



Appeal Decision

Hearing and site visit held on 14 July 2015

by Paul K Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 September 2015

Appeal Ref: APP/V2635/W/14/3001281

Land at Rose and Crown Farm, Mill Road, Walpole St Andrew, Norfolk

- 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 Elgin Energy Esco Ltd against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 14/00283/FM, dated 24 February 2014, was refused by notice dated 12 June 2014.
 - The development proposed is erection of a 30MW solar photovoltaic facility with associated landscaping and construction of temporary access.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a 30MW solar photovoltaic facility with associated landscaping and construction of temporary access on land at land at Rose and Crown Farm, Mill Road, Walpole St Andrew, Norfolk in accordance with the terms of the application, Ref 14/00283/FM, dated 24 February 2014, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are as follows:
 - The effect on best and most versatile agricultural land (BMV); and
 - Whether any harm caused is outweighed by the production of renewable energy.

Reasons

The site and surroundings

3. The appeal site consists of 66 hectares (ha) of flat arable land set at a level of approximately 2-3 metres below Mill Road, which is a former coastal dyke. It lies approximately halfway between the villages of West Walton to the south west and Walpole St Peter and Walpole St Andrew to the north east. Beyond the site boundary is further agricultural land and several hundred metres away are a small number of residential dwellings and farm buildings which address Mill Road to the north and west, Folgate Lane and Walpole Bank to the north and West Drove North to the east. The majority of dwellings benefit from thick and mature hedgerow screening. The land is currently used for arable crops including wheat, rapeseed and barley and is classified as having a grade 2 agricultural land quality. Ditches separate the fields. In the centre of the site

there are two sets of overhead power lines on pylons running across the site in a north-south direction. A subterranean high pressure gas pipe also runs in an east-west direction across the northern half of the site. Electricity infrastructure is a predominant feature of the surrounding landscape and includes a prominent large switching station to the north west.

4. The towers of the churches of St Mary in West Walton and St Peter in Walpole St Peter are visible in long distance views from within the site above trees but the site itself is not visible from within the churchyards.
5. The development would produce a maximum of 27 750 000 kilowatt hours, equivalent to the electricity supply for 7000 homes. Solar panels would be positioned in rows between 3 and 6m apart and up to 2.8m high, screened by new planting and existing hedges. At the Inquiry, the appellant confirmed that if fewer panels are necessary to achieve the desired output and approved grid supply, fewer would be installed at the southern end of the development. Deer fencing and CCTV would be installed on the boundaries where biodiversity enhancements and hedgerow improvements are proposed as screening.

Policy background

6. The development plan consists of saved policies of the King's Lynn and West Norfolk Borough Council Local Plan of 1998 (reviewed by the Secretary of State in 2007)(LP) and the King's Lynn and West Norfolk Borough Council Local Development Framework Core Strategy (CS) adopted in July 2011. There are no policies of the LP that are relevant to renewable energy. Policy CS06 states that within the countryside, the Council will seek to protect its character and resist the development of 'greenfield' sites unless the proposal is for essential agricultural or forestry needs. It goes on to state that 'farm diversification schemes' are supported subject to meeting the following criteria:
 - It meets sustainable development objectives and helps to sustain agricultural enterprise;
 - Is consistent in its scale within its rural location;
 - Is beneficial to local economic and social needs;
 - Does not adversely affect the building and the surrounding area or detract from residential amenity.
7. The supporting text to area-wide policies in section 7 says that to help meet Government targets, renewable energy will need to be considered. *'There are many different types of renewable energy choices, from solar energy, wind and biomass through to energy efficient installations such as combined heat and power and ground source heating. All of these technologies and methods of construction have a role to play in meeting Government targets and were seen as positive outcomes for the borough'* In a section titled 'Renewable Energy' policy CS08 says that the Council and its partners will support and encourage the generation of energy from renewable sources. These will be permitted unless there are unacceptable locational or other impacts that could not be outweighed by wider environmental, social, economic and other benefits.
8. The extant policies of the LP are being reviewed through the preparation of a 'Site Allocations and Development Management Policies' Document. A version of this document was reviewed by the Council in November 2014 and has been

subjected to examination in public. Emerging policy DM20 relates to renewable energy generation and states that proposals for renewable energy and associated infrastructure, including the landward infrastructure for offshore renewable schemes, will be assessed to determine whether or not the benefits they bring in terms of the energy generated are outweighed by the impacts. There were objections to emerging policy DM20 and as a result, currently, despite it having progressed through consultation and examination in public, it can only attract very limited weight.

9. National policy as a whole supports and encourages the development of renewable energy sources. As a result of EU Directive 2009/28/EC, the UK is committed to a legally binding target to achieve 15% of all energy generated from renewable resources, including electricity, heat and transport, by 2020. The 2006 Energy Review has an aspiration that 20% of electricity is to be from renewable resources by 2020. The overarching strategy to reduce carbon emissions to meet the requirements of the Directive and the Climate Change Act is contained in the UK Renewable Energy Strategy and the UK Low Carbon Transition Plan; the lead scenario is that 30% of electricity is to be derived from renewable resources by 2020, though this is not binding. The UK Renewable Energy Roadmap (the Roadmap) was first published in 2011 and an update published in December 2012 confirms PV as a key technology.
10. The Government's solar PV strategy was published in 2014. The aim is to create more financial certainty and investor confidence in order to realise the long term potential for solar PV in the UK at a large and small scale. There is no cap on capacity. New proposals are needed to meet the 2020 ambition and longer term decarbonisation. It is the Government's ambition to see "more ambitious deployment, perhaps approaching 20 GW early in the next decade". The past four years has seen a growth in the delivery of such facilities and their associated energy production capacity, but as at June 2013, the capacity of PV was 2.4 GW, forecast to reach 10 GW by 2020.
11. Paragraphs 64-66 identify that whilst large scale facilities provide an opportunity for greater energy production (as well as potential enhancement to biodiversity), it is also of importance that they are carefully planned and screened to ensure any amenity and visual impacts are minimised. The document records that members of the Solar Trade Association will comply with best practice guidance, the first aim of which is to focus on non-agricultural land or land which is of lower agricultural quality. Paragraph 67 says '*These best practice initiatives are important as they help address the perception that solar farms are diverting significant amounts of land from agricultural use and domestic food production. This, alongside the effects on the landscape and communities of the rapid growth in the deployment of large-scale solar PV installations, might erode public support for the sector overall*'.
12. The National Planning Policy Framework (NPPF) of 2012 says at paragraph 98 that applicants for energy development should not have to demonstrate the overall need for renewable or low carbon energy. Applications should be approved if their impacts are (or can be made) acceptable. Local authorities (or decision makers) should follow the approach set out in the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3), read with the Overarching NPS for Energy (EN-1), both dated 2011. Paragraph 14 of the NPPF says a presumption in favour of sustainable development lies at the heart

of the NPPF. Paragraph 17 specifically supports the transition to a low carbon future in a changing climate and encourages the use of renewable resources.

13. The advice needs to be read as a whole. Particularly relevant is paragraph 5.9.18 of EN-1 which advises that all proposed energy infrastructure is likely to have visual effects for many receptors around proposed areas and that a judgement has to be made on whether the visual effects on sensitive receptors, such as local residents and visitors to the area, outweigh the benefits of the project.
14. The delivery of renewable energy developments is discussed at paragraphs 97-98 of the NPPF. Paragraph 97 states that in order to help increase the use and supply of renewable and low carbon energy, local planning authorities should have a positive strategy to promote both the use and supply of renewable energy. With regard to the development of agricultural land, paragraph 28 states that local plans should seek to promote a strong rural economy by supporting the growth and expansion of all types of businesses and enterprise in the rural area and promoting the development and diversification of agricultural and other land-based rural businesses. Paragraph 112 states that "Local planning authorities should take into account the economic and other benefits of BMV agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality".
15. In identifying the particular planning considerations that relate to large scale ground-mounted PV development, planning policy guidance (PPG) advises that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. Particular factors a local planning authority will need to consider include (as relevant to this scheme):
 - Encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;
 - Where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. The guidance makes specific reference to a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013, in which the Minister encourages development on brownfield land, low grade agricultural land and on buildings; and to a Written Statement to Parliament in March 2015. The guidance notes:
 - That solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
 - The proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;
 - The need for, and impact of, security measures such as lights and fencing;

- Great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;
 - The potential to mitigate landscape and visual impacts through, for example, screening with native hedges;
 - The energy generating potential, which can vary for a number of reasons including latitude and aspect.
16. The guidance also advises that the approach to assessing the cumulative landscape and visual impact of large scale solar farms is likely to be the same as assessing the impact of wind turbines. However, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero.
17. The planning guidance also states in relation to all renewable energy development that: the need for renewable or low carbon energy does not automatically override environmental protections; cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases; local topography is an important factor in assessing whether wind turbines and large scale solar farms could have a damaging effect on landscape and recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas; and great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting.
18. The Written Statement to Parliament in March 2015 sets out the Government's most recent aims on solar energy development amongst other streamlining objectives. The Secretary of State said amongst other things: *'We are encouraged by the impact the guidance is having but do appreciate the continuing concerns, not least those raised in this House, about the unjustified use of high quality agricultural land. In light of these concerns we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence. Of course, planning is a quasi-judicial process, and every application needs to be considered on its individual merits, with due process, in light of the relevant material considerations.'*
19. In accordance with the duty set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), special regard needs to be paid to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess.

The effect on best and most versatile agricultural land

20. The whole of the proposed solar development would be on land which falls within Agricultural Land Classification (ALC) level 2. This is well within the category of 'best and most versatile agricultural land' as defined in the NPPF at Annex 2 and is only one level below the highest category. There is no dispute that it is productive and profitable and provides a good yield of rape, barley and wheat on a rotating basis, varying with weather and market conditions. The yield is shown to be above average for the UK but marginally below that for East Anglia.
21. There is no prohibition on the use of any particular grade of agricultural land or BMV land for solar panels. The test, as set out in the Minister's Statement in March 2015, is to provide 'the most compelling evidence' that use of BMV land is necessary and that poorer quality land is not available in each case. At Rose and Crown Farm, the appellants have provided a sequential analysis which shows that there are severe grid restrictions in the wider area¹ for a development of the size proposed, which is the developer's preferred model. Any scheme that the appellant company promotes would require a 33kv distribution cable within a certain distance. At the Inquiry, it was explained that the network is working at maximum capacity in terms of new generation equipment; and grid availability for any particular size of renewable electricity scheme varies every day. Applicants are placed in an interactive queue, their progress depending on gradual upgrading of the network and whether previously approved schemes get planning permission. In considering the viability of any proposal, regard must be had to the distance to the grid connection point, as the cost of the connecting cable relative to the power generated is a significant constraint.
22. An Eastern Power Networks generation capacity map dated 19 March 2014 was supplied at the Inquiry which shows a very large part of northern East Anglia highly utilised. Updated maps are available online². The latest published map dated 5 December 2014 shows the same restrained situation with some relaxation around Norwich. However, there is no information before me on what schemes are already approved, what quantity of new generation is already proposed or where any schemes are located. Without this information, it is difficult to assess whether the appeal proposal is sequentially preferable. The appellant identifies Grade 3a, 3b and 4 land and potentially developable sites, that is brownfield, non-agricultural land, and land with ALC grade 4 (grade 5 is not present). The fact that none of these can accommodate a 30MW proposal is hardly surprising, given the network constraint criteria imposed in the analysis. The potential for smaller schemes is unknown beyond the general capacity restraints. It remains unclear what potential there is for PV schemes which may only need grid capacity at the 11 kilovolt level or less.
23. In response to the suggestion that smaller potential sites should have been included, legal argument is put forward to the effect that any sequential test should compare like with like, similar to the test that might be used in connection with retail use or areas subject to flood risk. The situation is not the same; the market for energy is not the main concern. What is important is how national renewable energy targets are to be met whilst taking into account environmental restraints and land productivity. Whilst a sequential site

¹ Sequential test overview map Figure 1 dated 19/11/2014

² Doc 9. At <http://www.ukpowernetworks.co.uk/internet/en/connections/documents/HQ-2000-4702-M.141205.pdf>

analysis that took account of potential availability of all schemes of all sizes on preferable, lower quality land might be feasible for the local authority or a group of local authorities, no such work has been done; and it would not be able to take account of the grid connection limitations. On this point, there is not (as yet) any guidance on preferable locations for renewable energy schemes in any King's Lynn and West Norfolk document brought to my attention.

24. In any case, there are no recommendations as to how a sequential test should be carried out in these circumstances and policy does not require one as such, only most compelling evidence. Bearing this in mind, it is unhelpful that the Council was unable to provide any collated information on PV renewable energy capacity or progress with the supply of renewable energy as a whole in the Borough, only a list of approved PV applications and those currently in planning³. Some of these may not have been implemented for other reasons and some may not have obtained a grid connection. As a consequence, I am unable to assess the methods or the extent to which solar energy is being harnessed in King's Lynn and West Norfolk.
25. It is a noticeable feature of land in this part of East Anglia that there is almost no grade 4 land and very little grade 3 (no distinction is made between 3a and 3b, only 3a being BMV). Given the practical need to limit the distance between generation capacity and the grid, the availability of poorer quality land suitable for PV, which the Government sees as an important part of the overall renewable energy mix, must be extremely constrained.
26. I give weight to the benefits of scale in this case, where a grid connection is assured and the generation capacity significant. Moreover, the Council has no objection on landscape, visual amenity, noise, heritage, highway safety, ecological or tourism grounds. The land would continue to be used for grazing sheep, which would be ensured by a solar farm grazing methodology statement, which could be put in place by means of a condition. Sheep grazing is an accepted method of managing grass under solar panels and is already a feature of the landholder's operations, supporting a local butchering business in Upwell. The Council does not question the value of sheepmeat to the economy or the assertion that much lamb is currently imported, nor the fact that the UK currently produces more wheat than it needs⁴. I conclude that this high quality land would not be lost to agriculture. Moreover, after 25 years, the land would be restored to arable use, most likely in a better condition than the intensive use it is currently put to.
27. There are also particular chemical characteristics that pertain to the soil on the east side of the Mill Road Dyke, for many years known locally as 'The Salts' that mean high value crops such as potatoes or cauliflowers cannot be economically grown, unlike many other areas categorised at ALC grade 2. This was evident at the site visit. It was also apparent that the level of biodiversity in this intensive arable area is limited. The proposed scheme would bring about biodiversity improvements due to the margins around the panels being planted with a wildflower mix and the addition of screening hedgerows incorporating local species.

³ Doc 5

⁴ Having regard to cereal supply and demand balance sheets in the Agricultural and Land Use Statement dated December 2014, provided by the Agriculture and Horticulture Development Board

28. Taking all these factors into account, I consider that there is a case for using this particular area of BMV land for solar energy development. A grid connection is available and the site is ready and available now.

Other matters

29. The site is within sight of Grade I listed church towers at West Walton and Walpole St Peter, and limited views are available of Ingleborough Mill tower, listed at Grade II. These towers are well beyond a distance at which the site could be considered to make a significant contribution to their settings. Existing tall electricity infrastructure also substantially affects the quality of the surrounding landscape.
30. I have had regard to all the other matters raised, including written representations made by local occupiers and a petition submitted on the day of the Hearing. The concerns of local residents are understood, but the scheme would be screened by new and infill planting and would be very difficult to see from any local dwellings or from local roads. Its zone of visual influence would be very limited. It would be seen at close quarters through gaps in surrounding vegetation from some local rights of way, but would not prevent appreciation of the quality of the landscape as a whole, which is of significant scale.

Whether any harm caused is outweighed by the production of renewable energy

31. The production of at least 27.75 MW of renewable energy is a very significant factor in favour, along with the associated reduction in carbon dioxide emissions and the contribution that would be made to addressing climate change. The Council referred to a noticeable drop off in solar applications since 2013, the reason for which is unknown. This proposal will lead to a significant and useful increase in solar PV in King's Lynn and West Norfolk, substantially aiding the Council in its aim to support and encourage the generation of energy from renewable sources, which all communities have a responsibility to contribute to. The removal of arable production on BMV land is a factor against the scheme, but this is more than compensated for by the use of the grass between the panels for the raising and fattening of sheep together with the production of electrical energy. The scheme would add a new income stream to the land holding, in line with the diversification objectives of policy CS06. The return of the land to arable production after 25 years means that it is not taken out of production for cereals in the long term.
32. The lack of any appreciable harm in respect of any other planning issue contributes to my conclusion that overall, there is a most compelling argument in favour of granting planning permission. The proposal would conform to the aims of CS policies including CS08; national policy; and the advice in PPG.

Conditions

33. The proposed conditions have been considered in the light of the planning guidance and the model conditions in the Appendix to Circular 11/95 *The Use of Conditions in Planning Permissions*. Conditions are necessary to control the period of the permission and to ensure decommissioning takes place; and to ensure that in the event of the panels failing to supply electricity to the grid for more than 12 months, the development is removed. It is necessary that the development is carried out in accordance with the approved plan, for the

avoidance of doubt and in the interests of proper planning. In the interests of the character and appearance of the area, the external details of inverter housings, the transformer, fencing and any security measures need to be approved prior to commencement. There is a likelihood that interesting archaeological features associated with a pre-drainage village settlement are present and a condition is imposed requiring a scheme to ensure these are properly recorded if disturbance occurs.

34. A Landscape and Ecological Management Plan (LEMP) is necessary to address landscape and biodiversity protection and enhancement during the construction, operational and restoration periods. No permanent external lighting is a requirement to preserve the dark skies typical of this rural environment. Full details of the proposed landscaping and planting are necessary together with measures to protect existing vegetation and ensure that planting becomes properly established.
35. The use of the land for sheep rearing and fattening needs to be assured and a condition requires the approval of a Solar Farm Grazing Management Plan (SFGMP).
36. Construction traffic involved in the construction and dismantling of the scheme needs to be controlled to avoid unnecessary highway safety risk and to protect the character of the area. The temporary access is to be removed and the verges and fields restored to preserve the character of the countryside along Mill Road Dyke. In conjunction with this, the access to Rose & Crown Farm and nearby dwellings is to be upgraded where it has deteriorated over the years. The hours of working on site are controlled in the interests of local occupiers and conditions are imposed to control noise levels during construction and operation, due to the size of the scheme and the likelihood that when the sun is shining and invertors operating at maximum capacity, inverter cooling fans will be in operation.
37. A Construction Method Statement is necessary to ensure that the works are carried out without undue detriment to nearby occupiers and in the interests of highway safety and wildlife. The height of the panels is limited to avoid any undue prominence in this flat landscape. Finally, the development needs to be constructed 500mm above the ground level in accordance with the recommendations in the Flood Risk Assessment.

Conclusion

38. For all the above reasons, the appeal should be allowed.

Paul Jackson

INSPECTOR

Schedule of 21 conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: WSP-0091-GA-600ST-217 Revision 08.
3. Notwithstanding the details submitted with this application, prior to the commencement of the development hereby approved, full details of the PV panels, mounting frames (and fixings), the external appearance of the inverter substations and primary substation, the boundary fencing and the locations and design of any CCTV cameras proposed shall be submitted to, and agreed in writing by, the Local Planning Authority. The development shall be constructed, operated and retained in accordance with the approved details.
4. The permission hereby granted is for the proposed development to be retained for a period of not more than 25 years from the date that electricity from the development is first supplied to the grid (the First Export Date), this date to be notified in writing to the Local Planning Authority. By the end of the 25 year period the solar panels must be decommissioned. No later than 6 months after decommissioning, all related structures shall be removed and the site restored in accordance with a restoration scheme which has been submitted to and approved in writing by the Local Planning Authority. The restoration scheme shall be submitted to the Local Planning Authority no less than 6 months prior to decommissioning and shall make provision for the dismantling and removal from the site of the solar PV panels, frames, foundations, inverter housings and all associated structures and fencing; and the repair of land drainage. The Local Planning Authority must be notified of the cessation of electricity generation in writing no later than five working days after the event.
5. If the development hereby permitted fails for a continuous period of 12 months to produce electricity for supply to the electricity grid network, then, unless otherwise agreed in writing with the Local Planning Authority, the solar panels and the ancillary equipment relating to it shall be decommissioned and removed from the site in accordance with a scheme to be submitted to the local planning authority no more than 3 months after the end of the 12 month period. The scheme shall make provision for the dismantling and removal from the site of the solar PV panels, frames, foundations, inverter housings and all associated structures and fencing; and the repair of land drainage. The land shall be reinstated in accordance with the scheme within a period of 6 months after the end of the 12 month period.
6. The scheme hereby permitted shall not commence until full landscaping details in accordance with the proposed mitigation illustrated on Plan no. SJA 199.11.B submitted as part of the Landscape and Visual Impact Assessment produced by Steve Jowers Associates (dated December 2013) including the positioning and height of straw bale screening, has been submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees/shrubs/plants which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be

replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the Local Planning Authority.

7. No trees, shrubs or hedges within the site which are shown as being retained in the Arboricultural Survey prepared by Greenwillows Associates Ltd (dated December 2013), shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior consent in writing of the Local Planning Authority.

8. The development hereby approved shall not commence until a Landscape and Ecological Management Plan (LEMP) which shall be in accordance with the recommendations in the 'Preliminary Ecological Appraisal' produced by Greenwillows Associates Ltd (dated September 2010) has been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the agreed LEMP which shall include the grazing between the panels which is to be a grass mix suitable for grazing.

9. No development shall take place until a Written Scheme of Investigation and timetable for a programme and reporting of archaeological works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the scheme and timetable.

10. Prior to the commencement of any works a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority together with proposals to control and manage construction traffic using the 'Construction Traffic Access Route' set out in the Construction Traffic Management Statement by WSP dated 5 December 2013. For the duration of the construction period, all traffic associated with the construction of the development will comply with the CTMP and use only the 'Construction Traffic Access Route' and no other local roads unless otherwise approved in writing by the Local Planning Authority.

11. Prior to the commencement of any on-site works, the temporary construction access shall be laid out as shown within the submitted Construction Traffic Management Statement dated 5 December 2013 and constructed in accordance with Norfolk County Council access construction specifications for at least the first 15 metres as measured back from the near edge of the adjacent carriageway.

12. Prior to the commencement of the use of the solar facility hereby permitted, the existing vehicular accesses to Rose and Crown Farm off Mill Road shall be upgraded in accordance with the Norfolk County Council light industrial access construction specification for the first 10 metres (measured along their centre lines) as measured back from the near channel edge of the adjacent carriageway.

13. Within 6 months of the First Export Date, the temporary access road shall be removed, and the verge reinstated and any remedial works undertaken, in accordance with a detailed scheme and timetable to be agreed in writing by the Local Planning Authority.

14. For the duration of the construction and decommissioning periods, deliveries shall only be received at or despatched from the site between the hours of 0800 and 1900 hours Monday to Saturday and not at all on Sundays and Bank Holidays other than with the prior written approval of the Local Planning Authority.

15. The development hereby approved shall not commence until a Construction Method Statement (CMS) has been submitted to and approved in writing by the

Local Planning Authority. Thereafter the construction of the development shall be carried out in accordance with the approved CMS. The CMS shall include:

- a) Details of any temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
- b) Dust management and cleaning of vehicle wheels;
- c) Pollution control measures in respect of:
 - Water courses and ground water
 - Bunding and storage areas
 - Foul sewerage
 - Construction noise mitigation measures
- d) Temporary site illumination during the construction period;
- e) Details of the proposed storage of materials;
- f) Details of surface treatments and the construction of any hard surfaces and tracks;
- g) Details of emergency procedures and pollution response plans;
- h) A Site Construction Environmental Management Plan to include details of measures to be taken during the construction period to protect wildlife and habitats including nesting birds;
- i) Details of how any construction compound and associated construction works will be reinstated to agricultural land, including a timetable for completion of the post construction restoration and reinstatement works.

Development shall be undertaken in accordance with the approved CMS.

16. No development shall take place until a Solar Farm Grazing Management Plan (SFGMP) has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall describe the methods by which grazing will be maintained by sheep throughout the period during which the development is operational. If for any reason grazing by sheep fails to occur for a period of more than 12 months then, unless otherwise agreed in writing with the Local Planning Authority, the solar panels and the ancillary equipment relating to it shall be decommissioned and removed from the site in accordance with condition 5 above.

17. No external artificial lighting shall be installed or operated during the period of this planning permission.

18. The Rating Level LArTr (to include the 5 dB characteristic penalty) of the noise emanating from the approved scheme, shall not exceed the measured background noise level at any time at the curtilage of any noise sensitive premises lawfully existing at the time of consent. The rating level (LArTr) and the background noise level (LA90) shall be determined in accordance with the guidance and methodology set out in BS4142: 1997.

19. The noise emissions during construction of the development shall not exceed a $L_{Aeq_{10\ min}}$ noise level of 65 dB, 1 metre from the façade of any occupied residential dwelling, during the construction and decommissioning periods.

20. The height of any of the solar panels hereby permitted shall not exceed a height of 2.8 metres above existing ground level.

21. The development hereby permitted shall not be implemented otherwise than entirely in conformance with the recommendations contained in the JBA Consulting Flood Risk Assessment dated November 2013.

APPEARANCES

FOR THE APPELLANT:

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| Stephen Tromans | Queens Counsel, instructed by Philips Planning Services Ltd |
| Colm Murphy | Elgin Energy EsCo Ltd |
| Al Morrow BA(Hons) MRTPI | Philips Planning Services Ltd |
| Roland Bull BSc(Hons) MSc MRICS | Bidwells LLP |
| FAAV CEnv | |
| Ross Allan | Arcus Consulting |
| Mark Riddington | Landowner |

FOR THE LOCAL PLANNING AUTHORITY:

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| Estelle Dehon | Of Counsel, instructed by East Law on behalf of King's Lynn and West Norfolk Borough Council |
| Hannah Wood-Handy BA(Hons) MA MRTPI | Principal Planner KLWNBC |
| Keith Wilkinson BA(Hons) MRTPI | Senior Planner KLWNBC |
| Noel Doran | East Law |

DOCUMENTS

- 1 Updated Statement of Common Ground and list of suggested conditions
- 2 Petition of residents against the proposal
- 3 Written Statement to Parliament by the Rt Hon Eric Pickles MP, 25 March 2015
- 4 Bundle of documents relating to emerging policy DM20, supplied by the Council
- 5 Bundle of documents detailing planning applications for renewable energy development in KLWNDC, supplied by the Council
- 6 Note on sequential test, provided by the appellant
- 7 Folder of Inspector's decisions with highlighted points, submitted by the appellant
- 8 UKPN drawing HQ-2000-4702 Rev K showing Eastern Power Networks generation capacity at 19 March 2014
- 9 UKPN drawing HQ-2000-4702 Rev M showing Eastern Power Networks generation capacity at 5 December 2014, printed by the Inspector