

Appeal Decision

Site visit made on 7 March 2023

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2023

Appeal Ref: APP/P1615/W/22/3307140

**Land off Northington Lane, Awre, GL14 1EL, Grid Ref Easting: 370092,
Grid Ref Northing: 208722**

- 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 Green Frog Ventures Ltd against the decision of Forest of Dean District Council.
 - The application Ref P1817/21/FUL, dated 26 October 2021, was refused by notice dated 12 May 2022.
 - The development proposed is Battery Storage Facility and ancillary Western Power Distribution 132kV electricity substation with associated access track to highway.
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Decision

1. The appeal is allowed, and planning permission is granted for Battery Storage Facility and ancillary Western Power Distribution 132kV electricity substation with associated access track to highway at land off Northington Lane, Awre, GL14 1EL, Grid Ref Easting: 370092, Grid Ref Northing: 208722, in accordance with the terms of the application Ref P1817/21/FUL, dated 26 October 2021, subject to the conditions set out in the schedule attached to this decision.

Preliminary Matters

2. In the decision and banner heading above, I have referred to the site address used in the appeal form. As this more accurately depicts the site's location, I do not consider that any party has been prejudiced by my approach.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the area.

Reasons

Character and appearance

4. The appeal site comprises agricultural land within the open countryside. The proposed apparatus would be located close to the southern boundary of a sizeable agricultural field. The site would also encompass a proposed access track traversing two fields then connecting to an existing highway access off Northington Lane. Public footpath ref DAW28 and DAW10 cross the proposed site access and run along its northern boundary.

5. The area around the site consists primarily of large open fields enclosed by hedgerows set within a landscape of gently rolling topography. Several tall electricity pylons and associated wires transect the adjoining fields to the site's north, west and east. Buildings in the locality are limited to small groups of properties such as those along Northington Lane to the east, in addition to occasional farmsteads. Many of these buildings are surrounded by small woodland belts and clusters, often screening them when viewed from the surrounding fields.
6. The site and locality are typically rural in terms of their character and consistent with the qualities of the Severn Vale local character area. Whilst I find the generally sparse, open and pastoral appearance of the site and locality attractive, it does not form part of a protected landscape. Nonetheless any development within it would need to consider Policy CSP.1 of the Core Strategy¹. This requires, amongst other things, that the design and construction of new development considers important characteristics of the environment and conserves, preserves or otherwise respects them in a manner that maintains or enhances their contribution.
7. The proposed development would include 120 lithium-ion battery storage units measuring approximately 1.3m in length, 1.3m in width and 2.25m in height, various inverters, transformers measuring up to 6m in height, as well as welfare and switch room buildings. These would be placed within a larger compound enclosed by perimeter fencing. New native hedgerows, tree planting and wildflower grassland are proposed around the site's boundary.
8. The battery units would store surplus electricity, including that produced from renewable technologies. Surplus power would be released to the electricity grid for consumption during times of under-production from renewable energy technologies. By storing electricity and facilitating a decrease in the need to produce energy from more polluting sources during periods of under supply, I consider that the proposed battery storage facility would align with the principles of low carbon technology.
9. The site viewpoints in the Landscape and Visual Assessment (LVIA) demonstrate the range of viewing experiences from up to 2.5km away. Viewpoints 3, 4, 5 and 10 are from the public footpaths that border and cut through the site. From those locations the proposal would be between 30m to 130m away. The significance of effect to the landscape from those locations, would according to the LVIA, range from moderate to major.
10. From those locations, the proposed battery storage and transmission apparatus would be seen to cover an expansive area that would encroach stridently into the open and undeveloped field. Whilst I acknowledge that the proposed landscaping and boundary enclosures would soften the appearance of the compound and screen many of the smaller components, they would not be able to hide the somewhat industrial appearance of the 6m high transformers and disconnectors. From the public footpaths nearby, those elements, although few, would be seen through gaps in the proposed boundary vegetation and rise above the hedge bunding. In doing so their industrial appearance would appear visually jarring when seen in context with the soft pasture surrounding the site. Therefore, from these short-range viewpoints, the proposal would appear visually discordant and harm the local landscape's character.

¹ Forest of Dean District Council: 23rd February 2012, Core Strategy Adopted Version

11. Viewpoints 1, 7, 8 and 13 depict perspectives of the site from between 560m and 2.5km away. In those medium to long range views, the appeal proposal would be obscured by folds in the landscape, trees and hedgerow, while the distances involved would reduce the scheme's discernibility. Moreover, once the proposed bunding and planting surrounding the site matures, the compounds' presence would be significantly reduced, and seen in context with the more prominent electricity pylons. I am therefore, satisfied that from those perspectives, the proposal would have a negligible impact upon the areas' landscape and visual qualities.
12. During my site visit I observed that the neighbouring properties nearby had extensive landscape cover around boundaries and within their gardens. Those features would help filter views of the proposal's prominence and scale. Together with the large distance maintained from the proposal, there would be no unacceptable harm incurred upon the outlook of neighbouring occupiers. From more distant views than those assessed in the LVIA, the proposal's prominence would diminish appreciably, whilst the undulating topography, intervening buildings and landscaping would largely screen the development.
13. For the reasons given, I conclude that the proposal would cause some harm to the character and appearance of the area. It would therefore be contrary to the requirements of Policy CSP.1 of the Core Strategy and Policy AP.4 of the Allocations Plan² and the Forest of Dean District Landscape Character Assessment 2002, and with the National Planning Policy Framework (the Framework) (Sections 12 and 15) which together seek to provide good quality of development which safeguards landscape character and does not compromise local distinctiveness.
14. Notwithstanding the above, the identified harm must be considered in the context of my findings that any harm would be localised, seen in context with existing grid infrastructure and mostly reduced by the proposed mitigation measures. Therefore, I afford the identified moderate harm to the character and appearance of the area a moderate level of weight against the scheme in the balancing exercise.

Other considerations

15. Framework Paragraph 7 explains that the purpose of the planning system is to contribute to the achievement of sustainable development, which can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Framework paragraph 152 says that the planning system should support the transition to a low carbon future. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience, and support renewable and low carbon energy and associated infrastructure. Framework paragraph 154 adds that new development should be planned for in ways that can help to reduce greenhouse gas emissions.
16. The increasing dependence on renewable energy and in particular wind and solar energy has led to fluctuations in supply dependant on the weather, hence the increased need for storage facilities. These store excess energy at times of high electricity production, including renewable generation, and provide somewhere to get energy from when demands are high and generation output

² Forest of Dean District Council Allocations Plan 2006 to 2026

is low. Consequently, National Grid estimates that electricity storage will need to increase significantly to support the decarbonisation of the system to meet the challenging Net Zero targets. The Future Energy Scenarios Report 2022 indicates that battery storage is expected to make up the largest share of storage power capacity by 2050. Thus, I give the need for the proposed equipment substantial weight.

17. I acknowledge that this is not in itself a renewable energy project. However, without the move to renewable energy generation there would not be a need for the development due to the intermittent nature of harnessing energy through renewable technology. Furthermore, currently storage would be of energy from both renewable and non-renewable sources, although if Net Zero targets are met then within the lifetime of the development it should store energy from renewable sources only. I am satisfied therefore, that the proposal would support the transition to a low carbon future in a changing climate through supporting renewable and low carbon energy and associated infrastructure in accordance with paragraph 152 of the Framework.

Other Matters

18. The grade II listed Northington Cottage is located, according to the Council, around 130m from the proposal. This stone-built cottage has a slate roof with dormer windows projecting from its plane. Internally the cottage has low ceilings supported by wooden beams. It is surrounded by tall mature trees that neatly frame the dwelling. The significance of the building is derived from its historic appearance and construction, while the imposing trees that surround it make an important contribution to its setting from which it derives some of its significance.
19. During my inspection, I observed the appeal site from within the cottage from ground and upper floor windows. Parts of it could be seen through small gaps between trees and shrubs that surround the property. Yet those features would significantly obscure views of the proposal, particularly when in full leaf during the warmer months. Despite the harsh appearance of the scheme's components, these would maintain over 100m from the listed cottage, while their height would not dominate to the extent that they would encroach into the perspectives of the cottage's setting that I have judged to be important. Accordingly, and notwithstanding the proposal being visible from peripheral parts of the cottage's curtilage, I have found that it would not harm its setting and therefore its significance.
20. There is a high concentration of listed buildings within Awre, including the village church. These are a significant distance from the appeal site, while woodland belts, landscape features and buildings would mask views of the proposal. Accordingly, these factors would result in no harm to the significance of listed assets in the village.
21. Even though there is no specific requirement in the submitted policies and guidance, an alternative site assessment (ASA) accompanies the appeal. This was undertaken, according to the appellant, prior to the application being submitted and focused on a search area within proximity of the Lydney Substation. Five sites, at brownfield and greenfield locations, were considered unfavourable due to access constraints, unviable connection constraints, landscape and ecological harm, proximity to residential properties, no landowner agreement and being of insufficient size. Although the evidence

- relating to the unviability of those sites is not comprehensive, I have no cause to doubt the reasons given, and that there is no suitable alternative location.
22. The Council considers that there are more accessible locations, however, their transport advisers have raised no objection regarding the route that construction and maintenance traffic would take to the site.
 23. The Bushy Hill site suggested by an interested party was considered separately by the appellant and discounted due to development restrictions presented by site topography and overhead lines at that location. These are considered plausible constraints, and I have no reason to question the appellant's assessment.
 24. There are concerns that the scheme has not been accompanied by a carbon costs analysis. This is acknowledged, yet no counter evidence is provided to suggest that carbon costs associated with the scheme's construction and operation would be greater than the savings made by the proposal's effect in reducing the reliance on more polluting energy sources. Accordingly, I remain unconvinced that any harm on this matter would outweigh the scheme's substantial sustainability benefits.
 25. Once operational the proposed facility would be operated remotely through automation. There would be some movement of vehicles to serve the site, particularly relating to the facility's maintenance, however, these are expected on a weekly basis, and therefore very low. Any concerns about the impact of traffic during the construction phase could be resolved through an appropriate Construction Management Plan (CMP).
 26. The appellant's noise assessment shows that significant levels would be generated, including from cooling. However, an acoustic fence is proposed which would contain some of the emissions. Based on the noise assessment levels I find that from the public realm the noise would not be notable, and the tranquillity of the area would not be harmed.
 27. I am satisfied that any risk associated with buildings and apparatus at the site catching fire, would be suitably addressed by the specific construction and safety parameters, that the appellant indicates that energy storage schemes must comply with. I have no compelling counter evidence that would suggest otherwise.
 28. The proposal would require the temporary closure of public footpaths close to the appeal site. Diversions would have to be put in place during this time to avoid disruption. Those would need to be permanent should any of the proposal encroach on the footpaths, however, the appellant confirms that they are not within the footprint of the scheme. Nonetheless, those arrangements would need to be secured prior to the commencement of development through a separate consenting regime.
 29. I have had regard to the various appeal decisions and planning decisions that have been referred to by the parties in support of their cases. While there may be some similar circumstances such as some being in the Severn Vale landscape, they do not relate specifically to battery storage facilities, I have therefore determined this proposal based on the particular circumstances and the evidence I have seen.

30. The appeal scheme falls to be determined on its own merits having regard to relevant policy. The same would apply to any other proposals for similar generating facilities, and so the determination of this appeal would not establish a precedent for other decisions.

Planning Balance

31. Battery storage facilities are a key component in the energy facilities of the country, being able to store excess electricity generated by renewable energy facilities when demand is low and release that energy to the grid at periods of high demand or when electricity generated by renewable sources is low. It is also clear that the country needs more electricity storage facilities in order to balance demand without resorting to fossil fuel generation. I give substantial weight to this need.
32. Locational factors that influence the siting of battery storage facilities include, provision of access to unrestricted network capacity, proximity to a financially viable access to the national grid and point of connection, availability of suitable land and the proximity of a point of access to the highway network. It is clear from the information supplied with the appeal that the appeal site has all these features and therefore in these respects make it a suitable location for a battery storage facility. I give significant weight to these locational factors.
33. My findings on the main issue conclude that the proposal would harm the character of the local landscape and fail to accord with the development plan in those respects. However, the effect of that harm would be localised and mainly observed from nearby vantage points. The scheme's visibility would decrease with distance, whilst landscape proposals would establish and help overcome visual impacts associated with the scale and appearance of the facility. Consequently, I attribute moderate weight to the harm.
34. Paragraph 38(6) of the Town and Country Planning Act 1990 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. Although I have found that the appeal proposal conflicts with the development plan, I have also considered the benefits of the proposal in terms of the country's energy supply, contribution to a low carbon future and the particular locational factors applying to this proposal. Those benefits, including their accordance with the Framework, I have judged, attract significant and substantial weight. Accordingly, I find that the factors in favour of the appeal proposal outweigh the harm caused by its conflict with the development plan.

Conditions

35. In addition to the standard conditions that are required to comply with legislation and to provide clarity for the developer related to the time limits for development and referencing the approved plans, I consider that several other conditions are necessary to make the development acceptable in planning terms.
36. A detailed landscaping and biodiversity enhancement scheme based on the principles submitted as part of this appeal, is necessary to protect local ecological interests and the character and appearance of the area. This needs to be submitted prior to the commencement of development to ensure that appropriate measures are in place.

37. A construction management plan and construction routing plan are required to be submitted to ensure that necessary protocols are in place for construction traffic and site operations before the commencement of development, in the interests of local amenity and highway safety. For the same reason, a condition requiring the proposed access to be constructed in accordance with submitted drawings as well as guidelines regarding the access gates is necessary.
38. It would be necessary to approve the colour and finishes of buildings and apparatus at the site in the interests of the area's appearance. In the interests of visual amenity and biodiversity it is necessary to control any future proposals for external lighting at the site.
39. In the interests of local living conditions, it is necessary, to impose a condition requiring acoustic fencing to the heights specified in the submission documents.
40. I have imposed a condition requiring buildings, equipment, and apparatus to be removed if not being used to store energy and the land returned to its former condition. This is necessary to prevent redundant and unused structures from visually impacting the rural locality. I have not included the suggested provision for removing the facility after 25 years, as this would prevent it from storing energy, facilitating the transition to the local carbon economy and cutting greenhouse gas emissions.
41. Despite originally suggesting a condition requiring the approval of construction vehicle routing arrangements, the Council now questions the enforceability of that condition. However, the terms of the condition would provide specific details of the route that site traffic takes. Site operatives and delivery drivers would be made aware of this route, and I see no reason why they would not adhere to it. With details of a route agreed, traffic movements could be monitored locally, and any indiscriminate contraventions could be reported. Accordingly, I am satisfied that the condition could be complied with and enforced.

Conclusion

42. Section 38(6) of the Town and Country Planning Act 1990 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that whilst the proposal does not conform with the development plan, other material considerations outweigh the harm it causes to the development plan policies. Therefore, the appeal is allowed.

RE Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawing numbers: 097_GF_DR_EP_102; STD_GF_DR_375B_115; STD_GF_DR_PCS_116; STD_GF_DR_HMF_117; GCS0020-02 REV 2; 097_GF_DR_PP_103 REV B; 097-GF-DR-SR-105; STD-GF-DR-SPC-104; STD_GF_DR_TX_102; STD_GF_DR_WO_103; and 097_GF_DR_LP_101.
- 3) The buildings and all associated equipment and apparatus hereby permitted shall be removed from the land within 6 months of it no longer being required for the storage of electricity. Following the removal, the land shall be restored to its former condition before development took place with the exception of any of the proposed planting.
- 4) Notwithstanding the submitted drawings, no permanent external lighting shall be installed on the site without the prior written consent of the Local Planning Authority.
- 5) No development shall take place until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The plan/statement shall provide for:
 - 24 hour emergency contact number;
 - Hours of operation;
 - Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Routes for construction traffic;
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Method of preventing mud being carried onto the highway;
 - Measures to protect vulnerable road users (cyclists and pedestrians);
 - Any necessary temporary traffic management measures;
 - Arrangements for turning vehicles; Arrangements to receive abnormal loads or unusually large vehicles;
 - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

The approved plan/statement shall be adhered to throughout the demolition/construction period.
- 6) No development shall take place until a Construction Routing Plan has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period.
- 7) Prior to the operational use of the development hereby permitted, the vehicular access shall be laid out and constructed in accordance with the submitted plan drawing no. 097_GF_DR_PP_103 B. Any gates shall be situated at least 20.0m back from the carriageway edge of the public road

and hung so as not to open outwards towards the public highway and with the area of access road within at least 20.0m of the carriageway edge of the public road surfaced in bound permeable material. The approved access shall thereafter be retained and maintained.

- 8) Prior to the operational use of the development hereby approved, the proposed 3m and 4m high acoustic fencing shall be installed in accordance with Section 5.1.4 (Mitigation by Design) of the Noise Impact Assessment prepared by Inacoustic and dated 2nd February 2022. These fences shall be retained and maintained for the lifetime of the development.
- 9) The landscaping and biodiversity enhancement scheme shown on drawing '01' received on 21st December 2021 and in conjunction with the recommendations of the Landscape and Visual Impact Assessment and Ecology Appraisal prepared by Econ Associates shall be fully implemented not later than the first planting season following the completion of the development. All new hedgerows shall be retained and maintained at a height of 3m for the lifetime of the development. If at any time during the subsequent five years any tree, shrub or hedge forming part of the scheme shall for any reason die, be removed or felled it shall be replaced with another tree, shrub or hedge of the same species during the next planting season to the satisfaction of the Local Planning Authority.
- 10) Prior to the commencement of development, details shall be first submitted to and approved by the Local Planning Authority which will outline the finishes and colouration of all buildings, fixtures and apparatus that measure over 2.5m in height from ground level. The details shall include, but may not be limited to, a sectional drawing and/or visual representations of the completed site and the RAL number for the paints/coatings.

*****End of Schedule*****