
Appeal Decision

Site visit made on 23 March 2015

by Brian Cook BA (Hons) DipTP MRTPI

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

Decision date: 18 May 2015

Appeal Ref: APP/Y3940/A/14/2228679

Land at Little Chalfield, nr South Wraxall, nr Bradford on Avon, Wiltshire

- 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 Solar Planning Ltd against the decision of Wiltshire Council.
 - The application Ref 14/05253/FUL, dated 23 May 2014, was refused by notice dated 24 September 2014.
 - The development proposed is a ground mounted solar farm, associated works and ancillary infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. In response to a request for a screening opinion under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 the Council determined that an Environmental Impact Assessment (EIA) was not required in this case. On receipt of the appeal, the Secretary of State came to the same view.
3. On 20 January 2015 the Wiltshire Core Strategy (WCS) was adopted. Policies C1 and C34 of the West Wiltshire District Plan First Alteration cited in the reason for refusal have been replaced by those in the WCS. The main parties were asked for their comments on any implications for the determination of the appeal and I have taken the views expressed into account.
4. The Ministerial Written Statement published on 25 March 2015 as it relates to solar farms reinforces existing guidance in respect of the use of best and most versatile agricultural land. It therefore raises no new issues that are material to my decision.
5. The officer's report to the Area Planning Committee contained a comprehensive assessment of the issues raised by the statutory consultees and local people. Members clearly gave very careful consideration to the report and the various submissions made to them and visited the site and surrounding area. I also viewed the appeal site from similar locations to them and toured the wider area. Members did not agree with the officer's recommendation and refused the application for a single reason. Having considered all the evidence submitted to me and inspected the site and surrounding area I consider the

main issues for my determination of the appeal to be the effect that the development would have on:

- (a) the landscape character and appearance; and
- (b) the setting of the heritage assets in the area.

Reasons

The effect that the development would have on the landscape character and appearance

6. The appeal site extends to about 25 hectares but is part of a larger field. The appeal site itself is bounded on its south east flank by a minor road and on the northern edge by a treed hedgerow. To the north of that beyond further small fields runs a minor road between South Wraxall and Atworth. The southern/south western boundary is undefined at present by any physical features but is clearly marked by the different agricultural treatment of the land either side of it.
7. The site lies within a more extensive area bounded by the minor roads referred to above, a smaller road to the south west and the B3109 in the west. This wider area (and indeed the even more extensive Landscape Character Area (LCA) within which it lies) exhibits the gently undulating limestone lowland, small to medium sized irregular shaped fields enclosed mainly by hedgerows with mature trees and the strong sense of tranquillity that are notable characteristics of the South Wraxall Limestone Lowland LCA identified in the county-level landscape character assessment produced in 2007.
8. Although generally fairly flat there are local variations in the topography associated with the streams to the east and south of the site. For example, the impressive Great Chalfield Manor (a Grade I Listed Building) lies at a significantly lower level locally than the appeal site whereas to the west of the Manor the road leading to it (along which runs a national cycle route) is at a slightly higher level and affords some filtered views across the appeal site.
9. The appeal proposal would introduce into this landscape a development comprising some 36,000 solar panels arranged in arrays, some inverter cabins, 2.5m high pole-mounted security cameras at 35m intervals around the perimeter and security fencing. While this is said on the general site plan (T.200 Rev A8) to be 2m high deer fencing, no detail is given by way of an application drawing although it is shown within the landscape and visual assessment (LVIA). The latest drawing (D.107 Rev A2) shows that the panels would be just shy of 1.90m high at the rear and about 0.83m at the front being set at an angle of about 10°. This drawing is dated 19 August 2014 and was therefore available when the planning application was determined by the Council. The development would be in place for a 25 year period.
10. The proposed scheme would therefore introduce a development of industrial appearance into an otherwise agricultural landscape for what would be at least a generation. The LVIA assessed the effects in landscape and visual terms. This followed the latest version of well established guidelines. The criteria of landscape and visual receptor sensitivity and scale or magnitude of change are those commonly used as is the level of effects matrix. While, correctly, the construction phase was also assessed, this would be of limited duration at no more than four months.

11. Turning first to the effect that there would be on landscape character, the appeal site is within a landscape that is not subject to any national or local designations. There would be no effect on the structure of the landscape since the arrays would be entirely within the existing field boundaries. It is proposed to reinforce the planting within these and manage them to develop in height for screening purposes and a new hedgerow and tree belt would be planted along what is now the open side of the appeal site, again for specific screening purposes.
12. The landscape character of the appeal site would be fundamentally changed by the development. However, given the general topography of the area I consider that the effect of the arrays on the overall landscape character of the LCA would be limited to the immediate landscape setting of the appeal site. The effect of the security fencing and the camera poles would depend in part on the boundary treatments proposed. Both elements would be taller than the arrays although the fencing would be of a rural rather than an industrial appearance and the poles would be thin. Both would be obscured to a considerable degree by the mitigation planting although at the height required to achieve that, the planting would itself be somewhat unusual in the local landscape. This could however be the subject of detailed consideration under one of the conditions suggested by the Council.
13. In my judgement, the broad scale of the landscape character is such that some change of an essentially horizontal nature such as that proposed can be accommodated. The sensitivity of the LCA to changes is 'medium' on the criteria used. There would be a loss of agricultural land use for the duration of the operational development but that would be reversible, albeit after a considerable number of years, and the effect would be of very limited geographical extent. The addition of the somewhat incongruous elements (the camera poles especially) would be mitigated to some degree. Taking all this into account and applying the matrix used by the appellant I consider that the landscape character effect would be 'moderate/minor' but, nevertheless adverse.
14. I turn now to the visual impact on the appearance of the area that there would be. From my tour of the area and my view across the landscape from viewpoints along the routes it became clear that views of the operational appeal development would be limited to those from the roads and part of a public right of way in the immediate vicinity of the site. This is mainly because of the essentially level nature of the land, the extent to which views across the landscape are in any event interrupted and filtered by vegetation and the degree to which the development, which would be enclosed by and behind hedgerow planting, would be discernable as distance from the appeal site increases. Even when on higher ground such as the road and national cycle route to the south of the appeal site, views of the development would be restricted by the field boundary planting bordering the route. Moreover, those using that route are likely to be moving rather than standing and taking in the view and will be travelling broadly parallel to the development site rather than towards it. Views would in my judgement be glimpses rather than full views for any length of time.
15. A number of residential properties would have some view across the appeal site. Most notable would be that from Gable Cottage which lies just to the south of the appeal site. It is views from this property that the mitigation

planting proposed along the now open site boundary is intended to address. I understand that the members viewed the appeal site from this property and that a number of poles were erected to guide their assessment. It was clear from my site visit that these were in fact misleading. The pole tips were higher than the mark on them to denote the top edge of the array. Even this was higher than the final height proposed. In addition, the lower poles appeared to be too close giving a misleading impression of the pitch of the modules.

16. I was not invited to visit any of the properties concerned. The appellant has produced some visualisations which show the development as viewed from inside various buildings at different stages in the maturity of the proposed planting. I note too that the chartered landscape architect commissioned by the occupier of Gable Cottage considered the LVIA to be thorough in its assessment (of visual impact) dealing with Gable Cottage in detail as a key receptor. I have no evidence to dispute the suggestion in the appellant's LVIA that views from other properties would be limited to, typically, upper floor rooms and filtered in any event.
17. Nevertheless, residential receptors and users of national public rights of way and routes have a high sensitivity to changes in the view. Where the proposed development would be clearly noticeable and the view would be fundamentally altered by its presence, the magnitude of change is also deemed to be 'high'. In my judgement therefore the visual impact on certain residential occupiers would be a major adverse one at least until the screen planting reaches a height to be effective. Having said that, the number affected would be small and most notably Gable Cottage.
18. Finally, I turn to cumulative impact. The Planning Practice Guidance (PPG) gives advice about this and it seems to me that the appellant's approach is in accordance with that with respect to visual impact. I note too that the PPG advises that with effective screening and appropriate land topography the area of a zone of visual influence (over which cumulative impact could be perceived) could be zero.
19. There are a number of similar schemes in planning in the wider area and these are mapped by both the appellant and some of those making representations. However, I have no information about the key issues of screening and land topography for any other than the appeal scheme. The appellant has produced a series of cumulative zones of theoretical visibility maps which show the extent to which schemes would theoretically overlap in cumulative terms from public rights of way. The appellant's analysis is that there would be potential cumulative effects with the Broughton Gifford and Roundponds Farm schemes. The assessment is that there would be limited sequential rather than in combination views and that these would be in any event limited. On the evidence before me I have no reason to disagree with that assessment.
20. As I understand the point made by those making representations it is more to do with cumulative landscape impact, which is not addressed by the appellant, the concern being that solar farms would become a significant or defining characteristic of the wider landscape. However, what has been provided in evidence is simply a spatial distribution of 19 solar farm schemes across an area that extends from just beyond Chippenham in the north, to Calne and Devizes in the east and to the south of Trowbridge in the south west. There is however no assessment of the landscape effect of any of these schemes either

on their own or with others. There is no evidence therefore to support the case that has been put.

21. To summarise on this issue, I have concluded that there would be a limited adverse impact on the landscape character which would be confined to the area in the immediate vicinity of the appeal site. There would nevertheless be harm to the landscape character. Similarly, there would be harm to the appearance of the area as perceived from a very limited number of residential properties and short lengths of public rights of way. To that extent the proposal would conflict with WCS Core Policy 42 and Core Policy 51. These address standalone renewable energy schemes and the protection, conservation and, where possible, enhancement of landscape character requiring that there must not be a harmful impact on the latter respectively.

The effect that the development would have on the setting of the heritage assets in the area

22. There are a significant number of heritage assets within some 1.5km of the appeal site which include Listed Buildings at Grade I and II*, conservation areas at South and Lower Wraxall and a Grade II Registered Park and Garden.
23. When first consulted on the planning application English Heritage (EH) commented that further work which assessed the potential for the development to impact upon the setting of heritage assets, particularly with respect to the cumulative effect of the appeal development and others nearby was required. Having received a response from the appellant to these points EH wrote again to the Council referring to EH guidance and reiterating the need to give due consideration to the cumulative impact. However, my reading of the consultation letters is that EH never actually expressed a view on the application.
24. In dealing with this in the report to committee the emphasis is placed upon the archaeological implications of the proposed development. While the EH advice is noted, it seems to me that the conclusions of the appellant's archaeological and heritage assessment are uncritically accepted. Comments from the National Trust in relation to Great Chalfield Manor are recorded and the conclusion drawn that given the separation distance and the screening afforded by the topography and intervening tree and hedge planting, the setting and character of the Manor would not be affected. This section of the report then concludes by, in my view, either misinterpreting or misapplying paragraph 134 of the National Planning Policy Framework (the Framework). Although the conclusion is that the harm would be 'very limited', it is not clear whether or not 'very limited' is intended to equate to 'less than substantial'. If it is, the balancing exercise required by Framework paragraph 134 that is mentioned is not carried out.
25. The Chalfield Residents Group (CRG) commissioned Wyvern Heritage and Landscape Consultancy to prepare a heritage statement on behalf of the group after the appeal was lodged. It was submitted as part of a more extensive report to the Planning Inspectorate in response to the appeal notification.
26. The difference between the appellant and CRG is their respective views about the historic association of the appeal site with the manors in South Wraxall and the parish of Atworth. In short, the appellant sees no functional or aesthetic relationship between the appeal site and South Wraxall. In contrast, CRG cite

documentary evidence that these manors, which include Great Chalfield Manor, were originally part of the estate held by the Abbey of Shaftsbury and all the land between them formed one historic landholding with a shared land use history. While commenting on other aspects of the CRG report at final comments stage, there is no reference to this statement and I therefore conclude that the appellant does not dispute this evidence.

27. In my view the appeal site, which is about 0.8km from a group of heritage assets in the South Wraxall conservation area, does form part of the setting of the various heritage assets for the reasons explained by CRG. Its contribution to the significance of those assets is lessened however by the fact that the historic field pattern does not survive having been replaced by a landscape that results from field boundary removal in the 1900s. Moreover, as CRG argue, views out from heritage assets to the site are not materially affected; it is only the view of the South Wraxall conservation area that would be. For the reasons set out under my first main issue, I consider such views to be limited by the various factors discussed.
28. Nevertheless, the industrialisation of this small area of the setting of the heritage assets would cause some limited harm to their significance. WCS Core Policy 58 states among other things that designated heritage assets and their settings will be conserved and where appropriate enhanced in a manner appropriate to their significance. This reflects the graded approach to 'harm' in the Framework and, given its very recent adoption, this policy is consistent with it. Framework paragraph 132 says that any harm should require clear and convincing justification while the courts have held that preserving in the heritage asset context means 'doing no harm'. I therefore conclude that the appeal proposal would conflict with WCS Core Policy 58.

Other matters

29. Local people have expressed concern about the traffic implications during the construction of the project. I have little doubt that there would be some inconvenience but the period would be relatively short. I am also mindful that the Highway Authority raise no objection on this matter.
30. Although a recent judgement¹ in relation to a similar development nearby has been referred to me that concerned procedural errors by the Council in that case which have not been repeated here. The alleged failure of that scheme to comply with the conditions imposed or be developed in accordance with the approval are also not matters to which I can give only very limited weight. The Council has powers under the Act in respect of those matters and could use them if expedient to do so.

Planning balance

31. National planning and energy policy is very supportive of renewable and low carbon energy infrastructure with Framework paragraph 93 confirming that this is central to the economic, social and environmental dimensions of sustainable development. Framework paragraph 98 confirms that applicants for energy development do not have to show the overall need for their proposal and that even small-scale projects can make a valuable contribution to cutting green house gas emissions.

¹ *Daniel Gerber v Wiltshire Council* [2015] EWHC 524 (Admin)

32. However, as is clear from Framework paragraph 6, it is the policies in Framework paragraphs 18 to 219 taken as a whole that constitutes the Government's view of what sustainable development in England means in practice for the planning system. Those policies as a whole give effect to the 12 core planning principles set out in Framework paragraph 17. There is no priority order and no expressed preference for any one core principle over any other. In determining whether any development amounts to sustainable development in Framework terms, a balance therefore has to be struck. As the Framework also confirms, planning law requires that planning applications and appeals must be determined in accordance with the development plan unless material considerations indicate otherwise.
33. I have concluded that the development proposed would conflict with the relevant WCS policies. In addition, I am required by s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of the Listed Buildings identified. As already mentioned, the courts have held that in this context 'preserving' means doing no harm. Where, as in this case, a degree of harm has been found, that harm must be given considerable importance and weight in the overall balancing exercise.
34. The appellant sets out a number of factors in favour of the development proposed which draw upon Framework paragraph 7 where the three dimensions of sustainable development are set out.
35. A number of economic benefits are claimed. It seems to me that it is during the very short construction period that the bulk of the direct employment generated by the proposal would be required. No evidence is given as to the number of such jobs that would be required in this instance or whether they would be newly created or simply an established installation team that moves from one site to another. I acknowledge the general evidence given about employment in the energy sector and accept that to be maintained developments need to continue. However, that is not an argument that carries site-specific weight in my view. There is simply no evidence for the assertion that sheep grazing, which may not occur in any event, would provide additional income for the tenant farmer. The evidence is that it is the landowner that will achieve an enhanced income from the land. There is no evidence to suggest how this would benefit the local area. I give very little weight to factors under this dimension.
36. Under the social role dimension generalised evidence at national level about the support of the public for renewable energy in general and solar energy in particular is cited. However, specific schemes attract particular local interest and there is clear concern from those members of the local community that have taken an active role in the passage of this proposal through the planning system. I therefore give very little weight to the general factors identified under this dimension.
37. The final dimension is the environmental role. There is clear support in Government policy for the delivery of renewable and low carbon energy and associated infrastructure. Framework paragraph 93 confirms that this is central to the economic, social and environmental dimensions of sustainable development. Applicants are not required to demonstrate the overall need for renewable or low carbon energy. In this case the evidence is that the scheme

would generate enough power for around 2,500 homes and would off set some 5,100 tonnes of CO₂ per annum. I give very little weight to the biodiversity benefits that would be achieved since these are not dependent on the development going ahead and could be implemented if the landowner chose to do so.

38. I acknowledge that cumulatively the contribution from individual renewable and low carbon energy schemes will contribute to the Government's climate change policy objectives. However, in this case I do not consider this would outweigh the harm that would be caused and the totality of the conflict with development plan policy that I have identified and the statutory weight that I am required to give to the effect on the setting of the Listed Buildings identified that I have found. In the balancing exercise inherent in Framework paragraph 6 I give greater weight therefore to the core planning principles that recognise the intrinsic character and beauty of the countryside and the need to conserve heritage assets in a manner appropriate to their significance. The development proposed would not therefore amount to sustainable development and Framework paragraph 14 does not therefore apply. There are therefore no material considerations to indicate that the appeal proposal should be determined other than in accordance with the relevant development plan policies.

Conclusion

39. For the reasons given above I conclude that the appeal should be dismissed.

Brian Cook

Inspector