on the local road network, particularly during the construction phase of the proposal. The Council is satisfied that subject to the provision of appropriate visibility splays and signage, the proposal would not have a harmful effect on highway safety and having regard to the position of the access, and the availability of views in both directions along Ollerton Road, I see no reason to dispute this view. This matter does not therefore weigh against the proposal.

Site Security

32. The matter of site security was discussed at the hearing. Both parties confirmed that they were satisfied with the proposed fencing, the design of which had been revised in response to comments regarding flood flows. I am

therefore also satisfied that adequate measures would be put in place in this regard.

The Planning Balance

33. The proposal would have a significantly harmful impact on the appearance of the countryside in local views and a more limited impact on the wider landscape in mid-range views. These effects would be temporary and reversible and the more severe aspects of this harm would be localised. I therefore attribute only moderate weight to the harm arising to the rural landscape.
34. The proposal would provide up to 4.7 GWh of power from a renewable source. The Framework identifies the provision of renewable energy as being central to the economic, social and environmental dimensions of sustainable development. I therefore attribute substantial weight to this benefit. It would also bring some limited ecological benefits and some very limited economic benefits to which I accordingly attribute limited weight.

Conclusion and Conditions

35. Taken together, the identified harm arising from the development would, on balance, be outweighed by the benefits of the scheme. Therefore, although it would fail to comply with the aims of Policy 13 of the CS it would accord with policy DM4 of the Local Plan and can be said to be sustainable when assessed against the Framework as a whole. For the reasons given above I conclude that the appeal should be allowed.
36. In addition to conditions relating to the period of the permission, adherence with the approved plans and the period of implementation, it is reasonable and necessary to require the site is decommissioned at the end of the period of permission. In order to ensure that the site is safe for its lifetime without increasing flood risk, I consider it reasonable and necessary to impose a condition requiring that the development is carried out in accordance with the submitted flood risk assessment.
37. Furthermore, in order to protect biodiversity at the site I also consider it reasonable and necessary to impose conditions requiring the development is carried out in accordance with the submitted biodiversity management plan, including precautionary working methods and monitoring. I also consider it reasonable and necessary that landscaping and maintenance is carried out in accordance with the revised plan ref 24653 L8 C and maintained for the lifetime of the development.
38. Finally, in the interests of highway safety it is reasonable and necessary to impose conditions securing agreed visibility splays, temporary access widening during construction and details of traffic management signage.

Anne Jordan

INSPECTOR

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.
 - Site Location – 001269_100 Rev A
 - Block Plan – 001269_101 Rev A
 - Site Plan – 001269_200 Rev C
 - Fence Elevations and Section – 001269_400 Rev A
 - Typical Buildings – 001269_401 Rev A
 - Anesco Solar Farm Materials – Ollerton Rev. A dated 18th May 2015
3. The planning permission hereby granted shall be for a temporary period only, to expire 39 years and six months after the date of the commissioning of the development. Written confirmation of the date of commissioning of the development shall be provided to the Local Planning Authority within one month after the event.
4. Not later than six months before the date on which the planning permission hereby granted expires, the solar farm and ancillary equipment shall be dismantled and removed from the site and the land restored in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority.
5. If the solar farm hereby permitted ceases to operate for a continuous period of 12 months then a scheme for the decommissioning and removal of the solar farm and ancillary equipment shall be submitted within six months of the end of the cessation period to the Local Planning Authority for its written approval.
6. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) report reference RMA-C1448 prepared by RMA Environmental in May 2015 and the following mitigation measures detailed within the FRA:
 - An 8m wide unobstructed easement from the top of the River Maun embankment shall be maintained.
7. This shall be fully implemented prior the scheme becoming fully operational and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.
8. The development permitted by this planning permission shall be carried out in accordance with the approved Biodiversity Management Plan prepared by SLR dated May 2015, the addendum dated June 2016 and the Landscape Strategy Plan prepared by Barton Willmore referenced 24653.L8 Rev C. Once the agreed planting and mitigation measures have been implemented, inline with the agreed strategy, all landscaping must be maintained in accordance with the long term management plan.
9. The development hereby approved shall be carried out in strict accordance with the Precautionary Working Methods for Existing Habitats and Protected Species outlined within Section 3.0 and the Ecological Enhancements

outlined at Section 5.0 of the Biodiversity Management Plan carried out by SLR global environmental solutions dated May 2015.

10. As outlined by Section 6.0 of the submitted Biodiversity Management Plan carried out by SLR global environmental solutions dated May 2015, a review of biodiversity aftercare management and maintenance will be undertaken on an annual basis with a monitoring report to be submitted to the Local Planning Authority between 1st October and 31st December in Years 1; 2; 5; and every five years thereafter. This detailed report will cover all of the topics outlined in this strategy and will include:
 - A checklist and summary of maintenance operations, as provided by the site operator;
 - A review of performance/ rates of establishment etc.; and
 - Details of any modifications needed to the original aftercare scheme, for example, due to differences between actual and anticipated establishment rates etc
 - The report should be agreed by the Local Planning Authority and thereafter the development shall be carried out in accordance with the agreed details.
11. All hard and soft landscape works shall be carried out in accordance with the approved implementation and phasing programme. Any trees/shrubs which, within 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. The approved landscaping scheme shall be implemented in full.
12. No part of the development hereby permitted shall be brought into use until the visibility splays shown on drawing no. SCP/15816/F01 are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.
13. The temporary access widening for construction/delivery vehicles shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.
14. The construction of the access hereby approved as part of this application shall not be commenced until a scheme for traffic management signage has been agreed and erected. Once erected, the agreed signage shall be retained thereafter for the life of the construction phase of the development.

APPEARANCES

FOR THE APPELLANT:

David Hardy	Squire Patton Boggs LLP
Claire Kent BA Hons MRTPI	Barton Wilmore
Richard Hammond CMLI, AIEMA	Barton Wilmore
Lee Adams	Anesco Ltd
Alex Kebby-Jones	Anesco Ltd
Liam Tate	Barton Wilmore

FOR THE LOCAL AUTHORITY:

Cathy Gillespie	Nottinghamshire County Council
Alison Smart	Nottinghamshire County Council
Laura Gardiner	Newark and Sherwood District Council
Martin Russell	Newark and Sherwood District Council
Lois Lloyd	Newark and Sherwood District Council
Christine Howard	Newark and Sherwood District Council
Kathryn Smith	Newark and Sherwood District Council