



Appeal Decision

Hearing held on 9 October 2024

Site visit made on 9 October 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2024

Appeal Ref: APP/Y3940/W/24/3346309

Land at Somerford Farm, Brinkworth SN15 5AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by PD503HAN Ltd against the decision of Wiltshire Council.
 - The application Ref is PL/2022/02824.
 - The development proposed is for a battery storage facility and ancillary development.
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Decision

1. The appeal is allowed and planning permission is granted for a battery storage facility and ancillary development on land at Somerford Farm, Brinkworth, SN15 5AU, in accordance with the terms of the application, Ref PL/2022/02824, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made in writing by the appellant against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. A consultation on a revised version of the National Planning Policy Framework (the Framework) was recently undertaken. The parties were invited to comment on any proposed changes to the Framework of relevance to the appeals during the hearing, which I have taken into account.

Main Issue

4. The main issue is the effect of the proposal on the landscape character and visual amenities of the site and surrounding area.

Reasons

5. The battery storage facility would be constructed on a part of an agricultural field used for pasture. The field has a roadside hedge and hedge to the west which would enclose the proposal, but the southern and eastern boundaries would be newly constructed hedges to essentially separate off a broadly rectangular corner of the field.
6. The battery storage proposal would largely comprise around 60 darkly-coloured storage containers, of around 3 metres high, regularly spaced and enclosed by security fencing, inset behind either existing improved hedgerows or newly planted hedgerows and landscaping. The existing road access would be modestly widened, and a new compacted stone access track would be laid

to serve the rows of batteries, transformers and inverter containers. Otherwise, the surface beneath the containers would be a looser gravelled surface. The connection to the grid from beyond the site would be below ground.

7. The site is located in a rural area near the village of Brinkworth. Under the North Wiltshire Landscape Character Assessment (2004), the site falls within Character Area 4, the Braydon Wooded Plateau (the Character Area). The main parties agreed that this assessment, whilst a year older than the Wiltshire Landscape Character Assessment (2005) was most relevant to consider because of its finer grain level of analysis. I find no reason to disagree with this approach and note the degree of overlap between the assessments in any event.
8. The Character Area description is befitting of the site and wider surroundings which are on an undulating plateau of over 100m AOD; served by straight roads; medium to large, regular field patterns with predominantly pasture landcover; with a very sparse settlement and punctuated by woodland areas of variable sizes. There are relatively few footpaths serving the area and the features which typically detract from the Character Area are the power lines and water tower. The hedgerows in the area are also described as mature and in generally good condition which is also true of the site and surrounding area.
9. Whilst the proposal would include additional hedgerows and trees which are more reflective of the wider character area, the more sizeable component of the development would be the rigidly laid utilitarian structures and fencing with associated landcover changes, all of which are uncharacteristic of this relatively unspoilt agricultural landscape. Whilst there would be minimal comings and goings for maintenance after the construction phase, there would also be a degree of effect on the sense of tranquillity through the low level noise of the technology during its operation. Relative to the wider Character Area as a whole, the size of the site would be considered small, however, the site is not, in my view, of an insignificant size. Therefore, through a combination of the scale and nature of the proposal, I consider that the degree of landscape harm would be highly adverse.
10. In terms of the visual effects of the proposal, the Character Area is not well known for its extensive views, with most views being constrained by woodland blocks, mature hedgerows and undulating topography. This is relatively true of this particular site. The submitted Landscape and Visual Appraisal contains a Zone of Theoretical Visibility which shows the proposal as being theoretically visible from largely only the centremost part of an area of 1.5km radius from the site. In reality, the visibility of the site is limited to areas along the unnamed road to the north, to particular viewpoints along the public right of way (PROW) and bridleways to the north-east in the vicinity of Worthy Hill Farm and to the south-west, around the road junction south of Braydon Wood. A very small number of private residences would obtain views of the proposal similar to those experienced on the PROW network.
11. The siting of the proposal on the lower levels of the field would help to contain the visual effects, though the adjacency of the site to the rural road for ease of access would have the opposite effect. It is clear that the visual effects would be adverse, albeit of a localised nature. From both the rural road viewpoints and those from the PROW and bridleway network, the effects would be of a

high magnitude of effect, not reaching the threshold of significant, but still harmful nonetheless. Visual effects further beyond this in the vicinity of Braydon Woods would be of a low magnitude of effect given the distance between receptors and the development at that point. I have also taken into consideration that some private views would be obtained of the development from residences and land in the area which would also be at worst, a limited to moderate magnitude of effect.

12. The introduction of soft landscaping to the roadside boundary and along new boundaries around the site would lessen the visual harm from the proposal over time, with such mitigation benefits anticipated to deliver meaningful differences from the outset but certainly within 3 to 5 years. With care and attention to the scheme of landscaping by way of condition, my expectation is that such would establish and certainly from year 3 could reduce the visual harm to a more limited to modest magnitude of effect on the most affected visual receptors.
13. It was also indicated that the landowner would manage the surrounding hedgerows differently by allowing them to grow up and thicken, in addition to implementing a scheme of woodland planting elsewhere on his extensive landholding surrounding the site. Whilst such intentions are laudable, and could further limit the visual effects of the proposal over time, they are not within the site or identified as being within the control of the appellant such that these aspects could be the subject of any planning conditions. I therefore attach very limited weight to the potential effects of wider landscaping, however desirable and ecologically beneficial it would be.
14. My attention has been drawn to a number of battery storage proposals and solar photovoltaic schemes that exist or which are proposed in the wider surrounding landscape in the vicinity of Minety Substation, to which the proposal would also connect. I did not see any other such developments in combination with the site or in successive views whilst travelling in the landscape. The Council's Officer Report indicates that this and two other schemes¹ are located away from the Substation, are not intervisible from any points and thus, not expected to have unacceptable visual landscape or visual impacts. I have no reason to reach an alternative view and do not consider that harmful cumulative impacts would arise from the proposal in combination with other developments of a similar nature.
15. I have noted that the proposal does not seek to introduce night lighting other than strictly necessary security lighting. This would ensure that there were no nighttime visual effects from the proposal. I have also noted that the proposal would be time limited for a 40 year lifespan and would be reversible thereafter, with the landscape being capable of returning to its current condition, albeit with more landscaping. Despite its reversibility, a 40 year timeframe is still a considerable period and does little to remedy the landscape and visual harm that would result from the development.
16. In summary, the proposal would harm the landscape character and visual amenities of the surrounding localised area, contrary to, in particular, Core Policies 51 and 57 of the Wiltshire Core Strategy (2015) (Core Strategy). Amongst other things, these Policies seek to enhance local distinctiveness by

¹ PL/2022/04524 - Land east of Ravensroost Road, Ravenshurst Farm, Minety & PL/2022/05412 - Land off Dog Trap Lane, Minety

responding to the value of the natural and historic environment, existing pattern of development and local topography, and by ensuring that views into, within and out of the site are to be retained and enhanced.

Other Matters

17. A number of representations have been submitted by interested parties. I have addressed some of the concerns raised above, but have also taken into consideration the other points put to me.
18. I note that a large number of proposals for similar electricity infrastructure and renewable energy have been submitted to the Council for sites in the wider surroundings. However, there is currently no requirement locally or nationally for such modest scale schemes to be dealt with on a strategic basis or only on sites allocated by a development plan. Therefore, the assessment of the proposal has been on the basis of its own merits.
19. In terms of biodiversity, the proposal was submitted with an Ecological Assessment Report. The Council's Ecologist offered no objections, subject to conditions. I consider that the scale and nature of the proposal would not result in harms in this regard and that a biodiversity enhancement could be secured overall.
20. I have considered the nature of the rural road network serving the site and its suitability to accommodate large vehicles associated with the proposal, predominantly during the construction phase. With planning conditions capable of securing management measures to control construction traffic and road condition survey, my view is that the disruption could be adequately minimised and any road damage repaired following completion. During the operational phase of the development, the proposal would not receive regular large vehicles.
21. The Council has recently consulted on its Regulation 19 Local Plan. The main parties agree that the emerging Local Plan contains a direction of travel to support battery storage as a necessary component of energy infrastructure. This is a consideration of relevance, albeit of limited weight given the Plan's current stage of production.

Planning Balance

22. The proposal would cause harm to the landscape character and visual amenities of the area, in conflict with the development plan.
23. The purpose of the proposal is to store power from the grid at times of excess supply and would feed this power back into the grid at times of high demand. The Statement of Common Ground agrees that the proposal would assist in balancing grid frequency and voltage at times of system stress, providing a flexible back-up power source to the grid and would assist with the response to the ever increasing use of intermittent renewable energy sources. The proposal would allow for the increased efficiency of renewable energy technologies and would help to offset the reliance on fossil fuel energy.
24. Policy 42 of the Core Strategy supports the principle of standalone renewable energy installations, which, in my view, similarly applies to supporting infrastructure which maximises the efficient use of the power they supply to the grid. This Policy aligns with the Framework requirement for the planning

system should support the transition to a low carbon future in a changing climate and help to increase the use and supply of renewable and low carbon energy and heat. Other national policies, such as the National Policy Statement for Energy also support the need for energy storage solutions.

25. Policy 42 is caveated on the basis that impacts on aspects such as the landscape have been assessed and taken into account. Whilst not all impacts on the landscape or visual amenities could be entirely avoided, the site selection process and landscaping elements have minimised the effects as far as possible. The proposal therefore complies with Policy 42 of the Core Strategy.
26. There is a tension between the proposal's compliance with Policy 42 of the Core Strategy and conflict with overlapping Policies 51 and 57 of the same. To the extent that the scheme conflicts with the development plan, my planning judgement is that such is outweighed by the great weight I attach to the public benefits of the scheme from its alignment with the Framework and layers of national policy and guidance which support energy storage solutions a component of energy infrastructure that supports renewable energy. Therefore, the material considerations in this case indicate that a decision should be made other than in strict accordance with the development plan.

Conditions

27. I have considered the suggested conditions in the context of the Framework and Planning Practice Guidance and have avoided the use of pre-commencement conditions unless where strictly necessary and with the agreement of the appellant.
28. The application is a detailed one and the three year time limit for commencement needs to be specified by way of planning condition. A condition specifying the approved plans is also necessary in the interests of certainty.
29. As the proposal is intended to be for a 40 year temporary duration, conditions are necessary to specify the cessation of use and seek details of the associated decommissioning works.
30. In order to protect the character and appearance of the area, conditions are required to secure a scheme of landscaping and secure details of the external surfaces of the built structures and elements.
31. To protect the character of the area and living conditions of neighbouring residents, conditions are required in connection with the maximum permissible noise limits of any equipment and to limit the construction working hours.
32. In the interests of environmental and ecological protection, conditions are required to secure details of the construction phase environmental management, drainage and ecological management measures. For longer term prevention of flood risks and environmental harm, a condition is necessary to secure the implementation of a drainage scheme.
33. In the interests of highway safety, a condition is necessary to ensure that the road condition is restored to its original surveyed condition should any damage occur during construction works.

34. In the interests of the character of the area and biodiversity value of the site, a condition is necessary to prohibit the installation of any lighting at the site.
35. To ensure that works avoid harm to trees on and around the site, a condition is needed to ensure that appropriate protection measures are installed before and for the duration of construction works.
36. To protect any archaeological features of interest that may exist, further archaeological work shall be required by condition in association with the construction phase of development.
37. Lastly, a condition is needed to secure an Emergency Response Plan in the event of a fire.

Conclusion

38. For the reasons given above, the appeal is allowed.

H Nicholls

INSPECTOR

APPEARANCES

FOR THE COUNCIL:

Mr Morgan Jones BSc (Hons) MSc MRTPI
Mr Adrian Walker MRTPI

LPC Trull Planning Consultants
Planning Manager, Wiltshire
Council

FOR THE APPELLANT:

Mr Jonathan Maginness BA (Hons) MA MRTPI
Mr Phil Roden BA (Hons) BachLA CMLI
Mr Miles Leahy
Mr David Fitzherbert

Axis
Axis
Palegic Energy
Landowner

INTERESTED PARTIES

Mrs Alison Parsons
Councillor Elizabeth Threlfall

Brinkworth Parish Chair
Councillor for Brinkworth

HEARING DOCUMENTS

Document 1

Adopted Wiltshire Core
Strategy

Document 2

Saved North Wiltshire Local
Plan Policies

DOCUMENTS SUBMITTED AFTER THE HEARING

Document 3

Amended agreed conditions

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Within six months of commencement of development on the site, a scheme for the decommissioning and restoration of the development shall have been submitted to and approved by the Local Planning Authority. The scheme shall include how the land will be restored back to fully agricultural use upon the development no longer being in operation or upon the expiry date of 40 years from the date of the development from the date electricity is first stored or distributed to/from the Grid, whichever is sooner. The Decommissioning and Restoration scheme of this development shall be carried out within six months of the expiry date of this permission in accordance with the approved scheme.
- 3) The Local Planning Authority shall be notified in writing within one month of the event that the development hereby approved has started to store or distribute electricity to/from the Grid.

The installation hereby approved shall be permanently removed from the site and the surface reinstated within 40 years and six months of the date of notification and the local planning authority shall be notified in writing of that removal within one month of the event.
- 4) The development hereby permitted shall be carried out in accordance with the details shown in the following approved plans:
 - Drawing 3077-01-01 Site Location Plan
 - Drawing 3077-01-02 Statutory Plan Rev B
 - Drawing 3077-01-03 General Arrangement Rev D
 - Drawing 3077-01-04 Battery Storage Container
 - Drawing 3077-01-05 Inverter-Transformer Stations
 - Drawing 3077-01-06 Transformer
 - Drawing 3077-01-07 Switchgear Container
 - Drawing 3077-01-08 LV Switchgear Container
 - Drawing 3077-01-09 Fencing and Security
 - Drawing 3077-01-10 Existing Site Plan Rev A
 - Drawing 3077-01-11 Landscape Design Rev. B
- 5) Notwithstanding the details shown on the approved plans, no development shall commence on site until details of the materials, colour and finish of any built structures and containers, poles, fencing, gates etc., have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being first brought into use and retained as such for the lifetime of the development.
- 6) A detailed soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall detail the planting layout along with the species types, numbers, sizes, and maintenance measures. The landscaping works shall be carried out in

accordance with the approved details. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

- 7) Operational noise from the Proposed Development at any pre-existing residential receptor properties (R1. Queen Street, R2. Worthy Hill Farm, R3. Keepers Cottage, and R4. Woodhill Farm), shall not exceed the maximum permissible levels detailed below when assessed at a height of 1.2m to 1.5m above ground and at least 3.5m away from the nearest reflecting surface other than the ground.

Daytime (07:00 – 23:00): Representative Background LA90,1 h + 9dB or 34dB LAeq,1hr, whichever is lowest.

Night (23:00 – 07:00): Representative Background LA90,15mins + 9dB or 34dB LAeq,15mins, whichever is lowest.

This is to be determined either by way of direct measurement at the stated locations, or where extraneous ambient noise precludes this, by way of a combination of measurement and calculation.

- 8) No construction work shall take place on Sundays or Public Holidays or outside the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.
- 9) No development shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:
- An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
 - A description of management responsibilities;
 - A description of the construction programme;
 - Site working hours and a named person for residents to contact;
 - Details of vehicle routing to the site;
 - Detailed site logistics arrangements;
 - Details regarding parking, deliveries, and storage;
 - Details of the measures to control the emission of dust, dirt and noise during construction;
 - Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and
 - Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 10) Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Ecological Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:
- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
 - b) Working method statements for protected/priority species, such as nesting birds and great crested newts.
 - c) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
 - d) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
 - e) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

The development shall be carried out in strict accordance with the approved CEMP.

- 11) No development shall commence until a pre-construction highway photographic survey to be carried out from the site access eastbound along Eighty Acres (C67) to its junction with Ravensroost Rd (C76) has been carried out. Upon completion of the construction phases, a post construction survey shall be carried out at the same location. Details and results of both before and after survey shall have been submitted to the Council as the Highway Authority within 3 months of the first operation of the development. Those submitted details and results shall be accompanied by a plan and timing schedule for the repair of any damage identified and attributable to the construction of the development, to be carried out at the expense of the applicant, which shall have been agreed in writing with the Local Planning Authority beforehand.
- 12) No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage details have been submitted to and approved in writing by the local planning authority. Illumination levels shall not exceed those specified for Environmental Zone 1 as set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)". The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.
- 13) The development hereby permitted shall be carried out in full accordance with the recommendations and mitigation measures detailed within the Tree Survey Report (October 2021), Arboricultural Method Statement (January 2022), Arboricultural Impact Assessment (January 2022), and Tree Protection Plan (January 2022), all by ARBTECH.

- 14) No development shall commence on site until:
- a. A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
 - b. The approved programme of archaeological work has been carried out in accordance with the approved details.
- 15) Notwithstanding the contents of the Flood Risk & Surface Water Drainage Assessment (October 2022) by KRS Environmental, no development shall commence on site until a scheme for the discharge of surface water from the site, incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.
- The Lead Local Flood Authority advises the following updates will be required to the scheme presented within the aforementioned assessment:-
- The detailed design of the perforated pipes that will underlay the crushed stone base.
 - The proposed site drainage plan showing the exceedance routes (overland flow paths) as arrows and confirmation that the finished floor levels above the maximum predicted 100 year flood level.
- 16) No development shall commence on site until details of the drainage arrangements during the construction phase have been submitted to and approved in writing by the Local Planning Authority.
- 17) Prior to the delivery of any batteries to the site, an Emergency Response Plan shall have been submitted to and agreed in writing by the Local Planning Authority. The Emergency Response Plan shall include measures to address the consequences of any thermal runaway event, and in particular fire-fighting provision, water supply resilience and runoff contamination. The agreed Emergency Response Plan shall be implemented for the duration of the life of the development.

----- END OF SCHEDULE -----