
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 08/02/16

**gan Clive Nield BSc(Hon), CEng,
MICE, MCIWEM, C.WEM**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad : 29 Chwefror 2016

Appeal Decision

Site visit made on 08/02/16

**by Clive Nield BSc(Hon), CEng, MICE,
MCIWEM, C.WEM**

an Inspector appointed by the Welsh Ministers

Date : 29 February 2016

Appeal Ref: APP/G6935/A/15/3138411

Site address: Land at Cefn Llogell Farm, Coedkernew, Newport, NP10 8UD

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Mrs Sarah-Jane Fedarb against the decision of Newport City Council.
- The application Ref 15/0393, dated 2 April 2015, was refused by notice dated 4 November 2015.
- The development proposed is the construction of a ground-mounted solar PV generation project (3.8 MW) and associated works.

Decision

1. The appeal is dismissed.

Background and Procedural Matters

2. The application was made in the names of Mrs Bridget Ayres and Mrs Sarah-Jane Fedarb. The appeal is made solely by Mrs Sarah-Jane Fedarb.
3. The appeal site comprises 3 fields of some 7 hectares situated just to the north of the small settlement of Coedkernew (which is predominantly warehouses and office buildings) and about 5 km from the centre of Newport. The fields slope in a southerly direction and are currently in agricultural use. A review of the land quality indicates that 86% of it falls within Grade 3a of DEFRA's Agricultural Land Classification System and within the definition of best and most versatile agricultural land (BMV). Two public rights of way run along the edges of the site: one along the northern boundary in an east / west direction: and one along the south-eastern boundary.

Main Issues

4. The main issues in this case are the effects of the proposed development on the best and most versatile agricultural land and on the visual amenities of users of the adjacent public rights of way, and the benefits of the scheme in terms of the generation of renewable energy.
-

Reasons

Best and Most Versatile Agricultural Land

5. Policies CE10, SP5 and GP5 of the Newport Local Development Plan are relevant to consideration of this issue. Policy CE10, Renewable Energy, supports renewable energy schemes "*subject to there being no over-riding environmental and amenity considerations*". Policy SP5 covers development in the countryside and includes safeguards in respect of landscape character and appropriate scale and design. It also says that rural diversification schemes should comply with national planning policy. Policy GP5 aims to safeguard the natural environment, including "*the loss or reduction in quality of high quality agricultural land (Grades 1, 2 and 3a)*".
6. At a national level, Planning Policy Wales says that the best and most versatile agricultural land should be conserved as a finite resource for the future (BMV land being defined as land of grades 1, 2 and 3a of DEFRA's Agricultural Land Classification System). It goes on to say that BMV land should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable.
7. The proposed development would be for a finite period of 25 years and would be reversible, as the solar panels would be supported by structures driven into the ground rather than with concrete foundations and these would be removable when use of the panels ceased. Over that time the quality of the agricultural land would not be materially changed and, once the solar farm structures were removed, it would meet the principle to "*be conserved as a finite resource for the future*". Planning Guidance also provides advice on agricultural land and says that the reversibility of the development is a factor to be taken into account, though the advice in Technical Advice Note (TAN) 6, Planning for Sustainable Rural Communities, is also relevant. It says that "*once agricultural land is developed, even for 'soft' uses such as golf courses, its return to agricultural as best and most versatile agricultural land is seldom practicable*".
8. Thus, although solar farm development would not be as damaging to the land as many other types of development and has the potential to conserve its quality as BMV land for the future, there is still a need to avoid the use of BMV land if possible. Thus a rigorous and comprehensive assessment of possible alternative sites is needed. In this case the Appellant has undertaken assessments of possible alternative sites on either brownfield land or land of lower agricultural quality but the Council is of the view that these do not provide sufficient demonstration that viable alternative sites are not available.
9. Two studies were carried out, one into brownfield sites and one into sites on agricultural land of lower quality. 7 sites were identified and assessed for the former and 10 for the latter, and the Appellant's conclusions were that none of the sites provided viable alternatives to the appeal site for a variety of reasons. The studies were limited to land within the administrative boundary of Newport, and the Appellant reports that both this and the sites subject to detailed assessment were agreed with officers of the Council.

10. Whilst liaison with Council officers is to be applauded, it does not replace the need to demonstrate that the sequential assessment has been carried out with appropriate rigour. Apart from a list of the criteria sought in a solar farm site, no information has been provided to show why the 17 sites above were selected for more detailed appraisal and others were not or why the search was limited to the administrative area of Newport City Council. The Sequential Site Analysis reports are quite unconvincing. Mention has been made of several previous appeal decisions in respect of applications for solar farms in other parts of Wales and England, and these seem to be fairly consistent in expecting a degree of rigour in sequential assessments needed to justify the development of BMV agricultural land.
11. My conclusion on this matter is that the sequential assessments carried out by the Appellant lack rigour and do not provide compelling evidence that alternative brownfield or lower grade agricultural land is not available and viable. The evidence does not justify the use of the BMV land on the appeal site, and in this respect the proposal is contrary to development plan and national policy.

Amenity of Public Right of Way

12. Turning to the second issue, the Appellant has carried out a landscape and visual impact assessment (LVIA), the majority of which is not in dispute with the Council. However, the Council's second reason for refusal takes issue with the impact on the adjacent public right of way (PROW) that runs along almost 700 metres of the northern boundary of the site. LDP Policy GP2 says development should not have a significant adverse effect on local amenity including (amongst other things) overbearing and general visual amenity.
13. At present users of the PROW enjoy an open aspect, particularly in expansive views towards the Severn Estuary, albeit over the roofs of an industrial area at a lower level and with other distant industrial features within the views. The appeal proposal would affect the PROW in several ways. Firstly, the existing hedgerow would be enhanced with additional planting and would be maintained at a minimum height of 3.5 metres in order to screen views of the proposed solar farm from the north. Secondly, a 2 metres high deer mesh security fence (with cameras) would be erected between the PROW and the solar panels, along with a hedge to screen views of the solar panels. Thirdly, the arrays of solar panels would extend to a height of 2.5 metres above ground level in views southwards from the PROW.
14. The Appellant's LVIA assesses the visual impact on the PROW as "moderate adverse" once the additional planting has become effective. However, in my view it would be more significant than this. The panels, hedge and fence would substantially obscure views towards the estuary and be detrimental to the open character of the PROW, which would become a narrow enclosed route. It would substantially change the experience of users of the PROW and be detrimental to local amenity, contrary to the aims of LDP Policy GP2.
15. Since the Council's refusal the Appellant has submitted a revised landscaping scheme, which includes a series of small linear copses between the PROW and the site, intended to ensure there would be no significant detrimental impact on the visual amenities of users of the PROW. Whilst that scheme would break up the linear nature of the boundary treatment, it would do little to reduce the enclosed nature of the PROW or to address the harm to its open character.

16. The Appellant has also drawn to my attention that the close proximity of PROWs has not prevented the approval of other solar farms elsewhere. However, as I have explained above, it is not the mere proximity of the PROW that is the critical factor but the particular effect of the proposed scheme on it. Each situation has to be judged on its own particular circumstances.

Renewable Energy Benefits

17. The third issue is the benefits of the scheme, though these are not in dispute to any significant degree. The scheme would provide a significant amount of renewable energy. The development of renewable energy schemes is supported by both development plan and national policies. Planning Policy Wales says the Welsh Government is committed to using the planning system to optimise renewable energy generation, and both Technical Advice Note (TAN) 8, Renewable Energy, and LDP Policy CE10 support the principle of renewable energy development. This benefit is a material consideration of considerable weight.

Overall Conclusion

18. The main parties have made particular reference to several previous appeal decisions elsewhere, and I have taken these into account so far as they are relevant to the current appeal. Several other matters have also been raised by third parties but these do not materially affect my main conclusions.

19. My conclusions above are that inadequate evidence has been provided to justify the development of the best and most versatile agricultural land and that the proposed development would adversely affect the character of the PROW along its northern boundary and the amenity of users of the PROW. It would also bring considerable benefits in terms of renewable energy. However, I consider the harm caused would substantially outweigh the benefits and, on balance, the proposed development would be contrary to national and development plan policy.

20. For the reasons given above I conclude that the appeal should be dismissed.

Clive Nield

Inspector