



Appeal Decision

Site visit made on 12 July 2022

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2022

Appeal Ref: APP/N2739/W/22/3290256

Land South of Monk Fryston Substation, Rawfield Lane, Monk Fryston, Selby

- 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 HD777FRY Ltd (Mr Guy Manners-Spencer) against the decision of Selby District Council.
 - The application Ref 2021/0633/FULM, dated 18 May 2021, was refused by notice dated 15 December 2021.
 - The development proposed is the installation and operation of a battery storage facility and ancillary development on land off Rawfield Lane, Monk Fryston.
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Decision

1. The appeal is allowed, and planning permission is granted for the installation and operation of a battery storage facility and ancillary development on land off Rawfield Lane, Monk Fryston at Land South of Monk Fryston Substation, Rawfield Lane, Selby in accordance with the terms of the application Ref: 2021/0633/FULM dated 18 May 2021, subject to the Conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by HD777FRY Ltd against Selby District Council. This application is the subject of a separate Decision.

Main Issues

3. The main parties have both agreed in their evidence that the proposed development would be inappropriate development in the Green Belt as defined by the National Planning Policy Framework (the Framework). On that basis, the main issues are:
 - The effect of the proposal on the openness of the Green Belt and the purpose of including land with it.
 - The effect of the development on the character and appearance of the surrounding area.
 - Whether the harm by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Openness

4. The site is located off Rawfield Lane, adjacent to the existing Monk Fryston substation. The site is 0.48 hectares in size and is part of a larger agricultural field.
5. The site has vegetation to two sides and the substation to another, whilst the field stretches out to the other side. It is rural in nature, with no residential property within the near vicinity.
6. The appeal proposal would see the installation of 26 Battery Energy Storage Systems and they would have the outward appearance of metal shipping containers, set out in two parallel blocks on the site.
7. Ancillary equipment would include transformer stations and an auxiliary transformer compound, switchgear units, a control room and a 40 cubic metre water tank.
8. The compound would be enclosed by a 2.4m high security fence with security cameras installed around the site. An access track taken from Rawfield Lane would be of permeable construction.
9. The basic principle of the facility is to store electricity in times of excess supply in the system and feed it back into the system in times of high demand in order to maintain the transmission network. The facility has to work with a substation capable of receiving and producing flows, the numbers of which are limited throughout the country, but Monk Fryston substation is one.
10. A fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of the Green Belt is its openness and its permanence. It is necessary to consider the spatial and visual aspects of openness.
11. The Landscape Visual Impact Assessment (LVIA) supplied by the appellant finds that there would be no changes to the openness of the Green Belt, due to the vegetation cover and the mitigation from the existing substation.
12. I cannot agree with this assessment. The considerable change from an agricultural field into a compact industrial style setting with a considerable number of structures surrounded by fencing would reduce the openness in the Green Belt from a spatial point of view.
13. Visually, the site is screened to a good degree with the presence of existing vegetation and the substation itself, but the industrial nature of the proposals would modify the nature of the Green Belt surroundings and would be visible from the Right of Way. In my mind, there is no doubt that the visual aspects of the Green Belt would be harmed by the installation.
14. As for the nature of the site, it is not a short-term installation, to be utilised for approximately 40 years and the harm to the Green Belt would be long term in nature, even if the site was to be fully reinstated back to agriculture after works have finished.

15. Therefore, I find harm to the openness of the Green Belt from both a spatial and visual aspect, and as such, on this issue, the proposals are contrary to policy SP3 of the Selby District Core Strategy Local Plan (2013) (the SDCS) which sets out Green Belt strategy for the District and is consistent with the approach set out in the Framework.

Character and appearance

16. According to the evidence in front of me, the land is Grade 2 in terms of its agricultural land classification, which is included in the Best and Most Versatile category.
17. As stated previously, the appeal is supported by an LVIA which concludes that the proposal would have a modest impact, mitigated by existing vegetation and the existing Monk Fryston substation as well as the vast number of electricity pylons in the vicinity.
18. I find that the presence of the substation alone is the dominating factor in the locality and the wider landscape, and the substation largely creates the character of the immediate locality, and the proposal would sit in this context, on a considerably smaller site area and smaller overall impact than the substation.
19. Additional planting proposed would provide additional screening, as well as biodiversity benefits for the locality. Proposed planting would include native woodland to the west, and native hedgerows to the east and south-east to assist in mitigation.
20. However, the proposed planting would take time to establish, and the considerable change in the character and appearance of the site would be noticeable for some time but would be mitigated by the industrial nature of the substation adjacent.
21. There are also concerns in terms of potential cumulative impact of the proposals from the Landscape Consultee and whilst there are other proposals located nearby, I am satisfied that the nature of the scheme and the level of planting proposed would sufficiently mitigate the more harmful effects of this development, even if some of this takes time to establish. Negotiation has also seen some of the more strident aspects of the proposal be amended in order to address the harmful effects.
22. Regardless of the mitigation proposed, given the time taken to establish the measures to alleviate the works, there would undoubtedly be harm caused to the character and appearance of the locality, and as such, I find the proposals to be contrary to policies ENV1 and ENV3 of the Selby District Local Plan (2005) (the LP) and policies SP18 and SP19 of the SDCS, which collectively, amongst other matters, expect development to take account of the character of the area, safeguard the landscape character of the area and make use of land without compromising its character.

Other Considerations

23. The proposal provides storage to assist in the management of variations to electricity supply, in order to balance times of excess supply and demand. The facility needs to be close to an existing substation with the capability to work with the proposal in terms of supply and demand.

24. With this in mind there is a limitation to the number of alternative sites available, and given the Green Belt location of the proposal, this has to be a factor and justification for the location was sought by the Council and provided by the appellant and I am satisfied that a suitable search for alternative sites has been carried out.
25. The current national position on energy supply is in favour of positive development, and more so in light of recent international events. The need for a more diverse energy system is becoming more apparent.
26. Energy storage is seen as a significant part of this strategy, and battery units such as this are seen as positive in terms of being renewable and produce negligible emissions in line with commitments with regard to Net-Zero emissions. As a result, significant weight can be attached to this matter.
27. Significant weight can also be attached to the level of justification for the technical aspects of the proposals, and the exhaustive level of supporting information provided in terms of the justification for the location and need for the development in this location.
28. The Framework sets out the approach required when such proposals are forwarded on land within the Green Belt and identifies environmental benefits as a potential area of very special circumstances to justify a Green Belt location.

Planning Balance

29. The proposal would be inappropriate development in the Green Belt. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that harm. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
30. I have reasoned above that there is harm to the openness of the Green Belt, and to the character and appearance of the area, albeit mitigated by the fact that the proposal would include considerable levels of additional landscaping that would establish over a period of time, and that the development itself is time limited, although this is a considerable period of time.
31. It is also apparent that there is a clear and pressing need to address the energy strategy issues facing the country, hence the need for the proposal. In addition to this the proposal has been supported by a considerable level of technical data and justification for the proposal as to why it needs to be located in the Green Belt.
32. These considerations, collectively, carry great weight and I conclude that they amount to very special circumstances, sufficient to outweigh the harm to the Green Belt, by reason of inappropriateness and the effect on openness.

Conditions

33. The Council have suggested a number of Conditions and I have added those where appropriate and modified text where necessary in the interests of clarity.

34. Conditions 1 and 2 are standard conditions added to permissions. Conditions 3 and 4 are to protect the long-term health of the Green Belt and visual amenity. Condition 5 is to protect trees during development and Conditions 6, 16 and 17 are imposed to protect visual amenity. Condition 7 is added in the interests of public safety whilst Conditions 8 and 9 are to preserve highway safety.
35. Condition 10 is added the interests of safe and sustainable drainage whilst Condition 11 is to protect residential amenity. Conditions 12 to 15 are in order to ensure there is no risk from contamination and Condition 18 is imposed in the interests of biodiversity.

Conclusion

36. Having considered the development plan as a whole, the approach in the Framework, and any other relevant considerations, I conclude that the appeal should be allowed subject to the conditions set out below.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

2655-02-001	Location Plan
2655-02-002 A	Statutory Plan
2655-02-003 A	General Arrangement
2655-02-004	Existing Site Plan
2655-02-005	Battery Storage Containers
2655-02-006	Inverter – Transformer Stations
2655-02-007	Switchgear Container
2655-02-008	Control Room
2655-02-009	Auxillary Transformer Compound
2655-02-010	Fencing and Security
2655-02-011	Water Tank
2655-02-012 A	Inverter / Transformer Stations and Battery Storage
2655-02-013 A	Illustrative Landscape Proposals
2655-02-014 A	Main Water Pipe Diversion
3. The buildings, batteries and all associated equipment and infrastructure shall be removed, and the use of the land discontinued and restored to its former condition on or before 1st August 2062 in accordance with a decommissioning programme and a scheme of work to be submitted to and approved in writing by the Local Planning Authority.
4. Within six months of the development ceasing to be used for the storage of electricity, the battery energy storage containers; HVAC units; combined power conversion systems, transformers and associated switchgear; auxiliary transformer; grid compliance equipment units; substation; security fencing; lighting and CCTV columns and any other associated infrastructure shall be permanently removed from the land and the site restored to its former agricultural use in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to these works being carried out.
5. Prior to the commencement of development, an Arboricultural Method Statement and tree protection measures to BS5837 shall be submitted to and approved in writing by the Local Planning Authority. This should demonstrate how all existing boundary trees and hedgerows to be retained will be protected during the construction period. The development shall thereafter be carried out only in accordance with the approved details.

6. Prior to the commencement of development, a detailed hard and soft landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall also include a detailed landscape management plan. The approved scheme shall be implemented in its entirety within the first available planting season following the construction of the development hereby permitted. All trees, shrubs and bushes shall be of native indigenous species and shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary. The scheme shall be retained and managed in accordance with the approved landscape management plan for the lifetime of the development.

7. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

- (i) the parking of contractors' site operatives and visitor's vehicles;
- (ii) areas for storage of plant and materials used in constructing the development clear of the highway;
- (iii) contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

8. The development must not be brought into use until the access to the site at Rawfield Lane has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:

The access must be formed to give a minimum carriageway width of 4.1 metres, and that part of the access road extending 6 metres into the site must be constructed in accordance with Standard Detail number E70 and the following requirements.

Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and must be maintained thereafter to prevent such discharges.

All works must accord with the approved details.

9. There must be no access or egress by any vehicles between the highway and the application site at Rawfield Lane until splays are provided giving clear visibility of 130 metres (north) and 129 metres (south) measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created,

these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

10. Before development commences a fully detailed drainage strategy shall be submitted for the written approval of the Local Planning Authority and thereafter only the approved details shall be implemented and maintained for the lifetime of the development.
11. The cumulative level of sound associated with the proposed development, when determined externally under free-field conditions, shall not exceed the representative background sound level at nearby sensitive receptors. All noise measurement/predictions and assessments made to determine compliance shall be made in accordance with British Standard 4142: 2014: Methods for rating and assessing industrial and commercial sound, and/or its subsequent amendments.
12. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

A survey of the extent, scale and nature of contamination (including ground gases where appropriate);

An assessment of the potential risks to:

Human health,

Property (existing or proposed) including buildings, crops, livestock, pets,

Woodland and service lines and pipes,

Adjoining land,

Groundwaters and surface waters,

Ecological systems,

Archaeological sites and ancient monuments;

An appraisal of remedial options, and proposal of the preferred option(s).

13. Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

14. Prior to first use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

15. In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

16. No external lighting shall be installed on site until the details of the lighting, columns, including their number, type and locations, the intensity of illumination and predicted lighting contours and the details of when the lighting would be operational have been first submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure the lighting remains off at all times unless necessary for access, service and maintenance. Any external lighting that is installed shall accord with the details so approved.

17. The battery containers, palisade fencing, and energy management building shall be finished with green colour materials only and prior to their installation, the details of the colour and finish of the battery energy storage containers, transformers and associated switchgear; containers, communications house, energy management building, perimeter palisade fencing, acoustic walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.

18. The development shall be carried out in full accordance with the recommendations, advise and mitigations measures and biodiversity enhancements contained in the Ecological Assessment by Avian Ecology dated 17/05/2021 and adherence to the measure set out in the Ecological Impact Assessment by Arcus dated June 2021.

END OF SCHEDULE