7000Acres additional Comments on the Updated NPPF and NPS

Deadline 5

February 2024

Introduction

This Examination is taking place during a transition period between versions of the NPPF and NPS. 7000Acres believes the Applicant is claiming unjustified weight for the updated NPSs and not taking account of the entirety of the Planning Framework, Policies and clear Ministerial intent.

NPS Framework Overall

Within the 2024 NPS EN-1, Section 1.6 clarifies the arrangements for handling the transition between the 2011 suite and the suite due to come into force in 2024. Section 1.6 states that "*for any application accepted for examination before designation of the 2023 amendments, the 2011 suite of NPSs should have effect*".

The 2011 documents make virtually no reference to solar. Within EN-1 (2011), the Overarching Policy envisages large scale renewable energy generation from wind (offshore / onshore), Biomass, EfW, Wave and Tidal, citing the UK's abundant national resources in these areas – notably, this does not include solar. Solar is only mentioned once, to highlight the need for back-up capacity to manage intermittent generation.

With regard to land use, the 2011 NPS EN-1 (5.10.8) requires that Applicants "*should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5) except where this would be inconsistent with other sustainability considerations*". This principal has been upheld in the High Court[1]. Importantly, the High Court case confirmed that the Written Ministerial Statement of March 25th 2015 remains

[1] [redacted]

extant and relevant, contrary to the Claimant's argument that recent amendments to 'net zero' target and delivery budgets had reshaped the policy framework for renewable energy.

The 2011 NPS EN-1 also advises that the Inspector should give little weight to the loss of poor quality land (including 3b), "*except… in areas… where particular agricultural practices may themselves contribute to the quality and character of the environment or the local economy*." This is supported by Footnote 62 of the updated NPPF. The Letter from the Chief Planner[2] that accompanied the issue of the updated NPPF, in December 2023, stated:

> "*A high-level description of the key changes is provided below, and was set out by the Levelling Up Secretary in his speech and accompanying WMS, but for the full detail and understanding of the policy please refer to the text of the NPPF itself. In headline terms, the new NPPF:….*
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> • *gives greater protection to agricultural land through additional reference to the need to address food production, maintaining the emphasis on best and most versatile (BMV) land;"*

Notwithstanding the unusually high proportion of land that has been assessed by the Applicant as 3b, it is clear that within the area of West Lindsey in which the Cottam Solar Project is proposed, there is a demonstrable link between agriculture, the environment and the local economy, therefore the exception should apply.

Within NPS EN-3, National Policy Statement for Renewable Energy Infrastructure, solar is not mentioned in 82 pages of guidance, whereas, onshore wind, offshore wind, biomass, waste combustion, wave and tidal are all covered.

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[2] https://assets.publishing.service.gov.uk/media/65845c1623b70a000d234df8/11_Chief_Planners_Newsletter_Dec_2023.pdf

Critical National Priority

Following consultation feedback, the 2024 NPS has evolved the definition of "*a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure*", where low carbon infrastructure is defined as "*for electricity generation, all onshore and offshore generation that does not involve fossil fuel combustion…*". This is an evolution of the draft NPS (March 2023), which defined the CNP only "*for the provision of nationally significant new offshore wind infrastructure (and supporting onshore and offshore network infrastructure)*".

This very recent change, following a very close margin of feedback (with 35 in agreement with the March proposed draft definition of CNP, and 39 in disagreement). It is worth noting that this is from a total of 157 responses, 61 of which were from the categories "Business / Trade Association" or "*Commercial Organisation*". Many of the names of these organisations are redacted from the consultation feedback report, but of the named respondents, many were bodies with interests in solar development, e.g. Solar Energy UK, Eden Renewables, EDF and Scottish Power Renewables.

The result of this is that there is no particular emphasis within the NPS on any one technology over another, even though it is a matter of fact that not all technologies are able to contribute to decarbonisation in equal measure. For instance, wind is foreseen by National Grid to produce over 70% of the UK's electricity by 2050, which is presumably why it was singled out in the original definition of CNP in the March 2023 draft NPS. By contrast, solar will deliver an order of magnitude less than wind, at around 7%, even with up to 90GW of deployed peak capacity.

The result is that the definition of CNP is rendered effectively meaningless within the NPS, as there is no differentiation between technologies, despite their differing contributions. Although the NPS equates such diverse contributors as offshore wind, solar, wave and geothermal, in weighing impacts and benefits, the Secretary of State is directed to "*take into account its potential benefits including its contribution to meeting the need for energy infrastructure*". This allows the SoS to consider the contribution such technologies can make.

Beyond "Need" in the 2024 NPS suite

The Applicant has previously highlighted section 3.2 of the 2024 NPS EN-1, where the "*Secretary of State is not required to consider separately the specific contribution of any individual project to satisfying the need established in this NPS*".

Indeed, the concept of "*need*" is rendered meaningless following the debacle over "*critical national priority*" – if such diverse contributors as Offshore Wind, Solar and Geothermal can be classed equally, and therefore can contribute little in this regard to the examination process. Fortunately, the 2024 NPS EN-1 also provides plenty of more useful guidance for decision making in this case.

As described above, the Secretary of State is able to consider the functional contribution a proposed development may make. In addition to this, "*Good design*" includes how infrastructure "*relates to the landscape it sits within*" and that "*applying good design to energy projects should produce sustainable infrastructure sensitive to place, including… efficient in the use of natural resources, including land-use*". The scale of the Cottam project and height of panels, in comparison to the local landscape and villages, demonstrates a design that lacks sensitivity to place.

Allied to land use, is the subject of the use of agricultural land. The NPS states "*Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality*" (this principle of a "hierarchy" of preferred land use is further expanded in emerging NPS EN-3). In the case of Cottam, the Applicant has focused entirely on the quality of agricultural land, not demonstrated a necessity to use agricultural land.

Also, within "*Good Design*", the NPS notes the importance of "*the functionality of an object – including fitness for purpose and sustainability*". Section 2 of 7000Acres WR REP1A-026 ("*The role of Solar in Energy Provision and Decarbonisation*") describes the constraints around the

functional contribution solar can make to energy and decarbonisation, which are limited to the point where the benefits do not outweigh the harms arising from ground mounted solar installation at such a large scale.

From the NPS, in decision-making, the Secretary of State "*should be satisfied that the applicant has considered both functionality (including fitness for purpose and sustainability) and aesthetics including its contribution to the quality of the area in which it would be located, any potential amenity benefits, and visual impacts on the landscape*".

With regard to alternatives the NPS states that the "*decision making process of the existence (or alleged existence) of alternatives to the proposed development is, in the first instance, a matter of law*". The NPS recommends that the "*Secretary of State should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity (including energy security, climate change, and other environmental benefits) in the same timescale as the proposed development*".
In the case of Cottam, the Applicant has created an extremely narrow envelope of alternatives, starting with grid connection access, then has sought to secure a sufficient volume of land to maximise use of the grid connection. On that basis, the discussion of alternative sites by the applicant is superficial, in that rooftop solutions, or use of brownfield sites were never genuine considerations. On the other hand, in order to decarbonise effectively, even without retrofitting solar to existing rooftops, the capacity of Cottam could be deployed each year by making use of new-build domestic rooftops, thereby providing a much more rapid deployment of the same capacity, with fewer adverse impacts than the Cottam scheme. The NPS also describes the impacts on landscape, stating that effects "*arise not only from the sensitivity of the landscape but also the nature and magnitude of change proposed by the development*", noting that "*the scale of energy projects means that they will often be visible across a very wide area*". The Secretary of State should judge "*whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project*". The combination of the colossal scale of ground mounted solar projects such as Cottam as well as the height of panels, is not sensitive to the landscape.