



Appeal Decision

Hearing held on 6 June 2023

Site visits made on 5 and 21 June 2023

by J Woolcock BNatRes MURP DipLaw MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2023

Appeal Ref: APP/L3245/W/23/3314982

Land to the East of Squirrel Lane, Ledwyche, Ludlow, Shropshire SY8 4JX

- 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 Ledwyche Solar Limited against the decision of Shropshire Council.
 - The application Ref: 22/02151/FUL, dated 27 April 2022, was refused by notice dated 13 October 2022.
 - The development proposed is the formation of a solar farm including installation of solar panels, security fencing, CCTV cameras, an internal access track, underground cabling, invertors, substations, grid connection, environmental enhancement measures and other ancillary development.
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Decision

1. The appeal is allowed and planning permission is granted for the formation of a solar farm including installation of solar panels, security fencing, CCTV cameras, an internal access track, underground cabling, invertors, substations, grid connection, environmental enhancement measures and other ancillary development at Land to the East of Squirrel Lane, Ludlow, Shropshire SY8 4JX in accordance with the terms of the application, Ref: 22/02151/FUL, dated 27 April 2022, and the plans submitted with it, subject to the conditions set out in the Schedule of Conditions attached to this decision.

Preliminary matters

2. The planning application was refused by Shropshire Council against the recommendation of its officers for conditional approval. The reason for refusal states that; "The application would result in the loss of best and most versatile agricultural land and would have an adverse effect on the setting of the AONB and public rights of way and hence would be contrary to paragraph 174B of the NPPF, Core Strategy Policy CS6 (and accompanying explanatory paragraphs) and policy DP26 of the emerging Shropshire Local Plan."
3. I made unaccompanied visits to the site and the locality on 5 and 21 June 2023. The latter with the benefit of the site visit itinerary agreed by the parties at the Hearing.¹ The 28.5 ha appeal site comprises two arable fields located between Ludlow and the Shropshire Hills Area of Outstanding Natural Beauty (AONB). There is an existing 10.5 ha solar farm at Henley located on the opposite side of Squirrel Lane and to the west of the appeal site.

¹ HD6.

4. Western Power Distribution indicated that the Ludlow substation had available capacity for up to 12 MW to be connected. The proposed solar farm would supply electricity to the national grid via a grid connection at Ludlow substation and would operate for 40 years. The arrays of solar panels would be 3 m above ground level except in the south-western part of the site where their height would be limited to 2.1 m. Supporting infrastructure would include inverters (2.6 m high), transformers (3.2 m high), switchgear enclosure (3.2 m high), substations (4.4 m high), communications building (4.4 m high) and a storage building (3.2 m high). Security would be provided by a 2 m high deer fence and a remote camera surveillance system. The proposed development would be accessed from Squirrel Lane, which joins the A4117 to the north of the appeal site. A new access track some 700 m long would be formed within the site.
5. The development plan for the area includes the Core Strategy, March 2011 (CS) and Site Allocations and Management of Development Plan, adopted in December 2015 (SAMDP). The Draft Shropshire Local Plan 2016-2038 was submitted to the Secretary of State in September 2021 (eLP). There are no objections to Policy DP26.2k of the eLP concerning large scale ground mounted solar photovoltaic solar farms. This policy largely reflects national policy and guidance. Policy DP26 refers to Policy DP18 regarding the use of agricultural land.
6. The appeal site is not subject to any specific landscape or environmental designations. However, CS Policy CS5 states that new development will be strictly controlled in accordance with national planning policies protecting the countryside. CS Policy CS6 seeks to create sustainable places with high quality development to achieve an environment that respects and enhances local distinctiveness and which mitigates and adapts to climate change. It adds that all development should ensure, amongst other things, that it; (1) protects, restores, conserves and enhances the natural and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, landscape character assessments and ecological strategies, and (2) makes the most effective use of land and safeguards natural resources including high quality agricultural land, soil and water.
7. I have had regard to the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) and taken into account the Landscape Institute's *Guidance for Landscape and Visual Impact Assessment* Third Edition (GLVIA3). Prior to the Hearing I requested the parties to include in the Statement of Common Ground their views about; (1) application of guidance in the PPG and GLVIA3 about cumulative impact assessment of large scale solar energy schemes, and (2) grid connection constraints/opportunities in the locality and in Shropshire.²
8. The appeal site is not included in the siting possibilities map produced by Zero Carbon Shropshire for ground mounted solar development.³ The filters applied to identify siting possibilities excluded grade 1 and 2 quality agricultural land. At the time the appeal site was identified as grade 2 land in this strategic level assessment. A more detailed and site-specific assessment is now available.

² Statement of Common Ground with Appendix 1: Additional matters raised by the Inspector (SoCG).

³ HD1.

The weight that the site possibilities map attracts is also limited by the fact that the document was not subject to formal public consultation other than a webinar.

Main issues

9. The main issues in this appeal are the effects of the proposed development on; (1) the character, appearance and amenity of the area, and (2) agricultural land, and whether the benefits of the proposed development would outweigh any harm having regard to relevant local and national policy.

Reasons

Landscape character

10. The appeal site lies within National Character Area:65 Shropshire Hills where a landscape of rugged hills contrasts with mixed agriculture in intervening valleys. In the County landscape character assessment, the majority of the site is within the Estate Farmlands Landscape Character Type (LCT). The northern part of the appeal site lies within the Principal Settled Farmlands LCT. The Pasture Hills LCT and the Upland Smallholdings LCT are further to the east.
11. The Estate Farmlands LCT is characterised as gently rolling lowland and valley floor landscapes with an ordered pattern of fields and woods creating framed views within medium to large scale landscapes with a strong rural character. During the construction period impacts on the rural landscape would be localised and temporary. When operational the solar arrays and associated infrastructure would be utilitarian structures in this countryside location. The metal and glass panels, along with their regular arrangement in long rows, would be out of keeping with the character of the area. The colour and texture of the panels would not be typical of the largely agricultural context, and so the proposed development would introduce a discordant element into the local landscape.
12. The appellant's finding of a very low magnitude of impact for the wider Estate Farmlands LCT understates the likely effect on landscape character. With medium sensitivity to the development proposed, and with a medium magnitude of effect, I consider that the proposal would have an adverse effect on the Estate Farmlands LCT of moderate significance.
13. The Principal Settled Farmlands LCT is a settled lowland landscape with scattered mixed farms in a medium scale landscape with predominantly filtered views. The proposed solar farm would have a limited effect on the key characteristics of this LCT, resulting in an adverse effect of minor/moderate significance. The elements of the Pasture Hills LCT combine to form small-medium scale landscapes, which offer filtered views through hedgerows and trees. Given the topography and restricted views the proposed development would have a minor effect on this LCT. The Upland Smallholdings LCT comprises the fringes of high moorland, largely within the AONB. The key characteristics of this LCT are its prominent sloping topography and small hedged pasture fields. Given the separation distance and limited intervisibility the proposed development would have a negligible impact on these landscape characteristics.
14. Overall, I find that the proposal would have an adverse effect on the landscape resource of moderate/minor significance.

Visual effects

15. The nearest parts of the AONB lie about 1.4 km to the north, and about 2.5 km to the east, of the appeal site. The appellant's Zone of Theoretical Visibility indicates the possibility of views from the AONB to the appeal site from the north (in the vicinity of Tar Grove) and from the north-east (in the vicinity of Farden). However, intervening vegetation prevents views of the appeal site from the Tar Grove area. Views from the AONB to the north-east of the proposed development are considered later in this section.
16. The eastern side of Squirrel Lane has a mature hedgerow that would, with appropriate management and infill planting, provide effective screening of the proposed solar farm in views from the lane. The same would apply to the southern boundary of the appeal site in views from Public Right of Way (PRoW) 0508/6Y/1, where there is a woodland belt. There would be brief views through gateways and in winter there would be the possibility of heavily filtered views into parts of the appeal site from these public routes, but these would be limited and not likely to result in any significant visual harm. The land rises up to the south and east of PRoW 0508/6Y/1, where Ledwyche Covert and the local topography effectively restricts views into the appeal site.
17. PRoW 0508/36/1 to the north of the appeal site extends eastward from the northern corner of the site towards Snitton. Views from the lower part of this footpath could be screened by mitigation planting. However, the land rises to the east and part of the solar farm would be visible from a section of about 270 m of this footpath at a distance ranging from 270 m to 540 m. Mitigation planting would in time filter and soften the impact of views from PRoW 0508/36/1 and reduce the adverse visual impact from moderate to minor significance.
18. There would also be some views of the solar farm from Snitton Lane and the PRoW network on elevated land at Snittongate, some 1.5 km to 2 km from the appeal site. It was apparent at my site visits that the northern and western parts of the proposed development would be seen as a linear feature appearing above intervening tree belts and below the line of trees along part of Squirrel Lane. The solar panels would be seen with a further tree belt and urban development in Ludlow beyond. These views also take in the National Grid interconnector substation on Squirrel Lane, business units and a park-and-ride carpark at Eco Park and a new housing development at Murchison Place, all beyond a tree belt to the south of the appeal site. Parts of the Henley solar farm are just discernible from some vantage points in this locality.
19. Further to the north-east the land rises higher up towards Farden Lane and the AONB near St Paul's Parish Church at Knowbury. Views of the proposed solar farm would be possible at a distance of about 2 km to 2.5 km from vantage points in the locality, including short sections of the Shropshire Way, some of which are within the AONB. However, the parts of the solar farm visible from these viewpoints would occupy only a small part of the expansive panorama looking across the valley towards Mortimer Forest and the hills beyond Ludlow.
20. The east/west orientation of the array of solar panels would to some extent soften the visual impact of the development in views from the north-east. It would mostly be the side or rear of the panels that would be visible, creating a noticeable change in tone and texture from the wider context of arable fields and woodland belts. However, the largely grey or darker tones would be

contained within the existing pattern of fields and woodland, which would limit the adverse visual impact in distant views. Nonetheless, given the sensitivity of receptors using the PRoW and enjoying the AONB, I consider that the views of the proposed development from the north-east would have an adverse visual impact of moderate/minor significance.

21. Taking all of the above into account, I consider that the proposed development would have an adverse effect on the visual amenity of the area of moderate/minor significance.

Setting of the AONB

22. The AONB has the highest status of protection in relation to landscape and scenic beauty. The NPPF adds that development within the setting of the AONB should be sensitively located and designed to avoid or minimise adverse impacts on the AONB. Policy P1 viii) of the AONB management plan states that development in the area around the AONB should be assessed for its impacts on the special qualities of the AONB itself, and also take account of the special qualities and landscape quality of the setting of the AONB. Measures to consider and mitigate such impacts should include; care over orientation, site layout, height and scale of structures and buildings; consideration of the landscape, land uses and heritage assets around and beyond the development site; careful use of colours, materials and nonreflective surfaces; restraint and care in the use of lighting.
23. The special qualities of the AONB include panoramic views that extend from, across and into the AONB, as well as unspoilt views. The rationale for the AONB in the management plan is that small and appropriate scale renewable energy generation can be accommodated within the landscape, drawing on the area's natural resources without harming its special qualities. It adds that larger scale installations should be outside the AONB.⁴
24. Views from the AONB are considered in the previous section of this decision. The proposal would not affect any views across the AONB. There are some vantage points near and to the west of the appeal site where it would be possible to see some of the proposed solar farm with parts of the AONB on the higher ground in the background. The most significant of these views would be from more elevated vantage points within and to the west of Ludlow where the solar farm would comprise a small element in distant views towards the AONB. The proposed development would not have an unacceptable adverse impact on views into the AONB.
25. The appeal site is part of the gently rolling lowland and valley floor landscape that is some distance from the AONB. It does not form part of the fringe slopes that rise up towards the AONB. In views from the AONB and its higher fringes the appeal site has a greater association with the nearby built development and infrastructure within Ludlow than it does with the AONB. It was apparent from my site visits that in these distant views the countryside to the immediate east of Ludlow makes a negligible contribution to the setting of the AONB. Notwithstanding that parts of the proposed development would be visible from some vantage points within the AONB and its setting, I find that the appeal scheme would have a negligible impact on the setting of the AONB. The

⁴ HD4.

proposed development would not conflict with NPPF paragraph 176 or the AONB management plan.

Cumulative impact

26. In assessing cumulative impact GLVIA3 draws a distinction between focussing primarily on the additional effects of the main project under consideration, or on the combined effects of the past, present and future proposals together with the new project.⁵ Incremental changes might not individually result in significant harm given the baseline, but cumulatively could result in a substantially different landscape and significantly diminish the visual quality of the area, compared to that which originally existed. It seems to me that whether the additional or combined effects should be assessed depends largely on the overall quality and importance of the original landscape and to what extent it warrants safeguarding.
27. Considering the quality of the landscape prior to the construction of the Henley solar farm, the area to the east of Ludlow was largely rural and characterised by arable fields interspersed with pockets of woodland. There is nothing to indicate that this area was recognised as having any specific characteristics or features over and above those that exist more generally in the open countryside of Shropshire. I find nothing in this case to justify applying a combined effects assessment and so have focussed on the additional effects of the appeal scheme.
28. There is an outstanding application for a 56.5 ha solar farm at Rock Farm to the immediate west of Henley solar farm and within some 340 m of the appeal site.⁶ The effects of the Rock Farm scheme would need to be assessed having regard to the relevant baseline at the time that application is determined. That is not a matter for me in dealing with the current appeal. Nevertheless, the PPG advises that the information to inform landscape and visual impact assessments can usefully include applications received.⁷ I have, therefore, taken both the Henley scheme and the Rock Farm application into account in assessing cumulative impact, and had regard to both in undertaking my site visits.⁸
29. The addition of the appeal scheme to a baseline that included the Henley and Rock Farm solar farms would adversely affect the fabric of the landscape to some extent because of the nature and scale of the development proposed for the appeal site. However, key characteristics of the landscape, including the field pattern and scattered woodland, would remain as significant landscape receptors. The additional effect of the appeal scheme would cumulatively have some impact on landscape character, but it would not result in the creation of a different landscape character type or sub-type. I consider that the addition of the appeal scheme to a landscape that included the existing Henley and proposed Rock Farm schemes would result in a cumulative landscape effect of

⁵ GLVIA3 paragraph 7.18.

⁶ Bitterley Parish Council Statement and paragraph 10 SoCG Appendix 1.

⁷ First bullet point of Paragraph: 023 Reference ID: 5-023-20140306. This refers to windfarms, but Paragraph: 013 Reference ID: 5-013-20150327 states that; "The approach to assessing cumulative landscape and visual impact of large scale solar farms is likely to be the same as assessing the impact of wind turbines. However, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero."

⁸ Paragraph 8 of Appendix 1 to the SoCG provides that the Inspector will be able to assess cumulative effects at the site visit.

minor significance over and above that which would result from the appeal scheme itself.

30. Cumulative visual effects can be either combined, where the observer can see two or more developments from one viewpoint, or sequential in that the observer would have to move to another viewpoint to see the development.⁹ It was apparent from my site visits that opportunities to see both the appeal site and the Henley solar farm from one viewpoint are very limited. Such combined visual effects of the appeal scheme with the Rock Farm proposal would also be restricted by the local topography and woodland. However, it would be possible to see parts of these schemes from the same viewpoint at various locations on the higher land to the north-east, in the vicinity of Farden. The cumulative combined visual effect would be limited given the considerable viewing distances and wide panoramic view from these elevated viewpoints.
31. Receptors using Squirrel Lane would see glimpses of Henley solar farm to the south-west along parts of the lane, and from different parts of the lane would occasionally see glimpses of the appeal scheme to the south-east, resulting in an adverse sequential cumulative visual effect of slight significance. As receptors moved around the locality via other local roads and PRoW there would also be some limited opportunities to experience sequential cumulative visual effects. However, it was apparent from my site visits that these would be occasional rather than frequent given the distances and time lapses between appearances. The latter particularly so for walkers taking time to move between viewpoints.
32. I find that the addition of the appeal scheme with other development in the locality would result in a cumulative visual effect of minor significance over and above that which would result from the appeal scheme itself.

Agricultural land

33. There is local concern that the classification of the appeal site as 95% grade 3a agricultural land understates the quality of the land and its capacity to produce arable crops. However, there is no convincing evidence to dispute the assessment agreed between the appellant and Shropshire Council.¹⁰ Grade 3a land is included in the definition of best and most versatile agricultural land for the purposes of applying national policy.¹¹
34. I am satisfied that the appellant's site selection process reasonably takes into account relevant grid connection, environmental and heritage constraints, along with agricultural land quality considerations.¹² The main soil types within the search area for the proposed development, with the exception of land within the AONB, are predominantly grades 2 and 3a. The scheme proposes that the appeal site would remain in agricultural use, insofar as sheep would graze between the solar arrays. The change from arable to pasture would improve soil health. The reduction in the application of nitrogen fertiliser over

⁹ Table 7.1 GLVIA3.

¹⁰ SoCG paragraph 6.1.

¹¹ NPPF paragraph 174 b) provides that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the economic and other benefits of the best and most versatile agricultural land. Footnote 58, albeit in a reference to plans, states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

¹² Section 2.2 of the appellant's Planning Design and Access Statement April 2022 states that a 5 km search area was identified around the substation.

the 40-year period would reduce the risk of excessive nutrients leaching into Ledwyche Brook. It is also proposed that the site would be fully reinstated to a sole agricultural use when the solar farm ceased to operate. Sheep grazing and restoration of the site are both matters that could be addressed by the imposition of planning conditions.

35. The proposed development would be a significant farm diversification that would generate a secure and stable income for the Estate. Nevertheless, taking 27 ha of best and most versatile land out of arable production for 40 years would have an adverse economic impact on local agricultural productivity. The Estate owners of the appeal site consider that less intensive farming of the solar farm site would free up resources to work other parts of the Estate more efficiently. But no detail was adduced at the Hearing to indicate how any such benefits could be quantified or secured. This argument attracts little weight.
36. Taking all these matters into account, I consider that underutilising a significant area of grade 3a best and most versatile agricultural land for such a long period would result in an adverse effect of moderate significance.

Renewable energy

37. Shropshire Council declared a climate emergency in 2018. The proposed development would contribute 12 MW to the generating capacity of Shropshire and would support the transition to a low carbon future. This is an important consideration in determining this appeal.
38. The main parties agree that grid capacity forms a significant constraint to the location of solar farms both nationally and in Shropshire, but acknowledge that the presence of a suitable grid connection should not on its own be sufficient to override all other considerations and establish an imperative to approve a solar farm development.¹³ Nevertheless, given the constraints on grid capacity it is important to take advantage of available capacity where solar photovoltaic development is or can be made acceptable.
39. Mitigating climate change and moving to a low carbon economy are included as objectives in achieving sustainable development in the NPPF. I consider that the renewable energy benefits of the proposed development should be given substantial weight in favour of allowing the appeal.

Other matters

40. The proposal includes planting trees and new hedgerows (170 m and 260 m), along with a wildflower meadow (1.5 ha), that would, with appropriate management, result in a biodiversity net gain. Subject to the imposition of appropriate planning conditions the scheme would result in a biodiversity benefit of minor significance.
41. There is local concern about the effects of construction traffic on Squirrel Lane and especially for the listed bridge to the south of the appeal site. The lane is narrow with limited passing places and the bridge has been damaged by vehicles in the past. There are other legislative provisions to impose restrictions on vehicles using the public highway, and to repair highway damage. I am satisfied that these other regulatory regimes are capable of

¹³ SoCG Appendix 1 paragraphs 12 and 13.

regulating the relevant highway issues in this case. In the circumstances that apply here, construction traffic could be reasonably controlled by means of an approved construction traffic management plan.

42. The proposed solar farm would cause no harm to the setting of the heritage assets at Henley Hall because of the 250 m separation distance and intervening mature tree belt.¹⁴ Archaeology is a matter that could be addressed here by the imposition of a planning condition. I concur with the main parties that the proposal would not harm other heritage assets or their setting.¹⁵
43. The nearest dwelling would be some 120 m from the proposed solar panels. With landscaping the scheme would have a negligible effect on views from nearby dwellings. The evidence indicates that the scheme would not have an unacceptable adverse effect on the residential amenity of the occupiers of dwellings in the locality, or neighbouring land uses, by reason of glint or glare.
44. Third parties raised issues about the likely effects of the proposed development on recreation, drainage and noise. Local concern about negative impacts on the recreational benefits of the area and tourism are not supported by substantive evidence. A SuDS type drainage system within the site is proposed to reduce the rate of run-off to the adjacent water course. The evidence before me indicates that noise is a matter that could be reasonably addressed by the imposition of appropriate planning conditions.
45. I was referred to other decisions for solar farms, but do not find these very helpful because much depends on the particular circumstances in those cases. I have determined this appeal on its own merits. I have taken into account all other matters raised in the evidence but have found nothing to outweigh the main considerations that lead to my conclusions.

Planning balance and policy

46. Paragraph 174 b) of the NPPF provides that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. Given my findings about landscape, visual and cumulative effects, I consider that overall, the proposed development would have an adverse effect on the character and appearance of the area of moderate/minor significance. This harm would endure for the 40-year operational lifetime of the proposed development and should be given moderate weight. The harm I have identified to agricultural productivity is of moderate significance and should attract moderate weight.
47. The minor benefits of the scheme to biodiversity should be given slight weight in the planning balance given that the site would be restored to full agricultural use after 40 years. The benefits of renewable energy and contribution to climate change mitigation attract substantial weight given local and national policy support. In my judgement, the planning balance here falls in favour of the proposal.

¹⁴ The heritage assets at Henley Hall include a grade II listed historic park and 5 grade II listed buildings.

¹⁵ SoCG paragraph 6.2.

48. Subject to the imposition of appropriate planning conditions, I find no conflict with CS Policy CS5 about the countryside. The scheme would comply with CS Policy CS6 because it would assist in mitigating climate change while respecting local distinctiveness. It would also accord with eLP Policy DP26. Given my finding about the planning balance in this case, I find no conflict with eLP Policy DP18, which states that development should avoid best and most versatile agricultural land wherever possible, unless the need for and benefit of the development justifies the scale and nature of the loss.

Conditions

49. Bitterley Parish Council suggested a number of additional conditions to those agreed by the appellant and the local planning authority if planning permission was granted. These were discussed at the without-prejudice discussion about conditions at the Hearing. Revised suggested conditions were agreed between the appellant and the local planning authority.¹⁶ Some of the wording of the suggested conditions would need to be amended in the interests of precision and enforceability.
50. In addition to the standard commencement condition, it would be necessary to define the permission and ensure the development was carried out in accordance with the approved plans (Conditions 1-3). A revised Construction Traffic Management Plan would be required, and a haul route prescribed, in the interests of highway safety (Conditions 4 and 5). Landscape and biodiversity conditions, including approval of a Tree Protection Plan as insufficient details are included in Appendix 2B Biodiversity Management Plan, would be necessary to safeguard the local environment (Conditions 6-9 and 11).
51. A Construction Environmental Management Plan would need to be approved, to include noise mitigation, in the interests of the amenity of the area (Condition 10). Lighting would need to be controlled to safeguard wildlife (Condition 12). Fencing should be specified in the interests of the appearance of the area (Condition 13). An archaeology condition would deal adequately with local heritage considerations (Condition 14).
52. Provisions for a complaints procedure and a local community liaison group would be necessary to monitor the construction and operation of the solar farm (Conditions 15 and 16). Securing continued agricultural use of the site by grazing sheep would be necessary to accord with the scheme that was considered at the Hearing (Condition 17). The PPG provides that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use (Condition 18). The scheme proposes a sustainable drainage system (SuDS) but details would need to be approved (Condition 19).

¹⁶ HD5.

Conclusion

53. I find that the planning balance falls in favour of the proposed development, and that the appeal scheme would accord with the development plan taken as a whole. The impacts of the proposal can be made acceptable with the imposition of conditions and so the scheme would comply with paragraph 158 b) of the NPPF. I consider that the proposed solar farm gains support from the NPPF taken as a whole. For the reasons given I conclude that the appeal should succeed.

J Woolcock

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gwion Lewis KC Landmark Chambers
John Ingham CMLI Director Stephenson Halliday
Alastair Field Director Reading Agricultural Consultants
Euan Hutchison MRTPI Associate Director Locogen
Stefano D'Ambrosio Solicitor
Richard Hillum Aukera Ltd
Nick Lumsden farmer

FOR SHROPSHIRE COUNCIL:

Grahame French Principal Planning Officer
Louise Evans Principal Planning Officer
Cllr Clare Wild
Cllr Andy Boddington

INTERESTED PARTIES:

Cllr Katharine Wheeler Bitterley Parish Council
Cllr Alison Holman Bitterley Parish Council

DOCUMENTS SUBMITTED AT THE HEARING

HD1 Zero Carbon Shropshire Plan 2021 and email dated 6 June 2023 concerning public consultation/adoption of the plan citing <https://shropshire.maps.arcgis.com/apps/webappviewer/index.html?id=e3b884cad4965a0462242a1bc62c0>

and

https://zerocarbonschropshire.org/support-us/energy/renewable_energy_mapping_project/

HD2 Nature Scot Guidance – Assessing the cumulative landscape and visual impact of onshore wind energy developments (<https://www.nature.scot/doc/guidance-assessing-cumulative-landscape-and-visual-impact-onshore-wind-energy-developments>)

HD3 Cllr Wild's written statement

HD4 Shropshire Hills AONB Management Plan 2019-2024

HD5 Additional conditions discussed at Hearing – wording agreed by appellant and Shropshire Council

HD6 Site visit itinerary

SCHEDULE OF CONDITIONS (1-19)

1. The development hereby permitted shall be commenced within 3 years of the date of this permission. This date is referred to hereinafter as 'the Commencement Date'. Written notification of the date when electricity is first exported from the solar farm hereby permitted to the electricity grid shall be submitted to the local planning authority no later than 14 days after the event. This date is referred to hereinafter as 'the First Export Date'.
2. Except as otherwise provided in the conditions attached to this permission the development hereby permitted shall be carried out in accordance with the application form dated 27 April 2022 and the accompanying planning statement and supporting documents and plans, including Drawing Nos.7325-DRW DES-0001 to 0012 and Drawing No.7325-DRW PROP-0013.
3. This permission shall relate only to the land edged red on Ledwyche Solar Farm Location Plan Drawing No.7325-DRW-PROP-0002-Location plan-v2.0, hereinafter referred to as 'the Site'.
4. No development shall take place until a revised Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The revised CTMP shall include details of how traffic will be managed along Squirrel Lane to minimise the risk of vehicles meeting with construction traffic and for the assessment and repair if necessary of any damage to the highway network. Construction shall be carried out in accordance with the approved CTMP.
5. The sole access to and from the Site during the construction and decommissioning periods shall be by means of the route shown on the approved plan titled Ledwyche Solar Farm Proposed Haul Route Figure 5.1 Drawing No.NEO00940/010I/B contained within the Construction Management Plan by Neo Environmental.
6. No development shall take place (including ground works and vegetation clearance) until a Tree Protection Plan has been submitted to and approved in writing by the local planning authority. The Tree Protection Plan shall provide for all trees on the Site to be retained throughout the construction phase and protected throughout the works in accordance with BS5837: Trees and Development. The approved measures shall be implemented in full prior to the commencement of any development related activities on site, and they shall thereafter be maintained for the duration of the site works. No material variation shall be made from the approved Tree Protection Plan without the prior written approval of the local planning authority. No development hereby permitted, including ground disturbance, siting of plant, equipment, buildings or bunds, shall take place within 2 metres of any hedgerow, without the prior written approval of the local planning authority. Where the approved Tree Protection Plan indicates that construction work is to take place within the Root Protection Area of any retained trees, large shrubs or hedges, prior to the commencement of any development works, an Arboricultural Method Statement (AMS) detailing how any approved construction works will be carried out, shall be submitted to and approved in writing by the local planning authority. The AMS shall include details about when and how the works will take place and be

managed; and how the trees, shrubs and hedges will be protected during such a process. The AMS shall be implemented in accordance with the approved details.

7. No development shall take place (including ground works and vegetation clearance) until a Landscape and Ecological Mitigation Plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
 - i. Planting plans, creation of wildlife habitats and features and ecological enhancements in accordance with Appendix 2B Biodiversity Management Plan (Neo Environmental, January 2022);
 - ii. Written specifications for the establishment of planting and habitat creation;
 - iii. Schedules of plants/seed mixes, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
 - iv. Implementation timetables.

Native species used are to be of local provenance (Shropshire or surrounding counties). The plan shall be carried out as approved. Planting and seeding shall be undertaken within the first available planting season following the completion of construction works and in accordance with a scheme which shall be submitted for approval in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details. The developer shall notify the local planning authority in writing of the date when planting and seeding under the terms of this Condition has been completed.

8. All new planting within the Site shall be subject to aftercare and maintenance for a period of 5 years following planting, including weeding and replacement of failures.
9. All Site clearance, development, landscaping and biodiversity enhancements shall occur strictly in accordance with Appendix 2B Biodiversity Management Plan (Neo Environmental, January 2022).
10. No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include:
 - i. An appropriately scaled plan showing Wildlife/Habitat Protection Zones where construction activities are restricted and where protective measures will be installed or implemented;
 - ii. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
 - iii. Requirements and proposals for any site lighting required during the construction phase;
 - iv. A timetable to show phasing of construction activities to avoid harm to biodiversity features and to avoid the bird nesting season;
 - v. The times during construction when an ecological clerk of works needs to be present on site to oversee works;

- vi. Pollution prevention measures, including noise mitigation;
- vii. Identification of persons responsible for compliance with legal consents relating to nature conservation, compliance with planning conditions relating to nature conservation, installation of physical protection measures during construction, implementation of sensitive working practices during construction, regular inspection and maintenance of physical protection measures and monitoring of working practices during construction, along with provision of training and information about the importance of Wildlife Protection Zones to all construction personnel on site.

All construction activities shall be implemented strictly in accordance with the approved plan.

11. Within 28 days prior to any pre-development site enabling works an inspection for badgers and otters shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the local planning authority prior to any development taking place. If new evidence, or a change in status, of badgers or otters is recorded during the pre-development survey then the ecologist shall submit a mitigation strategy, including a timetable for implementation, for prior written approval by the local planning authority that sets out appropriate actions to be taken during the construction stage. The mitigation strategy shall be implemented as approved.
12. Prior to the erection of any external lighting on the Site, a lighting plan shall be submitted to and approved in writing by the local planning authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall be designed to take into account the advice on lighting set out in the Institution of Lighting Professionals and Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK (available at <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificiallighting/>). All external lighting shall be installed strictly in accordance with the specifications and locations set out on the approved plan, and shall thereafter be retained for the lifetime of the development. Under no circumstances shall any other external lighting be installed without prior written approval from the local planning authority.
13. Fencing shall be provided strictly in accordance with the details shown on the approved fencing plan Drawing No.DES-0009 v1.0 Deer Fence. Site security shall be provided in accordance with the specifications detailed in the approved Drawing No.DES-0003 v1.0 CCTV Pole.
14. No development shall take place until the developer, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation. This written scheme shall be approved in writing by the local planning authority prior to the commencement of works.

15. Prior to the Commencement Date the developer shall submit for the written approval of the local planning authority a Complaint Procedure Scheme for dealing with noise and other amenity related matters. The submitted scheme shall set out a system of response to verifiable complaints received by the local planning authority. This shall include:
- i. Investigation of the complaint;
 - ii. Reporting the results of the investigation to the local planning authority;
 - iii. Implementation of any remedial actions approved by the local planning authority within an approved timescale. The approved scheme shall be adhered to for the lifetime of the development hereby permitted.
16. Prior to the Commencement Date the developer shall convene a local Community Liaison Group (CLG) to consist of representatives on behalf of the developer, Bitterley Parish Council and the local planning authority. The CLG shall meet virtually or physically at intervals to be agreed by CLG members during the construction of the solar farm hereby permitted and then during the first five years of its operational life. The CLG shall facilitate dialogue and interaction between the developer and the local community, with a main focus on assisting the local planning authority to monitor the implementation of this permission, including:
- i. The approved Construction Traffic Management Plan (Condition 4);
 - ii. The approved Landscape and Ecological Mitigation Plan (Condition 7) and the related aftercare/maintenance condition (Condition 8);
 - iii. The approved Biodiversity Management Plan (Condition 9);
 - iv. The approved Construction Environmental Management Plan (Condition 10), and ;
 - v. The approved Complaint Procedure Scheme (Condition 15).
 - vi. The approved SuDS scheme (Condition 19)
17. Prior to the Commencement Date the developer shall submit for the approval in writing of the local planning authority a scheme setting out the measures which shall be undertaken to facilitate sustainable sheep-grazing between the solar arrays, including grass sward specification and potential stocking type and density, for the duration of the operational life of the development. The scheme shall be implemented in accordance with the approved details and confirmation that the approved measures are being implemented shall be provided to the local planning authority upon prior written request.
18. The development hereby permitted shall be removed from the Site if the solar farm is no longer in use or after a period of 40 years from the First Export Date, whichever occurs earlier. No later than 6 months before the end of the 40-year period from the First Export Date, or within 6 months of the solar farm being no longer in use, a decommissioning and site restoration scheme, including a timetable for its implementation, shall be submitted for the written approval of the local planning authority. The scheme shall make provision for the removal of the solar panels and associated works approved under this permission, and for the reinstatement of the land within the Site so that with aftercare it is of the same grade of agricultural quality as when this permission was granted. The scheme shall include details of how traffic will be managed

along Squirrel Lane to minimise the risk of vehicles meeting with decommissioning traffic and for the assessment and repair if necessary of any damage to the highway network. The scheme, as approved, shall be implemented in accordance with the approved details.

19.No development shall take place until a sustainable drainage scheme (SuDS) has been submitted to and approved in writing by the local planning authority. The SuDS scheme shall:

- i. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. Include a timetable for its implementation; and,
- iii. Provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The sustainable drainage scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.