
Appeal Decision

Site visit made on 28 October 2014

by **B.Hellier BA(Hons) MRTPI**

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

Decision date: 18 November 2014

Appeal Ref: APP/W1145/A/14/2212551

Land at West Venn Farm, Ashwater, Beaworthy, EX21 5DF

- 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 Solar Securities Group Ltd against the decision of Torridge District Council.
 - The application Ref 1/0368/2013/FUL, dated 19 April 2013, was refused by notice dated 26 November 2013.
 - The development proposed is a solar farm of 19.7ha with a capacity of 10.225MW.
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Decision

1. The appeal is dismissed.

Main issues

2. Having regard to the reasons for refusal and representations from the Ashwater Landscape Protection Group and other parties I consider the main issues are:
 - the effect of the proposed solar farm on the character and appearance of the surrounding countryside;
 - the effect on the living conditions of the occupiers of Renson Mill in relation to outlook;
 - the effect on heritage assets; and
 - whether any adverse effects that are identified would be outweighed by the benefits associated with the production of renewable energy.

Reasons

Planning policy

Development Plan

3. The development plan consists of the Torridge District Local Plan¹ (LP). It does not have a saved policy for renewable energy development so it is necessary to rely on relevant national planning policies in the National Planning Policy Framework (NPPF)² referred to below.
4. In relation to other relevant LP policies Policy DVT6 expects development to maintain or enhance the important attributes and special qualities of the area

¹ Torridge District Local Plan 1997-2011. Adopted September 2007

² National Planning Policy Framework. DCLG March 2012

in which it is located. LP Policy ENV5 seeks to conserve or enhance the natural and historic character, natural beauty, and amenity of the Torridge landscape. LP Policy ENV1 sets out a general requirement to protect or enhance conservation interests including those of historic or architectural interest. Where the benefits of development outweigh conservation interests then it expects the harm to these interests to be minimised and mitigated. LP Policy DVT11 requires development to maintain amenity appropriate to the locality including that of neighbours and the operation of neighbouring uses.

5. The first reason for refusal includes reference to LP Policy DVT2C. This establishes a presumption against development in the open countryside which is at odds with the presumption in favour of sustainable development in the NPPF. It also refers to Policy DVT7 which relates to townscape and urban design which has no direct bearing on the main issues in this case. I have given little weight to these policies.

National policy

6. *Government policy is to support the development of renewable energy sources, including solar power, to help to ensure that the country has a secure energy supply and to reduce greenhouse gas emissions. As a result of EU Directive 2009/28/EC, the UK is committed to a legally binding target to achieve 15% of all energy generated from renewable resources by 2020. The 2006 Energy Review has an aspiration of 20% of electricity to be from renewable resources by 2020. The 2009 UK Renewable Energy Strategy and the UK Low Carbon Transition Plan has as a lead scenario that this figure should increase to 30% although this is not a commitment. None of these documents sets a ceiling and there is a considerable on-going need for renewable energy projects.*
7. The NPPF sets out a presumption in favour of sustainable development. In the absence of a development plan policy relating to renewable energy paragraph 14 of the NPPF says that planning permission should be granted unless any adverse impacts of a proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. Paragraph 98 of the NPPF advises that an application for renewable energy should normally be approved if its impacts are (or can be made) acceptable. However it should be assessed against the NPPF objective of achieving sustainable development as a whole which includes the need to recognise the intrinsic character and beauty of the countryside and paragraph 109 which seeks to protect and enhance valued landscapes.
8. Current national planning practice guidance (PPG) makes it clear that the need for renewable energy does not automatically override environmental protections and that protecting local amenity is an important consideration which should be given proper weight in planning decisions¹.
9. In relation to heritage assets paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm shall be weighed against the public benefit of the proposal, including securing its optimum viable use.
10. Underpinning heritage policy for listed buildings Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision

¹ Planning Practice Guidance: Paragraph: 007 Reference ID: 5-007-20140306

maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Court of Appeal¹ has recently determined that, in having this special regard under Section 66(1), any harm identified should be treated as a matter of considerable importance and weight.

Other policy considerations

11. The Council has adopted a landscape sensitivity assessment (LSA)² which identifies opportunities for wind turbine and solar farm development in each of the Landscape Character Types (LCT) in the District³. It should be read in association with LP Policy ENV5. It provides a robust assessment of the potential for renewable energy within these landscapes whilst acknowledging that it is not designed to replace a site specific assessment. I consider this document should be given considerable weight.

Character and appearance

12. The appeal site does not lie within a designated landscape. However all landscapes have qualities and attributes that are valued by people. It lies within LCT 5A *Inland Elevated Undulating Land*. It is characterised by rolling farmland with medium sized fields and small areas of woodland. Narrow lanes with hedgerows often create a sense of enclosure in what is quite an intimate landscape although there are wider views from some high points. It is a tranquil countryside with scattered farms and individual dwellings. As a working agricultural landscape there has been some amalgamation of the eighteenth and nineteenth century enclosures and the introduction of some modern farm buildings. There is also a telecommunications mast. However these are minor changes to what is still a generally unspoilt rural setting.
13. The site is pastureland forming a roughly rectangular block of three fields set on the south east facing slope of the wide valley of Henford Water. This block is about 300m wide and extends some 600m from the valley floor at 127m AOD up to 157m AOD. The land continues to rise to a ridge followed by a minor road where there are properties at New Buildings. On the opposite side of the valley the land rises to a somewhat lower ridge, followed by a minor road to the village of Ashwater. Here there are clusters of buildings at Berrington and Renson. The village is situated on a continuation of this higher land about 2km to the south.

Landscape effects

14. The proposal is for 43,512 solar panels mounted in fixed frames aligned in rows along the contours. The panels would be static, tilted at an angle with a maximum height of 2.1m. There would also be five transformer units (4.6m x 2.6m x 3.5m high); a sub-station (6.0m x 2.4m x 3.5m high); approximately 70 pole mounted infra-red security cameras; internal access tracks; and a deer fence around each of the three fields.

¹ *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council and Others* [2014] EWCA Civ 137

² *An Assessment of the Landscape Sensitivity to Onshore Wind Energy and Field Scale Photovoltaic Development in Torridge*. Land Use Consultants November 2011

³ As defined in the *Joint Landscape Character Areas for North Devon and Torridge*. Land Use Consultants. Adopted January 2013.

15. The arrays of solar panels would be a substantial construction. In each field there would be a geometric patchwork of thousands of panels with their edges defined by straight lines and right angled steps. Some mitigation would be provided by the existing hedgerows which are substantial. They would be left to develop to a height of up to about 3m and would be maintained at this height. There are also two adjacent copses. Nonetheless the large scale of the manufactured panel arrays together with the ancillary structures would jar with the farming landscape and with the more intimate scale of the surrounding landscape and settlement pattern.
16. The PPG states that large scale solar farms can have a negative effect on the rural environment, particularly in undulating landscapes as is the case here. The LSA landscape strategy for LCT 5A is for a landscape with occasional solar photovoltaic (PV) developments. It indicates that the size of development should relate to landscape scale which varies within the LCT but is likely to accommodate solar PV developments up to and including medium scale which equates to schemes of up to 10ha.
17. The proposal would not impose on a wide area and to this extent would accord with the LSA strategy. However it would be a large scheme of over 19ha contrary to the guidance in the LSA. It would also intrude into an upper valley slope where it would be open to views from the south and east. I consider there would be a very significant adverse effect on the landscape.

Visual effects

18. There would be potential for a development of the scale proposed to have a materially adverse impact when seen from a distance of up to 2km. Within this radius the Zone of Theoretical Visibility (ZTV) suggests the development would be visible from a wide area. In practice because of intervening woodland and hedgerows public views of the site are principally from the south and east. Even then because of roadside hedges and the local landform drivers on the Ashwater road only get glimpses of the site. The nearest public footpath is to the west of Ashwater village some 1.7km to the south. My impression viewing the site from here is that at this distance the development would be assimilated reasonably well into the surrounding field network.
19. The greatest visual impact would be on the private views of occupiers of residential properties on the higher land on the east side of the valley.
20. Berrington is a farmhouse with barn conversions around an internal courtyard. It is operated as a horse retirement home with holiday accommodation and breeds specialist sheep. This building group is screened from the appeal site by farm buildings and there is no outlook from the living accommodation over the valley. The horses are grazed on land that slopes down to Henford Water. From here the proposed development would be prominent and very obvious to anyone tending to the horses including visitors.
21. Renson Mill is a residential conversion with guest accommodation for use as a bed and breakfast establishment although it is currently occupied as a private dwelling. The main outlook is towards the appeal site and the development would appear as a large and uncompromising intrusion. Renson Farm has a similar view although it is further away, is orientated slightly more to the north and also has the benefit of an alternative outlook to the south.

22. From the north and west views of the development would be more limited. Properties at New Buildings are close by and would overlook the site from rear windows but the eye would tend to be drawn over the site and across the valley. The existing hedges would be more effective as a screen here, where the development is running down the slope, than they would be in views facing the slope from the south and east.
23. The PPG indicates that with effective screening and appropriate land topography the area of a zone of visual influence could be zero. This is clearly not a possibility here. There would be some impact on public views from the existing road and footpath network. There would be a substantial visual intrusion on the occupiers of Renson Mill and a significant impact on those in Renson Farm and Berrington. Whilst private views attract less weight than public views I nonetheless consider there would be a significant visual impact.

Cumulative effects

24. At the time of my site visit a 55m high single wind turbine proposal on land to the north of Berrington was the subject of a concurrent appeal. That appeal has subsequently been allowed¹. The views from the south and east that take in the solar farm would also be likely to have the turbine on the skyline. The LSA strategy is not to allow renewable energy developments to be so frequent or so large as to collectively have a defining influence on the overall experience of the landscape. This would not be the case here in relation to LCT 5A as a whole but there would be occasions within the ZTV when the two developments would be seen together which would add to the sense that the traditional quiet rural character of the area was being eroded.

Conclusion on character and appearance

25. I conclude that the scale of the development, its engineered geometric form, its extension into the upper valley slopes and the presence of the nearby turbine would, in combination, have a significant adverse effect on the character and appearance of the surrounding countryside contrary to the provisions of LP Policies ENV1, ENV5 and DVT6. It would fail to follow the landscape strategy in the LSA and it would fail to protect a valued landscape contrary to paragraph 109 of the NPPF.

Living conditions at Renson Mill

26. The main outlook from Renson Mill is to the north-east directly across to the appeal site about 570m away. Its accommodation includes a main living room and study on the first floor and bedrooms and small office on the ground floor. The windows are sub divided into small panes and generally one has to stand close to them to obtain a view. The solar farm would be prominent in these views although the internal seating arrangements are designed in the main to gain light from the windows rather than views out of them. The front door, a small garden area and a ground floor conservatory are located at the south-west corner of the building which is well screened from the appeal site.
27. There is no right to a view. A useful test is whether the scale, character and proximity of the development would make the dwelling such an unattractive place that the majority of people would not wish to live there. This

¹ Appeal Ref APP/W1145/A/14/2220508 Swingdon Farm, Ashwater, Beaworthy EX21 5DG. Single turbine with a tip height of 55m. Allowed 4 November 2014

circumstance does not apply here. Having regard to the separation distance, the level of exposure to views of the site from within the dwelling, and the presence of a degree of screening from existing trees and hedges, I do not consider the impact of the proposal to be so overwhelming as to cause unacceptable living conditions or to conflict with LP Policy DVT11 .

Effect on heritage assets

28. Designated heritage assets within the ZTV include three groupings of bowl barrows around Sandymoor Cross between 880m and 3.9km from the site and Berrington farmhouse, some 390m from the site, which is a Grade II Listed Building.
29. The bowl barrows are not visible from the site and would be unaffected by the development.
30. Owing to the intervening farm buildings there is little inter-visibility between Berrington and the appeal site. However from the south, particularly from the Ashwater road, it would be seen in a prominent location on the valley side. In this context its setting is the valley. It is not limited to the land holding that goes with the farmhouse but includes the west side of the valley and the appeal site. The solar panels would be seen as a significant and incongruous feature which would fail to preserve this peaceful farming landscape which is integral to the setting and therefore the heritage significance of Berrington contrary to LP Policy ENV1 and the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990.
31. In considering proposals for large scale solar farms the PPG requires that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact on views important to their setting. In this case the harm would be less than substantial so paragraph 134 of the NPPF would apply. Nonetheless considerable importance and weight should be given to this harm in the balancing exercise¹.

Benefits of the proposal

32. The scheme is expected to provide 9775MWh/yr of electricity. On this basis and assuming an average annual household consumption of 4266KWh/yr² then the solar farm would have an estimated yield equating to supplying electricity to about 2300 houses. The development would not discharge any CO² and over the 35 year life of the project would result in a reduction in CO² emissions of 312,000 tonnes compared with a coal fired power station or 134,000 tonnes when compared with a gas fired power station. Even allowing for some CO² outputs from the manufacture of the solar farm this represents a sizable saving. The provision of renewable and low carbon energy and associated infrastructure is central to the economic, social and environmental dimensions of sustainable development. For the reasons set out at paragraphs 6 and 7 above substantial weight must be accorded to this benefit.
33. The appellant would anticipate employing local skilled and semi-skilled tradesmen on maintenance and security once the operational phase begins. No estimate of numbers of employees is given but there would be a modest economic benefit.

¹ As discussed at paragraph 10 above

² Sub-national electricity sales and numbers of customers 2005-2011. DECC Publication URN 12D/468

Other matters

34. It is suggested that the proposal would harm tourism which is a significant employer in Devon. Following the foot and mouth outbreak in 2001 the Ruby Country Partnership was established to support the local economy and the tourism industry in and around Holsworthy. The promotional leaflet refers to it as an awe inspiring, tranquil and special place. It refers to the importance of horse riding and of the growing number of establishments that welcome horses and offer high class accommodation. The equine business at Berrington is one such establishment. There are a number of other tourism businesses in the area. However, whilst the tourism industry relies considerably on the quality of the countryside, the effect on this asset has been assessed elsewhere. I am not persuaded that the changes to the landscape in this case would lead to the loss of viability existing businesses.
35. There would be noise generated during the construction of the solar farm. In respect of the Berrington business the effect on the horses is of concern. However, this would be for a temporary period of approximately 12 weeks, during which time moving to an alternative grazing area would be a possibility although there is no doubt this would be a considerable upheaval. It would also be necessary for noise mitigation measures to be incorporated into a construction management scheme and method statement. On balance I do not consider this is a matter which should count against the proposal.
36. The appellant states that the agricultural land classification is mainly Grade 4 with a small area of Grade 3b land. The Ashwater Landscape Protection Group questions this but does not provide any alternative evidence. The proposal would allow for grazing of sheep below the panel arrays although it is acknowledged that the grass quality will suffer from the absence of sunlight. On the evidence before me the proposal would satisfy the advice in the PPG that poorer quality land should be used in preference to higher quality and that proposals should allow for continued agricultural use¹.
37. The glazing used for the panels is designed to absorb light rather than reflect it. Even so there is the potential for some reflection of sunlight, producing glint or glare at nearby properties when the sun is low in the sky. The appellant has undertaken an assessment that shows that some properties to the east of the site might be subject to such an effect for two or three minutes daily. I do not consider this would be an unacceptable impact.

The planning balance

38. The NPPF sets out a presumption in favour of sustainable development and renewable energy development is central to achieving a sustainable future. This is a relatively large scale scheme which would make a valuable contribution to cutting greenhouse gas emissions and which should attract substantial weight.
39. Set against this there would be a significant adverse effect on the character and appearance of the countryside, some additional adverse cumulative effect when it is seen in association with the nearby wind turbine, and further limited harm to the setting of Berrington which is a Grade II Listed Building to which should be attached considerable importance and weight. The PPG confirms

¹ PPG Paragraph: 013 Reference ID: 5-013-20140306

that protecting local amenity is an important consideration in making planning decisions on renewable energy schemes. I do not consider the harm to what is a valued local landscape would be acceptable or could be made acceptable. The proposal would conflict with paragraphs 98 and 109 of the NPPF, with the LSA landscape strategy and with LP Policies ENV1, ENV5 and DVT6. I find that the balance lies clearly against the development.

Conclusion

40. For the reasons set out above and having regard to all other matters before me I conclude and that the appeal should be dismissed.

Bern Hellier

INSPECTOR

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