

Appeal Decision

Site Visit made on 15 March 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2021

Appeal Ref: APP/V3310/W/20/3263845

Land off Prowse's Lane, Axbridge, Sedgemoor BS26 2HP

- 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 Balance Power against the decision of Sedgemoor District Council.
 - The application Ref 21/20/00003, dated 30 January 2020, was refused by notice dated 8 June 2020.
 - The development proposed is a gas-powered energy generation facility and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for a gas-powered energy generation facility and associated infrastructure at Land off Prowse's Lane, Axbridge, Sedgemoor BS26 2HP in accordance with the terms of the application, Ref 21/20/00003, dated 30 January 2020, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. In the heading, I have used the address of the site as it is set out on the planning application form. However, in other documentation, including the submitted drawings, the site is referred to as Prowse's Lane, so I have used that spelling in the rest of my decision letter.

Main Issues

3. The main issues are:
 - a) Whether the development would be consistent with development plan policies that seek to limit carbon emissions, and with the Council's declaration of a Climate Emergency; and,
 - b) The effect of the development on the landscape quality of the setting of the Mendip Hills Area of Outstanding Natural Beauty.

Reasons

Carbon emissions and climate change

4. The proposed development is a gas-powered standby electricity generation facility comprising three 2.3MW generators connected to the mains gas grid. The generators would be controlled remotely by the National Grid, and, at peak demand periods, the facility could be called upon to burn natural gas from the mains grid to generate electricity, which would be exported to the nearby electricity substation. The facility would form part of the National Grid's Short-

Term Operating Reserve (STOR) programme, which ensures sufficient back-up power is available when needed. The facility would, therefore, burn fossil fuel to produce power, resulting in carbon emissions.

5. Strategic Priority 1 of the Sedgemoor Local Plan 2011-2032 (Adopted 2019) (the Local Plan) is to address the challenges of climate change and vulnerability to flood risk. It is recognised that this will involve minimising greenhouse gas emissions and encouraging renewable energy generation. Policy S5 of the Local Plan requires development to contribute to mitigating and adapting to climate change and meeting targets for reduced carbon emissions. Policy D4 of the Local Plan supports projects that maximise the generation of energy and heat from renewable or low carbon sources. Furthermore, the Council has passed a resolution declaring a Climate Emergency, and has agreed to collaborate with other local authorities to deliver a Carbon Neutral Somerset by 2030.
6. Viewing the proposal in isolation, it would be easy to conclude that it conflicts with this declaration, and with the strategic priority and policies of the Local Plan. However, the development should be considered in the wider context of the government's objective of mitigating and adapting to climate change, including moving to a low carbon economy, as expressed in paragraph 8c) of the National Planning Policy Framework (the Framework). Paragraph 148 of the Framework says that the planning system should support renewable and low carbon energy and associated infrastructure.
7. The Overarching National Policy Statement for Energy (EN-1) sets out the Government's policy for delivery of major energy infrastructure, and how it will meet key goals on carbon emission reductions. It says, at paragraph 3.3.11, that an increase in renewable electricity is essential, but that some renewable sources are intermittent. As a result, it recognises that, even when the UK's electricity supply is almost entirely decarbonised, fossil fuel power stations may still be necessary for short periods when renewable output is too low to meet demand. As a consequence, paragraph 3.3.12 says that an increased reliance on renewables will result in a need for more total electricity capacity, with a larger proportion being built only, or mainly, to perform back-up functions.
8. EN-1 was published in 2011, and the Council contends that there are now emerging technologies, which can fulfil temporary supply shortages without reliance on fossil fuels. However, no robust evidence has been submitted in support of this view. The appellant's evidence indicates that, whilst battery storage has a role in improving the quality of electricity, stand-by generation is still required during "stress events", where there is a risk of electricity blackouts. In any event, the Energy White Paper published in December 2020 continues to recognise that an electricity supply based predominantly on intermittent wind and solar generation, must be supported by alternative sources of power to ensure its reliability. Short-term dispatchable generation providing peaking capacity, which can be flexed as required, is specified as one such alternative.
9. The development would, therefore, contribute to the reliability of the electricity supply at times of peak demand, thus supporting a national move away from fossil fuel generation to a supply based increasingly on renewable energy. So, although it would itself use natural gas, it would constitute associated infrastructure that would support a nationwide shift towards renewable and low

carbon energy. Consequently, the proposal would accord with the Framework's aims of supporting the transition to a low carbon future in a changing climate.

10. Considered in isolation, the development would result in an increase in carbon emissions. However, it would be a constituent element that would support a national transition to renewable and low carbon energy generation, thereby making an important contribution to an overall reduction in greenhouse gas emissions. By supporting renewable energy generation, and reducing carbon emissions on a national scale, it would help to address the challenges of climate change. The proposal would, therefore, accord with the aims of Strategic Priority 1 and Policies S5 and D4 of the Local Plan, and would not conflict with the Council's declaration of a Climate Emergency.

Setting of the Mendip Hills Area of Outstanding Natural Beauty (the AONB)

11. The appeal site is part of an agricultural field adjacent to a complex of large-scale agricultural buildings to the west of, and slightly detached from, the town of Axminster. The generators would be housed in a building that is designed to have an agricultural appearance akin to the adjacent buildings, although it would have a much smaller footprint than the four buildings with which it would be most closely associated. The existing agricultural complex is surrounded by the flat, open landscape of the Somerset Levels and Moors. However, the boundary of the AONB lies approximately 350 metres to the north, and the land rises steeply to provide a dramatic landscape backdrop to the town.
12. Although not within the AONB, the site is visible in views into and out of it. The government's Planning Practice Guidance (the PPG) makes it clear that the legislative duty to have regard to the purposes for which AONBs are designated, in exercising or performing any functions in relation to them, is relevant in considering development proposals that are situated outside their boundaries, but which might have an impact on their setting. Furthermore, the PPG recognises that land within the setting of AONBs often makes an important contribution to maintaining their natural beauty, especially where long views from, or to, the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complementary.
13. Paragraph 1.4 of the AONB Management Plan 2019-2024 sets out a Statement of Significance on the special qualities of the AONB, which includes views of, and from, the Mendip Hills across the Somerset Levels and Moors. Policy D19 of the Local Plan requires that, where the landscape may be adversely affected by development, a Landscape and Visual Impact Assessment (LVIA) should be submitted, to enable an understanding of the likely effects of the proposal.
14. The submitted LVIA identifies that the development would be visible from various public viewpoints within the AONB, but would be seen within wide expansive views, and would be of a similar scale, character, and design to the adjacent farm buildings. It concludes that, over time, the proposed mitigation planting would result in the development being integrated within its surroundings, and indistinguishable from the farm complex. As a result, the effect of the development on the landscape, when viewed from the AONB, is assessed as being slight adverse in the short term, potentially reducing in future years. In terms of the wider landscape, the LVIA concludes that, with the mitigation planting, the visual impacts of the proposed development, from the majority of potential receptors, would be reduced to slight adverse and

neutral. The only exception being close views from Prowse's Lane, where the visual impact would be moderate to slight adverse.

15. The expertise of the author of the LVIA, and the accuracy of the photographs within it, have been questioned in representations. However, I have no evidence to cast any doubt on the professional qualifications and experience of the consultant. Furthermore, the LVIA identifies that all photography carried out as part of the assessment is in accordance with Landscape Institute Technical Guidance Note 06/19 September 2019. The Committee Report states that the Council's Landscape Officer did not object to the development, and the Council has not produced any expert evidence to challenge the findings of the LVIA. I therefore give its conclusions considerable weight in my decision. Nevertheless, my decision is also based on my own observations of the site from various viewpoints, including the carpark and picnic area within the AONB, adjacent to the A371.
16. From all viewpoints, the site is seen in close association with the four very large agricultural buildings. These buildings are entirely enclosed with profile steel sheet walls and roofs, and have ventilation shafts along the ridges, as well as stainless steel flues and solar arrays. Each has associated galvanised grain silos that project above ridge height, and there is extensive hard surfacing in front of the buildings. As a result, the complex has a somewhat industrial character. The proposed building, although a little higher, would be similar in character and appearance. The flues projecting through the roof would be visible, but they would not be incongruous alongside the paraphernalia that protrudes above the roofs of the adjacent buildings. The building and its associated access road and ancillary structures would, therefore, reflect the existing characteristics of the adjacent site.
17. The open structure of the building may result in the generators being discernible under the roof. However, existing hedgerows, and the proposed landscaping to the north and west, would result in such views only being readily obtained from relatively close viewpoints in Prowse's Lane. From these near viewpoints, the landscape is already dominated by the farm complex, so there would be no harm to the setting of the AONB.
18. From southerly views along the Old River Axe, the development would be seen against the backdrop of the hills in the AONB. From the southern end of Prowse's Lane, the existing agricultural complex is seen at a lower level than the buildings on the opposite side of Cross Lane, which are just inside the AONB. The development would not, therefore, interrupt views of the open countryside of the AONB from this viewpoint. The development would be a relatively minor addition to the existing group of buildings, so would not diminish the visual dominance of the AONB landscape beyond.
19. Further to the northwest, from a point close to the junction of Cross More Drove with the A38, the proposed building would be seen in front of the existing agricultural buildings, with the town beyond. From this viewpoint, higher development, beyond the site, and closer to the AONB, is evident. The building and its flues would not rise above this development, so would not intrude into views of the AONB countryside. The development would not, therefore have a harmful impact on views of the Mendip Hills across the Somerset Levels and Moors.

20. From the picnic area within the AONB, the site is seen at a much lower level. Viewed from this elevation, the generating equipment would be concealed by the roof of the building. Although visible, the flues would not set the building apart from the others in the complex, which have vents and flues protruding through the roofs. The development would, therefore, appear as part of a tight cluster of associated buildings surrounded by the expansive agricultural landscape of the Somerset Levels and Moors. The structure would be a minor extension to the totality of the existing roofscape of the complex, and would not, therefore, materially alter the balance between buildings and open land in this panoramic landscape. The development would not, therefore, have a harmful impact on the setting of the AONB from this viewpoint.
21. Other views from public vantage points within the AONB are at a greater distance, so the impact of the building on the landscape would be less evident. The proposed planting would, in time, further assimilate the building into the landscape. Whilst one of the characteristics of the Somerset Levels and Moors landscape is its flat landform with few trees, there are sporadic groups of trees in the surrounding landscape. Furthermore, Natural England's National Character Area profile for the Somerset Levels and Moors identifies that shelterbelts are present around farmsteads and decoy ponds. Consequently, the proposed planting, so closely associated with a cluster of large buildings, would not be harmful to the landscape character of the area.
22. It is contended that the use of the generators would result in vapour plumes, that would be harmful to the setting of the AONB. However, the facility would only be used during "stress events", and would be dormant at other times. The development of plumes would be dependent on atmospheric conditions, and would be transitory, so any impact on the setting of the AONB would be intermittent and for periods of limited duration. There would, therefore, be no permanent or lasting harm.
23. For the above reasons, I conclude that the development would not harm the landscape quality of the setting of the AONB. Consequently the proposal would accord with Policies D2 and D19 of the Local Plan, which seek to ensure that development is designed to reflect the particular characteristics of the site and the identity of the surrounding area, and to avoid harm to character and visual amenity of the setting of the AONB.

Other Matters

24. The Council contends that it has not been demonstrated that the appeal site is the only location where the development could take place, and suggests that other sites outside the 50-kilometre search area may be able to fulfil the same function. However, the Council has not identified any such sites. In any event, I have found that the proposal would comply with development plan policies, so it is not necessary for me to consider the availability of other sites.
25. I have had regard to the issues raised in the considerable number of representations that were received at the application stage, and during the appeal. Concerns have been raised regarding the potential increase in traffic using Prowse's Lane and its junction with the A371. However, once operational, the facility will be remotely monitored, so it would not generate any regular traffic movements. I note that the Highway Authority had no objection to the proposal. Any concerns about the impact of traffic during the construction phase could be resolved through an appropriate Construction Management Plan

(CMP). I have, therefore, imposed a condition requiring that one is submitted for approval prior to work commencing.

26. With regard to concerns about the impact of noise from the facility, the evidence indicates that the nearest existing and proposed residential properties are approximately 260 metres from the site, and separated from it by the large poultry farming buildings. The application was accompanied by a Noise Assessment, and the Council's Environmental Health Officer raised no objections in this regard, subject to conditions limiting the noise levels and the total number of hours of operation. I have imposed conditions covering these issues to ensure that there is no harm to residential living conditions.
27. Concerns have also been expressed regarding the potential for light pollution. It is unclear to what extent lighting would be required, but to avoid any harm to landscape quality or residential amenity as a result of the proposal, I have imposed a condition requiring prior approval of any external lighting to be installed.
28. I recognise the concerns of the Parish Councils and local residents regarding the potential impacts of emissions from the generators on public health. However, the application was accompanied by an Air Quality Assessment. The Council's Environmental Health Officer raised no objections, subject to conditions limiting the permission to the installation of three 2.3MW generators, and ensuring that the flues would be 200mm above the ridge level of the building. I have imposed a condition to cover these matters. The evidence does not, therefore, indicate that emissions from the development would result in any harm to human health.
29. Although the site lies within Flood Zone 3, the level of the land would be raised to ensure the facility does not flood, and a compensatory area of flood storage would be provided on the opposite side of Prowse's Lane to ensure there would be no consequential increase in the risk of flooding elsewhere. The Environment Agency is supportive of this approach, and has raised no objection subject to a condition requiring compliance with the submitted Flood Risk Assessment (FRA). I have imposed a condition to this effect.

Conditions

30. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty. The council has submitted a schedule of suggested conditions to cover other matters. I have considered all the suggested conditions against the advice in the PPG. I have agreed that the conditions are necessary, but I have altered some of them, in the interests of clarity and precision, to better reflect the guidance.
31. As explained above, conditions are necessary to secure a CMP; to limit noise levels; to limit the total number of hours of operation; to specify the maximum power generation; to ensure an appropriate flue height; to control details of any external lighting; and to secure compliance with the FRA.
32. The proposal is promoted as a temporary facility for 25 years. It is likely that technological advances in energy storage within that timescale will reduce reliance on fossil fuels for back-up electricity generation. A condition limiting the development to a 25-year period is, therefore, necessary and reasonable.

33. In order to protect the setting of the AONB, and the character and appearance of the wider landscape, conditions requiring completion of the building to enclose the generators; the submission of the external materials of all structures; and details of a landscaping scheme, are all necessary and reasonable.

Conclusion

34. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Nick Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Other than to comply with the requirements of Conditions 6 and 10 below, the development hereby permitted shall be carried out in accordance with the following approved plans: CRM.361.027.PL.D.001 - Site Location Plan; 016-PL-BS262HP-001 Rev A - Location Plan; 016-PL-BS262HP-002 Rev A - Aerial Plan; 016-PL-BS262HP-003 Rev B - Existing Plan; 016-PL-BS262HP-101 Rev A - Proposed Plan; 016-PL-BS262HP-201 Rev B - Elevation AA; 016-PL-BS262HP-202 Rev B - Elevation BB; 016-PL-BS262HP-203 Rev B - Elevation CC; 016-PL-BS262HP-204 Rev B - Elevation DD; LOT-01 Rev A - Lube Oil Tank; DNO-01 Rev A - DNO Room; WC-01 Rev A - Welfare Cabin; GS-01 Rev A - Gas Skid; GEN62-01 Rev A - 62DB@1M-5.6/2MW; TR-01 Rev A - Transformer; SR-01 Rev A - Switch Room; HY.D.200 P04 - Flood Compensation Area.
- 3) No development shall take place until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The Plan shall include:
 - a) Details of measures to prevent mud from vehicles leaving the site, including wheel-washing facilities;
 - b) Measures to control the emission of dust and dirt during construction;
 - c) A noise control plan;
 - d) A waste disposal policy (stating no burning on site);
 - e) Details of any site construction office, compound, and ancillary facility buildings;
 - f) Construction and delivery hours; and,

- g) A point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed, including an appropriate phone number.

The approved Plan shall be adhered to throughout the construction period for the development.

- 4) The development shall be carried out in accordance with the submitted Flood Risk Assessment by Enzygo Limited dated January 2020 (ref CRM.366.004.HY.R.001.B) and the following mitigation measures it details:

- All flood resilience/resistance measures detailed within section 5.2
- Provision of level for level/volume for volume floodplain compensation as detailed within section 5.2 and drawing HY.D.200 "Flood Compensation Area".

These mitigation measures shall be fully implemented prior to commencement of works at the generator site hereby approved, and shall thereafter be retained and maintained for the lifetime of the development.

- 5) Development shall not proceed above ground level until details / samples of the materials to be used in the construction of the external surfaces of all the buildings and structures hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 6) Notwithstanding the approved drawings, prior to the generators being brought onto the site, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. The details shall include boundary treatments; hard surfacing materials; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; and an implementation and maintenance programme. The landscaping works shall be carried out in accordance with the approved details before the use of the site for the generation of electricity, or in accordance with the agreed implementation programme. Any trees or plants which, within the 25-year lifetime of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 7) The generators shall not be used for the generation of electricity until the enclosing building hereby permitted has been completed in accordance with the approved plans.
- 8) The use hereby permitted shall be for a limited period, being the period of 25 years from the date of this decision. Thereafter, all the buildings, structures and plant hereby permitted shall be removed, and the land restored to its former condition within 6 months, in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

If the site ceases to be used for electricity generation within the 25-year period, all the buildings, structures and plant hereby permitted shall be

removed, and the land restored to its former condition within 6 months of its last use, in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

- 9) The site shall not be used for the generation of electricity for more than 2,500 hours in any 12-month period. The operator shall maintain a record of all hours of generator runtimes, and shall make this available to the local planning authority upon request.
- 10) No more than 3 generators, each with a maximum specification of 2.3MW engines, shall be installed, and, notwithstanding the approved drawings, the flue heights for the generators shall be a minimum of 200mm above roof ridge height.
- 11) The rating level of noise from all fixed plant and machinery installed at the site shall not exceed 2 dB below the prevailing background noise level at any time, when measured or calculated at the boundary of any noise sensitive dwelling. The measurements and assessment shall be made according to BS 4142:2014.
- 12) No external lighting shall be installed on the site unless details of its specification, shrouding, location, hours of operation and control mechanism have first been submitted to, and approved in writing by, the local planning authority. Any lighting so approved shall be installed and operated in accordance with the approved details, and shall not be subsequently altered.