The Planning Inspectorate

Appeal Decision

Site visit made on 17 January 2023

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/H1705/W/21/3289603
Land at OS 464762 159811, Minchens Lane, Bramley, Hampshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Penso Power against the decision of Basingstoke & Deane Borough Council.
- The application Ref 21/00349/FUL, dated 28 January 2021, was refused by notice dated 8 October 2021.
- The development proposed is installation of battery storage facility with associated works.

Decision

1. The appeal is allowed and planning permission granted for the installation of battery storage facility with associated works in accordance with the details submitted with planning application Ref 21/00349/FUL dated 28 January 2021 and subject to the schedule of conditions set out below.

Background and Main Issue

2. The Council's reason for refusal focuses on the effect of the proposal on the character and appearance of the landscape of the area. However it also refers to the noise impact the proposal would have on the area's character. This is expanded upon in the Council's statement of case where it is argued that the proposal would result in disturbance to users of the adjacent right of way.

3. As a result, the main issue in this appeal is the effect of the proposal on the character and appearance of the area, including the effect noise generated by the proposal could have on the tranquillity of a public right of way.

Reasons

Character and appearance

4. The site lies in the open countryside close to the village of Bramley. Bramley itself is a dispersed village and has been subject to new development in recent years, including near the appeal site. The site itself is in agricultural use and is surrounded by other fields also in agricultural use. To its west lies Bramley Frith Wood. Within the wood is Bramley electricity substation which is currently undergoing significant works. Three boundaries to the site are made up of either hedgerows and/or trees. The fourth boundary is set off Minchens Lane towards Bramley village, is open and would be defined by the development itself.

5. Access to the site would be from a field access off Minchens Lane. However the site also lies close to the access road to the Bramley electricity substation, which is also the route of a public right of way.

6. The proposal appears to lie at the top of a slope that begins on Minchens Lane. At the top of the slope the site appears to level out (east to west) and continues to be relatively flat until it reaches its rear boundary on the edge of Bramley Frith Wood to the west. The layout of the proposed facility shows that the battery modules are located at the western side of the site, against the back drop of the wood, and are set back from the eastern boundary. The taller facilities i.e. the proposed substation and the grid transformers are located to the east of the site nearest the wood. As a result they would be seen against the back drop of Bramley Frith Wood which contains tall trees. Consequently the proposal would not be particularly visible in the landscape when viewed from Minchens Lane. Whilst the site is in relatively close proximity to the public footpath/electricity substation access road to the south, it is set off this boundary by some distance.

7. In terms of the impact on the landscape the most significant view would be from the electricity substation access/public right of way, as this passes close to the site. However these views would be relatively few and limited to those immediately to the south of the site around the existing field accesses and areas where vegetation is currently sparse. The site would not be visible where the electricity substation access/public right and way meets Minchens Lane and would not become visible until some distance along this route once it levels out and gaps in the hedgerow allow.

8. Once past the appeal site on the electricity substation access road/public right of way the view of the appeal proposal would be restricted by the woodland. The public right of way leaves the electricity substation access soon after it enters the woodland and continues northwards across the western boundary of the appeal site. Views from the public footpath would be limited due to the trees along the woodland edge.

9. The Council have highlighted views which are set out in illustration 6c of the Bramley Neighbourhood Plan 2011-2029 (March 2017)(BNP). These locations are identified by a number and a green arrow on this illustration. The specific locations the Council highlight are 7, 8 and 9 and are identified by a green arrow which shows the direction of the important rural view. With the exception of location 7 all of the important rural landscape views point away from the appeal site, thereby identifying the land between the location of the arrow and the village boundary as the important rural landscape that contributes to the setting of the village. Therefore it is unlikely that the appeal proposal would harm the views of the *'important rural landscape'* around the village when viewed from these locations.

10. Position 7 lies on Minchens Lane and points towards the appeal site along its proposed access. The land rises from this location towards the appeal site. As has been referred to earlier the land then levels out until it reaches Bramley Frith Wood. It is therefore unlikely that anything other than the site boundary fence, car parking or the tops of the battery modules/control containers would be visible from this location. As a result and given the distance between the view point and the appeal site, the topography and proposals to introduce

landscaping around the proposal it would not harm the rural character and appearance of this part of the countryside around Bramley.

11. The longer views of the appeal site would be severely restricted by the presence of hedgerows, blocks of woodland and the undulating topography around this side of Bramley.

12. Overall and for the reasons set out above the proposal would not significantly harm the character and appearance of the landscape around Bramley when viewed from the locations identified in the BNP as important rural landscape views. Furthermore, as set out above, there would be no significant harm to the landscape character of the area from longer views as these would either be blocked or broken up by the local topography, hedgerows or blocks of woodland.

13. In terms of close proximity views these could have a significant effect on the rural character and appearance of the area, particularly when viewed from parts of the public right of way to the south of the appeal site. However these views would be experienced from a relatively short length of the right of way, being limited to gaps in the existing vegetation and the existing field entrances. At these points the proposed perimeter fence and some of the plant would be visible and therefore would be capable of causing harm to the rural character and appearance of the area.

14. The appellant is proposing a landscaping scheme to assist in breaking up the appearance of the proposal in the countryside. This scheme would consist of planting outside the perimeter fence and reinforcements to the woodland edge at the site's boundary with Bramley Frith Wood and reinforcing the existing hedge along the boundary with the right of way to the south. The existing landscape structure of the area includes field boundaries made up of trees as well as high hedges and blocks of woodland. These generally divide the land into fields of a variety of sizes which is characteristic of the area. The linear nature of the majority of the proposed planting, including hedgerow species and trees, together with the reinforcement of the woodland edge and existing hedgerow would be broadly reflective of the existing landscape structure of the area. I therefore find that the proposed landscaping scheme would both mitigate the impact of the proposal on the character and appearance of the area and be sympathetic to the area as a whole.

15. The development plan for the area is comprised of the Basingstoke and Deane Local Plan 2011 to 2029 (adopted in May 2016)(BDLP)and the BNP. Policy EM1 of the BDLP deals with landscape. It supports development where it can be demonstrated through appropriate assessment that the proposals are sympathetic to the character and visual quality of the area. This approach is reflected in Policy D1 of the BNP which also seeks to protect the character and appearance of the countryside around Bramley.

16. Through the assessment of the proposal (including a Landscape and Visual Impact Assessment submitted by the appellant), it is clear to me that the proposal, with appropriate landscaping, would cause minimal harm to the character and visual quality of the area. This is evidenced by the proposal not harming long views across the landscape and not adversely impacting on the important rural landscape views set out in the BNP. Whilst there would be some harm to the character and appearance of the area from close views from the public right of way to the south, these are capable of mitigation with

appropriate landscaping. I therefore conclude for the reasons given above that with regard to the impact of the proposal on the character and appearance of the area it conflicts with the Policies of the development as it would cause harm to the character and visual quality of the area, albeit that harm would be minimal.

Noise

17. Reference has also been made to the affect the proposal might have on the tranquillity of the area due to the noise it might generate during its operation. Reports have been submitted which deal with noise. It is clear to me that the main source of noise transmission from the site will be the operation of the cooling fans.

18. Whilst the noise from these fans would be experienced on the public right of way this will have fallen significantly from levels experienced adjacent to the facilities. Moreover the noise from the fans would be intermittent with the cooling fans only operating when required. Consequently it is unlikely that the fans will have a constant effect on users of the public right of way. Furthermore, whilst there will still be a noise impact on parts of the public right of way when the fans are operating, this is likely to be on a small part of the right of way which is closest to the fans, with the noise levels dropping significantly as the users of the public footpath move away from the development.

19. Additionally Policy EM1 of the BDLP links tranquillity with remoteness and the quite enjoyment of the landscape. Part of the public footpath referred to in the appeal documents is also the primary access to the Bramley electricity substation and appears to be well used by vehicles. As such it has the appearance of a tarmacked country lane with passing places. Opposite its junction with Minchens Lane is a recently constructed housing development. Therefore the tranquillity of the right of way passing the appeal site is already compromised by its use by vehicles to access the electricity substation, its proximity to existing development and its use by walkers.

20. Moreover it does not have the character of a 'remote' location, being close to new housing development, through its regular use by vehicles and its character as a country lane rather than a path. These elements currently impact upon the user's appreciation of the quite enjoyment of the landscape in this location. I find that the addition of the appeal proposal in this location would not significantly diminish the experience users of the right of way.

21. Therefore and in terms of Policy EM1 of the BDLP, for the reasons given above, I do not consider that the proposal would have an effect on the sense of tranquillity or remoteness and quiet enjoyment of the landscape experienced by users of the public right of way. In this respect therefore the proposal does not conflict with this policy of the development plan.

Other Matters

22. Reference has been made to a proposal for a new solar farm adjacent to the appeal proposal. I have read the evidence submitted with this appeal in relation to this proposal and am satisfied that there is no direct connection between the appeal proposal before me and the solar farm proposal. I have therefore determined this appeal on the basis of the evidence in relation to the proposal

before me, supplied by the parties and in accordance with the main issue identified above.

23. I note representations have been received making reference to the loss of agricultural land that the proposal would cause. I recognise that the proposal would result in the loss of an area of agricultural land. However the land itself is relatively small and large areas of agricultural land would remain in the area. Therefore the loss of this agricultural land would not in itself be significant and consequently the proposal would not be in conflict with the National Planning Policy Framework (the Framework) in this respect.

24. Furthermore reference has also been made to the potential archaeological value of the land. Whilst I can see from the evidence that there might be deposits of archaeological significance below ground in the area I am satisfied that this matter is capable of being dealt with by an appropriately worded condition.

25. In terms of the nature conservation value of the land, it is currently farmed and has no inherent value for nature conservation apart from contributing to the general open space in the area to which wildlife has access. The site itself is relatively small and space will be provided around the compound for planting. I therefore consider that the proposal will not harm the conservation of nature in the area.

26. I recognise that within and around Bramley village there are heritage assets in the form of conservation areas and listed buildings. However all these assets are some distance from the appeal site. Consequently I find that the appeal proposal would have no effect on the significance of these assets and would therefore preserve the character and appearance of the heritage assets in the area.

27. I understand that there will be some effect on the local road network during the construction phase of the proposal, this is inevitable with any construction project. However I am satisfied that the harmful effects of the construction of the proposal can be adequately mitigated by the adoption of an appropriate Construction Method Statement. Should I be minded to allow the appeal an appropriate condition should be attached to any planning permission granted.

Planning Balance

28. Battery storage facilities are a key component in the energy facilities of the country, being able to store excess electricity generated by renewable energy facilities when demand is low and release that energy to the grid at periods of high demand or when electricity generated by renewable sources is low. It is also clear that the country needs more electricity storage facilities in order to balance demand without resorting to fossil fuel generation. I give substantial weight to this need.

29. Much of the demand for electricity is generated by the south of England due to the population density. However much of the renewable energy currently supplied is generated in the north of the country. Therefore there is a need for adequate storage facilities close to where the need for the electricity is generated. I give substantial weight to the need for additional storage facilities in the south of England.

30. Locational factors that influence the siting of battery storage facilities include, provision of access to unrestricted network capacity, proximity to a financially viable access to the national grid and point of connection, availability of suitable land and the proximity of a point of access to the highway network. It is clear from the information supplied with the appeal that the appeal site has all these features and therefore in these respects make it a suitable location for a battery storage facility. I give substantial weight to these locational factors.

31. I have however found that the proposal would harm the character and appearance of the area when it is experienced from close to the site from the public right of way and access road to the Bramley Frith electricity substation. This would mean that the proposal would be in conflict with the development plan. Bearing in mind that the harm I have identified in this respect is minimal, relates only to the views of the site from the access road to the electricity substation/public right of way and this harm is capable of being mitigated by appropriate landscape I give this harm limited weight.

32. Paragraph 38(6) of the Town and Country Planning Act 1990 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. Although I have found that the appeal proposal conflicts with the development plan, I have also considered the benefits of the proposal in terms of the country's energy supply and the particular locational factors applying to this proposal. In this case therefore I find that the factors in favour of the appeal proposal outweigh the harm caused by its conflict with the development plan.

Conditions

33. In addition to the standard conditions that are required to comply with legislation and to provide clarity for the developer related to the time limits for development and referencing the approved plans, I consider that a number of other conditions are necessary in order to make the development acceptable in planning terms.

34. In view of the rural location of the site a condition is necessary to ensure that the type, finish and colour of the materials to be used in the construction of the proposal are acceptable.

35. In order to take account of the need to ensure that the biodiversity in and around the site is maintained and improved, a biodiversity management plan is required to be submitted to and approved by the Council and that the proposal is implemented in accordance with the approved plan.

36. In order to ensure that the proposed development takes account of the needs of local wildlife a Wildlife Mitigation and Protection Plan is required to be submitted to and approved by the Council and that the proposed development is carried out in accordance with the approved plan.

37. A condition is necessary to ensure that the proposal is provided with adequate surface water drainage in order to mitigate any flood risk the development might pose.

38. In view of the likelihood of below ground archaeology being present on the site a condition requiring archaeological mitigation is necessary.

39. A condition is necessary to ensure that the recommendations of the Bramley Battery Storage Noise Assessment are implemented in order to ensure that the noise generated by the proposal is adequately mitigated in order to protect the character of the area and the living conditions of the occupants of nearby dwellings.

40. A condition requiring a road condition survey is necessary to ensure that the standard of the road outside the proposed development site is retained once the development is completed in the interest of highway safety.

41. A condition requiring that the construction travel plan be implemented in order to ensure that as many people involved in the construction of the appeal proposal travel to the site by sustainable means as possible to ensure minimum disruption to the local road network.

42. A condition is required to ensure that the proposal is carried out in accordance with the Arboricultural Impact Assessment, tree protection plan and details from Barton Hyett Associates in order to protect existing trees.

43. A condition is necessary to ensure that the details contained in the submitted landscape plan are implemented in order to mitigate the effect of the proposal on the character and appearance of the area.

44. A condition is necessary to ensure that details of the hard landscaping to be provided within the appeal site in order to ensure that the character and appearance of the area is protected.

45. A condition is necessary to control the external lighting to be provided within the site in order to protect the character and appearance of the area.

46. Conditions are necessary in order to control the hours of working on the site and the timing of deliveries to the site in order to protect the living conditions of nearby residents.

47. A condition is necessary in order to ensure that an adequate vehicular access to the site is provided prior to the commencement of construction in order to protect highway safety on surrounding roads.

48. A condition requiring the submission, approval and implementation of a construction method statement is necessary in order to safeguard highways safety in the area.

Conclusion

49. Section 38(6) of the Town and Country Planning Act 1990 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that whilst the proposal does not conform with the development plan, other material considerations outweigh the harm it causes to the development plan policies. Therefore the appeal is allowed.

Peter Mark Sturgess

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:

- Location Plan (drawing No. 09-7622 Rev H)
- Site Plan (drawing No. 10-7622 Rev G)
- Proposed Compound Elevations (drawing No. 12-7622 rev B)
- Proposed Client Switchgear Room Plans (drawing No.14-7622 Rev A)
- Proposed 132kV Switch room (drawing No.15-7622 Rev A)
- Proposed Client Control Room (drawing No.17-7622 Rev A)
- Proposed DNO Control Room (drawing No. 18-7622 Rev A)
- Proposed Grid Transformer (drawing No. 19-7622 Rev A)
- Proposed Aux Transformer (drawing No. 20-7622 Rev A)
- Proposed Battery Modules (drawing No. 21-7622 Rev A)
- Proposed 20ft Inverter and Transfer Container (drawing No.22-7622 Rev A
- Proposed 10ft Control Container (drawing No. 23-7662 Rev A)
- Proposed Lighting Post (drawing No. 24-7622 Rev A)

3) No development above ground level, shall commence on site until details of the types and colours of external materials to be used, together with samples, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the approved details.

4) No development shall take place on site, to include clearance and material storage until a Biodiversity Management Plan (BMP) has been submitted to and approved in writing by the Local Planning Authority. The BMP must include the following elements:

- details of the habitats/conservation features to be retained/created/enhanced;
- the methodology to be used to create the habitat/features;
- details of the long term management proposed for the establishment and maintenance of the habitat/nature conservation feature;
- future ecological monitoring of the habitat.

The BMP shall be derived from the provided biodiversity metric and be representative of those depicted on the provided plan showing the measures described in the biodiversity metric.

Development shall be carried out in accordance with the approved details.

5) No development shall take place on the site, to include site clearance and material storage until a Wildlife Mitigation and Protection Plan has been submitted to and approved in writing by the Local Planning Authority. This plan shall cover the recommendations and procedures covered within Chapter 4 Discussion of the Ecological Assessment Report by Avian Ecology dated 26/1/2021.

6) The drainage system shall be constructed in accordance with the Flood Risk Assessment ref CTP-20-746 dated January 2021 Rev 02. Surface water discharge to the watercourse shall be limited to 2.7l/s. Any changes to the approved documentation must first be submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. Any revised details submitted for approval must include a technical summary highlighting any changes, updated detailed drainage drawings and detailed drainage calculations.

7) No development shall commence on site unless or until a programme of archaeological mitigation has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological mitigation shall be carried out in accordance with the approved details.

8) All recommendations outlined in the Bramley Battery Storage Noise Assessment dated 21st January 2021 shall be implemented prior to the battery storage facility coming into use and shall be thereafter maintained.

9) The development shall not commence unless or until a road condition survey of Minchens Lane from the site access up to and including its junction with The Street has been submitted and approved in writing by the Local Planning Authority. The scope of the survey shall be agreed first agreed with the Local Planning Authority. The condition of the road shall be monitored against the findings of the condition survey and reported to the Local Planning Authority every 6 months throughout the construction period of the development and any defects or damage attributable to the construction activity to be rectified by the developer at their expense within 3 months of the defect being identified.

10) The proposed development shall be implemented, monitored and maintained in accordance with the approved Construction Travel Plan ref: P20-1830 Rev A prepared by the Pegasus Group dated August 2021.

11) The development hereby approved shall be carried out in accordance with the submitted Arboricultural Impact Assessment, tree protection plan and details from Barton Hyett Associates (dated January 2021). Protective measures shall be erected prior to the commencement of development and maintained until completion of the development. No development or other operations shall take place other than in complete accordance with the tree protection plan.

12) The development hereby approved shall be carried out in accordance with the submitted landscape plan ref: P20-1830_05RevB. The works approved shall be carried out in the first planting and seeding season following the commencement of the development hereby permitted. Any trees or plants which, within a 5 year period from the date of planting die area removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

13) Prior to installation full details of the hard landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. These details shall include means of enclosure, car parking layout, vehicle circulation areas and full details of the materials to be used in these areas. The details shall include an implementation timetable. All hard landscaping works shall be carried out in accordance with the approved details in accordance with the agreed timetable.

14) No external lighting shall be installed in the site until full details of all the proposed lighting (including levels of illumination) have been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall comply with the Institute of Lighting Professionals Guidance Note for the reduction of obtrusive light 2011 (or any such later revision), having regard to the lighting guidelines produced by the Bat Conservation Trust and comprise the minimum level of lighting needed for security and operational purposes and be designed to minimise light pollution and glare and spillage outside the site's boundaries. The development shall be carried out and thereafter maintained in accordance with the approved details.

15) No work relating to the construction of the development hereby approved, including works of demolition or preparations prior to operations shall take place before the hours of 0730 nor after 1800 Monday to Friday, before the hours of 0800 nor after 1300 on Saturdays nor on Sundays or recognised public holidays.

16) No deliveries of construction material or plant and machinery and no removal of any spoil from the site shall take place before the hours of 0730 nor after 1800 Monday to Friday, before the hours of 0800 nor after 1300 on Saturdays nor at anytime on Sundays or recognised public holidays.

17) The development hereby permitted shall not commence unless or until the means of vehicular access to the site had been constructed in accordance with the approved plan (Drg No. P20-1839 Figure 1) and no structure, erection or planting exceed 1.0m in height shall thereafter be placed within the visibility splays shown on the approved plans.

18) No development shall take place (including any works of demolition) until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall include scaled drawings illustrating the provision for:-

    1) The parking of site operatives and visitors vehicles.
    2) Loading and unloading of plant and materials.
    3) Management of construction traffic and access routes.
    4) Storage of plant and materials used in the construction of the development.
    5) Wheel washing facilities.
    6) The use of a banksman as appropriate
    7) Details of temporary traffic management at the junction of the Street and Minchens Lane.

Development shall be carried out in accordance with the approved details.