

Application No: 21/4490N

Location: Leighton Grange Farm, MIDDLEWICH ROAD, LEIGHTON, CW1 4QQ

Proposal: Erection of an up to 5 MW Solar PV Array and circa 25MW battery storage, comprising ground mounted solar PV panels, battery storage compound, vehicular access from the existing site entrance with internal access tracks, landscaping and associated infrastructure including security fencing and CCTV cameras.

Applicant: Daniel Griffiths, Cheshire East Council

Expiry Date: 19-Nov-2021

SUMMARY

The NPPF requires that Local Planning Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources.

The proposed development would create a 5MW solar PV array and 25MW of battery storage on the land. This would contribute to tackling the challenges of climate change, lessening dependence on fossil fuels and benefitting energy security. These benefits would accord with the Framework's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental objectives of sustainable development.

In terms of sustainability, the benefits of the provision of a source of renewable energy, for which there is a recognised need, outweighs harm to the local environment having regard to the impact on open countryside and agricultural land.

The proposal would satisfy the economic and social sustainability objectives by providing energy from a renewable, low carbon source.

The proposal is considered acceptable in terms of landscape, amenity, ecology, flood risk and highway safety.

The scheme therefore represents a sustainable form of development and the planning balance weighs in favour supporting the development.

RECOMMENDATION:

Approve subject to conditions

PROPOSAL

The proposal is for the erection of an up to 5MW solar PV array and circa 25MW battery storage, comprising ground mounted solar PV (photo voltaic) panels, battery storage compound, vehicular access from the existing site entrance with internal access tracks, landscaping and associated infrastructure including security fencing and CCTV cameras.

As well as the PV array the following elements would be created:

- Client Substation
- DNO (District Network Operator) Substation
- Battery Storage
- HV (High Voltage) Switching Gear
- Fencing and CCTV Cameras
- Internal Access Tracks
- Sub AC Cables and Transmission Lines
- Inverter and Transformer

The lifespan of the solar farm is expected to be approximately 40 years and it could then be dismantled and the land restored to agricultural use.

SITE DESCRIPTION:

The application site is 12.2 hectares in size accessed from Middlewich Road. It is generally level where the panels will be sited and then slopes down towards the River Weaver. It is currently in use as arable agricultural land and is designated as being within open countryside in the adopted local plan.

The site is adjacent to an organic waste recycling facility (OWRF) and to the west is a wastewater treatment works and an existing solar farm.

RELEVANT HISTORY:

There is no relevant planning history relating to the actual site but the history set out below relates to the OWRF.

18/0552N The construction and operation of an In Vessel Composting (IVC) Facility with associated Aerated Static Pile (ASP) composting, screening and blending operations – Approved 9th August 2018

18/5383N The extension of an access road off the A530 already approved under planning reference 18/0552N – Approved 7th December 2018

19/2356N Minor amendments to approval 18/0552N including the removal of an oak tree, installation of a weighbridge kiosk, an electrical substation and feeder pillar, 3 no. additional escape staircases, additional storage tank and moving of rainwater attenuation tank and surface water headwall – Approved 3rd September 2019

19/4752N Variation of condition 3 on approval 18/0552N for construction & operation of an In Vessel Composting (IVC) Facility with associated Aerated Static Pile (ASP) composting, screening and blending operations – Approved 27th October 2020

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Development Plan:

Cheshire East Local Plan Strategy (CELPS)

PG6 – Open Countryside
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE1 - Design
SE2 – Efficient use of Land
SE3 – Biodiversity and Geodiversity
SE4 – The Landscape
SE5 – Trees, Hedgerows and Woodland
SE6 – Infrastructure
SE7 – The Historic Environment
SE8 – Renewable and Low Carbon energy
SE9 – Energy Efficient Development
IN1 – Infrastructure
IN2 – Developer Contributions

Crewe and Nantwich Replacement Local Plan (CNRLP)

BE.1 – Amenity
BE.3 – Access and Parking
BE.4 – Drainage, Utilities and Resources
BE.6 – Development on Potentially Contaminated Land
BE.16 – Development and Archaeology
BE.21 – Hazardous Installations
NE.5 – Nature Conservation and Habitats
NE.6 – Sites of International Importance for Nature Conservation
NE.7 – Sites of National Importance for Nature Conservation
NE.8 – Sites of Local Importance for Nature Conservation
NE.9 – Protected Species
NE.17 – Pollution Control
NE.20 – Flood Prevention

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

The **Minshull Vernon Neighbourhood Plan** has not yet reached a stage that carries any weight.

CONSULTATIONS:

Highways:

No objection.

Environmental Protection:

No objection subject to an informative relating to working hours.

Natural England:

Originally requested further information relating to Sandbach Flashes SSSI and birds. This has now been received and they now have no objection to the development.

Environment Agency:

No objection.

Flood Risk:

No objection subject to drainage informatives.

United Utilities:

Originally objected due to the presence of a water main. The layout has now been amended to address this.

Cheshire Archaeology Planning Advisory Service:

Recommend a condition relating to WWII remains.

Minshull Vernon Parish Council:

None received at the time of report writing.

REPRESENTATIONS:

Neighbour notification letters were sent to adjoining occupants and site notices posted. At the time of report writing, one representation has been received questioning where the solar array will be sited. This is clearly shown on the submitted site plan, which is available to view on the Council website.

KEY ISSUES

The key issues to be considered in the determination of this application are set out below. They are the principle of the development, sustainability, renewable energy production, highways, amenity, agricultural land, heritage assets, landscape, trees, ecology, flood risk and archaeology.

PRINCIPLE OF DEVELOPMENT

Policy PG6 of the Cheshire East Local Plan Strategy (CELPS) states that:

Within the Open Countryside only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

A number of exceptions are listed within policy PG6 but are of no direct relevance to this proposal. There is however more detailed guidance on renewable energy within the NPPF and other Local Plan policies.

Paragraph 158 of the NPPF states that:

When determining planning applications for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

Cheshire East Local Plan Strategy is Policy SE8 (Renewable and Low Carbon Energy) which states that *'the development of renewable and low carbon energy schemes (including community-led initiatives), together with any ancillary building(s) and infrastructure, will be positively supported and considered in the context of sustainable development and any impact on the landscape'*.

The Policy states that weight will be given to the wider environmental, economic and social benefits arising from renewable and low carbon energy schemes, whilst considering the anticipated adverse impacts, individually and cumulatively upon:

'The surrounding landscape including natural, built, historic and cultural assets and townscape, including buildings, features, habitats and species of national and local importance and adjoining land uses'.

The justification to the Policy then goes onto identify the technologies that will be most viable and feasible including *'solar thermal and photovoltaics on south facing buildings throughout the Borough. Ground mounted schemes may be more appropriate where they do not conflict with other policies of the plan'*.

Need for Renewable Energy

In relation to need, paragraph 158 of the NPPF makes it clear that Local Planning Authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy.

Alternative Sites

The applicant has undertaken a site selection assessment including the technical suitability, grid connection feasibility, planning issues and site availability.

Conclusion

In this case, the principle of the proposed development would be contrary to the Policy PG6 of the CELPS as it does not fall within any exceptions listed within the policy. However, there is significant support within the NPPF and through Policy SE8 (Renewable & Low Carbon Energy), for sustainable energy developments. As a result, it is necessary to consider whether the proposal represents sustainable development and assess if any other material considerations indicate if the development is acceptable.

SUSTAINABILITY

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improve productivity; and by identifying and coordinating the provision of infrastructure;

A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

ENVIRONMENTAL OBJECTIVE

Renewable Energy Production

The development would potentially produce 5MW of electricity. There would also be battery storage provided to store electricity when demand is low. This would contribute to tackling the challenges of climate change, lessening dependence on fossil fuels and benefiting energy security. These benefits would accord with the Framework's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental objectives of sustainable development.

The Climate Change Act 2008 (2050) Target Amendment) Order 2019 seeks to reduce greenhouse gas emissions from 80% to 100% and the provision of this facility would contribute to this and the transition to a carbon neutral sustainable future.

Landscape, Trees and Hedgerows

As part of the submission a Landscape and Visual Appraisal has been submitted, this states that it has been undertaken in accordance with the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) 2013. This identifies the landscape baseline nationally – NCA61 – Shropshire, Cheshire and Staffordshire Plain and locally – LCT4: Cheshire East Plain, specifically LCA4: Wimboldsley as identified in the Cheshire East Landscape Character Assessment 2018.

The appraisal identifies that the topography of the wider area is generally level except for the area near to the River Weaver where the land falls to approximately 30m AOD, and that there is a pronounced slope within the site, rising from approximately 40m AOD to 50m AOD on the eastern boundary. The site itself forms part of two fields separated by a ditch. Part of the southern field forms the location of an organic waste recycling facility. The fields are bound by a number of hedgerows and trees.

The appraisal indicates that the landscape sensitivity of the wider landscape and the site is medium, that the effects on landscape features would be minor adverse and slight, as would the effects on the landscape character during construction. The operational effects are identified as a negligible effect on landscape features, reducing to neutral after 15 years; a negligible effect on topography, reducing to neutral after 15 years and that the landscape character of the surrounding area negligible adverse, reducing to negligible after 15 years, but for the site major adverse and remaining large after 15 years. The visual appraisal indicates that all the properties nearby would be screened and that there would be a negligible effect.

The Council's Principal Landscape Architect broadly agrees with the LVA, the application site is visually well contained and with only filtered views from nearby receptors. There are therefore no objections to the proposals on landscape or visual impact grounds.

Ecology

The submitted ecological appraisal covers a much more extensive area than the red line of the current application. Consequently, not all the recommendations of the submitted appraisal may be pertinent to this application.

Statutory Designated Sites

The application site falls within Natural England's SSSI impact risk zones. Natural England have been consulted on this application and requested additional information be submitted in respect of Sandbach Flashes SSSI. This information has now been submitted and Natural England no longer has an objection to the development.

Great Crested Newts

This protected species was recoded at one pond during the submitted survey. The proposed development would result in the loss/disturbance of terrestrial habitat of relatively limited value for this species. This would result in a relatively low adverse impact upon this species.

The submitted report recommends that the proposed development be entered into Natural England's District Licencing scheme for the species. This approach is supported and is sufficient to maintain the favourable conservation status of the species. This should be secured by condition.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. A license under the Habitats Regulations can only be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favourable conservation status of the species will be maintained.

The UK implemented the EC Directive in the Conservation (natural habitats etc) regulations which contain two layers of protection:

- A licensing system administered by Natural England which repeats the above tests
- A requirement on local planning authorities (“lpas”) to have regard to the directive’s requirements.

The Habitat Regulations 2010 require local authorities to have regard to three tests when considering applications that affect a European Protected Species. In broad terms the tests are that:

- The proposed development is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
- There is no satisfactory alternative
- There is no detriment to the maintenance of the species population at favourable conservation status in its natural range.

Current case law instructs that if it is considered clear or very likely that the requirements of the directive cannot be met because there is a satisfactory alternative, or because there are no conceivable “other imperative reasons of overriding public interest”, then planning permission should be refused. Conversely, if it seems that the requirements are likely to be met, then there would be no impediment to planning permission be granted. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

Test 1: Overriding Public Interest

The development would secure the provision of low carbon renewable energy, which is considered to be in the public interest.

Test 2: No satisfactory alternative

The applicant has undertaken a site selection assessment including the technical suitability, grid connection feasibility, planning issues and site availability. This has shown that this site is the only one suitable and available to them. As such there is no satisfactory alternative.

Test 3: “the action authorised will not be detrimental to the maintenance of the species

concerned at a favourable conservation status in their natural range”.

The proposed development will be entered into Natural England’s District Licencing scheme for the Great Crested Newts. This approach is supported and is sufficient to maintain the favourable conservation status of the species.

This approach ensures that the effects of the development can be appropriately assessed against the environmental circumstances which exist at the time the development is carried out and against up-to-date legislation and ensures that the effects of the development are controlled, mitigated and managed.

Overall, therefore it is considered that the development contributes to meeting an imperative public interest, there is no satisfactory alternative, and that the interest is sufficient to override the protection of, and any potential impact on bats and Badgers, setting aside the proposed mitigation. It is considered that Natural England would grant a licence in this instance.

Parkland/Scattered Trees

Parkland is a priority habitat and hence a material consideration. This habitat was recorded during the submitted ecological survey. For the most part this habitat is located outside of the redline of the application, with a narrow strip present within the western boundary of the application site. The main ecological interest in parkland habitats is related to the presence of mature trees. There are no trees within the area identified as Parkland within the application boundary. It is therefore considered that this habitat is not likely to be affected by the proposed development.

Breeding Birds/Wintering Birds

The submitted ecological assessment advises that the site has potential to be of significant value for priority ground nesting birds, many of which are a material consideration for planning. A number of these species, including yellow wagtail, were recorded outside the redline boundary of the application, during the submitted Phase One Habitat survey. A site supporting regular breeding of this priority species would qualify as a Local Wildlife Site and be considered to be of County value.

The submitted Preliminary Ecological Appraisal recommends a breeding and wintering bird survey be completed to determine the value of the site for birds. These surveys have not been undertaken. It is therefore not possible to fully assess the potential impacts of the proposed development upon birds.

A desk-based assessment has been undertaken that includes records from the area surrounding the application site. There is no indication that bird surveys have previously been recorded on the application site. The applicant has provided a copy of a 2017 breeding bird survey which covers much of the current application site. No priority ground nesting birds were recorded on site during this survey but were recorded in small numbers offsite.

Considering the information available and in the absence of detailed survey information and a reasonable worst case scenario assessment, the proposed development has the potential to result in an adverse impact on ground nesting birds, including priority species, which potentially would be significant at the County level. This impact would only occur if the land was used as an arable crop which is suitable for these bird species. The application site however supported

a silage crop in January 2022 which would be of limited value for ground nesting birds. Therefore, based on the current status of the site the proposed development would be unlikely to have a significant impact upon ground nesting priority bird species.

At the time of writing a single wintering bird survey has been undertaken. Based on the results of this initial site visit it is considered that the site is unlikely to be of significant value in respect of wintering birds. A second survey visit is programmed for February. Updated comments will be provided if a report of the results of this visit are received prior to the determination of the application.

Hedgerows

Native hedgerows are a priority habitat and hence a material consideration. It appears that the proposed access point between the two blocks of solar panels may result in the loss of a section of hedgerows of up to 15m.

If there is a loss of hedgerows and this is considered unavoidable, it is considered that enhancement of the existing hedgerows is sufficient to compensate for this loss. This should be controlled by condition.

Potential of Trees on Site to Support Bats/Barn Owls

Not all trees on site were assessed during the site visit undertaken to inform the submitted ecological appraisal. The submitted appraisal recommends that a further assessment of the trees on site for their potential to support roosting bats is undertaken. As barn owls have been recorded in this broad locality, it is considered that any trees removed must also be assessed for their potential to support this species.

The applicant has however indicated that all trees would be retained. It is therefore considered that further surveys of the trees are not necessary, and on that basis the proposed development would not be likely to result in an adverse impact upon roosting bats or Barn Owl.

Biodiversity Net Gain.

In accordance with Local Plan policy SE3(5) all development proposals must seek to lead to an overall enhancement for biodiversity. In order to assess the overall loss/gains of biodiversity the application is supported an assessment undertaken in accordance with the Defra Biodiversity 'Metric' version 3. The submitted metric shows that the proposed development, with appropriate landscaping, would deliver a net gain for biodiversity.

If planning consent is granted a condition is required to ensure the submission and implementation of appropriate habitat creation and long-term management to ensure the scheme delivers a biodiversity net gain.

Flood Risk

The site is located within flood zone 1 and the applicant has outlined appropriate measures within the Flood Risk Assessment which can effectively mitigate the flood risk on site.

The Council's Flood Risk Manager and the Environment Agency have assessed the proposals and have no objection. This is subject to compliance with the details contained within the Flood Risk Assessment.

Agricultural Land

Policy SE2 (Efficient use of Land) of the CELPS, at section 4, states that development should safeguard natural resources, including high quality agricultural land (grades 1, 2 & 3a)

The National Planning Policy Framework highlights that the use of such land should be considered when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

The Agricultural Land Classification Report submitted in support of the application states that the development would utilise Grade 3b and Grade 4 agricultural land. Therefore, the proposed development would result in the temporary loss of a limited amount of moderate and poor-quality agricultural land for the 40-year lifetime of the proposed development.

ECONOMIC OBJECTIVE

The Framework includes a strong presumption in favour of economic growth.

Specifically, in relation to the rural economy the Framework identifies that planning policies and decisions should enable the development and diversification of agricultural and other land based rural businesses.

The NPPF makes it clear that planning policies and decisions should help create the conditions in which businesses can invest, expand, and adapt.

SOCIAL ROLE

Highways

Safe and Suitable Access

The access off Middlewich Road that will be used is that which was recently upgraded through applications for the organic waste treatment facility and the access was improved with large radii of 20m so that it could accommodate large refuse and construction vehicles. The access was widened to over 7m to allow 2 large vehicles to pass each other and visibility splays in excess of 160m are available. Wheel wash facilities will be provided within the site to prevent mud and debris being deposited onto the highway.

Traffic Generation

The vehicles to be used will include small and medium size vans, self-tipping, off-loading, HGV and grab vehicles, articulated vehicles, and concrete mixers. The applicant has stated that construction hours would be 07:00 to 19:00 Monday – Friday and 08:00 to 13:00 on Saturdays with no works allowed on Sundays and public holidays, and that the development will take place over a 6-month period.

During the peak construction period the daily two-way vehicle movements will be approximately 70 for HGVs and 34 for LGVs. The A530 accommodates approximately 500

HGV movements per day and excess of 10,000 total vehicles movements per day, and the temporary increase will have a minimal highways impact.

The operational stage of the project will only require occasional maintenance visits and it is not likely to generate more than a half dozen movements in a month.

Conclusion

Given the significant improvements to the access that have already taken place, and the low traffic that the development will generate, the highways impact is acceptable and no objection is raised by the Head of Strategic Infrastructure.

Amenity

Given the isolated rural nature of the site there are no residential properties near the application site, the closest being Leighton Grange which the access passes, The Lodge which is situated at the access point from Middlewich Road and Brayne Hall Farm to the west of the wastewater treatment works. There may be some disruption caused during the construction phase of the development, but this would be limited.

Public Rights of Way

The site has no public rights of way within it or in close proximity to it and as such do not present a constraint to the proposed development.

Impact upon the setting of the Local Heritage Assets

The nearest designated heritage asset to the site is Brayne Hall Farm, a Grade II listed building. This is 500m away from the site and the Crewe wastewater treatment works sits between it and the development site. As such it is considered that there would be no harm to its setting.

The proposal therefore is in compliance with paragraphs 194 and 195 of the NPPF.

Archaeology

The proposed development sits in an area with some archaeological considerations.

These archaeological considerations include the footings and below ground remains relating to the WWII Heavy Anti-Aircraft Battery, first recorded in 1940 and present on the 1945 RAF aerial photographs of the proposed development area.

While the proposed solar panels are concentrated to the west of the site, and the remains of the buildings associated with the battery are concentrated to the east of the proposed site, the location of the battery storage and the substation are directly in line with the location of one of the heavy anti-aircraft guns.

Therefore, it is recommended that a programme of archaeological observation is undertaken during the groundworks for the battery storage and substation to identify and record any below ground remains relating to the anti-aircraft gun.

This programme of archaeological observation may take the form of a developer funded watching brief, during key stages of the development. These key stages include the initial removal of topsoil, excavations for foundations and excavations for services to the battery storage and substation. This work should be secured by condition.

Planning Balance

The NPPF requires that Local Planning Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources.

The proposed development would create a 5MW solar PV array and 25MW of battery storage on the land. This would contribute to tackling the challenges of climate change, lessening dependence on fossil fuels and benefitting energy security. These benefits would accord with the Framework's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental objectives of sustainable development.

In terms of sustainability, the benefits of the provision of a source of renewable energy, for which there is a recognised need, outweighs harm to the local environment having regard to the impact on open countryside and agricultural land.

The proposal would satisfy the economic and social sustainability objectives by providing energy from a renewable, low carbon source.

The proposal is considered acceptable in terms of landscape, amenity, ecology, flood risk and highway safety.

The scheme therefore represents a sustainable form of development and the planning balance weighs in favour supporting the development.

RECOMMENDATION

Approve subject to the following conditions:

- 1. Time limit**
- 2. Approved plans**
- 3. Submission and implementation of habitat creation method statement and 30-year management plan**
- 4. Entry into Natural England's District Licencing Scheme for Great Crested Newts**
- 5. Protection for breeding/nesting birds**
- 6. Tree retention**
- 7. Tree protection measures**
- 8. Compliance with the submitted Flood Risk Assessment**
- 9. Programme of archaeological observation during the groundworks for the battery storage and sub-station**
- 10. Within 40 years following the development being brought into use or within 12 months of cessation of electricity generation, whichever is sooner, all equipment**

and structures shall be dismantled and removed from the site and the land restored to agricultural use

Informatives:

NPPF

Advice on the hours of noise generative works

In order to give proper effect to the Board's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning, in consultation with the Chair (or in their absence the Vice Chair) of the Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution before issue of the decision notice.

