



Appeal Decision

Site visit made on 17 December 2024

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 January 2025

Appeal Ref: APP/Q4625/W/24/3348223

Land East of Hodgett's Lane, Berkswell CV8 1PH

- 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 Mr Andy Brand, Coventry Energy Storage Ltd, against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2023/02196/PPFL.
 - The development proposed is installation of a flexible electricity storage facility to supplement the local electricity grid in order to stabilise and secure electricity supply.
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Decision

1. The appeal is allowed and planning permission is granted for installation of a flexible electricity storage facility to supplement the local electricity grid in order to stabilise and secure electricity supply at Land East of Hodgett's Lane, Berkswell CV8 1PH in accordance with the terms of the application, Ref:PL/2023/02196/PPFL, subject to the conditions in the attached schedule.

Preliminary Matters

2. During the course of the appeal a revised National Planning Policy Framework (the Framework) was published. The main parties have had the opportunity to comment on the implications of this change and no parties will have been prejudiced by my having regard to the latest version in reaching my decision.
3. Following the decision of the Council, the appellant has submitted an additional drawing (ref: P3090(06)-175-01-O) which provides details of battery container units which was omitted from the original submission. I have had regard to the degree of engagement of all parties and the interests of fairness. Given the additional drawing does not fundamentally alter the appeal proposal, and the opportunity for parties to comment on the drawing during the appeal process, I do not consider that any party will be prejudiced if I take the information into account.

Main Issues

4. The main parties agree that the proposal would represent inappropriate development in the Green Belt, having regard to Policy P17 of the Solihull Local Plan 2013 (LP) and the Framework. On the evidence before me, I see no reason to disagree.
5. Therefore, the main issues are:
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;

- the effect of the proposal on the character and appearance of the area; and
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Openness

6. The Framework outlines that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has spatial and visual aspects and is a matter of planning judgement.
7. Despite some built form punctuating the landscape including agricultural, residential, energy supply and transport infrastructure, the appeal site is part of an undeveloped agricultural field, within a predominantly rural landscape. There are existing utilitarian structures associated with both electricity supply and High Speed 2 (HS2) near the appeal site. However, this is on the opposing side of Hodgett's Lane and does not affect the remaining openness of the Green Belt around the appeal site and wider area, which is clearly evident in public views from the surrounding footpath and adjacent highway.
8. The proposal would result in numerous utilitarian structures within part of the currently open field. While the development would be well contained by existing and improved planting (once established), glimpse views of the proposal, particularly noting height of high-level disconnectors, are still likely to be available through gaps in foliage. This would be especially the case during winter months when vegetation may not be in leaf.
9. Even with the use of permeable boundary fencing, the proposal would reduce the site's openness both spatially and visually and inevitably lead to a reduction in the openness of the Green Belt. This is because where there is currently limited built form on the site, the proposal would introduce new built form and therefore erode the openness of the site.
10. Although I note the Council's suggestion that the open nature of the Green Belt towards the borough boundary to the east is valuable and its continuity could be vulnerable to erosion, the proposal's effect on the openness of the Green Belt would be localised. Nevertheless, the proposal would still result in harm to the Green Belt through the erosion of its openness which is one of its key characteristics.
11. The Framework identifies five essential purposes of the Green Belt. The appellant contends that the proposal would result in 'very limited encroachment upon the countryside'. However, although the urban fringe and other infrastructure may well be visible from the appeal site, the proposal would introduce additional buildings of utilitarian form and industrial appearance into the countryside. This would inevitably result in encroachment into the countryside, conflicting with an essential purpose of the Green Belt.
12. Consequently, the proposal would result in inappropriate development in the Green Belt, and harm its openness and conflict with its purposes. It would therefore conflict with LP Policy P17 which seeks, amongst other things, to ensure

development does not have a materially greater impact on the openness of the Green Belt and the purposes of including land in it.

Character and appearance

13. The appeal site is within the 'Meridian gap' and is part of a single field with native hedgerows forming the boundary with Hodgett's Lane, as well as the eastern boundary which continues to a small area of woodland beyond the appeal site. The appeal site has a rural agricultural character and demonstrates some of the key characteristics of the Landscape Character Areas¹ it falls within, including mature trees within hedgerows and being part of an irregular field pattern, and positively contributes to the surrounding landscape character.
14. However, although the appeal site is farmland, the nearby surrounding area also features residential development and urban fringe features, electricity supply infrastructure including a large substation, overhead power lines and associated paraphernalia at Berkswell substation, a telecommunications mast, and development associated with HS2.
15. There is broad agreement between the main parties that the proposal would result in some harm to the surrounding landscape, although the extent is disputed. At my site visit, I observed the appeal site from various viewpoints outlined in the appellant's Landscape and Visual Impact Assessment (LVIA) including those viewpoints highlighted by the Council.
16. Whilst the existing utilitarian infrastructure is largely restricted to the west of Hodgett's Lane, receptors are conscious of both this infrastructure, but also the open outlook of the agricultural landscape between Balsall Common / Berkswell and the Coventry fringe at Burton Green.
17. The change from open field to a battery energy storage system (BESS) and associated features would be seen as an urbanising feature in the agricultural landscape. Although substantial areas of planting are proposed, there is some doubt as to how the planting, in particular scrub areas, would be established and maintained, and thus its screening and biodiversity benefit. Notwithstanding, I see no reason why further detail could not be secured by way of a planning condition.
18. However, even if the planting would mature as indicated within the appellant's 15-year photo montages, given the structures proposed and their proximity to Hodgett's Lane and areas of public footpath, there would still be glimpsed views of industrial like structures, particularly during the winter months.
19. The proposal would not read as appearing as an entirely unexpected or incompatible element in the landscape given existing infrastructure, and the rural character would remain the dominant influence. However, the proposal would erode the existing vista of relatively open agricultural land, resulting in an adverse effect on the perceptual qualities of the landscape as people view into or out across the landscape. As such, the proposal would harm the contribution of the appeal site to the character and appearance of the area.

¹ 'Arden' National Character Area 97; 'Ancient Arden' landscape character area as defined in the Warwickshire Landscapes Guideline; Local Character Area 6 Eastern Fringe (LCA6) as defined within the Solihull Borough Landscape Character Assessment (2016).

20. The LVIA also identifies three further planning applications for BESS development within 1km of the appeal site, with the Council particularly highlighting a nearby site to the southeast on Hodgett's Lane. However, I have limited information before me of nearby schemes, and given the Council states the nearby scheme is not a consented scheme I have no evidence that the proposal would come forward, and therefore any cumulative visual impact is theoretical.
21. Consequently, I find that there would be moderate harm to the character and appearance of the area. The proposal would conflict with LP policies P10, P14 and P15, which amongst other things, requires development to protect, enhance and restore diverse landscape features, visual amenity and conserve and enhance landscape quality.

Other considerations

22. The Planning Practice Guidance (PPG) outlines that electricity storage can enable us to use energy more flexibly and de-carbonise our energy system cost-effectively for example, by helping to balance the system at lower cost, maximising the usable output from intermittent low carbon generation (e.g. solar and wind), and deferring or avoiding the need for costly network upgrades and new generation capacity.
23. The proposal would provide a flexible electricity storage facility which would store excess electricity resulting from periods where the electricity network is effectively over supplied by existing energy generating sources. It would help meet an essential need arising from amongst other things the phasing out of fossil fuels from the UK's energy generation mix, enhancing energy security and contributing to the increased need for electricity. The evidence before me indicates that the proposal would be able to serve the needs of around 140,000 homes for 2 hours if required.
24. Solihull Metropolitan Borough Council declared a climate emergency in October 2019, leading to the Council's Net Zero Action Plan aiming to achieve net-zero by 2041 and net zero in Council operations by 2030. The Government also has well publicised Net Zero ambitions and targets, with the Framework outlining that the planning system should support the transition to net zero by 2050. Moreover, the Framework states that when determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, significant weight should be given to the benefits associated with renewable and low carbon energy generation and a proposal's contribution to a net zero future.
25. There is a clear national need for BESS facilities and the proposal would make a small but nevertheless important contribution to ensuring local and national energy security and supply, serving increasing demand and moving towards a low carbon future. The appellant states that the proposal could connect to the electricity network in 2026 and has had a formal offer for a grid connection for the proposal. Furthermore, a comprehensive Alternative Sites Assessment is before me that indicates that there are no available, suitable or viable previously developed sites, or sites outside the Green Belt which can be developed in preference to the appeal site.
26. Consequently, I find that collectively these considerations are significant and attract very substantial weight in favour of the proposal.

27. Additionally, whilst further detail would be required in terms of soft landscaping and maintenance, the evidence before me indicates that the proposal would be able to achieve a substantial on-site biodiversity net gain through additional planting and enhancements. The proposal would also result in the creation of some employment and associated benefit to the economy, both of which I afford moderate weight in favour of the proposal.

Other Matters

28. The appellant's noise assessment concludes that the proposal will give rise to rating sound levels that do not exceed the measured background sound level in the area during the day and night, therefore giving rise to a 'Low Impact'. Furthermore, no significant change in ambient sound level was identified at surrounding receptor locations. No substantive evidence has been provided to lead me to a differing conclusion and subject to the imposition of a planning condition relating to noise mitigation, the proposal would not result in harm to neighbouring occupiers living conditions. Moreover, no substantive evidence has been provided to demonstrate that batteries utilised in the proposal would have any long-term health risks or the proposal would lead to any undue fire safety or other health concerns.
29. The Grade II listed Arnold's Farmhouse and Barn Range, Westwood Farmhouse and Nailcote Hall lie within 1km of the appeal site. The significance of Arnold's Farmhouse and Barn Range, and Westwood Farmhouse derives in part from their historic, architectural and artistic values as examples of period farm buildings. The immediately surrounding farmland convey the functions between the farm buildings and the farmland with nearby fields contributing to the historic value and setting of the farmsteads. The appeal site forms only a small part of the wider rural setting, and given the separation distances and existing utilitarian infrastructure, the proposal would, in so far as it relates to this appeal, have a neutral effect on the significance of these heritage assets, including their setting.
30. The significance of Nailcote Hall also derives, in part, from its historic, architectural and artistic values. Although the immediate historic setting of the heritage asset has been altered by modern extensions and the creation of a golf course within former parkland, the immediate surrounding area maintains an enclosed parkland character. This contributes to the setting as well as surrounding pasture fields which provide a typical farming landscape historically associated with a small country estate. Due to the separation distance, and lack of notable intervisibility, the appeal site does not form part of the setting of the heritage asset, and the proposal would not alter how the heritage assets significance is currently understood or appreciated, thereby having a neutral effect on the heritage asset, including its setting.

Planning Balance

31. The Framework makes clear that substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
32. The proposal is inappropriate development in the Green Belt, which is harmful by definition, would reduce the openness of the Green Belt, and would conflict with the purposes of including land within it. I therefore attach substantial weight to that harm as required by the Framework, albeit in this instance I find the harm to be

moderate due to the limited scale, context and localised effect. It would also cause moderate harm to the character and appearance of the area. Accordingly, it would be in conflict with relevant local development plan policies and those of the Framework.

33. Against this harm, I have placed very substantial weight on the proposal's significant benefit with respect to the contribution the BESS would make to mitigate climate change and help regulate electricity flows within the wider supply network, as well as moderate weight to bio-diversity and economic benefits. I find these other considerations to be cumulatively sufficient such that they amount to the very special circumstances which clearly outweigh the harm to the Green Belt and any other harm, and thus justify the proposal in this instance.

Conditions

34. The Council has provided a list of suggested conditions in the event of the appeal being allowed, which I have assessed and, where necessary, amended wording with regard to the advice provided in the PPG. In addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty.
35. I have imposed pre-commencement conditions requiring a detailed Construction and Environmental Management Plan and Landscape and Ecological Management Plan. These are in order to safeguard highway safety, the nearby HS2 construction programme and ensure adequate environmental protection including habitats and protected species, and the character and appearance of the surrounding area. Furthermore, a pre-commencement condition is also necessary to secure a Written Scheme of Investigation for a programme of archaeological evaluative work, in the interests of historic heritage.
36. I have imposed conditions which are necessary to ensure that external finishes, hard and soft landscaping, and planting maintenance are appropriate to help to minimise the proposal's visual impact on local character and in the interests of biodiversity.
37. Conditions requiring a scheme to manage surface water runoff, details of any external lighting and to ensure that the proposal is undertaken in accordance with ecological mitigation measures are necessary for the protection of protected species, habitats and to protect and improve the quality of water bodies. A condition is also imposed and is necessary to ensure noise mitigation measures are installed in order to safeguard the living conditions of nearby residents.
38. Although a condition seeking an Arboricultural Method Statement providing tree protection measures has been suggested by the Council, an Arboricultural Statement including tree retention and protection measures formed part of the application to the Council. Therefore, a condition is necessary to ensure the development is undertaken in accordance with the submitted Arboricultural Plan in the interests of the character and appearance of the area and biodiversity.
39. Finally, the proposal has been put forward on the basis of a permanent planning permission, although the appellant has suggested a condition effectively resulting in the permission being temporary for 35 years if required. However, for the reasons provided, I have found the proposal to be acceptable as submitted to the Council, and therefore such a condition is not reasonably required.

40. Nevertheless, a condition for the removal of the development and restoration of the land in the event that it was to not import or export electricity over a 6-month period is necessary in order to manage the impact on the openness of the Green Belt should the development no longer be required.

Conclusion

41. For the reasons given above, the proposal would be in conflict with policies of the development plan with respect to harm to the Green Belt and to the character and appearance of the area, and conflict with the development plan as a whole. However other material considerations, including the Framework and the very special circumstances cited in this case, indicate that permission should be granted. The appeal is therefore allowed.

S Harrington

INSPECTOR

Schedule

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers:
21/22/201/02C; 21/22/201/01F; 21/22/201/03; 21/22/201/04A; 21/22/201/05;
21/22/201/06A; 21/22/201/07; 21/22/201/08; LAS 620 02B; P3090(01)-175-01;
P3090(02)-175-01-O; P3090(02)-175-02-O; P3090(03)-175-01-O;
P3090(06)-175-01-O; P3090(08)-175-01.

- 3) No development shall commence until a detailed Construction and Environmental Management Plan (CEMP) covering traffic and environmental management has been submitted to and approved in writing by the local planning authority.

The development shall only be carried out in accordance with the approved CEMP.

- 4) No development shall commence until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall include short (1- 5years), medium (5-15 years) and long term (15-30 years) design objectives, management actions, responsibilities, future monitoring and maintenance schedules for all landscape, habitat and ecological mitigation and compensation works.

The development shall only be carried out in accordance with the approved LEMP.

- 5) No development shall commence until:
 - i. a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in writing by the Local Planning Authority.
 - ii. the programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved WSI has been undertaken. A report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the local planning authority.
 - iii. An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the local planning authority. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

- 6) Prior to installation of the structures, including battery containers, storage and utility containers, generators and transformers and fencing, details of the external finishing colour shall be agreed in writing by the local planning authority.

The structures and fencing shall be retained and maintained in the agreed finish for the lifetime of the development.

- 7) No work above-ground shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and,
- iii. provide, a management and maintenance plan for the lifetime of the development. The development shall be carried out in accordance with the approved details.

The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 8) The development shall be undertaken in accordance with the tree protection measures and tree protection plan set out within the Arboricultural Statement (Landarb Solutions dated 05.05.23) and the mitigation measures set out within the Ecological Appraisal (RPS: ECO03375 3 dated 19th February 2024).
- 9) Prior to the first use of the development hereby approved, the noise mitigation measures identified in section 5.1.4 of the submitted Noise Impact Assessment dated 17th October 2023, shall be installed prior to first use of the development and shall be retained for the lifetime of the development.
- 10) Prior to first use of the development hereby approved, details of all hard and soft landscaping (to include size, species and timetable of planting) shall be submitted to and approved in writing by the local planning authority.

All hard and soft landscape works shall be carried out in accordance with the approved details. If within a period of 5 years from the date of planting of any tree, that tree or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place within the next planting season (October- March), unless the local planning authority gives its written consent to any variation.

- 11) Any tree, hedge or shrub scheduled for retention which is lost for any reason during development works, shall be replaced with a tree, hedge or shrub of a size and species to be agreed in writing with the local planning authority and planted during the first planting season after its loss.

- 12) No external lighting shall be installed on the site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the local planning authority.

The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed.

- 13) In the event that the development hereby approved were to not import or export electricity over a continuous 6 month period, the local planning authority shall be notified within 10 working days of said event and all buildings, equipment and infrastructure removed and the land shall be restored in accordance with a decommissioning scheme that must be submitted to and approved in writing by the local planning authority prior to decommissioning taking place.

The decommissioning scheme shall be a scheme of work (which shall include a timetable for the removal of all buildings, equipment and infrastructure and restoration of the land) and shall be fully implemented in accordance with the approved details.

End of Conditions