
Appeal Decision

Hearing and site visit held on 11 July 2023

by Susan Heywood BSc(Hons) MCD MRTPI

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

Decision date: 07 August 2023

Appeal Ref: APP/Y2003/W/23/3317097

Winterton Solar Farm, Carr Lane, Winterton, South Ferriby DN15 9QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Anesco Limited against the decision of North Lincolnshire Council.
 - The application Ref PA/2021/1359, dated 22 July 2021, was refused by notice dated 3 November 2022.
 - The development proposed is the construction of a 10MW solar farm with associated access, landscaping and infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a 10MW solar farm with associated access, landscaping and infrastructure at Winterton Solar Farm, Carr Lane, Winterton, South Ferriby DN15 9QX in accordance with the terms of the application, Ref PA/2021/1359, dated 22 July 2021, and the plans submitted with it, subject to the conditions set out in the attached annex.

Main Issues

2. The main issues in this case are as follows:
 - The impact of the development on the landscape character and appearance of the surrounding countryside;
 - Whether the proposal would conflict with local landscape and biodiversity priorities;
 - Whether any benefits of the development would outweigh any identified harm.

Reasons

Landscape character and appearance of the countryside

3. The appeal site, currently in agricultural use, is located in the open countryside to the east of Winterton and to the south of the Humber Estuary.
4. The site lies within the Vale of Ancholme Landscape Character Area (LCA) and Landscape Character Type (LCT) Flat Valley Bottom Farmland. The parties agree that the Landscape and Visual Impact Assessment (LVIA) submitted with the application correctly describes the character of the surrounding landscape

as relatively flat agricultural land, interspersed with farm buildings, hedgerows, hedgerow ditches and distinctive woodland blocks. The Lincolnshire Wolds escarpment is located some distance to the east of the site.

5. Hedgerows are located along the western and eastern site boundaries, whilst the northern site boundary comprises an open ditch to Carr Lane. A public right of way (PROW), known as WINT25, runs along Carr Lane to the north of the site. To the east of the site, the PROW turns northwards to continue along Ings Lane.
6. There are several large and noticeable infrastructure / industrial features in the surrounding landscape which detract from the rural qualities of the area. These include the cement works close to the Humber Estuary, two parallel lines of large pylons to the north of the site, running approximately east to west, telegraph poles to the south and east of the site and a number of wind turbines.
7. The Council accepts that the proposal would not cause significant harm to the Vale of Ancholme LCA or the LCT as a whole. However, it considers that the proposal would cause localised harm to the character of the LCA and LCT, particularly when viewed from the section of Carr Lane adjacent to the northern boundary of the site (viewpoint 7 in the LVIA) and from Ings Lane (viewpoint 6). The Council also considers that the proposal would be harmful to the character of the landscape when seen in views from the Lincolnshire Wolds escarpment (viewpoint 14).
8. Apart from the area immediately to the north of the site, the existing mature hedgerows, hedgerow trees and woodland copses largely screen views of the site from the surrounding area. Together with the lack of elevated views gained from the near surroundings, the Council agrees that the receptors who would be affected by the development would be limited.
9. From viewpoint 7 to the north, users of the adjacent footpath currently gain open, expansive views into the site. The proposed development would alter and obstruct these views. In the early years, before the planting along the northern boundary matures, the rear faces of the panels and fencing close to the northern boundary would be visible. Two sub-stations and associated hardstanding would also be visible towards the north western corner of the site. These would be raised above the surrounding ground level to overcome any potential flooding problems, thus increasing their overall height and visibility.
10. These features would alter and enclose the existing open agricultural views of the site from Carr Lane and, as such, they would cause some limited harm to the character of the landscape in the immediate vicinity of the site.
11. However, the extent of view in which the character of the site can be seen is short due to the existing screening provided by mature hedgerows on the western and eastern site boundaries, those along the southern edge of Carr Lane, and along the western boundary of Ings Lane. Whilst there would be less screening during winter months, the proposed arrays and ancillary structures would nevertheless be substantially screened from the remainder of Carr Lane to the west and from Ings Lane to the north east.

12. Travelling north along Ings Lane, there are few vantage points from which the site would be visible. From viewpoint 6, some distance north along the PROW, intervening hedgerows and trees and the distance between the site and the viewer would result in the proposed development causing very limited harm to the surrounding landscape.
13. Furthermore, from the location of viewpoints 7 and 6, the existence of other detracting infrastructure / industrial features in the landscape would mean that the solar arrays would not be uncharacteristic features in the context of their surroundings. This would further reduce the perception of harm to the surrounding landscape as large infrastructure features are not uncommon in the area.
14. The Lincolnshire Wolds escarpment some distance to the east of the site (viewpoint 14) is one of the few elevated points from which the proposed development would be visible, and is the only elevated view the Council expressed concerns about. From here, the view is of a large, predominantly agricultural landscape, but one in which the large infrastructure / industrial features noted above become even more noticeable and characteristic. The distance at which the development would be viewed from this viewpoint, the relatively modest size of the site and the presence of these other, non-rural, features would lead to the development causing negligible harm to the character of the landscape in this view.
15. The LVIA also identifies some negligible / minor adverse visual harm from viewpoint 6. Moderate adverse visual harm is identified from viewpoint 7 after 15 years, although the impact is greater in the early years before the proposed planting matures.
16. It is inevitable that a solar farm, even at a modest scale such as that proposed in this appeal, will cause some adverse impact on landscape character and visual impact in a countryside location. However, due to the lack of elevated views towards the site, except from a distance, the existence of other infrastructure features in the landscape, existing screening and proposed landscape mitigation, overall the harm caused would be limited and very localised.
17. Policy CS2 of the North Lincolnshire Core Strategy (CS) 2011, seeks to ensure locally distinctive and sustainable communities¹. The limited and localised harm to landscape character and appearance would not adversely affect the character of the wider countryside in this location and would not be sufficient to result in conflict with this policy. The proposal would, however, conflict with North Lincolnshire Local Plan (LP) (2003) policies DS1, LC7 and RD2, which all seek to protect the character of the countryside. It would also conflict with Policy D of the Planning for Solar Photovoltaic Development Supplementary Planning Document (2016) (the PV SPD) which also seeks to avoid adverse impact on landscape and visual amenity. I will deal with the weight to be given to these conflicts in the overall balance below. It would not conflict with Policy 2 of the Planning for Renewable Energy SPD (2011) (the renewable energy SPD) given the wording of that policy and its focus on protecting areas of high landscape value.

¹ The Council also referred to policy CS5, first bullet point, which relates to the creation of high quality townscapes and streetscapes. The Council conceded that, as this is a rural area, this section of the policy would not apply to the proposed development.

18. The emerging North Lincolnshire Local Plan identifies the site as being included in the evaluation area for a proposed extension to the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB). Policy DQE1 states that priority will be given to the protection and enhancement of the landscape character, natural beauty and setting of the proposed extension to the AONB. The examination into the Local Plan is at an early stage and I understand that there were representations made to this policy at consultation stages of the Plan. Accordingly, the Council accepts that limited weight can be given to the policy at this stage, and I agree.
19. Paragraph 174 of the National Planning Policy Framework (the Framework) recognises the intrinsic character and beauty of the countryside but does not seek to protect it for its own sake. Instead, its focus is on protecting areas of valued landscape which, in terms of the Framework, this is not. Accordingly, the proposal would not conflict with paragraph 174 of the Framework.
20. Bringing together the above, I conclude on this matter that the proposal would cause limited and very localised harm to the landscape character and appearance of the surrounding countryside.

Landscape and biodiversity priorities

21. The North Lincolnshire Landscape Character Assessment and Guidelines 1999 Supplementary Planning Guidance (SPG5) sets out a landscape strategy and guidelines for the Flat Valley Bottom Farmland LCT of the Vale of Ancholme. The guidelines encourage the creation of "opportunities for wet grazing washlands and new salt and freshwater habitats in response to rising sea levels between Brigg and the Humber". The updated Landscape Character Assessment (not an adopted SPG) includes a similar guideline.
22. The Council's concerns centre on the fact that the development would not introduce new areas of wetlands. Instead, the proposed landscaping scheme includes tussock mixture grassland, mixed native hedgerow planting and the management and improvement of existing hedgerows and ditches.
23. Opportunities for wetland creation on the appeal site appear to be limited. The Council's more recent Biodiversity Opportunity Mapping, produced for the emerging Local Plan, does not identify land on or surrounding the site as having opportunities for wetland creation. Whilst I note that there are wider strategies such as Humber 2100+ being developed, these are in their early stages and there are no specific proposals for the area which includes the appeal site. Neither is there any evidence which suggests that the proposed development would prejudice any future biodiversity improvements in the surrounding area.
24. The proposed tussocky grassland would result in a significant net gain in biodiversity over the existing agricultural use and the Council agrees that the proposed grassland mix is a reasonable choice for the site. Whilst there is a dispute regarding the net percentage change in terms of the Biodiversity Metric, even the Council's lower estimate of 62.89% net gain in habitat units would represent a significant biodiversity improvement. In addition, the net gain in hedgerow units is agreed to be over 61%. The proposal would therefore comply with paragraph 174 (d) of the Framework to provide net gains for biodiversity.

25. The Council expressed concerns regarding the proposed management of the grassland, which it considers should be cut more frequently than the proposed 2-3 year intervals. The appellants indicated that this is the recommended management regime for that seed mix, however, they would be amenable to more frequent cutting. This could be controlled by a condition requiring the parties to agree a management and monitoring scheme, to ensure appropriate cutting and monitoring to reduce the opportunities for any single species to become dominant.
26. The priorities set out in the adopted SPG5 are a series of landscape guidelines which seek to achieve the overall landscape strategy for the specific character area. The SPG does not set out requirements for developments to achieve each of the guidelines. In addition to the creation of waterside habitats and ditch re-modelling, the strategy states "*Hedgerows where present require effective management and repair*". The guidelines include "*management and replacementto develop the presence of hedgerows in the scenery, maintaining and infilling remnants.*" As set out above, the proposal would include the planting, management and replacement of hedgerows on the site boundaries. Thus, whilst the development would not achieve the wetland creation guideline, it would achieve that related to hedgerow management and re-creation. Accordingly, I conclude that the proposed development would not conflict with SPG5.
27. The development would comply with CS policy CS5, bullet point 10, which seeks to ensure developments incorporate landscaping and planting to enhance biodiversity, and with policy CS17, which seeks to ensure development retains, protects and enhances features of biological interests and produces a net gain in biodiversity. It would not conflict with the biodiversity requirements of Policy G of the PV SPD, nor those in Policy 1 of the renewable energy SPD.
28. Furthermore, the proposal would comply with paragraph 174(d) of the Framework in terms of providing net gains for biodiversity and would not conflict with the biodiversity principles set out in paragraph 180.
29. I conclude on this matter that the proposal would not conflict with local landscape and biodiversity priorities.

Benefits and overall balance

30. CS policy CS18 (11) sets out support, where possible, for renewable sources of energy in appropriate locations. LP policy DS21 supports proposals for renewable energy where any detrimental effect on local character (amongst other things) is outweighed by environmental benefits.
31. The Council acknowledges the benefits of renewable energy and the support in paragraph 158 of the Framework "if impacts are (or can be made) acceptable". Paragraph 152 also supports the transition to a low carbon future in a changing climate. Other Government legislation and policy supports the transition to low carbon energy production.
32. The development would have a capacity of 9.71MW, which would result in a reduction of around 2,506 tonnes of CO₂ emissions annually. It would produce enough clean, renewable energy to power approximately 2,832 homes. Whilst this would only make a small contribution to the Government's overall targets, given the imperative of achieving the statutory Net Zero target by 2050, there

is no dispute between the parties that even this relatively small contribution attracts substantial weight in favour of the development.

33. Other benefits of the scheme would include the landscape and ecological enhancement discussed earlier, the economic benefits during construction, the benefits of farm diversification and the improvement in agricultural land quality over the lifetime of the development. The appellants noted the proposed improvement to Carr Lane as a benefit of the scheme, however, use of this lane by vehicles appears to be extremely limited. I therefore only attach very limited weight to this aspect of the proposal.
34. Even without these other benefits, the substantial weight I give to the renewable energy benefits would outweigh the limited and very localised harm caused to landscape character and appearance of the area.
35. Whilst I have identified conflict with LP policies DS1, LC7, RD2 and with Policy D of the PV SPD, it would comply with CS policy CS18 and LP policy DS21 and policies and guidance relating to landscape and biodiversity priorities. I conclude that the substantial benefits in favour of renewable energy, taken together with the other benefits identified, would outweigh the limited and very localised harm caused to the landscape character and appearance of the countryside. The proposal would not therefore conflict with the development plan or national policy when taken as a whole. Accordingly, the appeal is allowed.

Conditions

36. A list of conditions, including 6 pre-commencement conditions, were agreed between the parties. I have reworded some of the conditions where necessary, although the wording of the pre-commencement conditions remains as agreed.
37. Conditions are necessary to confirm the proposed 40 year temporary period of the permission and to provide for removal of the solar farm and site restoration on expiry of this period. In the interests of certainty, a condition listing the approved plans is necessary. For flood mitigation and water management purposes, conditions are required to ensure compliance with the submitted flood risk assessment and to ensure suitable surface water drainage.
38. Due to the potential for archaeological remains on the site, a condition requiring archaeological survey and mitigation works is necessary. Conditions are necessary to secure the biodiversity enhancements and to ensure appropriate management and maintenance to be agreed. In the interests of highway safety a condition requiring a construction phase traffic management plan is necessary. In order to protect living conditions and the environment, conditions requiring an environmental management plan and construction hours are necessary.
39. There is no evidence that the site may have been contaminated by previous uses and as such, I do not consider it necessary or reasonable to impose a contaminated land condition. Should any contamination be discovered, this would be covered by other legislation.

Susan Heywood

Inspector

Conditions Annex

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be temporary for a period of 40 years from the date of the first exportation of electricity from the site. The applicant or their successor in title shall notify the local planning authority of the date of the first exportation of electricity from the site.
- 3) Within a period of 39 years and 6 months following the first export date, a scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, to include a programme for the completion of the decommissioning and restoration works, shall be submitted to and agreed in writing by the local planning authority. The scheme shall make provision for the removal of the solar panels and associated above ground works approved under this permission. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period; an environmental management plan, to include details of measures to be taken during the decommissioning period to protect wildlife and habitats; and details of site restoration measures. The scheme shall be carried out in accordance with the agreed details and programme.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans listed in the following schedule:

Plan/Document	Date	Reference
Site Location Plan	July 2021	C0002447_04 Rev C
Block Plan	July 2021	C0002447_05 Rev C
Site Layout Plan	July 2021	C0002447_02 Rev E
Single Line Diagram	July 2021	C0002447_03 Rev C
Typical Cable Ladder Detail	July 2021	C0002447_08 Rev B
Typical Fence Detail	July 2021	C0002447_09 Rev B
LV Substation Elevations	December 2021	C0002447_10 Rev B
Section and Elevation of Raised Array	October 2021	C0002447_11 Rev A
DNO and Customer Substation Elevations	December 2021	C0002447_06 Rev D
Fig 9a Illustrative Landscape Masterplan	March 2022	P21-0851_09A
Fig 11 Landscape Management Plan	March 2022	P21-0851_11B

- 5) The development shall be carried out in accordance with the submitted flood risk assessment (December 2021/Flood Risk Assessment Technical Addendum/SLR Consulting Ltd). In particular, any critical equipment required to remain operational or undamaged in case of flooding shall be situated at a minimum of 3.257m AOD to ensure that any disruption caused by flooding is kept to a minimum.
- 6) A) No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in

writing by the local planning authority. The scheme shall be based on sustainable drainage (SuDS) principles and an assessment of the hydrological and hydro-geological context of the development. This must be based upon the submitted Drainage Strategy, prepared for: Anesco LTD, SLR Ref: 410.05075.00105 Version No: 01 July 2021. The detailed design must incorporate appropriate measures to mitigate against erosion/increased run-off below the solar arrays and provision of cut-off drainage on the appropriate boundaries.

B) The drainage scheme shall demonstrate that surface water run-off generated up to and including the 1 in 100 year critical storm (including an allowance for climate change which should be based on the current national guidance) will not exceed the run-off from the existing site. It shall also include details of how the resulting completed scheme is to be maintained and managed for the lifetime of the development so that flood risk, both on and off the site, is not increased. SuDS must be considered. Reference should be made to North Lincolnshire Council's SuDS and Flood Risk Guidance Document. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, focusing on above-ground solutions.

C) The drainage scheme shall be implemented in accordance with the approved submitted details, completed prior to the occupation of the site, and thereafter retained and maintained in accordance with the scheme for the life of the development.

- 7) No development shall take place until details showing an effective method of preventing surface water run-off from hard paved areas within the site onto the highway have been approved in writing by the local planning authority. These facilities shall be implemented prior to the access and parking facilities being brought into use and thereafter so retained.
- 8) A) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of an archaeological mitigation strategy, to be defined in a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. The strategy shall accord with a brief provided by North Lincolnshire Historic Environment Record and shall include details of the following:
 - (i) measures to ensure the preservation by record of archaeological features of identified importance within the footprint of the development
 - (ii) methodologies for the recording and recovery of archaeological remains, including artefacts and ecofacts
 - (iii) post-fieldwork methodologies for assessment and analyses
 - (iv) report content and arrangements for dissemination, and publication proposals
 - (v) archive preparation and deposition with recognised repositories such as North Lincolnshire Museum and the Archaeology Data Service digital archive

(vi) a timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy

(vii) monitoring arrangements, including the notification in writing to the North Lincolnshire Historic Environment Record of the commencement of archaeological works and the opportunity to monitor such works

(viii) a list of all staff involved in the implementation of the strategy, including subcontractors and specialists, their responsibilities and qualifications.

B) The applicant shall notify the local planning authority in writing of the intention to commence the archaeological site works at least seven days before commencement. Thereafter, the archaeological mitigation strategy shall be carried out in accordance with the approved details and timings. No variation shall take place without the prior written consent of the local planning authority.

C) The development shall not be operational until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved written scheme of investigation, and provision made for analysis, publication and dissemination of results and archive deposition has been secured.

D) A copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the North Lincolnshire Historic Environment Record within six months of commencement of the archaeological programme of work or such other period as may be agreed in writing by the local planning authority.

- 9) Works and biodiversity enhancements shall be carried out strictly in accordance with section 6.1.1 of the submitted Ecological Impact Assessment dated July 2021. Prior to the operation of the photovoltaic panels, the applicant or their successor in title shall submit a report to the local planning authority providing evidence of compliance with the Ecological Impact Assessment.
- 10) Within three months of the commencement of development, a biodiversity management plan shall be submitted to the local planning authority for approval in writing. The plan shall include:
- (i) prescriptions for the maintenance, planting and aftercare of native hedgerows of high biodiversity value;
 - (ii) prescriptions for the creation and management of species-rich grassland, including:
 - (a) soil survey results;
 - (b) details of UK origin wildflower and grass mixes to be used, comprising perennial neutral grassland species naturally occurring in North Lincolnshire plant communities;
 - (c) prescriptions for the ongoing management of grassland to maintain and enhance species diversity;
 - (d) monitoring proposals and remedial measures that may be triggered by monitoring;

- (iii) prescriptions for the management of ditches and drains;
 - (iv) details of how the measures proposed will provide at least 10% biodiversity net gain in accordance with the Defra biodiversity metric 3.0;
 - (v) proposed timings for the above works in relation to the completion of the solar farm.
- 11) The biodiversity management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. In the third year of operation of the solar farm, a report shall be submitted to the local planning authority, providing evidence of compliance with the biodiversity management plan.
- 12) No development shall take place until a construction phase traffic management plan showing details of:
 - (i) a pre/post construction condition survey of the carriageway to identify any defects and how they will be rectified;
 - (ii) all associated traffic movements, including delivery vehicles and staff/construction movements;
 - (iii) any abnormal load movements;
 - (iv) contractor parking and welfare facilities;
 - (v) storage of materials; and
 - (vi) traffic management requirements, including the means of controlling the deposition of mud onto the adjacent highway, along with appropriate methods of cleaning the highway, as may be required;has been submitted to and approved in writing by the local planning authority. Once approved the plan shall be implemented, reviewed and updated as necessary.
- 13) No stage of the development hereby permitted shall commence until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
 - Noise and vibration: The CEMP shall set out the particulars of—
 - (a) the works, and the method by which they are to be carried out;
 - (b) the noise and vibration attenuation measures to be taken to minimise noise and vibration resulting from the works, including any noise limits; and
 - (c) a scheme for monitoring the noise and vibration during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.
 - Light: The CEMP shall set out the particulars of—
 - (a) specified locations for contractors' compounds and materials storage areas;
 - (b) areas where lighting will be required for health and safety purposes;
 - (c) the location of potential temporary floodlights;

(d) the identification of sensitive receptors likely to be impacted upon by light nuisance;

(e) proposed methods of mitigation against potential light nuisance, including potential glare and light spill, on sensitive receptors.

Dust: The CEMP shall set out the particulars of—

(a) site dust monitoring, recording and complaint investigation procedures;

(b) the identification of receptors and the related risk of dust impact at all phases of the development;

(c) the provision of water to the site;

(d) dust mitigation techniques at all stages of development;

(e) the prevention of dust trackout;

(f) communication with residents and other receptors;

(g) a commitment to cease the relevant operation if dust emissions are identified either by regular site monitoring or by the local authority;

(h) a 'no burning of waste' policy.

14) Construction and site clearance operations shall be limited to the following days and hours:

- 8am to 6pm Monday to Friday

- 8am to 1pm on Saturdays.

No construction, demolition or site clearance operations shall take place on Sundays or public/bank holidays.

HGV movements shall not be permitted outside these hours during the construction phase without prior written approval from the local planning authority.

Installation of equipment on site shall not be permitted outside these hours without prior written approval from the local planning authority.

APPEARANCES

FOR THE APPELLANT:

Peter Atkin	Pegasus Planning Director
Catherine Ellinsfield	Pegasus Landscape Architect
Gary Oliver	SLR Ecologist
Philip Maw	Landowner

FOR THE LOCAL PLANNING AUTHORITY:

Rebecca Leggott	North Lincolnshire Council Development Management Lead
Andrew Taylor	North Lincolnshire Council Natural Environment Policy Specialist

INTERESTED PERSONS:

Helen Rowson	North Lincolnshire Councillor and local resident
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