

Appeal Decision

Hearing held on 18 April 2023

Site visit made on 19 April 2023

by Gareth W Thomas BSc(Hons) MSc(Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Appeal Ref: APP/F1040/W/22/3313316

Land North of Lullington, Swadlincote, Derbyshire, DE12 8EW

- 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 Lullington Solar Park Ltd against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2021/1014, dated 22 June 2021, was refused by notice dated 8 August 2022.
 - The development proposed is for the installation of ground mounted solar photovoltaic panels with associated infrastructure and works, including substations, converters, inverters, access tracks, security fencing, boundary treatment and CCTV on land to the north of Lullington, Swadlincote DE12 8EW.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposed development on the use of best and most versatile agricultural land, including consideration of site selection processes;
 - the landscape and visual impacts arising from the appeal scheme; and
 - whether there would be unacceptable impacts on the significance of identified heritage assets.

Reasons

Policy Background

3. A material consideration in the determination of planning proposals for renewable energy are the National Policy Statements (NPS) for the delivery of major energy infrastructure. The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. In September 2021, draft updates to the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3) were published. Both the existing and proposed NPSs state that the NPSs can be a material consideration in decision making on applications that both exceed or sit under the thresholds for nationally significant projects.

4. The UK Government has set a statutory target of achieving net zero emissions by 2050, and this is a significant material consideration. It has also declared a climate emergency. Since the declaration, the Sixth Assessment Report of the Intergovernmental Panel on Climate Change has indicated that it is more likely than not that global temperature increases will exceed 1.5 degrees Celsius above pre-industrial levels. The report indicated that delay in global action to address climate change will miss a brief and rapidly closing window to secure a liveable future. The UK Energy White Paper, Powering our Net Zero Future (2020), describes the costs of inaction as follows:

"We can expect to see severe impacts under 3°C of warming. Globally, the chances of there being a major heatwave in any given year would increase to about 79 per cent, compared to a five per cent chance now. Many regions of the world would see what is now considered a 1-in-100-year drought happening every two to five years.

At 3°C of global warming, the UK is expected to be significantly affected, seeing sea level rise of up to 0.83 m. River flooding would cause twice as much economic damage and affect twice as many people, compared to today, while by 2050, up to 7,000 people could die every year due to heat, compared to approximately 2,000 today. And, without action now, we cannot rule out 4°C of warming by the end of the century, with real risks of higher warming than that. A warming of 4°C would increase the risk of passing thresholds that would result in large scale and irreversible changes to the global climate, including large-scale methane release from thawing permafrost and the collapse of the Atlantic Meridional Overturning Circulation. The loss of ice sheets could result in multi-metre rises in sea level on time scales of a century to millennia."

5. The draft NSPs recognise that to meet the Government's objectives and targets for net zero by 2050, significant large and small scale energy infrastructure is required. This includes the need to 'dramatically increase the volume of energy supplied from low carbon sources' to ensure a reduction in the reliance of fossil fuels (which accounted for 79% of energy supply in 2019). Solar (together with wind) is recognised specifically in Draft EN-1 (para 3.3.21) as being the lowest cost way of generating electricity and that by 2050, secure, reliable, affordable, net zero energy systems are 'likely to be composed predominantly of wind and solar'.
6. At a national level, in combination with the drive to reinforce provision of renewable energy sources, the Government also acknowledges the need to ensure that projects come forward in appropriate locations. PPG guidance on renewable and low carbon energy states that 'there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and critically, the potential impacts on the local environment, including from cumulative impacts.' (Paragraph: 005 Reference ID: 5-005-20150618).
7. Paragraph 152 of the National Planning Policy Framework (the Framework) confirms that the planning system 'should support the transition to a low carbon future in a changing climate', should 'contribute to radical reductions in greenhouse gas emissions' and 'support renewable and low carbon energy and associated infrastructure'. This recognises the responsibility placed on all communities to contribute towards renewable energy production. Therefore,

there is a strong strategic policy framework which supports renewable and low carbon development proposals. The Framework also confirms that applicants are not required 'to demonstrate the overall need for renewable or low carbon energy' (para 158).

Best and Most Versatile Agricultural Land

8. The parties agreed that the Written Ministerial Statement (WPS) dated 25 March 2015 relating to the unjustified use of agricultural land remains extant. It states therein that any proposal for a solar farm involving the best and most versatile agricultural land (BMV) would require to be justified by the most *compelling evidence* (my emphasis).
9. The WMS is linked to updated National Planning Policy Guidance¹ (NPPG), which explains that where a proposal involves greenfield land, consideration should be given as to whether the proposed use of any agricultural land has shown to be necessary, whether poorer quality land has been used in preference to higher quality land and to whether the proposed development would allow for continued agricultural use where applicable and/or where biodiversity improvements around arrays would be provided. This is reflected in the National Planning Policy Framework (the Framework)² which suggests that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality.
10. Policy BNE4 of the South Derbyshire Local Plan Part 2 (SDLP) states that the local planning authority will seek to protect soils that are 'Best and Most Versatile', (Grades 1, 2 and 3a in the Agricultural Land Classification) and wherever possible direct development to areas with lower quality soils while Policy BNE5 of the SDLP states that otherwise acceptable development outside of settlement boundaries in rural areas will be granted where it will not unduly impact on BMV agricultural land.
11. Paragraph 174(b) of the Framework states that planning decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
12. The Glossary to the Framework explains that BMV comprises land that falls within grades 1, 2 and 3a of the Agricultural Land Classification. It is not disputed that the appeal proposal would result in the loss of almost 34 Ha of BMV land consisting of 15% grade 2, 34% grade 3a and 48% grade 3b with the remaining 3% defined as other land (blocks of woodland or water bodies), which would lead to a temporary loss of 49% of BMV land at the appeal site.
13. The appellant's Site Selection Assessment (SSA) fixed the study area for the appeal proposal by a requirement to connect to a viable local electricity network that was agreed with the local distribution network operator at the application stage. The agreed point of connection would be into the 132kv network that crosses the western end of the appeal site and which connects into the major substation at Drakelow, some 6km from the connection point. A 2km offset around the 132kv line was therefore drawn at a distance of no more

¹ Paragraph 013, Reference ID: 5-013-20150327, Revision date: 27 March 2015

² Paragraph 175 Footnote

than 8km from the Drakelow facility, which coincides with the maximum cabling connection that would be economically viable.

14. The SSA found that there were no suitable brownfield sites within the study area whilst there are only very few areas of lower grade agricultural land. These areas were grade 4 land but considered unsuitable for the siting of solar arrays due either to their being either too small or had physical or environmental constraints that limited their inclusion. The SSA was also informed by a number of other constraints, including levels of irradiance, sensitive landscape, ecological or heritage designations, sensitive human receptors and access/highway considerations, amongst others. The Council offered no evidence that would contradict these findings. The SSA confirmed that there were no sites of suitable size for a 50MW solar farm within a suitable distance from the grid connection point that lie wholly outside BMV land although on grounds of costs and practical feasibility, no soil survey work was completed other than within the appeal site. This factor is a significant omission.
15. The appellant provided an assessment of alternative sites to demonstrate why agricultural land is to be used for the appeal development. This included assessing the opportunities that might be available on previously developed land (PDL)/brownfield land, commercial rooftops and lower grade agricultural land (grades 3b, 4 and 5).
16. It is clear that a robust assessment has not been made of the grading of agricultural land within the remainder of the study area, which from the data held by Natural England has significant areas of Grade 3 agricultural land. While I accept the argument that it would not be practicable to undertake extensive investigation of the entire study area, I agree with the Council who pointed out that the explanatory note³ to the Agricultural Land Classification maps sets out that Grade B reflects 'areas where 20-60% of the land is likely to be 'best and most versatile' agricultural land'. This to my mind adds to the criticism that the evidence has failed to demonstrate that there is no land available for this development within the study area of a lesser agricultural quality, contrary to national and local policy. It also does not stand up to scrutiny as the 'compelling evidence', which is sought in the WMS.
17. My attention was also drawn to the Oaklands Farm Solar Limited (BayWa r.e. UK Ltd) Preliminary Environmental Information Report⁴ submission to the National Infrastructure Planning Unit of the Planning Inspectorate for the purposes of a Development Consent Order for a 163MW solar farm and onsite storage facility at a site also within the appellant's study area to the north-west of the present appeal site and within South Derbyshire District. From the appellant's evidence, it is clear that this site would also include extensive areas of Grade 3 land, which has not been assessed. It must be assumed that lower quality grade 3 agricultural land might well be available as an alternative to the appeal site.
18. To complete the assessment, the appellant considered the availability of previously developed land (PDL) and the possibility of utilising commercial

³ Explanatory note for Likelihood of Best and Most Versatile (BMV) Agricultural Land – Strategic scale maps – ALC021 (naturalengland.org.uk)

⁴ Oaklands Solar Farm About the Project BayWa r.e. <https://www.baywa-re.co.uk/en/solar/oaklands-solar-farm#about-solar-energy> viewed 12/5/23

rooftop sites. Data from the Council's brownfield land register together with the adjoining Lichfield and East Staffordshire District Councils were used to assess PDL sites. The most recent databases held by the three local authorities contain 8 PDL sites all of which are very considerably smaller than the 70.18 Ha. These sites would not be capable of generating a comparable megawatt output and would therefore not be economically viable in terms of factors such as the cost of connecting into the electricity distribution network. Moreover, they are either allocated for housing or have planning permission for such purposes. In terms of utilising rooftops, there is only one suitable building within the study area in nearby Burton-on-Trent. However, this site is allocated for residential development with a pending outline application to be determined and can be discounted. I am satisfied that the identified sites are either allocated for alternative uses or are more constrained than the appeal site in terms of their suitability for solar development.

19. The appellant explained that the appeal site land will remain available for agricultural use with the land below the solar arrays possibly utilised for sheep grazing purposes. It was explained at the hearing that the 40 years of fallow would enable the quality of the soils to be repaired. Moreover, biodiversity improvements proposed include new planting of trees and hedgerows with wildlife friendly species and enhancement of existing habitat corridors throughout the site. New planting and landscaping would leave a lasting environmental legacy beyond the lifetime of the solar farm.
20. While recognising that it may not be reasonable to expect developers to fully investigate every possible location for a solar farm within a wide study area and neither is it incumbent on appellants to demonstrate that there is no possible alternatives to an application site, nevertheless, the wider study area is expansive and sufficiently so that it is being earmarked as a potential national infrastructure project. In acknowledging that the main issues for food security as identified by DEFRA⁵ are climate change and soil degradation, this only serves to emphasise the importance of maintaining higher quality agricultural land where this is found in food production.
21. The hearing heard that the land hereabouts is a valued resource with tenant farmers under contract to a national potato crisps manufacturer who demand the highest quality of outputs. It was pointed out that there are only 80 such farms in the country producing the required grade of potato crop. Moreover, no calculation had been made of the existing bioenergy plant that is being generated each year and which contribute to renewable energy targets that may also close should the proposed solar farm goes ahead. The evidence presented at the hearing on this was scant however and has not featured highly in my consideration.
22. There is no definition of what might constitute 'compelling evidence' but I accept the Council's arguments that the evidence fails to demonstrate that there are no suitable poorer quality areas of land in the study area that could be used or accommodate the appeal development save for a broad brush map-based review. In this regard, the appeal proposal contravenes relevant provisions of BNE4 of the SDLP, the NPPG and the WMS. The loss of just under 50% of BMV is a significant negative aspect of the appeal proposal which weighs heavily against the development.

⁵ United Kingdom Food Security Assessment 2009 – Department of Environment, Food and Rural Affairs

Landscape and Visual Impact

23. There is little question that the nature and scale of large-scale solar farms may result in landscape harm. Both national and development plan policy adopts a positive approach towards this form of renewable energy development where harms are outweighed by the benefits of solar schemes. There is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people observing the development in places where the development can be viewed, such as villages, roads, public rights of way and individual dwellings and I have assessed the appeal development on this basis.

Landscape character

24. Paragraph 174 of the Framework indicates that the intrinsic character and beauty of the countryside should be recognised. It does not seek to protect, for its own sake, all countryside from development; but rather, places emphasis on protecting 'valued landscapes'. The concept of a valued landscape is not defined in the Framework, but the principal parties agreed that the landscape of the appeal site and immediately beyond should not be described as such. The site does not form part of any designated landscape but from the perspective of some interested parties, the value of a given area within a particular landscape may depend on the value attributed to it by an individual or groups of people.
25. Given that landscapes will be valued by someone at some time, the term valued landscape must mean that they are valued for their demonstrable physical attributes, which elevate them above just open countryside but below those areas that are formally designated, such as National Parks, AONBs etc. There was consensus at the hearing that impacts on the wider landscape was not of significant concern and that it is the likely effects on the more local landscape where opinions differed. From my comprehensive accompanied site visit, there is nothing that I saw and nothing that I have read that would elevate the appeal site or its surroundings to that of a Framework valued landscape. The heavily ploughed or grazed nature of the site and its comparatively slight undulating form, despite being crossed by public rights of way that help give it a degree of popularity by virtue of it being accessible, does not to my mind elevate it above an area of modestly attractive countryside. In other words, there are no attributes that take it out of the ordinary to a level below that associated with designated landscapes.
26. In terms of landscape studies, both parties have relied on the Derbyshire County Council's 'The Landscape Character of Derbyshire' (published in 2003 and updated in 2014) (The LCD), which identifies the site as falling within the National Character Area 72 (Mease/Sence Lowlands) as defined by Natural England and of the 'Village Estate Farmlands type, which broadly constitutes a gently rolling agricultural landscape, intensively farmed with scattered villages, including Lullington and Cotton-in-the-Elms with prominent tall church spires that punctuate the agricultural landscape along with plantation woods and well-maintained low shaped hedgerows. The LCD describes the area as a well-ordered landscape of open views and quiet rural character. Beyond, woodland is becoming more visually prominent due to the National Forest initiative.
27. The appeal site itself comprises a series of agricultural field parcels that form an elongated shape running east to west and contain the occasional isolated

sparse woodland remnants following intensification by arable agriculture and hedgerows on field boundaries with few trees. A backcloth of woodland copses and woodland belts frame the wider landscape to the north. These features contribute to the appeal site generally having a contained character despite being dissected in half by Lullington Road. The LCD's Planting and Management Guidelines seeks amongst other things to promote linked extensions to ancient woodland by natural regeneration and planting while re-establishing and enhancing the physical links between isolated woodland and hedgerows. I agree with the appellant's assessment that with the presence of so few incongruous elements (other than the existing pylons within the western section of the site), the site makes a positive contribution to the local landscape on the basis that it contains many of the attributes associated with the 'Village Estate Farmlands' character type identified in the LCD.

28. From my extensive site visit, I would concur with the findings of the appellant's Zone of Theoretical Visibility (ZTV) study in relation to the likely impacts within close proximity (1km) of the site and the potential visibility of the solar arrays, particularly from higher ground within the search area of 2km from the site. Due to the presence of existing vegetation, including woodland belts and hedgerows, existing undulations, there would be limited relationship and little intervisibility from Lullington itself and, at the very worst, there would only be glimpsed views of the development from the norther section of the village.
29. I would also concur that, notwithstanding paragraph 174 of the Framework, the site and its immediate surroundings have a medium landscape value and a medium susceptibility or sensitivity to change. This means that despite the nature of the appeal development, the landscape hereabouts has the ability to absorb the proposed development without loss of key characteristics or features or specific aesthetic or overall landscape character. I find that the proposed development would have a moderate adverse effect on the landscape character of the site leading to minor adverse impact on the wider landscape. That is not to say that the initial magnitude of impact, particularly on the public right of way that leads through the site from the north towards Lullington and from public highways would indeed be substantial adverse upon first commissioning but given the standoff, the reinforcement of hedgerows and new planting that is intended to also link the existing isolated woodland areas, I do not consider that the development would be unduly harmful in landscape terms.
30. Overall, despite the impacts arising from the initial commissioning phase, which will undoubtedly lead to substantial adverse impacts, as the planting matures, the proposed landscaping scheme will cause the development to become less prominent in the landscape and lessen the degree of impact when viewed from outside. It is concluded that by Year 15 as envisaged by the appellant, I would agree that the appeal proposal would have a moderate adverse effect on landscape character from within the site leading to a minor adverse effect on the landscape character of the wider area. These are within acceptable tolerances.

Visual effects

31. Visual amenity relates to the direct visual impacts on receptors (people) rather than on the landscape. The appellant's assessment of visual effects is based upon an assessment of views from 26 representative viewpoints, including

views from residential properties, footpaths and public highways in the immediate vicinity of the site and from the wider landscape with an assessment of likely effects upon receptors at construction, year 1 and year 15.

32. The hearing spent some time exploring the likely impacts on the 'Coffin Trail' (Lullington FP1/Coton-in-the-Elms), a much valued and well-used local rights of way; I was able to walk this route and appreciate the significance of its association with Lullington Church and acknowledged the strong emotional and historical ties felt by the local community. Direct views of the appeal development would be seen along this route and users will experience an immediate landscape that is dominated by the solar farm, its paraphernalia and associated infrastructure. Planting would be unlikely to diminish this impact and the effects on receptors will be significant. It is difficult to envisage that users of the footpath will have the same sense of enjoyment of the wider landscape for much of its length as they do now. Furthermore, hedgerows designed to reach a height of 4m although providing good screening would appear discordant by comparison with the existing style and shape of existing hedges in the area.
33. That said, the appellant's landscaping scheme has sought to respect the need to offset the arrays along much of the route such that the impression of a once slow procession towards Lullington with its historic church spire always acting as a focal point drawing the eye ever closer would be retained. Given that the users of this footpath not only enjoy the vista of the church spire for much of its length, which would be adequately mitigated by the offsetting of the arrays, but also the wider rolling landscape, I would agree with the Council's assessment that the effect at year 1 would be major adverse leading to moderate adverse by year 15; I find this would not be significant.
34. During my extensive site visit, I was able to take in most of the selected viewpoints either at the specified locations or as close to those locations that was possible without encroaching on private properties and land. In each case I found that the assessment undertaken by the appellant to underscore to a limited extent the effects on some receptors, most notably, the review viewpoints (2, 3, 4 and 5) along Lullington FP1 and Coton-in-the-Elms FP7 at year 15. The change from the existing views of a wide expanse of gently rolling landscape to that of high hedgerow screening would have a moderate adverse effect. The effects would not however be significant.
35. Similarly, the landscaping proposals incorporate provision to strengthen existing isolated woodland as noted above while the introduction of new grass mix below the array together with substantial tree, hedgerow and new woodland planting in accordance with recommendations of the National Forest would provide adequate screening for the appeal proposal and lead to landscape and biodiversity enhancement. It would nevertheless change the nature of views from other footpaths and transport routes. I do not agree with the Council that the effects would be moderate adverse. Rather, the landscape change as a consequence of the landscaping proposals would amount to slight adverse effect at year 15, which would be acceptable.
36. There would be no appreciable views from residential properties within Lullington, particularly given the nature and extent of proposed planting. I find that the appellant's assessment is generally accurate, which is a view supported by officers during consideration of the planning application and

supported by the Council's landscape consultant who surprisingly was not present at the hearing. During my site visit, I was able to assess the likely effects on Lady Lees, Home Farm and Grafton House, which were the properties identified for greatest scrutiny at the hearing. There is little difference in the conclusions drawn by the parties with respect to these properties although I accept that due to the proximity of Grafton House and the elevated nature of Lady Lees and thus both being of high sensitivity, the Council's assessment of the development having a moderate adverse effect at year 15 is more accurate. That said, although at an acceptable level in planning terms, the effects would be keenly felt by occupiers of these properties.

37. Bringing all the above together, I would acknowledge that a large-scale solar farm located in an otherwise largely unspoilt countryside would have an adverse effect on landscape character and lead to visual impact. The appeal site is accessible by the public from the local public footpath network and includes a historic route which is still used extensively and enjoyed as a recreational resource. It is accepted that the landscape is not a valued landscape in terms of the Framework and no prominent landmarks would be affected. Due to the combination of factors, including the gentle rolling nature of the landscape, existing field patterns, the heavy arable practices and the opportunity to strengthen existing woodland tracts and hedgerows through mitigation, the long-term moderate adverse effects that have been identified would be within acceptable tolerances. There would be no residual impacts following decommissioning. There would also be benefits from better management of hedgerows and woodland blocks, in line with National Forest management objectives.
38. Consequently, I would conclude that the proposed development would comply with South Derbyshire District Council Local Plan Part 1 (LP Part 1) Policies SD6 and BNE4 and Local Plan Part 2 Policy BNE5 (LP Part 2). Collectively, these policies amongst other things, seek to encourage renewable energy developments provided they do not give rise to unacceptable landscape and visual impacts, are well-designed and lead to protection, enhancement, management and restoration of biodiversity and the landscape with particular reference to the objectives of the National Forest and where adequate mitigation to overcome adverse impact to the character of the receiving landscape would be provided.

Heritage Impacts

39. The Statement of Common Ground identified two areas of concern for the Council in relation to the impacts of the development on the settings of The Church of All Saints Grade II* Listed Building and the Lullington Conservation Area (the CA). These assets are some distance from the southern edge of the appeal site. During the course of the application, officers believed that there would be some harm to the settings of Lady Leys Farm and Grafton House both Grade II Listed Buildings; however, following consideration by the Council's Planning Committee, members resolved to oppose the development but altered its position to that contained in the officer report to Committee.
40. The parish church dates from the 14th century and contains an impressive three-stage spire. Its significance is derived from its architectural and historic interest together with its association with prominent local families and its role

and function in the religious and community life of the village. Along with its associated churchyard, churchyard walling and graves and monuments, the church has a close physical relationships with village roads, the former village school, village green and buildings fronting Main Street. Its spire moreover by virtue of its height and position within the landscape forms a distinctive and discernible point of reference although this diminishes over distance. The importance of the spire as a landmark cannot be understated; however, the remainder of the church is closely associated with the main body of the village and cannot readily be viewed from outwith.

41. Discussions relating to heritage assets at the hearing focussed primarily on the alleged harm to the setting of the church arising from the potential degradation of how it is appreciated by users of the 'Coffin Trail' Lullington FP1. However, from this distance, the spire continues to pierce the skyline above existing trees and continues to act as a landmark when approaching the village from the north. It is quite inconceivable that the appeal proposal would harm this feature, which only forms an element of the overall architectural and historic significance of the church itself. The church spire will not be directly and physically affected by the solar arrays. Due to the topographical nature of the development and the land, there will be no severance of views of the spire and certainly no interrelationship with the church itself.
42. For these reasons, I find that no harm to the setting of the church would arise as a consequence of the development. The setting of the church would be unaffected. For the purposes of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), the appeal scheme would preserve the listed building along with its features of special architectural or historic interest, which would remain wholly unchanged.
43. I would agree with the Council's assessment that due to the distance from the proposed development, the landscape topography and existing and proposed tree and hedgerow cover, the proposal would not be harmful to the special interest or setting of Grade II Listed Buildings, namely Lady Leys Farmhouse, Woodfields Farm, Raddle Farm, Manor Farm and the Old School House or the locally listed Grafton House, which were identified in the officer's report.
44. With the exception of the church spire, I am satisfied that the proposed development would not be visible in views from or towards any part of the CA. The proposed development would not have any meaningful effect on the setting and therefore the significance of the CA and thus both the character and appearance would be preserved in line with s72(1) of the 1990 Act.
45. In my assessment, the proposal would not cause any harm to historic assets and this matter would not weigh against the appeal development. Consequently, there would be no conflict with LP Part 1 Policies SD6 and BNE2 or LP Part 2 Policy BNE5, which together seek to support renewable energy developments provided there are no unacceptable impacts on the historic environment and that proposals for development protect, conserve and enhance heritage assets.

Planning balance and conclusion

46. There is little doubt that we are close to a point where climate change is a reality and that if left unchecked will have very serious consequences for large parts of our planet. The development would clearly make a significant

contribution to providing energy from a renewable source. The proposal would produce 53,627 MWh/year which the appellant states is the equivalent to the electricity demand from approximately 17,300 homes or 17% of the population of the South Derbyshire District Council area. UK electricity demand is expected to double by 2050 and the decommissioning of existing carbon generating assets will require new low-carbon generation facilities as well as wider transitions outside of the power sector in order to meet national and international targets to reduce carbon emissions and mitigate the effects of climate change.

47. The Framework at paragraphs 153, 155 and 158 encourage the development of renewable and low carbon developments whilst Government wants to accelerate the development of renewable and low carbon technologies through the deployment of wind, nuclear, solar and hydrogen. The ambition for solar is to increase capacity by 14GW and by 5 times by 2035. Whilst national policy is to encourage large scale projects to be located on previously developed, or lower quality value land where possible and to avoid, mitigate and compensate for impacts of using greenfield sites, there is no question that energy from solar will form a critical element of the plan to decarbonise the UK electricity sector. These factors coupled by the timeliness of delivery and relatively easy connection to the national grid in this instance weighs significantly in favour of the appeal proposal.
48. I recognise the time limited nature of the appeal scheme and that agriculture may well continue during the scheme's lifetime although no guarantees were offered at the hearing. Whilst the 40-year period may allow for the restoration of the soil structure and reduce the problems associated with nitrates usage, it appears to me, as it has done to other Inspectors at appeals cited by the Council, that 40 years would indeed constitute a generational change. I accept the appellant's arguments that where sites are made up of a patchwork of agricultural gradings, it is not feasible or practical to separate small areas of BMV land from development, particularly as this would result in that land having little commercial agricultural utility. However, this proposal would harm the BMV resource, which amounts to just under half the total available hectareage and would make an unacceptable indent on the contribution that a large proportion of the site makes towards food security for a significant period of time.
49. There was little dissension that the appeal scheme would provide substantial ecological enhancements with the landscaping proposals providing a 270% gain in habitat units and 46% net gain in hedgerow units as detailed in the appellant's Biodiversity Net Gain Assessment, which is well above policy requirements. The appellant's Landscaping Strategy Plan is well thought through and would in time provide a mature landscaped setting to the appeal scheme, as well as improving ecological connectivity in support of the National Forest objectives. The impact on biodiversity arising from the proposed development would be positive and moderate with no unacceptable adverse impact on internationally or nationally designated sites, habitats or species. This carries positive weight in favour of the appeal proposal.
50. The early implementation of a substantial renewable energy scheme that would provide clean electricity for some 17,300 homes should rightly carry significant positive weight. The biodiversity net gain and long-term landscape benefit

would also carry moderate weight. The parties agreed that the job creation would similarly carry moderate weight.

51. While collectively the benefits arising from the appeal scheme are significant, the harm that would be caused by allowing the development of just below 50% of the site's hectareage over a period of 40 years would be of greater significance.
52. Taking all this into account, the appeal proposal would be conflict with the development plan and the Framework and would not constitute sustainable development.
53. Accordingly, for the reasons stated I conclude that the appeal be dismissed.

Gareth W Thomas

INSPECTOR

Appearances:

For the Appellant:

Gareth Phillips	Partner, Pinsent Masons
Graham Robinson	Associate Director, Hodges Land Pro
Christopher Jackson	Regional Director, Land Pro
Andrew Rudge	Fuller Long
Matthew Carpenter	Senior Associate, Pinsent Masons
Lesley Giles	Project Manager, Island Green Power
David Elvin	Head of Projects, Island Green Power
Daniel Baird	Daniel Baird Consultancy

For the Council:

Bob Woollard	Director, Planning & Design Group
Stuart Hammond,	Planning Officer, South Derbyshire District Council

Interested Parties:

Cllr Amy Wheelton	South Derbyshire District Councillor
Cllr Helen Bailey	Chair of Lullington Parish Council
Jason Bailey	Local tenant farmer
Denise Walsh	Local resident
Valerie Shaw	Local resident, Chair of Lullington Village Hall Committee
Steven Mills	Local resident
Emma Hooper-Smith	Local resident
Stuart Whitby	Local resident

Documents presented to the Hearing:

Document 1:	Core Documents List
Document 2:	Appeal decisions not included in evidence
Document 3:	Suggested site visit route map
Document 4:	Liz Lake Associates Photo Location Plan