



Appeal Decision

by Mr Anthony Thickett BA(HONS) BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 05/08/2026

Appeal reference: CAS-04438-N8F4W9

Site address: Land North of Bronwylfa Road, Rhostyllen, Wrexham, LL14 4BJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Innova Renewables Developments against Wrexham County Borough Council.
 - The application Ref P/2024/0155 is dated 23 February 2024.
 - The development proposed is the installation and operation of an Energy Storage System (ESS) including energy storage units, substation, site access, cable connection, landscaping and ancillary infrastructure.
 - A Hearing was held on 21 July 2026.
 - A site visit was made on 22 July 2026.
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Decision

1. The appeal is allowed and planning permission granted subject to the conditions set out in the Schedule at the end of this decision.

Application for costs

2. The application for costs made by Innova Renewables Developments against Wrexham County Borough Council is the subject of a separate Decision.

Main Issues

3. The main issues are the impact of the proposed development on,
 - the supply of best and most versatile agricultural land (BMV),
 - public safety,
 - the character and appearance of the area, and
 - biodiversity.

Reasons

BMV

4. The appeal site comprises a triangular field of around 5.5ha to the north of the B5097, Bronwylfa Road to the west of the A483 and Rhostyllen, together with 4 corridors to the north and west of the field. The corridor immediately to the west would be used for vehicular access, the others are options for connection to the sub-station at Legacy, around a kilometre to the west.
5. BMV is defined as land graded 1, 2 and 3a under the Agricultural Land Classification system. The site is Grade 2. Policy PS3 of the Wrexham Unitary Development Plan 1996 -2011, adopted 2005 (UDP) directs new development to brownfield land in preference to greenfield, particularly where, amongst other things, greenfield land is BMV. Policy EC2 states development of BMV will only be permitted if it does not lead to the irreversible loss of that land.
6. Planning Policy Wales 12 (PPW) places considerable weight on protecting BMV stating it should only be developed;
 - i. if there is an overriding need for the development, and
 - ii. either previously developed land or land in lower agricultural grades is unavailable, or
 - iii. available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation, which outweighs the agricultural considerations.
7. Further, if there is a choice between sites of different BMV grades, development should be directed to land of the lowest grade (PPW 3.59).
8. Planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. Such considerations include whether a policy accords with later national policy or guidance. Policy EC 2 does not accord with PPW and the Council agreed at the Hearing the proposal should be tested against national policy relating to BMV as set out in PPW.
9. The Council does not question the need for the proposed development nor that battery storage facilities are an important contributor to maximising the efficiency of existing and future renewable electricity generation. In this regard the proposal finds support in Policy 17 of Future Wales. The Council criticises the appellant's Site Selection Report on the basis it does not demonstrate previously developed land is not available and the weighting of criteria is not explained.
10. Before turning to those matters, to be technically and commercially feasible, battery storage should ideally be within 3km of point of connection, in this case, the Legacy sub-station. The boundary of the Clwydian Range and Dee Valley National Landscape (previously known as Area of Outstanding Natural Beauty) is within 2.75km of the substation. Due to this constraint and the proximity of Rhostyllen, Rhosllanerchrugog and Johnstown, the appellant decided to limit the search area to 2.5km on the basis a 3km search area would only include urban areas or the National Landscape. I consider this approach to be sound for the same reasons.
11. The appellant's Site Selection Report recognises suitable brownfield land should be used before greenfield. Further, it records there is no industrial or commercial land or premises of the size required to accommodate the proposed development. Whilst it is for the appellant to demonstrate there is no previously developed land available, the Council produced nothing to show the appellant overlooked suitable and available brownfield sites within the search area.

12. Bersham Colliery Tip was suggested as a possible location at the Hearing. I saw what appear to be reclamation works underway at the Tip but nothing was submitted to indicate ownership, what the final proposed use and form of the land may be, the stability of the site or how long any reclamation will take.
13. I heard there was no reason to suggest this site may be a possibility at the time the site selection report was produced. Further, had it been identified as an option after the site selection report was produced, I would have expected the Council to cite it as an example of a failing in the appellant's assessment in its appeal statement. It did not, nor did the Council's witness contend the site was suitable when it was raised at the Hearing. For these reasons, I am not persuaded the Tip is a credible alternative, or that the failure to include it undermines the site selection process.
14. Turning to weighting of the assessment criteria, the appellant produced an addendum providing further explanation for judgements on a number of sites discounted in the original report. The site selection report assesses access, landscape, biodiversity and heritage impacts, agricultural land quality, topography, residential amenity and distance from the Legacy sub-station. I agree with the appellant, it would not be appropriate to quantify weight to each matter in percentage terms and the Council conceded at the Hearing assessing impact is a matter of planning judgement, based on circumstances of each site and its surroundings.
15. Other than to question what was meant by 'sloping', the Council did not challenge the judgements made in the appellant's Table of Findings. The range goes from flat, relatively flat, sloping to steep. The appellant explained it was not possible to set a degree of incline beyond which development would not be feasible or too costly and again, this is a matter of judgement.
16. Of the 29 sites considered 18 are not BMV (3b), 4 Grade 3a and some a mix of grades. All are discounted for other reasons such as lack of access, gradient or proximity to heritage assets or houses. The Council did not challenge any findings on any individual site and I am satisfied the site selection process was robust and demonstrates there is no suitable brownfield land or sites of a lower grade available to accommodate the proposed development. I conclude, therefore, the proposed development complies with national policy regarding BMV as set out in PPW.

Public safety

17. Neither the Health and Safety Executive, the North Wales Fire & Rescue Service, Welsh Government (Trunk Roads) or the Council's Public Protection Officer raise any objection on safety grounds. In an e mail of 29 October 2024, the North Wales Fire & Rescue Service stated it offered advice in line with the National Fire Chiefs Council's Grid Scale Battery Energy Storage System Planning Guidance. It went on to say they were not in a position to confirm a position of 'no objection, subject to conditions' but would review when more information is available regarding the technologies involved and emergency plans established.
18. Notwithstanding that comment, I am entitled to assume a responsible authority, such as the North Wales Fire & Rescue Service, would raise significant concerns if it had them, whether it considers itself to be a statutory consultee or not. It has not raised significant concerns in correspondence with the Council or the appellant. Further, the appellant's statement the proposed Outline Battery Safety Management Plan accords with National Fire Chiefs Council's guidance is not challenged.
19. There is no dispute there have been fires at battery storage sites. However, the evidence before me demonstrates, provided the proposed development is constructed and

operated in accordance with best practice, the likelihood of a fire occurring is extremely low. Based on an analysis of the number of battery storage units in the UK, length of operation (hours) and the number of fires at battery storage facilities, the appellant's expert witness estimates the risk of a fire at the proposed development is around 1 in 750 years.

20. The nearest building to the battery storage units would be a cricket pavilion around 160m to the west, the nearest house would be 200m from the battery storage units and the view of the appellant's expert witness is risk to human health would be low. This is due to the distance between the proposed storage units and residential properties is such any health impacts from emissions is highly unlikely and warnings to close windows would be given if necessary. These measures can be included in the safety plan required by condition.
21. At the Hearing the Council conceded it had produced no evidence to counter that given by the appellant's expert, nor did any other party offer any empirical evidence to the contrary. The academic report appended to the Council's statement is 5 years old, it is not specific to this proposal and it is unclear whether the batteries it refers to use the same chemistry as would be utilised here. The appellant's expert evidence, which demonstrates, subject to conditions, the risk of fire is low and the proposed development would operate safely, is to be preferred. I conclude, therefore, the proposed development would not have an adverse impact on public safety and complies with Policy GD1 of the UDP.

Character and appearance

22. The site is within a Special Landscape Area (SLA) designated by the UDP using guidance which has long since been superseded. SLAs were reviewed during the preparation of the now withdrawn Local Development Plan (LDP) using up to date methodology recommended by NRW and consistent with PPW. The review concluded the area around the site was not worthy of SLA status when assessed using current best practice. I, therefore, afford the UDP SLA designation little weight but agree with Council Officer's, Policy EC5's permissive approach to essential operational development by utility service providers, is arguably a category of development that, in principle, Policy EC5 envisaged could be sited within SLAs.
23. The land to the west of the A483 is rural in character, gently undulating countryside, characterised by irregularly shaped fields of different sizes dotted with farms and farm buildings. The proposed development would result in the installation of 118 battery storage units, 2.9m high, 2.5m wide and 7m long with an appearance akin to storage containers. In addition there would be a substation with associated electrical infrastructure and containers for storage, a site office and water storage. The Gas Insulated Switchgear Hall (GIS) would around 57m long, 28.5m wide and 14m high. The site would be surrounded by a 2.4m palisade fence. A new access at the junction of the B5097 and Bronwylfa Road would result in the loss of 54m of hedgerow.
24. The site is enclosed to the north by a railway embankment, the line long disused and the embankment covered with mature trees. The boundary with Bronwylfa Road is bounded by a hedge which, in parts, sits on a bank with an overall height of around 2m. I agree with the findings of the appellants Landscape and Visual Impact Assessment, as a result of this existing screening, impact on the wider landscape would be minor. Nonetheless, even with the proposed landscaping, from the road, the public right of way crossing the site and the path running along the embankment, the impact would be significant and the development would appear at odds with this rural setting. I conclude the proposed

development would have an adverse impact on the character and appearance of the area and conflicts with Policy PS2 of the UDP.

Biodiversity

25. The appellant's ecologist identifies the main part of the site as improved grassland of low ecological value. The Council's ecologist does not disagree. The broad-leaved woodland on the embankment is subject to a Tree Preservation Order (TPO) as is a sycamore in the south-west corner of the site, adjacent to the proposed access. No mature trees would be lost and measures put in place through condition to ensure no damage during construction.
26. The woodland and hedges enclosing the site offer roost and foraging potential for bats. NRW has no objection regarding impacts on bats subject to a condition controlling lighting. Great Crested Newts have been recorded in the vicinity of one of the potential cable routes. NRW has no objection subject to appropriate measures being taken to avoid harm to this species. This will be secured by condition.
27. Enhancements would include replacement hedgerow planting at a ratio of 3:1. An ecology enhancement area would be created in a field to the west of the site, its provision and management secured through a unilateral undertaking. Habitat for butterflies and Great Crested Newts would be created and 10 oak trees planted. I am satisfied the mitigation and enhancement measures contained in the unilateral undertaking are necessary and afford it significant weight.
28. Around 54m of ancient, species rich, hedgerow would be lost to create the proposed access. PPW cites ancient hedgerows as an example of irreplaceable habitat which must be safeguarded unless there are wholly exceptional circumstances to justify the proposed development. I will return to this in my conclusions but in all other respects, the proposed development would enhance biodiversity and complies with Policy 9 of Future Wales and Policy EC6 of the UDP.

Other Matters

29. Part of the main site falls Zones 2 and 3 (surface water and small watercourses) but outside the development area. The cable is to be laid underground and I have seen no technical evidence the proposed development would increase the risk of flooding on the site or elsewhere.
30. Surface water drainage is subject to separate approval from the Sustainable Drainage Systems Approval Body. Nonetheless, surface water management, particularly any contaminated run off as a result of fire control suppression, is a material planning consideration. Measures to ensure contaminated water is stored and disposed of properly can be secured by condition.

Conclusion

31. The proposed development would have a detrimental impact on the character and appearance of the area and 54m of ancient hedgerow would be lost. On a wider scale, the landscape impact would be limited by the embankment, existing mature trees and hedges and proposed landscaping. New hedge planting and the ecological enhancement area would go some way to compensate for the loss of a short section of ancient hedgerow. Through scheme design, conditions and the unilateral undertaking no harm should come to protected species and habitats should be enhanced.
32. The likelihood of a fire is extremely low and measures can be secured to safeguard those living in the vicinity if one occurs.

33. For connection to the grid to be feasible, battery storage sites should ideally be within 3km of a connection. PPW does not preclude development of BMV. The Legacy sub-station lies in the open countryside in an area with a high percentage of BMV. It was highly likely, therefore, a site within the optimal distance for connection would include BMV. BMV is not the only criterion influencing site suitability. Ability to access abnormal loads, topography, proximity to heritage assets and housing and designated landscapes are all factors. Taking all these into account, I am satisfied the site selection process demonstrates no previously developed land or land of a lower grade is available.
34. The proposed development would store surplus electricity from the grid to be released at times of peak demand, building resilience in the system and supporting growth in renewable energy generation. Policy 17 of Future Wales states decision-makers must give significant weight to the need to meet Wales international commitments and the target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency. PPW recognises energy storage has an important part to play in managing the transition to a low carbon economy and supports battery storage facilities (5.7.12).
35. I consider the scheme's contribution to meeting the Government's renewable energy and decarbonisation targets, combined with the site specific circumstances relating to proximity to the grid at Legacy sub-station and ability to provide a suitable access, provide the wholly exceptional circumstances to justify the loss of 54m of ancient hedge and outweighs the harm I identify to the character and appearance of the area. For the reasons given above and having regard to all matters raised, the appeal is allowed.
36. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. This decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective to build a stronger, greener economy as we make maximum progress towards decarbonisation.

A Thickett

Inspector

SCHEDULE

CAS-04438-N8F4W9

The appeal is allowed and planning permission granted for the installation and operation of an Energy Storage System (ESS) including energy storage units, substation, site access, cable connection, landscaping and ancillary infrastructure at Land North of Bronwylfa Road, Rhostyllen, Wrexham, LL14 4BJ, in accordance with the terms of the application, Ref P/2024/0155 dated 23 February 2024, subject to the following conditions:

1. The development hereby permitted shall begin no later than five years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan v2 dated 10/04/2024

Layout Plan v13 dated 19/04/2024

INVA-AXM-LGY-XX-DR-CE-001163: Levels Strategy – Proposed Development Levels and Overland Flow

Technical Note: A483 Slope Stability Review Revision 02 dated 31 October 2024

Drawing No. 2: Palisade Fence v2 dated 06/09/2024

Drawing No. 8: Spares Container dated 03/05/2022

Drawing no. 14: MV Skid/Inverter Dimensions dated 06/01/2023

Drawing no. 15: Energy Storage Dimensions dated 13/02/2023

Drawing no. 16: Access Tracks – Energy Storage System dated 27/03/2023

Drawing no. 18: Office Container dated 18/05/2023

Drawing no. 20: CCTV Post dated 28/04/2022

Drawing no. 21: Water Container dated 03/05/2022

Drawing no. 28: 132kV Substation Layout dated 16/05/2023

Drawing no. 29: Car Parking Details dated 15/06/2023

Drawing no. 001: Substation Layout dated 16/11/2023

Drawing no. 002: Substation Elevations A&B dated 16/11/2023

Drawing no. 002: Substation Elevations C&D dated 16/11/2023

Drawing no. P22-3121-EN_EN_0003 Revision D: Landscape Masterplan, dated 04/10/2023

Reason: To ensure the development is carried out in accordance with the approved plans submitted with the application.

3. The permission is granted for a period of 50 years from the date when the development is first used for the storage of energy. (the "First Operational Use Date"). Written confirmation of the First Operational Use Date shall be sent to the local planning authority within one month of the First Operational Use Date.

Reason: To ensure best and most versatile land is not lost in perpetuity in accordance with Policy PS2 of the UDP.

4. No later than 12 months before the end of the 50-year operating period (or within 6 months of the permanent cessation of the use of the development hereby permitted for the storage of energy) a decommissioning and site restoration scheme shall be submitted to the local planning authority for its approval. The scheme shall include:

- i. Details of the removal of the development hereby permitted and,
- ii. A Decommissioning Environmental Management Plan

The approved decommissioning and site restoration scheme shall be completed within 6 months of the end of the 50 year operating period or 6 months after the approval of the decommissioning and site restoration scheme, should the site cease to be used for the storage of energy before the end of the 50 year operating period.

Reason: In the interests of the character and appearance of the area and the protection of soil resources in accordance with Policies GDP1 and PS2 of the UDP.

5. Construction works, including the maintenance of plant and machinery, shall only take place between the hours of 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays, and not at all on Sundays or Bank/Public Holidays.

Reason: To safeguard the living conditions of local residents in accordance with Policy GDP1 of the UDP.

6. No development, or site clearance shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved details.

Reason: To safeguard ecological interests in accordance with Policy EC6 of the UDP.

7. No development or site clearance shall take place until a Great Crested Newt plan outlining reasonable avoidance measures has been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved details.

Reason: To safeguard ecological interests in accordance with Policy EC6 of the UDP.

8. No development or site clearance shall take place until an Arboricultural Method Statement has been submitted to and approved in writing by the local planning authority. The development and all other operations shall take place in accordance with the approved Method Statement.

Reason: To safeguard trees in accordance with Policy GDP1 of the UDP.

9. No development or site clearance shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved details.

Reason: To safeguard the living conditions of local residents in accordance with Policy GDP1 of the UDP.

10. No development or site clearance shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety in accordance with policy GDP1 of the UDP.

11. Prior to the installation of the Battery Energy Storage units, a Battery Safety Management Plan shall be submitted to and approved in writing by the local planning authority. The installation and operation of the units shall be carried out in accordance with the approved details.

Reason: To ensure the safe operation of the development hereby permitted, in accordance with Policy GDP1 of the UDP.

12. No development or site clearance shall take place until details of the cable route connecting the battery storage energy system to the Legacy Substation has been submitted to and approved in writing by the local planning authority. The details shall include which of the corridors edged red on the drawing Layout Plan v13 dated 19/04/2024 are to be used, sections and excavation methods, including which cable trench construction method will be used if the north cable route option is utilised and how it will mitigate for potential impacts to the unscheduled section of Offa's Dyke DE132 and potential impacts to any former defensive ditch associated with Cadwgan Hall Mound DE131. The cable route shall be installed in accordance with the approved details.

Reason: To safeguard archaeological features in accordance with Policy EC11 of the UDP.

13. No development or site clearance shall take place until a written scheme of historic environment mitigation for the areas where the proposed cable route crosses Offa's Dyke has been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the requirements, standards and timescales set out in the approved scheme.

Reason: To safeguard archaeological features in accordance with Policy EC11 of the UDP.

14. No development or site clearance shall take place until a drainage strategy has been submitted to and approved in writing by the local planning authority. The strategy should;

- demonstrate how contaminated firewater is to be prevented from infiltrating the ground or any offsite drainage networks,
- include details of precautions to be in place to contain any fire water produced and how fire water will be disposed of responsibly,
- pollution prevention measures in the event of any chemical leakages across the site

The construction and operation of the development hereby permitted shall be carried out in accordance with the approved details.

Reason: To avoid pollution in accordance with Policy GDP1 of the UDP.

15. No development or site clearance shall take place until details of an external lighting scheme has been submitted to and approved in writing by the local planning authority. No lighting shall be erected or operated other than in accordance with the approved scheme.

Reason: To safeguard ecological interests in accordance with Policy EC6 of the UDP.

16. The rating level of any noise generated by the development hereby permitted shall not exceed pre-existing background level at any time. Before the First Operational Use date, noise levels shall be determined at nearby noise sensitive premises, and measurements and assessment shall be made in accordance with BS4142:2014 Methods for Rating and Assessing Industrial and Commercial Sound. The results shall be submitted to the local planning authority before First Operational Use date.

Reason: To safeguard the living conditions of local residents in accordance with Policy GDP1 of the UDP.