

Council's Appearances List

Counsel: Andrew Parkinson, instructed by Tom Pickwell (Legal Services Manager)

Witnesses:

Landscape: Mr Simon Higson BA (Hons), MA, CMLI

Heritage: Mr Timothy Malin BA (Hons), FSA, MCIFA

Planning: Mr Peter Bond BSc (Hons), MA, MRTPI

BELVOIR SOLAR FARM

FIELDS OS 6700 6722 AND 5200 MUSTON LANE, EASTHORPE (“the Site”)

OPENING SPEECH

On behalf of Melton Borough Council (“the Council”)

Introduction: the Site and its context

1. The Council resists this appeal in the strongest terms.
2. The proposal for a solar farm is manifestly unsuitable on this very large (almost 100-hectare) site: in the open countryside; crossed by an extensive network of Public Rights of Way (“PROW”); within the setting of a number of heritage assets of the highest significance and including development of productive Best and Most Versatile (“BMV”) agricultural land.
3. The proposed development will have a capacity of not more than 49.9 MW, just below the threshold of being nationally significant infrastructure. The scheme involves the development of c. 13 fields and the solar panels would cover an area of c. 81 ha and be set on metal arrays. There would be 20 inverter stations (approx. 3.4m high) positioned around the Site, together with a new substation. Surrounding the site would be c. 9.7 km of 2-metre-high metal security fencing with CCTV cameras on 3-metre-high posts. 4.4 km of access tracks would be provided throughout the Site.
4. It is, and will be perceived as, major new industrial-style development built in the open countryside. The consequences of development of this scale, in this area, include significantly harmful effects on landscape character and visual amenity, and agreed less than substantial harm (“LTSH”) to no less than five designated heritage assets – including two Grade I listed buildings.
5. Commissioned for a period of 40 years, much is made of the “reversibility” of the scheme. However, for all intents and purposes, it would be perceived as permanent. The harm it

would cause would be felt for at least a generation. There is no guarantee that the agricultural character of the land will be restored following decommissioning. Therefore, whilst the reversibility of the proposed scheme should be taken into account, it does not significantly alter the balance of harm caused by the proposal.

6. The Council acknowledges that there is a pressing and urgent need to increase renewable energy generating capacity in this country, and that solar farms bring important benefits through reducing carbon emissions and assisting with security of supply. That overall need is well-evidenced and recognised in numerous statements of policy support from the Government.
7. However, the Council's concern here is site-specific: this scheme is being promoted on the wrong site. Accordingly, in this case, the balance of harms caused by the development would clearly outweigh its benefits.

The Case for the Council

8. The Council's case is structured around three main themes, as set out in more detail in the Inspector's main issues. Taking these in turn:

Effect of the Proposed Development on the character and appearance of the area

9. The Council instructed Simon Higson, an independent landscape consultant, to conduct a landscape and visual impact assessment of the proposed development.
10. In agreement with Cornwall Environmental Consultants ("CEC"), who were instructed by the Council to undertake an independent review prior to the decision to refuse permission, Mr. Higson finds that the Appellant has downplayed the effect of the development both on landscape character and also with regard to its visual effects.
11. As Mr. Higson will explain, the Site and its local landscape context has several factors which elevate its landscape value, including offering a sense of time depth, good physical condition, distinctiveness through its strong sense of identity as part of the Vale of Belvoir, recreational opportunities and scenic qualities.

12. The development would urbanise the character of the existing rural site. The introduction of large amounts of solar panels, fencing, and other bulky and unsightly equipment associated with the development will mean that it will read as an alien, discordant and incongruous feature at odds with the existing expansive vale landscape.
13. The landscape character effects would be felt across the whole extent of the Site. There would also be material landscape effects beyond the site itself during operation of the scheme. Whilst the Appellant describes the effect on landscape character as “localised”, even if the effects were limited to the red-line boundary of the site (which they are not), this must be understood in the context of a site which covers almost 100 hectares.
14. Overall, Mr. Higson is right to conclude that the landscape character would be significantly diminished compared to the current baseline condition, due to the introduction of man-made industrial energy development.
15. There is also an extensive network of PROW, both within and adjacent to the Site. This includes over 1.5km of public footpaths, and 1.4km of byway open to all traffic, which extend through the Site itself.
16. These routes represent considerable recreational assets. The experience of walking these paths will be fundamentally, and negatively, changed. Existing expansive and high-quality views will be adversely affected. Whether walkers and other users take the view that they are walking in a new “Green Lane” or not, the effect of the Appellant’s proposed mitigation measure – planting hedges - will exacerbate this problem by either restricting views across the landscape or cutting them off completely.
17. There would be clear views of the scheme from elevated publicly accessible locations. Part of the Jubilee Way runs along the north-western edge of the Belvoir Castle Registered Park and Garden. The view here, which takes in the Site, is considered to be a view of “Borough-Wide Importance” *“characterized by a rural patchwork of fields, bordered by hedgerows and punctuated by woodlands and historic villages”* and is also protected in the Bottesford Neighbourhood Plan. The rural patchwork character of this view would be clearly interrupted by the proposal. So too would the view from Beacon Hill, where the proposed

development would also be seen in the context of other solar development – again, resulting in significant harm.

18. This other consented solar development also has a cumulative effect on landscape character. There are four approved solar farm developments around the historic village of Bottesford, with the current proposal making five if it is approved. The addition of the solar farm at the c 100 ha Site would result in a total combined area (with the other projects) of approximately 317 ha. The cumulative effect of introducing yet another solar farm in this location would be the harmful creation of a new landscape area around Bottesford, with solar farms as a key characteristic of that area – encircling Bottesford in all directions.
19. The adverse cumulative effect of granting permission would therefore also be significant.

The effect of the Proposed Development on heritage assets

20. It is common ground between the Council and the Appellant that there would be LTSH to the significance of the following heritage assets, through development within their settings:
 - (1) Grade I Listed Belvoir Castle;
 - (2) Grade II* Registered Park and Garden (“RPG”) at Belvoir Castle;
 - (3) Belvoir Castle Conservation Area;
 - (4) Grade I Listed Church of St Mary, Bottesford.
21. In addition, the Appellant (although not the Council) considers that there will be LTSH to Grade II* Listed Church of St John the Baptist, Muston. Further, the Council (although not the Appellant) concludes that there will be LTSH to the Moated Grange at Muston, a Scheduled Monument.
22. Views differ as to where such harm should be placed within that LTSH range – with the Appellant finding harm at the lower end of the spectrum to all the assets it considers harmed; and the Council finding harm at the mid-point of the spectrum to all assets except the Moated Grange at Muston.

23. Wherever the harm falls on the spectrum, the extent of harm engages the statutory presumption against development by virtue of section 66 of the Listed Buildings Act, which imposes a statutory duty to have “special regard” to the desirability of preserving a listed building or its setting. Preservation means avoiding harm. If a proposed development would cause harm, that must be given “*considerable importance and weight*” and results in a “*strong presumption against granting planning permission*”: Barnwell Manor Wind Energy Limited v East Northamptonshire District Council [2014] EWCA Civ 137 (CD 6.6).
24. There is not yet an equivalent statutory duty in respect of scheduled monuments and registered parks and gardens. However the National Planning Policy Framework (“NPPF”) adopts a uniform approach to all designated heritage assets as a matter of policy.
25. That policy states that great weight should be given to the conservation of heritage assets (and the more important the asset, the greater the weight should be): NPPF [205]. This is irrespective of whether the harm amounts to substantial harm, total loss or less than substantial harm to its significance: NPPF [205].
26. Therefore, regardless of where the harm falls on the spectrum, this level of harm is a matter that must be given considerable importance in the overall planning balance.
27. That said, the evidence of Timothy Malin, who gives evidence for the Council on this main issue, is clear that the Appellant has understated the effects on these assets. His view is supported by Historic England who, likewise, considered that effects had been understated by the Appellant.
28. In particular, as Mr. Malin will explain, the largely undeveloped rural landscape in which the Site sits positively contributes to the significance of each of these assets. In particular, it enables the assets to be understood within their original context and, particularly in relation to the Castle and the spire of St. Mary’s Church, it allows both assets to continue their historic role as the dominant built features within the landscape.
29. The proposed development will significantly impact on this contribution of setting to the significance of these assets. There are places where views of the Castle, and its associated RPG, and that of the spire of St. Mary’s would be blocked entirely. In other views, these

assets would no longer be perceived as the dominant built development in the view. In still other views, the solar panels, with their associated infrastructure, would distract from an appreciation of the assets. At all times when walking or driving in or near the Site, the assets would be experienced from within the context of a large solar farm, rather than the currently rural landscape. Despite the lack of direct intervisibility between the Site and the Scheduled Monument, it too would no longer be experienced in its wider historic context in an agricultural landscape.

30. Any harm to the significance of a designated heritage asset requires clear and convincing justification: NPPF [206]. No clear and convincing justification for the harm has been provided. Further, even if it is concluded that the balancing exercise in paragraph 208 of the NPPF is “passed”, the considerable heritage harm identified must still be weighed together with the other harm in the overall planning balance.

Overall Planning Balance

31. As set out at the outset, the Council acknowledges that provision of renewable energy is considered by the Government to be a very important consideration in light of the climate crisis – and gives substantial weight to this as a benefit.
32. There are, of course, other benefits put forward by the Appellant. However, a number of these are simply different ways of articulating the same overall benefit; other benefits put forward are of much less weight - as Peter Bond, who gives the planning evidence on behalf of the Council will explain.
33. However, the importance of renewable energy is not a blank cheque, and the NPPF does not support solar development at any cost. With the benefit of renewable energy provision comes corresponding harm. That harm is a function of this sensitive site being simply unsuitable for a development of this nature. It includes significant harm to the character and appearance of a landscape which, whilst not a “valued” landscape in NPPF terms, is highly valued by those who live in and around it; agreed harm to five designated assets; and the loss of 7.3ha of BMV arable agricultural land – a harm that must be recognised in the overall planning balance (see NPPF [180(b)]).

34. This harm is of such a weight and magnitude that it ultimately outweighs the benefits of the scheme.
35. The proposed development conflicts with the Development Plan. Whilst the plan includes Policies EN10 of the Melton Local Plan and Policy 9 of the Bottesford Neighbourhood Plan, which provide in-principle support for renewable energy proposals, this support is subject to the proposal being considered to be sustainable development and not having unacceptable adverse impacts on (amongst other things) landscape character, views and vistas and designated heritage assets.
36. The harm here is of an unacceptable level and nature and accordingly the scheme is contrary to the development plan taken as a whole. There are no material considerations that would justify a departure from the plan.
37. Accordingly, in due course, the Inspector will be invited to dismiss the appeal.

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10th September 2024