



Appeal Decision

Site visit made on 2 January 2023

by Neil Pope BA(HONS) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2023

Appeal Ref: APP/D0840/W/22/3293079

Land at Tregorrick Farm, Tregorrick, St Austell, Cornwall, PL26 7AG.

- 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 Mr M Hilditch of E H Energy Ltd against the decision of Cornwall Council (the LPA).
 - The application ref. PA20/11504, dated 23/12/20, was refused by notice dated 7/9/21.
 - The development proposed is a ground mounted solar PV farm with battery storage and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans, including alterations to the proposed landscaping layout, were considered by the LPA when it determined the application. I have taken these amended plans into account in determining the appeal.
3. In submitting the appeal, and in attempt to overcome the LPA's concerns regarding the impact upon archaeological interests, the appellant has submitted a further amended layout plan¹. In essence, this plan shows the proposed compound, including the battery storage element and part of the proposed access track, sited further south² to that shown on the layout plan to which the LPA's decision notice relates. Amongst other things, the amended site layout plan also shows a reduction in the number of solar modules³.
4. The LPA has been able to consider some elements of the proposed amended site layout and, on its own, the reduction in the number of proposed solar modules⁴ would amount to a minor amendment that would be unlikely to prejudice the interests of any interested party. However, interested parties to this appeal, including the Parish Council and local residents, have not been afforded an opportunity of commenting upon the proposed repositioning of the compound and access track. This is not an insignificant change to the layout of the proposed development. In all likelihood, this is a matter upon which some interested parties would expect/wish to be consulted upon.
5. I am mindful of the Wheatcroft Principles⁵ and guidance issued by the Planning Inspectorate⁶. If an appellant believes that amending its proposals would

¹ The latest version is drawing ref. SHF.378.002.PLD.002 D.

² Under plan ref. SHF.378.002.PLD.002.D, the proposed compound would be about 20 metres further south.

³ Approximately 322 fewer modules, equating to about a 0.15 MW reduction in capacity.

⁴ Less than 3% of the total number of modules in the layout plan to which the LPA's decision notice relates.

⁵ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37].

⁶ Annex M of the 'Procedural Guide: Planning appeals – England (updated 21 December 2022)'.

overcome the LPA's reasons for refusal it should normally make a fresh application. The appeal process should not be used to evolve a scheme.

6. If I was to determine the appeal on the basis of the details shown on the amended layout plans that were submitted after the appeal was lodged it would be tantamount to 'sidestepping' the rights of interested parties. To avoid such procedural unfairness, I have determined the appeal on the basis of the plans that were considered by the LPA when it determined the application.
7. The appeal site lies outside, but forms part of the extensive setting to the Cornwall Area of Outstanding Natural Beauty (AONB)⁷.

Main Issue

8. The main issue is whether any adverse effects of the proposed development, with particular regard to the likely impact upon: the character and appearance of the area, including the setting of the AONB; the agricultural industry and the need to protect the best and most versatile (BMV) agricultural land; and archaeological interests, would outweigh the benefits of the proposal, including the production of energy from a renewable resource.

Policy Context

9. The development plan includes the Cornwall Local Plan Strategic Policies 2010-2030 (LP). My attention has been drawn to numerous policies. The most important ones to the determination of this appeal are LP policies 14 (renewable and low carbon energy), 21 (best use of land), 23 (natural environment) and 24 (historic environment).
10. The LPA has produced its Climate Emergency Development Plan Document (DPD). Hearings were held in June 2022, as part of the Examination into the soundness of this DPD. Consultation in respect of the proposed modifications to the DPD has taken place and the Examiner's 'Fact Check' Report has recently been issued to the LPA. This document has reached a very advanced stage and can be given considerable weight. This includes policy RE1 (proposals for renewable and low carbon energy).
11. My attention has also been drawn to the Cornwall Renewable Energy Planning Advice Supplementary Planning Document (SPD), published by the LPA in 2016. Amongst other things, this incorporates 'An Assessment of the Landscape Sensitivity to On Shore Wind Energy and Large Scale Photovoltaic Development' (ALS) that was published in 2011. This Assessment was updated as part of the evidence base to the above noted DPD. I have determined the appeal on the basis of the most up-to-date version of the ALS.
12. I have also taken into account the provisions of the National Planning Policy Framework (the Framework). Amongst other things, this aims to increase the use and supply of renewable energy whilst ensuring that adverse impacts are addressed satisfactorily. The Framework also provides that development within the setting of an AONB should be sensitively located and designed to avoid or minimise adverse impacts on such designated areas.

⁷ I am mindful of the duty under section 85(1) of the Countryside and Rights of Way Act 2000.

13. The Written Ministerial Statements relating to renewable energy and solar development dated 24 April 2013, and 25 March 2015, have also been taken into account.
14. The Climate Change Act 2008 establishes statutory climate change projections and carbon budgets. The target for carbon emissions was initially set at 80% of the 1990 baseline figure by 2050. This was amended to 100% 'net zero' by section 2 of the Climate Change Act 2008 (2050 Target Amendment) Order SI 1056 in July 2019. This constitutes a legally binding commitment to end the UK's contribution to climate change.
15. The UK Solar PV Strategy sets out guiding principles for the deployment of solar energy development in the UK. Amongst other things, this recognises that solar PV assists in delivering carbon reductions, energy security and affordability for customers. It acknowledges that large scale developments can have a negative impact on the rural environment and on local communities. This Strategy was published a number of years ago and has moderate weight.
16. In determining the appeal, I have also taken into account relevant provisions of the Cornwall Area of Outstanding Natural Beauty Management Plan 2022-2027 (MP). These include policies PD-P11 (development within the setting of the AONB) and PD-P14 (renewable energy). I note from the MP that the appeal site is adjacent to the South Coast Central part of the AONB. The special qualities of this part of the AONB are described as including, an extremely tranquil and well-managed farmed landscape with a globally renowned, stunning coastline that extends east across Mevagissey Bay and on to St. Austell Bay. The MP can be given moderate weight.

Reasons

Character and Appearance

17. This 9.3 ha appeal site includes four regular shaped fields with hedgerow boundaries. These fields form part of the upper section of a steeply sloping valley side. Vehicular access is from Tregorrick Road. This also affords access to an overspill car park⁸ for the adjacent St. Austell Rugby Football Club.
18. The appeal site is approximately 0.7 km from the A390, which runs along the southern edge of St. Austell. The village of Tregorrick is about 0.35 km to the west and Menagwins Sewage Treatment Works (STW) is 0.9 km to the south west. The boundary of the AONB is about 0.25 km to the south of the site.
19. As I saw during my site visit, the appeal site forms part of the open countryside along the southern fringes of St. Austell. I walked many sections of the network of public rights of way that bisect the surrounding landscape, including sections of paths within the AONB. Amongst other things, I noted that the area around the appeal site is popular for outdoor recreational activities/pursuits. These include walking, cycling, horse riding and golf⁹.
20. During my visit, I also noted the elevated and prominent position of the appeal site within the local landscape. This was especially apparent when viewed from the south and west. Its green, unspoilt, open qualities form an integral part of the attractive rural surrounds to St. Austell. Notwithstanding some lighting

⁸ This car park was in use during my visit, with children playing on an adjacent sports pitch.

⁹ Porthpean golf course lies to the east and west of the appeal site and St. Austell golf course lies further west.

columns at the rugby club and a nearby telecommunications mast which appear on the skyline above the site, the above noted attributes of the appeal site provide a pleasing contrast to the built environment of the town and to the mining landscape that exists to the north of St. Austell. The site makes an important contribution to the character and appearance of the local area.

21. The appeal site lies within the Gerrans, Veryan and Mevagissey Bays Landscape Character Type (LCT), as defined within the Cornwall and Isles of Scilly Landscape Character Assessment 2007. This LCT includes a high farmland plateau that is intersected by stream valleys that give rise to an undulating landform. The undulating high plateau of a mixture of arable and pastoral farmland is one of its key characteristics. The visual sensitivities of this LCT include a very peaceful, rural landscape which has a relatively unspoilt character and few obvious build structures in the countryside. Its attractive balance of arable and pasture land, and even woodland distribution is noted as giving this LCT a special quality.
22. The above noted ALS identifies this LCT, overall, as being of medium sensitivity to solar PV developments between 5-10 ha in size. Strategic landscape guidance, set out in the ALS for this LCT, aims to avoid locating solar developments on the steep upper slopes of the stream valleys where they would be particularly visible.
23. The proposed development would result in much of the appeal site being covered with arrays of photovoltaic panels. The maximum height of the solar panels would be 2.75 metres from ground level. The proposed substation, transformer/invertor units, battery stores, CCTV poles and compound and perimeter fencing would, in the main, also be of limited heights. In addition, some new landscape planting is proposed, including a new Cornish hedge.
24. Overall, the development would not be unduly high and the new planting would help to strengthen the pattern of fields/hedgerows within the local landscape. Nevertheless, the proposal would markedly change both the character of the site and the south west facing slope of the hillside of which it forms part.
25. The large number of proposed arrays and the ancillary works would considerably erode the green, unspoilt, open qualities of the appeal site. This sizeable and overtly man-made addition to the local landscape, with its regimented lines of solar panels, utilitarian substation, units and stores, would have an urban/industrial character. In effect, the proposed development would denude the naturalistic attributes and countryside character of the site and contrast awkwardly with the unspoilt character of the fields on the lower slopes of the valley side.
26. The proposal would upset the balance of arable and pasture land within this part of the LCT and seriously detract from the pleasing contribution the site makes to the countryside to the south of St. Austell. Whilst this change in character would be limited to a period of 30 years and would be largely reversible, the harmful effects that I have identified would endure for a significant period of time.
27. The proposed development would be seen from numerous parts of the public realm, including some land within the AONB. Seeing a development does not in itself amount to a harmful impact and there is no planning policy preclusion on solar farms within the countryside. Some landscape and visual harm is an

almost inevitable consequence of accommodating this type of development within rural areas.

28. In this instance, due to the elevated and prominent nature of the appeal site, the proposed development would be very conspicuous within the local landscape. In particular, when seen from sections of the popular public rights of way to the south and west¹⁰, as well as from parts of the St. Austell Golf Club¹¹ on the western side of the B3271, the rows of solar panels would appear as a striking and very discordant addition to this part of the countryside.
29. The proposed arrays would dominate the upper south/south west facing slope of the hillside and would have a serious adverse impact upon the appearance and visual amenities of the area. In all likelihood, most high sensitivity receptors would deem the impact to be major, adverse with lesser harm experienced by those using St. Austell golf course. Given the topography of the appeal site, the proposed landscape planting would have a negligible effect in mitigating the visual harm that I have identified.
30. In some instances, and when viewed from a distance, solar arrays can be akin in appearance to water within a landscape and may be considered less intrusive within the countryside¹². However, that is very unlikely to be the case in the appeal before me. Here, the proposed arrays would 'cling' to the steep upper slope of the valley side and would appear as a very conspicuous and incongruous addition in the countryside to the south of St. Austell.
31. The harm that I have identified above to the character and appearance of the area weighs very heavily against granting planning permission.
32. The proposed development would be seen from some parts of the South Coast Central section of the AONB and could not reasonably be described as very small scale as provided for in LP policy 14(4). Whilst it would be a very detracting addition to the character and visual qualities of the local landscape there is nothing to demonstrate that it would harm the tranquillity¹³ of this section of the AONB, or an appreciation of the coastline. I note that the Cornwall AONB Unit advised the LPA that the effects would be such so as not to require comment "*in the context of the primary purpose of the designation.*"
33. Nevertheless, when seen by high sensitivity receptors within the AONB, the proposal would, in effect, bring urban/industrial development very much closer to a section of this nationally designated landscape. In so doing, it would erode the quality of views from the northern edge of the AONB and, in all likelihood, detract from the enjoyment/experience of some public rights of way in this section of this nationally important landscape. There would be some limited harm to the setting of the South Coast Central section of the AONB.
34. The proposed development would conflict with the provisions of LP policy 23, the objectives of the LPA's SPD (including the strategic landscape guidance) and the thrust of MP policies PD-P11 and PD-P14.

¹⁰ From these parts of the public realm the proposal would be seen by 'high sensitivity' visual receptors. This includes the section of footpath that runs between Managwins Farm and Roseweek. For whatever reason, this was not selected as a viewpoint within the appellant's Landscape and Visual Impact Assessment.

¹¹ The main purpose of those using the golf course would be to play golf, but many users would appreciate the pleasing attributes of the landscape. Such people could reasonably be termed 'moderate sensitivity' receptors.

¹² During my visit, I noted the arrays along the valley floor adjacent to the STW.

¹³ Some short-term erosion of tranquillity could be expected in part of the AONB during the construction phase.

Agriculture/BMV

35. The appellant's Agricultural Land Classification Report identifies the vast majority of the appeal site (94.8%) as grade 3b and 4 agricultural land. The remainder of the site 0.48 ha (5.2%), which is the area nearest to the access track, has been identified as grade 3a agricultural land. This smaller part of the site comprises BMV, as provided for within the glossary to the Framework.
36. To ensure the best use of land, national and local planning policies, in essence, seek to avoid development on BMV. In particular, account needs to be taken of the economic and other benefits (including food production) of BMV. In this regard, I understand that part, or all, of the appeal site has previously been used to grow crops/potatoes.
37. The proposed development would only involve the use of a very small quantity of BMV¹⁴. Whilst the cumulative impact of the incremental use of BMV for development unrelated to agriculture could be significant, the appellant has informed me that sheep would be allowed to graze the land after the proposed development was completed¹⁵. Agriculture, albeit in a much less intensive manner, would therefore continue in association with this proposed scheme for renewable energy. As already noted above, the development would also be reversible and for a limited period of time. If deemed appropriate, more intensive agricultural use could resume upon cessation of the development.
38. There is no cogent evidence before me to demonstrate that the proposal would entail the harmful loss of BMV or result in any significant adverse impact upon the agricultural industry or food production. There would be no conflict with the provisions of LP policy 21. The appellant has also informed me that, having reviewed the LPA's brownfield land register, there are no suitably sized brownfield/previously-developed sites available or viable¹⁶ as an alternative to the appeal site.

Archaeology

39. The LPA's Archaeologist has advised that the proposed development lies within an area characterised¹⁷ as Medieval Farmland with a probability for the survival of buried archaeological remains. There are also a number of known buried heritage assets located nearby. These include a Bronze Age barrow, a Prehistoric enclosure, Medieval ridge-and-furrow and post-Medieval mining remains. This suggests that the appeal site could contain important archaeological interests that could be harmed by the proposed development.
40. The application was accompanied by a number of supporting documents. This included a Historic Environment Assessment. However, there was no geophysical survey results necessary to ascertain the likely impact upon archaeology. I concur with the LPA's Archaeologist that, given the site context, it would have been inappropriate to require the submission of a geophysical survey as a condition of any approval.
41. The appeal was accompanied by a report that sets out the findings of a geophysical survey and a separate Written Scheme of Investigation for a

¹⁴ During my visit, I noted that some agricultural machinery was being stored on part of the BMV.

¹⁵ I have witnessed sheep grazing on land around solar arrays elsewhere within South West England.

¹⁶ Including having a suitable point of access/connection to the grid.

¹⁷ Cornwall & Isles of Scilly Historic Environment Record.

Programme of Archaeological Work. Amongst other things, the survey identifies archaeological interest/activity within the site. This includes a combination of former field systems and three discontinuous sub-circular features, possibly representing later Prehistoric ring ditches or stock enclosures. At a late stage in the appeal, the appellant submitted a separate report (dated November 2022) detailing the results of an archaeological trench evaluation within the site¹⁸. This confirms the presence of important archaeological interests¹⁹ in part of the appeal site.

42. As already noted, the receipt of this latest archaeological report prompted the appellant to submit an amended site layout plan. I have set out above why I am unable to take this into account. On the basis of the plans to which the LPA's decision notice relates, the proposed compound and access track would be likely to result in harmful disturbance to important archaeology. This would amount to moderate harm. The Framework requires a balanced judgement to be undertaken and to weigh this harm against the benefits of the proposal.

Benefits

43. The proposed development would have a generating capacity of up to 6MW with battery storage facility. It is intended that 1.4MW would be supplied directly to Menagwins Sewage Treatment Works (STW) by a dedicated private wire connection²⁰. On behalf of the appellant, it has been calculated that the remainder (4.6MW) would be sufficient to generate electricity for about 1,600 homes and could save approximately 2,400 tonnes of CO₂. I have also been informed that some of the electricity generated could be supplied to the rugby club. If this were to occur, there would be a direct community benefit.
44. The proposal would allow South West Water Limited who operate the STW to reduce its carbon emissions and, at the same time, reduce the pressure on the local electricity system. I understand that local electricity substations are at or over capacity and that reinforcement works are required to the local grid network to avoid stress and to accommodate the likely increase in pressure with future planned growth in/around St. Austell area. This includes electric vehicle charging points. The STW is a critical piece of local infrastructure and I note the support for the appeal scheme from the water company.
45. The proposed development would increase energy generation from a renewable source, as well as increasing local capacity. The supply of electricity to the STW would remove a significant local user of electricity from the grid and, in so doing, create 'headroom' for growth elsewhere within this part of Cornwall. The proposal would assist in helping to meet the UK target of net zero carbon emissions by 2050 and the reduction of carbon emissions by 78% of 1990 levels by 2035. It would also help increase the security of supply. I attach considerable weight to these benefits.
46. The development would result in ecological benefits, such as enhanced wildlife corridors/habitat connectivity, the planting of species rich grasses and wildflowers. There would be an expected 10% biodiversity net gain. A biodiversity management plan would also be formulated for the site, some new

¹⁸ Amongst other things, this found archaeological features within eight of the twelve trenches that were dug.

¹⁹ There is no indication that these remains amount to anything other than non-designated heritage assets.

²⁰ I have been informed that this grid connection was secured in July 2020 and was designed specifically for the operators of the sewage treatment works.

hedgerow and meadow planting undertaken and the provision of bird and bat boxes. I afford such ecological benefits moderate weight.

47. During the construction phase, there would be benefits to local economy with the likelihood of some construction workers using local accommodation, shops, restaurants etc... There would also be the potential to source local materials where possible. I attach limited weight to these economic benefits.
48. The development could also result in some educational benefits. This could include school and college visits being undertaken, so as to better understand how a solar farm operates and its role in helping to address climate change and support biodiversity. I afford such benefits some limited weight.

Other Matters

49. The appeal site lies within the extended settings of a number of listed buildings²¹. The LPA has informed me that the proposed development would not affect the setting of any listed building. I concur with the finding in the appellant's Historic Environment Assessment that the proposal would not affect the significance of any designated heritage asset. There is nothing of substance to refute this finding. The proposal would preserve the settings of designated heritage assets that can be found within the local landscape.
50. The application was supported by the LPA's officers. However I note that a finely balanced recommendation was made. I also note the findings of some other Inspectors in appeal decisions for solar farms elsewhere. Each case must be determined on its own merits and no two sites are exactly the same. The topography of the site in the appeal before me and its landscape context are very different to the other cases that have been drawn to my attention. These other decisions are not on all fours with the case before me and do not set a precedent that I am bound to follow.

Conclusion

51. I do not set aside lightly the benefits of the proposal, especially at a time when there is added pressure on the security of energy supplies. The benefits would be sufficient to outweigh the harm to archaeological interests that I have identified. As a consequence, there would be no conflict with the provisions of the Framework that are aimed at conserving the historic environment or LP policy 24. However, national and local planning policies and guidance also require careful consideration of the landscape and visual impacts of solar farms within the countryside. Even under current circumstances, increasing energy supplies from renewable sources does not override all other considerations.
52. In this instance, the adverse effects of the proposed development upon the character and appearance of the area, including the setting of the AONB would, on balance, outweigh the benefits of the proposal. The proposed development would conflict with the provisions of LP policy 14, DPD policy RE1 and the provisions of the Framework when read as a whole.
53. Given all of the above, I conclude that appeal should not succeed.

Neil Pope
Inspector

²¹ The provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.