
Appeal Decision

Site visit made on 4 April 2016

by **Jonathan Hockley BA(Hons) DipTP MRTPI**

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

Decision date: 07 June 2016

Appeal Ref: APP/L3245/W/15/3141378

Land lying to the south of Whitton House, Ludlow

- 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 EBS Energy LLP and GD Bach Limited against the decision of Shropshire Council.
 - The application Ref 15/01238/FUL, dated 18 March 2015, was refused by notice dated 1 July 2015.
 - The development proposed is the erection of ground mounted solar panels with an electrical output of 4305kW along with associated infrastructure, landscaping and ancillary structures on agricultural land.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form did not contain a site address. I have used the address given on the appeal form for the header above.

Planning Policy

3. Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy March 2011 (the Core Strategy) states that development should be designed to a high quality using sustainable design principles which respects and enhances local distinctiveness and mitigates and adapts to climate change. Development should make the most effective use of land and safeguard natural resources including high quality agricultural land. Policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan, December 2015 has similar aims and states that development should contribute to, and respect locally distinctive or valued character. Core Strategy Policy CS5 strictly controls new development in the countryside, allowing such development only where it would not harm the vitality and the character of the countryside and where it would improve the sustainability of rural communities. Policy CS17 seeks to ensure that all development protects and enhances the high quality and local character of Shropshire's natural environment and does not adversely affect the visual and ecological values of these assets.
 4. Policy CS8 positively encourages infrastructure that mitigates and adapts to climate change, including renewable energy generation where this has no significant adverse impact on recognised environmental assets. Policy MD12 of the SAMDev seeks to ensure that proposals likely to have a significant adverse
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effect on landscape character and local distinctiveness will only be permitted where there is no satisfactory alternative means of avoiding such impacts and the social or economic benefits of the proposal outweigh the harm to the asset. Policy MD8 states that applications for new energy infrastructure will be supported where its contribution to agreed objectives outweigh the potential for adverse impacts, including visual amenity, and landscape character.

5. The National Planning Policy Framework (the Framework) states that planning plays a key role in supporting the delivery of renewable energy and associated infrastructure, which is central to the economic, social and environmental dimensions of sustainable development. When determining applications, local planning authorities should, unless material considerations indicate otherwise, approve the application if its impacts are, or can be made, acceptable.
6. The Government's Planning Practice Guidance (PPG) considers that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. It also notes however that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.

Background and Main Issue

7. The appeal proposes the construction of a 4305kW solar farm, and follows a previous scheme for an 8600kW scheme on the same overall site area. The solar panels for the previous scheme covered a larger proportion of the site; the scheme was refused and a subsequent appeal was dismissed¹.
8. The main issue in this case is whether the benefits of the proposal, including the production of energy from a renewable source, outweigh any harmful impacts, having particular regard to the effect on the character and appearance of the landscape, including views into and out of, or the setting of the Shropshire Hills Area of Outstanding Natural Beauty (AONB) and the effect of the proposal on best and most versatile agricultural land.

Reasons

Benefits

9. The proposed panels would be expected to save approximately 58,228 metric tonnes of carbon dioxide over their lifetime, and would supply approximately 98,698 MWh of electricity, sufficient to power around 1,000 homes a year. I place meaningful weight on these benefits.
10. The proposal also includes on site biodiversity enhancement, including the creation of species rich grassland, wildflowers and hedgerow planting and improvement. The enhancement of the grassland through less intensive management will increase plant diversity and structure and the new hedgerow planting will enhance the hedgerow network and create new wildlife links to existing ones. Economic benefits would also be accrued largely through installation and manufacture of the panels, and through farm diversification. The proposal would allow G D Bach Limited to continue to diversify their business and add to the current main business of cereal crops and beef fattening. The appellant outlines how risks in the form of cattle TB and fluctuating weather patterns can make the business vulnerable. The proposal

¹ APP/L3245/W/15/3014413, Appeal dismissed 22/03/16

would diversify the business and provide a guaranteed fixed income to assist the overall farm business. When taken together I place average weight on the economic and biodiversity benefits of the proposal.

Character and appearance

11. The appeal site lies between the villages of Caynham to the south west and Knowbury to the north east. The whole site covers a number of fields, although the proposed panels would be located within just 2 of the 4 fields shown on the location plan.
12. The site lies within the National Character Area 65, Shropshire Hills. At County level the Shropshire Landscape Typology describes the area as being within the Principal Settled Farmlands landscape type. This has key characteristics of mixed farming land use and a varied pattern of sub-regular, hedged fields. The more detailed Shropshire Landscape Assessment states that the land falls within landscape description unit (LDU) SH/81. This is described by the Assessment as having moderate strength of character, poor condition, moderate visual sensitivity, moderate inherent sensitivity and moderate overall sensitivity to change. The boundary of the Shropshire Hills AONB is located around 445-450m away to the north east.
13. The appellant's Landscape and Visual Impact Appraisal (LVIA) notes that the site lies in an area of undulating landscape with higher ground to the north west which rises towards the Clee Hills and lower ground to the south east which falls towards the Teme Valley. I agree with this assessment; on my site visit I noted that the land forms the backdrop and the setting to the dramatic Shropshire Hills to the east and is characterised by rolling hills, and well established hedgerows and trees. The landscape is criss-crossed by public footpaths; three such paths pass relatively close to the appeal site, to the south and south west. Two of these paths follow contour ridgelines. I also agree with the view expressed in the LVIA that the condition of the local landscape appears better than that described for SH/81 as a whole, with field boundaries on site and in the surrounding landscape generally in good condition.
14. On my visit I walked along part of the closest boundary of the AONB from Wooton towards Knowbury. Views from this closest boundary of the appeal site were restricted by high hedgerows and mature trees, with only fleeting glimpses of the site possible. The size of the proposal covering two fields would enable the scheme to be accommodated within the landscape and the distance between the site and the AONB is such that I do not consider that the scheme would have an adverse effect on views into and out of, or the setting of Shropshire Hills AONB.
15. Closer in the site would be more noticeable within the largely agricultural rural landscape. The proposal would be well screened in views from the north and from the local road network; however, and despite the reduction in size from the previous scheme, the proposal would be clearly visible from the footpath and bridleway to the north (Nos 0564/16 & 0564/15), and to a lesser extent, from aspects of the path to the west (0564/6a & 0514/6A). The footpath and bridleway both track along ridge lines in the landscape, allowing attractive and far reaching views across the site towards the Shropshire Hills.

16. The introduction of the proposed solar panels, facing towards these paths, the transformer kiosks, substation and 2.2m high security fencing would all combine to give the 2 fields a semi-industrial feel, at odds with the character of the surrounding undulating landscape, and adversely affecting the attractive views from footpath 0564/16 and bridleway 0564/15.
17. To counter these effects the LVIA proposes substantial and wide ranging landscaping planting including proposals to fill any existing gaps in the hedgerows surrounding the site, and to maintain these hedges at heights of around 3-3.5m. On the southern fringes of the site an area of existing scrub is proposed to be supplemented and established at a height of some 5m. Furthermore, a new hedgerow is proposed along the southern side of footpath 0564/15 and maintained at a height of some 2m. This hedgerow would be planted along the line of a former field boundary as shown in an accompanying Heritage Impact Assessment in Ordnance Survey maps from 1885 and 1954.
18. The LVIA demonstrates that the proposed planting would shield many of the views from the footpath and bridleway to the north of the site, although clear views would still be possible from photograph location 21. The increased height of the hedgerows directly bordering the site would also have a small effect on views from the rights of way to the south.
19. It is stated that the native hedgerow planned for the north side of the footpath would take around 6 years to reach the height of 1.8m, although it may be longer for the hedgerow to become sufficiently thick for views to be fully mitigated. Whilst 6 years is not a substantial amount of time, in the context of the time scale of the scheme it still represents quite a significant percentage of the time that the proposal would be in place for.
20. I am also not convinced that such a scheme would be desirable. Whilst I note the historic evidence relating to a field boundary in the same location as the proposed hedge, there is no indication of what form this field boundary took or its height. The proposed hedge would, in shielding views of the appeal site, also shield views of much of the surrounding countryside. Such far reaching views of the undulating countryside add considerably to the enjoyment of the users of the footpath and the hedge along the partial length of the path would remove some of this enjoyment. The field is not particularly large at present and any benefits of creating, or re-creating, a smaller scale sub regular field pattern would be minimal in this respect.
21. The appellant states their concern over the Inspector's findings in the previous appeal that the harm caused by the proposal would be significant, when by their nature they consider that the localised harm caused could only be considered as moderate at worst in LVIA guidelines. Nevertheless, I consider that the current proposal would still cause considerable harm to the character and appearance of the local landscape, and material harm to the enjoyment of the users of the affected public rights of way. Whilst the evidence submitted demonstrates that mitigation could be employed to shield some of these effects, I am not convinced that such mitigation would be established in required time scales or that all such mitigation is necessarily desirable.
22. I therefore consider that the proposal would be contrary to the objectives of Policies CS6, CS5, and CS17 of the Core Strategy as well as Policy MD2 of the SAMDev; whilst the proposal would mitigate and adapt to climate change and would improve the sustainability of the rural community it would not respect,

and enhance local distinctiveness and would harm the high quality and local character of the countryside.

Best and most versatile agricultural land

23. An Agricultural Land Classification (ALC) report indicates that the appeal site consists of ALC Grade 3, with a mix of subgrades 3a and 3b. The Framework defines best and most versatile agricultural land as land in grades 1, 2 and 3a of the ALC. Roughly 55% of the appeal site is described as falling within Grade 3a, and thus in the category of best and most versatile land.
24. However, the impact of the proposal on the ground, by plant, the panel frame posts, kiosks and substation would equate to 0.0188ha of Grade 3a land being required for the project, with such plant, equipment and infrastructure being removed at the end of the project. The proposal also seeks to continue to use the site as pastureland for grazing. In the context of paragraph 112 of the Framework I do not consider therefore that the proposal would result in the significant development of agricultural land, and given the timescale of the scheme, the proposal would also not result in the *irreversible* loss of the best and most versatile agricultural land on the appeal site.

Other considerations

25. I note that the Council Officer recommended approval of the proposal, but that the decision to refuse the application was taken by the Council's planning committee. However, Council members are entitled to take such a view and the Council have supported this decision in their appeal statement. The appellant also raises queries over the approach the Council have taken to their assessment of the proposal and the relationship between the Development Plan and the Framework and the approach of the Planning Committee. I have dealt with the proposal on its planning merits.

Conclusions

26. Decisions must be made in accordance with the development plan unless there are material considerations that indicate otherwise. I place meaningful weight on the benefits of the proposal that I have identified above. The Framework identifies as a core planning principle that planning should support the transition to a low carbon future in a changing climate and encourages the development of renewable energy. I also ascribe benefits to the proposal from farm diversification and biodiversity.
27. I have not found that the proposal would have an adverse effect on views into and out of, or the setting of Shropshire Hills AONB or that the proposal would result in the irreversible loss of best and most versatile agricultural land.
28. On the other hand, for the reasons identified above I consider that the proposal would considerably harm the character and distinctiveness of the local countryside. The proposal would be contrary to a further core planning principle of the Framework that planning should recognise the intrinsic character and beauty of the countryside and to the PPG, as the proposal would have a negative impact on the rural environment, particularly in such an undulating landscape. The proposal would also cause material harm to the enjoyment of the users of the public rights of way identified above. For the reasons given above I also do not consider in this respect that the proposal would be well-screened and the impacts would thus not be properly addressed

within the landscape. The screening, once established, would reduce the effect on the visual amenity of the users of the public rights of way of the proposal but would also cause harm in removing the far reaching views of the wider countryside currently available. When taken in the round the harm caused by the proposal would be substantial.

29. When considering all this together I consider that the proposal, as well as being contrary to the development plan policies that I have identified in paragraph 22, would also be contrary to Policies MD8, MD12 of the SAMDev and to Policy CS8 of the Core Strategy in that, whilst providing supported renewable energy, the social and economic benefits of the proposal would not outweigh the harm on landscape character, local distinctiveness and visual amenity. In this respect I appreciate that the scheme before me is considerably smaller than the previous proposal and hence any adverse effect would also be reduced. However, on the same basis the benefits of the proposal in terms of renewable energy generation are also reduced, by around 50%.
30. The appellant refers me to a decision by the Secretary of State for a site at Thorpe Mandeville² and an appeal decision at Bradley, Basingstoke³ as examples where harm has been found but that the benefits of the proposals in each case would outweigh this harm. I do not have the full details of these schemes so am unable to consider whether they are directly comparable. In any event each case must be dealt with on its own merits, and whilst I note the contents of these decisions they do not lead me to a differing conclusion in this case on the harm and the benefits of the proposal before me.
31. I therefore conclude that the benefits of the proposal, including the production of energy from a renewable source, do not outweigh any harmful impacts, having particular regard to the effect on the character and appearance of the landscape.
32. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR

² APP/Z2830/A/11/2155999

³ APP/H1705/A/14/2217110