



# Appeal Decision

Site visit made on 15 May 2024

by **J Woolcock BNatRes MURP DipLaw MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 June 2024

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**Appeal Ref: APP/P1615/W/23/3331416**

**Land North of Stream Lane, Upleadon, Gloucestershire, GL18 1EL**

- 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 Pathfinder Clean Energy (PACE) UK Dev Ltd against the decision of Forest of Dean District Council (FoDDC).
  - The application, Reference Number P1350/22/FUL, dated 26 September 2022, was refused by notice dated 12 July 2023.
  - The development proposed is a temporary ground mounted solar photovoltaic (PV) farm along with continued agricultural use, ancillary infrastructure, security fencing, landscaping provision, ecological enhancements and associated works.
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## Decision

1. The appeal is dismissed.

## Preliminary matters

2. In addition to my site visit on 15 May I also visited May Hill, Eden's Hill and Footpath 102 during an unaccompanied visit on 20 May. The Written Ministerial Statement (WMS) entitled *Solar and protecting our Food Security and Best and Most Versatile (BMV) Land* was made on 15 May 2024. The parties were given time to make written submissions about the WMS. I have had regard to the WMS and the submissions by the parties in determining this appeal.
3. The 13.70 ha appeal site comprises four fields annotated G, I, J and N in the appeal documentation. The scheme would have a capacity of 6.2 megawatt (MW), which would generate some 8.2 GWh per year and power in excess of 2,600 homes. The point of connection to the local distribution network would be an 11 kV pole located towards the centre of the appeal site. The top of the proposed solar panels would be a maximum of 3 m above ground level and their lowest edge would be around 0.8 m above the ground to allow grazing of livestock. The scheme includes inverter cabins, a substation and a storage building. Wire mesh deer fencing approximately 2 m high is proposed along with infra-red and/or thermal imaging CCTV cameras. Access would be via two existing accesses off Stream Lane that would be made suitable for large vehicles. The scheme would operate for 40 years with an additional one year for construction and another year for decommissioning.
4. During the course of the application the scheme was amended for arboricultural, ecological and flooding reasons. The amended application was

refused by FoDDC against officer recommendation for approval.<sup>1</sup> The reason for refusal states that the scale and siting of the proposed solar farm would have a long term detrimental impact on the intrinsic character of the rural landscape and fail to conserve and enhance the local landscape character of the Severn Vale.

5. The development plan includes the Forest of Dean District Council Core Strategy Adopted Version 2012 (CSP) and the Allocations Plan (AP) adopted in 2018. Policy AP.2 supports renewable energy installations where environmental, economic and social impacts can be addressed satisfactorily in accordance with Policy CSP.1. It adds that separation distances from residential dwellings in order to protect residential amenity is a topic area to be appropriately assessed. Policy CSP.1 provides that new development must take into account important characteristics of the environment and conserve, preserve or otherwise respect them in a manner that maintains or enhances their contribution to the environment, including their wider context. To achieve this objective consideration will be given to the effects on the landscape and any necessary or desirable mitigation/enhancement.
6. I have had regard to the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG). Paragraph 180 b) of the NPPF provides that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. The NPPG includes guidance about renewable and low carbon energy.<sup>2</sup> Factors to consider include encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land.
7. I was referred to the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3). The capacity of the proposed solar farm in this appeal would fall well below the threshold for a nationally significant infrastructure project. Given the extent to which relevant matters here are covered by applicable planning policy, I consider that EN-1 and EN-3 have limited applicability in determining this appeal.<sup>3</sup>
8. The appeal site lies some 470 m south-west of Upleadon and about 1.3 km to the north-east of Newent. Footpath 102, which is at its closest some 170 m to the north of the site, extends between Stream Lane and Upleadon. Eden's Hill Farmhouse is a grade II listed building. The barn and stable at Eden's Hill Farm are also listed grade II. Carswalls Manor includes a grade II listed barn and engine house. I am required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of a listed building. Great weight should be given to the conservation of these designated heritage assets.<sup>4</sup>

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<sup>1</sup> It was recommended that delegated authority be given to the development manager to approve the application subject to receiving the NaturSpace report about Great Crested Newts from the applicant.

<sup>2</sup> The NPPG includes reference to a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013 and written ministerial statement on solar energy: protecting the local and global environment made on 25 March 2015.

<sup>3</sup> EN-1 paragraphs 1.2.1 and 1.2.2.

<sup>4</sup> NPPF paragraph 205.

## **Main issues**

### 9. The main issues in this appeal are:

The effects of the proposed development on the character and appearance of the area. I have also considered the effects on the residential amenity of nearby occupiers, which was not a reason for refusal but was raised by local residents. I have had regard to relevant policy and whether the benefits of the proposal would be sufficient to outweigh any harm.

## **Reasons**

### *Character and appearance*

10. The western part of fields N and J are covered by National Character Area (NCA) 104 South Herefordshire and Over Severn, an undulating landscape with large-to-medium sized fields with dominating intensive arable farming. The eastern part of the site, specifically parts of fields N and J, and all of fields I and G are within NCA 106 Severn and Avon Vales, with a diverse range of flat and gently undulating landscape. The appeal site comprises gently undulating agricultural land with a shallow valley in the centre of the site and so is consistent with the characteristics of NCA104 and NCA106. The NPPG states that deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes.
11. In the *Forest of Dean District Landscape Character Assessment* (2002) the site is located within Landscape Character Type (LCT) 6: Unwooded Vale. Key characteristics within this LCT include a soft rolling landscape. It is well maintained, and often ancient hedgerows form an extensive network. There are numerous mature field and hedgerow oaks, small copses and shelter belts. Quiet winding lanes link numerous isolated farms and hamlets.
12. Within LCT6 the site is part of Landscape Character Area (LCA) 6b: The Severn Vale. This is an extensive landscape with a complex mix of arable and pasture farming where hedgerow trees and field trees are an important landscape feature and prominent when located on the many small hillocks that rise from the vale. LCA6b is deeply rural with isolated farm houses, hamlets and small villages linked by narrow lanes. Old barns are a particular feature.
13. The appeal site is visually separated from hamlets and small villages in the wider area by distance, topography, and trees/woodland. I consider that the appellant understates the sensitivity of the landscape receptor in this deeply rural environment.
14. The metal and glass panels, along with their regular arrangement in long rows, would be out of keeping with the character of the area. The colour and texture of the panels would not be typical of its agricultural context, and so the proposed development would introduce a utilitarian element into this deeply rural landscape. Mitigation planting would not overcome this harm. I find that the proposal would have a significant adverse effect on the landscape character of the area.
15. Turning to visual effects, the NPPG advises that in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero. It was evident at my site visit that this is not the case here. There are views into the

appeal site from Stream Lane and the undulating topography limits opportunities for effective screening. The solar panels and ancillary infrastructure would be prominent from public vantage points.<sup>5</sup> In this agricultural context the proposed development would appear as a discordant feature that resulted in significant harm to the visual amenity of the area. The NPPG states that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. In this case the landscape is undulating and the development, even with maturing mitigation planting, would not be well screened.

16. In addition, proposed highway improvements to facilitate access to the appeal site by large vehicles would adversely affect the appearance of the wide grass verge in Stream Lane. Activity and noise during construction and decommissioning would, albeit for a short duration, also have an adverse impact on the character and appearance of the area. The harm to the character and appearance of the area I have identified would not be permanent, but would endure for 42 years, far exceeding what is regarded as long term.<sup>6</sup>
17. In response to the WMS FoDDC submitted a plan showing existing and proposed solar farms in the wider area. These are located to the south of the B4215 or much further to the east of the appeal site. There is no evidence of any significant intervisibility between the appeal scheme and these other schemes that would be likely to result in combined cumulative visual effects. Any sequential cumulative visual effects, as people travelled through the area, would be occasional with long time lapses between appearances because of the separation distances. Likely cumulative impact would not add to the harm I have identified.
18. Overall, I find that the proposal would have a significant adverse effect on the landscape resource. It would also have a significant adverse visual impact. This harm to the character and appearance of the area weighs against the proposal in the planning balance.

#### *Residential amenity*

19. One of Upleadon Parish Council's objections to the proposal is inadequate screening for nearby residents. The appellant's Landscape and Visual Appraisal notes that the closest residential properties to the site boundary are Little Carswells (located on Stream Lane) and properties along Hook Lane. The appraisal states that there is some intervisibility with the site and discrete parts of the proposed development would be visible from these dwellings. Given the separation distance and likely effects of the proposed mitigation planting, I consider that the appeal scheme would not have an unacceptable adverse effect on the outlook from the Hook Lane properties.
20. At the application stage the occupier of Little Carswells stated that this was the closest dwelling to the appeal site, with just the width of the lane between the dwelling and the proposed development, and that the solar farm would have a negative visual impact. The FoDDC officer's committee report noted that Little

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<sup>5</sup> Concern was expressed about views from May Hill, but intervening trees and vegetation on the upper slopes of the hill would screen views towards the appeal site. If at times the site was apparent it would form a small part of a wide panorama.

<sup>6</sup> The Landscape Institute's Guidelines for Landscape and Visual Impact Assessment paragraph 5.51 refers to long term as ten to twenty-five years.

Carswalls is directly opposite the site at some 20 m away from the site boundary and that views would be obtainable from the first floor/room in roof window. However, the officer's report considered that the agricultural nature of the field formation would be retained, reducing the visual impact, but accepted that a degree of visual impact would still exist. In views from Little Carswalls it seems to me that the solar panels would be a striking visual feature and that 'the agricultural nature of the field formation' would do little to ameliorate this impact.

21. It was apparent from my site visit that the proposed panels, extending from close to Stream Lane up to the top of field N, would be a dominating feature in views from Little Carswalls. The land rises up from this part of Stream Lane to the north-western corner of field N, so that tree planting or raising the height of the existing hedgerow along the lane would be unlikely to effectively screen the panels from Little Carswalls. Mature garden trees when in leaf would obscure some of this view. Nevertheless, I consider that the nature, scale and proximity of the proposed development on this sloping field would have a dominating and oppressive impact on the outlook from Little Carswalls and its amenity space. In my judgement, the proposal would, by reason of deprivation of outlook, unacceptably affect local amenities and the use of land and buildings that ought to be protected in the public interest. This is a consideration that weighs against the proposal.

#### *Heritage assets*

22. Eden's Hill Farmhouse is located about 750 m north-east of the appeal site. The agricultural land sloping down to the south-west towards the appeal site forms part of the setting of the farmhouse and contributes to the significance of the listed building. Glimpsed views across parts of the proposed solar farm might be possible from the listed building, especially when intervening trees were not in leaf. But the separation distance would mean that any adverse effect on the setting of the listed building would be slight. The proposal would result in less than substantial harm to the significance of this designated heritage asset, but towards the lower end of the scale. The setting for the listed barn and stable at Eden's Hill Farm does not extend much beyond the farmhouse and farmyard. The proposed development would not harm the setting of these listed buildings.
23. The listed barn and engine house at Carswalls Manor is located about 520 m north-west of the appeal site. Carswalls Wood is located on higher ground between the appeal site and Carswalls Manor. The separation distance, along with the intervening topography and woodland, mean that the proposed development would not fall within the setting of these designated heritage assets. Other heritage assets in the wider area would not be affected by the proposal. Archaeology is a matter that could be addressed by planning conditions.

#### *Renewable energy*

24. FoDDC declared a climate emergency in 2018. The planning system should support the transition to a low carbon future in a changing climate.<sup>7</sup> The appellant describes the appeal scheme as a relatively small project for 6 MW. The NPPF states that even small-scale projects provide a valuable contribution

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<sup>7</sup> NPPF paragraph 157.

to significant cutting greenhouse gas emissions.<sup>8</sup> The proposal would make a cumulative contribution to meeting the target set out in the Climate Change Act 2008, and gains support from the Net Zero Strategy, British Energy Security Strategy 2022 and the Energy White Paper 2020.

25. FoDDC acknowledges that there is a need for renewable energy and that the proposal could contribute towards economic and social benefits as well as energy security, but argues that these public benefits could equally be applied at potential alternative sites across the District without the harm to LCA6b. However, this is not a case where a potential alternative site is a material consideration that I should have regard to in exercising my planning judgement. A proposal for renewable energy development should be approved if its impacts are (or can be made) acceptable.<sup>9</sup>
26. The generation of renewable energy and resultant contribution to cutting greenhouse gas emissions weighs heavily in favour of the proposal.

### **Other matters**

27. The appeal scheme proposes ecological enhancements, including new native hedgerows, new wildflower grassland and log piles for refugia. This would result in a 58% increase in habitats and a 46% increase in hedgerows on the site. These improvements would benefit biodiversity during the lifetime of the proposed development. However, there is no guarantee that they would continue to do so after decommissioning, when the site would return to a solely agricultural use. I consider that biodiversity would be a minor benefit in the circumstances that apply in this case. Protection of Great Crested Newts is a matter that could be achieved by the imposition of planning conditions. Given that I am dismissing the appeal it is not necessary for me to undertake an Appropriate Assessment with regard to the interest features and conservation objectives of the Wye Valley and Forest of Dean Bat Special Area of Conservation.
28. There is local concern about the loss of food production capacity and exacerbating food insecurity. Newent Town Council considers that the appeal site, according to its historic usage, is of better quality than the appellant's assessment of grade 3b agricultural land. However, there is no convincing evidence to indicate that the proposal would utilise any land classified as best and most versatile agricultural land.<sup>10</sup> I am satisfied that the site search in this case reasonably demonstrates that the proposed use of agricultural land has been shown to be necessary and that poorer quality land has been used in preference to higher quality land. Some agricultural activity is proposed to be continued on the land during the lifetime of the scheme by grazing between the panels, and the proposal would contribute to farm diversification. I have taken the recent WMS into account, and considered the NPPG, but find that the loss of agricultural productivity in this case would not weigh much against the proposed solar farm.
29. Access to the appeal site is via narrow lanes but there is no technical evidence to indicate that the proposed development would have an unacceptable impact on highway safety. Subject to the imposition of appropriate planning

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<sup>8</sup> NPPF paragraph 163 a).

<sup>9</sup> NPPF paragraph 163 b).

<sup>10</sup> Defined in the Glossary to the NPPF as land in grades 1, 2 and 3a of the Agricultural Land Classification.

conditions I am satisfied that residual cumulative impacts on the road network would not be severe.<sup>11</sup> The local lanes are used for exercising horses by equestrian establishments in the area. Potential conflict between equestrians and construction traffic could be minimised by the implementation of an approved construction traffic management plan. Highway safety is a matter that could be addressed by the imposition of appropriate planning conditions.

30. The western part of the appeal site is an old landfill. Any construction within this area could be controlled by planning conditions. Flooding and drainage are also matters that could be dealt with by the imposition of appropriate conditions.

### **Planning balance and policy**

31. I have given considerable importance and weight to the harm to the listed Eden's Hill Farmhouse. In the NPPF paragraph 208 balancing exercise, I consider that the less than substantial harm I have identified to the significance of the designated heritage asset here is outweighed by the public benefits that would be attributable to the renewable energy generated by the proposal.
32. The harm to the character and appearance of the area would endure for the lifetime of the proposed development and weighs significantly against the proposal. So too, would the harm I have identified to the residential amenity of the dwelling at Little Carswalls. FoDDC did not include this as a reason for refusal, but in my judgement, it is a consideration that should be given significant weight in the planning balance. The minor benefits of the scheme to biodiversity warrant slight weight. Economic benefits, including to farm diversification, should be given limited weight. The benefits of renewable energy generation and contribution to climate change mitigation attract substantial weight. Nevertheless, in my judgement, these benefits are insufficient to outweigh the overall harm I have identified. The planning balance here falls against the proposal.
33. The appeal scheme, by reason of the harm to the character and appearance of the area, would not conserve, preserve, or otherwise respect important characteristics of the environment in a manner that maintains or enhances their contribution to the environment, and so conflicts with Policy CSP.1. The proposal does not achieve support from Policy AP.2. I find that the appeal scheme conflicts with the development plan taken as a whole.
34. I am not satisfied that the impacts of the proposed development could be made acceptable. Furthermore, due to the harm to the living conditions of the occupiers of Little Carswalls, the scheme would be at odds with provisions in the NPPF to ensure that development created places with a high standard of amenity for existing and future users.<sup>12</sup> The proposal would not comply with the NPPF taken as a whole.

### **Conditions**

35. The appellant would accept conditions to limit panel height to 2.8 m and would accept additional planting adjacent to the closest residential properties. However, there is no evidence to demonstrate that the imposition of such conditions would be likely to overcome the harm I have identified.

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<sup>11</sup> NPPF paragraph 115.

<sup>12</sup> NPPF paragraph 135 f).

## **Conclusion**

36. The planning balance falls against the proposal. The appeal scheme conflicts with the development plan and is at odds with the NPPF. There are no material considerations to indicate that the appeal should be determined other than in accordance with the development plan. I have taken into account all other matters raised in evidence, but I have found nothing of sufficient weight to alter my conclusions. For the reasons given above the appeal should be dismissed.

*J Woolcock*

INSPECTOR