



## Appeal Decision

Site visit made on 8 February 2021

**by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

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**Appeal Ref: APP/P0119/W/20/3261646**

**National Grid site, land off Larks Lane, Iron Acton, Gloucestershire, Grid Ref Easting: 366727 Grid Ref Northing: 185902**

- 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 Mr Guy Manners-Spencer (HD000ACT Limited) against the decision of South Gloucestershire Council.
  - The application Ref P20/03555/F, dated 24 February 2020, was refused by notice dated 20 August 2020.
  - The development proposed is the installation of 49.5MW gas peaking plant and ancillary development on land adjacent to the National Grid Substation.
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### Decision

1. The appeal is allowed and planning permission is granted for the installation of 49.5MW gas peaking plant and ancillary development on land adjacent to the National Grid Substation at the National Grid site, land off Larks Lane, Iron Acton, Gloucestershire, in accordance with the terms of the application, Ref P20/03555/F, dated 24 February 2020, subject to the conditions set out in the attached Schedule.

### Application for costs

2. An application for costs was made by Mr Guy Manners-Spencer (HD000ACT Limited) against South Gloucestershire Council. This application is the subject of a separate Decision.

### Main Issues

3. As the appeal site is within the Bristol and Bath Green Belt. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt (GB) having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - the effect of the development on the character and appearance of the area;
  - the effect of the development on flood risk in the area, and
  - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other

considerations. If so, would this amount to the very special circumstances required to justify the proposal.

## **Reasons**

### *Whether the proposal is inappropriate development*

4. Paragraph 143 of the National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances. The Framework sets out that the construction of new buildings within the GB is inappropriate development, unless the development falls within one of a number of stated exceptions (Paragraph 145).
5. In this case, the proposal would result in a series of industrial style buildings and associated structures on largely undeveloped land. The development would not, therefore, meet with any of the stated exceptions within the Framework. The appellant has not argued that the proposed development would meet one of these exceptions. I therefore conclude that the proposal would constitute inappropriate development in the Green Belt. Whether very special circumstances exist will be considered in detail later in this Decision.
6. As policy CS5 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013 includes a requirement that development in the Green Belt will need to comply with the provisions in the Framework, then whether the proposal in this appeal conflicts with this policy depends on whether very special circumstances exist (as set out in the Framework). Similarly, policy PSP7 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (Adopted) November 2017 states that inappropriate development is harmful to the Green Belt and will not be acceptable unless very special circumstances exist.
7. However, policy CS34 simply states that a proposal should protect the designated Green Belt and the Cotswolds AONB from inappropriate development. As this proposed development would be inappropriate in the GB then it would conflict with this policy.
8. I recognise that the proposal would also conflict with the 'Development in the Green Belt' Supplementary Planning Document (SPD), but this was adopted in 2007 and significantly pre-dates the Framework on GB policy.

### *Effect on Openness*

9. A fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to keep land permanently open. Openness is generally accepted to mean absence of structures or activity. The proposed development would include significant above-ground works which include buildings and tall chimneys. This would all be constructed on land which is currently open to a significant degree. As such, the development would erode the sense of openness for this site, both spatially and visually.
10. Much of the development would be screened by the existing tree lines from wider views. It would also be viewed against the backdrop of the current National Grid facility. However, to my mind there would be a clear loss of openness as a result of the development overall, as the gas peaking plant would be built where there are no existing structures or buildings and would be

to some extent visible from outside of the site. Furthermore, the development would encroach into the countryside, which is set out in the purposes of the GB to try to safeguard against.

#### *Character and Appearance*

11. The proposed development would be primarily adjacent to the existing large National Grid substation facility. It would develop land which currently is open and mainly undeveloped. It would therefore be an industrial type development which would encroach into the countryside, outside of the perimeters of the existing substation.
12. This visual impact would be mitigated by the fact that the existing facility with its large and often tall structures would be in the backdrop. The proposed gas peaking plant would appear as an extension to the existing facility and would not be an isolated new development within the landscape. Furthermore, there are lines of trees and other vegetation which would reduce the visual impact of the gas peaking plant significantly, as is the case for the National Grid substation, despite the height of some of the structures. This screening would be especially effective when the vegetation is in leaf.
13. There will be views from the adjacent public right of way that runs to the west of the site, but these views would be against the context of the existing large substation facility and so the visual impact of the new development would be limited.
14. There is proposed a pipeline connection to a field to the west of the site, although this will be below ground level primarily. There would also be a small building in this field, although this is of a scale where the visual impact within the landscape would be minimal. It too would be screened to some extent from most public views by intervening vegetation and would be in close proximity to the existing sub-station also.
15. As such, there would be some harm to the character and appearance of the area through the development of the industrial type facility within the countryside. However, for the reasons set out above, such harm would be limited. Nonetheless, the proposal would conflict with policies CS1, CS4A, and CS34 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013; and policies PSP1 and PSP2 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (Adopted) November 2017, where they relate to character and appearance. These policies require that development should respect and enhance the character of the site and its context; protect, conserve and enhance the beauty of rural areas; and conserve the quality, amenity, distinctiveness and special character of the landscape; amongst other things.
16. With regard to policy PSP7 this relates primarily to development in the Green Belt, and so the policy weighs neither for nor against the development with this main issue.

#### *Flood Risk*

17. The proposals are accompanied by a 'Flood Risk Assessment & Surface Water Drainage Assessment' dated March 2020. This sets out that the main area of the proposed development of the gas peaking plant is on land which is classed as Flood Zone 1 and therefore has a 'low probability' of flooding. However, the

field to the west of the site where there is proposed the 'Pressure Reducing Station' (PRS) is within Flood Zone 3, which has a 'high probability' of flooding with a 1 in 100 or greater annual probability of river flooding (>1%) in any year.

18. There was an initial objection from the Environment Agency (EA) with regards the proposals, due to a lack of information received. However, more information was submitted to the EA and they have withdrawn their objection, subject to a condition that flood mitigation set out by the appellant is incorporated into the development. This information included more detail on the PRS, including that it would only need to be accessed once every quarter in the first two years of operation, then once every six months thereafter. Also, the PRS would be on a concrete plinth and incorporate flood proof mitigation to ensure that it would not be affected in the event of a flood and would continue to operate safely.
19. As part of the site is within Flood Zone 3, in accordance with the Framework, there is a requirement for a Sequential Test (ST). The aim of the ST is, according to the Framework, to steer new development to areas with the lowest risk of flooding. Only if the ST is passed is consideration given as to whether the proposal passes the Exception Test (ET), which is also necessary for the development to be considered acceptable in this regard.
20. With regards to the ST, which is addressed in the Flood Risk Assessment, the PRS building is linked to the main gas peaking plant part of the proposal and is located in the adjoining field to connect with the gas supply in this area. Taking a pragmatic approach, I have no reason to conclude that the PRS could be suitably located elsewhere, including areas of lesser flood risk, considering its role and linkage to the gas peaking plant.
21. Both the Council and appellant have concluded that there is no need for an ET to be undertaken given the 'less vulnerable' type of development located in Flood Zones 1 and 3. However, if an ET was required I would conclude that there are sustainability benefits, such as the provision of consistent electrical power when required, which would outweigh any flood risk to the PRS, which I would regard as minimal due to the mitigation to be incorporated. Furthermore, this mitigation should result in the development being safe for its lifetime and should not have any discernible increase in flood risk elsewhere as a result, based on the information before me.
22. As such, the development would not materially increase flood risk and would be in accordance with policy PSP20 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (Adopted) November 2017, which relates to flood risk, amongst other things.

### **Other Considerations**

23. The proposal is for a gas peaking plant, which would provide a type of backup to the existing 'Super Grid Transformer Substation'. This peaking plant would supply electricity at short notice during periods of high net demand or system stress. From the evidence provided it is apparent that the growth in use of renewable energy generation to replace conventional power stations has led to there being more 'stress events' for the National Grid to address. It is clear that there is great importance in the capacity for meeting demand, to ensure against future blackouts for instance.

24. The appellant has highlighted Government and National Grid documents which sets out that natural gas will be needed as part of the transition towards full use of renewables as a source of energy in the future, amongst other things. From the evidence provided it is clear that the UK is not in a position to only use renewable energy as yet and still have a secure energy supply. The appellant explains that the system flexibility will allow more reliance on intermittent low carbon renewable generation sources. As such, I would regard the proposed development as being a form of associated infrastructure to support the increased use of renewable and low carbon energy. The proposed development could be considered as development required for the exploitation of renewable energy, even though it would itself use natural gas.
25. In this regard, the Framework, at paragraph 148 is relevant as this states that:
- 'The planning system should support the transition to a low carbon future in a changing climate.....and support renewable and low carbon energy and associated infrastructure'.*
26. I am aware of South Gloucestershire Council's policy directive regarding the declared climate emergency. However, whilst the proposed plant would use natural gas to produce energy, the appellant has explained that this is done to help support the transition to renewable energy and move away from conventional power stations. Furthermore, the gas peaking plant would not be in operation at all times, as much of the time it would be dormant. I have no reason to believe it would be in use for more than the anticipated times stated by the appellant.
27. The appellant has set out that it could be in the future (in the lifetime of the proposed peaking plant) that the gas used is decarbonised to some extent, although there is no set date for this. I have therefore based my decision on the fact that natural gas would be used.
28. For all these reasons I would regard the proposed development as having a significant public benefit, both in supporting the increased deployment of renewable energy and also providing energy security throughout this transitional period. To my mind, from the evidence before me, the proposal would not result in a level of adverse polluting impacts that would be harmful to the Framework's aims for tackling climate change, especially considering its role as associated infrastructure for renewable energy sources. Taking all the above into consideration, the proposal would accord with the Framework's aims of securing economic growth, whilst supporting the transition to a low carbon future in a changing climate.
29. There have been comments received that there is the alternative of a large battery storage facility to be used at the site. Whilst this may be an option (which has been a form of development approved elsewhere, as the appellant's evidence shows), I understand that gas peaking plants provide a more flexible alternative as there is not a limit on power they can store, unlike batteries. This may change with enhanced battery technology in the future, but I have no substantive reason to not accept the appellant's argument that a peaking plant is more beneficial than the battery alternative at this time.
30. I am aware of the recently dismissed appeal (ref: APP/P0119/W/18/3204304) for a Battery Storage Facility. This indicates that the possible use of a battery was something intended to link with the substation. However, the appellant for

this appeal has described why the gas peaking plant is preferable and provides the important flexibility when required. Nonetheless, this previous appeal has some similarities to this current appeal and therefore is a material consideration.

31. In terms of visual impact, from the evidence I have seen the siting of the previously proposed battery facility was remote from the substation and would have had a considerable visual impact in the countryside. This is not the case with the gas peaking plant, as described above. The benefits of the two schemes would be similar, although the battery would have some limitations whilst having the benefit of not releasing any 'greenhouse gasses' into the atmosphere. Overall, whilst similar in the type of proposal and general location, there are significant differences. Therefore, this appeal is primarily considered on its own merits in coming to a balanced assessment.
32. In terms of location, the appellant has stated that this is the only Super Grid Transformer Substation which can be supplemented by a gas peaking plant of the scale proposed in South Gloucestershire. Furthermore, on a national basis the appellant's evidence sets out that there is a very limited number of other such transformer substations nationally which could connect to gas supplies, especially when considering only those outside a GB area. Furthermore, the evidence from the appellant suggests that to meet with the National Grid forecast shortfall in balancing capacity it might be necessary that all other Super Grid Transformer Substations sites within the country may need to incorporate some sort of similar development, including those within Green Belt locations.

### **Other Matters**

33. The potential impact to the Grade 1 Acton Court heritage asset has been raised. However, there is a significant distance between the site of the proposed development and Acton Court. Furthermore, the existing substation would provide the visual context of the proposed development if viewed from the direction of Acton Court. As such, I would not regard the proposed development as likely to have any harmful impact to the setting of this heritage asset, given the current setting.
34. There have been comments received from interested parties regarding such issues as traffic, noise and light pollution, amongst other issues. Whilst I have considered all these matters there is no substantive evidence before me that the proposed development would have any significant adverse impacts, other than that to the character and appearance of the landscape, as described above. Furthermore, the appeal is supported by both a Noise Impact Assessment and an Air Quality Assessment which demonstrate that there would not be any unacceptable impacts regarding these matters as a result of the proposed development.

### **Planning Balance**

35. Overall, considering all matters raised, including the conflict with some of the Development Plan policies, there are in this case material considerations that indicate that this development should be allowed, such as the aforementioned enhanced energy security and the role of the proposed facility in supporting the increased deployment of intermittent renewable energy. As such, other considerations clearly outweigh the harm arising from inappropriateness, and



any other harm (such as the harm to the character and appearance of the countryside), so as to amount to very special circumstances.

36. As I have identified very special circumstances, the proposal would not conflict with the aforementioned policies CS5 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013, or Policy PSP7 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (Adopted) November 2017.

### **Conditions**

37. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.
38. I have attached the standard time limit condition and a plans condition as this provides certainty.
39. To suitably mitigate any ecological impacts and safeguard protected species conditions requiring the development to accord with the measures set out in the submitted Ecological Appraisal and also for a lighting design strategy to be submitted prior to the first use of the gas peaking plant.
40. A Construction Environmental Management Plan (CEMP) is also required which will focus on mitigation against ecological impacts and safeguard protected species throughout the construction process.
41. I have not included the condition recommended by the Council for the ecological management plan as this appears to be addressed by the other ecology related conditions which are included. Furthermore, I am not satisfied that such a condition is necessary, given the limited impacts of the development to local biodiversity, as set out in the supporting evidence.
42. The proposed connecting pipeline would cross the route of a Public Right of Way. Although this should not result in a significant effect to the use of this route for any particular length of time a condition requiring details of how this could be managed would be required to be agreed by the Council.
43. Due to the possibility of archaeological resource in the area, a programme of archaeological investigation is required to be submitted prior to the commencement of development.
44. The development would cover a sizable area of undeveloped land. As such, it is reasonable that full details of surface and any foul water drainage connections, over that already submitted, are agreed with the Council prior to their installation. Furthermore, I have included the condition advised by the Environment Agency that the development incorporates the flood mitigation set out with the appellant's evidence.
45. To minimize the visual impact of the gas peaking plant it is important to both protect any trees and hedgerows on site that are to be retained, and also include the plan to plant further landscaping. A condition to this effect is to be included.

46. Finally, I have included a condition for a Construction Traffic Management Plan, which is needed considering the minor nature of some of the surrounding rural roads and also the scale of the development. Within this condition I have merged the requirement for a highway condition survey.
47. Where applicable, I am satisfied that there is exceptional justification for imposing pre-commencement conditions, where information is reasonably necessary to be submitted and agreed before development commences.

### **Conclusion**

48. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed subject to the conditions set out in the schedule below.

*Steven Rennie*

INSPECTOR

### **SCHEDULE – 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 approved plans and drawings listed in the submitted schedule entitled – '*List 5c: List of all Plans, Drawings and Documents upon which the LPA made their decision (P20/03555/F)*'.
- 3) The development shall proceed in strict accordance with the Mitigation Measures provided in the Ecological Appraisal - Avian Ecology (December 2019, supplemented in May 2020).
- 4) Prior to first use of the gas peaking plant, a 'lighting design strategy for biodiversity', for the boundary features and any native planting, shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:
  - Identify those areas/features on site that are particularly sensitive for bats, badgers and hedgehogs and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their



territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the agreed strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed.

- 5) Prior to commencement of works associated with the development hereby approved, a Construction Environmental Management Plan (CEMP) is to be submitted to and agreed in writing by the Local Planning Authority. This should include details of all working processes and mitigation during works relating to impacts on identified protected species, amongst other things. The development hereby approved shall proceed only in accordance with the CEMP as agreed.
- 6) Prior to the commencement of any development that may affect a public right of way, detail of how the development would be executed to safeguard the Public Right of Way and users of footpath ref: OAN/81/10 should be submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall proceed only in accordance with these details as agreed.
- 7) Prior to the commencement of development, a programme of archaeological investigation and recording for the site shall be submitted to and approved by the Local Planning Authority. Thereafter, the approved programme shall be implemented in all respects including to agreed timings.
- 8) Notwithstanding the information already submitted, no development shall commence until surface water and foul drainage details, including SUDS (Sustainable Drainage Systems e.g. soakaways if ground conditions are satisfactory), detailed flood prevention measures, pollution control and environmental protection, have been submitted to and approved in writing by the Local Planning Authority. A detailed development layout showing surface water and SUDS proposals is required as part of this submission. The development hereby approved shall proceed only in accordance with the drainage details as agreed.
- 9) The development hereby approved shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) written by KRS and the letter from Hannah McGuinness, AXIS, dated 4th May 2020 (reference 2654-01), and the flood mitigation measures detailed within.
- 10) Prior to the commencement of any above ground works, a scheme of landscaping, which shall also include details of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection during the course of the development; proposed planting (and times of planting); boundary treatments and areas of hard surfacing, shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details and timings.
- 11) Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. This should include details of a highway condition survey, with a timescale for re-inspections and details for any

re-instatement. The Construction Traffic Management Plan must then be implemented and adhered to throughout the construction phase of the development as per the agreed details.

**End of Schedule.**