

**To: The Deputy Leader and Members of the Planning and Development Board**

**(Councillors Simpson, Bates, Bell, Chapman, Dirveiks, Fowler, Gosling, Hayfield, Hobley, Humphreys, Jarvis, Parsons, H Phillips, Reilly, Ridley and Ririe)**

**For the information of other Members of the Council**

For general enquiries please contact the Democratic Services Team on 01827 719226 via e-mail – [democraticservices@northwarks.gov.uk](mailto:democraticservices@northwarks.gov.uk)

For enquiries about specific reports please contact the officer named in the reports.

The agenda and reports are available in large print and electronic accessible formats if requested.

## **PLANNING AND DEVELOPMENT BOARD AGENDA**

**8 JULY 2024**

The Planning and Development Board will meet on Monday, 8 July 2024 at 6.30pm in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire.

The meeting can also be viewed on the Council's YouTube channel at [NorthWarks - YouTube](#).

### **AGENDA**

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**

## **REGISTERING TO SPEAK AT THE MEETING**

Anyone wishing to speak at the meeting, in respect of a Planning Application, must register their intention to do so by 1pm on the day of the meeting, either by email to [democraticservices@northwarks.gov.uk](mailto:democraticservices@northwarks.gov.uk) or by telephoning 01827 719226 / 719221 / 719237.

Once registered to speak, the person asking the question has the option to either:

- (a) attend the meeting in person at the Council Chamber; or
- (b) attend remotely via Teams.

If attending in person, precautions will be in place in the Council Chamber to protect those who are present however this will limit the number of people who can be accommodated so it may be more convenient to attend remotely.

If attending remotely an invitation will be sent to join the Teams video conferencing for this meeting. Those registered to speak should join the meeting via Teams or dial the telephone number (provided on their invitation) when joining the meeting and whilst waiting they will be able to hear what is being said at the meeting. They will also be able to view the meeting using the YouTube link provided (if so, they may need to mute the sound on YouTube when they speak on the phone to prevent feedback). The Chairman of the Board will invite a registered speaker to begin once the application they are registered for is being considered.

- 4 **Minutes of the meeting of the Board held on 10 June 2024** – copy herewith, to be approved and signed by the Chairman.

## **ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)**

- 5 **Planning Applications** - Report of the Head of Development Control

### **Summary**

Town and Country Planning Act 1990 – applications presented for determination.

- 5a **Application No: PAP/2023/0324 – White Hart Inn, Ridge Lane, Nuneaton, CV10 0RB**

Erection of 3 no. dwellings (outline: access only)

**5b Application No: PAP/2023/0514 – 1 Poplars Yard, New Road, Shuttington, B79 0EJ**

Proposed extension to provide snug, utility, shower room and bedroom, together with retrospective amendment to cart hovel

**5c ApplicationNo: PAP/2023/0071 – Land 800 Metres South of Park House Farm, Meriden Road, Fillongley**

Construction of a temporary Solar Farm, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure

The Contact Officer for this report is Jeff Brown (719310).

**6 Appeal Update - Report of the Head of Development Control**

**Summary**

The report updates Members on recent appeal decisions.

The Contact Officer for this report is Jeff Brown (719310).

STEVE MAXEY  
Chief Executive

## NORTH WARWICKSHIRE BOROUGH COUNCIL

### MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

10 June 2024

Present: Councillor Simpson in the Chair

Councillors Bates, Bell, Chapman, Dirveiks, Fowler, Hayfield, Hobley, Humphreys, Parsons, H Phillips, O Phillips, Ridley, Ririe, Smith and Watson

Apologies for absence were received from Councillor Reilly (Substitute Councillor Watson), Ray Jarvis (Substitute Councillor Smith) and Councillor Gosling (Substitute Councillor O Phillips)

#### 9 **Disclosable Pecuniary and Non-Pecuniary Interests**

Councillors Parsons and Ridley declared a non-pecuniary interest in Minute No 12a – Application No PAP/2024/0078 (Land north of Ivy Cottage, Freasley Common, Dordon) by reason of being members of Polesworth and Dordon Parish Councils and took no part in the discussion or voting thereon.

Councillor Humphreys declared a non-pecuniary interest in Minute No 12a – Application No PAP/2024/0078 (Land north of Ivy Cottage, Freasley Common, Dordon) by reason of knowing the applicant and took no part in the discussion or voting thereon.

#### 10 **Minutes**

The minutes of the meeting of the Planning and Development Board held on 21 May 2024, copies having previously been circulated, were approved as a correct record, and signed by the Chairman.

#### 11 **Submission of Polesworth Neighbourhood Plan for Public Consultation**

The Chief Executive informed Members of the submission of the Polesworth Neighbourhood Plan and sought approval to go out for a formal consultation in accordance with regulation 16 of the Neighbourhood Planning (General) Regulations 2012.

**Resolved:**

**That the Polesworth Neighbourhood Plan be publicised for a six – week public consultation.**



## 12 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board.

### **Resolved:**

- a That Application No PAP/2024/0078 (Land north of Ivy Cottage, Freasley Common, Dordon) be deferred and to return to the next Planning and Development Board with more details in respect of clarification of the plans as submitted and alleged breaches of planning control**
- b That Application No PAP/2018/0755 (Land to east of Former Tamworth Golf Course, North of Tamworth Road – B5000 and west of M42, Alvecote) be noted.**

## 13 **Appeal Update**

The Head of Development Control brought Members up to date with recent appeal decisions.

### **Resolved:**

**That the report be noted.**

M Simpson  
Chairman

## Agenda Item No 5

### Planning and Development Board

8 July 2024

### Planning Applications

#### Report of the Head of Development Control

#### 1 Subject

- 1.1 Town and Country Planning Act 1990 – applications presented for determination.

#### 2 Purpose of Report

- 2.1 This report presents for the Board decision, a number of planning, listed building, advertisement, proposals, together with proposals for the works to, or the felling of trees covered by a Preservation Order and other miscellaneous items.
- 2.2 Minerals and Waste applications are determined by the County Council. Developments by Government Bodies and Statutory Undertakers are also determined by others. The recommendations in these cases are consultation responses to those bodies.
- 2.3 The proposals presented for decision are set out in the index at the front of the attached report.
- 2.4 Significant Applications are presented first, followed in succession by General Development Applications; the Council's own development proposals; and finally Minerals and Waste Disposal Applications.

#### 3 Implications

- 3.1 Should there be any implications in respect of:

Finance; Crime and Disorder; Sustainability; Human Rights Act; or other relevant legislation, associated with a particular application then that issue will be covered either in the body of the report, or if raised at the meeting, in discussion.

#### 4 Site Visits

- 4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.
- 4.2 Members are reminded of the "Planning Protocol for Members and Officers dealing with Planning Matters", in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

## 5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: [www.northwarks.gov.uk](http://www.northwarks.gov.uk).
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 5 August 2024 at 6.30pm in the Council Chamber

## 6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at:  
[https://www.northwarks.gov.uk/info/20117/meetings\\_and\\_minutes/1275/speaking\\_and\\_questions\\_at\\_meetings/3](https://www.northwarks.gov.uk/info/20117/meetings_and_minutes/1275/speaking_and_questions_at_meetings/3).

## Planning Applications – Index

| Item No | Application No | Page No | Description  | General / Significant |
|---------|----------------|---------|--|-----------------------|
| 5/a     | PAP/2023/0324  | 1       | <b>White Hart Inn, Ridge Lane, Nuneaton, CV10 0RB</b><br><br>Erection of 3no. dwellings (outline: access only)   | General               |
| 5/b     | PAP/2023/0514  | 26      | <b>1 Poplars Yard, New Road, Shuttington</b><br><br>Proposed extension to provide snug, utility, shower room and bedroom together with retrospective amendment to cart hovel   | General               |
| 5/c     | PAP/2023/0071  | 75      | <b>Land 800 metres south of Park House Farm, Meriden Road, Fillongley</b><br><br>Construction of a temporary solar farm, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure |                       |

## **General Development Applications**

**(5/a) Application No: PAP/2023/0324**

**White Hart Inn, Ridge Lane, Nuneaton, CV10 0RB**

**Erection of 3no. dwellings (outline: access only), for**

**Unique Pub Properties Limited**

### **Introduction**

The application is reported to the Planning and Development Board at the request of the local members concerned with the potential impacts of the proposals.

### **The Site**

The application site comprises an unkempt, modified grassland to the rear of the car park serving the White Hart Public House, containing deposits of waste and rubble. The pub garden lies to the west, residential properties to the north and northeast, with the recreation grounds situated to the south, separated from the site by a line of semi-mature broadleaved trees. The development area is relatively level, save for a handful of small mounds, with a fall of less than 0.2m from the car park to the recreation ground boundary and a gentle cross fall of c.0.85m from the vegetated area in the north-west to the opposing boundary. The site falls within the Ridge Lane development boundary, as identified within the 2021 North Warwickshire Local Plan.

Appendix A shows the site's location.

### **Background**

There is no prior planning history for the site itself.

### **The Proposal**

Outline planning permission is sought for the erection of three dwellings with all matters reserved, except for access.

Access to the development would be obtained from Ridge Lane through the car-park referenced above. 2.4 metre by 2.4 metre pedestrian visibility splays are to be provided onto the highway with the access widend to 5m for the first 7.5 metres, in accordance with the requirements of the Local Highway Authority.

An indicative site plan is provided below, depicting the access arrangements, the retention of the public house's car parking and the position of properties within the site. As noted, this is an outline application with matters of scale, appearance and layout of the development, as well as landscaping, reserved for approval at a later date. Considerations on the application extends only to the principle of development and to the access arrangements.

The proposed layout is at Appendix B.

A Preliminary Ecological Appraisal has been submitted, concluding that whilst the site has suitable potential to support nesting birds and foraging bats, its ecological value is limited and, subject to design mitigation and site preparation, no further surveys would be needed.

A Transport Statement has been submitted, stating that the site can be developed in compliance with national and local planning policy.

A Road Safety Audit (Phase 1) has been submitted, identifying no road safety issues (this has been reviewed by WCC Highways and is discussed later on in the report).

A Biodiversity Net Gain Assessment has been submitted, concluding that 7 additional trees would lead to a 1.17% net gain, with 10m of hedgerow providing a net gain in hedgerow units of 3.3%.

A Tree Constraints Plan and outline Arboricultural Impact Assessment has been submitted, identifying features within and near to the site – see Appendix C.

## **Development Plan**

The North Warwickshire Local Plan 2021 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP5 (Amount of Development), LP7 (Housing Development), LP8 (Windfall), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP17 (Green Infrastructure), LP21 (Services and Facilities), LP29 (Development Considerations), LP30 (Built Form), LP33 (Water Management), LP34 (Parking) and LP35 (Renewable Energy and Energy Efficiency).

Mancetter Neighbourhood Plan 2016-2029 – DP1 (Sustainable Development), SB1 (Development within the Mancetter Village and Ridge Lane Settlement Boundaries), H1 (Smaller infill sites), BE2 (Protecting and enhancing local character), NE and L2 (Nature Conservation) and Policy T and A1 Development related traffic requirements.

## **Other Relevant Material Considerations**

National Planning Policy Framework 2023 (“NPPF”)

Planning Practice Guidance (“NPPG”)

The Government’s National Design Guide

The Town and Country Planning Act 1990, as amended.

Natural Environment and Rural Communities Act 2006

Conservation of Habitats and Species Regulations 2017, as amended.

Environment Act 2021

Human Rights Act 1998

Equality Act 2010

## **Consultations**

Warwickshire County Council (Archaeology) – No objection

Warwickshire County Council (Forestry) – No objection subject to a detailed Arboricultural Impact Assessment (AIA) and Arboricultural Method Statement (AMS) being conditioned/

North Warwickshire Borough Council (Waste and Transport) – No objection.

Warwickshire County Council (Highways) - No objection, subject to conditions

## **Representations**

Mancetter Parish Council – It objects based on policies H1, T and A1 of the adopted Mancetter Neighbourhood Plan. The main issues are:

- Road Safety and highway concerns because of the nature of the access, its location and on-street car-parking.
- Comments in the Road Safety Audit are incorrect.
- There would no community gain or value.
- There is increased risk about the longevity of the White Horse as a Public House particularly as it is named in the Neighbourhood Plan.
- The village has few facilities and an infrequent bus service.

The full objection is at Appendix D.

Forty representations have been received in respect of this application – 36 of which are objections. Matters raised repeat those above but additionally the following comments are made:

- The removal of a wildlife habitat
- No more houses are needed
- There would be loss of views
- It would detract from the character of the recreation ground.
- Noise generation – construction and operation

A full summary is provided at Appendix E.

## **Observations**

Section 38(6) of the Planning and Compulsory Purchase Act 2004, together with Section 70(2) of the Town and Country Planning Act 1990, require planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.

### **a) Principle of development**

The application site lies within the development boundary for Ridge Lane, a Category 4 settlement within Mancetter Parish situated to the south of Atherstone. Policy LP2 of the North Warwickshire Local Plan (NWLP) provides support, in principle, for this development within the Ridge Lane development boundary.

Furthermore, Part A of Mancetter Neighbourhood Plan (NP) policy SB1 states that small-scale housing (up to 10 dwellings) within the settlement boundary of Ridge Lane will be permitted. The application site falls inside the settlement boundary. Part B of the policy provides further detail for developments within Ridge Lane which will be discussed below. In light of the above, the proposals, in principle, draw support under NWLP policy LP2 and Policy SB1(A) of the Mancetter Neighbourhood Plan, providing new housing within a sustainable location and contributing towards delivery within the Borough.

### **b) Highway Safety**

Policy LP29(6) of the NWLP requires new development to provide both safe and suitable access to a site for all users. Paragraph 115 of the NPPF specifies that development should only be refused on highways grounds where there would be an unacceptable impact on highway safety, or in situations where the residual, cumulative impacts of the proposals are severe.

Public consultation has elicited a series of objections to the application, almost exclusively relating to highway safety issues, particularly surrounding the use of the existing access onto Ridge Lane.

Ridge Lane is a single-carriageway running on an east-west alignment through the village with a 30mph posted speed limit. The applicant's Transport Statement states that no accidents have been recorded within proximity to the site over the latest five-year period (2017-2021), indicating no existing highway safety issues; parking provision accords to Local Plan requirements, refuse can be safely collected and that trip generation from the development would be very low. The statement summarises that the development can be comfortably accommodated in conformity with the Local Plan and the NPPF.

Warwickshire County Council, as the Local Highway Authority, requested that the applicant supply a Road Safety Audit. This has been received and reviewed by the County Council. Furthermore, an amended drawing depicting a remodelled, wider access and re-positioning of the bin collection point to ensure adequate visibility, has been supplied. In its latest response, the Highway Authority does not object to the development, subject to conditions.

The County highlighted that the development would be served by an existing access; speed data suggests a slow-speed environment (16mph to 22mph), and that there is no record of collisions at the access since records began in 1990. Pertinently, the Authority considers that they "*would not be able to defend an objection at appeal as the impacts are not considered severe*". This response is considered to carry substantial weight.



The development is considered to accord with policy LP29 of the North Warwickshire Local Plan.

### **c) Character and Appearance**

Notwithstanding the outline nature of the application with all matters reserved (except for access), consideration should be given to the effect of the scale and nature of the proposals on the character and appearance of the area.

The NPPF identifies that good design is a vital component of sustainable development, setting out that proposals which are poorly designed and fail reflect local design policies and government guidance, should be refused (p139).

Local Plan policy LP1 declares that all development must demonstrate a high quality of sustainable design with LP30 requiring development to both respect and reflect the existing pattern, character, and appearance of its setting. Mancetter Neighbourhood Plan policy SB1(B) requires new development within Ridge Lane to reflect surrounding character (c) and strengthen boundaries with hedgerow planting (f).

The application site lies to the rear of Ridge Lane which, on the southern side of the Lane, displays a strong character of frontage development with the urban grain on the northern side evidentially more variable. Developing land behind the frontage of existing buildings would contrast with the prevailing pattern on the southern side of Ridge Lane and could be described as backland development. However, this does not mean that such development is unacceptable in principle. Indeed, policy LP30 of the North Warwickshire Local Plan guides such developments:

*Back-land development should be subservient in height, scale, and mass to the surrounding frontage buildings. Access arrangements should not cause adverse impacts to the character and appearance, safety, or amenity of the existing frontage development.*

The frontage development is largely two-storey, save for a three-storey gabled projection to 18 Ridge Lane. Cottages to the west of the access into the site are two-storey, yet with characteristically low eaves. Planning Practice Guidance advises that Local Authorities can use conditions at the outline stage to set out detailed design principles to ensure a development is acceptable - Paragraph: 013 Reference ID: 26-013-20191001. Accordingly, to secure a subservient form of the development and ensure compliance with policy LP30, design conditions would be imposed on any outline permission.

The indicative layout plan shows a pair of semi-detached dwellings and a detached dwelling aligned at 90 degrees to Ridge Lane. Parking and circulation space would be provided in front of the properties, with gardens laid out to the rear. Such an approach is considered to be acceptable. Visually, containment would be provided by the existing mature vegetation and trees adjacent to the recreation ground, heavily filtering views of the proposed dwellings from the west and north. Nonetheless, some open views would be provided from the south-east given the relative sparsity of vegetation along boundaries at this part of the site.

Additional landscaping could however be secured through condition, and the neighbouring context of existing development along Ridge Lane would ensure that new, sensitively designed development would not appear incongruous.

In addition to the above, the land subject of this application is currently unkempt, consisting of overgrown vegetation and waste materials and thus fails to present noticeable visual or ecological qualities. Developing the land could well lead to positive improvements here, subject to a good standard of design and appropriate planning conditions.

Subject to an appropriate scale, massing, and contextually appropriate detailing, it is considered that three residential units could be accommodated on the site without undue harm to the character and appearance of the immediate and wider setting, and in a manner which generally conforms with the development plan. Thus, the proposals can be considered to be accord to NWLP policies LP1 and LP30, and Mancetter Neighbourhood Plan policy SB1.

#### **d) Amenity**

NWLP policy LP29 (9) requires all development proposals to avoid and address unacceptable impacts on neighbour amenity (emphasis added) and paragraph 135(f) of the NPPF requiring planning decisions to ensure that a high standard of amenity is provided for existing and future users.

Neighbourhood Plan policy DP1 states that development should not 'adversely affect the amenity of nearby residents'.

As an outline application, the layout is not yet submitted for approval. However, the indicative layout demonstrates that three dwellings can be accommodated in a manner which does not unacceptably impact the amenity of neighbouring properties in respect of privacy, shadowing, or loss of light whilst concomitantly providing suitable external amenity space for occupiers of the proposed dwellings. A three-unit development is also not considered to give rise to adverse noise implications, considering the existing residential context. There would be a need at the detailed stage – should a permission be granted - for conditions to be attached to protect future occupiers from noise emanating from the Public House.

It is considered that the site can be developed in a manner which would not lead to unacceptable impacts on the amenity of neighbouring occupiers in accordance with NWLP policy LP29 (9), and Neighbourhood Plan policy DP1.

#### **e) Ecology/Natural Environment**

NWLP policy LP14 requires new development to retain existing landscaping where possible and encourages new planting to incorporate native species and provide biodiversity benefits. LP16 states that proposals should protect and enhance the natural environment. Policy NE and L12 of the Neighbourhood Plan require proposals to consider impacts on habitats, species, and connectivity, as well as demonstrate net gains in biodiversity.

In addition to planning policy, there is a complex range of applicable legislation and guidance relating to nature conservation.

Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard to the purpose of conserving biodiversity in the exercise of their functions,

Additionally, under domestic and European legislation, protection is given to certain species of wild plants, bird, and animals. In particular, a number of species are protected under the Habitats Directive. These species are often referred to as “European Protected Species” (“EPS”) which have full protection under The Conservation of Habitats and Species Regulations 2017, as amended.

The application site has limited ecological value, as confirmed by the submitted Preliminary Ecological Appraisal. The appraisal makes a series of recommendations which are deemed to be suitable and would ensure that the impact on local ecological conditions is reduced as much as is reasonably practicable. These measures would be conditioned, as too would be a requirement for Biodiversity Net Gain

A full Arboricultural Impact Assessment would also be conditioned, as well as a method statement. It is considered that the site could be developed in a way to minimise the loss existing trees and other vegetation.

Subject to conditions, the proposals would comply with the policies and the legislative requirements listed above.

**f) Other matters – raised during public consultation**

- Proposal does not support the local community.

No evidence has been provided to substantiate this assertion. The proposals would provide three new dwellings within the settlement and contribute to housing supply within the Borough as set out in the Development Plan.

- White Hart would it be at risk of closure / demolition to facilitate housing development.

The White Hart Inn is identified within Policy CFOS1 of the Neighbourhood Plan as a protected community facility and is listed in Appendix 1 (6) as a local non-designated heritage asset.

It is not considered that residential development would threaten the vitality of the public house. As set out within the applicant's Planning Statement, revenue generated by the development presents an opportunity for further investment into the estate, including within the site, by the Stonegate Group, owners of the public house.

Given the location of the development and the intervening built forms, no harm is considered to arise to the significance and setting of the non-designated asset, in compliance with NWLP policy LP15.

- No more housing needed.

New housing within development boundaries is supported under policies within the North Warwickshire Local Plan and the Mancetter Neighbourhood Plan. North Warwickshire is required to provide a minimum of 9,598 dwellings by 2033 under LP5 of the Local Plan. A 'step-change' in provision is detailed within the policy, with 700 dwellings (per annum) required to be delivered in 2025-2026, up from 390 in 2024-2025. The provision of small-scale housing in sustainable locations will help to ensure the Council continues to maintain a five-year housing land supply.

- Noise generation – construction and operation

Noise during construction is not a material planning consideration. This is an established residential area. The provision of a further three dwellings is not considered to unacceptably increase noise levels to the detriment of the amenity of neighbouring occupiers. Conditions would require an agreed Construction Management Plan to be agreed, This is a matter for that Plan.

- Using the land for car parking is a more appropriate use.

The application seeks permission for residential development and must be assessed on that basis.

- Loss of parking for the pub.

The application entails no loss of parking for the public house.

- Upgrade to existing sewage systems should be considered.

Foul sewage and surface drainage arrangements will be conditioned for approval at a later date.

- Play area will be overlooked.

The play area is already overlooked by housing along Ridge Lane. Increasing passive surveillance through new development can discourage crime and anti-social behaviour which is supported under policy LP29(17) of the Local Plan.

#### **f) Conditions**

The recommendation below includes the use of pre-commencement condition(s) (this is a condition imposed on a grant of planning which must be complied with before any building or operation comprised in the development is begun or use is begun). The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 provide that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition. In this instance the applicant has given such written permission.

## Recommendation

That planning permission be granted subject to the following conditions.

### Standard Conditions

1. Before any development is commenced, the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as 'the reserved matters') on an application made in that regard:
  - (a) appearance,
  - (b) landscaping,
  - (c) layout, and
  - (d) scale.

#### REASON

This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. (a) An application for approval of the reserved matters listed at condition [1] shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and  
  
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

#### REASON

To prevent the accumulation of planning permissions; to enable the Local Planning Authority to review the suitability of the development in the light of altered circumstances; and to comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

3. The development hereby approved shall not be carried out otherwise than in accordance with the site location plan (Ra 3358 s3 001) received by the Local Planning Authority on 21<sup>st</sup> July 2023, and the site plan (Ra 3358 s3 002 b) received by the Local Planning Authority on 10<sup>th</sup> April 2024.

#### REASON

To ensure that the development is carried out strictly in accordance with the approved plans.

4. The details to be submitted under Condition 1 shall ensure that the design of the houses incorporate the following requirements:
  - (a) Any dwelling's ridge height shall be no greater than 7 metres and the properties shall be of a 1.5 storey design.
  - (b) The architecture of the new development shall complement the architecture of the older surrounding properties.

#### REASON

In the interests of achieving sustainable development, having particular regard to the potential impact of the development on the character of the surrounding area, the residential amenity of adjoining occupiers, and to ensure a subservient form of development as required by policy LP30 of the North Warwickshire Local Plan.

5. The landscaping scheme to be submitted in accordance with condition 1 of this permission shall include details of boundary treatments including walls and fences and wider site boundaries, surface treatments to drives, footways, tree and shrub planting with provision for tree planting to be carried out concurrently with the development and completed within 1 year of substantial completion of the development. If within a period of 5 years from the date of the planting of any tree, that tree or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.

#### REASON

In the interests of the visual amenities of the area.

6. Any application for reserved matters relating to landscape shall include an Arboricultural Impact Assessment in accordance with BS 5837:2012 which shall include:
  - a) trees proposed for retention;
  - b) trees proposed to be removed;
  - c) trees to be pruned;
  - d) an evaluation of the impact of any proposed tree losses; and,
  - e) an evaluation of tree constraints.

#### REASON

To protect the character of the area and ensure biodiversity net gain.

7. Any reserved matters applications submitted in response to condition 1 of this permission shall include details of the levels of the existing site, the proposed slab levels of the dwellings of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

#### REASON

In the interests of the visual amenities of the area and the amenity of neighbouring occupiers, recognising that levels across the site vary.

8. Any reserved matters applications submitted in response to condition 1 of this permission shall include a full Noise Impact Assessment detailing internal and external noise levels arising from the full use and activities operated at the Public House premises. The reserved matters application shall include details and specifications of the acoustic and ventilation measures to be designed into the new houses such as to mitigate unacceptable noise emissions as identified by the Assessment.

#### REASON

In the interests of reducing the potential of noise pollution.

### **Pre-Commencement Conditions**

9. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. This should be proportional to the development. The Plan shall provide for
  - I. The parking of vehicles of site operatives and visitors;
  - II. Storage of plant and materials used in constructing the development
  - III. Wheel washing facilities;
  - IV. Measures to control the emission of dust during construction
  - V. The hours of delivery of any plant, equipment, construction materials and engineering infrastructure.
  - VI. The hours of construction working
  - VII. Noise control measures during construction in accordance with BS 5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites
  - VIII. Details of all site lighting and security measures
  - IX. Details of the contact for any local concerns with the construction activities on the site

The approved Construction Management Plan shall be adhered to throughout the construction period of the development.

#### REASON

In the interests of the amenities of the area and neighbouring property.

10. No development, other than demolition and site clearance works, shall commence until a drainage plan for the disposal of surface water and foul sewage has been submitted to and approved by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of any dwelling.

REASON

In the interests minimising the likelihood of flooding incidents and damage to the environment, property, or life.

11. Prior to the commencement of the development full details of the tree protection measures for all trees and hedges to be retained shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be set out in a detailed Arboricultural Method Statement to include the specification of the location and type of protective fencing, the timings for the erection and removal of the protective fencing, the details of any hard surfacing and underground services proposed within the root protection areas, all to be in accordance with the British Standard for Trees in Relation to Construction 5837: 2012, and the monitoring of tree protection measures during construction. All tree protective measures shall be carried out as set out in the approved Arboricultural Method Statement.

REASON

In the interests of safeguarding existing habitat and the visual amenities of the area.

12. No works other than demolition shall take place until preliminary assessment for contaminated land has been undertaken. If the assessment identifies potential contamination a further detailed investigation shall be carried out and details of remediation measures shall be provided where necessary. All works shall be carried out by a competent person and agreed in writing by the Local Planning Authority prior to commencement of development.

REASON

To protect the health of the public and the environment from hazards arising from previous uses of the site.



## Pre-occupation conditions

13. Prior to the first occupation of any of the new dwellings hereby approved, a scheme of biodiversity enhancement shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures to enhance and sympathetically manage the biodiversity value of onsite habitats and shall be broadly in accordance with the details provided in the SEED Biodiversity Net Gain Assessment (dated 23<sup>rd</sup> August 2023). The submitted scheme shall also include a method of communicating the purpose of such biodiversity enhancement measures to occupiers of the dwelling(s). The approved scheme shall be implemented so that physical measures are incorporated before the first occupation of each respective dwelling and thereafter retained and maintained in situ.

### REASON

In order to secure an overall biodiversity gain.

14. The development shall not be occupied until the proposed parking and turning facilities have been laid out and constructed in accordance with the approved plans and thereafter be set aside and retained for those purposes at all times.

### REASON

In the interests of highway safety.

15. The development shall not be occupied until pedestrian visibility splays of at least 2.4 metres x 2.4 metres have been provided on each side of the vehicular access. These measurements are taken from and along the highway boundary. These splays shall thereafter be permanently retained and kept free of all obstacles to visibility over 0.6 metres in height above the level of the public highway footway.

### REASON

In the interests of highway safety.

16. Prior to first occupation of each dwelling, a bin storage facility capable of holding a minimum of 3 x 240 litre wheeled bins shall be provided within the curtilage of the dwelling. The storage facility shall remain permanently available for that purpose at all times thereafter.

### REASON

To enable effective storage and disposal of household waste and in the interests of the amenity of the area.

17. The development shall not be occupied until the existing access has been widened/remodelled in general accordance with approved plan RA 3358 s3 002 Rev B and an H-bar marking has been laid out across the access in accordance with the Highway Authority's specifications.

REASON

In the interests of highway safety.

18. The development hereby permitted shall not be occupied until details of all external light fittings and external light columns have been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details.

REASON

In order to safeguard protected and/or priority species from undue disturbance and impacts.

**Other conditions**

19. In the event that contamination is found under condition 12, at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

REASON

To protect the health of the public and the environment from hazards arising from previous uses of the site.

20. Where remediation works have been carried out in pursuance with conditions 12 and 19, a post remediation verification report shall be submitted in writing to and approved by the Local Planning Authority before the development is first occupied.

REASON

To protect the health of the public and the environment from hazards arising from previous uses of the site.

21. No gates, barriers or means of enclosure shall be erected across a vehicular access within 6 metres of the highway boundary. All such features erected beyond that distance should be hung to open inward away from the highway.

REASON

In the interests of highway safety.

22. No development whatsoever within Class A, AA, B, and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site.

## REASON

In the interests of achieving sustainable development, having particular regard to the potential impact of the alterations/extensions on the character of the surrounding area, amenities of adjoining occupiers and views from the surrounding recreation grounds.

## Notes

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>
3. The applicant is advised that to comply with the condition relating to the standard of works to trees, the work should be carried out in accordance with British Standard BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations".
4. The proposed works may require building regulations consent in addition to planning permission. Building Control services in North Warwickshire are delivered in partnership with Nuneaton and Bedworth Borough Council. For further information please see [https://www.nuneatonandbedworth.gov.uk/info/20025/planning\\_and\\_building\\_control](https://www.nuneatonandbedworth.gov.uk/info/20025/planning_and_building_control) and [https://www.planningportal.co.uk/info/200187/your\\_responsibilities/38/building\\_regulations](https://www.planningportal.co.uk/info/200187/your_responsibilities/38/building_regulations) ; guidance is also available in the publication 'Building work, replacements and repairs to your home' available free to download from <https://www.gov.uk/government/publications/building-work-replacements-and-repairs-to-your-home>

5. Before carrying out any work, you are advised to contact Cadent Gas about the potential proximity of the works to gas infrastructure. It is a developer's responsibility to contact Cadent Gas prior to works commencing. Applicants and developers can contact Cadent at [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) prior to carrying out work, or call 0800 688 588
6. The applicant's attention is drawn to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £145. Although the Local Planning Authority will endeavour to discharge all conditions within 21 days of receipt of your written request, legislation allows a period of 8 weeks, and therefore this timescale should be borne in kind when programming development.
7. Prior to the occupation of the approved dwelling(s), please contact our Street Name & Numbering officer to discuss the allocation of a new address on 01827 719277/719477 or via email to [SNN@northwarks.gov.uk](mailto:SNN@northwarks.gov.uk). For further information visit the following details on our website [https://www.northwarks.gov.uk/info/20030/street\\_naming\\_and\\_numbering/1235/street\\_naming\\_and\\_numbering\\_information](https://www.northwarks.gov.uk/info/20030/street_naming_and_numbering/1235/street_naming_and_numbering_information)
8. If a bat or evidence of bats using a feature on site is discovered prior to or during development all work should stop immediately. A licensed bat consultant or Natural England must be contacted and works implemented only in accordance with methods advised by them. This advice note should be provided to any persons/contractors carrying out the development along with the contact details of a relevant ecological consultant. This action is necessary to avoid possible prosecution and ensure compliance with the Wildlife & Countryside Act 1981 (as amended), The Conservation of Habitats and Species Regulations 2017. This advice note should be passed on to any persons/contractors carrying out the development.
9. The applicant / developer is advised to consider Construction Logistics and Community Safety (CLOCS), when formulating construction plans. The development works undertaken shall consider the Construction Logistics and Community Safety (CLOCS) Standard as set out under <https://www.clocs.org.uk/>.
10. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

11. Conditions attached to this permission require works to be carried out within the limits of the public highway. Before commencing such works the applicant must serve at least 28 days notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team. This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of the works will be recoverable from the applicant. The Area Team at Coleshill may be contacted by telephone: (01926) 412515.

In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP.

For works lasting ten days or less, ten days notice will be required. For works lasting longer than 10 days, three months notice will be required.

12. Section 163 of the Highways Act 1980 requires that water will not be permitted to fall from the roof or any other part of premises adjoining the public highway upon persons using the highway; or surface water to flow - so far as is reasonably practicable - from premises onto or over the highway footway. The developer should, therefore, take all steps as may be reasonable to prevent water so falling or flowing.
13. Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g., street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
14. Prior to commencement of development, the applicant is required enter into an agreement with the Highway Authority under Section 59 of the Highways Act 1980. Prior to works taking place on site and following completion of the development, a joint survey shall be undertaken with the County's Locality Officer to agree the condition of the public highway. Should the public highway be damaged or affected as a consequence of the works being undertaken during the development of the site, the developer will be required to undertake work to remediate this damage as agreed with the Locality Officer.
15. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues, and suggesting amendments to improve the quality of the proposal. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

## BACKGROUND PAPERS

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2021/0638

| Background Paper No | Author   | Nature of Background Paper                | Date   |
|---------------------|--|---|--|
| 1                   | The Applicant or Agent   | Application Forms, Plans and Statement(s) | 24 <sup>th</sup> July 2023                                       |
| 2                   | Warwickshire County Council Archaeology, Highways and Forestry | Consultation Response                     | 9 <sup>th</sup> August 2023 to 3 <sup>rd</sup> May 2024          |
| 3                   | North Warwickshire Borough Council Waste Management            | Consultation Response                     | 14 <sup>th</sup> August 2023                                     |
| 4                   | Mancetter Parish Council                                       | Representation                            | 22 <sup>nd</sup> August 2023 and 22 <sup>nd</sup> September 2023 |
| 5                   | Third Party  | Representations                           | 16 <sup>th</sup> August 2023 to 9 <sup>th</sup> October 2023     |

*Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.*

*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports, and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*

Appendix A – Site Location



Development site indicated by the red marker

# Appendix B – Site Plan





# Appendix C – Tree Constraints Plan



## Appendix D – Mancetter Parish Council Objection

“Objects to this outline request, based upon policies H1, T and A1 within the Adopted Mancetter Neighbourhood Plan as published on the Parish Council website.

There are road safety concerns and data on accidents (sadly including a fatality involving a cyclist) which are not included within the application. Recently, a speeding car ploughed into a front garden a few doors down from the pub demolishing two walls, and another driver overshot the junction by the White Hart completely and ended up in the hedge across the road. These incidents involved the police and insurance companies, and further detail can be supplied if necessary.

The benefit to the community of using the land in question to increase existing parking spaces and deal with road safety issues is greater than infill housing and would enhance the economic sustainability of this growing community facility, situated within an isolated rural levelling up priority area.

- The access to the car park area is only a single vehicle width and has no approach splay.
- A car leaving the car park causes an obstruction to cars entering (a common event) and this in turn causes traffic flow issues on the highway.

Impatient drivers then move onto the pavement to pass the vehicles waiting to enter the car park. There is at least one reported incident of a child narrowly missing injury when walking off the driveway of the housing opposite the entrance.

- To alter the access to double vehicle width would seriously reduce the amount of pub parking available. The existing car parking provision is inadequate, and the road is already reduced to a single line due to constant parking of vehicles. Drivers then speed past the parked cars to avoid giving way to each other. The housing on that side of the street is mainly cottages having no parking other than the Ridge Lane Road.
- Current customer parking often extends beyond the road junction causing difficulties for residents on the Birchley Heath Road to exit their driveways.

As a result, drivers leaving Ridge Lane Road have no clear view of traffic approaching at 40mph when turning left to Birchley Heath or right towards Atherstone along Monks Park Lane.

The White Hart Inn public house is one of the oldest in not only the village but the general area and is referred to in the Neighbourhood Plan.

Our neighbourhood plan does allow small infill development and also encourages businesses to diversify. However, this application will not add value to the local community and puts the future of the pub at risk.

Public transport links are poor and Ridge Lane village is an area identified as a priority within the local levelling up process.

This year the White Hart has had new tenants, who both live locally, and instead of declining is beginning to thrive as a community hub. For many years the proposed housing site has been neglected and used for dumping and burning of rubbish.

The new tenants had, apparently, made approaches to the site owners to address the current traffic problems, by suggesting using that land to create more parking for customers and residents and adding in a play area.

On Wednesday 20<sup>th</sup> September 2023, 21 residents, 7 parish and 2 ward councillors, attended a pre- arranged evening meeting at Mancetter Memorial Hall where the application was discussed.

Concerns were raised that the White Hart is not a listed building and would it be at risk of closure / demolition to facilitate housing development and access to the site.

The White Hart Inn is identified within Policy CFOS1 of the Neighbourhood Plan as a protected community facility and is formally listed at number 6 as a local non-designated heritage asset.

The Localism Act is designed to give people a voice, and below is a list of some of the objections the community wish the council to raise on their behalf.

- On the application it states the parking spaces on the car park are 4.5 metres but this has been measured by a resident who states they are actually 3.8 metres.
- The Bus Stop, which was not identified in the application, is situated at the entrance to the car park to the White Hart. When the bus draws up it has to stop on the highway for passengers to alight due to the parking on Ridge Lane which can make it a one way street as the cars park on the one side. Buses also have to stop over residents' driveways stopping traffic coming down the lane.
- The application stated there had been no road traffic accidents which is based on old data and factually incorrect.
- North Warwickshire has recognised that Ridge Lane village does not have a safe walking route for children to take to go to school.
- Due to the amount of cars in Ridge Lane several residents are now parking on the grass central reservation.
- Speed watch was refused by the police due to no safe place to stand and the 30 signs were too close together.
- Planning application put in makes Ridge lane sound like a quiet village when in fact of a weekend it is very busy with ramblers and the football field being used.
- There was concern about emergency vehicles struggling to get on to the car park as of a weekend people park right up to the entrance and over said car park.
- How many cars these houses will bring with them and if the car park is full they will have to park elsewhere in the village.
- Delivery vans. No place to turn around in the car park they would have to reverse onto the main road.
- Cars already come up onto the pavement opposite the entrance as this can be a bottleneck.
- Cars turning into Ridge Lane from Atherstone come from a 40 mph into a 30 mph and if there are cars parked outside the White Hart and another coming up the lane this also causes drivers having to go up the pavement.
- Family Homes, bring more children and cars into the village.
- Lorries continue to ignore the weight limit on the road.

## Appendix E – Representations Summary

### Ecology

- Swift bricks should be utilised.
- Removal of wildlife habitat

### Highway safety

- Proposal will worsen existing road safety issues as cars currently mount pavements as they egress from the car park.
- Poor visibility exiting the car park due to parked cars along Ridge Lane, creating road safety issues. Existing traffic speeds are high. Proposal will exacerbate existing highway safety problems.
- Proposals would lead to additional congestion and parking along Ridge Lane.
- Pedestrian access through the car park will be unsafe.

### Specific comments on the RSA/Transport Statement:

- It is not possible to walk safely to Atherstone due to the lack of pavements.
- Walking to Nuneaton in 25 minutes would require a walking pace of close to 5mph.
- 2.3. The council itself recognised that the roads in and around Ridge Lane could not be considered safe - a free taxi service was provided to children attending Queen Elizabeth School in Atherstone, since there was no suitable bus service available, and no safe walking routes.
- Cycling – Ridge Lane is elevated with numerous steep ascents, descents, and narrow lanes – cycling is dangerous.
- Paragraph 6.19 is not true. Visibility is very poor.
- Paragraph 7.14 is untrue – access is not safe presently.
- Section 2.4 is misleading. Four accidents have been recorded in the last two years, including one fatality along Purley Chase Lane in June 2023.
- Section 4.3 – access to the site is inadequate due to congestion and on-street parking reducing road widths.
- Section 4.5 – bin storage will reduce car park capacity.

- Section 5.2 – TRICs trip generation has no relation to actual traffic flow along Ridge Lane.
- Residents currently campaigning for improved signage and traffic calming measures, highlighting existing issues.
- Bus stop adjacent to the access – buses regularly block the road.

#### Other

- Proposal does not support the local community.
- No more housing needed.
- Disruption to views.
- Noise generation – construction and operation
- Using the land for car parking is a more appropriate use.
- Loss of parking for the pub.
- Upgrade to existing sewage systems should be considered.
- Play area will be overlooked.
- Detract from the tranquillity of the recreation ground.

## **General Development Applications**

**(5/b) Application No: PAP/2023/0514**

**1 Poplars Yard, New Road, Shuttington, B79 0EJ**

**Proposed extension to provide snug, utility, shower room and bedroom, together with retrospective amendment to cart hovel, for**

**Mrs Mattley**

### **1. Introduction**

1.1 The application is referred to the Board at the request of local Members who are concerned about the potential visual impact of the proposal.

1.2 Members undertook a site visit prior to this meeting and a note is attached at Appendix A.

### **2. The Site**

2.1 Poplars Yard is a group of six residential properties arising from the conversion of a range of former industrial buildings set well back on the eastern side of New Road about one and a half kilometres north of Shuttington and just over 150 metres south of its junction with the B5493. The range consists mainly of one and two storey development, but with a pronounced tower at its southern end. There is another residential property immediately to the north and a pair of properties fronting the road some distance to the south, but otherwise the area is surrounded by open countryside. The access into the site is directly off the road which is bounded by well- established hedges and a significant amount of tree planting.

2.2 A location plan is at Appendix B.

### **3. Background**

3.1 Planning permission was granted in 2013 for the conversion of the main range of buildings here to five residential units, together with the conversion of a separate building to the north to provide the sixth dwelling. The planning reference was PAP/2013/0071.

3.3 The layout for this approval is at Appendix C and the approved west elevation is at Appendix D.

### **4. The Proposals**

4.1 The proposals before the Board have been changed since the original submission in two respects. Firstly, the proposed extension has been reduced in size, although it's still on the same footprint as submitted and the application now includes an amendment to a previously approved timber garage, in order to seek retrospective permission for changes that have already been undertaken.

4.2 Dealing first with the extension, then this affects the existing part of the range of buildings at its far southern end. A single storey pitched roof extension is proposed running south – at right angles - from the existing single storey building within its garden, so as to create an “L-shaped” property. The revised plan shows that its side elevation would match that of the existing gable end. The original proposal had this standing proud of the gable end. The extension is some 8.3 metres in depth and 4.6 metres wide, with a height just over 5 metres to its ridge. This height matches that of the existing dwelling. The proposed southern end gable would have a small “half -hip” at its end. The original submission had the same depth but was wider by some 0.9 metres. The overall height was the same and it too included the small half-hip.

4.3 The extension includes a “snug”, a “utility/boot room” and a shower room on its ground floor, with a single bedroom in its roof space. There would be two ground floor openings in its eastern elevation facing the site access - one to the snug and a smaller one to the shower room. The south facing gable would include a small window to the boot room and the eastern elevation facing existing buildings would include a door and two opening windows to the garden within the ground floor. The new bedroom would have three roof lights in its eastern roof slope facing those buildings and four on the opposite roof space facing the site entrance. The three on the eastern roof slope would all be obscurely glazed. The original submission included larger roof lights in both roof slopes. There would also be a larger window in the gable end to increase light into the bedroom.

4.4 The buildings to the immediate east comprise the three-storey tower referred to above, which is one of the converted properties. It has no ground floor windows facing the extension but there are two small first floor bedroom windows in its western elevation facing the proposal and the applicant’s garden together with a smaller higher bedroom window.

4.5 The original submission is at Appendix E with the current proposal at Appendix F.

4.6 The second part of the proposal refers to an amendment to a previously approved timber garage, referred to in the description as a “cart hovel”. This was granted planning permission in November 2022 to the south of the range of buildings some 35 metres distant. However, it was constructed as a larger building and in a slightly different location and with new tiles rather than reclaimed tiles. The current application includes the larger building and its revised position, seeking a retrospective permission. The increased size is due to a 1.25 metre increase in its width. The approved plan is at Appendix G and the current plan is at Appendix H.

## **5. Representations**

5.1 Seven objections were received in respect of the original submission from residents of the other dwellings within the converted range of buildings. A large number of matters were raised. Because of the receipt of amended plans, some of these were removed in subsequent representations following re-consultation, but the main issues have not been withdrawn.

5.2 The amended plans were circulated and this resulted in eight objections. There are a large number of matters raised and thus three letters are attached in full at Appendices I, J and K so that Members can be aware of the range of matters raised. All of these should be treated as an integral part of this report. However, the most significant matters raised can be summarised as:

5.3 In respect of the extension, then –

- The proposal contravenes policies in the Local Plan and in the Council’s Guide for the Design of Householder Development in respect of its “dominance” and “prominence”.
- The size of the extension is greater than local guidance set out in the Design Guide.
- The character and appearance of the proposal does not respect the setting resulting in a number of design issues.

5.4 In respect of the garage, then

- Incorrect information has been submitted in respect of the Land Ownership details.
- The garage as built is not in the location as approved.
- There are a number of design issues.

5.5 Additional consultation has recently taken place as a consequence of amended land ownership details being submitted, which now includes The Poplars Yard Management Company and its individual members as having an interest in the land within the application site.

5.6 The Board will be updated at the meeting should other representations be received prior to its meeting.

## **6. Consultations**

6.1 Notwithstanding that the buildings here are not Listed and neither in a Conservation Area, the Council’s Heritage Officer was asked to comment on the issues raised by the objections relating to adverse impacts on the character and appearance of the range of buildings and particularly the tower. The comments are that:

- the new addition would not overly dominate the existing buildings in terms of scale.
- the addition retains the courtyard character which is a recurring element found on the site and enclosures elsewhere on the site, which have already changed the openness of the building layout.
- It is accepted that the view of the tower will be altered from the entrance to the site, but this doesn’t appear to have been a “designed” view or one that has a specific purpose set by a previous use.

## **7. Development Plan**

The North Warwickshire Local Plan 2021 - LP29 (Development Considerations) and LP30 (Built Form)



## **8. Other Material Planning Considerations**

The National Planning Policy Framework 2023 - (the “NNPF”)

National Planning Practice Guidance (NPPG)

The North Warwickshire “Guide to the Design of Householder Applications”- September 2003

## **9. Observations**

### **a) Introductory Remarks**

9.1 There are a number of introductory comments that Members should be aware of.

9.2 The first is that the Local Plan and the Design Guide are not legislation or Regulations as perhaps inferred by the representations received. The former is part of the Development Plan which is a planning policy document and the latter is a guidance document. The legislative background is that Section 38(6) of the Town and Country Planning Act says that “if regard is to be had to the Development Plan for the purpose of determinations to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise”.

9.3 The second is that some of the planning policies referred to in the representations relate to an earlier Local Plan which has now been superseded. Members will be aware that these carry no weight as a consequence. However much of the content of these policies has been taken forward into the up-to-date planning policies of the current 2021 Local Plan as identified above. The proposals will be assessed against these.

9.4 The third is that the range of buildings at Poplars Yard are not Listed Buildings and neither are they located within a Conservation Area. They are neither identified as a non-designated heritage asset. As a consequence, no Heritage Statement was required to accompany the submission of the application.

9.5 Fourthly, as Members are aware, land ownership is not a material planning consideration and is given no weight in the assessment of the planning merits or otherwise of a proposal. There will thus be no reference to this in the following report. If those making representations consider that there has in effect been “trespass”, then that is a private matter to be taken up by the other parties. Even so, for the benefit of Members, two matters should be recognised. Firstly, the amendment made to the originally submitted plans, involving the reduction in size of the extension referred to in paras 3.1 and 3.2 above, was a direct consequence of the applicant responding to the representations received concerning the disputed land ownership matter. Secondly, the applicant does not own the whole of the application site. As a consequence, the Ownership Certification associated with the planning application has had to be amended - see para 5.5 above. It now confirms that Notice has been served on the other parties involved. As indicated above, an objection from these parties on grounds other planning considerations, will not carry any weight.

9.6 Finally, plans have now been submitted which correctly match the footprint of the revised proposals – both the extension and the location of the garage as well as reflecting design changes.

9.7 The report below will first look at the proposed extension.

## **b) The Extension**

9.8 There is no objection in principle to an extension. The determining issues are associated with its design and appearance, together with its potential impact on neighbouring residential amenity. Each will be dealt with in turn.

9.9 The relevant Local Plan policy for the first issue is policy LP30 of the 2021 Plan. This says that “all development in terms of its layout, form and density should respect and reflect the existing pattern, character and appearance of its setting”. Additionally, proposals should “ensure that all elements of the proposal are well related to each other and harmonise with both the immediate setting and wider surroundings”. It replaces Policies ENV12 and ENV13 of the previous Local Plan. It can also be taken to replace the content of Policy ECON9 where that policy refers to a proposal “reflecting the inherent characteristics of the layout, structure and design of the building” in respect of proposals to convert rural buildings.

9.10 In respect of the wider surroundings then the proposal is considered not to be disproportionate to the full range of buildings here and neither does its location materially alter the overall footprint or indeed the built form of the whole range. That range is essentially an “E” shaped footprint. Two of the ends of the limbs here are gable ends, but one - the far northern limb - does have a side elevation similar to that of the proposal. This was approved as part of the original conversion of the then existing arrangement – see Appendices C and D. However, that arrangement does not extend across the front of the adjoining courtyard as is the case with the proposal. The overall general conclusion above is also the position of the Heritage Officer.

9.11 Turning to the immediate setting, the representations consider that the extension is disproportionate and not subservient to the host dwelling referring to a 45% increase in footprint with an increase by volume of 54%. It is said that the “host” dwelling is the smallest of the conversions here and thus the increase has to be seen in that regard, as well as the size of the new rooms being larger than established rooms within the largest of the other properties in the wider range of conversions. The proposal is thus considered to be disproportionate. The objector’s concerns here are to a number of references. The first is to Policy ENV13 of the 2006 Local Plan which refers to a 30% figure for extensions in countryside locations; to Policy ENV12 of that same Plan and to the original 2013 planning permission for the whole development which was considered under Policy ECON9 of that Local Plan. The concern under this latter point is that that policy refers to “subservience” and the 2013 permission only permitted one such extension at one of the other conversions – number 6 on Appendix C. Members are reminded as recorded above, that these policies are now out of date, but the wording of these policies has largely been taken through to the 2021 Policies and the content of the representations is still relevant. However, Members should be aware that there is no reference in the 2021 Local Plan to the 30% figure, apart from it being treated as a “guide” in Green Belt locations – which this is not. The advice to Members is thus, that this is best treated also as a guide in this case. Also, the reference to “subservience” relates to former Policy ECON9, which dealt with new additions also being proposed to buildings at the same time as being proposed for conversion, which is not the case here. Notwithstanding these comments, Members are advised to assess whether the proposal accords with the wording of Local Plan policies LP29(9) and LP30 as quoted in

paragraph 9.9 above. Taken as a whole it is considered that it does. It is not the purpose of planning policies to prevent or restrict change - in this case to prevent all development at sites where conversions have taken place, or to restrict the size of internal accommodation. The Policies are neither prescriptive. The issue is whether the proposals here go too far, in that there would be demonstrable significant harm to the character and appearance of this group of converted buildings to warrant refusal. This is a matter of planning judgement.

9.12 There are further matters to assess when making this judgement. Perhaps the most important one is whether the proposal, because of its size and location, would dilute the visual impact of the tower when seen from the road and particularly as one enters the site. In other words, the visual prominence of the tower as perhaps the major individual characteristic of the range of buildings here would be reduced. The visual prominence of the tower is now almost largely “self-contained” to the site itself, in that it is no longer visible in the wider surroundings due to the substantial perimeter tree planting. The issue is however the potential loss of visual “impact” at the entrance. Because the whole range is well set back and fronted by the tree planting, there would be just a possible fleeting glimpse of the tower and the visual impact of the extension for drivers, pedestrians or cyclists. It is the approach into the site where that impact will be most affected. This is due to the road being at a lower level than that of the range of buildings and thus the impact of the height of the tower is reduced. However, the perception of there being a taller building here is not wholly lost. Once within the site and within the areas in front of the main range of buildings and in the open areas to the south, the tower retains its visual prominence. It is therefore considered that whilst the immediate impact on “arrival” will be affected, this will be transitory and the visual prominence of the tower and the appreciation its presence will not be materially lost. The heritage officer has added a different aspect to this issue – one from a heritage perspective – but the overall position is that any harm is less than substantial.

9.13 Turning to other matters within the overall judgement, it is agreed that the proposed extension would affect the view from the bedroom windows in the tower. That view would be more limited and there would be a loss of a wider perspective, but the existing view is already “channelled” by the established tree planting on either side of the access. As Members will be aware the loss of a view is not a material planning consideration.

9.14 In respect of amenity issues, then it is considered that there is no impact on these windows in respect of a potential loss of light into the rooms as a consequence of the height of the extension. The applicant’s existing garden is already overlooked by these windows and the applicant too has visibility to these windows. The proposal would introduce more openings in its elevation onto the garden and any patio area would need to be moved closer to the neighbouring property’s windows, but as indicated above and seen on site, this is already not a “private” area. The use of the garden is not considered to materially intensify as a consequence of the proposals to the extent that there would be unacceptable harm to the amenity of neighbouring property. The three rooflights in the new roof slope would be obscurely glazed. As a consequence, it is not considered that there would be a material loss of amenity or privacy in respect of the occupiers of the tower.

9.15 Reference is also made in the representations to the replacement of the fence here with a larger built development and the resultant loss of visibility for drivers moving within the site – both alongside the extension and when approaching from the northern end of the wider range. Whilst this may well be the case, it is not considered to be of significant weight to warrant a road safety issue – the number of vehicles is low, speeds are low, and their movements are not confined to a narrow area.

9.16 The other matters to be included in the planning judgement are the design issues raised in the representations. The most significant is related to the matter of the scale and location of the proposed extension highlighted in paragraph 9.11. The concern is that the proposal does not accord with the Council's Design Guidance. In particular the reference is to extensions on corner plots. The guidance (paragraph 2.6 of the 2003 document) says that these "should be designed to respect the character of the surrounding area and not become a dominant feature in the street". This too mirrors the concerns about "subservience". It is agreed that the proposal would be large and that it would have a noticeable visual impact. However, that is considered to be limited to its immediate setting and to the transitory impact of the approach to it from the access. It is not considered that it would become the dominant feature within the overall range of buildings here. The tower would remain and the height and length of the extension is comparable with other features in the overall range of buildings. It is concluded that the proposal would not cause significant harm or loss to the overall character of the range of conversions here.

9.17 There are a number of other detailed concerns raised. The first is the matter of the non-aligned window-cill levels in the western facing elevation – that facing the access. From Appendix ?? it can be seen that the larger ground floor window here is slightly lower than the smaller window to one side and the existing one in the gable end. It is not considered that this is a material harmful visual impact given the wide variety of fenestration throughout the full range of buildings here. The earlier representations referred to a Juliette balcony included in the original submission for the first floor of the new gable end. This has been omitted and the opening is also reduced in size. The one issue that has remained throughout all of the representations is the retention of the half-hip to the gable end. There is no other feature within the conversions. It is therefore untypical within the overall site. However, whether that is of such weight to warrant a refusal is questionable, given its small size and that the buildings here are not "heritage" buildings.

### **c) The Garage**

9.18 Members will be aware planning legislation enables retrospective applications to be made as here. The starting point is that planning permission has been granted for a garage for substantially the same structure as is now on site. It is thus necessary to assess whether the changes now incorporated cause demonstrable harm. The relevant Development Plan policies are LP29(9) and LP30 as above. The 2003 Design Guide is also a material planning consideration. The changes are the increased size, the adjustment in the location and the materials. As this is a retrospective application, Members were able to see the altered building on site and thus assess the weight to be given to any adverse impacts.

9.19 The matters raised in the representations concerning the garage are land ownership issues, a reduction in privacy, loss of view and that new buildings will now be closer on two sides to an existing residential property. As indicated above revised Certification in respect of ownership matters have been received, but land ownership is not a material planning consideration. The other matters raised are planning considerations.

9.20 The garage has increased in size over the approved plans – a 0.7 metre increase in width and a 0.34 metre increase in depth. It has also been constructed further away from the rear kerbing around the former car parking area here and closer towards units 1 and 2.

9.21 The garage has been constructed using new roof tiles not reclaimed tiles as per the original approval and a brass light fitting has been placed on the outside. This, it is said does not match the chrome finishes elsewhere on the site.

9.22 It is not considered that these changes cause material harm. It is acknowledged that the building is larger than that originally approved, but the increased width is on the far southern end of the garage furthest away from the existing dwellings. It is now closer to those dwellings, but that has a very limited impact on the residential amenity of those dwellings – either in terms of over-looking, loss of privacy or it being over-dominant.

#### **d) Conclusion**

9.23 The Board should assess each of the matters raised above and consider whether they individually or cumulatively cause sufficient harm to warrant a refusal because that harm would be of such weight such that the proposal would not satisfy the relevant planning policies. Members will be aware that the 2003 Design Guide is for guidance and that the wording of the policies in the Development Plan says that the proposals “should” take account of a number of factors. The planning judgement here is whether the proposal as a whole, within both its immediate setting and wider surroundings, has sufficiently taken account of these factors so as not to have materially harmed them. The recommendation below is that the proposal does not give rise to sufficient harm to warrant a refusal.

## Recommendation

That planning permission be **GRANTED** subject to the following conditions:

1. Work on the extension hereby approved must be begun not later than the expiration of three years from the date of this permission.

### REASON

To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 9811.01B; 03F and 05 all received by the Local Planning Authority on 11/6/24.

### REASON

To ensure that the development is carried out strictly in accordance with the approved plans.

3. The new works shall be carried out with facing brickwork and plain clay roofing tiles, conservation rooflights and timber casements, all to match the sections, colours, shapes, sizes and textures of those existing on the host dwelling. The Cart Hovel shall be constructed from cedar weatherboarded cladding on an oak frame and dwarf wall in reclaimed bricks, and Staffordshire Blue reclaimed plain clay roofing tiles.

### REASON

In the interests of the amenities and the historic, rural character of the of the area and the building concerned.

4. No additional windows or door openings in all elevations and roof planes of the extension hereby approved shall be made, nor shall any approved windows or doors be altered or modified in any manner.

### REASON

To protect the privacy of the occupiers of adjoining and adjacent properties.

5. No development whatsoever within Classes A, AA, B, C, D and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.

#### REASON

In the Interests of the amenities of the area and to maintain the character of the existing building, and to update the removal of permitted development from the approval PAP/2013/0071.

6. All rooflights in the north east elevation of the extension hereby approved shall be non opening and permanently treated with obscured glazing which shall provide a minimum degree of obscurity equivalent to privacy level 3 or higher and shall be maintained in that condition at all times. For the avoidance of doubt privacy levels are those identified in the Pilkington Glass product range. All other proposed French doors and windows shall be fitted with head ventilation.

#### REASON

To protect the privacy of the adjoining property and to prevent overlooking, and to provide adequate ventilation and security.

#### Notes

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>
3. The proposed works may require building regulations consent in addition to planning permission. Building Control services in North Warwickshire are delivered in partnership with six other Councils under the Central Building Control Partnership. For further information please see Central Building Control - Come to the experts ([centralbc.org.uk](http://centralbc.org.uk)), and

[https://www.planningportal.co.uk/info/200187/your\\_responsibilities/38/building\\_regulations](https://www.planningportal.co.uk/info/200187/your_responsibilities/38/building_regulations) ; guidance is also available in the publication 'Building work, replacements and repairs to your home' available free to download from <https://www.gov.uk/government/publications/building-work-replacements-and-repairs-to-your-home>

4. The developer is reminded that the Control of Pollution Act 1974 restricts the carrying out of construction activities that are likely to cause nuisance or disturbance to others to be limited to the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays, with no working of this type permitted on Sundays or Bank Holidays. The Control of Pollution Act 1974 is enforced by Environmental Health.
5. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

6. Radon is known to affect 5-10% of properties in this area. Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from [www.ukradon.org](http://www.ukradon.org) if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. |

For further information and advice on radon please contact the Health Protection Agency at [www.hpa.org.uk](http://www.hpa.org.uk). Also if a property is found to be affected you may wish to contact the Central Building Control Partnership on 0300 111 8035 for further advice on radon protective measures.

7. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections, suggesting amendments to improve the quality of the proposal and meeting the applicant to understand the proposal. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.



PAP/2023/0514

1 Poplars Yard, New Road, Shuttington

Member Site Visit - Sat 4 May 2024 at 1030

Present: Cll'rs Bell, Dirveiks, Humphries, Ridley and Simpson together with Ms Mattley (applicant), Mr Long, other neighbours and J Brown.

1. The first part of the visit was accompanied by the applicant.
2. Members met outside number 1, where the range of converted buildings was described and identified with reference to the various heights and built form, with particular reference to the taller tower at the southern end.
3. Members were then shown a series of plans – a general location/block plan, the proposed plans for the extension as submitted and as amended. The changes were noted - the reduction in the width of the extension, the changes to the roof lights and other openings. The proposed "half-hip" on the gable end was also noted.
4. Members then walked along the front of the range of buildings to its northern end. They saw the general "E-shaped" form of the overall footprint; the separate unit at the end and the courtyards between the protruding sections. The design and character of the built form was noted – the fenestration and the nature of the "ends" of each of the three limbs referred to above.
5. Members then went into the applicant's fenced garden where they were able to identify how wide the extension would come along the rear dwelling extension. The tower was noted as well as the three windows which faced west towards the application site.
6. The group then went inside the property where they were shown the internal layout.
7. Exiting the building, Members then went to look at the garage.
8. Here plans were shown of the approved structure and the amended plans showing the building as it now was. The difference in size was identified. It was confirmed that these plans sought retrospective permission for the enlargement of the garage.
9. The applicant then left the group of Members.
10. Members then went inside the neighbouring unit – number 2 – which included the tower.
11. Here they met several of the residents from some of the other conversions.
12. The visual impact of the proposal on the prominence of the tower from the site access was referred to and a plan illustrating the loss of that impact was circulated. This was a photograph with the proposed "mass" of the extension superimposed.
13. Members then went into the main living room of number 2 where they were asked to look at the size of the room, as it was explained that the proposed room in the application would be larger than this.
14. Members then went up to the first-floor bedroom where they were able to look out of the two windows they had seen from the applicants property. The height and length of the proposed extension were pointed out by reference to the ridge height of the existing unit and the fenestration in its rear elevation.
15. Members also went to the top floor bedroom where they looked at the site from the third window in the elevation facing the application site.

16. The neighbours also raised issues about the ownership Certification accompanying the application and the further discrepancies in the plans relating to the garage.
17. Before leaving the site, Members walked down to the site access gate where they were able to look back at the whole of the southern end of the range of the converted buildings including the application host building, its fence and the tower. The difference in levels was noted with the gate being at a lower level than that of the buildings.
18. Whilst here too, the established tree planted areas were noted.
19. The visit concluded at around 1120.

APPENDIX B



APPENDIX C







APPENDIX F

**PAP/2023/0514**  
**RECEIVED**  
**11/06/2024**  
**PLANNING & DEVELOPMENT DEPARTMENT**

**Legend**

| NO. | DESCRIPTION         | DATE       |
|-----|---------------------|------------|
| 1   | Original submission | 08/11/2022 |
| 2   | Revised submission  | 08/11/2022 |
| 3   | Revised submission  | 08/11/2022 |
| 4   | Revised submission  | 08/11/2022 |
| 5   | Revised submission  | 08/11/2022 |
| 6   | Revised submission  | 08/11/2022 |
| 7   | Revised submission  | 08/11/2022 |

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Proposed Extension at  
 Blyth Byre, 1, Poplars Yard, New Road, Shuttington, Tamworth, B79 0EJ

Proposed Plan and Elevations

| NO. | DATE       | REVISION | BY |
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| 1   | 08/11/2022 | 1        | BA |
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**9811.03F**

APPENDIX G

**BLYTH BYRE, 1, POPLARS YARD, NEW ROAD, SHUTTINGTON.**

**PAP/2022/0490**

**RECEIVED**  
**08/11/2022**  
**PLANNING & DEVELOPMENT DEPARTMENT**

**RECEIVED**  
**23/11/2022**  
**PLANNING & DEVELOPMENT DEPARTMENT**

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Proposed Extension at  
 Blyth Byre, 1, Poplars Yard, New Road, Shuttington, B79 0EJ

Plans, Elevations & Site Plan

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| 49  | 08/11/2022 | 49       | BA |
| 50  | 08/11/2022 | 50       | BA |
| 51  | 08/11/2022 | 51       | BA |
| 52  | 08/11/2022 | 52       | BA |
| 53  | 08/11/2022 | 53       | BA |
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| 99  | 08/11/2022 | 99       | BA |
| 100 | 08/11/2022 | 100      | BA |

**9764.02**

BLYTH BYRE, 1, POPLARS YARD, NEW ROAD, SHUTTINGTON.

**ELEVATION - facing east.**  
Scale 1/50.

**ELEVATION - facing south.**  
Scale 1/50.

**ELEVATION - facing west.**  
Scale 1/50.

**ELEVATION - facing north.**  
Scale 1/50.

**FLOOR LAYOUT.**  
Scale 1/50.

**SITE LAYOUT.**  
Scale 1/200.

**REVISIONS**

| No. | Description        | Date       |
|-----|--------------------|------------|
| 1   | Issue for approval | 11/06/2024 |

**BAILEY DESIGN LIMITED**  
ARCHITECTURAL PLANNING & DEVELOPMENT CONSULTANTS  
43a MITCHELLS COURT LOWER GUNGATE TAWNORTH  
STYPPONSHIRE BN7 7AS TEL 01827 311882

**CART HOVEL, BLYTH BYRE**  
1 POPLARS YARD, NEW ROAD,  
SHUTTINGTON, B79 0EJ.

**PLANS ELEVATIONS & SITE PLAN**

| SCALE | DATE   | DRAWN | CHECKED | JOB No.  |
|-------|--------|-------|---------|----------|
| 1/50  | Aug 22 | W     | W       | 9764.02D |



*Granary Light in Antiqued Brass.*  
Size: 250w x 470h x 470d (mm).  
Wattage: 3.3w (470 Lumens).  
Colour: Warm White.  
Colour Reading Index: CRI (ra) > 80.

**EXTERNAL LIGHTING.**

PAP/2023/0514

NORTH WALES SHIRE  
BOROUGH COUNCIL

**RECEIVED**  
11/06/2024

PLANNING & DEVELOPMENT  
DIVISION

**BAILEY DESIGN LIMITED**  
ARCHITECTURAL PLANNING & DEVELOPMENT CONSULTANTS  
43a MITCHELLS COURT LOWER GUNGATE TAWNORTH  
STYPPONSHIRE BN7 7AS TEL 01827 311882

**CART HOVEL, BLYTH BYRE**  
1 POPLARS YARD, NEW ROAD,  
SHUTTINGTON, B79 0EJ.

**EXTERNAL LIGHTING - Cart Hovel.**

| SCALE | DATE    | DRAWN | CHECKED | JOB No. |
|-------|---------|-------|---------|---------|
| 1:1A  | June 24 | W     | W       | 9811.05 |

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Tamworth.  
B79 0EJ.  
9<sup>th</sup> May, 2024

Planning Department  
North Warwickshire Council  
The Council House  
South Street  
Atherstone  
Warwickshire  
CV9 1DE

Dear Sir,

**Your reference: PAP/2023/0514 9811-03F**

I write with regard to the above application.

**This letter is a response to place on record our joint objection to the above Planning Application made to the North Warwickshire Borough Council by 1 Poplars Yard, B79 0EJ. This letter covers both occupants of this property, which is the neighbouring home with direct impact from the proposals.**

I note that the latest versions of proposal still do not correct objections previously placed on record and do contravene further regulations and statutes.

Our objection is based on the fact the design still does not meet published, current local planning frameworks published by North Warwickshire Council and as such are open to challenge.

I would also like to place on record that your decision to put both a 'new' planning application for the extension in the same tranche as the 'enforcement actions and review' planning action for the cart hovel is somewhat unusual, and again could be up for challenge. This is especially interesting given the comments from planning officers talking about architectural designs in the extension mirroring the cart hovel.

Please be aware that, as of today, we have lodged a separate letter on your review of the PAP/2022/0490 application although both letters form objections.

In terms of direct conflicts with your own published planning regulations, we have these contraventions identified with our professional partners:

- Your own **Local Plan (adopted in September 2021)** – multiple section breaches
- Your own published **"A guide of the Design of Householder Development" (September 2003)** – multiple sections
- Your own **local environment policies ENV12 – Urban Design**
- Your own **local environment policies ENV13 - Building Design Regulation**
- Your own published policy **ECON9 relating to extension building in existing developments**

- It also directly contravenes statements made in previous **North Warwickshire Council Planning Committee** approval documentation and Planning Committee notes for the development under **PAP/2013/0071** from **June 2013**



**CONTRAVENTIONS FROM THE NORTH WARWICKSHIRE  
BOROUGH COUNCIL LOCAL PLAN  
(ADOPTED 2021)**

**OUR LEGAL OBJECTIONS**

## OBJECTION 1: DOMINANCE & PROMINANCE

There are 2 published pieces of legislation that are contravened with this proposal.

There is a direct breach of **section LP29 of the North Warwickshire Local Plan (adopted as of September 2021)**, which states:

*“The development should avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality and other pollution ...”*

The second breach of **section 2.6 of the “A guide of the Design of Householder Development”, North Warwickshire Borough Council, September 2003**, states:

*“Extensions on corner plots can be particularly prominent. They should be designed to respect the character of the surrounding area and not become a dominant feature in the street.”*

The proposed extension is at the main entrance to the development of 5 properties and will, as such have a significant impact on the 5 other properties. The plans speak about ‘back garden’, but the back garden has around a 10 metre frontage to the front of the whole development and must be passed by all residents on entry / exit to the property.

The planned extension will have an unacceptable impact for us as residents of Poplars Yard as the extension will dominate the view, dominate the plot and block out the 3-storey tower.

When we moved in, we were taken by the 3 storey Victorian tower which is a feature of Shuttington. Comments were made in the Parish Council meeting of 21<sup>st</sup> February on how distinctive the tower was and was seen as an acceptable face of the village. The scale, size and frontage proposed as an ‘extension’ is overpowering the historic façade of the building which dates from 1881. The current building façade can clearly be seen on this video:

[Poplars Yard | Coach House \(youtube.com\)](https://www.youtube.com/watch?v=...)

The new plans will impact the view to all residents and visitors, thus:



Entrance to the development, stood from New Road. Gate to development open and stood in middle of drive. This is the view to all cars entering the development. Both images are same picture with right hand pic with tighter crop showing

- a. A clear drop from roadway to the development
- b. The new building will be viewed by everyone entering / exiting Poplars Yard

New application will change forever the façade the 2013 Planning Committee tried so hard to keep. The tower with pigeon loft view will be lost to the frontage forever and the key reference point for local residents will be lost. This is sad. If this proposed façade had faced us when we purchased, the historical references and cues would have been lost to us and it is unlikely we would have fallen in love with the development, such as we have.

**Proposed building works showing new view**



**Mocked up image using applicant drawings. The same roofline obscures the historical context**



The applicant has submitted paperwork showing this development is not viewable for the road. This is false. It is completely viewable for the public from the road.

The proposal shows complete dominance over the view from New Road, losing character and promoting the poor build decisions this application will result in. It is unbalanced and of poor proportion when taken with other properties on the development. If ever there was overshadowing of a design against all other neighbourhood plots, then this is it.

From the road, this will be the only thing viewable on the development and, as covered later, the poor aspects in design decision making mean this will always be seen as a poor-man's add on to the beautiful restoration work done from 2013. Unparallel windows to the front, burrowing down below ground level to accommodate a second storey and an increase in overall footage of over 50% means this will look like an additional thought for eternity.

1 Poplars Yard is a corner plot, and this build will mean it becomes fully dominant in every perspective of Poplars Yard. It is too big.

Currently, 1 Poplars Yard is the smallest property of the original five attached properties and was approved as such by North Warwickshire Borough Council. Approving this proposal would immediately create a sense of **dominance** over neighbouring properties (not just ours). This design adds a totally unbalanced and awkward proportion that would disrupt the visual character and appearance of Poplars Yard.

**Your Policy ENV13 – Building design, talks about “New buildings and extensions or alterations to existing buildings will only be permitted where the scale, massing, height and appearance of the proposal positively integrates into it’s surroundings”;** I would like to have explained how blocking the historic tower which is currently visible could in any way be positive; PAP/2013/0071 recognised this historical significance and it is that which is important to me as a resident.

Prominence of the plot from within the development is key here and the plans submitted do not show the full story. It is worth noting that the plans submitted, have been carefully manufactured to show two undeniable truths:

- 1 Poplars Yard will obscure the addresses of 2, 3 and 4 Poplars Yards and the historical building and areas which the 2013 Planning Committee were keen to keep and restore back to former glory
- The outlook at 2 Poplars Yard will be permanently altered so it looks over a poorly considered build

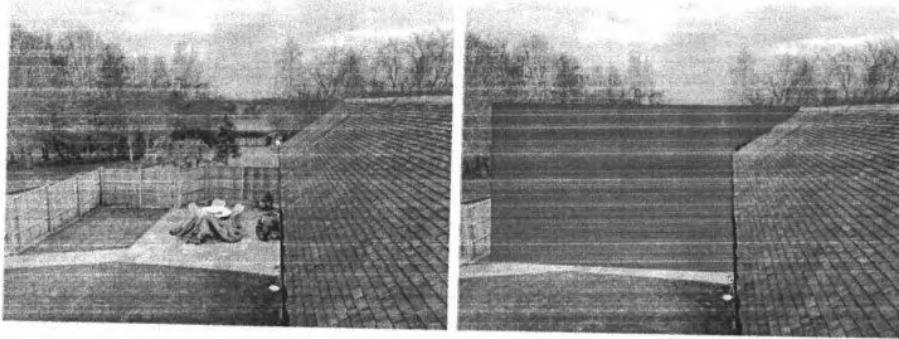
You would imagine from the architect drawings that extending the roofline from the existing at 1 Poplars Yard would only partially impact the prominence of the overall building. However, the drive, entrance onto New Road and woodland views drop down from the elevated position the development stands on. The drawings give the impression that the loss will be straight (viewed below) so the tower can still be viewed.

The reality shows photographs taken from our second floor of our property shows both the current view and the superimposed viewing loss if this is to approved. Having had a “cart hovel” built to one side of our property, 1 Poplars Yard will now cover 2 out of 3 sides of our property. The smallest property on site now being squarley in view and being the dominant property on the development and beginning to overshadow the property which had the biggest square footage on the development.

The smallest property on the plot will now complete our eyeline with every window facing west.

This misrepresentation of the facts as presented in the drawings is not correct. Please refer to the photograph following and the one from the entrance showing the eye line of the new development.

**View from our 2<sup>nd</sup> floor bedroom**



## **OBJECTION 2: SIZE EXTENDS BEYOND THE ACCEPTED SIZE INCREASE UNDER LOCAL GUIDANCE**

The proposals show an increase of 45.6% in footprint of the ground floor. Taking into account the second floor, the increase is nearer 70% from the original.

45.6% increase is not an extension. It is a dominant building on a plot of 6 homes.

A 45.6% increase is above your Guidance notes for an 'acceptable' extension size, and I do not accept the base measure is the square footage of ALL properties at Poplars Yard. As the applicant has no right of access to 2, 3, 4, 5 or 6 Poplars Yard, these cannot be included in the square footage calculations.

***Section 2.4 of the "A guide of the Design of Householder Development", North Warwickshire Borough Council published document of September 2003", states:***

***"Overlarge extensions can dominate a property, and can have a very harmful impact on the appearance of the original house, those next to it, and the character of the surrounding area. Extensions should be smaller and less apparent than the original building. This has the benefit of ensuring that the extension respects the original house, and does not appear as an unrelated addition"***

The plans show the new part of the building as having no subservience to the original property. Almost as big, the frontage to New Road with this new build increases by over 70% given that the original house was side on to the road. Promoting a new 'L' shape, this can do nothing but increase the dominance within the development.

***North Warwickshire Planning Committee Approval for Poplars Yard development, 10<sup>th</sup> June 2013***

***“The second pre-requisite is that the buildings need to be capable of adaption and re-use without major complete reconstruction, alteration or enlargement”.***

The original Planning Committee identified, correctly, that the original approval and construction would see unit 1 as a single person / 2-person occupancy. The decision was made at that time to make the property 2 bedroom so as to provide a mix of properties / types and floor sizes for all. This development now pushes this mix upwards.

**Paragraph 3.74** from your [North Warwickshire Borough Council » Local Plan » Natural & Built Environment \(devplan.org.uk\)](#) states the limit is 30% growth on buildings having an extension. This is not the full Poplars Yard development as has been discussed informally with the Planning Officer. This is applicable to the floorspace the applicant has free roam on (i.e. their own property). To imply the full 6 units floor space means this development can take place is, frankly, ridiculous and will be challenged. Taking into account the property of 1 Poplars Yard the figures are:

| <b>Existing floor<br/>Dimensions</b> | <b>Additional proposed floor<br/>dimensions</b> | <b>Volume increase</b> |
|--------------------------------------|---|------------------------|
| 85.8m <sup>2</sup>                   | 39.2m <sup>2</sup>                              | 45.6%                  |

A 45.6% increase in floor space from the current footprint constitutes a MAJOR change in the property and in direct contravention of your own paragraph 3.74.

When the Planning Committee visited site on the 4<sup>th</sup> May, I took you into our front room, 5.3m x 5.7m (30.2m<sup>2</sup>) to give an idea of how out of proportion the extension is. Again, our property is the biggest on site and yet the newly proposed “snug” is 6.7m length by 4.6m width (30.8m<sup>2</sup>) has bigger proportions than our front room.

Again, you visited our bedroom on floor 2. The new plans have a bedroom bigger than our main bedroom. How can this not be a dominant design feature?

The former smallest property having larger rooms than the biggest footprint on the development would clearly demonstrate the dial up in dominance across the site, perfectly. This contravenes your regulations across multiple published public documents.

**Your own policy ENV12 – URBAN DESIGN** states that “All the elements of the proposal are well related to each other and harmonise with both the immediate setting and wider surroundings” – I would argue that building out the smallest unit on side to a double storey unit with dimensions bigger than the largest unit on site is not in keeping with your planning frameworks and goes against your written obligations to all residents.

**Section 2.34 of A Guide for the Design of Householder Developments** when taken in conjunction with **section 2.31** shows that there is a clear breach of this code. In 1948 the original building was commercial/agricultural and change of use to a 'house' did not happen until planning permission was agreed in 2013 - 2015. Therefore, this proposed plan to extend should be not be exceeding 30% of the volume of when it legally became a house. With the current submitted extension application increase at nearly 50%, it is disproportionate over and above its original house status.

**What happened before when there was a newly built extension on site?**

This application is not the first time an owner on the development has applied and been successful in their wish to add a new build extension at site. Interestingly, the Planning Committee were very explicit about what their legal obligations were under ECON9 and give a strong guide on what was / was not acceptable in the reconstruction of Plot 6 when that had to be demolished and rebuilt.

On PAP/2013/0071 approval documentation, page 7 of 14 the original planning committee recognised that there needed to have "subservience to the existing building" of any new build at site. Using Policy ECON9, the sentence states:

***"Some demolition is proposed. There is a proposal to extend Dwelling 6, but the extension is far less scale of the demolition and the extensions are subservient to the existing building"***

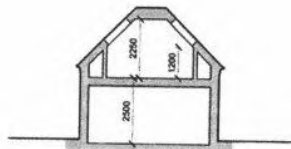
Clearly there is precedence set on site for the addition of extensions onto properties. Subservience has been shown in a lower roof level for the bedroom extension to the property. An identical move from the Planning Committee would be to make the roofline lower than the original building, retaining that subservience.

### **OBJECTION 3: THE CHARACTER AND APPEARANCE OF THE DOES NOT RESPECT THE SETTING. LOCAL DESIGN CHARACTERISTICS ARE NOT REFLECTED WITHIN THE DEVELOPMENT**

The current application is in direct breach of section LP30 of the North Warwickshire Local Plan (adopted as of September 2021), which states:

***"All development in terms of its layout, form and density should respect the existing pattern, character and appearance of its setting. Local design detail and characteristics should be reflected within the development"***

#### **Roofline variation**



Section B - B

"The Heritage Officer has confirmed that she does not object to the roof design, because although the existing building does not have any roofs of this type, there are a mix of roof heights and slopes and the organic development of buildings of this type is historically appropriate." – Planning Officer email 19<sup>th</sup> March.



Of course, the site had a new build element to it in 2013; unit 6 needed a complete collapse as the building was in such a state of disrepair and was built from the ground up. Gable ends were designed to look the same as the rest of the development for a reason. "To reflect the character and appearance of its setting. Local design detail and characteristics...." Unit 6 looks like it has been part of the development since its inception in 1881.

This development will be the second "new build" on site. However, the guidelines being applied to this version are very different to those applied to number 6 which is an interesting departure for the Planning Department. The duplication of planning applications would seem the most logical approach in matching old with new; heritage with faux and yet this planning application does not mirror that and introduces a new feature, not present elsewhere on site.

The Planning Officer email comments are interesting from 19<sup>th</sup> March where she states: "A full gable end would also have a greater impact on the character of existing property and would further impact on the views from the 3-storey part of the building looking towards the orchard and the road."

How could replicating the gable end which exists in multiple places on the development as well as mirror the one present on number 2's tower somehow negatively impact character? How does a new feature enhance character?

Surely by following the design and fitting in, the resultant build would look like it has always been there; not a come lately addition or lean to.

It is also worth noting that, as we have been told multiple times in Planning Officer communications since this started, we are not legally entitled a view. It is interesting this is now bought to bear as / when it is deemed important to give me a view, a new feature is acceptable.

I'm confused; do I have a right to a view or not?

To remove all doubt, if it were a question put to us, we would be more interested in keeping the symmetry of all rooflines facing south than a snippet of an orchard view we once had as the 'view' would be absolutely minimal anyhow. We would expect consistency across all gable ends so please, for once, be consistent in your approach and in your concern over my view.

**Section 2.5 of A Guide for the Design of Householder Developments states that there should be no introduction of different roof patterns or shapes on any extension.** These plans show exactly that; a roofline not seen anywhere on the development and covered by your comments about "not being visible from the road". I will see it every day as I drive to and from my parking space and suddenly my impact is deferred to the general public – an interesting perspective.



**Proposed plan and elevations submitted to the  
Planning Officer to support the application**

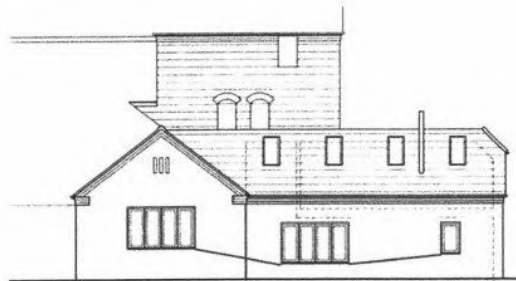
**OUR DESIGN OBJECTIONS**

We would prefer the application to be unsuccessful as it threatens the historical fabric of this beautiful building. However, as the Planning Officer seems keen on granting approval, we would have the following comments on current plans.

**Inconsistent window levels**

The ridiculous nature of hollowing our groundworks to produce headroom to develop a double storey solution means the window levels on the front of the property will be askew (refer to the red lines drawn below). These levels will forever give future residents and visitors the impression that this unit as an add on; a secondary project which came later and is / was a bad interpretation of the planning permitted under PAP/2013/0071.

All other window details for each property on site, and most importantly 1 Poplars Yard, meet the identical height criteria from the floor that is shown by the existing front windows (left hand windows on south west elevation below). The 2 new windows are at different heights and appear inconsistent with every other property on site. They will also be the only ones on sight from New Road and would give the impression of an inconsistent approach to development with lop-sidedness and uneven groundworks. It does a massive disservice to the developer, contractor and Planning Committee from 2013 to allow this ridiculous uneven feature on full view to all. This is strengthened by the loss of the tower behind, too.

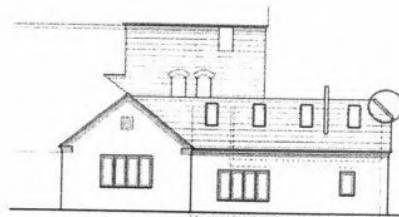


**South West Elevation**  
Facing New Road

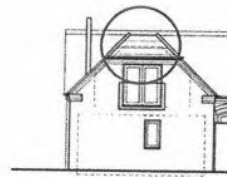
**New roof feature introduction**

This roof detail (shown on next page) is not present on the main dwellings of units 1-5 or unit 6 (the new build). It only appeared in the cart hovel design which is now in major dispute / review and should not be considered as part of a new planning application.

It should be noted at this point, separately, there is a letter of objection currently sitting with the Planning Office about non-compliant build so the continued references to using this building for 'design cues' are obsolete due to the nature of the challenge.

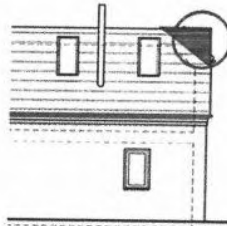


South West Elevation  
Facing Main Road



South East Elevation  
Facing Driveway

This feature is not consistent with any other property within the residential, main development. It should mirror the straight feature of the other Poplars Yard gable ends. In the least part, this would meet with LP29 and LP30



#### Second storey introduction

The introduction of a second floor where one was not granted in the original submission has several knock on, important effects.

- Introduction of a new roofline feature (dealt with above)
- Expansion of the footprint out, beneath the upstairs to accommodate a standing adult. This increases the floor space and so the ground floor footprint of +46% increase exists
- Pushes back garden patios to under our main bedroom and we already have noise issues in hot summer evenings with late night socialising

#### Roofline introduction to accommodate a second floor

Please note that such a detail does not exist anywhere on site even where original 1 storey buildings have been adopted to cite a second floor.

- Unit 4 with 2 floors and a single storey to the front of the development does not have the detail proposed in this plan.
- Unit 5 is the same as 4.

This is a brand new introduction and in direct breach of your own regulations. This detail has one feature and purpose, to ensure a wider footprint given the single storey but then provide enough head height for a second storey. Again, I refer you to the multiple Local Plan paragraphs that refer to

consistency on site as your guide and the basis of a future challenge to any positive decision around this application.

As resident of 2 Poplars Yard, we would ask that consideration be given to conditions set out in PAP/2013/0071 around intrusion into neighbouring properties during build. We would expect page 6 paragraph 1 of 2013 approval be applied should there be approval.

As next door neighbours, we do not want to be inconvenienced by months of building materials strewn out around site like the cart hovel approval process. All build materials should be kept on land owned by the applicant only, no communal land, and allow free flow of traffic to and from site. The extension is being built at the area of the site which has cars passing to park in resident and visitor spots and the applicant must be mindful of traffic flow at site and not inconvenience other residents.

Also, to note the question asked on your site visit but not answered at the time, given the applicant's previous behaviour around the cart hovel build where planning was granted, then the unilateral decision was made to increase the size, move the footprint, misrepresent the truth on several fronts (land ownership, tree felling, boundary ownership) and not use reclaimed materials we would like strict guidelines issues and enforced around the build. I want to ensure the "scope creep" made by the applicant does not happen on this property as I will be holding the Council liable to any oversight.

As you can probably tell, as a resident of Poplars Yard, we are against this proposal in any form. Given the fact we've had communications around agreements and discussions between council parties and the applicant around this development to which we have not been party or have been in direct contravention of your published policies, we are expecting this to be passed in some form before we go onwards to appeal. We expect you have informally approved this prior to this exercise of asking impacted residents for views.

I will be complaining to your office around Planning Officer / Heritage Officer conduct and communications but have to focus on work before a holiday. However, I will be complaining once I return.

It seems this build with the multiple contradictions to your own published frameworks, guides, plans and policies hold no sway with you in the decision-making process. As such, we will be initiating future examinations of your processes and decision-making processes around this extension and the cart hovel covered in our other letter.

We look forward to hearing further from you.

  
Mr RB Long

Mrs JM Long



9<sup>th</sup> May, 2024

Jeff Brown BA Dip TP MRTPI  
Planning Department  
North Warwickshire Council  
The Council House  
South Street  
Atherstone  
Warwickshire  
CV9 1DE

Dear Sir,

**Your reference: PAP/2023/0514 9764-02c**

We write with regard to the above application and your visit to site on Saturday 4<sup>th</sup> May, 2024.

The "we" referred to in this letter are [REDACTED] as residents overlooking the cart hovel from our above ground areas. Other residents will make their feelings known by other methods.

This letter will deal only with the retrospective amendment to planning permission of the cart hovel. Another, separate letter, will deal with the proposed extension.

**This letter is a response to place on record our joint objection to the above Planning Application made to the North Warwickshire Borough Council by 1 Poplars Yard, B79 0EJ.**

We are objecting to the planning permission on 3 counts:

- This plan, and the original permission documentation included the applicant submitting a Certificate A which is false. By submitting this and not the required Certificate B, she gave the Council the incorrect information that she is sole owner for the land. She is not as it is shared with the other 5 properties making up the development
- The footprint has increased in size from the original permission documents and now not only covers the footprint of land which was the parking space allocation for the property (under sole ownership) but has extended into land jointly owned by the shared land of the 5 other properties
- The Cart Hovel has moved place from the plans submitted on the site, so it is closer to numbers 1 and 2 Poplars Yard. It is built on land jointly owned by the 5 other properties not solely by number 1. The current forms show the building on the spot as approved to build, but does not represent the actual location

In short, the application has been incorrectly filed, the building has extended in size and has been positioned into land not owned by the applicant, solely.

**Incorrect documentation – Certificate A filed incorrectly**

Both applications show the applicant has ticked the Certificate A box and has had plans drawn up to indicate the red line plans below. I wish to place on record this indication is false and does not represent the legal position of ownership of land.

I notice that Planning Permission was originally granted using the same basis for paperwork and therefore puts this initial approval open to challenge.

The correct procedure has not been followed by the applicant in either process.

Currently, the submission paperwork shows this diagram with red boundary drawings. This is incorrect. For time, I have included the land registry entry showing the legal position of ownership.

**The forms used to support this submission**



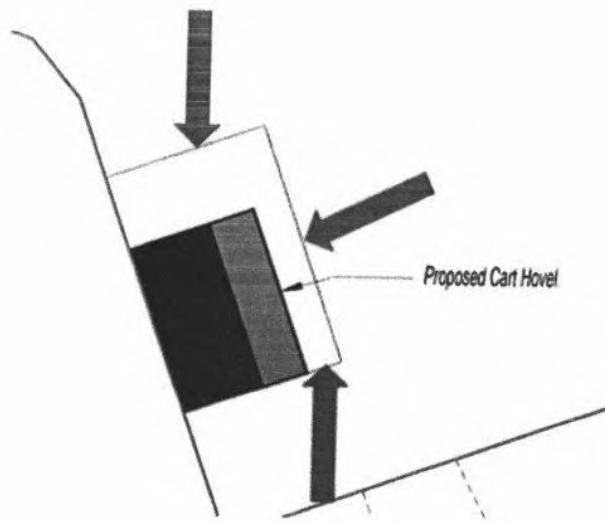
**Land registry title number: WK522343**



The areas shown in red on your plans are communally owned by the residents of Poplars Yard who have a company registered at Companies House with one director from each property.

By note following the Category B notifications, owners of neighbouring land were not notified about an ability to comment / object or even be informed by the process of planning permission.

It should also be noted at this point, that the drawing you have received has a square, line marking outside of the footprint. Given what has been outlined above, this line is to be ignored as I believe this has been inserted to give an 'impression' of land ownership. I have shown the 3 lines below marked with red arrows. This is a false representation of land owned.



### Increase of footprint - size

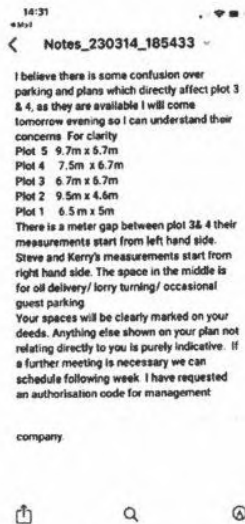
The existing footprint of the building is 7.2m wide and 5.34m deep and currently sits off the kerb at the back by around 1m, making the whole footprint size of 7.2m wide x 6.34m depth

As residents, we all had a meeting with original developer at site shortly after full occupancy was achieved and parking was discussed and confirmed at that meeting. Parking had become a contentious issue so after that meeting, the developer sent all residents the dimensions of the individual parking spaces aligned to each property. All 6 properties were shown on the WhatsApp message and have been aligned to the Land Registry filing. All other communal areas of the site fall under Polar's Yard resident's management group, registered at Companies House.

These are the dimensions confirmed by the developer post meeting and form part of the future deeds of 1 Poplars Yard.

|                                 | Unit dimensions today | Developer confirmed dimensions |
|---------------------------------|-----------------------|--------------------------------|
| Width                           | 7.2m                  | 6.5m                           |
| Depth (of unit only)            | 5.34m                 | 5m                             |
| Depth (built out from the kerb) | 6.34m                 | 5m                             |

As a screen grab, here is the developer's confirmation back to all residents of Poplars Yard after that meeting is below.



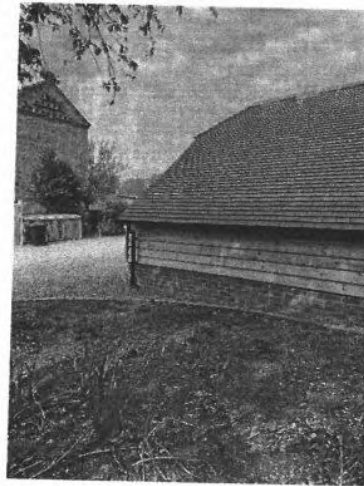
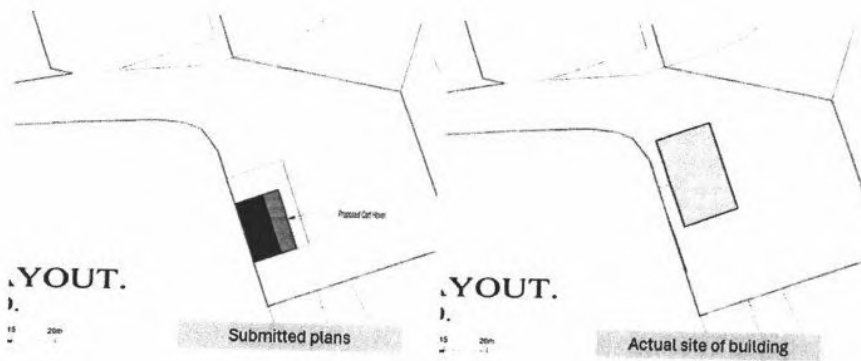
So, to be clear, the increase in building size has resulted in the unit overlapping land owned by the applicant, but not owned. Your original permission allowed for the unit to sit within the bounds stipulated by the purchase of 1 Poplars Yard; the decision to build a larger unit unilaterally without consultation with the other residents of Poplars Yard has now meant that the unit straddles boundaries not solely owned by the applicant and will be subject to a boundary discussion.



### **The positioning on the development**

The plans you are working to on the resubmission for retrofitting planning permission show an incorrect position of the unit and does not represent the actual placement on site.

Below, the picture on the left shows the submitted plans with the building away from the curvature of the kerb stones marking drive and beds. On the right hand side is an approximation of the actual position. The northern most corner of the building overhangs the curvature of the kerbs. Please refer to both photographs below which show the actual position on site.



By moving the construction of the building to the current position, this has been built on land not owned solely by the applicant and without express approval of the landowners. The photographs show both that the building is built on the curvature as well as pushed out from the boundary kerbing, forcing the frontage onto land not owned by the applicant.

### **Additional notes to this application**

**Cedar weather boarded cladding** – this was raised in my original comments for the planning application PAP / 2022 / 0490. Cedar wood is not present anywhere on site. We are a historical site with exposed oak both internally and externally at the property. This ‘comment’ was raised so as to keep consistency across the site and the discrepancy in wood types is clearly visible from the frontage as the oak doors which were part of the approved design, and the new storage area of cedar wood are different colours, grains, etc.

**Reclaimed roof tiles** – again we mentioned and you stipulated in your “conditions for approval” wordage that reclaimed tiles should be used. This has not happened. Some tiles are already slipping on the roof due to poor building finish and are exposing some of the newer finishes. The reclamation of tiles has not been part of the building construction.

**Light fitting** – As the original plans had no storage bay, there was no need for lighting. As you can see in the photograph, we have a hideous faux brass fitting placed on the outside and the decision has been made by the applicant to not follow the 12 external light fittings we have on the development of all chrome and a modern finish. We would expect consistency across all of the estate. I notice in these plans (versus previous versions) there is no presence of external lighting in the plans, going against what is actually present on site.

So, in conclusion to this application, we are unhappy with the Council approving this building application as it has the following challenges:

- The applicant has twice submitted official paperwork to give an incorrect impression on land ownership and access. The correct procedure has not been followed and land owners have not been given the appropriate right to consultation given under statute
- The building has increased in size to a point where it no longer sits on land solely owned by the individual
- During construction, the building footprint moved north and onto jointly owned land. There is a question around legality of building here. Even given that, the paperwork under consideration with the Council now for planning approval is not accurate and will therefore render any decision as incomplete and liable to future challenge
- Your planning approval was subject to strict guidance and clearly mentioned accuracy around construction materials. Reclaimed Staffordshire Blue roof tiles have not been used and fittings are not in keeping with the development.

Thank you for attending site on the 4<sup>th</sup> May. After months of pushing against closed doors with the planning department, we finally feel that our voice is being heard around concerns with this building and the newly planned-for extension. As clearly stated at the start of this letter, another document will deal directly with that application. Given the severity of misdirection on behalf of the applicant, non-compliance to statute and building regulatory frameworks we look forward to hearing further from you.



Mr RB Long

Mrs JM Long



9<sup>th</sup> May 2024

Planning application reference number: PAP/2023/0514

Many thanks for your emails dated 19<sup>th</sup> March, 9<sup>th</sup> April, 17<sup>th</sup> April and 2<sup>nd</sup> May relating to **PAP/2023/0514** which was originally just for an extension but which now also includes retrospective planning for a cart hovel which was intentionally built larger than the approved planning consent.

We object to both applications and will refer to each objection separately. However, I must first question the decision to allow enforcement actions on the planning application for the Cart Hovel to now be conflated with an existing application. This does not make sense.

**EXTENSION OBJECTION**

As there have been many email updates we feel, based on the various comments made that we first refer back to your email on 19<sup>th</sup> March (Appendix A)

You stated that you were of the opinion that the planning concerns previously raised in relation to this application had been addressed by the current proposal.

Having carefully looked (at that time) at the amendments made to the original application it was good to see that 'some' objections that we made had been addressed.

However, there are **two major objections** we originally made that have not been addressed and as such, still massively contravene and are in breach of North Warwickshire's A Guide for the Design of Householder Developments

1. The first relates to **point 2.31 of A Guide for the Design of Householder Developments** which states

1. *The Government has published strong guidelines on what is appropriate and what is not appropriate development in the Green Belt. This advice also refers to extensions to houses. This states that where extensions to houses within the Green Belt are "disproportionate" over and above the **original house**, then they will be deemed to be inappropriate development, with the presumption that planning permission will be refused.*

And follows on with the following three points in 2.34 i.e.

- The size of the original house, not what is there now. The original 'house' in planning terms is that which existed on 1 July 1948, or if more recent, as originally built under a planning permission. It does not include any detached garages or outbuildings and no subsequent extensions.
- As a general rule, the volume of the extension, together with all existing extensions should not exceed 30% of the volume of the original house.
- All extensions should be subordinate to the original house. Extensions therefore should be of a design that wholly reflects that of the existing, without introducing elements that make it appear as a new dwelling.

Having sought advice, relating to these points, the proposed planning would be in complete breach of North Warwickshire point 2.34. In 1948 the original building was commercial/agricultural and not a house. The change of use to a 'house' did not happen until planning permission was agreed in 2013 - 2015. Therefore, this proposed plan to extend should not be exceeding 30% of the of the volume No.1 Poplars Yard when, under Government Guidelines, it legally became a house. With the current submitted extension application increase at nearly 50%, it is disproportionate over and above it's house status. It is apparent that the comments made by Jennifer Leadbetter appear to be very cleverly worded with 'although the extension is comparatively large to the host dwelling it is not sizable when compared to the scale of the wider building'. The wider building is not the applicants house and as it only became a house after 2013 the 30% size rule applies.

In addition, the new extension plans introduce two new design elements not present anywhere else on the original building, with not only a flat ridged roof but also a half hipped gable. Neither reflect that of the existing and therefore would make it appear as a new addition to the dwelling.

2. The second relates to **points 2.4 and 2.6 of A Guide for the Design of Householder Developments** which states

2.4 - Overlarge extensions **can dominate a property** and can have a very harmful impact on the appearance of the original house, those next to it, and the character of the surrounding area. **Extensions should be smaller and less apparent** than the original building. This has the benefit of ensuring that the extension respects the original house and does not appear as an unrelated addition.

2.6 - Extensions on corner plots can be particularly prominent. They should be designed to respect the character of the surrounding area and **not become a dominant feature** in the street.

The proposed plans show that the extension will **not** be smaller and less apparent clearly disregarding guidelines..

When you enter Poplars Yard the first property you see is No.1's nice gable end framed by the lovely unique and characterful feature of No.2. The proposed plans would increase the first visual size and impact of No.1 by over 200% from that of the gable end and completely block No.2. While I appreciate Jennifer Leadbetter might

have the opinion and 'view' that it will not overly dominate, the image on the next page shows the reality of the extension based on the landscape and not a flat drawing. It not only dominates No.1 it will also be dominating feature from the street, failing both point 2.4 and 2.6.



We have also noted the comment made by Jennifer Leadbetter, after eventually visiting the site on 2<sup>nd</sup> April, 'it is accepted that the view of the tower from the entrance to the site will be altered, but this does not appear to be a designed view'.

'Altered' is putting it mildly, as shown in the image above! It would completely block sight of No.2 Poplars Yard with its unique and characterful feature and as per our original objection, would completely destroy the footprint and ethos behind a development that was built in 1880. This design adds a totally unbalanced and awkward proportion that would disrupt the visual character and appearance of Poplars Yard, all in contradiction to the North Warwickshire design policy guide.

3. There is also a third point, approving this application would further contradict and be in breach of THREE points of 2.5 of **A Guide for the Design of Householder Developments** relating to scale of the Extension where it specifically states that better development is achieved by

a) **Keeping the height of the extension below that of the original ridgeline.** This clearly hasn't been adapted.

b) **Not introducing different roof patterns or shapes on the extension.** Once again this has clearly been ignored with a roof ridge plus a half hip that bears no resemblance

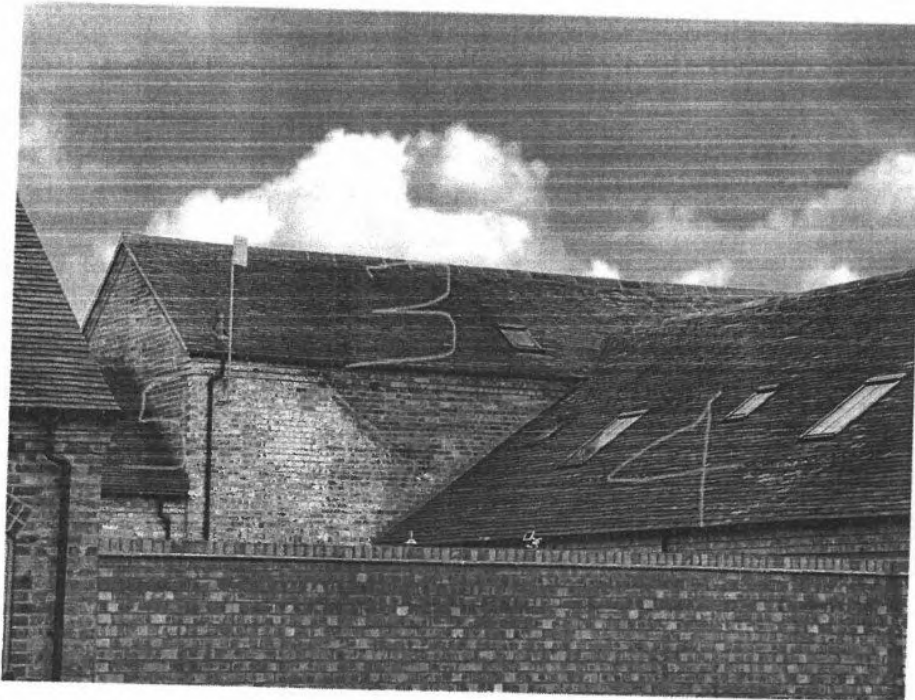
or features on any other of the 5 other houses within Poplars Yard. I have seen sight to a comment you have made via email (Appendix B) to one of our neighbours on 8<sup>th</sup> March, stating "The Heritage Officer has confirmed that she does not object to the roof design, because although the existing building does not have any other roofs of this type, there is a mix of roof heights and slopes and the organic development of buildings of this type is historically appropriate".

I find this comment unbelievable when the guide clearly states **don't introduce different roof patterns or shapes**, and with all existing roofs having a pointed ridge, introducing one without and flat is clearly different.

It's not organic or historically appropriate to the history of this development. Further and most importantly, in relation to the roof heights, if this extension were to follow the organic and historical design, I would have expected the Heritage Officer would have noticed that each new roof height, down from the three story of No.2, is lower as shown in the photos below. In each adjoining 'house' and where the angle of attached building/dwelling changes, there is a natural progression of each roof height being lower. Therefore, to maintain any historical organic flow, if an extension was to be granted the roof height should be lower than the current one of the applicant's.







c) ***Not introducing completely different detailing on the extension.*** In your same email to my neighbour dated 8<sup>th</sup> March you stated 'I have also asked the agent to look at a smaller window in the proposed end elevation, so that the window is more in keeping with other windows in that elevation' This made very good sense when we read it. However, you then go on to say 'The window is needed for fire safety as the roof windows are not suitable for evacuation'. Once again this is in total contradiction to our property at no.5. Our upstairs only has 6 'Velux' style windows (3 on each side of the roof) and none of which are suitable for evacuation. If your comment is true when planning was agreed originally our house should have had a window for evacuation for fire safety. As it doesn't, it suggests that this is not a requirement for two story houses. From my understanding from Part B of Building Regulations this is only a requirement for 3 storey buildings.

However, after making the comment "so that the window is more in keeping with other windows in that elevation", you then later say in your email to me on March 19<sup>th</sup>, completely contradicting yourself by stating "In exchange for the reduction of the rooflights I have agreed a Juliet Balcony in the end elevation. This clearly introduced completely different detailing and not in keeping with other windows in the elevation. After reading this it struck me that North Warwickshire Planning Department seem



happy to play barter with planning applicants to try and keep them happy rather than follow it's own Planning Guidelines.

While I appreciate that the Juliet Balcony option has been withdrawn, the comments to that appear to try and justify an approval decision seemed very weighted and unorthodox.

With so many breaches and contradictions of the North Warwickshire planning policy guide and then contradictions to your own comments it just seems as though you are happy to agree to this planning regardless that it breaks so many policies.

You make reference to seeking advice from the Heritage officer and making decisions based on what they had said but it was only after my neighbour, [REDACTED] asked if the officer's comments could be viewed on 2nd April, that she visited the site immediately before a report was produced with her comments on 3<sup>rd</sup> April (APPENDIX C)

Her comments then made reference to the courtyard design when there has been no reference 'anywhere' or even plans to reflect to a courtyard design, to try and justify approving these plans. This is simply an extension into a garden showing less garden space with no reference to a courtyard space. These comments made are irrelevant and not justified.

This proposed extension plan into the garden of No1. Poplars Yard is not the norm garden extension that will just be on view to the neighbours either side, and then only partially from what they can see from their garden. If granted it will be the first sight everyone sees when entering daily in Poplars Yard. It will be a dominant extension, totally obscure a unique 150 year historical feature of the tower of No.2, will look what it is - an extension added on.

As per our comment in our original objection, in the original Planning Notice and Decision PAP/2013/0071 it was subject to many conditions with accompanying specific 'Reasons', notably in points 18 and 19, the conditions made were 'To maintain the character of the building and to ensure satisfactory visual relationship of the new development to the existing' and 'In the interests of maintaining the character and appearance of the existing building. The design and lasting appearance of this proposed extension would completely fail to maintain the character of the building. And it would definitely not ensure a satisfactory visual relationship of the new development to the existing.

Finally, after receiving you more recent email dated 2<sup>nd</sup> May and carefully looking at each attachment, and then referring back to the Application disclosure made by the applicant I noticed that false claims about sole land ownership relating to the blco plan lines. As commented later, this is the second time that this confirmation has been falsely made.

### **CART HOVEL OBJECTION**

We must firstly state that we did not make an objection to the original Cart Hovel planning application, due to not receiving a Notice regarding the application and only finding out about it after planning had been approved. Why was no Notice given?

Had we had received notification of the original planning application we would have objected to the 'half hipped' roof as this introduces a completely new roof shape and pattern which does not ensure satisfactory visual relationship to the existing character. The original Planning officer that approved the original plans noted that the Cart Hovel design complied with, Local Plan Policy LP30 – that local design detail and characteristics should be reflected within the development. The half hipped design is not reflected at all within the the Poplars Yard development and therefore it would appear he did not visit the site before making this comment.

The original application stated that reclaimed tiles would be used to match and be inkeeping with the existing building. This has not been adhered to with new tiles been used.

The biggest objection is the size of the Cart Hovel for two very serious and now conflicting reasons. The applicant has deliberately and intentionally built the Cart Hovel larger than the original submitted and agreed plans of 6.5m wide and 5m deep (the actual size of her allocated parking boundary space) with a building that is now – 7.2m in wide and 5.34m in depth. In addition, the Cart Hovel is 1 m away from the curb so effectively building on a further 1 m of land not owned by the applicant. While I appreciate that you can not comment on landownership, the position of where the Cart Hovel has been built does not reflect the plans on either the original plans PAP/2022/0490 or the revised ones, in that both show the back of the Cart Hovel being on the boundary line. This is not the case and a further metre away.

Further, both plans show a further line around the Cart Hovel appearing to show that it falls within land owned by the applicant. This is not the case. The Block Plan also fails to actually show the Cart Hovel and the extension area is incorrect.

More seriously, the 'Red Line' boundary sole ownership declared by the applicant is false and totally misrepresented. The applicant only has sole ownership of the 6.5m x 5m she applied for. The Council were therefore served with the wrong certificate and no notice was given to the other five co-owners of the driveway land shown within the red lines. This serious error and declaration by the applicant has now taken place twice with the original extension application also confirming Certificate A ownership. From our perspective, in keeping with building the Cart Hovel bigger than approved plans, this has been deliberate and twice. Due to these errors and correct checks not being carried out, allowing the Cart Hovel to be built on land not solely owned by the applicant I would expect nothing less than the planning department confirming that the Cart Hovel size must be reduced to the original approved dimensions.

In the Officer's Observations on the original Cart Hovel approval report, point no.2 stated 'To ensure that the development is carried out strictly in accordance with the approved plans' the applicant clearly failed to do this on three accounts

1. Built larger than approved
2. Not built in agreed plan position – 1m out, and
3. Not used reclaimed tiles.

As a result of the applicant failing to adhere to the above on the original planning consent, we have grave concerns that the same could happen again.



APPENDIX A

From: Christina Fortune <ChristinaFortune@NorthWarks.gov.uk>  
To: Christina Fortune <ChristinaFortune@NorthWarks.gov.uk>  
Date: Mar 19, 2024 2:54:57 PM  
Subject: Planning Application: PAP/2023/0514: 1 Poplars Yard, New Road, Shuttlington  
Attachments: 9811-03D\_Proposed Plan and Elevations.pdf

Dear Sir

As you are aware, we have received a planning application for a proposed extension to 1 Poplars Yard. I am writing to you because you have previously provided an email address in connection with a consultation on this application. It is the policy of this planning authority to work proactively with applicants to seek to overcome planning concerns raised during the consultation and processing of an application.

Further to my previous letter advising of an amendment to the proposed plans for 1 Poplars Yard, I have considered the responses received.

I have undertaken consultation with the Council's Heritage Officer and visited the site myself.

As a result the proposal has been further amended such that it is now narrower, thus retaining the end elevations of the existing buildings, the extension is now proposed on the line of the existing timber fence. The amended plan is considered to be subservient to the existing house and is in keeping with policy. I have attached the amended plan for ease of reference.

I considered whether the proposed roof should be a full gable rather than the part hipped gable, having discussed this with the Heritage Officer, it is considered that this is not viewed from the principle elevation on approach, and only becomes visible when the similar 'half hipped' roof of the cart hovel (garage) comes into view. Although there is no right to a loss of view, to require a full gable would further impinge on the view of the orchard from the neighbouring property. Therefore this is considered an acceptable compromise where there is no significant harm to the existing building, and minimises the impact on the views from the neighbouring property. The property is of irregular roofheights with a mix of single, two and three storey elements to the site. The use of the roofspace for bedrooms are not out of keeping with this type of building.

We have looked at the rooflights, and considered that there was a risk of loss of privacy to the neighbouring property at first floor. Therefore the conservation rooflights in the proposed bedroom have been reduced so that the eill height is 1.8 metres, this means that it is not possible to look horizontally into the adjacent property windows (without standing on a ladder); one rooflight over the staircase is more than 1.8 metres above the staircase and therefore there is no clear horizontal view, there are no ground floor windows to the neighbouring property that are adversely impacted. As there are no views out of these rooflights, I shall be conditioning that they be obscured such that light is allowed in but there are no views out of these roof windows. The roof windows towards the site entrance may be clear glazed. This is considered to address the concerns due to loss of privacy. In exchange for the reduction of the rooflights I have agreed a Juliet Balcony in the end elevation, as this has no impact on privacy.

Although ownership of land is not a planning consideration, the reduced extension to the line of the existing fence addresses any concerns raised regarding land ownership.

I have worked with the applicant, and the applicant has cooperated, in order that planning concerns have been addressed. As such, I am of the opinion that the planning concerns previously raised in relation to this application have been addressed by the current proposal.

Please feel free to share this email and the attached plan with neighbours and other interested parties, that may not have provided an email address. Please note that applications are considered on the content of consultations and the number of responses received is irrelevant, therefore duplicate responses from a single address are considered as one consultation response, in the same way as petitions.

If you have any further concerns that you wish to raise, please contact me by 5pm on 02 April 2024.

The application as a whole may be viewed at: [Planning Public Access \(northwarks.gov.uk\)](https://planning-public-access.northwarks.gov.uk)

Regards

*Mrs Christina Fortune*

Planning Control Assistant

North Warwickshire Borough Council

The Council House, South Street, Atherstone, North Warwickshire CV9 1DE

Tel: 01827 719481

Email: [ChristinaFortune@NorthWarks.gov.uk](mailto:ChristinaFortune@NorthWarks.gov.uk)

Please be aware that I generally do not work on Fridays until further notice.

If you are experiencing hardship or require support please see the information leaflet at: [WCCC-1980322335-1895 \(warwickshire.gov.uk\)](https://www.warwickshire.gov.uk/WCCC-1980322335-1895)

\*\*\*\*\*  
**IMPORTANT - Planning Application Fee's increase as of the 6th December 2023, any submissions made on or after this date or current applications not yet valid will be subject to the increased fee requirements.**

For further information please use the following link:

[Details of the planning application fee increase on 6th December 2023 | Planning Portal Blog](#)

From: [REDACTED]  
To: [REDACTED]  
Cc: Cantwell [REDACTED]  
Date: Mar 8, 2024 12:35:02 PM  
Subject: Fw: PAP/2023/0514

Hi all. Email from Planning this morning.

----- Forwarded message -----  
From: Christina Fortune <christinafortune@northwarks.gov.uk>  
Sent: Friday, 8 March 2024 at 10:36:17 GMT  
Subject: RE: PAP/2023/0514

Thank you for your email.  
Reconsultation letters were requested on Wednesday, so you should receive them soon.

We did not reconult immediately, as we did not want lots of separate reconultation letters, so we wanted to discuss the changes with the heritage officer, and with my manager before we reconulted with neighbours. The Heritage Officer has confirmed that she does not object to the roof design, because although the existing building does not have any roofs of this type, there are a mix of roof heights and slopes and the organic development of buildings of this type is historically appropriate. The cart hovel opposite the site does have a half gable roof.

The end gable is not visible from the street and the side impact of the half gable is considered to be minimal. The Heritage Officer has confirmed that she does not object to the reduced proposal.

A full gable end would also have a greater impact on the character of existing property, and would further impact on the views from the 3-storey part of the building looking towards the orchard and the road.

I have asked the agent to look at a smaller window in the proposed end elevation, so that the window is more in keeping with the other windows in that elevation. The window is needed for fire safety as the roof windows are not suitable for evacuation.

I have also asked the agent to review the roof windows along the side facing the garden, to either omit the roof windows, or to make them permanently fixed and obscure glazed, to minimise any impact on privacy.

I should advise that there is no planning right to a view and that ownership is not a matter for planning, therefore, although you are fully entitled to raise these as concerns, we are not able to give any planning weight to these matters in determining the planning application.

With regard to access to parking, the proposed extension is within the existing fence line, therefore there is not considered to be any impact on vehicle movements within the site.

I hope that this will assist you in preparing any comments that you may wish to make.

Regards

Mrs Christina Fortune  
Planning Control Assistant  
North Warwickshire Borough Council  
Tel: 01827 719481 Email: [ChristinaFortune@NorthWarks.gov.uk](mailto:ChristinaFortune@NorthWarks.gov.uk)

[CLICK HERE](#) for the latest COVID-19 information and resources

If you are experiencing hardship or require support please see the information leaflet at: [WCCC-1980322935-1895@wanwickshire.gov.uk](http://WCCC-1980322935-1895@wanwickshire.gov.uk)

Sent: Thursday, March 7, 2024 6:16 PM  
To: Christina Fortune <ChristinaFortune@NorthWarks.gov.uk>  
Subject: Re: PAP/2023/0514

Caution: Warning external email

Hi Christina,

Thank you for your e-mail previously about the proposed planning at 1 Poplars Yard, New Road, Shuttington.

Upon inspection of the planning website today, we recognise that there has been an amended plan submitted for the proposed extension to is particular property. The date of this submission was the 26<sup>th</sup> February 2024.

Our previous correspondence with you suggested we were expecting notification that such a submission had been made. As of today we have not received any notification of this re submission.

**Christina Fortune**

---

**From:** Jennifer Leadbetter  
**Sent:** 03 April 2024 11:36  
**To:** Christina Fortune  
**Cc:** Jennifer Leadbetter  
**Subject:** Initial Heritage and Conservation Office observations re PAP/2023/0514 1 Polars Yard

Good morning,

I have reviewed the amended plans and believe these to be an improvement on the initial design. Following my site visit I can offer these comments on the amended plans.

The proposal is for an extension to a small dwelling and although the extension is comparatively large compared to the host dwelling it is not sizable when compared to the scale of the wider building. In my view the new addition will therefore not overly dominate, in terms of scale, the building as a whole. It is accepted that the view of the 'tower' from the entrance to the site will be altered, but this does not appear to be a designed view or one that has a specific purpose set by a previous use, and therefore cannot be afforded substantial weight.

The material palette should be conditioned so as to ensure a match the host buildings, and if correctly implemented then I assess the visual impact of the building to be modest. Detailing likewise.

It is accepted that the proposed courtyard orientation forms a variation on those currently found but it still results in a courtyard character to the host dwelling which is a recurring element found on site and I believe that this modest 'organic' growth of a large vernacular buildings such as this, could have incorporated such variants (dependant on functional need) and is capable of absorbing them now without harm to the character of the area. Enclosure of a courtyard to the north of the application site is evidence of a change to the existing open courtyard format on this elevation and shows how residents' have already made changes to the traditional openness and appearance of the building layout.

The use of the Juliet window is an introduction of a new feature to the area but as it does not face the main body of the building I assess it to have a less than substantial impact on the immediate environment. However, after discussion with the applicant she confirmed she was keen to remove the Juliet window from the application and replace it with a 3 bay casement window. This would be a further improvement to the design of the proposal in my view.

I recommended that she advise her architect to amend the plans accordingly and resubmit them for assessment.

Please let me know when the new plans are available for comment.

Best wishes

Jen

Jennifer Leadbetter MA, BSc, PGDip  
Heritage and Conservation Officer  
North Warwickshire Borough Council



North Warwickshire  
Borough Council

## **General Development Applications**

**(5/c) Application No: PAP/2023/0071**

**Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley,**

**Construction of a temporary Solar Farm, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure., for**

**Enviromena Project Management UK Ltd**

### **1. Introduction**

- 1.1 This application was referred to the Board's March meeting, but determination was deferred. This was so that clarification could be sought on matters raised by the Fillongley Flood Group and to request the applicant to look at the possibility of additional mitigation in the form of further landscaping.
- 1.2 For convenience, that Board report is attached at Appendix 1. It remains an integral part of this current report.
- 1.3 The Board should be aware that a Ministerial Statement was published on 15 May entitled "Solar and protecting our Food Security and Best and Most Versatile Land (BMV)". A copy is attached at Appendix 2. There are no other changes to the Development Plan or other material planning considerations.
- 1.4 The Board is also reminded that, should it be minded to support the recommendation below, the case would need to be referred to the Secretary of State under the 2024 Direction.

### **2. Additional Information**

#### **a) Drainage and Flooding**

- 2.1 Members will be aware that the Lead Local Flood Authority (LLFA) did not object to the proposal. Its original letter is at Appendix 3 and is recorded in the previous Board report at para 4.38. The LLFA required additional drainage measures above those originally submitted by the applicant - a number of swales. Their inclusion led to there being no objection.
- 2.2 The request for clarification on the Flood Group's concerns arose from its letter of 4th March which was received on the morning of the March Board meeting. It is attached in full to this report as Appendix 4. Members will recall that at the Board meeting, reference was made to a site meeting that afternoon between representatives of the Group and the applicant. Matters have now moved on since the deferral.

- 2.3 The Group's letter was forwarded to the LLFA and a response was requested from them by officers, such that the Group could be fully familiar with the measures being proposed; the response to the Group's concerns could be explained and an explanation given as to the LLFA's response of there being no objection. The LLFA was also asked to comment on the criticism that that Authority had not visited the site.
- 2.4 The applicant met representatives of both the LLFA and the Group on site on 18 March.
- 2.5 As a consequence, an updated letter from the LLFA was received and this is attached at Appendix 5. This recommends a number of conditions - all of which have been agreed with the applicant as well as identifying the on-site measures referred to in para 2.1 above.
- 2.6 Additionally, this LLFA letter refers to the existing flooding situation. The applicant has now elected to voluntarily propose betterment beyond that necessary to mitigate the impacts of his own proposals, by including further additional measures to assist in mitigating the existing situation. This comprises three additional detention basins - two along the stream that runs through the site and a third in the north-east corner where there is a further water course. The location of these is shown on Appendix 6 which also depicts the additional swales referred to in para 2.1. An updated Flood Risk Assessment accompanies these plans.
- 2.7 This Plan together with the updated Assessment has been forwarded to the LLFA and it reiterates its response of there being no objection subject to conditions - see Appendix 7. These will need to be added to those previously recommended.
- 2.8 The LLFA letter at Appendix 5, the plan at Appendix 6 together with the updated Assessment have also been forwarded to the Fillongley Flood Group. Its response is awaited. Members will be notified if this is received between the date of preparation of this report and the Board meeting.
- 2.9 It is considered that this chain of events provides the Board with the clarification which it sought in its resolution to defer. The introduction of measures that assist in addressing the existing flooding situation are very welcome and Members will be aware that these go over and above, that which is necessary to make the proposals acceptable under both national and local planning policy. Substantial weight is thus given to the LLFA letters at Appendices 3, 5 and 7. It is thus considered that there is no weight to be given to a potential refusal reason based of non-compliance with Local Plan policy LP33, or the supporting sections of the NPPF.



## **b) Landscaping**

- 2.10 It is noteworthy from the LLFA letter of 3 April - Appendix 5 - that the additional landscaping which was included in the latest plan referred to the Board at its March meeting, was considered to have a drainage benefit.
- 2.11 The applicant has submitted a further landscape plan which strengthens the screening along the northern and eastern boundaries as depicted in Appendix 8.
- 2.12 As a consequence of the additional three basins and the trees, the Bio-Diversity nett gain for habitats rises from 62% to 63.17% and from 25% to 25.76% for linear features.

## **c) Further Representations**

- 2.13 Re-consultation has taken place on the further changes as described in paragraphs 2.6 and 2.10. There have been twenty representations received, all maintaining original objections that have previously been reported in Appendix 1.
- 2.14 Fillongley Parish Council also objects because of the use of BMV land in light of the recent Ministerial Statement as referred to in para 1.3 - see Appendix 9.

## **d) Other Matters**

- 2.15 A number of other matters have arisen during the re-consultation on the receipt of amended plans.

## **i) Capacity**

- 2.16 The first of these concerns the capacity of the proposed development. This is because if the generating capacity is over 49.9MW(AC), then the proposal becomes a development that would become a Nationally Significant Infrastructure Project and thus the determining Authority would be the Secretary of State and not the Local Planning Authority. In this case the developer has confirmed that the current capacity is below this figure. In order to “safeguard” this position, a planning condition can be attached to define this upper threshold. That can be verified and monitored via the Distribution Network Operator at the point of contact and if necessary, Ofgem.
- 2.17 This factor also has relevance in respect of the weight to be given to the recent Ministerial Statement. This will be referred to below.

## **ii) Appeal Cases**

- 2.18 The second matter is that those making representations have referred to appeal decisions where there have been refusals on the grounds of the use of Best and Most Versatile Agricultural Land (BMV). The appeal references quoted have been identified as s62A/2022/0011, APP/F1040/W/22/3313316 and APP/J1869/W/23/3325112. In terms of “fairness”, the applicant was asked to quote appeal decisions where development has been allowed on BMV. He refers to four 2024 decisions referenced APP/J1535/W/23/3334690, APP/E2530/W/24/3337544, APP/L3245/W/3332543 and

APP/X1925/V/23/3323321. As Members are aware, each case is determined on its own merits and the circumstances pertinent to each proposal and site. There will thus be different appeal outcomes, just as with different determinations for planning applications.

- 2.19 However looking more closely at these decisions, it is noticeable that the key locational determinant in locating sites for solar projects is the availability of a connection into the National Grid where there is existing capacity. Therefore, if national energy and planning policy on increasing dependence on renewable energy sources is to be delivered, then these projects will inevitably be located in certain geographic areas. The respective Inspectors in the quoted cases recognise the significance of this determinant. In this case, there is spare capacity and the applicant has confirmed that a point of connection has been guaranteed. This adds considerable weight to the applicant's case. In some of the appeal cases above, the Inspectors were not able to reach such a conclusion and so the weight given to it was reduced, enabling the weight given to recognised harms to override it. Here that locational requirement happens to involve the use of BMV. The harm thus afforded to it has to be assessed in the final planning balance. The local significance of this was explained in paras 4.62 to 4.66 of Appendix 1. The conclusion reached was that the harm in this case would not be substantial. One of the matters raised there, was that there has been no evidence submitted relating to adverse effects on food production, food security or a dis-benefit to a current farming holding/business. For instance, in one of the dismissed appeals there was evidence submitted relating to a material loss of potato production.
- 2.20 Members are advised that the use of BMV is not a reason for refusal as a matter of principle. The final planning balance has to be assessed on the individual circumstances of each respective case and that is why different appeal decisions can be found.

### **iii) The Ministerial Statement**

- 2.21 Ministerial Statements are material planning considerations where they relate to a relevant planning application as here. The issue for the Board is how much weight should it be given in the final planning balance in this case.
- 2.22 It is important to note that the Statement does not alter national planning policy in respect of solar projects. There are no new additional requirements or considerations. It outlines that solar power is a "key part of the Government's strategy for energy security, net zero and clean growth" reinforcing the recent National Policy Statement on Energy. It too recognises that "food security is an essential part of national security". It is thus down to the planning system "to balance these considerations". The Statement therefore does not mean that a proposal should be refused as a matter of principle, if it involves the use of BMV.
- 2.23 This application is not for a Nationally Significant Infrastructure Project as outlined above and thus the advice that such projects should "avoid the use of BMV where possible" does not apply.

- 2.24 In other cases such as the current application, it is acknowledged that planning policy sets out a “preference” for brownfield land and lower quality agricultural land to be used. However, this is a preference and therefore does not preclude the use of BMV and neither is there a need for a “sequential” test to be carried out. The use of BMV has to be justified and cumulative impacts also assessed. The applicant has done so here – the locational determinant to be able to connect to the Grid, the BMV assessment in Appendix 1 and there being no agricultural evidence submitted to show a material loss of food production.
- 2.25 In conclusion therefore, the new Statement emphasises the existing policy position. The determination of this case will fall on the assessment that is made of the final planning balance which takes into account all planning considerations.

## **Recommendation**

- a) That the Council is minded to GRANT planning permission, subject to the completion of a Section 106 Agreement as set out in Appendix 1, together with the conditions as set out therein but with the following revisions and additions, and that as a consequence, the case be referred to the Secretary of State under the terms of the Town and Country Planning (Consultation) (England) Direction 2024:
- i) Condition 2 to be amended to include the most recent plans as described in this report -i.e.  
The Landscape Strategy Plan 11370/FPCR/XX/XX/DR/L/0001/P17;  
Drainage plan - NFW/BWB/ZZ/XX/DR/CD/0001/RevPO7,  
NFW/BWB/ZZ/XX/RP/CD/0001/RevPO7 and the Flood Risk Assessment  
NFW/BWB/ZZ/XX/RP/YE/0001/FRA/ REV PO7.
- ii) The addition of a condition within the “Defining Conditions” section to read:  
  
“The generating capacity of the development hereby approved shall not exceed 49.9 MW(AC)”

### **REASON**

In order to define the development such that it accords with approved plans.

- iii) The addition of the following two drainage conditions in the Pre-Operational Use Conditions.  
  
“Prior to the first commercial export of electrical power from the site until a Verification Report for the installed surface water drainage system for the site based on the Flood Risk Assessment (NFW/BWB/ZZ/XX/RP/YE/0001/FRA/rev PO7) has first been submitted to and approved in writing by the Local Planning Authority. The details of this Report shall include:

- a) A demonstration that any departure from the agreed design is in keeping with the approved principles.
- b) As Built drawings and accompanying photographs.
- c) The results of any performance testing undertaken as part of the application process.
- d) Copies of any Statutory Approvals and
- e) Confirmation that the system is free from defects, damage and foreign objects.

#### REASON

To secure the satisfactory drainage of the site in accordance with the agreed strategy, the NPPF and the Development Plan.

“Prior to the first commercial export of electrical power from the site, a detailed site- specific maintenance plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include:

- a) The names and contacts of the parties responsible for the maintenance.
- b) Plans illustrating the location of all features requiring maintenance and how these are to be accessed.
- c) Details of how each water feature is to be maintained and managed for the life-time of the development.
- d) Details of how site vegetation will be maintained for the life-time of the development.

The approved Plan shall remain in place throughout the life-time of the development.

#### REASON

To ensure the future maintenance of the sustainable drainage structures.

- b) If the Secretary of State does not intervene and on completion of the Section 106 Agreement, planning permission be granted.

## General Development Applications

(6/g) Application No: PAP/2023/0071

Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley,

Construction of a temporary Solar Farm, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure., for

- Enviromena Project Management UK Ltd

### 1. Introduction

- 1.1 The receipt of this application was reported to the Board in May last year. That report is attached as Appendix A. The Board resolved to visit the site and a note of that visit is attached at Appendix B. Both Appendices should be treated as an integral part of this current report.
- 1.2 The Board should be aware that the following changes have been made to the details of the proposals since that May meeting. Apart from the first of these identified below, the remainder all relate to increased hedgerow and tree planting. The changes are:
  - a) Reducing the angle of tilt of the panels from 25 degrees to 20 degrees which also reduces the height of each panel from 2.7 to 2.3 metres.
  - b) Increased planting along the M6 boundary and in the south-east corner of the site together with additional tree and hedgerow planting in the north-east and north-west corners.
  - c) Division of the central large area with new hedgerows, extended hedgerows and tree planting.
  - d) All new hedgerows to be maintained at a height of 2.5 metres.
  - e) A "clump" of new tree planting on the highest part of the site.
  - f) Widening the corridors either side of the public footpath crossing the site enabling hedgerow and tree planting.
  - g) The provision of a small community garden in the far north of the site adjacent to the stream that runs through the site.
- 1.3 For the benefit of Members, the latest layout plan is at Appendix C. There has been re-consultation with the Fillongley and Corley Parish Councils on this Plan together with those who submitted objections following the initial submission.
- 1.4 Additionally, the applicant was asked to respond to the proportion of Best and Most Versatile Land within the site. This is at Appendix D.
- 1.5 The applicant has also provided a response to the earlier representations made by the Fillongley and Corley Parish Councils – see Section 3 below. This is at Appendix E.

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- 1.6 Whilst there has been no change to the Development Plan since the last meeting, Members should be aware of the following changes to other material planning considerations.
- a) The National Planning Policy Framework (the "NPPF") was updated in late December 2023. References in this report will thus be to that edition.
  - b) The Bio-Diversity Gain Requirements (Exemptions) Regulations came into effect in February 2024. These define a number of exemptions for the mandatory requirement for new development to provide a 10% nett bio-diversity gain. These exemptions and the mandatory requirements do not cover the current proposal, as it was submitted prior to the introduction of these Regulations.
  - c) The Town and Country Planning (Consultation) (England) Direction of 2021 was updated in early 2024. The proposal is "Green Belt" development as defined by that Direction. This means that should the Council be minded to support the proposal, it would need to be referred to the Secretary of State to see if he would call-in the proposals for his own determination. If the Council resolves not to support the proposal, it can do so without referral.
  - d) Objectors have referred to a document from February 2024 on "Planning for Solar Farms" which is in the House of Commons Library. It provides an overview of current planning guidance. Its summary is attached at Appendix F. The current proposal is a "small-scale" solar farm for the purposes of this document.
- 1.7 Members will be aware of similar proposals that the Board has recently considered. As they will be aware, each application is to be determined on its own merits, but any cumulative impacts whether adverse or of benefit, can be considered as a material consideration in the final planning balance.

## **2. Consultations**

### **a) Responses**

Environment Agency – Solar farms are considered to be low risk developments in respect of whether they have a high level of environmental risk. In the event of fires, the Agency is notified by the emergency services. The Agency will then respond depending on the severity of the risk to potential environmental impact (including the risk of water pollution).

Warwickshire County Council (Public Rights of Way) – Public path M294 passes through the site. There is no objection to the latest plan which shows adequate space between the adjoining stream, the path and the security fencing.

Warwickshire County Archaeologist – No objection subject to conditions

National Highways – No objection following receipt of amended plans showing additional planting close to the M6 Motorway.

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Warwickshire County Council as Lead Local Flood Authority – No objection subject to conditions.

Cadent – No objection to the amended plans.

Warwickshire County Arboricultural Officer – No objection.

Warwickshire Fire and Rescue Services - No objection.

NATS Safeguarding – No objection.

Warwickshire Police (Designing out Crime) – No objection.

Warwickshire County Council as Highway Authority – No objection subject to conditions.

Warwickshire County Ecologist – Agrees that there is more than a 10% net bio-diversity gain, but has concerns about the impact on the skylark population. As a consequence, an off-setting contribution is necessary which can be dealt with through a Section 106 Agreement.

Environmental Health Officer – No objection.

Natural England – Its comments are advisory and were received in response to the applicant's statement at Appendix D. "If the proposals are temporary, it is unlikely that they will lead to a significant permanent loss of BMV land. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality, provided appropriate soil management is employed and the development is undertaken to high standards. It is considered that the inherent soil, site and climatic properties required to determine agricultural land classification grading would remain unaffected by solar developments and therefore not alter the grading in the long term. Although some components of the development may permanently affect agricultural land – e.g. substations - this would be limited to small areas. However, during the life of the proposed development, it is likely that there will be a reduction in agricultural production over the whole development area. It is for the Authority to consider whether this is an effective use of land in line with both national and local planning policy and national planning practice guidance which encourages the siting of large-scale solar farms on previously developed and non-agricultural land".

#### **b) Section 106 Matters**

The County Council has requested a financial contribution of £79,200 as an off-site bio-diversity contribution to create a minimum of 5 hectares of grassland.

This Agreement would be between the applicant and the County Council.

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### **3. Representations**

- 3.1 Fillongley Parish Council objected to the original proposal in May 2023. Its letters are at Appendix G and in summary, the matters raised are:
- The proposal does not enhance or conserve the natural environment.
  - It has an adverse impact on the visual appearance, rural and natural landscape features.
  - It is inappropriate development in the Green Belt.
  - Solar farms should preferably be on areas of poorer quality land. This site is not poor soil.
  - There will be a loss of food security.
  - The proposal will "dwarf" the village changing its character and the settings of its historic assets.
  - The cumulative impact of such developments in the area.
  - There will be impacts from glint and glare.
  - Bio-diversity improvements are not clear.
  - The proposals will exacerbate local flooding issues in the village.
- 3.2 Its further comments on the latest plan referred to at Appendix C, are at Appendix H. These repeat many of the matters raised above but emphasise that the land is good quality agricultural land; that brown field land is to be preferred for proposals such as this and the overriding need to protect the rural environment and the openness of the Green Belt.
- 3.3 Corley Parish Council objected to the original proposal. Its letter is at Appendix I. It refers to:
- The proposal will lead to the loss of good food producing land.
  - A forty-year period is not temporary.
  - The "green" credentials of the site are doubted when the manufacture, transportation and disposal of the panels is taken into account.
- 3.4 Its further comments on the latest plan referred to at Appendix C, are at Appendix J. These repeat the concerns highlighted above.
- 3.5 The Fillongley Flood Group considers that there are inadequate measures to prevent a heightened risk of flooding in the village. This concern is retained following receipt of the amended plan.
- 3.6 Over sixty letters of objection were received following the receipt of the original application. The majority were from Fillongley and Corley residents. The contents generally re-iterate the matters summarised above by the two Parish Councils.



- 3.7 Additional comments raised refer to:
- The health risks of this type of development
  - The increased fire risk and
  - The potential for contaminated water from fire-fighting to pollute ground water, particularly here because the aquifer beneath the site.
  - There will particularly be an adverse impact on the loss of habitat for sky-larks.
- 3.8 There have been eleven further representations made following re-consultation on the amended plan described in paragraph 1.2 above. These repeat earlier concerns as recorded above indicating that the amendments don't alter those initial objections. New concerns raised are:
- The proposal would "discourage" people from visiting the village.
  - The community garden would be unlikely to be used.
- 3.9 Two letters of support have been received from a Corley and a Fillongley resident referring to the need to improve the amount of solar power produced and indicating that the proposal would have very little impact.

#### **4. Observations**

##### **a) Green Belt**

- 4.1 The site is in the Green Belt. Members will be aware that the construction of new buildings is defined by the NPPF as being inappropriate development in the Green Belt. This would therefore include the construction of all of the structures connected to the solar farm in this proposal – e.g., the substation, the panels and the fencing. As such, the proposal is harmful by definition to the Green Belt and should not be approved except in very special circumstances. In respect of "renewable energy projects", the NPPF says that many of the elements of these projects will comprise inappropriate development and thus the applicant has to demonstrate very special circumstances if such proposals are to proceed. The applicant too acknowledges that the proposal is for inappropriate development. Substantial weight is thus to be given to this "definitional" Green Belt harm.
- 4.2 The Board will now have to assess what the "actual" Green Belt harm is in the circumstances of this particular case at this site. In other words, is there anything on the ground here that might reduce the weight to be given to this harm to the Green Belt.
- 4.3 The essential characteristics of the Green Belt according to the NPPF are its openness and its permanence. In respect of the former, then the NPPF does not provide a definition of openness, but in planning terms it is usual to treat it as being the absence of development. The National Planning Practice Guidance

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however does assist by outlining four elements to openness. The first is a spatial element. The proposal is large in terms of ground cover and there is height to the associated structures and buildings. The setting is within open countryside with an overall undulating land-form. Ground levels rise from the village of Fillongley in a southerly direction towards the M6 Motorway and the site itself is a large "domed" ridge with two valleys on either side, the one to the east being more pronounced. Apart from the Motorway there is very little built form around its perimeter or indeed beyond it. There are some field hedgerow remnants within the site with isolated trees. The surrounding landscape is open with wide ranging views. The proposal would introduce new built development into this setting. Notwithstanding the low levels of the structures, the existing topography would not contain the development spatially. This is because of the extent of the site, the proportion of higher ground within the site and there being no other such land outside of the site to contain or absorb the development. The setting of the site would be materially altered. However, the introduction of tree planting in and around the site, re-instating former field boundaries as well as re-enforcing existing ones, together with the new "landscape feature" of the new copse of trees, significantly reduces the impact on openness. The spatial impact on openness is thus considered to be moderate, because of its size. The second factor is the visual one. There is no residential property around the actual perimeter of the site but there are a few more distant properties that overlook parts of the site – particularly on the Meriden and Green End Roads. There is also visibility from the rear of properties along Coventry Road in Fillongley. The overall impact would however be limited because of the distances involved, the existing landscaping and the proposed mitigation. The site would be visible from the Meriden Road and certainly from the elevated Motorway, but these views would be transitory and mitigated to some degree by the proposed planting. The site would be visible from the public footpath to the east of the site. However, the one through the western part of the site continues for some length and even though transitory, the visual impact would be substantially adverse. Overall, therefore the visual element would result in harm. However, the introduction of tree planting in and around the site re-instating former field boundaries as well as re-enforcing existing ones, together with the new "landscape feature" of the new copse of trees, significantly reduces the visual impact. The visual impact on openness is thus considered to be moderate again because of the size of the proposal. The third element is to assess the activity associated with the proposal. Here the construction period would be short lived and once operational, the use would require minimal activity on the site – perhaps less than the current agricultural levels. The final element is whether the proposal is permanent or not. A 40-year life is being proposed and that is not a permanent loss of openness. When all of these elements are put together it is considered that the openness of the Green Belt would not be preserved. However, over time and with the mitigation measures now proposed, it is considered that the actual Green Belt harm caused would be moderate.

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- 4.4 The second characteristic is the permanence of the Green Belt which was referred to above.
- 4.5 The NPPF also refers to development not conflicting with the purposes of including land within it. Of these five purposes, it is only the third – assisting in “safeguarding the countryside from encroachment”- that is relevant here. It is considered that there would be conflict here. In line with the conclusions above, this is due to the addition of a sizeable non-agricultural development on raised ground which alters the surrounding countryside appearance and character. However, given the life-span of the development and the impact of the mitigation measures over time, this conflict is considered to amount to moderate harm.
- 4.6 In conclusion therefore the actual Green Belt harm caused is considered to be moderate.
- 4.7 In making this Green Belt assessment, it is therefore considered that there is substantial definitional harm caused and moderate actual harm.
- 4.8 It is now necessary to assess whether the proposal would cause any other harms which would need to be added to that side of the final planning balance.

**b) Other Harms**

**i) Landscape and Visual Impacts**

- 4.9 Policy LP14 of the Local Plan says that new development should look to conserve, enhance and where appropriate restore landscape character so as to reflect that as described on the North Warwickshire Landscape Character Assessment of 2010. This aligns with policy LP1 which says that development must “integrate appropriately with the natural and historic environment”, and also with Policy LP30 which says that proposals should ensure that they are “well related to each other and harmonise with both the immediate and wider surroundings”. The Fillongley Neighbourhood Plan Policy FNP02 says that “development should not have adverse impacts on the visual appearance and important scenic aspects of rural and natural features in the landscape”. These matters are reflected in the NPPF at para 180, which says that planning decisions should “recognise the intrinsic character and beauty of the countryside.”
- 4.10 Looking first at the possible landscape impacts then the site is within the “Church End to Corley – Arden Hills and Valleys” character area as defined by the 2010 Assessment. Here the landscape is described as being “an elevated farmed landscape of low rounded hills, steep scarps and small incised valleys. This landform combined with extensive woodlands and tree cover creates an intricate and small-scale character, punctuated by numerous scattered farms and hamlets. The majority of the character area is deeply rural”. The landscape

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management strategies identified include “conserving rural character by restricting changes in the use of rural land”.

- 4.11 The site is very much seen as displaying many of these characteristics and thus does not stand alone within this Character Area. It is part of the much wider Area. Whilst it is not a designated landscape or recognised within the Development Plan as being particularly distinctive, its quality lies in its intrinsic largely unchanged rural character. Whilst the original proposals retained existing field boundaries and would have enhanced perimeter hedgerows, there would still have been a material change in the landscape which would not be contained. This was due to the extensive area of the site, its height and there being no immediate surrounding higher land that would contain the site naturally such that it would retain its openness. The amended plans have sought to address these matters. This is because they have “compartmentalised” the site by re-introducing former hedgerow boundaries, added new site wide hedgerows and strengthened perimeter planting. A notable addition is the proposed “clump” on the highest ground. As a consequence of these measures, the site is divided and the eye drawn to skyline tree planting. The North Warwickshire Local Plan identifies the quality of the Borough’s natural and historic environment as its first “key quality” – para 3.9 - and that is transferred into its spatial vision which is to retain and reinforce its rural character to ensure that it is distinctive from the surrounding urban areas – para 4.2. This is why the significance of adverse change to a largely unchanged rural landscape would be considered to cause significant harm. The amendments here however are material and address the key components of the harm that would have been caused. The landscape harm is thus reduced to moderate in impact.
- 4.12 Turning to the possible visual impacts, it is first proposed to look at impacts from existing residential property before looking at the impacts on footpath users and drivers. Members will be aware that the loss of a view or a change to a view is not necessarily a material planning consideration. In this case the site is not adjacent to and neither does it adjoin established residential property. Surrounding property is either scattered and dispersed or within the village of Fillongley itself. The proposed would be glimpsed from the rear of south facing property on the southern edge of Fillongley some 550 to 600 metres away, seen through existing trees, but constituting a small part of the overall view. Properties on the southern side of the Coventry Road extending eastwards out of the village are on higher ground and would similarly be able to view the eastern most field as well as the higher ground within the site - some 520 metres distant. The whole site would not be visible and thus again the views would be only a small part of the overall extensive panorama from these properties. The closest property is Park House Farm, but this is still some 500 metres from the edge of the site with intervening trees. As it is on elevated land, there would be partial views of the northern slopes of the site. There are residential properties in Green End Road up to some 700 metres from the site and on elevated land. The elevated section of the site would be visible from first floor windows. The higher part of the site would also be visible from White House Farm to the west - some 250 metres - but there is far more in the way of intervening woodland which helps to mitigate

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visual impacts. Taken together, and when considered against the original submission, any adverse visual impacts from existing residential property would have been considered to be generally minor. The amended plans address these harms and overall, they would be reduced to having a limited impact.

- 4.13 Looking at the visual impact from drivers, then the Meriden Road runs alongside the western side of the site for its whole length. There is significant existing woodland along part of the boundary – at its southern end – and the remainder to the north is now to be further strengthened thus reducing visibility. The views would now be glimpsed and partial as well as being transitory. The higher level of Green End Road to the west would similarly have views over the higher part of the site. The enhanced planting now proposed would significantly reduce any impacts because of its focus on skyline planting.
- 4.14 There will be glimpsed views of the site by drivers of the M6 motorway due to gaps within the existing tree cover and the motorway's raised level. Whilst additional planting can help here, the impact is very transitory.
- 4.15 In overall terms therefore any adverse visual impacts for drivers of the adjoining highways are considered to be minor.
- 4.16 Finally, it is proposed to look at the potential impact on footpath users. The M294/1 runs north/south through the western portion of the site within a shallow valley over several hundred metres. There would be panels on either side of the retained footpath corridor. Views would be contained and would introduce a wholly urbanised context regardless of the new planting. The experience of walking a rural footpath would be lost. This is a well-used footpath, and it is routed directly into the village centre. The development would significantly reduce the experience of walking in a rural landscape between the M6 Motorway and the village. Because of its length, this experience would be more than transitory and change the character of this part of the footpath. The adverse impacts would thus be major.
- 4.17 The Public footpath M294a/1 passes the eastern side of the site, running north/south from a footbridge over the M6 to the centre of the village. It varies between less than 100 to 400 metres from the site. Whilst the site would only be glimpsed at its northern end as with the residential properties here, it would become visible as one walks south. This is because the eastern field of the site comes into view as well as the higher portions of the site itself. The path here is at a higher level than that eastern field. At the motorway bridge, the site will become quite dominant in the views because of the bridge being at a higher level and the extensive views northwards from there. The enhanced mitigation measures in the amended plans will reduce the overall impact of users of this path which would be moderate in scale.



- 4.18 The Coventry Way is a footpath which runs east/west beyond the eastern side of the site linking up with the M298/1 at its southern end so as to cross the Motorway. The site will be evident to users of this path due to the elevated levels of the path and the highest part of the site itself. However, with the new planting there will be a limited impact.
- 4.19 When these visual impact matters are assessed cumulatively together with the mitigation proposed, it is considered that overall, there are generally minor impacts on residential property and road users, but more moderate impacts on footpath walkers.
- 4.20 These have to be added to the moderate harm to the landscape character as concluded above.
- 4.21 In all of these circumstances, the proposal would not wholly satisfy Local Plan policies LP1, LP14 and LP30 as the landscape character would not be conserved or enhanced and the proposal would not integrate or harmonise well with its surroundings. Neither would it satisfy the Neighbourhood Plan Policy FNP02 on the important scenic aspects of the natural landscape. This means that para 180 of the NPPF is also neither satisfied. However, the degree of non-compliance is moderate in impact.

#### **ii) Heritage Impacts**

- 4.22 Local Plan policy LP15 says that the quality, character, diversity and local distinctiveness of the Borough's historic environment will be conserved and enhanced. In order to do so, an assessment has to be made of the potential impact of the proposals on the significance of heritage assets that might be affected by the proposal as set out in Section 16 of the NPPF. Whilst there are no assets on the site, the Fillongley Conservation Area is to the north and there are a number of Listed Buildings in the locality.
- 4.23 The Council is under a Statutory Duty to pay special attention to the desirability of preserving or enhancing the character or appearance of its Conservation Areas. The southern edge of the Fillongley Conservation Area lies around 300 metres to the north of the site. The significance of the Area lies in the recognition of the historic old core of the village and the cluster of historic buildings within it – particularly focussed on the Church. There is however a substantial extension to the south of open agricultural land so as to include the Scheduled Ancient Monument of the earthworks of the former Motte and Bailey Ringwork Castle at Castle Farm. It is the historical significance of the evolution of the village that is the main characteristic. The Area is not tightly drawn around its historic core as it includes the open land to the south leading up to the Monument. The buildings in the village are in-ward looking along the linear street form and there are restricted views in other directions. The topography of the village limits longer distance views, but the church tower is the main feature visible from the northern edge of the site. Due to the intervening topography, vegetation, separation distances and built form of the village, it is considered that the proposal with its additional mitigation, would only have less than substantial harm on the character

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and appearance of the Area, as its location has no particular function within its setting.

- 4.24 The Scheduled Monument is a medieval 12<sup>th</sup> Century Ringwork fortification with retained masonry and earthwork remains of Castle Yard and its associated bailey. It has significant historical significance nationally as well as locally as these constructions are rare. It is to the south of the village and partially located within a small depression bounded by trees and hedgerows. This provides an enclosed setting with the focus on the earthworks themselves through which there are glimpsed views of the surrounding countryside beyond. There are glimpsed views of the far northern end of the site from here, but the intervisibility is essentially limited by the local topography and intervening tree and hedgerow cover. The site itself does not contribute to the historic or visual setting of the Monument which is more focussed to the village itself to the north.
- 4.25 The Council is also under a statutory duty to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. There are such buildings in the vicinity of the site.
- 4.26 Park House Farm is a Grade 2 Listed Building dating from the early/mid-17<sup>th</sup> Century with early 19<sup>th</sup> Century additions, about 500 metres to the north of the site. It is set in a working farm complex which also contains other listed buildings as well as hard-standings and other infrastructure. Their close arrangement forms the immediate setting of this group of heritage assets. Their significance lies in the retention of a working group of agricultural buildings with contemporaneous architectural characteristics. There is no direct impact on the fabric of these buildings and the separation distances and intervening tree covers limits the impact of the proposal on this immediate setting. There will be some visibility of the site from them, but these views are part of a very much wider panorama seen from the buildings which when further mitigated through the new planting, would not materially affect the setting, which is considered to be the immediate grouping of buildings.
- 4.27 Fillongley Mount is a Grade 2 Listed Building of 16<sup>th</sup> Century origin on higher land in Green End Lane. This is a residential building set in landscaped grounds that form its immediate setting which borders the wider agricultural landscape beyond. The application site plays no part in this setting because of separation distances, intervening topography, the local road network and there being no intervisibility.
- 4.28 Manor House Farm and its attached barn is a Grade 2 Listed Building on Green End Lane dating from the 14<sup>th</sup> and 15<sup>th</sup> Century with later additions, some 750 metres to the north-west of the site. The immediate setting of this group includes other more modern agricultural buildings. There is very limited if any intervisibility with the site and it plays no part in the wider setting of these assets.

- 4.29 White House Farm House is an early 19<sup>th</sup> Century Grade Two Listed Building around 250 metres to the west of the site. It too has an immediate setting comprising a number of other buildings and gardens. It has an elevated position and its upper floors do have views over the site. These however are glimpsed views within a wider setting which would be further mitigated through the enhanced planting so that together, the views would not materially diminish its immediate setting
- 4.30 When taken together it is considered that the overall impact on these above ground heritage assets is less than substantial.
- 4.31 It is now necessary to assess the potential archaeological impact. The County Archaeologist considers that the site lies within an area of significant archaeological potential. It is acknowledged that the site is likely to have remained predominantly in agricultural use since the medieval period, but the lack of previous fieldwork undertaken means that the potential of the site for the pre-medieval periods is unknown. As a consequence, it has been agreed with the applicant that evaluative fieldwork will be undertaken in order to establish whether there would be below ground impacts. This would take the form of a phased approach through the site including a programme of geophysical survey and evaluative trial trenching for each phase. This approach has been agreed with the County Archaeologist and could be accommodated by planning condition. As such it is not considered that substantial harm is likely to be caused
- 4.32 Bringing all of these matters together, it is concluded that heritage impacts taken together would cause less than substantial harm. This however does carry weight in the final planning balance as it has to be weighed against the public benefits of the proposal within that assessment.

**iii) Highway Impacts**

- 4.33 Local Plan policy LP29 (6) says that all developments should provide safe and suitable access for all users. The NPPF says that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe – paragraph 115.
- 4.34 Given this policy background, it is of substantial weight therefore that neither National Highways nor the Warwickshire County Council as the Highway Authority have objected to the proposed access – essentially improvements to the existing access onto the Meriden Road close to the M6 bridge.
- 4.35 It is thus considered that the proposal satisfies Local Plan policy LP29(6).



**iv) Drainage and Flooding Impacts**

- 4.36 Local Plan policy LP33 requires water runoff from new development to be no more than the natural greenfield runoff rates and developments should hold this water back on the development site through high quality sustainable drainage arrangements which should also reduce pollution and flood risk to nearby watercourses. The NPPF at para 175 says that major developments should incorporate sustainable drainage systems and that these should take account of the advice from the lead local flood authority.
- 4.37 In this case, the policy requirement set out above is particularly significant as the watercourses that run through the site on its western side or alongside beyond its eastern boundary, run into the centre of Fillongley where part of its course is restricted due to engineering works. As such there is frequent flooding within the village to the extent that the Local Flood Authority recognises Fillongley as a flooding “hot-spot” and there is an organised local Flood Group. The prospect of increased surface water run-off from the site running into the watercourses upstream from Fillongley, or through natural infiltration, is thus a substantial consideration here.
- 4.38 The initial proposals included retention of grass/pasture cover throughout the site under and around the panels and a number of interception swales along the rows of panels that are at the lowest levels on the site. The Local Lead Flood Authority requested a more detailed analysis of the proposal which resulted in additional measures being introduced – each transformer unit having its own infiltration trenches to capture and attenuate surface water from them.
- 4.39 It is of substantial weight that the Local Lead Flood Authority has now withdrawn its initial objection as it concludes that the applicant has demonstrated the principles of an acceptable surface water management strategy for the site. However, conditions are needed to require submission of full details at pre-commencement stage. It is understandable that the Local Flood Group expresses concern and caution, but the relevant Statutory Authority has not objected in principle taking into account the particular local circumstances here. As such, and particularly in respect of the NPPF position, it is considered that the proposals do now satisfy Local Plan policy LP33.

**v) Ecology and Bio-Diversity**

- 4.40 Local Plan policy LP16 says that the quality, character, diversity and local distinctiveness of the natural environment is to be protected and enhanced as appropriate, relative to the nature of the development proposed and net gains for bio-diversity should be sought where possible. The Board is also aware of the new Regulations introduced in February this year. As this proposal was submitted prior to their introduction, there is no mandatory 10% nett gain required. The proposal nevertheless, still has to show a net bio-diversity gain, in order to accord with Policy LP16.

- 4.41 It is of substantial weight that the County Ecologist acknowledges that the appropriate bio-diversity assessment has been undertaken and that this when the additional planting has been included, shows a net gain of 62% in habitat units and a 25% gain in hedgerow units. This is made up as a consequence of the creation of meadow grassland throughout the whole site, the retention and enlargement of arable margins, new hedgerow planting alongside the footpath which crosses the site and the new hedgerow and tree planting throughout and around the perimeter of the site. A number of species enhancement measures are also included – the creation of amphibia refugia, reptile basking areas as well as bird and bat boxes. To this should be added the community garden.
- 4.42 However as recorded in Section 2 above, the County Ecologist raises the issue of the loss of habitat that is "home" to a skylark population. This cannot be compensated within the proposal on-site and thus the appropriate measure is for an off-site contribution in lieu. This approach has been agreed with the applicant.
- 4.43 In all of these circumstances the proposals would satisfy Local Plan policy LP16 and the new requirements.

#### **vi) Agricultural Land**

- 4.44 Local Plan policy LP16 says that the quality, character, diversity and local distinctiveness of the natural environment will be protected and enhanced as appropriate relative to the nature of the development proposed. The NPPF says that planning decisions should contribute to and enhance the natural and local environment, amongst other things by protecting and enhancing soils and recognising the economic and other benefits of the best and most versatile agricultural land – para 180 (a and b). Where significant development of agricultural land is demonstrated to be necessary, the NPPF also states that areas of poorer quality land should be preferred to those of higher quality. The availability of agricultural land for food production should be considered alongside other policies in the NPPF, when deciding what sites are most appropriate for development – footnote 62.
- 4.45 Natural England has published guidance in respect of solar farm development and agricultural land quality. It says that such developments would be unlikely to lead to significant permanent loss of BMV agricultural land as a resource for future generations because the development is reversible with limited soil disturbance. However, it does draw attention to the reduction in agricultural production over the whole development area during the lifetime of the development. National Planning Guidance Practice says that Local Planning Authorities should consider 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, and where a proposal involves greenfield land, whether 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.

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- 4.46 The best and most versatile land ("BMV") is defined as Grades 1, 2 and 3a in the Glossary to the NPPF. In this case as reported in Appendix A, 24% of the site is in Grade 2 and 71% in Grade 3a. Therefore 95% of the site is BMV. The predominance and value of BMV on this site carries substantial weight in light of Development Plan and National Planning policy. This would be a substantial harmful impact which would need to be considered in the final planning balance.

**v) Other Matters**

- 4.47 In light of the responses received from both the Civil Aviation Authority and National Highways, it is not considered that there would a harmful effect from glint or glare arising from the proposals.
- 4.48 Similarly, the lack of objection from the Environmental Health Officer in respect of potential noise emission from the plant associated with the proposal is significant. This is due to the location of the main plant being in the south-west corner of the site close to the Motorway and the separation distances from there to the nearest residential property.
- 4.49 There is neither an objection from Cadent as there is sufficient open land left either side of the pipe-line that crosses the site to provide the necessary easement for maintenance purposes
- 4.50 The Environment Agency has submitted comments, recorded above, in light of representations made concerning the potential contamination of ground water as a consequence of water infiltration following a fire on site. This is an issue here given the aquifer below and close to the site. The Warwickshire Fire and Rescue Service point out that the lack of battery storage systems on site reduces the risk of fire incidents.

**c) The Harm Side of the Planning Balance**

- 4.51 From the above assessments, it is considered that the "harm" side of the planning balance in this case comprises the substantial definitional Green Belt harm, the moderate actual Green Belt harm, the moderate landscape and minor visual impacts, the harm caused by the use of Best and Most Versatile Land, as well as the less than substantial harm to local heritage assets.

**d) The Applicant's Case**

- 4.52 The applicant's case has to provide sufficient weight so as to "clearly" outweigh the cumulative harm caused, if it is to amount to the very special circumstances necessary to support the proposal.
- 4.53 The key consideration advanced by the applicant is the importance of increasing the production of energy from renewable sources. The proposal would generate clean renewable energy to the Grid. National Energy policies support this objective and Members are referred to the previous report at Appendix A, where this documentation is identified. In a planning context, then the NPPF at para 157 says that "the planning system should support the transition to a low carbon future in a changing climate. It should support renewable and low carbon energy

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and associated infrastructure.” Additionally at paragraph 163, the NPPF says that “when determining planning applications for renewable and low carbon development, local planning authorities should not require the applicant to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution, approve the application if its impacts are, or can be made acceptable”. In the case of sites in the Green Belt, the para 156 says that “developers will need to demonstrate very special circumstances if projects are to proceed. Such circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources” The support in principle exhibited by this planning background is also reflected in the Development Plan. Local Plan policy LP35 says that “renewable energy projects will be supported”. There are however conditions attached to that support and these will need to be dealt with in the final planning balance. As a consequence of all of these matters, it is considered that this consideration put forward by the applicant carries substantial weight.

- 4.54 The applicant also points out that any adverse impacts here will be reversible in that the site would be de-commissioned after 40 years. This is acknowledged as a consideration, but this period is lengthy and any residual impacts, even if mitigated, would still be apparent throughout that time. As a consequence, this consideration can only carry moderate weight
- 4.55 A further consideration is that the site would continue to provide an agricultural use, albeit not arable crop production.
- 4.56 In conclusion therefore, the need to provide sustained renewable energy as the key consideration here would outweigh the other matters, such that the applicant’s case would carry substantial weight.

**e) The Final Planning Balance**

- 4.57 The final planning balance is thus coming to a planning judgement on whether the weight to be given to the applicant’s case, as summarised in paragraph 4.56 “clearly” outweighs the cumulative weight of the harms identified in paragraph 4.51
- 4.58 It would appear that there is a fine balance here with substantial weights appearing on either side. It is therefore proposed to look at this assessment by returning to the Development Plan
- 4.59 This is because planning policy support for the proposal is conditioned. Paragraph 163 of the NPPF clearly conditions support to cases “where the impacts are, or can be, acceptable.” This is put into a local context by Local Plan Policy LP35, which says that such projects will be supported, where they “respect the capacity and sensitivity of the landscape and communities to accommodate them. In particular, they will be assessed on their individual and cumulative impact on landscape quality, sites or features of natural importance, sites of buildings of historic or cultural importance, residential amenity and the local economy”. Each of the elements in LP35 will now be assessed.

- 4.60 Looking first at the impact on landscape quality, then the original proposal did not respect the capacity and sensitivity of the local landscape here for the reasons already outlined – its size, the proportion of raised ground, the lack of compartmentalisation and the lack of containment in the wider setting. The subsequent receipt of the amended mitigation materially affects this conclusion as it addresses these reasons and renders the complete proposal “acceptable” in the terms of the NPPF. It is also acknowledged that there would be no cumulative landscape impact when considered alongside recent planning permissions for similar proposals given the lack of inter-visibility between them and the separation distances. As a consequence, it is considered that the amended proposal, whilst not fully satisfying Local Plan policies LP1, LP14 and LP30, does mean that the degree of non-compliance is not significant.
- 4.61 In respect of heritage impacts, it is acknowledged that the substantial public benefits around from the national energy and planning policy support in principle for the development, would outweigh the less than substantial harm likely to be caused to local heritage assets here. This harm in other words, would not “tilt” the final balance
- 4.62 Turning to the impact on the natural environment, then the issue of the use of BMV arises. In this case, this of substantial weight because of the pre-dominance of such land within the site. The applicant was asked to respond to this concern not only for this site, but also cumulatively given that other recent consents have included BMV land. His response is at Appendix D. This finds that:
- a) North Warwickshire as a whole has a higher proportion of Grade 1 and 2 agricultural land than found in England, the West Midlands and the County generally – 20% of its area compared with 17%, 19% and 12% respectively.
  - b) As a consequence, BMV land is not a scarce resource in North Warwickshire.
  - c) Because of this, the ability to find alternative sites of lesser soil quality to accommodate commercial scale solar farm development is highly constrained.
  - d) The site area is 61 hectares, and thus the BMV land “taken” here would only be 0.22% of the total Authority land area.
  - e) Even when other consented schemes are taken into account, the total BMV land “taken” would amount to 0.3% of the Authority land area.
  - f) The land covered by this 0.3% would not be lost from agricultural use either temporarily or in perpetuity.
  - g) There would bio-diversity net gains which would remain after de-commissioning as would the improvements to soil health.
- 4.63 The applicant supplements these matters by referring to recent appeal decisions. The first involved a similarly sized proposal on a site with 72% BMV in an Authority comprising predominantly BMV land. This was granted a planning permission finding that solar farm developments would be unable to avoid the use of BMV land, particularly as proximity to the National Grid was a limitation. Additionally, the Inspector concluded that “the effect on agricultural land, although lengthy, is ultimately temporary and reversible and would not represent a total loss of agricultural land”. Whilst BMV land was not involved in the second case, the Inspector found that “the specific way agricultural land is used, is not a matter that is subject to planning controls”.

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- 4.64 In response, the Board will notice that the areas in paragraph 4.62 above relate to the Borough as a whole. The applicant was asked to assess the areas of Grades One and Two Agricultural land within the existing proposal as a proportion of the total Grades One and Two land in the Borough and the cumulative Grades One and Two land from this, plus other recently consented solar farms. The site amounts to 1.2% to Grades 1 and 2 land in the Borough and 1.27% of the Borough's Grade 2 land when the other sites are included. (There was no Grade 1 land taken in the other sites, hence the reference here is only to Grade 2 land). Whilst the significance of the BMV land taken either by this proposal or cumulatively, may be perceived to carry greater weight than that attributed to it by the applicant, these figures are low. Additionally, Members will be aware from previous cases, that the search for sites is very much conditioned on the points of connection into the National Grid. This why this application is in the same geographic area of the Borough as the others - its south-east corner- with the connection for all being at Nuneaton. It just so happens that this area is in the location of significant areas of BMV land.
- 4.65 Initial consideration of this matter attributed substantial harm because of the predominance of BMV land in the site. This has had to be re-assessed in light of the applicant's rebuttal. As a consequence, it is considered that the assessment of the impact on the natural environment through the use of BMV land should be assessed on the evidence above. It is not considered that that impact is of such weight to warrant a reason for refusal. This is because:
- a) From recent cases in the Borough, the Board is aware that the capacity of local substations to connect to, is limited to the Nuneaton site and thus the search for sites for solar farm projects will be concentrated into its catchment area.
  - b) It is thus very likely that BMV land will be involved in that search.
  - c) In this case, the overall proportion of BMV land "taken" even cumulatively with other permitted projects is not significant, when that is considered against the total amount of BMV land in the Borough.
  - d) The weight in the determination of planning appeals by Inspectors given to there being no permanent loss of BMV agricultural land is substantial.
  - e) There is no agricultural evidence provided by Natural England to add weight to a possible refusal here based on their being a specific loss of land for food production as set out in the NPPF (footnote 62). Nor indeed has evidence been submitted by objectors in respect of a potential material reduction in food production.
- 4.66 When all of the above is taken into account, it is considered that the impact here is "acceptable" in overall planning terms
- 4.67 Finally it was also concluded above that there would be unlikely to be any adverse residential amenity impacts. The applicant is neither promoting benefits in terms of enhancing the local economy.
- 4.68 Drawing all of these matters together, it is concluded that in overall terms the amended proposal would be acceptable under Policy LP35.

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- 4.69 As indicated before, the NPPF condition also asks whether these impacts can be made acceptable. It is considered that they can.
- 4.70 The final balance therefore comprises the weight given to the applicant's case for renewable energy and the cumulative weights attributed to actual Green Belt and landscape harm. In this particular case it is considered that the proposals do accord with the relevant planning policies for renewable energy projects as set out in paragraph 4.59 above and thus can be supported.

#### **Recommendation**

- a) That the Council is minded to **GRANT** a planning permission subject to the imposition of conditions as outlined below and the completion of a Section 106 Agreement with the Warwickshire County Council in respect of the bio-diversity offsetting contribution referred to in this report, and that as a consequence, the matter be referred to the Secretary of State under the terms of the 2024 Direction.
- b) If the Secretary of State does not intervene and on completion of the 106 Agreement, the Notice be issued.

#### **Standard Condition**

1. The development to which this permission relates must be begun not later than the expiration of five years from the date of this permission.

#### **REASON**

To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

#### **Defining Conditions**

2. The development hereby permitted shall not be carried out except in complete accordance with the following approved plans and documents:
- a) The Location Plan P.Nailcote Farm/04 REVA  
b) The Planning Layout Drawing P. Nailcote Farm/09 REVD  
c) Section Views drawing P. Nailcote Farm/06RevB (sheets 1 and 2)  
d) DNO Building - P007039/11/DNO Subsections REVA  
e) Access Plan 2210072/05  
f) Landscape Strategy Plan 11370/FCPR/XX/XX/DR/L/0001 Rev P14  
g) Drainage Strategy (document NFW/BWB/ZZ/XX/RP/CD/0001/DS Rev PO6) prepared by BWB Consulting Ltd

#### **REASON**

In order to define the extent and scope of the permission.

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3. The planning permission hereby granted shall be for a temporary period only, to expire 40 years after the date of the first commercial export of electrical power from the development. Written confirmation of the first export date shall be provided in writing to the Local Planning Authority within one month after the event.

REASON

In order to confirm that this permission is for a temporary period only.

4. If the solar farm hereby permitted ceases to operate for a continuous period of twelve months, then a scheme for the de-commissioning and removal of the solar farm and all of its ancillary equipment shall be submitted in writing to the Local Planning Authority within six months of the cessation period. The scheme shall make provision for the removal of the solar panels and associated above and below ground works approved under this permission. The scheme shall also include the details of the management and timing of the de-commissioning works, together with a traffic management plan to address any likely traffic impact issues during the de-commissioning period together with the temporary arrangements necessary at the access onto Meriden Road (the B4102) and an environmental management plan to include details of the measures to be taken during the de-commissioning period to protect wildlife and habitats as well as details of site restoration measures. For the avoidance of doubt, the landscape planting and biodiversity improvements approved under this permission shall be excluded from this condition.

REASON

In order to define the scope of the permission and to confirm that it for a temporary period only.

5. The scheme as agreed in writing by the Local Planning Authority under condition 4 shall be implemented in full within twelve months of the cessation of the site for the commercial export of electrical power, whether that cessation occurs under the time period set out in condition 3, but also at the end of any continuous cessation of the commercial export of electrical power from the site for a period of twelve months.

REASON

In order to ensure the satisfactory re-instatement of the land.

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### **Pre-Commencement Conditions**

6. Notwithstanding the approved plans defined in condition 2, prior to their erection on site, details of the proposed materials and finish, including colour, of all solar panels, frames, ancillary buildings, equipment, fences and enclosures shall be submitted to and approved in writing by the Local Planning Authority. Development shall then be carried out in accordance with the approved details and shall be maintained as such for the lifetime of the development.

#### REASON

In the interests of the appearance of the area.

7. Notwithstanding the submitted details, no works or development shall take place until an Arboricultural Method Statement and Scheme for the Protection of any retained trees and hedgerows has first been agreed in writing by the Local Planning Authority. The Scheme shall include a plan showing details and positions of the ground areas to be protected areas and details of the position and type of protection barriers.

#### REASON

In the interests of the appearance of the area and to ensure that there is no avoidable loss of landscaping and bio-diversity enhancement.

8. No external lighting (other than low level lighting required on ancillary buildings during occasional maintenance and inspection visits) shall be erected/used on site unless details of that lighting have first been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed and thereafter maintained in accordance with the approved details for the lifetime of the development.

#### REASON

In the interests of the residential amenity of neighbouring occupiers.

9. No development shall take place on site including any site clearance or preparation prior to construction, until all three of the following have been completed.
  - a) A Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work over the whole site has been submitted to and approved in writing by the Local Planning Authority.
  - b) The programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved WSI has been undertaken and a report detailing the results of this fieldwork and confirmation of the arrangements for the deposition of the archaeological archive has been submitted to the Local Planning Authority.

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- c) An Archaeological Mitigation Strategy (including a WSI for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority. The Strategy should mitigate the impact of the proposed development and should be informed by the evaluation work undertaken.

The development and archaeological fieldwork, post-excavation analysis, publication of results and archive deposition detailed in the approved documents shall all be undertaken in accordance with those documents.

#### REASON

In the interests of the potential archaeological value of the site.

10. No development shall commence on site until a detailed surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a) Evidence to show whether an infiltration type drainage strategy is an appropriate means of managing surface water run-off;
- b) Demonstration of support of the scheme through "feature specific" detailed plans and calculations of the proposed attenuation system, cross sections, attenuation features and outfall arrangements in line with CIRIA Report C753,
- c) Provision of detailed network level calculations demonstrating the performance of the proposed system to include suitable representation of the proposed drainage scheme, details of design criteria used (including consideration of a surcharged outfall) with justification of such criteria, simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events, together with results demonstrating the performance of the drainage scheme including attenuation storage, potential flood volumes and network status for each return period,
- d) The provision of plans such as external levels plans supporting the exceedance and overland flow routing provided to date. This overland flow routing should demonstrate how run-off will be directed through the development without exposing properties to flood risk and recognition that exceedance can occur due to a number of factors such that exceedance management should not rely on calculations demonstrating no flooding.

Only the scheme that has been approved in writing shall then be implemented on site.

#### REASON

To reduce the risk of increased flooding and to improve and protect water supply.

11. No development shall commence on site until the whole of the access arrangements as shown on the approved plan together with the alterations to the highway verge crossing have all been laid out and constructed to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety

12. No development shall commence on site until a Construction Management Plan has first been submitted to and approved in writing by the Local Planning Authority. This Plan shall particularly include measures to prevent the transfer of material from the site onto the public highway, the scheduling of HGV movements to prevent conflict around the access to the site and details of the temporary traffic signals to control vehicle movements within the site access, Meriden Road and Newhall Green Lane. The details included in that Plan so approved shall be adhered to throughout the construction period.

REASON

In the interests of highway safety.

**Pre-Operational Use Conditions**

13. There shall be no commercial export of electrical power from the site until a Drainage Verification Report for the installed surface water drainage system based on the Drainage Strategy approved under condition 2 and the system as approved under Condition 10 has been submitted to and approved in writing by the Local Planning Authority. It should include:
- a) Demonstration that any departures from the approved design are in keeping with the approved principles.
  - b) As built photographs and drawings
  - c) The results of any performance testing undertaken as part of the application process,
  - d) Copies of all statutory approvals such as Land Drainage Consent for Discharge,
  - e) Confirmation that the system is free from defects, damage and foreign objects.

The report should be prepared by a suitably qualified independent drainage engineer.

REASON

To ensure that the development is implemented as approved and thereby reducing the risk of flooding.

14. There shall be no commercial export of electrical power from the site until a site-specific maintenance plan for the approved surface water drainage system has been submitted to and approved in writing by the Local Planning Authority. It shall include:

- a) The name of the party responsible, including contact names, address, email address and phone numbers.
- b) Plans showing the locations of features requiring maintenance and how these should be accessed,
- c) Details of how each feature is to be maintained and managed throughout the lifetime of the development,
- d) Provide details of how site vegetation will be maintained for the lifetime of the development.

REASON

To ensure that the maintenance of sustainable drainage structures so as to reduce the risk of flooding.

15. There shall be no commercial export of electrical power from the site until a Landscape and Ecological Management Plan ("LEMP") has first been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be in general accordance with the approved Landscape Strategy Plan approved under condition 2 and shall include reference to the community garden shown on that Plan. The LEMP shall include:

- a) a description and evaluation of the features to be managed;
- b) ecological trends and constraints on site that might influence management,
- c) the aims, objectives and targets for the management,
- d) descriptions of the management operations for achieving the aims and objectives,
- e) prescriptions for management actions,
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period),
- g) Details of the monitoring needed to measure the effectiveness of management,
- h) Details of each element of the monitoring programme,
- i) Details of the persons or organisations(s) responsible for implementation and monitoring,
- j) Mechanisms of adaptive management to account for necessary changes in the work schedule to achieve the required aims, objectives and targets,
- k) Reporting procedures for each year 1, 2, 5, 10, 20 and 30 with bio-diversity net gain reconciliation calculated at each stage,
- l) The legal and funding mechanisms by which the long-term implementation of the LEMP will be secured by the developer and the management body(ies) responsible for its delivery,
- m) How contingencies and/or remedial action will be identified, agreed and implemented in the event that monitoring under (k) above shows that the

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conservation aims and objectives set out in (c) above are not being met so that the development still delivers the full functioning bio-diversity objectives of the originally approved scheme.

The details in that Plan shall then be implemented on site and be adhered to at all times during the lifetime of the development.

REASON

In the interests of enhancing and protecting bio-diversity.

16. There shall be no commercial export of electrical power from the site until the existing public highway verge crossing has been widened to a width of no more than 18.75 metres, laid out and constructed in accordance with the approved plan including its surfacing with a bound material for a distance of no less than 20 metres as measured from the near edge of the public highway carriageway, all to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety.

17. Within three months of the first commercial export of electrical power from the site until the extension to the access as shown on the approved plan has first been removed and the public highway verge crossing reduced in width and constructed to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety.

**Other Conditions**

18. The landscaping scheme as approved under condition 2 shall be carried out within the first planting season following the date when electrical power is first exported, or as otherwise agreed within the approved scheme. If within a period of five years from the date of planting, any tree, shrub hedgerow, or replacement is removed, uprooted, destroyed or dies, then another of the same species and size of the original shall be planted at the same location.

REASON

In the interests of the appearance of the area and to ensure that this is maintained throughout the life of the permission.

19. No tree works or vegetation clearance shall take place during the bird nesting period (the beginning of March to the end of August inclusive) unless otherwise agreed in writing by the Local Planning Authority on submission of appropriate evidence.

REASON

In the interests of ensuring that the nature conservation value of the site is maintained.

20. No gates shall be located within the vehicular access to the site during the construction and de-commissioning phases so as to open within 20 metres of the near edge of the public highway carriageway.

REASON

In the interests of highway safety.

21. There shall be no vegetation planted within two metres of the edge of the public footpath numbered M294 which crosses the site and neither shall any site security fencing be erected within one metre of the edge of this footpath.

REASON

In the interests of ensuring access to the public footpath network.

**Notes:**

- a) The Local Planning Authority has met the requirements of the NPPF in this case through seeking amendments in order to overcome objections from the statutory consultations and to mitigate the concerns expressed by the local community in order to result in a positive outcome.
- b) Attention is drawn to the public footpath the M294 which crosses the site. This must remain open at all times unless closed by legal order and neither should it be obstructed by vehicles or materials. Any disturbance to the surface requires prior authorisation from the Warwickshire County Council as does and new gate or other structure on the footpath.
- c) Attention is drawn to the gas pipeline that crosses the site. You should contact Cadent Gas prior to any construction work commencing.
- d) Attention is drawn to Sections 59, 149, 151, 163 and 184 of the Highways Act 1980, the Traffic Management Act 2004, the New Roads and Street Works Act 1991 and all relevant Codes of Practice.

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- e) The Lead Local Flood Authority advises that the strategy approved at this time should be treated as the minimum required at this stage. The subsequent "discharge of condition" stage should be approaching a level of detail suitable for tender or construction.

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## APPENDIX A

### General Development Applications

(8/a) Application No: PAP/2023/0071

Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley,

Construction of a temporary Solar Farm providing 47.7 MW output, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure., for

Enviromena Project Management UK Ltd

#### Introduction

This application has been submitted recently and this report provides an outline of the proposal, describes the site and sets out the relevant planning policies in respect of its eventual determination. A further report will thus be referred to the Board in due course.

The recommendation below is that the application's receipt be noted at this time and that a site visit be organised for the Board to better understand the setting of the location. This will take place at a time when the case is ready to be reported for determination.

A significant amount of supporting documentation has been submitted with the application. Whilst this is summarised below, Members are asked to refer to the case file on-line by using the planning reference as set out above, in order to fully understand the applicant's case.

The application falls under the Town and Country Planning (Consultation) (England) Direction of 2009 being "Green Belt" development as defined under the Direction. This means that should the Council be minded to support the proposal, it would need to be referred to the Secretary of State to see if he would call-in the application for his own determination following a Public Inquiry. If the Council resolves not to support the proposal, it can do so without referral.

Members will be aware of similar proposals that have also recently been considered. As they are aware, each application is to be determined on its own merits. However, any cumulative impacts whether adverse or of benefit, can be considered as a material planning consideration in the final planning balance.

#### The Site

This is roughly a rectangular area of agricultural land comprising six large irregular shaped arable fields and extending over 61 hectares. It is sited immediately north of the M6 Motorway and to the east of the B4102 Meriden Road where it passes under the Motorway. It is around 600 metres south of Fillongley. A water course – the Bourne Brook – crosses the north-western boundary – and a second un-named watercourse runs from the southern boundary towards the south-east. Other on-site ditches drain north to these watercourses.

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The landform is undulating with a relative ridge in the centre of the site running north/south with levels falling away on either side. The lowest point is to the north-east and the fall is around 27 metres.

There is agricultural land around the site with a dispersed pattern of individual residential units and farmsteads. Members will be familiar with nearby commercial enterprises south of the Motorway and also in Corley Moor within a kilometre to the south-east on the other side of the Motorway. The main vehicular access into the site is from field access points along the B4102 frontage. There is a public footpath – the M294 - which runs north-south through the site from the M6 Bridge into Fillongley close to its western boundary. A further footpath - the M294a - runs north/south from Corley Moor into Fillongley, just to the east of the site boundary.

A general location plan is at Appendix A and an aerial photograph which also shows the surrounding public footpath network, is at Appendix B.

### **The Proposals**

The development comprises the solar panels laid out in straight south-facing arrays throughout the site within existing field boundaries. These arrays would have a 5.5 metre gap between the rows and have a maximum height of three metres above ground level. The gap between them and the retained field boundaries would be four metres. The panels would be supported by associated infrastructure, namely inverters mounted to the reverse of the arrays; transformers spread evenly throughout the site and customer switchgear and DNO substations which would be buildings measuring 7 by 2.8 metres and 2.3 metres tall located in the south-west corner of the site close to the access onto the Meriden Road. There would be perimeter deer-proof fencing to a height of 2 metres comprising wooden posts with a wire mesh. Pole mounted CCTV cameras of 3 metres in height would be located at regular intervals along the perimeter fence.

The works will need to connect to the National Grid but that is not included as part of this application as it is said that that connection would be undertaken under "permitted development" rights.

The arrays would leave the line of the M294 footpath unaltered and would neither affect the line of the watercourses that cross the site. Maintenance corridors would be left on either side of these ditches as well as alongside the footpath.

As the panels are to be located within existing fields, their hedgerow boundaries and trees will be retained. There would be enhancements of these features throughout the site. This would also apply along the length of the public footpath. It is also proposed to plant a diverse meadow grassland under and around the panels and where appropriate, bat and bird boxes would be provided.

The proposed construction access would be via the existing field access off Meriden Road close to the M6 bridge. This is already used by agricultural vehicles. It would need to be upgraded to accommodate safe and suitable access for the construction period. The route to be taken by construction traffic would be to and from the south, thus not entering Fillongley. The construction period would be around 30 weeks resulting in an anticipated six two-way movements per day. During the operational period there would be minimal traffic - one van on one or two occasions a month.

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The operational period and lifespan of the development is 40 years. A de-commissioning process would remove all of the infrastructure and panels as described above and have the land fully re-instated and returned to agricultural use.

The proposed layout is illustrated at Appendix C with panels and buildings shown in Appendices D and E.

It is now proposed to summarise the documentation submitted with the application.

A Glint and Glare Assessment considers the potential impacts of the proposals on road safety, residential amenity and aviation activity. The Assessment looks at the potential impact on 134 dwellings and concludes that there could be a low impact on only 18 of these, with the remainder ruled out because of existing intervening screening and the basic geometry. In respect of users of the B4102, it concludes that that solar reflections are geometrically possible along the length of the road alongside the site, but that existing road boundary screening together with the proposed set-back and further enhancements would lead to these being of a low impact. The same applies to users of the M6, but here the Assessment recommends that existing screening is strengthened because of the number of gaps in the existing screen and the difference in height. The Assessment does not consider that there would be any impact on aviation activity.

The Traffic Assessment sets out the background as recorded above. It considers that the existing access proposed for improvement is capable of providing appropriate viability and width in line with standards for the road conditions – a 60mph limited road.

A Flood Risk Assessment identifies the whole site as being within Flood Zone One. However, extents of surface water Flood Zones 2 and 3 are shown at the northwest site boundary associated with the Bourne Brook and the unnamed watercourse to the east of the site. Drainage ditches in the site drain to the Brook and the watercourse. The Assessment concludes that the proposal is at an acceptable level of flood risk subject to recommended flood mitigation measures being implemented. These are the site excluding the buildings and access tracks would be a fully vegetated pastoral grassland, the introduction of interception "swales" along the downstream edge of the arrays and the raising of all ancillary equipment by 150mm above external ground level to prevent water ingress. The location of the swales is shown on Appendix F.

An Ecological Appraisal shows that the site is not subject to any statutory or non-statutory designation, and neither is there such a site within 2 kilometres of the site. There were neither any locally designated habitats found on the site, but there are four within two kilometres of the site. The report considers that there would be no adverse impact on these due to the separation distances, the nature of the proposal and the lack of interconnectivity. There were no notable habitats found on the site and no protected plant species found. There neither are any ponds on the site but there are several within 500 metres where records suggest the presence of greater crested newts. Given the distances and the lack of suitable habitats on-site, the report considers that no mitigation is needed on site, but that precautionary measures should be outlined in the construction management plan. There were signs of bat roosting in some of the on-site trees, but as no trees or hedgerows are to be removed, no direct mitigation is recommended, and the Construction Management Plan can pick up on precautionary measures. The Appraisal found no evidence of on-site badger setts or indications of

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other protected species. As a consequence, the report concludes that the site offers limited opportunities for protected fauna and that any habitats of value are the field boundaries which are to be retained.

A Bio-Diversity Assessment provides an evaluation of the proposed plans compared to the existing ecological baseline and identifies whether there is a nett gain or loss to biodiversity. The report concludes that there would be a 12.6% gain for linear features and a 65% gain in overall habitat. The proposed ecological "map" is attached at Appendix G.

An Arboricultural Impact Assessment concludes that no trees will be required to be removed to physically construct the panels and ancillary equipment, or that there would be any indirect adverse impacts. An Arboricultural Method Statement is however recommended for the construction period.

A Ground Conditions Survey concludes that the site is largely covered by glacial drift deposits overlying sandstone. This is a principal aquifer and there is a groundwater abstraction point south of the Motorway. It is not an area affected by shallow coal mining or are there are recorded landfill operations. There are however two unspecified "pits" which may contain organic sediments that could represent a potential source of gas. The conclusion is that a further intrusive ground investigation would be appropriate to verify the risks identified – the potential for gas emissions and the potential risk to the aquifer.

A Heritage Impact Assessment concludes that there would be no direct physical impact on designated heritage assets as a consequence of the development. One non-designated asset is recorded within the site, but that is now demolished and no evidence of the structure remains above ground. The Assessment considers that there will be no impact on the setting or significance on most of the designated assets within a kilometre of the site. Further analysis was however undertaken on four of these as they are visible from the site. Three are grouped together at Park House - around 400 metres north of the site – and the fourth is White House Farmhouse to the west. In both cases this further assessment concluded that the site does not contribute to the setting or significance of these assets and thus the harm would be less than substantial. There is little record of recent archaeological investigations and the Assessment considers the only potential is for relict remains of cultivation furrows and field boundaries. This could be verified through pre-commencement site evaluation.

A Landscape and Visual Impact Assessment concludes that the development would be contained by existing features and the proposed landscaping. The screening elements are hedgerows, trees, topography and the M6 corridor, such that these provide a green framework for the development. It can be absorbed into this setting, giving rise to only a local landscape impact with a moderate to minor adverse impact. The majority of the residential properties that are affected are located along the southern boundary of Fillongley, at Park House Farm and at White House Farm with views available from first floor level, but the development, following additional landscaping is considered to have only a minor adverse impact. However, users of the footpaths will have direct visibility. The transitory nature of this impact would however be affected by the length of path affected, giving rise to major adverse visual impacts. Views from the highway network would be limited with a minor adverse impact. The proposed Landscape Strategy is at Appendix H.

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An Agricultural Land Classification Investigation, including an intrusive on-site survey shows that 24% of the site would be Grade 2 and 71% Grade 3a and thus is predominantly, best and most versatile land.

A Statement of Community Involvement describes the pre-application community consultation undertaken by the applicant. This comprised a leaflet drop (to 900 homes), a project website and a meeting with the Parish Council. This requested responses to three questions. The first was to ascertain support or not for the use of renewable energy. Of those replying, 71% responded positively. The second sought support or not for the proposed development. That resulted in support from 38% of the respondents and 60% opposed. The third question invited further comments. The main issues raised were – loss of agricultural land; loss of Green Belt, questioning the need for further such developments in the area, negative visual and ecological impacts as well on drivers on the M6.

A Planning Statement draws together all this documentation and outlines the planning context in which the case should be determined. It describes the planning considerations which the applicant argues do have sufficient weight to clearly outweigh the cumulative harms caused, so as to amount to the very special circumstances necessary to support the proposal. The overriding matter in his view is the generation of 45.9 MW of clean renewable energy powering the equivalent of 15,800 homes.

#### **Development Plan**

The North Warwickshire Local Plan 2021 – LP1(Sustainable Development); LP3 (Green Belt), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP29(Development Considerations), LP30 (Built Form), LP33 (Water and Flood Risk Management) and LP35 (Renewable Energy and Energy Efficiency)  
Fillongley Neighbourhood Plan 2018 – 2034 – FNP02 (Natural Environment)

#### **Other Material Planning Considerations**

The National Planning Policy Framework 2021 – (the “NPPF”)

National Planning Practice Guidance

National Policy Statements EN1 and EN3

National Infrastructure Strategy 2020

Energy White Paper 2020

British Energy Security Strategy 2022

Energy Security Bill 2022

North Warwickshire Landscape Character Appraisal 2010

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### **Observations**

A full determination report will be prepared in due course and that will outline the responses received from the consultation process.

As the site is in the Green Belt, it will follow the sequence with which Members are familiar. The first matter will be to establish whether the proposal is appropriate or inappropriate development in the Green Belt as defined by the National Planning Policy Framework. That approach taken in the remainder of the report will then follow what is concluded on this matter. In the event that the proposal is found to be inappropriate development, then Green Belt harm will be caused by definition. The Board however will also need to establish the degree of actual Green Belt harm caused. Any other harms will need to be identified and weighted. This will enable the Board to identify the "harm" side of the final planning balance.

The applicant's case will then be assessed and the planning considerations which he considers support that case will need to be assessed. This will thus result in the other side of the planning balance being identified and thus weighted. If the cumulative weight of these considerations is such that they "clearly" outweigh the cumulative harm caused, then the very special circumstances will exist for the proposal to be supported.

If the proposal is found to be appropriate development in the Green Belt, then there would be no Green Belt harm caused. There will still be a need to identify any other harms that might be caused and these would then sit on the "harm" side of the final planning balance. It will still be necessary to weight the applicant's planning considerations on the other side of that balance. Members are advised that in this circumstance, any harms identified will need to be significant and demonstrably supported by evidence, if they are to "clearly" outweigh the applicant's case.

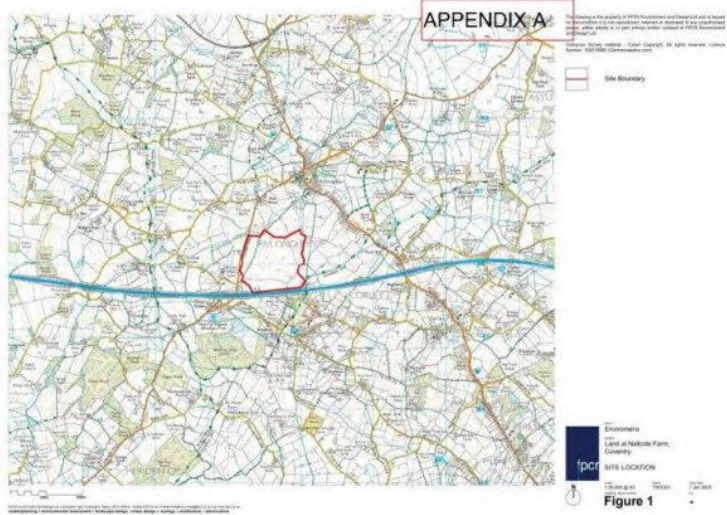
### **Recommendation**

That the Board notes the receipt of this application and that a site visit be arranged prior to its determination.

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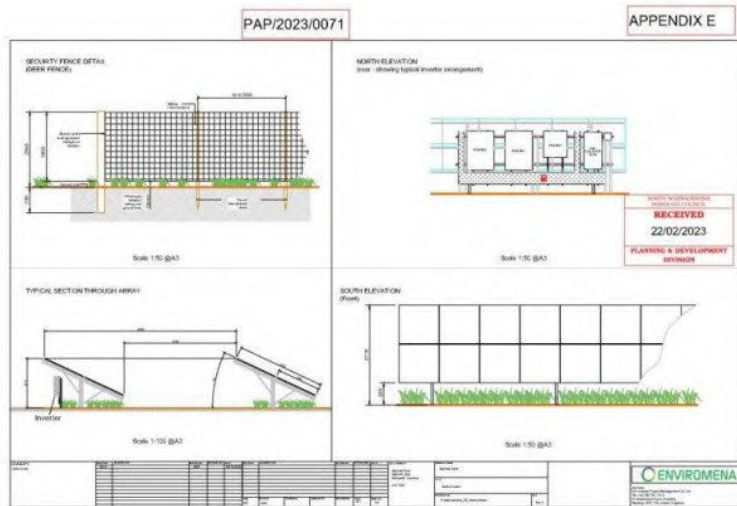
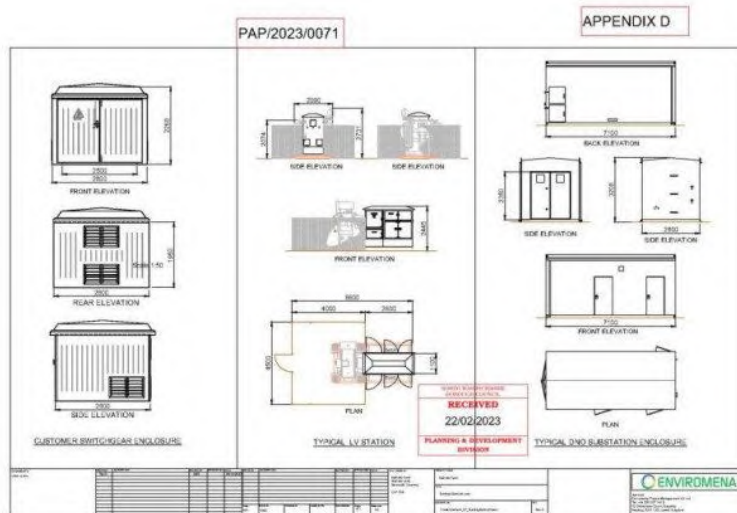
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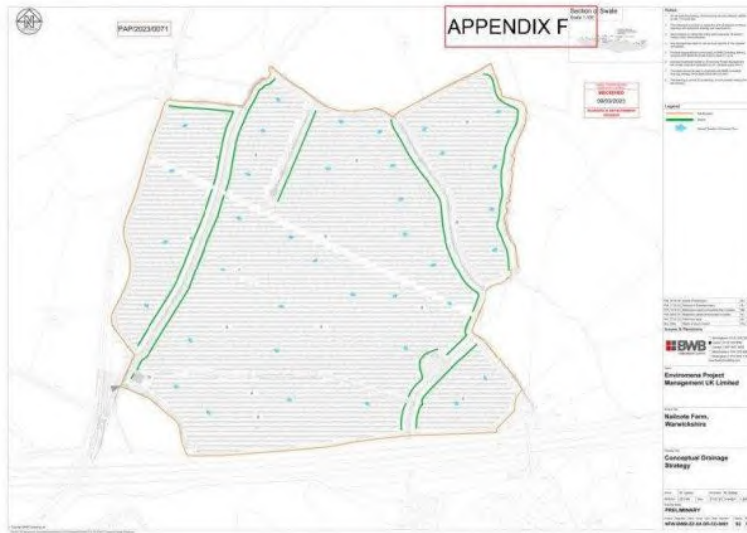


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## APPENDIX G

BNG Land at Nailcote Farm CV7 8DW



7<sup>th</sup> March 2023

### **File Note: BNG report for Land at Nailcote Farm, Fillongley, Coventry, North Warwickshire, CV7 8DW**

**Ref:** Biodiversity Net Gain (BNG) reporting file note

**Site address:** Land at Nailcote Farm, Fillongley, Coventry, North Warwickshire, CV7 8DW

**National Grid Reference:** Centred on SP 276 859

**Site area:** 62.2ha

**Recipients:** Enviromena Project Management UKLtd

#### **Record of activity**

##### **> Background**

Arbtech consulting Ltd were instructed by Enviromena Project Management UKLtd to undertake a Biodiversity Net Gain (BNG) evaluation of a development on the site, subject to a planning application with North Warwickshire Borough Council for:

- Photovoltaic arrays

##### **> Purpose of survey**

The National Planning Policy Framework (NPPF) makes it clear (para 170) that "Planning policies and decisions should contribute to and enhance the natural and local environment by; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".

Paragraph 174 requires the promotion of "the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity".

Proposals for net gain should be clearly recorded and reported through use of an appropriate metric such as the DEFRA Biodiversity Metric 3.1. Natural England advise that any net gain should be fully secured and funded for the lifetime of the development.

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Therefore, the purpose of this survey report is to provide an evaluation of the proposed plans compared to the ecological baseline, and to report any net gain (or loss) to biodiversity using the DEFRA Biodiversity Metric 3.1 scheme.

➤ **Surveyor and date of survey**

This survey report was carried out by Craig Williams, BSc (Hons), MSc, DIC, MRSB of Arbtch Consulting Ltd. on 7<sup>th</sup> March 2023. A previous preliminary ecological appraisal (PEA) is used as the ecological baseline and was carried out on 1<sup>st</sup> December 2022. The baseline habitat map and the current proposed soft landscaping plans are found in appendix 1 and 2.

**Summary findings**

➤ The full results of the metric are included in the excel file:

***Biodiversity Metric 3.1 (Land at Nailcote Farm CV7 8DW) v2 (11370-FPCR-ZZ-XX-DR-L-0001-P05-Landscape Strategy Plan)***

This highlights that the change in biodiversity metrics is:

- +64.99% in habitat units
- +12.67% in linear units

➤ The results indicate a net gain in area and linear units, contributed to the creation of moderate condition modified grassland underneath the photovoltaic arrays, the retention of arable margins, neutral grass and a woodland copse as well as boundary hedges and tree lines and the planting of a new native hedge through the centre of the site.

The modified grass habitat onsite would need to satisfy the following condition criteria for this gain:

**Enhancement details**

Modified grassland of moderate condition

Criteria of success:

1. There must be 6-8 species per m2. If a grassland has 9 or more species per m2 it should be classified as a medium distinctiveness grassland habitat type. NB - this criterion is essential for achieving moderate condition.
2. Sward height is varied (at least 20% of the sward is less than 7 cm and at least 20% is more than 7 cm) creating microclimates which provide opportunities for insects, birds and small mammals to live and breed.
3. Some scattered scrub (including bramble) may be present, but scrub accounts for less than 20% of total grassland area. Note - patches of shrubs with continuous (more than 90%) cover should be classified as the relevant scrub habitat type.
4. Physical damage is evident in less than 5% of total grassland area. Examples of physical damage include excessive poaching, damage from machinery use or storage, erosion caused by high levels of access, or any other damaging management activities.
5. Cover of bare ground is between 1% and 10%, including localised areas (for example, a concentration of rabbit warrens).
6. Cover of bracken less than 20%.
7. There is an absence of invasive non-native species (as listed on Schedule 9 of WCA, 1981).

Four of these conditions are to be met for the targeted moderate condition including mandatory condition 1 as well as e.g., 3, 5 and 6.

#### Discussion

- The creation management of the habitats on site to the appropriate condition would need to be finalised, re-run through the BNG metric to confirm the net gain and then secured for at least 30 years - linked to the application through a planning obligation in Section 106 (S106) agreement. A management and monitoring plan would also be required for this.

Appendix 1: Habitat baseline map



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Appendix 2: Proposed ecological map of the site (based on the site habitats in the metric)



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PAP/2023/0071

Land off Meriden Road, Fillongley

Site Visit – 16<sup>th</sup> December 2023 at 1000

Present: Cllr's Bell, Dirveiks, Gosling, Reilly, Ririe and Simpson together with J Brown

1. Members met at the proposed vehicular access to the site close to the M6 Overbridge.
2. Members were shown the latest proposed layout together with photographs overlooking the site from a number of viewpoints which showed the situation at present together with CGI's of the same view after five years. These had been prepared by the applicant at officer request.
3. From here they walked onto the site noting the location of the proposed service/parking area and the presence of the Motorway.
4. At this point, there was a general view to the north over the western portion of the site. The track leading to the site of the Shooting Club was also noted. Members also saw the existing trees and hedgerows within the site and visible from this point – towards the north.
5. The contours of the land were noted – the changes in levels on both sides of the footpath and the higher ground on the horizon to the north.
6. Members then walked north along the public footpath running parallel to the Meriden Road to the west. The existing watercourse running alongside was noted together with the line of the road and the copses and hedgerows alongside its eastern boundary.
7. Two stops were made along this path where members saw the line of the gas pipeline, the contours on either side of the path, the trees and hedgerows around the site and properties on the horizon – those along Green End Road.
8. At the northern end of the site Members were shown the location of a possible community garden by the stream.
9. Members looked back to the south to see the rising land to the east and towards the Motorway.
10. Members then walked up the slope along the field boundaries marking the northern extent of the site. Here they were able to see Fillongley and its Church tower, together with the rear of properties running along the Coventry Road. From here Members could also see the site extending over the higher ground towards the M6 – the highest part of the site.
11. Members then walked alongside the main north/south hedgerow dividing the larger western portion of the site with the third field to the east. Here Members could see the line of properties running along the Coventry Road as well as the line of the Coventry Way – the footpath to the east of the site which eventually crosses the M6 and goes into Corley.
12. Members saw the change in levels of this third field running down towards the north-east.
13. Members then approached the area used by the Fillongley Shooting Club. They saw the higher land to the north as well as the field running up to the M6 embankment.
14. Members then returned to the main access having concluded a clock-wise walk around the perimeter of most of the site.
15. The visit concluded at 1110 hours.





APPENDIX D

PAP/2023/0071

## Fillongley Solar Farm

Agricultural Land Impact Statement  
Enviromena Project management UK Ltd

August 2023



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**Fillongley Solar Farm**  
**Agricultural Land Impact Statement**  
**Enviromena Project management UK Ltd**

|                       |            |           |
|-----------------------|------------|-----------|
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## 1.0 INTRODUCTION

### Background

- 1.1 This Statement has been prepared by Stantec, on behalf of Enviromena Project Management UK Ltd ('the Applicant') to support a planning application (ref: PAP/2023/0071) for a solar farm on land to the east of Meriden Road, Fillongley ('the Site') submitted to North Warwickshire Borough Council ('the Council').
- 1.2 The 'Proposed Development' comprises the construction, operation, management, and decommissioning of a grid-connected solar farm with associated infrastructure to provide a reliable source of clean, renewable energy (48.1MW) to the National Grid.
- 1.3 As the proposals are for non-agricultural development on agricultural land the planning application has been accompanied by an Agricultural Land Classification (ALC) report prepared by Roberts Environmental. The ALC report identified that the Site comprises predominantly of Best and Most Versatile (BMV) agricultural land. As national planning policy seeks to steer development towards land of lesser agricultural quality this Statement has been prepared to assist the Council in their determination of the planning application, by assessing the potential effects the Proposed Development would have upon the supply of BMV agricultural land in North Warwickshire.
- 1.4 This Statement should be read in conjunction with the drawings and information accompanying the planning application to fully understand the Proposed Development, its potential impacts and planning merits.

## 2.0 THE SITE AND PROPOSED DEVELOPMENT

### Soil Quality at the Application Site

- 2.1 The Site is situated approximately 9km north-west of Coventry City Centre and circa 600m south-west of the village of Fillongley. It lies within the administrative boundaries of North Warwickshire Borough Council, within Warwickshire County.

Figure 2.1 Application Site



- 2.2 The Site extends to 66 hectares (163 acres) comprising of several agricultural fields currently in agricultural (arable) productive use.
- 2.3 The quality of land in England and Wales is assessed according to the Agricultural Land Classification (ALC) system, which provides a grading framework to determine how well land can support agricultural use, based on the type of crops that can be grown, the extent and consistency of yield, and costs of production.
- 2.4 The current guidelines and criteria for ALC were published by the Ministry of Agriculture, Fisheries and Food<sup>1</sup> (MAFF) in 1988; 'Agricultural Land Classification of England and Wales: Revised Guidelines and Criteria for Grading the Quality of Agricultural Land'.
- 2.5 The ALC system uses quality grades for agricultural land, numbered from 1-5, with subdivisions into 3a and 3b, as follows:
- Grade 1: Excellent

<sup>1</sup> MAFF was merged with the part of the Department for Environment, Transport and the Regions that dealt with the environment to create a new government department, the Department for Environment, Food and Rural Affairs (Defra) in 2001.

- Grade 2: Very Good
- Grade 3: Good (3a) to Moderate (3b)
- Grade 4: Poor
- Grade 5: Very Poor

2.6 The higher graded land can typically be used for high value crops such as fruit, vegetables, and cereals, whilst the poorest may only support grassland or rough grazing of livestock. Grades 1, 2 and 3a are classified as 'Best and Most Versatile' (BMV) land for which there is policy preference against loss to non-agricultural development.

2.7 An Agricultural Land Classification Report has been prepared by Roberts Environmental and accompanies the planning application. The ALC Report found that soils on the Site were: 24.24% (16 Ha) ALC Grade 2 and 71.37% (47.1%) ALC Grade 3a. As such the Site comprises predominantly of BMV land. Figure 2.2 provides a full ALC breakdown of soils at the Site.

**Figure 2.2 ALC Classification at application Site.**

| ALC Grade        | Area (Ha) | Percentage |
|------------------|-----------|------------|
| Grade 1          | 0.00      | 0.00%      |
| Grade 2          | 16.00     | 24.24%     |
| Subgrade 3a      | 47.10     | 71.37%     |
| Subgrade 3b      | 2.00      | 3.03%      |
| Grade 4          | 0.00      | 0.00%      |
| Grade 5          | 0.00      | 0.00%      |
| Non-Agricultural | 0.90      | 1.36%      |
| Total            | 66.00     | 100%       |
| Total BMV        | 0.00      | 95.61%     |

**The Proposed Development**

2.8 The Proposed Development of the Site comprises of ground-mounted solar photovoltaic arrays together with ancillary infrastructure, landscaping, and biodiversity enhancements.

2.9 To achieve maximum solar gain the panels are laid out in east-west rows with space of approximately 5.3 metres between each row and at least 4 meters with site boundaries to prevent overshadowing and allow space for maintenance. The fixed modules will be tilted at an angle of c.25 degrees and mounted facing due south. The arrays are placed wholly within existing field boundaries, meaning existing trees and hedgerows are retained and will be subject to additional planting and 'gapping-up' to filter views and provide biodiversity net gains.

- 2.10 The solar array will be supported by a galvanised steel frame mounting system which will be secured via short pile foundations. As such the Development has a minimal footprint with over 95% of the ground un-affected by the proposals and is to be retained as mixed meadow grassland.
- 2.11 During the lifetime of the proposed development, across the main body of the Site, diverse meadow grassland mix will be sown under and around the arrays which will be subject to an appropriate maintenance regime to ensure complete green groundcover.
- 2.12 Biodiversity net gains will be delivered through the combination of several measures including the creation of diverse meadow grassland underneath the photovoltaic arrays, the retention of arable margins, neutral grass, and as well as boundary hedges and trees the planting of a new native hedge through the centre of the Site.
- 2.13 Overall, the landscape and ecological enhancements proposed will deliver biodiversity net gains equivalent to:
- +64.99% in habitat units; and
  - +12.67% in linear units (i.e., hedgerows).
- 2.14 At the end of the temporary operational lifespan (40-years) the solar array and other ancillary infrastructure would be removed, and the Site will be fully reinstated and returned to full agricultural use.
- 2.15 The decommissioning process is intended to ensure that the land is restored to the same quality it was previously and can be secured through a suitable condition in the event planning permission is granted.

**Why the Site is Appropriate for Solar Development**

- 2.16 Solar farms have very specific locational requirements which means they cannot be located anywhere, with suitable locations severely limited around the country.
- 2.17 Principal requirements include:
- Grid Connection Capacity - The DNO must be able to offer a Point of Connection (POC) with capacity to accept the output of the solar park. Finding available capacity is one of the biggest challenges facing renewable energy development.
  - Land Availability: Site options are heavily restrained by land availability. A willing landowner is a major challenge facing renewable energy development.



- Environmental considerations: A search considers proximity to ecological areas like SSSI, RAMSAR, LNR, Special Areas of Conservation, and Special Protection Areas. Development in such areas is to be avoided.
  - Sustainable Development: All solar farms must be capable of multifunctional enhancements to support the economic, environmental, and social dimensions of sustainable development. A good site will be able to incorporate visual mitigation to protect and enhance PROWs, and to enable Biodiversity Net Gain.
- 2.18 In summary, there are very few sites where solar farms can be located when factors such as suitable grid connection, viability and feasibility and environmental designations are considered.
- 2.19 Whilst it is acknowledged that the Site comprises of BMV agricultural land, it was considered the use of BMV land is necessary in this case for the following:
- Connection to the national grid – There is sufficient capacity at the existing nearby substation and a financially viable and technically feasible route to the Point of Connection is achievable.
  - Availability of land – The Site has an interested landowner, who is agreeable in principle to leasing their land for solar for the 40 year period.
  - Topography – The Site has a gently undulating topography and open southwest aspect which makes it particularly suitable for solar.
  - Accessibility – The Site has good connections to the Strategic Road Network to allow for construction and maintenance operations.
  - Planning and environmental considerations – The Site is not subject to any statutory landscape, heritage, or ecological designations.

### 3.0 POLICY CONTEXT

#### Legislation

- 3.1 The Town and Country Planning (Development Management Procedure) (England) Order 2015 sets out the requirement for consultation with Natural England where development of agricultural land is proposed.
- 3.2 Natural England should be consulted where:

**"development which is not for agricultural purposes and is not in accordance with the provisions of a development plan involves the loss of not less than 20 hectares of grades 1, 2 and 3a agricultural land which is for the time being used (or was last used) for agricultural purposes" or where the loss of less than 20 hectares of BMV agricultural land "is likely to lead to a further loss of agricultural land amounting cumulatively to 20 hectares or more" (bullet point 'y' of Schedule 4).**

#### National Planning Policy

##### National Planning Policy Framework

- 3.3 The NPPF (2021) sets out the Government's planning policies for England and how these should be applied including in respect of the development of agricultural land and renewable energy.
- 3.4 The NPPF emphasises the importance of sustainable development. Paragraph 7 states:
- "The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs"**
- 3.5 Paragraph 38 goes on to state that local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- 3.6 Paragraph 152, states:
- "The planning system should support the transition to a low carbon future in a changing climate ... It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; ... and support renewable and low carbon energy and associated infrastructure."**
- 3.7 Paragraph 155 sets out the planning policy perspective with regards to increasing the use and supply of renewable and low carbon energy.

- 3.8 Paragraph 174 highlights that new development should be prevented from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. It identifies how decisions should provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 3.9 Footnote 58 states "*Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be **preferred** to those of a higher quality*" (our emphasis).
- 3.10 Annex 2 of the Framework provides a glossary of terms and defines 'best and most versatile agricultural land' as land in grades 1, 2 and 3a of the Agricultural Land Classification.

#### Planning Practice Guidance

- 3.11 With regards to the location of solar farms, paragraph 013 (Ref: 5-013-20150327) cites the following factors that local planning authorities should consider:
- 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 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.

#### **Local Planning Policy**

##### Development Plan

- 3.12 The Development Plan comprises of the North Warwickshire Local Plan (September 2021). Relevant Policies include LP13 *Rural Employment* which supports farm diversification through the introduction of new uses onto established farm holdings subject to their being no significant impacts that are not able to be appropriately mitigated.
- 3.13 Policy LP14 *Landscape* requires development to conserve, enhance and where appropriate restore landscape character as well as promote a resilient, functional landscape able to adapt to climate change. Specific landscape, geo-diversity, wildlife, and historic features are to be protected and enhanced as appropriate.

#### **Other Guidance**

Natural England: Guide to assessing development proposals on agricultural land

- 3.14 The "Guide to assessing development proposals on agricultural land", (2018), notes that the aim is to protect BMV land and soils "from significant, inappropriate or unsustainable development proposals". It advises local planning authorities in section 6 to "use ALC survey data to assess the loss of land or quality of land from a proposed development. You should take account of smaller losses (under 20 hectares) if they're significant when making your decision. Your decision should avoid unnecessary loss of BMV land".

Soils Safeguarding Strategy

- 3.15 Aims and objectives for safeguarding and, where possible, improving soil health are set out in the Government's 'Safeguarding our soils: A strategy for England' (Defra, 2009). The Soil Strategy for England, sets out an ambitious vision to protect and improve soil to meet an increased global demand for food and to help combat the adverse effects of climate change.
- 3.16 The Soil Strategy for England states that:
- "...soil is a fundamental and essentially non-renewable natural resource, providing the essential link between the components that make up our environment. Soils vary hugely from region to region and even from field to field. They all perform a number of valuable functions or ecosystem services for society including:**
- **nutrient cycling;**
  - **water regulation;**
  - **carbon storage;**
  - **support for biodiversity and wildlife;**
  - **providing a platform for food and fibre production and infrastructure"**
- 3.17 The vision of the Soil Strategy for England has been developed in the Government's 25 Year Plan for the Environment. Soil is recognised as an important national resource, and the Plan states that:
- "We will ensure that resources from nature, such as food, fish and timber, are used more sustainably and efficiently. We will do this (in part) by:....improving our approach to soil management: by 2030 we want all of England's soils to be managed sustainably, and we will use natural capital thinking to develop appropriate soil metrics and management approaches..."**
- 3.18 The maintenance, and improvement, of soil health is therefore a material consideration when deciding if a development is appropriate on agricultural land. Soil health can be defined as a soil's ability to function and sustain plants, animals, and humans as part of the ecosystem.

**Policy Summary**

- 3.19 Best and Most Versatile (BMV) agricultural land is defined as land which falls in ALC grades 1 to 3a.
- 3.20 Where development of agricultural land is demonstrated to be necessary, guidance states that local authorities try to use areas of poorer quality land over high quality, including that which has the least "environmental or amenity value", whilst seeking to conserve and enhance the natural environment. Importantly, therefore whilst the guidance sets a clear preference for using poorer quality land, the use of BMV land can be acceptable.
- 3.21 The health of soils is also an important consideration. The maintenance, and improvement, of soil health is a material consideration when deciding if a development is appropriate on agricultural land.

#### 4.0 Other PLANNING DECISIONs of Note

##### Overview

- 4.1 This Section of the Statement provides an overview of recent planning decisions of relevance to the determination of the Proposed Development in relation to how the issue of BMV farmland and solar farm development have been considered.

##### Bereden Hall Decision

- 4.2 Of relevance to the determination of the Proposed Development is the recently concluded Bereden Hall Farm solar farm application determined by the Planning Inspectorate (PINS) (application ref: S62A/22/0006), given the distinct similarities between the two applications.
- 4.3 The application sought permission for a 49.99MW solar farm development on land at Bereden Hall Farm, Bereden, within Uttlesford District Council area. The Bereden Hall Farm site comprises of 72% BMV agricultural land. The Inspector therefore acknowledged that both local and national policy encourage development to take place on land of poorer quality wherever practicable.
- 4.4 In determining the potential for alternative sites on lower quality land the Inspector acknowledged that Uttlesford District comprises predominantly of BMV land and as such ... *"commercial scale solar scheme would be unable to avoid its use."* (paragraph 61). The Inspector also acknowledged proximity to National Grid connection as further justification limiting potential alternative locations.
- 4.5 The Inspector further commented (paragraph 62, emphasis added):
- "I also recognise that planning permission is sought for 40-years from the time of the first exportation of electricity, after which decommissioning would occur and the land returned to full agricultural use. In that context, the effect on agricultural land although lengthy is ultimately temporary and reversible. The mountings for the solar panels would allow for restoration to full agricultural use, subject to appropriate soil management practices secured by planning condition."**
- 4.6 Before concluding (paragraph 64, emphasis added):
- "Consequently, I find that the scheme would not represent a total loss of agricultural land... the proposed development is unlikely to lead to significant and irreversible long-term loss of BMV agricultural land, as a resource for future generations. Therefore, I attribute limited harm arising from the uptake of BMV or the principle of using farming land in this particular case."**

- 4.7 As detailed further in the subsequent section of this Statement, North Warwickshire Borough Council also comprises predominantly of BMV land which severely limits ability of commercial scale solar developments to avoid such land.

#### Scruton Appeal

- 4.8 The 50MW solar farm on land near the village of Scruton, North Yorkshire, was successful at appeal (ref: APP/G2713/W/23/3315877) against earlier refusal by Hambleton District Council on basis of impact on agricultural land.
- 4.9 The PINS Inspector found that the majority of land was not BMV but even if it was it wouldn't be "lost" and recognised that neither the development plan nor national policy prevented the use of such land but rather requires that benefits need to justify its loss.
- 4.10 Going further the Inspector commented recognised that whilst the proposal would change the use of the land for a period of 40 years, a significant period of time, it is not permanent and is reversible. They went on to comment that:

**"...the specific way agricultural land is used is not a matter that is subject to planning controls...Given this, the fact that the proposal would limit the ability to carry out any arable farming does not, in my opinion, mean that it results in the loss of agricultural land when it can still be used for other agricultural uses."** (DL22)

**"As such the proposal would not result in either the temporary or permanent loss of BMV land ..."** (DL25)

- 4.11 Furthermore, the Inspector considered the requirement for a sequential assessment of alternative sites and concluded:

**"I have not been provided with any evidence that indicates that there is any national or local policy requirement to carry out an assessment of alternative sites for solar farm developments..."** (DL27)

#### Minchens Lane Appeal

- 4.12 The appeal (ref: APP/H1705/W/22/3304561) granted permission for the erection of a solar farm and accompanying battery storage facility on land at Minchens Lane, Bramley, Hampshire following earlier refusal by Basingstoke and Deane Council.
- 4.13 Whilst not a key matter in determining the case, impact on agricultural land was considered as approximately half of the site comprises of BMV agricultural land. Echoing the conclusions of Bereden Hall and Scruton appeals the Minchens Lane Inspector placed limited weight on loss of BMV land recognising the temporary and reversible nature of solar farm development and the potential for some agricultural practices to continue which would have additional benefits in terms of soil health:

**"The agricultural land would not be permanently or irreversibly lost, particularly as pasture grazing would occur between the solar panels. This would allow the land to recover from intensive use, and the soil condition and structure to improve. The use of the soils for grassland under solar panels should serve to improve soil health and biodiversity..." (DL59)**

**Summary**

- 4.14 National policy does not preclude development on BMV land but rather requires benefits to be demonstrated to justify its loss. In this regard the generation of renewable energy has been established as a significant benefit that can outweigh impact on BMV agricultural land.
- 4.15 Furthermore, it is widely accepted and acknowledged that solar farms are a temporary and fully reversible type of development which can allow for some continued agricultural practices, as such they do not result in either the temporary or permanent loss of BMV land.
- 4.16 There is no national requirement to carry out an assessment of alternative sites for solar farm developments but overall provision of BMV land and proximity to a viable grid connection are recognised as key considerations limiting potential for alternative locations.



## 5.0 AGRICULTURAL LAND IMPACT ASSESSMENT

### BMV Provision in North Warwickshire

- 5.1 Information on ALC coverage is available at the national level via the MAFF 'Provisional 1:250,000 scale Agricultural Land Classification Maps of England' 1:250,000 series (1988).
- 5.2 However, these large-scale maps have limitations. They cannot be used to identify the ALC grade at the local level as this mapping was determined by consulting existing soil maps to formulate the ALC and so does not identify the variations which can occur across an individual site. In addition, many of the surveys underpinning the mapping were undertaken prior to the introduction of the ALC Grade 3a/3b subdivision. As such, the boundary between land which is classified as BMV (ALC Grade 3a) and non-BMV (ALC Grade 3b) is not available. As such they are only suitable for strategic land use planning only.
- 5.3 The proportion of each of the ALC grades, as a percentage of total land area, in England, West Midlands Region, Warwickshire County and North Warwickshire District is shown in Figure 5.12. North Warwickshire has a higher proportion of BMV land compared with the national, county, and regional provision. Notably North Warwickshire has a considerably higher proportion of the Grade 1 (excellent) and Grade 2 (very good) agricultural land than found in England, the West Midlands Region, and Warwickshire County generally.

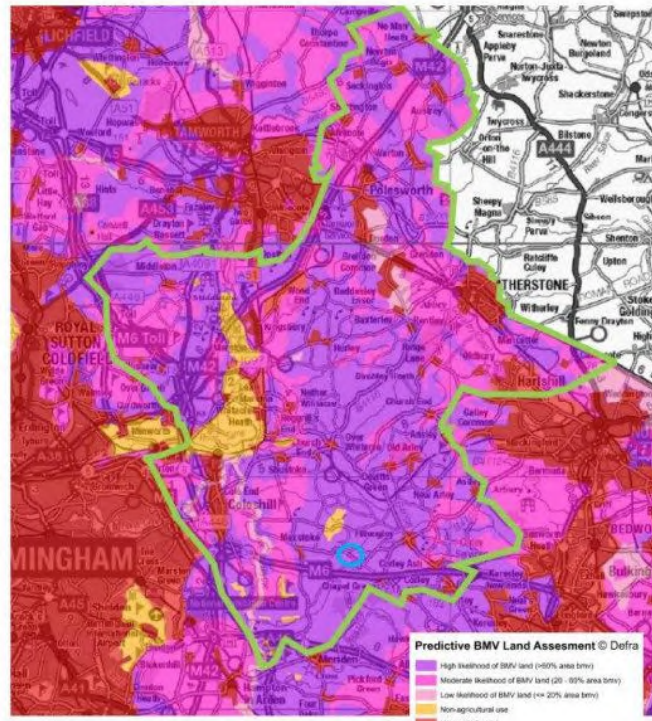
*Table 5.1 Provisional Agricultural Land Classification – England, West Midlands Region, Warwickshire County and North Warwickshire District*

| ALC Grade        | England (%) | West Midlands Region (%) | Warwickshire County (%) | North Warwickshire District (%) |
|------------------|-------------|--------------------------|-------------------------|---------------------------------|
| 1 Excellent      | 2.7         | 1.1                      | 0.1                     | 0.4                             |
| 2 Very Good      | 14.2        | 17.7                     | 11.9                    | 19.7                            |
| 3 Good-Moderate  | 48.2        | 53.3                     | 74.5                    | 67.3                            |
| 4 Poor           | 4.1         | 14.6                     | 7.9                     | 7.1                             |
| 5 Very poor      | 8.4         | 2.5                      | 0.1                     | 0.0                             |
| Non-Agricultural | 5.0         | 2.3                      | 1.0                     | 3.9                             |
| Urban            | 7.3         | 8.6                      | 4.4                     | 1.6                             |

<sup>2</sup> Ministry of Agriculture, Fisheries and Food, Land and Water Service, Technical Notes, Resource Planning (February 1983) 'Agricultural Land Classification of England and Wales – The Distribution of the Grades' (TN/RP/01 TFS 846)

- 5.4 North Warwickshire also has a significant proportion of Grade 3 land which is not differentiated across subgrade 3a or 3b by the Provisional ALC map. In 2001 Defra provided a companion series to the Provisional ALC maps: '*Likelihood of Best and Most Versatile (BMV) Agricultural Land*' strategic maps. These provide the best available estimate of agricultural land quality expressed in terms of the proportion of land likely to be classified as BMV i.e., ALC Grades 1, 2, and 3a.
- 5.5 Three categories illustrate the likely occurrence of BMV agricultural land as:
- **High likelihood** of 'best and most versatile' agricultural land: Areas where more than 60% of the land is likely to be 'best and most versatile' agricultural land.
  - **Moderate likelihood** of 'best and most versatile' agricultural land: Areas where 20-60% of the land is likely to be 'best and most versatile' agricultural land. (Moderate likelihood of 'best and most versatile' agricultural land)
  - **Low likelihood** of 'best and most versatile' agricultural land: Areas where less than 20% of the land is likely to be 'best and most versatile' agricultural land.
- 5.6 The North Warwickshire is included within the '*West Midlands Region Likelihood of Best and Most Versatile (BMV) Agricultural Land*' (2001) Strategic scale map. Figure 4.2 provides an extract from the *West Midlands Region* map with the authority area and application Site location indicated for reference and illustrates the extent of BMV land anticipated across the district. As such it is anticipated that a significant portion of the 67.3% of land in North Warwickshire identified in the Provisional ALC maps as comprising Grade 3 will likely fall within the Grade 3a BMV subcategory.
- 5.7 Overall, proportionally North Warwickshire has a greater provision of BMV land than found generally across the national, regional, or county geographic levels. Most notably it has comparatively a significant provision of the highest Grade 1 and Grade 2 land. BMV land is therefore not a scarce resource in North Warwickshire.

Figure 5.2 Extract of Defra West Midlands Region Likelihood of Best and Most Versatile (BMV) Agricultural Land map with North Warwickshire authority boundary and location of application Site indicated.



Source: Defra (2001) and Barton Willmore, now Stantec

- 5.8 Consequently, given the coverage of BMV land across the district, it is entirely reasonable to conclude that it would be very difficult to find alternative land of lesser agricultural grade quality to accommodate commercial scale solar development. A point agreed by the Inspector in respect of the Bereden Hall Farm application.

**Impact on Availability of BMV Land**

- 5.9 The Site at Fillongley proposed to accommodate the solar farm development extends to 66 Ha (163 acres), of which 63ha (155.6 acres) comprises of BMV agricultural land: 16 Ha (24.24%) of ALC Grade 2 and 47.1Ha (71.37%) of ALC Grade 3a soils.

- 5.10 North Warwickshire Borough Council area covers a total of 284.3sqkm<sup>3</sup> (109.8sqm). On this basis BMV from the Site area equates to 0.22% of the local authority area. At this scale, mindful of the overall proportion of BMV land available in the district, any effects will be highly localised and the impact on the availability of BMV agricultural land in North Warwickshire will be negligible.
- 5.11 However, it is also appropriate to consider any impacts arising from the cumulative loss of BMV land to similar schemes in the district. Table 5.3 contains details of consented and pending planning applications for solar farms on agricultural land submitted within the past 10 years to North Warwickshire Borough Council. These schemes have been identified by Officers at North Warwickshire Borough Council for consideration.

*Table 5.3 Summary of solar farm schemes in North Warwickshire since 2013*

| App Ref:          | Site   | Status                             | Development  | Site Area      | BMV coverage  |
|-------------------|--|------------------------------------|--|----------------|---|
| PAP/2015/0459     | Land South of Pogmore Spinney, Merevale      | Granted: February 2016             | Solar Farm   | 5.2ha          | Grade 1: 0<br>Grade 2: 0ha<br>Grade 3a: 0Ha                   |
| PAP/2021/0651     | Land North of Park Lane Farm, Astley         | Granted: July 2022                 | Solar farm and battery storage                         | 39.6Ha         | Grade 1: 0<br>Grade 2: 2ha<br>Grade 3a: 9Ha                   |
| PAP/2021/0605     | Land at Smorrall Lane, Astley                | Granted: July 2022                 | Agricultural building, solar farm, and battery storage | 21.5Ha         | Grade 1: 0<br>Grade 2: 0ha<br>Grade 3a: 9Ha                   |
| PAP/2022/0544     | Land 550 Metres East Of Vaults Farm, Astley  | Pending (submitted October 2022)   | Solar Farm   | 28ha           | Grade 1: 0<br>Grade 2: 0.91ha<br>Grade 3a: 3.31Ha             |
| PAP/2022/0374     | Land North Of Stone Cottage, Baddesley Ensor | Pending (submitted September 2022) | Solar Farm   | 10.8Ha         | Grade 1: 0<br>Grade 2: 0ha<br>Grade 3a: 0Ha                   |
| <b>BMV Total:</b> |  |                                    |  | <b>24.22Ha</b> | <b>Grade 1: 0Ha<br/>Grade 2: 2.91ha<br/>Grade 3a: 21.31Ha</b> |

<sup>3</sup> Office for National Statistics

- 5.12 Since 2013, five planning applications for solar farms have been submitted to North Warwickshire Borough Council, of which three have been granted permission (one is constructed and operational) and two are pending determination. Based on information provided within Agricultural Land Classification Reports accompanying the planning application submissions, if all five schemes were consented it would result in a total of 24.22ha of BMV land being temporarily taken out of productive use. Comprising 2.91Ha of ALC Grade 2 and 21.31Ha of ALC Grade 3a land. No Grade 1 land is affected.
- 5.13 When the Proposed Development is included, a total of 87.22Ha of BMV land would be temporarily taken out of productive use. Comprising 18.91Ha of ALC Grade 2 and 68.41 Ha of ALC Grade 3a land.
- 5.14 In comparison to the authority area, this equates to 0.3% of the total land coverage. When considered quantitatively and against the overall proportion of BMV land within North Warwickshire, this amount of land is negligible.

**No Loss of BMV Land**

- 5.15 It is also highlighted that this land is not lost from full agricultural use, either temporarily or in perpetuity.
- 5.16 Solar Farm developments are temporary developments, with planning permission typically granted for 40 years. The granting of planning permission for solar development does not alter the site's designation as agricultural land, and unlike other forms of development such as residential or industrial, a key aspect is that it is wholly reversible. The limited amount of built components and minimal ground intrusion required mean that removing the infrastructure and remediating the Site to its previous state is fully achievable and can be secured through the application of planning conditions.
- 5.17 Furthermore, whilst the land cannot be used for growing crops (at least at present) the minimal footprint of solar farms allows for certain farm practices to continue, with grazing of livestock including sheep, chickens and geese and beekeeping regularly undertaken. As such, the land can continue to provide some productive agricultural function at the same time as being used for energy generation. Points also agreed by the Inspector in respect of the Bereden Hall Farm application.

**Soil Health and Biodiversity Net Gain**

- 5.18 Enviromena are committed to making a positive and significant impact with regards to achieving biodiversity net gain and environmental improvements. As outlined, the

proposed development has been designed to ensure that, across the main body of the Site, a complete green groundcover is maintained.

- 5.19 The proposed development will also deliver significant biodiversity net gains through the combination of several measures including the creation of diverse meadow grassland underneath the photovoltaic arrays, the retention of arable margins, neutral grass and a woodland copse as well as Site boundary hedges and tree lines and the planting of a new native hedge through the centre of the Site.
- 5.20 The biodiversity net gains created through the proposed development will remain following the decommission of the proposed development and leave the Site in a better condition than pre-development.
- 5.21 In addition, it is recognised that the duration of the proposed development (40-years) provides a valuable opportunity for the soil health and ground conditions to recover. Once the proposed development is operational, most of the soil will be under perennial cover with no ploughing and only non-intensive grazing. This would lead to a soil which would be less vulnerable to wind and water erosion<sup>4</sup>. Leaving the land fallow can have restorative effects on the overall soil health and future agricultural land quality through an increase in soil organic matter, the diversity of soil flora, fauna and microbes, and improved soil structure. After the lifetime of the proposed development the soil health and agricultural qualities of the Site will have improved.
- 5.22 In short, the proposed development will deliver environmental enhancements and biodiversity net gains that will leave the Site in a better condition than pre-development. Not only that but the lifetime of the development provides a valuable opportunity for the soil health to rest. Again, points also agreed by the Inspector in respect of the Bereden Hall Farm application.

**Agricultural Land Impact Summary**

- 5.23 Overall, it is considered that should the Proposed Development, and the solar farm schemes listed in Figure 4.3, be granted planning permission, there would be negligible impact on the availability of BMV agricultural land in North Warwickshire given the overall proportion of BMV land in the district, the minimal quantum of such land effected, and the temporary and wholly reversable nature of solar development.

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<sup>4</sup> Best highlighted by Inspector P.J.G Ware and confirmed by the Secretary of State with regards to Appeal 3293104, December 2022.

- 5.24 Given the overall proportion of BMV land in the district the likelihood of alternative sites of lesser quality to accommodate commercial solar development is considerably constrained.
- 5.25 Notwithstanding this, solar is a temporary and fully reversible type of development that can permit for some agricultural function from the land to continue. As such it does not result in the temporary or permanent loss of BMV land for future generations. By leaving the Site fallow it is anticipated that soil health will be considerably improved, and other improvements will ensure significant gains for local biodiversity.

6g/170

5c/147

## 6.0 SUMMARY AND CONCLUSION

- 6.1 This Statement has been prepared by Stantec, to support North Warwickshire Borough Council's consideration of a planning application for a solar farm on land south of Fillongley (application ref: PAP/2023/0071).
- 6.2 The application Site comprises predominantly of Best and Most Versatile (BMV) agricultural land. Where development of agricultural land is demonstrated to be necessary, guidance states that local authorities try to use areas of poorer quality land over high quality. Importantly, whilst the guidance sets a clear preference for using poorer quality land, it is also evident that the use of BMV land can be acceptable.
- 6.3 Site selection criteria for solar development are highly constrained by technical and physical requirements that severely limit opportunities. The Site meets these requirements, including importantly a feasible point of connection with the National Grid and a willing landowner. The use of agricultural land is therefore necessary in this instance.
- 6.4 This Statement has demonstrated that the Proposed Development would have a negligible impact on the availability of BMV agricultural land in North Warwickshire based on the following:
- BMV land is not a scarce resource in North Warwickshire. Proportionally North Warwickshire has a greater provision of BMV land than found generally across the national, regional, or county geographic levels. Most notably it has, comparatively, significant provision of ALC Grade 1 and Grade 2 land. The ability to find alternative sites of lesser soil quality to accommodate commercial scale solar development is therefore highly constrained.
  - At 63 ha the Site equates to 0.22% of the total authority area. At this scale impacts will be highly localised and negligible. When other consented and pending solar farm schemes are also considered, a total of 87.22Ha of BMV land would be taken out of productive agricultural use. This equates to 0.3% of the total land coverage of North Warwickshire. When considered quantitatively and against the overall proportion of BMV land within North Warwickshire, this amount of land is negligible.
  - The 87.22Ha of BMV land proposed to accommodate solar development, however, is not lost from agricultural use, either temporarily or in perpetuity. The granting of planning permission for solar does not alter its designation as agricultural land, and unlike other forms of development it is wholly



reversible. Furthermore, the land can continue to provide an agricultural function for light grazing of livestock whilst being used for energy generation.

- Through landscape planting and ecological enhancements proposed significant net gains for local biodiversity will be delivered. In addition, by leaving the land fallow, ensuring constant ground cover of a diverse seed mix it is anticipated that soil health will improve.

6.5 Overall, the Proposed Development is considered to be in accordance with the NPPF, Local Development Plan and the National Soil Strategy, as such the use of the Site to accommodate a temporary Solar Farm can be justified in this instance.



## Note

To: Jeff Brown  
North Warwickshire Borough Council

From: Stantec/  
Enviromena

Project/File: 34573 - PAP/2023/0071

Date: November 2023

**Reference: PAP 2023/0071 Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley: Proposed solar farm and associated infrastructure.**

### Introduction

This Note has been prepared by Stantec on behalf of Enviromena Project Management UK Ltd, the applicant in respect of the above planning application, in response to matters raised by consultees during the public consultation period of the application.

Specifically, the aim of this Note is to provide additional clarity and information to address areas of concern raised by Fillongley Parish Council, Corley Parish Council, and members of the public regarding the proposed development.

Responses to the key matters raised are as follows:

#### Scale and Need of Development

The Government is clear that an increase in renewable energy generation is of paramount importance if the UK to achieve the legally binding target set under the Climate Change Act, requiring all greenhouse gas emissions to be net zero by 2050.

The development will contribute towards the UK's efforts to tackling climate change and achieving Net Zero emissions and will provide significant environmental benefit by meeting the electrical needs of approximately 17,100 homes providing a CO2 displacement of 11,300 tonnes compared to the same energy from fossil fuel sources.

In this regard the Applicant also acknowledges comments regarding other solar farm proposals in the Borough. If the UK is to meet its climate change targets, then a significant increase in renewable projects is required, all areas of the UK will need to be involved if the carbon-reduction targets are to be reached.

The Applicant also acknowledges that using brownfield land and fitting PV cells and wind turbines on buildings will make a positive contribution to meeting domestic energy needs, however the required upscaling of renewable energy production cannot be accommodated by micro-generation projects alone. Large sites will be required, and inevitably large sites will be in open, less developed locations.

Nevertheless, the Applicant has undertaken everything feasibly available to minimise the impact of the development on residents, the landscape, and local wildlife.

#### Green Belt Development

It is acknowledged that the Site lies within the Green Belt where new development is restricted by policies set out in the National Planning Policy Framework (NPPF).

Design with community in mind

Reference: PAP 2023/0071

However, the NPPF does allow that when 'very special circumstances' are demonstrated, that certain development can be considered acceptable, namely where the benefits of doing so outweigh the potential harm to the Green Belt<sup>1</sup>. The NPPF identifies that the environmental benefits arising from renewable energy generation can be considered as a 'very special circumstance'<sup>2</sup>.

The Planning Statement submitted as part of the application package provides a detailed discussion of the development's impact on the Green Belt and sets out a case for how the development demonstrates very special circumstances. In summary, it is concluded that the development would result in very limited harm to the Green Belt because of:

- The limited landscape and visual impacts, due to containing the arrays within existing field enclosures which will be subject to additional planting;
- The rural location of the Site and the nature of the development will not result in merging of settlements, unrestricted urban sprawl and preserve setting of historic towns;
- The temporary and fully reversible nature of the development i.e., the land is not 'lost' and retains its Green Belt status;
- The potential for continued farming practices allowing for dual agricultural-energy use; and
- Minimal level of activity generated by the development including very minimal traffic generated during its construction and operational phases.

In accordance with local and national policy requirements, very substantial positive weight should be accorded to the scale of generation of renewable energy and associated significant reduction in carbon emissions arising from the proposed development.

This constitutes 'very special circumstances' which significantly outweigh the limited, temporary harm to the Green Belt.

#### **Flood Risk and Drainage**

In accordance with national and local policy requirements a Flood Risk Assessment and Drainage Strategy has been prepared by drainage consultants BWB to determine the potential sources of flooding on the Site, impacts on flooding elsewhere and mitigation measures to reduce any impact. BWB have over 20-years' experience in the assessment and management of flood risk and are nationally recognised as prominent experts in the safe delivery of development in the most complex of flood related settings.

The submitted Flood Risk Assessment confirms that the Site is located wholly within Flood Zone 1 and accordingly is at low risk of flooding from fluvial sources. The site is therefore appropriate to accommodate the proposed development from a policy perspective. However, areas at elevated surface water flood risk were identified at the northwest boundary, associated with Bourne Brook and drainage ditches present.

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<sup>1</sup> Paragraph 114

<sup>2</sup> Paragraph 151

Reference: PAP 2023/0071

The proposed surface water drainage strategy developed by BWB takes this into consideration and is based around ensuring that the ground under and around the arrays remains vegetated to allow the site to continue to absorb rainfall as it does at present. As an additional measure interception swales will be implemented at the most downward gradients of the site, ensuring surface run off is intercepted and discharged in a controlled manner should the ground beneath the panels become patchy or bare, further managing flood risk.

The drainage strategy demonstrates that all surface water can be adequately and appropriately dealt with and will not result in increased flood risk on or off-site. The drainage strategy is based upon recognised research and technical guidance for managing surface water at solar farm developments has been developed in accordance with the Lead Local Flood Authority's (LLFA) guidance.

At the request of the LLFA borehole testing has been undertaken to confirm the appropriateness of the proposed drainage strategy. The LLFA have confirmed that they have no objections to the scheme, or drainage strategy proposed. Should planning permission be granted several standard pre-commencement conditions have been agreed with the LLFA to ensure the proposed drainage strategy is implemented.

The Applicant is acutely aware of local flood risk concerns and so has tried on numerous occasions to engage with the Local Flood group to establish if any additional measures could be accommodated on the site to minimise existing off-site flooding issues. However, despite repeated requests no information or meetings have been forthcoming.

In addition, the Applicant has been involved in talks with Warwickshire Wildlife Trust to understand potential for the Site to accommodate flood alleviation measures to minimise existing off-site flood issues including those that would also provide additional ecological benefits. Discussions highlighted that onsite swales and additional planting could help in reduce off-site flooding and as can be seen from the application documents, both are featured in our plans.

To summarise, the drainage strategy proposed ensures that there will be no increased flood risk on or off-site resulting from the proposed development. All surface water can be adequately and appropriately managed within the Site.

#### **Use of Agricultural Land**

It acknowledged that the Site comprises predominantly of Best and Most Versatile (BMV) agricultural land, for which national and local planning policy states there is a general presumption against loss to development.

Discussion and justification on the use of the Site to accommodate a solar farm is set out in the planning statement and BMV statement which accompany the application. To summarise these documents, that the temporary use of the site to accommodate the solar farm is acceptable for the following:

- BMV land is not a scarce resource in North Warwickshire. Proportionally North Warwickshire has a greater provision of BMV land than found generally across the national, regional, or county geographic levels. Most notably it has, comparatively, significant provision of ALC Grade 1 and Grade 2 land. The ability to find alternative sites of lesser soil quality to accommodate commercial scale solar development is therefore highly constrained. The Site equates to 0.22%

of the total authority area. At this scale impacts will be highly localised and negligible against provision of BMV land across the district.

- Land proposed to accommodate solar development, is not lost from agricultural use, either temporarily or in perpetuity. The granting of planning permission for solar does not alter its designation as agricultural land, and unlike other forms of development it is wholly reversible and can continue to provide an agricultural function whilst being used for energy generation.
- Through landscape planting and ecological enhancements proposed significant net gains for local biodiversity will be delivered. In addition, by leaving the land fallow, soil health will improve.

In short, the development will not result in the temporary or permanent loss of agricultural land. The development is temporary, all equipment can be fully removed, and the site reinstated with benefit of significant ecological gains. Some agricultural practices such as grazing of livestock (sheep, goats, chickens etc.) and bee keeping can continue concurrently with the energy generation ensuring, that the site will continue to fulfil some agricultural purpose.

#### **Public Health Risk**

Several comments have been received surrounding public health concerns related to solar farm developments, these are considered below.

#### Easements

There is no UK or EU legislation or guidance that requires specific easements between residential properties and solar farm developments on grounds of public health risk. Repeated studies have found no causal link between solar farms and ill health.

Proposed developments are however, required to demonstrate that they will not result in unacceptable detrimental impact in respect of amenity or environmental aspects for instance noise, glare, air quality etc. These are grounds that all developments are assessed against and are not specific to solar farms.

The planning application is accompanied by a suite of technical assessments and reports that demonstrate that the proposed development can come forward without significant impact on quality of amenity currently enjoyed by residents. In addition, the proposals include additional landscape planting that will help to screen the development and provide significant local ecological benefits.

#### Electromagnetic Fields

Solar PV technology uses cells to absorb solar radiation and turn it into electricity. That electricity can then be stored in batteries or in the case of this proposal fed straight into the national power grid.

Electricity from solar panels when transmitted to the power grid emits extremely weak electromagnetic fields. Exposure to low-level electromagnetic fields has been studied extensively, and the World Health Organisation states there is no evidence that it is harmful to human health<sup>3</sup>.

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<sup>3</sup> <https://www.who.int/news-room/questions-and-answers/item/radiation-electromagnetic-fields>

Reference: PAP 2023/0071

There are however significant benefits related to health because of solar energy, most notably by the offset of carbon emissions, reduced air particulates<sup>4</sup> and helping mitigate the impacts of climate change.

#### Noise

Solar panels themselves do not generate noise and the proposed arrays do not include any moving parts, therefore the noise generated is very low. The main noise source associated with a solar farm will be within the inverters which are attached to the rear of the arrays where small fans operate during daylight hours only and which is unnoticeable beyond several metres.

In this regard the Applicant highlights the proximity of the M6 motorway which generates significant levels of background noise. Against this context the solar farm during its operational hours will not be acutely perceptible, particularly from residential dwellings which are some distance away (a single farmstead is located 650m with next nearest properties 1.1km away).

Furthermore, solar farms once operational require very little maintenance. It is anticipated maintenance checks will be undertaken up to twice a month comprising of a single van. As such there will be very minimal traffic generated and very little mechanical noise during its operation.

#### Glint and Glare

A Glint and Glare assessment has been carried out and considers the potential impacts on ground-based receptors such as roads and residential dwellings as well as aviation assets. The assessment is based on computer modelling tracking the movement of the sun across the seasons and based upon local topographic data.

The assessment identified several areas where mitigation, in the form of additional landscape planting is required to alleviate potential impacts on road users and occupants of dwellings. The proposed landscape strategy reflects these recommendations and includes extensive new boundary landscape planting including 'gapping up' of existing hedgerows. The species proposed will ensure a sufficient level of screening across all seasons. With the proposed landscape strategy, which can be secured via application of a planning condition should permission be granted, there is predicted to be no unacceptable effects in terms of glare.

#### Air Quality

The solar arrays do not produce any emissions and once operational require minimal maintenance, on average consisting of 2no. visits a month (by one van), as such there will be no detrimental impact on local air quality arising from the development.

#### Light Pollution

Solar farms are not required to be lit at night; no flood lighting is proposed at the Site. Should in rare cases maintenance be required out of hours a small extent of LED PIR lighting will be placed at the DNO compound area, i.e., will only be on when triggered.

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<sup>4</sup> World Health Organisation. *Health Indicators of sustainable energy. Initial findings from a WHO Expert Consultation: 17-18 May 2012*. Accessed: [https://cdn.who.int/media/docs/default-source/environment-climate-change-and-health/sustainable-development-indicator-energy.pdf?sfvrsn=468084e7\\_2](https://cdn.who.int/media/docs/default-source/environment-climate-change-and-health/sustainable-development-indicator-energy.pdf?sfvrsn=468084e7_2)

As such there will be no light pollution or light spillage from the Site.

Fire Risk and Ground Water Contamination

The Applicant acknowledges concerns raised regarding how any fire incidents will be controlled at the Site, particularly given its location within a ground water catchment zone. Notably, concerns raised surround increased fire risk from battery storage facilities.

In this the Applicant highlights that the proposed development comprises of a solar PV farm only. **No battery storage facility is proposed.**

There is very limited infrastructure or material that is flammable on a solar farm. The panels are made from glass and steel and are supported on steel or aluminium framework. Fire risk is limited to the electrical components ancillary to the development such as transformers or switchgear. In this regard fire risk is not specific to solar development. Fires at solar farms are very rare and when they do happen due to the limited combustible materials present and electrical nature, they tend to be highly localised and small scale.

Should planning permission be granted for the scheme then a requirement for a Construction Environment Management Plan will be conditioned, in which details of fire strategy will be set out. Given the limited overall fire risk posed, it is envisaged the strategy will be similar to the following which has been accepted as appropriate by several other Local Planning Authorities in the country:

**"Fire Prevention and safety**

*Fire Extinguishers shall be made available at the site office, refuelling area and within plant. Quantity, locations, and type of fire extinguishers shall be appropriate to the risks.*

*All personnel will be briefed on the use firefighting equipment and the reporting process during induction and at frequent "Toolbox" safety meetings.*

*Emergency procedure and emergency contact telephone numbers are posted within the canteens and office notice board.*

*All Firefighting equipment (extinguishers) are inspected by Project Manager or designated individual monthly to identify conditions that may prevent the use of the appliance during an emergency.*

*All deficiencies must be corrected immediately.*

*Project Manager to keep a consolidated record of the location of all extinguisher's, maintenance received and the conditions relative to the condition and maintenance of fire appliances.*

*Access to all available fire-fighting equipment shall be maintained at all items.*

**"What to do in case of fire**

*In case of fire, call 999, alerting the fire authority to the location and nature of the fire. The emergency services will use the main gate to get to the location of the emergency.*

*Should a person be on site, they must open the entrance gates to grant free passage to the fire authorities, ground conditions permitting.*

*Once operational and should there be a potential of fire damage to electrical components on site, the entire site must be isolated at the customer breaker by an SAP onsite or the O&M team via the SCADA system before anyone can access the*

*site. Emergency services must have confirmation of isolation prior to entering the site.  
Even with the site isolated, there may still be DC voltage in the cables between the modules and the inverter. These cables will only truly be at 0v when there is no sunlight."*

The above represents a proportionate and appropriate response to the scale of fire risk from the proposed development. Concerns regarding potential contamination of ground water sources from fire extinguishing compounds are acknowledged but additional measures to mitigate potential impacts are disproportionate to the overall level of fire risk and likely highly localised nature and scale of any potential fire.

Additional measures would be disproportionate and unnecessary given that no battery storage is proposed on the site.

#### **Efficiency of Technology**

Despite its reputation for having grey and cloudy weather, the UK has enough sunlight to power solar panels. It gets the same amount of solar irradiation as certain areas in France or Spain, which are typically considered to have a 'Mediterranean climate'. The UK receives around 60% of the solar radiation found along the Equator.

Even though solar panels produce more power during a sunny day, they can still produce a considerable amount of energy when the days are cloudy. Solar PV uses light to produce electricity, not heat. Furthermore, given the frequent windy periods which the UK experiences, this can assist in the efficiency of the solar panels and associated components by minimising debris mount-up on the PV cells.

#### **Property Value**

Material planning considerations are issues that should be discussed when deciding whether to grant planning permission. Whilst there is no definitive list, material considerations are generally determined from the viewpoint that planning is concerned with public interest. As such perceived loss of property value is not considered to be material.

In addition, property value is subjective and can be affected by a range of local and national factors. There is no firm evidence on whether solar farms do or do not affect house prices. Potential impact on local properties, in terms of noise, visibility and glint and glare, have been assessed as part of the preparation of this planning application and mitigation measures have been adopted where appropriate to minimise any potential impacts.



## Summary

The government set a legally binding target to reduce the UK's greenhouse gas emissions by 100% by 2050, compared with 1990 levels. This is known as the 'net zero target'. To meet this target, the government has set the aim of "a fully decarbonised, reliable and low-cost power system by 2035".

The government said a fully decarbonised power system would be "composed predominantly of wind and solar". It aims to achieve 70 gigawatt (GW) of solar power by 2035 (up from 15.7 GW at the end of 2023).

## Planning consent for solar farms

Solar farms usually require planning permission. The size of a solar farm will determine which body decides the application. For example, in England:

- Solar farms with a generating capacity below 50 megawatts (MW) need planning permission from the local planning authority (LPA).
- Solar farms with a generating capacity above 50 MW need development consent from the Secretary of State for Energy Security and Net Zero, because they are nationally significant infrastructure projects' (NSIPs).

Planning is a devolved matter. In the devolved administrations, the size of a solar farm will also determine whether the LPA or the government decide an application. However, thresholds differ across the UK.

### Policies for small-scale solar farms (below 50 MW)

LPAs in England will decide applications for smaller-scale solar farms in line with their local plan and the national planning policies. Government guidance advises LPAs to approve renewable energy developments whose "impacts are (or can be made) acceptable".

Government guidance states that there "are no hard and fast rules about how suitable areas for renewable energy [developments] should be identified". It advises LPAs to consider their potential impacts on the local environment and the views of local communities when identifying suitable sites.

However, government guidance generally guides development away from the "best and most versatile" agricultural land and states that many renewable energy developments are not "appropriate" development for green belt land.

### Policies for large-scale solar farms (above 50 MW)

The Secretary of State will decide applications for large-scale solar farms in line with [energy national policy statements](#). These were updated in January 2024. They now state that the development of low-carbon infrastructure, such as solar farms, is a “critical national priority”. This means that the Secretary of State should generally grant consent to low-carbon infrastructure.

The updated [national policy statement for renewable energy infrastructure](#) also advises that solar farms should be sited on previously developed and non-agricultural land. However, it does not prohibit the siting of solar farms on agricultural land.

### Land use for solar farms

Solar farms are not evenly distributed across the UK. 43% of ground-mounted installations (that have a capacity of at least one megawatt) that are already operational or are awaiting/under construction [are located in the South East and South West of England](#).

It is not possible to calculate how much land is used for solar farms and how much of different types of land are used.

Some organisations, such as the countryside charity CPRE, have expressed concern that [“valuable farmland” is often “the location of choice for solar developments”](#). CPRE has said it is “essential” to preserve agricultural land for food production.

Renewable energy groups, such as Solar Energy UK, have argued that [“solar farms pose no threat to the UK’s food security”](#) (PDF). They also point to the multi-functional use of land, for example, grazing sheep on solar farms, to highlight that [solar power and farming are not necessarily mutually exclusive](#).

### Barriers to the deployment of solar power

At the end of 2023, the cumulative installed capacity of solar power in the UK was 15.7 GW. The government aims to achieve [70 GW of solar power by 2035](#).

The Environmental Audit Committee, a Commons Select Committee, said meeting this target would be [“challenging given existing barriers and current rates of deployment”](#) (PDF). The government’s advisory Climate Change Committee also said [current deployment rates were “significantly off track”](#).

Two of the main barriers to the expansion of solar power they identified were grid capacity and delays in securing grid connections. The Environmental Audit Committee said [“upgrading the electricity grid is a crucial prerequisite to the achievement of net zero”](#) (PDF).

## FILLONGLEY PARISH COUNCIL



Clerk to the Council: Mrs H A Badham, The Crooked Stile, St Mary's Road,  
Fillongley, Warwickshire, CV7 8EY

[clerk@fillongleyparishcouncil.co.uk](mailto:clerk@fillongleyparishcouncil.co.uk) Telephone 01676 549193

Mr J Brown  
Chief Planning Officer  
NWBC  
The Council House  
South Street  
Atherstone  
Warks

5th May 2023

Dear Jeff

PAP/2023/0071

This application has been discussed at the Parish Council meetings numerous times and the Parish Council wish to record their OBJECTION to the application.

There are a number of factors that should be considered when making this decision and all have been debated within the meetings.

**Fillongley Neighbourhood Plan (FNP)** was created by Parishioners to shape the future of the village. It is in the process of being revised and strengthened to include issues that it has not been robust enough to deal with. In the preparation stages of the FNP there was an application for wind turbines within the Parish and there was comment in the evidence that this was not wanted. Due to the explosion of application for solar energy sites and the overwhelming opinion of the Parishioners against these within our greenbelt countryside, FPC are seeking to widen the scope of the FNP to include all industrialisation of the rural landscape. Furthermore, when creating our FNP there was overwhelming evidence that the Parishioners wished to protect our rural environment. FPC were instructed to remove the Greenbelt Policy as it was deemed unnecessary by NWBC as the NPPF would protect our Green Belt. The proposal is however still contrary to FNP02; It does not enhance or conserve the Natural Environment and it does have an adverse impact on the visual appearance and other rural and natural features in the landscape. FPC would ask that you stand up for the policies and for that decision taken, protect our Green Belt, and refuse this application.

**Openness of the Green Belt.** We are in rural parish surrounded by open farmland. We are led to believe that the surrounding land is protected Green Belt legislation. The size and scale of the proposal is completely inappropriate development. The solar park would overwhelm the area. For an idea of please see the picture adjacent. This is same size and approximately the same as the solar park, superimposed onto the of our village. It completely dominates The solar park is just to the south of the outline and due to the topography of the would be visible to many, many properties.



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Much has been made of the **soil grade standard** on the targeted land. We know that the land is graded as 2a, 2b and 3. It is the same soil that is predominant in the whole of the Borough and the same soil that has been farmed and produced food for generations and generations. It is known within the Councillors' memory that this has been a good wheat field, a good potato field and also has cropped onions successfully. The loss of this land (assuming an easily achievable yield of 4 tons of wheat per acre) would be the loss of 600 tonnes of wheat per year adding up to 24,000 tonnes in the proposed lifespan of the application. To put it into context that would be a loss of approximately 1,090,800 800g wholemeal loaves of bread per year, or an incredible loss of 43,632,000 loaves of bread over the proposed lifespan. The NPPF (para 170) suggests that solar farms should preferably use land in areas of poorer quality (grades 3b, 4 and 5). This is not poor soil and therefore the application should be refused.

There has been great discussion as to the term **solar "farm"** when the result is a physical blot on the landscape which pays business rates just as any other business does. Farming produces food that we need to survive. Food cannot be grown on factory rooves, school rooves or warehouse rooves; most food needs to be grown in the ground. We have already established that this is good fertile land. Further loss of farmland and reduction in crops is unnecessary and will lead to a further lack of **food security and increase in prices of food** in the shops. The application should be refused.

Fillongley is a large rural parish with dispersed settlements. We are centred around a **medieval castle** and have another, older castle site in the village too. We are proud of **our historic settings and our Conservation Area**. The proposal will have a significant detrimental impact to the setting both of the Castle (which is 545 metres away and an Historic England site) and the wider village. The scale of the proposal will dwarf the Parish – most of it will be very visible from properties, from footpaths and roadways. It is contrary to FNP01 in that it will affect the setting of the Church as it will dominate the view of the Church on the approach into the Parish from Meriden which is the main view of the Church. It is also contrary to FNP06. This proposal will **change the character** of the village and should be refused.

North Warwickshire appears to have been targeted by solar park developers who are wishing to profit from the ease of developing our open countryside rather than fitting solar panels to existing buildings. There are already other, **significant sized solar parks** which have been given permission within a small radius of Fillongley. It is an ongoing situation and gathering pace with constant new applications. The cumulative impact on our local area is horrific and overwhelming and the application should be refused.

There are ongoing issues with "**glint and glare**". This is the name given to the light effects reflecting on the panels. This is a no-win location. Either they will face the motorway (providing distraction to the drivers), or they will face residents houses providing them with an inherent nuisance. Any direction will cause problems, specifically for nocturnal birds being confused by glint from the lights of traffic on the motorway reflecting off the panels.

Increasing "**bio-diversity**" is a real buzzword of the moment. When you carefully examine the proposals, there are no new hedges and only some screening trees that will be so small they would not be likely to support the birdlife that is frightened away during the construction process, will not grow fast enough to provide any screening and then will need to be chopped down after the 40 year period. Furthermore, the applicant has said in a public meeting that the site would be "sheep ready, and if the farmer chooses to diversify and have sheep that is up to him". Of course, if it were grazed that may produce some food, but this is unlikely as the farmer lives a significant distance away and is unlikely to want to come to the site every day to check on his livestock. If the site were not grazed, the likelihood is that the grass and weeds would have to be sprayed off with herbicide to prevent the weeds and grass growing over the panels. This does not benefit bio-diversity or the water quality of the surround brook. The application should be refused.

Fillongley has suffered from 2 "one in a hundred year" **flooding events**, plus other smaller flooding events in the last 12 years. These have caused untold harm to residents in the affected zone. We are in an unusual situation due to the topography of the parish. A lot of the water is from "flash flooding", when it rains very quickly either on to saturated ground or onto very dry ground, and is exacerbated by significant run off from the motorway. The passage of water to the village goes directly over the application site. The LFA have already, rightly, objected to the proposal. It would exacerbate the run off from the motorway as there would not be as much absorption across the ground that would normally absorb it as it runs across. There would be additional run off, pooling and rivulets as the rain hits the panels – this would mimic the run off from the motorway and the "flash flooding" effect. The proposal is contrary to FNP03 as it will exacerbate the flood risk within the village.

For all of the above reasons, FPC would urge that you heed the wishes of the majority of the Parish and the Fillongley Neighbourhood Plan and reject this application.

Yours sincerely

Heather Badham  
Clerk to Fillongley Parish Council

6g/184

5c/161

**PAP/2023/0071 – Solar Farm, Meriden Road, Fillongley**

The proposed site is within Fillongley Parish but there are strong feelings regarding this application from other local communities. On this basis Corley Parish Council (CPC) submit the following objections to this proposed solar farm and its impact on our valuable Green Belt land. For the avoidance of doubt all our Parish Councillors were unanimous in voting to OBJECT.

NWBC committed to sending letters to residents in the area to judge the level of support or objection to this application. A question regarding this process follows.

- How wide a circulation was undertaken – the Parish Council’s view is that should not only cover ALL residents of Fillongley but a distribution in the surrounding area as this application has such significant impact on the area. After consultation with NWBC Planning Department additional distribution was undertaken – however given the number of similar applications in our locality this is still deemed to be insufficient.

Fillongley have produced and agreed a Local Plan and its contents should be taken seriously. Our communities work closely with each other and we include comments below regarding this plan that we fully support. Corley Parish Council debated at length whether to create a Local Plan and on balance decided not to proceed. If FPC’s plan is to hold no weight our decision not to extend the effort to compile a plan has been vindicated.

- *Fillongley Neighbourhood Plan (FNP) was created by Parishioners to shape the future of the village. In the preparation stages of the FNP there was an application for wind turbines within the Parish and there was comment in the evidence that this was not wanted. Due to the explosion of application for solar energy sites and the overwhelming opinion of the Parishioners against these within our greenbelt countryside, FPC are seeking to widen the scope of the FNP to include all industrialisation of the rural landscape. Furthermore, when creating our FNP there was overwhelming evidence that the Parishioners wished to protect our rural environment. FPC were instructed to remove the Greenbelt Policy as it was deemed unnecessary by NWBC as the NPPF would protect our Green Belt. The application is however still contrary to FNPO2 - It does not enhance or conserve the Natural Environment and it does have an adverse impact on the visual appearance and other rural and natural features in the landscape.*

Fillongley PC, fully supported by Corley PC, have requested that NWBC stand by the Greenbelt Policy and thus protect our Green Belt, and refuse this application.

Our countryside is under threat and the proliferation of many applications for solar farms is exacerbating the situation. We are in rural parish surrounded by open farmland. We are led to believe that the surrounding land is protected by Green Belt legislation. The size and scale of the proposal is completely inappropriate development. The solar farm would overwhelm the area. The solar farm will completely dominate the landscape and due to the topography of the land will be visible to many, many properties.

The Parish Council clearly accepts the drive towards cleaner energy sources but this has to be balanced against the need to use our precious land for food production. We live in an increasingly divided world and the effects of conflict and climate change represent huge challenges for us all. Recent events put in stark reality the need for both energy AND food independence from outside sources.

Climate change around the world will inevitably lead to issues with food produces who we currently rely on – the shortage of salad products recently in our shops because of adverse weather in Europe is only one small example. Conflict in Europe has put tremendous pressure on the price and demand for fossil fuels – a consequence which in itself drives the need for sustainable and renewable energy sources. This, however

does not mean we should use our valuable and fertile land for huge solar farms when there are clearly other much more effective and nonintrusive ways the same goal can be achieved.

All across the UK we have massive industrial units and warehouse facilities which could be an ideal location for solar panels on their massive roofs. Such an initiative would massively help our drive to Net Zero whilst leaving our fertile land for precious food production. Why not incentivise the developers/owners of these units to install such facilities rather than make it more profitable for a farmer to give up land to solar panels rather than food production – this makes absolutely no sense!!

The soil grade standard of the proposed site has been questioned. We are advised that the land is graded as 2a, 2b and 3. It is the same soil that is predominant in the whole of the Borough and the same soil that has been farmed and produced food for generations. It is known to have been a good wheat field, a good potato field and also has cropped onions successfully. The loss of this land for agricultural use is totally unacceptable.

It is noted that the application states that, if approved, the solar panels will be removed after 40 years and the land restored to agricultural use. Please pardon our scepticism but wish to mention another comparable commitment that to date has been worthless.

When the operator received approval for coal mining at Daw Mill a legal covenant was agreed and signed that stated that once mining ceased the land would be returned to its previous Green Belt status. Since mining ceased the operator has continued a legal battle to overturn this covenant and turn the site into an industrial estate. What confidence can we have that in 40 years something similar will happen. Given the demand for renewable energy is only going to increase it is unlikely this land will ever revert to agricultural use.

There are no new hedges proposed and only some screening trees that will be so small they would not be likely to support the birdlife that is frightened away during the construction process and will not grow fast enough to provide any effective screening.

The applicant states that it will be possible for sheep to graze in the area all around the panels. The practicality of this has to be questioned especially as we have seen reports from other sites where the sheep have eaten through the cabling and caused significant damage to the infrastructure.

We are also advised that the farmer lives a significant distance away and is unlikely to want to come to the site every day to check on his livestock. If the site were not grazed, the likelihood is that the grass and weeds would have to be sprayed off with herbicide to prevent the weeds and grass growing over the panels. In no way environmentally friendly.

There are clearly issues relating to glint and glare. This is the result of the effects of light reflecting on the panels. Either the panels will face the motorway providing distraction to the drivers, or they will face resident's houses providing an inherent nuisance. Any direction will cause problems, specifically for nocturnal birds being confused by glint from the lights of traffic on the motorway reflecting off the panels.

If we understand correctly over 80% of solar panels are imported from China. We also understand that no carbon emissions are allocated to the proposed site deriving from the manufacture and transportation of the panels and that the panels lose 15% of their generating power over their life expectancy.

Taking all the above into account, and the loss of good food producing land the overall environment benefits are at best questionable and at worst totally flawed.

If we understand correctly the energy generated from the solar panels needs to be transferred to a suitable sub-station and the optimum distance from the solar farm is circa two kilometres. We also understand that currently all sub-stations in North Warwickshire are classed as 'red' – meaning they do not have the spare

t.  
capacity to take anymore. So, if this application is granted where will the power be transferred to and at what disruption to surrounding land. Or will a new sub-station be required and if so, where on earth will this be located.

We understand right across the country there are significant issues with the National Grid being capable of taking the renewable energy generated by wind and solar farms. In some cases, the delay in creating the infrastructure to take this power is running into literally years.

The applicant needs to provide specific information and timing of when this particular installation can be connected - the Green Belt should not be destroyed on the basis of some unknown future link to the grid.

To summarise it is undoubtedly the case that more renewable sources of energy are required. It is also abundantly obvious we need to be much more self sufficient in our food production.

Producing food on our own land in itself will cut emissions significantly by reducing the need to fly and/or ship food products to us from around the world.

Clearly house developers always prefer Green Belt land over using Brownfield sites – now we have Solar Farm developers adopting the same strategy – both because it's cheaper and easier. The consequences of both are destroying our Green Belt for short term gain with no regard for the long term effect and cost.

The Parish Council therefore request that this application is refused and dialogue entered into with the applicant to encourage more thought and enterprise being given to alternative sites for the solar panels.

**Corley Parish Council**

14<sup>th</sup> May 2023



## FILLONGLEY PARISH COUNCIL



Clerk to the Council: Mrs H A Badham, The Crooked Stile, St Mary's Road,  
Fillongley, Warwickshire, CV7 8EY

[clerk@fillongleyparishcouncil.co.uk](mailto:clerk@fillongleyparishcouncil.co.uk) Telephone 01676 549193

Mr J Brown  
Chief Planning Officer  
NWBC  
The Council House  
South Street  
Atherstone  
Warks

17th February 2024

Dear Jeff

PAP/2023/0071

This amended application has again been discussed at the Parish Council meeting in February and the Parish Council wish to maintain their OBJECTION to the application.

The PC do not feel that the changes make a material difference to the previous Objections.

There are a number of quotes from Ministers over a long period of time that support solar on brownfield and rooftops and not on prime agricultural land such as is proposed here.

Way back in 2014, the Planning Minister Nick Boles said "The policies in the National Planning Policy Framework are clear that there is no excuse for putting solar farms in the wrong places. The Framework is clear that applications for renewable energy development, such as solar farms, should be approved only if the impact, including the impact on the landscape – the visual and cumulative impact – is or can be made acceptable. That is a very high test'

More recently Ministers have also made the following comments;

The Prime Minister (2022) stated "We must also protect our best agricultural land. On my watch, we will not lose swathes of our best farmland to solar farms. Instead, we should be making sure that solar panels are installed on commercial buildings, on sheds and on properties." This replicates the view of FPC.

Former Secretary of State, George Eustice (June 2023) "planning authorities seem to have either forgotten or started to disregard (planning) advice". He went on to say that advice "created a strong presumption against solar farms on Best and Most Versatile land, and that is classified in law as grade 3a or above'

The Secretary of State for Nuclear and Renewables Andrew Bowie said in Parliament, (July 2023) on the record; "It is therefore essential that we have a robust planning system that not only helps to deliver energy security but protects the environment and local communities and supports wider Government ambitions, such as food security. ... we are not able to create new prime agricultural land". ... "It is important to stress that this does not mean seizing large swathes of the countryside and turning them into industrial solar farms and storage units. ....and we encourage solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvement."

Reinforcing this legally, the National Planning Policy Framework 180: "Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland"

The NPPF requires that poorer quality land should be preferred and this is strengthened by the wording of the National Planning Practice Guidance in relation to Renewable and Low Carbon Energy where it is stated that the focus should be on previously developed or non-agricultural land.

FPC believe that local knowledge is a crucial deciding factor and should not be ignored. FPC know that despite the applicants suggestions the site will be permanently and hugely visible from many, many aspects of the Parish (not just the village centre) including over 1 km away, due to the undulating nature of the site and the Parish, as well as from the adjacent roads, Public Rights of Way and the M6. The Council also know that the applicant has not included any flood mitigation, and that this will contribute to more flood events in the centre of the village and downstream in the Parish from the Bourne Brook.

FPC do not believe that "exceptional circumstances" tests are met and the application should be refused.

For the avoidance of doubt, the original reasons for Objections are recorded below;

**Fillongley Neighbourhood Plan (FNP)** was created by Parishioners to shape the future of the village. It is in the process of being revised and strengthened to include issues that it has not been robust enough to deal with. In the preparation stages of the FNP there was an application for wind turbines within the Parish and there was comment in the evidence that this was not wanted. Due to the explosion of application for solar energy sites and the overwhelming opinion of the Parishioners against these within our greenbelt countryside, FPC are seeking to widen the scope of the FNP to include all industrialisation of the rural landscape. Furthermore, when creating our FNP there was overwhelming evidence that the Parishioners wished to protect our rural environment. FPC were instructed to remove the Greenbelt Policy as it was deemed unnecessary by NWBC as the NPPF would protect our Green Belt. The proposal is however still contrary to FNP02; It does not enhance or conserve the Natural Environment and it does have an adverse impact on the visual appearance and other rural and natural features in the landscape. FPC would ask that you stand up for the

policies and for that decision taken, protect our Green Belt, and refuse this application.

**Openness of the Green Belt.** We are in a large rural parish surrounded by open farmland. We are led to believe that the surrounding land is protected Green Belt legislation. The size and scale of the proposal is completely inappropriate development. The solar park would overwhelm the area. For an idea of scale please see the picture adjacent. This is the same size and approximately the same shape as the solar park, superimposed onto the heart of our village. It completely dominates it. The solar park is just to the south of the outline and due to the topography of the land would be visible to many, many properties.



Much has been made of the **soil grade standard** on the targeted land. We know that the land is graded as 2a, 2b and 3. It is the same soil that is predominant in the whole of the Borough and the same soil that has been farmed and produced food for generations and generations. It is known within the Councillors' memory that this has been a good wheat field, a good potato field and also has cropped onions successfully. The loss of this land (assuming an easily achievable yield of 4 tons of wheat per acre) would be the loss of 600 tonnes of wheat per year adding up to 24,000 tonnes in the proposed lifespan of the application. To put it into context that would be a loss of approximately 1,090,800 800g wholemeal loaves of bread per year, or an incredible loss of 43,632,000 loaves of bread over the proposed lifespan. The NPPF (para 170) suggests that solar farms should preferably use land in areas of poorer quality (grades 3b, 4 and 5). This is not poor soil and therefore the application should be refused.

There has been great discussion as to the term **solar "farm"** when the result is a physical blot on the landscape which pays business rates just as any other business does. Farming produces food that we need to survive. Food cannot be grown on factory rooves, school rooves or warehouse rooves; most food needs to be grown in the ground. We have already established that this is good fertile land. Further loss of farmland and reduction in crops is unnecessary and will lead to a further lack of **food security and increase in prices of food** in the shops. The application should be refused.

Fillongley is a large rural parish with dispersed settlements. We are centred around a **medieval castle** and have another, older castle site in the village too. We are proud of **our historic settings and our Conservation Area**. The proposal will have a significant detrimental impact to the setting both of the Castle (which is 545 metres away and an Historic England site) and the wider village. The scale of the proposal will dwarf the Parish – most of it will be very visible from properties, from footpaths and roadways. It is contrary to FNP01 in that it will affect the setting of the Church as it will dominate the view of the Church on the approach into the Parish from Meriden which is the main view of the Church. It is also contrary to FNP06. This proposal will **change the character** of the village and should be refused.

North Warwickshire appears to have been targeted by solar park developers who are wishing to profit from the ease of developing our open countryside rather than fitting solar panels to existing buildings. There are already other, **significant sized solar parks** which have been given permission within a small radius of Fillongley. It is an ongoing situation and gathering pace with constant new applications. The cumulative impact on our local area is horrific and overwhelming and the application should be refused.

There are ongoing issues with "**glint and glare**". This is the name given to the light effects reflecting on the panels. This is a no-win location. Either they will face the motorway (providing distraction to the drivers), or they will face residents houses providing them with an inherent nuisance. Any direction will cause problems, specifically for nocturnal birds being confused by glint from the lights of traffic on the motorway reflecting off the panels.

Increasing "**bio-diversity**" is a real buzzword of the moment. When you carefully examine the proposals, there are no new hedges and only some screening trees that will be so small they would not be likely to support the birdlife that is frightened away during the construction process, will not grow fast enough to provide any screening and then will need to be chopped down after the 40 year period. Furthermore, the applicant has said in a public meeting that the site would be "sheep ready, and if the farmer chooses to diversify and have sheep that is up to him". Of course, if it were grazed that may produce some food, but this is unlikely as the farmer lives a significant distance away and is unlikely to want to come to the site every day to check on his livestock. If the site were not grazed, the likelihood is that the grass and weeds would have to be sprayed off with herbicide to prevent the weeds and grass growing over the panels. This does not benefit bio-diversity or the water quality of the surround brook. The application should be refused.

Fillongley has suffered from 2 "one in a hundred year" **flooding events**, plus other smaller flooding events in the last 12 years. These have caused untold harm to residents in the affected zone. We are in an unusual situation due to the topography of the parish. A lot of the water is from "flash flooding", when it rains very quickly either on to saturated ground or onto very dry ground, and is exacerbated by significant run off from the motorway. The passage of water to the village goes directly over the application site. The LFA have already, rightly, objected to the proposal. It would exacerbate the run off from the motorway as there would not be as much absorption across the ground that would normally absorb it as it runs across. There would be additional run off, pooling and rivulets as the rain hits the panels – this would mimic the run off from the motorway and the "flash flooding" effect. The proposal is contrary to FNP03 as it will exacerbate the flood risk within the village.

For all of the above reasons, FPC would urge that you heed the wishes of the majority of the Parish and the Fillongley Neighbourhood Plan and reject this application.

Yours sincerely



Heather Badham  
Clerk to Fillongley Parish Council

**Jeff Brown**

---

**From:** Tracey Carpenter <corleyparishcouncil@yahoo.co.uk>  
**Sent:** 15 December 2023 12:01  
**To:** Jeff Brown  
**Cc:** David Wright; Dave Humphreys; Mark Simpson; clerk@fillongleyparishcouncil.co.uk; howard darling  
**Subject:** Re: Proposed Fillongley Solar Farm -- PAP/2023/0071

**Caution:** Warning external email

Good morning Jeff

Thanks for sending the document from the applicant in response to the concerns and objections submitted by CPC (and as we understand FPC).

Sadly the information and comments makes no difference to our stance in objecting - all of our previously submitted response stands.

We would reiterate that we recognise the need for renewable sources of energy but not at the expense of good food producing land. If sheep are to be grazed presumably the panels would need to be raised to make this practical - vision impact and glare problems being increased.

The applicant says the land could be returned to green belt - while in theory we suppose that could happen it's most unlikely. If this solar farm is approved realistically this will end this parcel of land ever being green belt again.

We have concerns regarding the manufacture and transportation of the panels in the first instance but how will these units be disposed of at the end of their life. Taken together the green credentials diminish.

Our colleagues on FPC (if we understand correctly) still have concerns regarding flooding issues in their parish and we are unsure if sufficient consultation on this has taken place.

Solar facilities are inevitable but finding the right locations for them is quite another matter. In common with house building the easy option is to further destroy our green belt. The more considered approach is to consider brown field areas and the massive warehouse roofs that span many areas of our country.

Time for some more fundamental thinking!

Regards

Corley Parish Council

On 04/12/2023 08:57, Jeff Brown wrote:

We have received the attached Note from the applicant for the above proposal.

You can see that it has been particularly prepared to address areas of concern raised by the two Parish Councils.

I have promised to pass this on to you and would welcome any comments

Many thanks

Jeff



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Tracey Carpenter Clerk & RFO Corley Parish Council Tel: 07946 222373

**Jeff Brown**

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**From:** Tracey Carpenter <corleyparishcouncil@yahoo.co.uk>  
**Sent:** 18 February 2024 09:40  
**To:** Jeff Brown; clerk@fillongleyparishcouncil.co.uk  
**Subject:** Re: FW: Fillongley Solar Farm - PAP/2023/0071

Caution: Warning external email

Dear Jeff

Corley Parish Council have reviewed the amended plans you distributed and see absolutely no reason to change their position of objecting to this application.

All their previously submitted objections stand and they continue to oppose the use of perfectly good agricultural land for this purpose.

The overall green credentials of the proposal are questioned and the statement that the land after 40 years will be returned to its current state - this will never happen.

We are aware of other proposals where even if granted there is no near connection point to the grid for the generated power to connect into. What issues does this application pose and is there potential for further disruption in order for this site to become a contributor?

It is found a little distasteful that money is offered to parish councils in order to remove objections. A planning application should be judge on its merits without any financial inducements.

In summary please take this as maintaining Corley Parish Councils objections and hope our stance is recognised and carries weight.

Regards  
Tracey

Tracey Carpenter  
Clerk to Corley Parish Council

On 01/02/2024 12:01, Jeff Brown wrote:

Heather and Tracey

We have today received amended plans for this proposal as attached

There are also amended documents attached to the case file on the website ( those received on 1/2/24)

I would be grateful to receive your Council's comments on these amendments **BEFORE 16<sup>th</sup> FEBRUARY if possible**, as the application is likely to be referred to the Planning Board at its next meeting on 4<sup>th</sup> March

Many thanks

Jeff

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Tracey Carpenter Clerk & RFO Corley Parish Council Tel: 07946 222373



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# Solar and protecting our Food Security and Best and Most Versatile (BMV) Land

## Statement made on 15 May 2024

Statement UIN HCWS466

### Statement made by



**Claire Coutinho**

Secretary of State for Energy Security and Net Zero

Conservative

East Surrey

Commons

[>](#)

### Statement

Food security is an essential part of national security. This Government is fully committed to delivering robust UK food security and recognises its paramount importance to our national security. This is reflected in our commitment to maintain the current level of food we produce domestically. Heightened geopolitical risk has brought this into sharper focus and we think it is more important than ever that our best agricultural land is protected and our food production prioritised.

Similarly, we have seen our energy security threatened following Putin's illegal invasion of Ukraine with the government spending over £40bn to pay up to a half of people's energy bills. We are combatting this by racing ahead with deployment of renewable energy; nearly half of our electricity today is produced from renewables which is up from only 7 percent in 2010. Solar power is a key part of the Government's strategy for energy security, net zero and clean growth. This position was reinforced in the new National Policy Statement (EN-3), published in January this year, which stated that "Solar also has an important role in delivering the government's goals for greater energy independence and the British Energy Security Strategy states that government expects a five-fold increase in combined ground and rooftop solar deployment by 2035 (up to 70GW)".

Government recognises that, in some instances, solar projects can affect local environments which may lead to unacceptable impacts for some local communities. The planning system is designed to balance these considerations against the need to deliver a secure, clean, green energy system for the future.

### **Protecting the Best Agricultural Land**

The new National Policy Statement that we published in January makes clear that *“applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible.* The Government in Powering Up Britain: Energy Security Plan clarified that while *“solar and farming can be complementary”* developers must also have *“consideration for ongoing food production.”*

Nevertheless, in balancing both the need for energy security and food production, we are concerned that as large solar developments proceed at pace, more of our ‘Best and Most Versatile’ (BMV) land could be used for solar PV instead of food production. I am therefore setting out further detail about how our policy on balancing these competing priorities is intended to be applied.

As is outlined in the National Policy Statement, the starting position for solar PV developers in taking forward Nationally Significant Infrastructure Projects is that applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality.

The National Policy Statement can also be a material consideration in determining applications under the Town and Country Planning Act 1990 and is broadly consistent with the approach to agricultural land in the National Planning Policy Framework which states that *“Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development”.*

This means that due weight needs to be given to the proposed use of Best and Most Versatile land when considering whether planning consent should be granted for solar developments. For all applicants the highest quality agricultural land is least appropriate for solar development and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary. Applicants for Nationally Significant Infrastructure Projects should avoid the use of Best and Most Versatile agricultural land where possible.

For Nationally Significant Infrastructure Projects, including those already in the system, the National Policy Statement and from today this WMS are likely to be important and relevant considerations in the decision making process. The Government will keep under review the evidence base underpinning the National Policy Statement published in January.

### **Addressing Cumulative Impacts**

While the total area of agricultural land used for solar is very small, and even in the most ambitious scenarios would still occupy less than 1% of the UK’s agricultural land, we are increasingly seeing geographical clustering of proposed solar developments in some rural areas, such as in Lincolnshire. When considering whether planning consent should be granted for solar development it is important to consider not just the impacts of individual proposals, but also whether there are cumulative impacts where several proposals come forward in the same locality.

In parallel, my Department will be expanding the Renewable Energy Planning Database to include additional information on the types of agricultural land used by existing solar projects and those in the planning pipeline. This will enable us to carefully monitor the use of land by renewable projects in all regions of the UK.

### **Improving Soil Surveys**

The Government has heard concerns about the perceived inaccuracy and unfairness of soil surveys undertaken as part of the planning process for solar development. The Government will address this by supporting independent certification by an appropriate certifying body, subject to relevant business case approval, to ensure Agricultural Land Classification Soil Surveys are of a high standard, requiring surveyors to demonstrate meeting an agreed minimum requirement of training/experience. We will also seek to ensure consistency in how data is recorded and presented, so that reports on agricultural land classification are consistent, authoritative and objective.

### **Supporting solar on rooftops and brownfield sites**

Finally, I want to highlight that increasing the deployment of rooftop solar remains a priority for Government. The installation of qualifying energy-saving materials, including solar panels, in residential accommodation and buildings used solely for a relevant charitable purpose currently benefits from a zero rate of VAT until March 2027, at which point they will qualify for the reduced rate of VAT at 5%. At the Autumn Statement 2023, the 100% First Year Allowance for main rate plant and machinery assets, and the 50%

First Year Allowance for special rate plant and machinery assets, including solar panels, were made permanent. These measures complement the business rates exemption for eligible plant and machinery used in renewable energy generation and storage introduced in 2022.

This year, UK Government launched a new package of measures to support British farming. Under the second round of the Improving Farm Productivity grant, between £15-25 million was made available for the installation of rooftop solar and other equipment to help farms reduce fossil fuel use, improve their energy resilience, and accelerate progress towards net zero.

We also unlocked a key barrier for large-scale commercial rooftop solar, including on farm buildings, through changes to permitted development rights (PDRs) under the Town and Country Planning Act 1990. Concurrently, we introduced a new PDR allowing for the installation of solar canopies in non-domestic car parks.

We will shortly be delivering the Future Homes Standard which will set the energy performance of new homes and is due to come into force in 2025. Our consultation proposals setting out the proposed technical detail of the standard demonstrated the effectiveness of rooftop solar in reducing energy bills for consumers with solar panels. For non-domestic buildings, the Future Buildings Standard consultation proposed significant amounts of rooftop solar which is also expected to drive the use of solar power on warehouses and commercial buildings.

Additionally, social housing and the public sector both offer excellent opportunities to fit solar on homes and reduce bills. As such, we plan to explore further how to ensure that social landlords can provide solar to their tenants, and work across government to help schools, colleges, hospitals, and other buildings to supply themselves with solar power.

Further information on these initiatives will be set out in the upcoming joint government/industry Solar Roadmap.

I am making this statement with support from my Rt. Hon. Friends the Secretaries of State for Levelling Up, Housing and Communities and Environment, Food and Rural Affairs.

## Statement from

Department for Energy Security and Net Zero



## Linked statements

This statement has also been made in the House of Lords

Department for Energy Security and Net Zero



Solar and protecting our Food Security and Best and Most Versatile (BMV) Land



[Lord Callanan](#)

Parliamentary Under Secretary of State (Minister for Energy Efficiency and Green Finance)

Conservative, Life peer

Statement made 15 May 2024

HLWS464

Lords

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Your ref: PAP/2023/0071  
Our ref: WCC002749 R1/FRM/SR/001  
Your letter received: 27/10/2023



**SENT BY EMAIL**

Mr Jeff Brown  
Head of Development Control  
North Warwickshire Borough Council  
The Council House  
South Street  
Atherstone CV9 1DE

Flood Risk Management  
Warwickshire County Council  
Shire Hall  
Warwick  
Warwickshire  
CV34 4RL  
Tel: 01926 412982  
[FRMPlanning@warwickshire.gov.uk](mailto:FRMPlanning@warwickshire.gov.uk)  
[www.warwickshire.gov.uk](http://www.warwickshire.gov.uk)

**FAO Jeff Brown**

22 November 2023

Dear Mr Brown

**PROPOSAL:** Construction of a temporary Solar Farm providing 47.7 MW output, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure

**LOCATION:** Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley

Warwickshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the application which was received on the 27 October 2023. Based on the information submitted the LLFA has **No Objection** subject to the following conditions.

**Condition**

No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

1. Undertake infiltration testing to clarify whether or not an infiltration type drainage strategy is an appropriate means of managing the surface water runoff from the site.
2. Provide drawings / plans illustrating the proposed sustainable surface water drainage scheme. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a 'SuDS management train' approach to provide additional benefits and resilience within the design.
3. Provide detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, and outfall structures. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.
4. Provide detailed, network level calculations demonstrating the performance of the proposed system. This should include:
  - a. Suitable representation of the proposed drainage scheme, details of design criteria used



*Working for  
Warwickshire*

- (incl. consideration of a surcharged outfall), and justification of such criteria where relevant.
- b. Results should demonstrate the performance of the drainage scheme including attenuation storage, potential flood volumes and network status. Results should be provided as a summary for each return period.
5. Provide plans such as external levels plans, supporting the exceedance and overland flow routing provided to date. Such overland flow routing should:
- a. Demonstrate how runoff will be directed through the development without exposing properties to flood risk.
  - b. Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.

**Reason**

To prevent the increased risk of flooding; to improve and protect water quality; and to improve habitat and amenity;

**Condition**

A Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment (NFW-BWB-ZZ-XX-RP-YE-0001\_FRA) has been submitted in writing by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority prior to site completion and subsequent use. The details shall include:

1. Demonstration that any departure from the agreed design is in keeping with the approved principles.
2. Any As-Built Drawings and accompanying photos
3. Results of any performance testing undertaken as a part of the application process.
4. Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
5. Confirmation that the system is free from defects, damage and foreign objects.

**Reason**

To secure the satisfactory drainage of the site in accordance with the agreed strategy, the NPPF and Local Planning Policy.

**Condition:**

Prior to completion and subsequent use of the development shall take place until a detailed, site specific maintenance plan is provided to the LPA in consultation with the LLFA. Such maintenance plan should

1. Provide the name of the party responsible, including contact name, address, email address and phone number
2. Include plans showing the locations of features requiring maintenance and how these should be accessed.
3. Provide details on how surface water each relevant feature shall be maintained and managed for the life time of the development.
4. Provide details of how site vegetation will be maintaining for the lifetime of the development.
5. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.

**Reason:**

To ensure the future maintenance of the sustainable drainage structures.

**Notice to LPA / Applicant regarding the conditions**

Whilst the applicant has demonstrated the principles of an acceptable surface water management strategy at the site, further information is still required as detailed above.

The applicant may prefer to provide these additional details at a later date during the detailed design stage and therefore we have recommended an appropriate pre-commencement condition to ensure that these details will be provided for review and approval by the LPA and LLFA before the development commences.

Alternatively, the applicant may wish to avoid any pre-commencement conditions therefore the information set out above should be provided at this stage prior to the determination of the planning application. Subject to the approval of such details, the LLFA would subsequently seek the agreed plans to be included within any 'built in accordance with' type condition.

**Informatives for the next stage of design**

As outlined within the condition, the strategy should be treated as a minimum at this stage of the design. Further consideration should be given during the next stage of the design to incorporate additional, localised source control SuDS such as green roofs, rain-gardens and tree pits as part of a 'SuDS management train' approach to provide water quality, amenity and bio-diversity benefits and increase the resilience within the design. Reference is also made to our *Flood Risk Guidance for Development* (updated June 2023) with more details and examples of SuDS which can be incorporated at later stages of design.

At the 'discharge of condition' stage proposals for surface water drainage should be approaching a level of detail suitable for tender or construction. Documentation should show the drainage scheme including SuDS features, specific details (e.g. standard details or cross sections) and demonstrate the performance and of the system through calculations and exceedance management respectively. Such scheme should be in line with the original planning application/permission and where significant changes are made, justification should be provided.

Yours sincerely

*Scarlett Robertson*

Scarlett Robertson  
Flood Risk Management Officer

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Approved Documents:

- 11370 Land at Nailcote Farm LVA Rev B.pdf
- 11370 Land at Nailcote Farm LVA Rev B\_Part2.pdf
- Application Form.pdf
- Covering Letter\_Redacted..pdf
- Drainage Strategy\_S2-P05\_Part1.pdf
- Drainage Strategy\_S2-P05\_Part2.pdf
- Flood Risk Assessment\_S2\_P05\_Part1.pdf
- Flood Risk Assessment\_S2\_P05\_Part2.pdf
- General Layout RevF - 09-03-23.pdf
- Landscape Strategy Plan- 09-03-23.pdf
- Planning Statement Feb 23.pdf
- Site location plan.pdf

- NFW-BWB-ZZ-XX-RP-CD-0002\_LLFA Letter\_S2-P01.pdf

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N.B. On 10th January 2023, the Defra published<sup>ii</sup> "the Review for implementation of Schedule 3 to the Flood & Water Management Act 2010;" this recommended implementation of Schedule 3 which the government has accepted. Warwickshire County Council will take on the role of the SuDS Approval Body (SAB), you can read more about this on our website which we will be updating periodically.

<https://www.warwickshire.gov.uk/severe-weather/planning-and-sustainable-drainage/2>

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<sup>i</sup> <https://api.warwickshire.gov.uk/documents/WCCC-453486374-170>

<sup>ii</sup> <https://www.gov.uk/government/publications/sustainable-drainage-systems-review>



Jeff Brown  
 Head of Development Control  
 North Warwickshire Borough Council  
 The Council House  
 South Street  
 Atherstone  
 CV9 1DE

4<sup>th</sup> March 2024

**URGENT**

Dear Sir,

**PAP/2023/0071 – OBJECTION**

**Introduction**

Further to Pat Kenrick's email on 16<sup>th</sup> February 2024 we are writing on behalf of the Fillongley Flood Group (FFG) to formally set out in more detail our objections to the above planning application for a Solar Farm at Nailcote Farm.

We enclose the following evidence in support of our submission namely: -

1. A copy of the Timeview Telemetry which receives and forwards time series data and alarms at the culvert in Fillongley which are triggered by rising water levels (Sept23-Feb24).
2. Photographs of the volunteers clearing the culvert.
3. Photographs of the culvert blocked with & without debris.
4. Photographs of the volunteers clearing the culvert.
5. Photographs of the debris taken out of the culvert on 22<sup>nd</sup> February 2024.
6. Aerial footage of Fillongley taken by Drone on Friday 20<sup>th</sup> October 2023 indicating the areas that were flooded.
7. Photographs of the village in flood taken from the Bourne Brook Catchment & Flood Alleviation Study, Fillongley July 2010 (NWBC).
8. Page 12 from the Bourne Brook Catchment & Flood Alleviation Study July 2010 (NWBC).
9. Copy of the Landscape Strategy plan revised – 5<sup>th</sup> February 2024  
[AttachmentShowServlet \(northwarks.gov.uk\)](#)
10. Copy of BWB Drainage Strategy (pages 14 & 15)– Existing & Proposed Run off rates.
11. Copy of BWB Drainage Strategy (page18)– SuDs Manual schedule for swales.

We have looked at the Applicant's Planning Statement, Addendum to the Statement, Flood Risk Assessment and Drainage Strategy and Statement prepared by BWB Consultants, the Landscape Strategy Plan as well as a number of other documents on the public portal. We have spoken to Enviromena on a number of occasions at Fillongley Parish Council (FPC) meetings. (Please note that the Applicant did not attend the FPC meeting on 15<sup>th</sup> February 2024 when the FPC were required to make a decision on Enviromena's revised plans and the FFG had hoped to raise issues with them).

Several members of the FFG also live in the centre of this Conservation Village and reside in designated heritage assets and have read the Heritage & Archaeology Assessments prepared by BWB Consultants on the portal as well.



### Modelling & Data

We take issue with the Applicant's Flood Risk Assessment and Drainage Strategy in terms of both its modelling and data. For example, the Flood Risk Assessment refers to the Warwickshire PFRA and the Addendum of 2017. We note the 2017 Addendum does not reflect the flooding in the village in 2012 and 2016. Further we do not see any reference to the Bourne Brook Catchment & Flood Alleviation Study of Fillongley dated July 2010 commissioned by NWBC in the Flood Risk Assessment.

Modelling seems to be based on a 1 in hundred-year event, yet we have had floods in 1998, 2007, 2008, 2012 and 2016. Further the FFG has access to 12 years of almost complete data from The Timeview Telemetry which we are not aware the Environment Agency or Warwickshire County Council the Lead Local Authority (LLFA) have access too. The Timeview Telemetry referred to at **Document 1** records the rising water levels at the culvert by the Manor House Pub and barn (Designated heritage assets). You will see from **Document 1** that the early warning alarm alerts the Flood Groups at 0.6 maSD. The middle alarm 'Bourne is rising' is at 0.8 maSD and the critical warning alarm at 1 maSD. **Document 1** is just a snapshot of the data that the Flood Group hold (from September 23 to February 2024). You will see from **Document 1** that Fillongley has had 3 critical early warning alarm alerts between 20 October 2023 and 22<sup>nd</sup> February 2024, 4 'Bourne is rising' alarms and 12 early warnings. Major flooding to the village has been averted because volunteers from the Fillongley Flood Group have gone into the brook by the culvert at all times of the day and night to clear the trash screen of debris (illustrated by photographs at **Documents 2, 3, 4 and 5**) that is washed down the watercourses that slope through the proposed site of the Solar Farm (Flood Zone One). We also refer you to the photographs taken by drone at **Documents 6** which show the watercourses in Fillongley breaking its channels in October 2023. If the debris is not cleared away the water cannot continue down the culvert and rises thereby breaking the defence walls and flooding the village. Please see the photographs of the village in flood contained in the NWBC Bourne Brook Catchment & Flood Alleviation Study, Fillongley, North Warwickshire – July 2010 (**Document 7**).

Therefore, even a small rise in runoff together with additional debris from the development could mean that the village floods on a regular basis. The Applicant has confirmed in its Drainage Strategy that there will be an increase in runoff. However, we are not aware any account has been included in the Applicant's Flood Risk Assessment of the additional runoff from the M6 motorway. The runoff from the M6 runs downhill through the Applicant's proposed development site into the centre of the village. We have seen a number of tables including one taken from The Bourne Brook Catchment & Flood Alleviation Study page 12 (**Document 8**) which states that the M6 contributes up to eighteen percent of the overall runoff catchment in a 1 in 100-year event through to fifteen percent in a 10-year event. Clarification from BWB is clearly needed on this point as to whether any runoff from the M6 has been considered in their modelling and if so, what is the cumulative effect of runoff from both the Solar Farm and M6 Motorway. The FFG believe that the data relied upon by BWB does not give an accurate reflection of the reality of flooding in the village and raising water levels.

In addition, the FFG understands that the erection of the Solar Farm will increase the risk of flooding initially at the construction stage when the ground will have been compacted and "the trees cut down" (paragraph 8.59 of the Fillongley Solar farm Planning Statement February 2023). We are unsure from the report whether it is 30 or 300 trees due to the typo in the report. The time estimate given for the construction of the site is 3 to 6 months. However, we are aware similar projects of this scale can take up to 18 months to complete. The flood of July 2007 arose after a period of dry weather when the ground was compacted and unable to saturate the heavy rain. The FFG fear this will happen again especially as this was pointed out to us by the Flood Resilience Team at Warwickshire County Council.

Further we understand that once the site has been constructed trees and hedgerows are to be planted around the site to provide screening (Landscape Visual Appraisal and Landscape Strategy Plan). Ordinarily trees and hedgerows are helpful in preventing flooding however the planting has to be in the right place. Two watercourses run through the Solar Farm downhill and converge at the historical site of the remains of the



medieval castle and then on towards the culvert. Therefore, the revised designs (**Document 9 – Landscape Strategy plan**) put forward by the Applicant to help with screening and biodiversity create a problem, in terms of excess debris which is turn will increase the risk of flooding in Fillongley as the trash screen at the culvert collects debris (**Document 3**) and causes a build-up of water. We also understand that from time-to-time trees and foliage from the proposed development will have to be cut down so that they do not cover the solar panels.

The Applicant will argue that the interception swales as outlined in their Drainage Strategy dated November 2023 will be added to their site which will help with any runoff from the site. There is at pages 14 & 15 (**Document 10**) of their Drainage Strategy confirmation that there will be an increase in run-off although they believe that to be negligible, and the swales will assist with this. However, if the swales are blocked with debris, they have admitted at paragraph 3.17 of the Drainage Strategy that **“In the event of exceedance of the proposed swales, exceedance flows will follow the existing topography either into the nearby watercourses or off site.”** The FFG do not believe that SuDs Maintenance Schedule for Swales at page 18 (**Document 11**) of the Drainage Strategy provides adequate maintenance and monitoring. For example, removing litter and debris from the swales “once a month or as required” is too open ended and could easily lead to excessive debris entering the watercourses. As a flood group we are weekly, sometimes several times a day, clearing debris from the trash screen. Further the Applicant’s Flood Risk Assessment states at paragraph 4.6 that “the proposed fences around the perimeter of the proposed development should be designed such that water can flow freely through the fence **where possible**, particularly within the regions indicated to be as risk of flooding. They should be appropriately inspected and maintained **following flood events** especially **to prevent the accumulation of debris.**” Clearly this paragraph is a recognition that there will be debris but to suggest that the fencing should be inspected just after a flood event is a nonsense. It maybe helpful to the Applicant to inspect the fencing after a flood event but not the village. Clearly another indicator that the proposed development increases the risk of debris accumulating and increasing the risk of the village flooding on a regular basis. The debris needs to be cleared constantly not just after a flood event. We understand from the Drainage Statement that the Applicant, who is based in Reading, proposes to maintain the site. We would therefore like to know what the Applicant’s proposals are for maintaining the site. Clarification on this issue is needed from the Applicant.

We note that WCC Lead Local Flood Authority (LLFA) has withdrawn its objection with conditions to the development. However, we note that there was no site visit or visit to Fillongley (Flood Zone 2 or 3), by the LLFA, only consultation with BWB Consultants by email and a teleconference in July 2023. Further the Applicant has submitted revised plans in terms of planting and screening which run along the watercourse (see objections raised by FFG above) but there appears to have been no further consultation between the BWB Consultants and the LLFA. Further no consultation with the FFG was sought by the LLFA on the conditions that they have raised. Clarification on this issue is needed both from the LLFA and the Applicant.

#### **Designated Heritage Assets**

You will see from the photographs of the 2007 flood at **Document 7** that when Fillongley flooded several designated heritage assets in the Fillongley Conservation were flooded (FCA) including Little Bell Cottage, Bell Cottage, The Manor House Pub and barn. These buildings are identified in the Heritage and Archaeology Assessment as part of “the old village core” which characterises the Fillongley Conservation Village. Therefore, we disagree with the statement on page (iii) of the Heritage & Archaeology Assessment that there will be “no direct physical impact on designated Heritage assets as a result of the proposal.” These properties are to be put at risk from the increased flooding risk arising from the development, and this goes against the Planning (Listed Buildings & Conservation Areas) Act 1990 and in contravention of the NPPF and the North Warwickshire Local Plan.

## Conclusion

1. We believe that the modelling and data provide by the Applicant gives a slanted impression of the flood risk arising from the proposed development. Further there are still a number of outstanding questions remaining. We do have a site visit, which we have requested, on Monday 4<sup>th</sup> March but we do not feel that we will have adequate time to consider all the issues that may arise from the site visit or enquiries that have to be made with the LLFA. We would ask that this matter be heard in May 2024 which would allow us time to have clarification on the issues we have raised.
2. However, if you are not prepared to adjourn the planning meeting, we currently believe that the development will increase the flood risk to the village. Further we do not accept that the measures put forward by the Applicant in terms of betterment will mitigate the flood risk. There has been no offer of funding of the Timeview Telemetry for 40 years which historically has been paid for by grants from our Councillors. There has been no proposal for funding for automated trash screens including installation or alleviation ponds on site.
3. We appreciate that NWBC will benefit from 75,000 per annum in business rates from the development but there is a significant monetary effect from the increased flood risk which will affect not just the village of Fillongley but NWBC, WCC and the public services required to deal with the flooding. We are also acutely aware from high insurance rates even with the existence of Flood Re that this burden will be passed on to the taxpayer.
4. Several businesses in Fillongley that used to exist including the Post Office, Village Shop, Florist, and Hairdressers were all flooded and no longer exist. The Manor House Pub is also failing from under investment from the brewery and we can only imagine that further flooding may shut its doors forever.
5. Any increased flooding to the village will have an impact on house prices not just for the properties that have been flooded but for those houses that are affected by flood risk mapping. Furthermore, the whole village will acquire a reputation for flooding.
6. "The NPPF does not, therefore, say that it is automatic or inevitable that the wider benefits of renewable energy will always constitute 'special circumstances,' only that they **may** do so. That must mean an Applicant will still need to demonstrate that, in the specific circumstances of the site in question, those benefits clearly outweigh the damage done to the Green Belt. "(Jeremy Wright MP. KC). We would argue that the proposed development would cause damage to the Green Belt, the Conservation village as well as designated heritage assets.
7. Finally, if the planning committee have not been persuaded by our objections and those of other objectors that this site is inappropriate for the said development then we would ask that as well as the conditions imposed by the WCC (LLFA) the Applicant is subject to a section 106 agreement that Enviromena provide before work on the development commences the following:
  - a. An automated trash screen at the culvert in Fillongley;
  - b. An automated trash screen further upstream in Fillongley with advice from the WCC Flood Resilience Team;
  - c. Enters into a contractual agreement to fund for the length of the development the Timeview Telemetry;
  - d. Builds attenuation ponds on the site with advice from WCC Flood Resilience Team.



Thank you.

Yours sincerely,

The Fillongley Flood Group

Enc. As above

CC. Craig Tracey MP  
Cllr David Wright  
Cllr David Humphreys  
Cllr Mark Simpson  
Jennifer Leadbetter  
Steve Maxey  
Heather Badham (Clerk to FPC)  
WCC Flood Risk Management

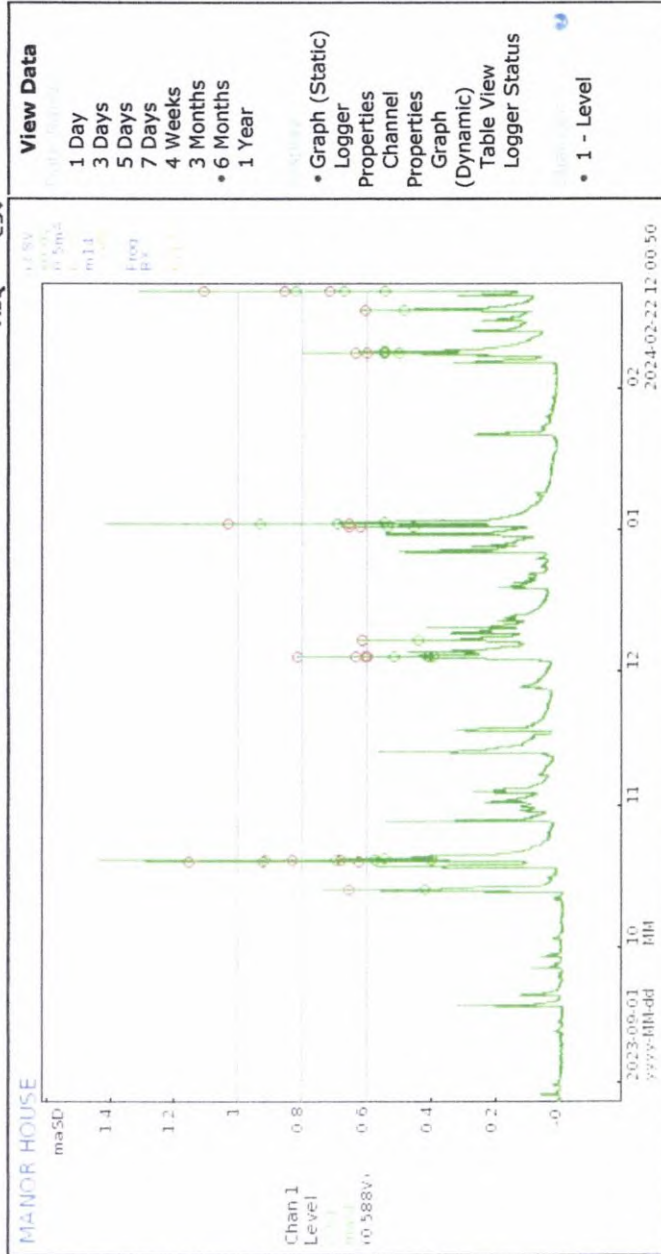
View

MANOR HOUSE Daily Checkin 0800 0900

XSD

CSV

View Configuration



| Account    | Group      | Data Number     | Serial No |
|------------|------------|-----------------|-----------|
| Fillongley | FILLONGLEY | 882360001712473 | 203A6F    |

Document 2 – Photos of Volunteers Clearing Culvert







Document 3 – Photograph of Culvert Blocked with Debris





Document 5 – Debris taken out of Culvert – 22 Feb 24



Document 6 - Aerial footage taken by Drone – 20<sup>th</sup> October 2023









July 2017

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#### 4 Impact of the M6 Motorway

As built construction drawings of the M6 were provided to NWBC by the Highways Agency, Management Agency Contractor for Area 9 (MAC9). At the time of request Optima were the MAC 9 agent, who has since been replaced by Amey Highways. This information has enabled more concise analysis to be undertaken of the contributing area of the M6 to the catchment.

An analysis has been carried out of the contribution to the overall catchment runoff of the M6 motorway.

|  | Catchment Inflows |                 |                 |                 |                 |
|--|-------------------|-----------------|-----------------|-----------------|-----------------|
|  | 100 Yr<br>(m3/s)  | 75 Yr<br>(m3/s) | 50 Yr<br>(m3/s) | 25 Yr<br>(m3/s) | 10 Yr<br>(m3/s) |
| Total Inflows                            | 4.2               | 4               | 3.6             | 3.1             | 2.4             |
| Motorway Runoff<br>Contribution          | 0.76              | 0.7             | 0.62            | 0.5             | 0.37            |
| Percentage Contribution<br>from Motorway | 18%               | 18%             | 17%             | 16%             | 15%             |

Table 2 – Percentage runoff contribution from M6 motorway

This table shows that the contribution from the M6 motorway is significant but it is not the main source of runoff in the catchment. The model has been simulated with a 100 year event with all of the motorway contribution removed. This was not sufficient to prevent flooding from occurring but did reduce the impact.

**Recommended Action:** - flood routing from the M6 should be examined in more detail. A possible solution would be to ascertain if there was sufficient space within the confines of the M6 boundary to provide a swale or pond storage system to attenuate the flows.

As an alternative, negotiations should take place with the MAC 9 agent to provide a percentage of the costs towards flood alleviation works elsewhere. There is currently no legal obligation for the Highways Agency to make a contribution for motorway runoff and the right of connection to the watercourse cannot be removed.

**Table 3.1: Existing & Proposed Runoff Rates**

| Return Period (Yr.) | Existing Greenfield Runoff Rate (l/s) | Post-Development Unmitigated Runoff Rate (l/s) | Post-Development Increase |     |
|---------------------|---------------------------------------|--|---------------------------|-----|
|                     |                                       |  | l/s                       | %   |
| 1                   | 20.4                                  | 20.5   | 0.1                       | 0.5 |
| QBAR                | 24.6                                  | 24.7   | 0.1                       | 0.4 |
| 30                  | 48.2                                  | 48.3   | 0.1                       | 0.2 |
| 100                 | 63.2                                  | 63.4   | 0.2                       | 0.3 |
| 100 + 40%*          | 93.7                                  | 93.9   | 0.2                       | 0.2 |

\* Calculated by multiplying Standard Annual Average Rainfall (SAAR) by 1.4 to simulate a 40% climate change uplift on rainfall intensity

- 3.24 As shown within **Table 3.1**, the post-development runoff rate, when factoring in the increased impermeable area from the ancillary equipment is anticipated to increase the QBAR rate by 0.1l/s (0.4%), the 1 in 100-year runoff rate by 0.2l/s (0.3%) and the 1 in 100-year plus 40% climate change by 0.2l/s (0.2%). Therefore, the impact of developing the Site is considered to have a negligible impact on the existing runoff rate.
- 3.25 An assessment of the impacts the proposed ancillary equipment will have on the 1 in 100-year 6-hour runoff volume post-development has been undertaken. The pre- and post-development runoff volumes are compared in **Table 3.2**, with the supporting calculations provided within **Appendix 6**.
- 3.26 As the proposed development area is currently entirely greenfield, the existing runoff volume has been calculated using MicroDrainage to be 12,907m<sup>3</sup>.
- 3.27 The runoff volume from the new impermeable area (i.e., 0.04ha associated with the ancillary equipment) has been calculated using an average rainfall intensity of 10.7mm/hr as calculated using FEH rainfall data within Micro Drainage, and multiplied by the impermeable area, as described within **Figure 3.1**. The 100-year, 6-hour rainfall profile is presented within **Appendix 7**.

|   |
|---|
| $\text{Av. Rainfall (m/hr)} \times 6 \text{ (hours)} \times \text{Impermeable Area (m}^2\text{)} = \text{Runoff Volume (m}^3\text{)}$ $0.0107 \times 6 \times 387 = 25\text{m}^3$ |
|---|

**Figure 3.1: 1 in 100-Year, 6 Hour Runoff Volume**

- 3.28 As shown in **Figure 3.1**, the runoff volume from the newly introduced impermeable area is 25m<sup>3</sup>. The runoff volume from the remaining permeable portion of the proposed development area (62.16ha) has been calculated using MicroDrainage to be 12,899m<sup>3</sup>. As a result, the total post-development runoff volume is calculated to be 12,924m<sup>3</sup>.



**Table 3.2: Runoff Volume Comparison**

| Existing Volume (m <sup>3</sup> ) | Proposed Volume (m <sup>3</sup> ) |             | Difference (m <sup>3</sup> ) |
|-----------------------------------|-----------------------------------|-------------|------------------------------|
|                                   | Permeable                         | Impermeable |                              |
| 12,907                            | 12,899                            | 25          | 17                           |

- 3.29 As shown within **Table 3.2**, the proposed introduction of the ancillary equipment will result in an increase of surface water runoff volume during the 1 in 100-year 6-hour event by 17m<sup>3</sup>. This is an increase of approximately 0.1% of the existing conditions within the Site.
- 3.30 It is anticipated that any increase in surface water runoff volume leaving the site will be intercepted within the interception swales located across the site.

Interception Swales

- 3.31 It is proposed that the interception swales will have 1:4 internal side slopes with a maximum design water depth of 300mm. The material excavated to install the swales will be applied to the downstream edge of the features to create an earth bund. A typical cross section of the proposed interception swales is provided within **Appendix 4**.
- 3.32 The proposed swales have been positioned outside of Flood Zone 3 and are also not anticipated to adversely displace any existing floodplains within the Site as no level raising will be associated with the construction of the swales.
- 3.33 Based on the proposed dimensions of the interception swales, it is anticipated that the maximum storage capacity of the swales is approximately 0.4m<sup>3</sup>/m.
- 3.34 The interception storage capacity of the swales is such that an increase in runoff volume associated with the ancillary equipment will be intercepted by the proposed swales. Additionally, the inclusion of the swales within the development will act to provide a betterment to the existing surface water runoff rate and volume that will leave the Site onto surrounding land and Bourne Brook and the UOW post-development.
- 3.35 The inclusion of the interception swales across the development will also function as a mitigation measure to reduce the likelihood of any pollution incidents leaving the Site. As the risk of pollution incidents is more likely to occur during the construction phase as opposed to the operation of the Site, it is recommended that the swales are constructed early on during the construction phase and silt fences are utilised on the swales during the entire construction phase.
- 3.36 The proposed swales should be maintained throughout the lifetime of the development to reduce the risk of the features becoming less effective due to silt accumulation, litter accumulation or vegetation issues.

## 4. MAINTENANCE

4.1 The SuDS Manual maintenance schedule for swales, is shown in **Table 4.1**.

**Table 4.1: The SuDS Manual Typical Maintenance Schedule for Swales**

| Maintenance Schedule   | Typical Frequency   | Required Action   |
|------------------------|---|---|
| Regular Maintenance    | Monthly   | <ul style="list-style-type: none"> <li>Inspect inlets, outlets, and overflows for blockages, and clear if required.</li> </ul>  |
|                        | Monthly (or as required)  | <ul style="list-style-type: none"> <li>Remove litter and debris; and</li> <li>Inspect infiltration surfaces for ponding, compaction, silt accumulation, record areas where water is ponding for &gt; 48 hours.</li> </ul>   |
|                        | Monthly (during growing season), or as required                               | <ul style="list-style-type: none"> <li>Cut grass - to retain grass height within specified design range.</li> </ul>   |
|                        | Monthly for first year then as required                                       | <ul style="list-style-type: none"> <li>Manage other vegetation and remove nuisance plants.</li> </ul>   |
|                        | Monthly for 6 months, quarterly for 2 years, then half yearly                 | <ul style="list-style-type: none"> <li>Inspect vegetation coverage.</li> </ul>  |
|                        | Half yearly   | <ul style="list-style-type: none"> <li>Inspect inlets and facility surface for silt accumulation, establish appropriate silt removal frequencies.</li> </ul>  |
| Occasional Maintenance | As required or if bare soil is exposed over > 10% of the swale treatment area | <ul style="list-style-type: none"> <li>Reseed areas of poor vegetation growth, after plant types to better suit conditions, if required.</li> </ul>   |
| Remedial Action        | As required   | <ul style="list-style-type: none"> <li>Repair erosion or other damage by re-turfing or reseeded;</li> <li>Relevel uneven surfaces and reinstate design levels;</li> <li>Scarify and spike topsoil layer to improve infiltration performance, break up silt deposits and prevent compaction of the soil surface;</li> <li>Remove build-up of sediment on upstream gravel trench, flow spreader or at top of filter strip; and</li> <li>Remove and dispose of oils or petrol residues using safe standard practices.</li> </ul> |



SENT BY EMAIL

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FAO Jeff Brown

03 April 2024

Dear Mr Brown

**PROPOSAL:** Construction of a temporary Solar Farm providing 47.7 MW output, to include the installation of ground-mounted solar panels together with associated works, equipment, and necessary infrastructure

**LOCATION:** Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley

The Flood Risk Management Team as Lead Local Flood Authority have been asked to provide a brief report on their stance for the planning application 'Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley'. As part of our role as statutory consultee in the planning process, we are consulted by Local Planning Authorities (in this instance North Warwickshire Borough Council) to comment on all 'major' applications from a flood risk and surface water drainage perspective.

**Location**

The proposed development site is on the land 800 meters south of Park House Farm, Meriden Road, Fillongley. The site is directly north of the M6 motorway and at its northern most boundary approximately 1km from the centre of Fillongley Village.



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Figure 1: The red line boundary of the proposed solar farm, Fillongley.

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### **LLFA Stance on the Development**

The LLFA has been consulted on the proposed development since March 2023 and provided their last formal response on 27 October 2024. During this time the LLFA had multiple meetings with the applicant to discuss our initial objection and a telephone call with the Fillongley Flood Group to discuss their concerns with the proposal. Based on the information submitted in October 2024 the LLFA had no objection subject to the following conditions.

#### **Condition**

*No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:*

1. *Undertake infiltration testing to clarify whether or not an infiltration type drainage strategy is an appropriate means of managing the surface water runoff from the site.*
2. *Provide drawings / plans illustrating the proposed sustainable surface water drainage scheme. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a 'SuDS management train' approach to provide additional benefits and resilience within the design.*
3. *Provide detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, and outfall structures. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.*
4. *Provide detailed, network level calculations demonstrating the performance of the proposed system. This should include:*
  - *Suitable representation of the proposed drainage scheme, details of design criteria used (incl. consideration of a surcharged outfall), and justification of such criteria where relevant.*
  - *Results should demonstrate the performance of the drainage scheme including attenuation storage, potential flood volumes and network status. Results should be provided as a summary for each return period.*
5. *Provide plans such as external levels plans, supporting the exceedance and overland flow routing provided to date. Such overland flow routing should:*
  - *Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.*

#### **Reason**

*To prevent the increased risk of flooding; to improve and protect water quality; and to improve habitat and amenity;*

#### **Condition**

*A Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment (NFW-BWB-ZZ-XX-RP-YE-0001\_FRA) has been submitted in writing by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority prior to site completion and subsequent use. The details shall include:*

1. *Demonstration that any departure from the agreed design is in keeping with the approved principles.*
2. *Any As-Built Drawings and accompanying photos*
3. *Results of any performance testing undertaken as a part of the application process.*
4. *Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.*

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5. Confirmation that the system is free from defects, damage and foreign objects.

**Reason**

To secure the satisfactory drainage of the site in accordance with the agreed strategy, the NPPF and Local Planning Policy.

**Condition**

Prior to completion and subsequent use of the development shall take place until a detailed, site specific maintenance plan is provided to the LPA in consultation with the LLFA. Such maintenance plan should

1. Provide the name of the party responsible, including contact name, address, email address and phone number
2. Include plans showing the locations of features requiring maintenance and how these should be accessed.
3. Provide details on how surface water each relevant feature shall be maintained and managed for the life time of the development.
4. Provide details of how site vegetation will be maintaining for the lifetime of the development.
5. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.

**Reason**

To ensure the future maintenance of the sustainable drainage structures.

**Informatives for the next stage of design**

As outlined within the condition, the strategy should be treated as a minimum at this stage of the design. Further consideration should be given during the next stage of the design to incorporate additional, localised source control SuDS as part of a 'SuDS management train' approach to provide water quality, amenity and bio-diversity benefits and increase the resilience within the design. Reference is also made to our Flood Risk Guidance for Development' (updated June 2023) with more details and examples of SuDS which can be incorporated at later stages of design.

At the 'discharge of condition' stage proposals for surface water drainage should be approaching a level of detail suitable for tender or construction. Documentation should show the drainage scheme including SuDS features, specific details (e.g. standard details or cross sections) and demonstrate the performance and of the system through calculations and exceedance management respectively. Such scheme should be in line with the original planning application/permission and where significant changes are made, justification should be provided.

Whilst the applicant had demonstrated the principles of an acceptable surface water management strategy for the proposed site, further information is still required to be submitted to the LLFA as detailed above before any development can take place. If the LLFA is not satisfied with the information submitted, they will not recommend that the Local Planning Authority (LPA) discharge the conditions.

**Decision Meeting**

The Board deferred determination on Monday 04 March 2024, on the grounds that clarification was required of the LLFA's response on the potential flood impacts arising from the development. The Flood Group circulated a letter on the morning of the Monday 04 March 2024, outlining their concerns with the proposed development. The applicant met the Group's

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representatives on site later on in the afternoon, however requested a second site visit was carried out with the LLFA present.

At the Board meeting there were concerns that the LLFA had not visited the site and therefore the formal responses submitted by the LLFA were "desk-based". The LLFA have no obligation to visit proposed development sites prior to reviewing the application. A decision was made that the LLFA would make an exception for this site given the relationship between the team and the Flood Action Group. It should be noted that this is not something the team typically do.

**LLFA's Requirements and the Applicant Response.**

Whilst it is widely considered that greenfield solar farms have negligible impact regarding surface water runoff, the LLFA raise a number of points in Warwickshire County Council's 'Flood Risk & Sustainable Drainage Local guidance for developers'. The key points from this document and the applicant's response and/or requirements are as follows:

- **Infiltration Testing**

Infiltration testing was carried out on site at 7 locations mutually agreed by the applicant and LLFA. The results of the infiltration testing showed that surface water naturally drains from the site via infiltration at varying rates.

- **Attenuation Features**

The LLFA require multi-functional above ground surface water attenuation features to be incorporated into the sites drainage scheme, with the purpose of capturing runoff from the solar panels. Ideally gravel filter trenches positioned under the drip line of each solar panel would be proposed to capture and store runoff from the panels. However, at a minimum there is a requirement to include above ground swales positioned strategically around the development to capture surface water runoff from the solar panels as water flows downslope.

The applicant has proposed the latter in that surface water runoff from impermeable areas will be captured by the proposed cut off swales located upstream from any offsite receptors of surface water runoff. Surface water captured by runoff swales will slowly infiltrate into the ground.

It is proposed that the interception swales will have 1:4 internal side slopes with a maximum design water depth of 300mm. The material excavated to install the swales will be applied to the downstream edge of the features to create an earth bund.

The proposed swales have been positioned outside of Flood Zone 3 and are also not anticipated to adversely displace any existing floodplains within the site as no level raising will be associated with the construction of the swales.

The inclusion of the swales within the development will act to provide a betterment to the existing surface water runoff rate and volume that will leave the site onto surrounding land and watercourses post-development.

- **Watercourse buffer strips**

Within the 'Flood Risk Recommendations' section of the SFRA it states that 'An appropriate buffer strip must be maintained along fluvial corridors respectively, to ensure that maintenance of the channel can be undertaken;'. This has been agreed with the applicant.

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- **Construction activities and soil compaction**

The applicant has stated they aim to restrict vehicular movements on site to designated access tracks. In doing so, the risk of soil compaction is minimised and limited to specific locations. The vehicular access tracks are also proposed to be permeable.

- **Vegetation management**

The applicant has specified what type of vegetation will be planted across the site and will provide details of how this will be maintained. The ideal situation is that vegetation is grassed and is kept reasonably high or grazed by livestock. Good vegetation cover will limit the transfer of sediments and slow the flow of water. The LLFA are waiting further details of how this will be maintained appropriately on site to ensure that no debris enters the watercourses.

#### **Fillongley Flood Action Group**

Following on from the COVID-19 pandemic, the Flood Risk Management Team at Warwickshire County Council contacted Fillongley Parish Council in February 2022 expressing our desire to reengage and to support the Flood Action Group in order to improve community engagement. Since then the LLFA have had a close working relationship with the group, attended the village on numerous occasions and held multi-agency meetings to discuss flood related issues with other partners. Therefore, as stated by the Flood Action Group, we as a team are aware of the flood risk in Fillongley.

One of the primary concerns of the Flood Action Group which the LLFA are fully aware of is the build-up of debris at the trash screen situated next to The Manor House Pub in the village. As part of our formal response, we have included a maintenance condition which requires the applicant to provide an in-depth site-specific plan providing details of how surface water and each feature will be maintained and managed for the lifetime of the development, along with details of who is responsible. This also includes a sub-point of how vegetation will be maintained. If during any point, there are concerns that the site is not being maintained as agreed, the LLFA will be able to contact the parties responsible to ensure that all works are being carried out.

#### **LLFA's Site Visit**

As previously stated the LLFA have no requirement to attend site visits for proposed developments, however an exception for this site was made.

An updated Landscape Strategy was presented to the LLFA on arrival at the site visit. This had not been submitted to the LLFA for review as the changes made did not have an impact on the proposed drainage strategy. It is worth noting that the updated Landscape Strategy Plan illustrated additional hedgerows and vegetation planting across the site which further mitigate flood risk by slowing the flow off run off travelling across the site towards the watercourses.

The Flood Action Group discussed possible Natural Flood Management (NFM) measures including attenuation ponds, that could be installed within the development site boundary. The LLFA would be willing to support the group in any future projects moving forward. Although mitigation measures here would not eliminate flood risk to Fillongley village, they may reduce the risk by an unknown quantity by holding back the volume of water entering the watercourses at times of significant rainfall. Any NFM projects would need to be discussed and agreed with

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the landowner, it is believed that the applicant (Environmena) will take over ownership rights for the lifetime of the development.

**Summary**

A site visit to the land 800 meters south of Park House Farm, Meriden Road, Fillongley was made on Monday 18 March 2024 with attendance from the LLFA, the applicant (Enviromena), the drainage designers (BWB) and members of Fillongley Flood Action Group. The attendees walked the boundary of the site and discussed various concerns from the Flood Group, these were largely addressed on site by the applicant with the exception of a small number of questions which were taken away.

The LLFA were requested in attendance due to the Flood Groups concern that the no objection subject to conditions response submitted by the LLFA to the LPA on the 27 October 2023 was based solely on 'desk-based' assessment. The LLFA have no formal requirement to undertake site visits, however it was felt that the site visit was beneficial for all parties to better understand the concerns of Fillongley Flood Action Group.

The National Planning Policy Framework (NPPF) and supporting Planning Practice Guidance (PPG) provides the overarching national policy and guidance relating to flood risk and sustainable drainage. It states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Given this the LLFA position remains unchanged following on from the site visit to the proposed development site. The applicant has addressed all of the LLFA's points adequality at this stage in the planning process. Further details and information are still required to be submitted. If the LLFA are not satisfied with the information submitted, they will not recommend that the Local Planning Authority (LPA) discharge the conditions and no development should take place.

Yours sincerely,

Scarlett Robertson  
Flood Risk Management Officer

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Your ref: PAP/2023/0071  
 Our ref: WCC002749 R2/FRM/SR/002  
 Your letter received: 14/05/2024

**SENT BY EMAIL**

Mr Jeff Brown  
 Head of Development Control  
 North Warwickshire Borough Council  
 The Council House  
 South Street  
 Atherstone CV9 1DE

Flood Risk Management  
 Warwickshire County Council  
 Shire Hall  
 Warwick  
 Warwickshire  
 CV34 4RL  
 Tel: 01926 412982  
[FRMPlanning@warwickshire.gov.uk](mailto:FRMPlanning@warwickshire.gov.uk)  
[www.warwickshire.gov.uk](http://www.warwickshire.gov.uk)

**FAO Jeff Brown**

30 May 2024

Dear Mr Brown

**PROPOSAL:** Construction of a temporary Solar Farm providing 47.7 MW output, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure

**LOCATION:** Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley

Warwickshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the application which was received on the 14 May 2023. It understood that the applicant has update the drainage strategy to now include additional SuDS features. The LLFA's last response on 22 November 2023 was no objection subject to conditions, given that the drainage scheme on the proposed site has been improved, the LLFA has **No Objection** subject to the following conditions which remain.

**Condition**

No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

1. Undertake infiltration testing to clarify whether or not an infiltration type drainage strategy is an appropriate means of managing the surface water runoff from the site.
2. Provide drawings / plans illustrating the proposed sustainable surface water drainage scheme. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a 'SuDS management train' approach to provide additional benefits and resilience within the design.
3. Provide detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, and outfall structures. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.
4. Provide detailed, network level calculations demonstrating the performance of the proposed



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- system. This should include:
- a. Suitable representation of the proposed drainage scheme, details of design criteria used (incl. consideration of a surcharged outfall), and justification of such criteria where relevant.
  - b. Results should demonstrate the performance of the drainage scheme including attenuation storage, potential flood volumes and network status. Results should be provided as a summary for each return period.
5. Provide plans such as external levels plans, supporting the exceedance and overland flow routing provided to date. Such overland flow routing should:
- a. Demonstrate how runoff will be directed through the development without exposing properties to flood risk.
  - b. Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.

**Reason**

To prevent the increased risk of flooding; to improve and protect water quality; and to improve habitat and amenity;

**Condition**

A Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment (NFW-BWB-ZZ-XX-RP-YE-0001\_FRA, rev P07) has been submitted in writing by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority prior to site completion and subsequent use. The details shall include:

1. Demonstration that any departure from the agreed design is in keeping with the approved principles.
2. Any As-Built Drawings and accompanying photos
3. Results of any performance testing undertaken as a part of the application process.
4. Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
5. Confirmation that the system is free from defects, damage and foreign objects.

**Reason**

To secure the satisfactory drainage of the site in accordance with the agreed strategy, the NPPF and Local Planning Policy.

**Condition:**

Prior to completion and subsequent use of the development shall take place until a detailed, site specific maintenance plan is provided to the LPA in consultation with the LLFA. Such maintenance plan should

1. Provide the name of the party responsible, including contact name, address, email address and phone number
2. Include plans showing the locations of features requiring maintenance and how these should be accessed.
3. Provide details on how surface water each relevant feature shall be maintained and managed for the life time of the development.
4. Provide details of how site vegetation will be maintaining for the lifetime of the development.
5. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.

**Reason:**

To ensure the future maintenance of the sustainable drainage structures.

**Notice to LPA / Applicant regarding the conditions**

Whilst the applicant has demonstrated the principles of an acceptable surface water management

strategy at the site, further information is still required as detailed above.

The applicant may prefer to provide these additional details at a later date during the detailed design stage and therefore we have recommended an appropriate pre-commencement condition to ensure that these details will be provided for review and approval by the LPA and LLFA before the development commences.

Alternatively, the applicant may wish to avoid any pre-commencement conditions therefore the information set out above should be provided at this stage prior to the determination of the planning application. Subject to the approval of such details, the LLFA would subsequently seek the agreed plans to be included within any 'built in accordance with' type condition.

**Informatives for the next stage of design**

As outlined within the condition, the strategy should be treated as a minimum at this stage of the design. Further consideration should be given during the next stage of the design to incorporate additional, localised source control SuDS such as green roofs, rain-gardens and tree pits as part of a 'SuDS management train' approach to provide water quality, amenity and bio-diversity benefits and increase the resilience within the design. Reference is also made to our *Flood Risk Guidance for Development* (updated June 2023) with more details and examples of SuDS which can be incorporated at later stages of design.

At the 'discharge of condition' stage proposals for surface water drainage should be approaching a level of detail suitable for tender or construction. Documentation should show the drainage scheme including SuDS features, specific details (e.g. standard details or cross sections) and demonstrate the performance and of the system through calculations and exceedance management respectively. Such scheme should be in line with the original planning application/permission and where significant changes are made, justification should be provided.

Yours sincerely

*Scarlett Robertson*

Scarlett Robertson  
Flood Risk Management Officer

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Approved Documents:

- Application Form.pdf
- Covering Letter\_Redacted..pdf
- Planning Statement Feb 23.pdf
- Site location plan.pdf
- 3D Basins and Sections\_S2-P01.pdf
- 11370 Land at Nailcote Farm, LVA Rev E.pdf
- Conceptual Drainage Strategy\_S2-P07..pdf
- Drainage Strategy\_S2-P07.pdf
- Flood Risk Assessment\_S2\_P07.pdf
- P17-Landscape Strategy Plan.pdf

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N.B. On 10th January 2023, the Defra published<sup>ii</sup> “the Review for implementation of Schedule 3 to the Flood & Water Management Act 2010;” this recommended implementation of Schedule 3 which the government has accepted. Warwickshire County Council will take on the role of the SuDS Approval Body (SAB), you can read more about this on our website which we will be updating periodically.

<https://www.warwickshire.gov.uk/severe-weather/planning-and-sustainable-drainage/2>

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<sup>i</sup> <https://api.warwickshire.gov.uk/documents/WCCC-453486374-170>

<sup>ii</sup> <https://www.gov.uk/government/publications/sustainable-drainage-systems-review>





**From:** [Jeff Brown](#)  
**To:** [planappconsult – Planning Support Team](#)  
**Subject:** FW: Fillongley Solar Farm  
**Sent:** 22/05/2024 09:20:39

---

Representation please – PAP/2023/0071

Thanks

Jeff

**From:** Heather Badham <[clerk@fillongleyparishcouncil.co.uk](mailto:clerk@fillongleyparishcouncil.co.uk)>  
**Sent:** Wednesday, May 22, 2024 9:17 AM  
**To:** Jeff Brown <[JeffBrown@NorthWarks.gov.uk](mailto:JeffBrown@NorthWarks.gov.uk)>  
**Cc:** Mark Simpson <[MarkSimpson@NorthWarks.gov.uk](mailto:MarkSimpson@NorthWarks.gov.uk)>; David Wright <[DavidWright@NorthWarks.gov.uk](mailto:DavidWright@NorthWarks.gov.uk)>; David Humphreys <[DavidHumphreys@NorthWarks.gov.uk](mailto:DavidHumphreys@NorthWarks.gov.uk)>  
**Subject:** RE: Fillongley Solar Farm

**Caution:** Warning external email

Dear Jeff

Thank you for your email which was circulated to the Council before its recent meeting and discussed at the meeting.

Councillors understand the alterations and are of course pleased that the applicant is seeking to mitigate the flood issues but maintain their strong objections to the application.

FPC do not believe that this is appropriate development for BMV land in the green belt and that this land should be left as agricultural land, providing food security for the nation. Councillors are particularly concerned given recent Government advice/declaration that planning laws have not been interpreted correctly and that BMV land (such as this) should not be considered for solar farms. It was also said that solar farms should not be in clusters, which is again what appears to have happened in our part of North Warwickshire. FPC would hope that, particularly given the most recent communications from Parliament, the recommendation would be for refusal of this application and FPC maintain their strong objections.

Regards  
Heather Badham  
Clerk to Fillongley Parish Council

01676 549193

For ease of contact, the office is usually manned Monday, Wednesday and Friday afternoons subject to other appointments.

**From:** Jeff Brown <[JeffBrown@NorthWarks.gov.uk](mailto:JeffBrown@NorthWarks.gov.uk)>  
**Sent:** Tuesday, May 14, 2024 2:57 PM  
**To:** [clerk@fillongleyparishcouncil.co.uk](mailto:clerk@fillongleyparishcouncil.co.uk)  
**Subject:** Fillongley Solar Farm

Heather

Since deferral of the determination of this planning application at the March Board meeting, the applicant has engaged with both the Fillongley Flood Group and the LLFA. This resulted in an updated response from the LLFA as attached.

The applicant has also elected to add further measures – three on-site detention ponds. These are now included in amended plans which have been formally submitted along with an updated Flood Risk Assessment. These can all be found on the case file on the web site using the reference PAP/2023/0071 and are the documents received on 14 May 2024.

There is also an updated landscaping plan which adds further planting along the northern and eastern site boundaries.

These amendments are to be referred to the Planning Board on 10 June.

I would therefore welcome your Council's comments before 24 May so that they can be included in the written report. If not, then they will be reported verbally to the Board.

Many thanks



**Jeff Brown**  
Head of Development Control  
North Warwickshire Borough Council

**Phone:** 01827 719310

**Web:** [www.northwarks.gov.uk](http://www.northwarks.gov.uk)

**Social:** 



Any opinions expressed in the email are those of the individual and not necessarily those of North Warwickshire Borough Council.

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**Agenda Item No 6**

**Planning and Development Board**

**8 July 2024**

**Report of the  
Head of Development Control**

**Appeal Update**

**1 Summary**

1.1 The report updates Members on a recent appeal decisions.

**Recommendation to the Board**

**That the report be noted.**

**2 Appeal Decisions**

**a) Land off Barnes Wood Lane, Whitacre Heath**

2.1 This appeal relates to the erection of a new dwelling in the garden of an existing house in a small cluster of dwellings set back from the Birmingham Road in Whitacre Heath. The dismissal of the appeal revolved around the development being found to be inappropriate in the Green Belt and in an unsustainable location being outside of any defined settlement as set out in the Borough's settlement hierarchy. There were no considerations of such weight to clearly outweigh non-compliance with these policies.

... 2.2 The appeal letter is at Appendix A

**b) Charity House, Austrey**

2.3 This appeal - the second at this address - concerned the variation of a planning condition to allow a private swimming pool to be used for swimming lessons by others - particularly those that might be disabled. The Inspector agreed with the Council that the additional use would cause disturbance to local residents as well as give rise to potential road safety concerns.

... 2.4 The appeal letter is at Appendix B.

### **3 Report Implications**

#### **3.1 Environment, Sustainability and Human Health**

- 3.1.1 The Whitacre Heath decision fully aligns with the Council's policies on protecting the rural character of the Borough through its Green Belt policy and its adopted settlement hierarchy, thus restricting unsustainable and inappropriate development.
- 3.1.2 The Austrey case confirms that increased vehicular activity can give rise to disturbance this causing adverse amenity impacts.

The Contact Officer for this report is Jeff Brown (719310).



# Appeal Decision

Site visit made on 16 April 2024

**by N Bromley BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 31 May 2024**

**Appeal Ref: APP/R3705/W/23/3335824**

**Old Beretun, Barnes Wood Lane, Whitacre Heath, Warwickshire B46 2EF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr David Trueman against the decision of North Warwickshire Borough Council.
- The application Ref is PAP/2023/0206.
- The development proposed is detached two bedroom dwelling.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appellant has submitted a Flood Risk Assessment (FRA), dated November 2023. The FRA was prepared after the Council's decision, but it was submitted with the appellant's Statement of Case. While the Council has reservations about accepting the FRA as part of the appeal, it has had an opportunity to comment on the FRA, as has the Environment Agency. Having regard to the principles established in *Holborn Studios Ltd*<sup>1</sup>, I am satisfied that no party has been prejudiced in this regard and I have taken the FRA into account in determining this appeal.
3. Since the date of the decision, the Nether Whitacre Neighbourhood Plan (NP) was adopted in January 2024. The NP forms part of the development plan and a copy has been provided with the Council's Statement of Case (SoC). The Council refer to the NP and relevant policies in its SoC, which the appellant has had an opportunity to comment on.

## Main Issues

4. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including assessing the effect of the proposal on the openness of the Green Belt;
  - whether or not the location would be suitable for housing having regard to accessibility to services and facilities;
  - whether or not the location would be suitable for housing having regard to flood risk; and

<sup>1</sup> *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823

- if the proposal is found to be inappropriate development, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the 'very special circumstances' required to justify the proposal.

## **Reasons**

### *Whether inappropriate development*

5. The appeal site is located within the open countryside, set amongst a complex of residential properties. The land is currently used as garden land to the host property and includes a summer house and other domestic paraphernalia. The site is accessed from the main road by a long, uneven driveway.
6. The Framework establishes that new buildings in the Green Belt are inappropriate other than for specified exceptions that are set out in paragraph 154. One such exception, 154(e), is limited infilling in villages. A further exception is set out at paragraph 154(g), which allows for the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
7. Policy LP3 of the North Warwickshire Local Plan, 2021 (LP) is broadly consistent with the Framework in resisting development in the Green Belt except in certain circumstances. Point 3 states that "Limited infilling, in settlements washed over by the Green Belt, will be allowed within infill boundaries as defined on the Policies Map". It also identifies, at point 4, that "Limited infilling may also be acceptable where a site is clearly part of the built form of a settlement, i.e. where there is substantial built development around three or more sides of a site". However, I am also mindful that it is a matter of planning judgement for the decision maker, taking into account numerous factors, including the size and location of the development and its relationship to the existing built form of the surroundings.
8. The cluster of buildings off Barnes Wood Lane is detached from the nearest settlement of Whitacre Heath. As a consequence, the buildings within the small complex, as well as neighbouring properties are physically separated from the settlement. Thus, they are not viewed within the context of the settlement and its built form. Therefore, the site is not part of the settlement.
9. In addition, the group of buildings are surrounded by open fields, and the surrounding area has a wholly rural character. The pattern of development close to the appeal site is also largely fragmented, with the sizeable gardens of neighbouring dwellings resulting in spacious gaps between buildings. As such, the site is not surrounded around three or more sides and the proposal would not infill a small gap within a substantial built development.
10. Furthermore, whilst the proposed dwelling would replace the existing small summer house building, its bulk and mass would be significantly larger. This would increase its prominence making it more visually intrusive. This would be a significant negative change in terms of the existing spatial and visual openness of the Green Belt and it would have a greater impact on the openness of the Green Belt. Therefore, even if I were to accept that the proposal is deemed to be the partial redevelopment of previously developed



land, for the reasons given, the proposal would not benefit from the exemption listed in paragraph 154(g) and any of the other listed exceptions.

11. The proposed development would also conflict with the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open and safeguarding the countryside from encroachment.
12. For the reasons given above, I conclude that the proposal would be inappropriate development in the Green Belt and would harm the openness of the Green Belt and the purposes it serves.

#### *Location*

13. Policy LP2 of the LP directs development, including new housing, to specified main towns and settlements, categorised from 1 to 4, and category 5 being "All other locations". The site falls within the latter and the policy sets out that development within these locations will not generally be acceptable, albeit it does set out that there may be some instances where development may be appropriately located and would enhance or maintain the vitality of rural communities. This is consistent with paragraph 83 of the Framework, which seeks housing to be located where it will support local services.
14. Policy HP1 of the NP states that new dwellings should represent limited infilling within the Nether Whitacre parish development boundary.
15. Whitacre Heath is the nearest settlement, which has a category 4 status. However, as I have already identified, the appeal site is within the open countryside, physically detached and a reasonable distance from the settlement.
16. While I accept that the main road, which leads to the settlement, has a footpath on one side, the pavement is narrow and there appears to be limited street lighting along the busy road. Furthermore, the future occupiers of the proposal would also need to travel down the long, narrow, winding, uneven driveway that serves the properties to access the main road. For these reasons, future occupiers would be discouraged from walking and cycling to access services and public transport opportunities, particularly during hours of darkness.
17. There is also limited evidence before me regarding the nearest bus stop, the frequency of a bus service, if any, and the level of services and amenities within the settlement. Therefore, it is not clear to what extent the proposal could support the day to day needs of the future occupiers and how it would enhance or maintain the vitality of the nearby community.
18. Accordingly, for the reasons outlined above, I conclude on this main issue that the site is not suitable for housing having regard to accessibility to services and facilities. It would thereby fail to comply with Policy LP2 of the LP, Policy HP1 of the NP and the Framework.

#### *Flood risk*

19. The appeal site is located within Flood Zone 3 and the Framework and Planning Policy Guidance (PPG) aim to steer development to areas with the lowest probability of flooding through the application of the sequential approach.

Policy LP33 of the LP is broadly consistent with the Framework and reinforces this requirement.

20. The Framework requires a 2-stage process to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The process consists of the sequential test and exceptions test which seek to minimise the risk of flooding both to the development proposed and the surrounding area.
21. A new dwelling does not fall within any of the exceptions listed in footnote 60 of the Framework and accordingly a sequential test is required, as set out at paragraph 174 of the Framework.
22. The submitted FRA identifies that the site is approximately 420 metres from the River Tame and that the site is protected by flood defences that have been constructed in recent years. Therefore, the FRA advises that the development is considered to be suitable within Flood Zone 3, further to the application of the Sequential and Exception Tests, as well as other identified mitigation measures.
23. However, it has not been demonstrated that the Sequential and Exception Tests have been undertaken. In addition, and notwithstanding that the FRA has addressed some of the concerns raised by the Environment Agency, the PPG is clear that even where an FRA shows that the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. The FRA does not seek to identify any sequentially preferable and reasonably available sites.
24. In the absence of any information to enable the sequential test to be undertaken, I cannot be satisfied that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The proposal therefore fails the sequential test and would therefore not be an acceptable form of development with regards to flood risk.
25. Furthermore, while other previous applications for neighbouring development may not have been required to produce a flood risk assessment, the full details of these cases have not been provided. In any event, flood risk is fact sensitive and site specific, turning on the individual circumstances of each case. Therefore, this has not eased my concerns about flood risk in this case.
26. For these reasons, I conclude that the proposed development is not in a suitable location having regard to flood risk. Therefore, the proposal is contrary to LP Policy LP33 and Paragraph 168 of the Framework as they seek to minimise the risk of flooding by avoiding development in high-risk areas.

*Other considerations*

27. The construction of an additional dwelling would contribute to boosting the supply of new housing, particularly in a rural area. The construction of a newer building on the land would also be more energy efficient. However, these benefits would be limited by virtue of the proposal only adding one additional dwelling to the housing supply in the area.
28. My attention has been drawn to other residential developments in the locality, some of which I viewed on my site visit. Many of these appear to relate to the conversion of existing buildings rather than the construction of new buildings.

However, I acknowledge that the Island Project (Ref PAP/2020/0097) and Heathland Farm (PAP/2021/0568) appear to be for new buildings close to the appeal site, within the Green Belt and outside of any identified settlement boundary. The full details of the schemes have not been provided, and I cannot be certain that the circumstances which led to their approval are the same as the proposal before me. Accordingly, I have determined this appeal on its merits, based on the site-specific circumstances of the case and the evidence before me.

29. No objections have been raised with regards to the design of the scheme, access and parking arrangements or the effect on neighbouring amenity levels. Nevertheless, these factors taken together, carry limited neutral weight.

### **Green Belt Balance and Conclusion**

30. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. It goes on to state in paragraph 153 that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
31. The proposed development would be inappropriate development in the Green Belt and therefore harmful by definition. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. The Framework states at paragraph 153 that substantial weight is given to any harm to the Green Belt. I therefore place substantial weight on the harm by inappropriateness and harm to the openness that I have identified. The proposal would also not be an acceptable location for new housing, having regard to its location in relation to services and facilities and in relation to flood risk.
32. I have given some weight to the other considerations in favour of the proposal, as set out above. However, they do not clearly outweigh the harm arising from the proposal. Consequently, the 'very special circumstances' necessary to justify inappropriate development in the Green Belt do not exist. The development would thus conflict with the Green Belt protection aims of the Framework, Policies LP1, LP2 and LP3 of the LP and Policy HP1 of the NP.
33. Paragraph 12 of the Framework confirms that the presumption in favour of sustainable development does not change the statutory position that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Where there is conflict with an up-to-date development plan, permission should not normally be granted.
34. The proposed development would conflict with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan.
35. For the reasons given above, I conclude that the appeal is dismissed.

*N Bromley*

INSPECTOR



# Appeal Decision

Site visit made on 14 May 2024

**by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18<sup>th</sup> June 2024**

## Appeal Ref: APP/R3705/W/23/3334783

### 89-91, Main Road, Atherstone, CV9 3EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr and Mrs P Hames against the decision of North Warwickshire Borough Council.
- The application Ref is PAP/2023/0117.
- The application sought planning permission for alterations and extensions to house including redesign of swimming pool and conservatory as previously approved without complying with a condition attached to planning permission Ref PAUSAV/0602/96/FAP, dated 14 August 1996.
- The condition in dispute is No 4 which states that:  
The swimming pool hereby shall not be used for any purpose other than for purposes incidental to the enjoyment of the dwellinghouse known as Charity House, 89 Main Road, Austrey.
- The reason given for the condition is:  
In order to prevent any unauthorised use of the property.

## Decision

1. The appeal is dismissed.

## Background and Main Issues

2. Planning permission was granted for an indoor swimming pool building, subject to a restriction for incidental residential use only<sup>1</sup>. The proposal seeks to vary this condition to enable additional limited community use including for private lessons between 10:00 and 12:00 hours on Mondays, Wednesdays and Fridays. Each lesson would be limited to a maximum of 3 people based on a 45-minute lesson and a 15-minute change over period.
3. This follows the refusal and dismissal of a previous proposal for use of the private pool for community purposes during the hours of 10:00 and 14:00 and 16:30 and 18:00 hours on Mondays; 10:00 and 12:15 and 13:00 and 14:00 on Wednesdays and 10:00 and 14:00 on Fridays<sup>2</sup>.
4. The main issue of this appeal has flowed from the Council's reason for refusal. Additionally, I have included the effect of the proposed development on highway safety given the concerns raised by interested parties. Given that the appellants have had opportunity to respond to this matter during the appeal process, their interests would not be prejudiced by the inclusion of this matter.

<sup>1</sup> Planning application PAUSAV/0602/96/FAP.

<sup>2</sup> Planning application reference PAP/2021/0687 and appeal reference APP/R3705/W/22/3307971.

5. The main issues are therefore the effect that varying the disputed condition would have on i) the living conditions of neighbouring occupiers with particular regard to disturbance and ii) highway and pedestrian safety.

## **Reasons**

### *Living Conditions*

6. Flats Lane is a rural track, tranquil in character that lies between built development and agricultural land to the east of the village of Austrey. It is proposed to utilise this track for the community use of the private swimming pool at Charity House, in addition to its residential use for 2 dwellings<sup>3</sup>.
7. No's 93 and 99 are dwellings facing Main Road, from which they will experience a degree of noise and disturbance given it is the main vehicular route through the village, where the village post office and store add to the degree of activity. The dwellings however, have rear gardens and habitable windows facing towards Flats Lane which provides the occupants with a quieter and more peaceful aspect, away from the activity of the main road.
8. The appellants suggest that the proposed community use would generate 12 two-way movements along Flats Lane 3 times per week<sup>4</sup>. Whilst this is a reduction in trips from the previous scheme, it is still necessary to assess the impact of this specific proposal. The appellants' figure appears to relate to trips made by the swimming patrons which it is suggested would be limited to 3 per lesson, or 6 per day of use. This excludes the movement of any teacher(s).
9. Moreover, the appellants fail to give any figure of likely or average daily movements for their household, or those in association with the approved dwelling that would also rely on the use of Flats Lane for vehicular access. Austrey Parish Council (APC) and an interested party indicate that staff connected to a business operated by the appellants attend Charity House a number of times each week. As this matter has not been addressed during the appeal process, it is unclear whether the use of Charity House generates more vehicular movements than would be typical of a private dwelling. Thus, it is not known whether the proposed proportion of vehicular movements associated with the community use of the swimming pool would be high or low in relation to the overall usage of Flats Lane.
10. Given the tranquil character of Flats Lane and its proximity to neighbouring windows and gardens, the disturbance arising from passing vehicles is likely to be discernible and distracting particularly in areas of the properties where the occupants can reasonably expect peacefulness. No noise assessment has been provided to evidence the contrary. I cannot be satisfied that the proposal, in combination with the existing use of the track, would not be harmful to the living conditions of neighbouring occupiers 3 days per week, all year round, even if only occurring at the specified times. The lack of an objection from the Environmental Health Officer does not affect my findings.
11. An additional condition is suggested to limit the proposed public swimming lessons to a maximum of 3 patrons at one time. This would be difficult to enforce given the use of the track by other users, such that it would not offer sufficient mitigation to overcome my concerns or those of the previous Inspector<sup>5</sup> and the APC.

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<sup>3</sup> Charity House and the dwelling permitted by appeal decision APP/R3705/W/21/3267144.

<sup>4</sup> Paragraph 5 of the appellants' statement.

<sup>5</sup> APP/R3705/W/22/3307971.

12. In the evidence of any robust evidence to the contrary, the proposed revision to the disputed condition would result in an adverse effect on the living conditions of neighbouring occupiers with particular regard to disturbance. The proposal would be contrary to Policy LP29(9) of the North Warwickshire Local Plan (NWLP) 2021 which seeks to avoid and address unacceptable impacts upon neighbouring amenities, including amongst other things noise.

#### *Highway and Pedestrian Safety*

13. Flats Lane is largely a single-track twin wheeling route that extends from Main Road around several buildings before reaching the appeal site. It carries a public right of way (PROW). There is a sharp left-hand bend just after leaving Main Road from where the lane climbs gently uphill.
14. Lessons would be limited to 2 per day of operation, for 45 minutes each, with a 15-minute interval. Notwithstanding the view of the Highway Authority, it seems to me that given the minimal change over period, there is still a likelihood that some cars would arrive and leave at the same time. Whilst I acknowledge that the number of patrons arriving and leaving the proposed swimming lessons would not be significant, I am not convinced that this arrangement would prevent 2 cars from meeting on the track.
15. There is nothing before me to evidence that existing residential and suggested business traffic would not coincide with car movements connected with the proposed lessons, nor the movements of tractors accessing the adjacent field. As discussed above, the appellants' evidence regarding the existing use of the track is not sufficiently transparent in this regard.
16. Although a snapshot in time, the vegetation to either side of the track was reasonably dense at the time of my visit such that it was not obvious that cars or pedestrians would be able to find a safe, unhindered refuge off the route, if they were to meet an oncoming vehicle.
17. If cars were to meet, it is likely to cause a vehicle to have to reverse around the sharp bend with limited visibility back onto Main Road at a point where there are a number of vehicular access points to dwellings, as well as comings and goings to the local convenience store and post office. Therefore, even if the required visibility splay could be provided, the proposal would increase the risk of collision and conflict at the junction with Main Road and prejudice the safety of pedestrians using the PROW. In the absence of any physical works to the track, or other mitigation to prevent vehicles from meeting, the risk to highway safety would remain.
18. The proposed revision to the disputed condition would cause unacceptable harm to highway and pedestrian safety. The proposal would conflict with Policy LP29(6) of the NWLP which seeks amongst other things, to ensure safe and suitable access for all users.

#### **Other Matters**

19. Austrey Baptist Church and No 99 Main Road are Grade II listed buildings of historical interest and architectural quality that lie to the west of the access track to the appeal site. The Church dating from 1808 is set back behind an open forecourt that emphasises its importance. No 99 is a timber framed cottage on a sandstone plinth immediately abutting the pavement of Main Road that has been extended to the side and rear. The Council does not object to the proposal on grounds of any harm to the setting of the listed buildings from activity and noise associated with the increased vehicular use of the track



which lies outside of their grounds. I concur with this view and consequently, the settings of the listed buildings would be preserved.

20. Reference is made to the proposal seeking to address comments of a previous Inspector and a without prejudice letter from the Council<sup>6</sup>. Be that as it may, I am not satisfied on the evidence presented that the reduction in hours of operation and vehicle movements proposed, along with a restriction on the number of patrons, would be sufficient to prevent or mitigate harm. There remains no evidence before me as to why the alternative access to Charity House cannot be used for at least some provision for vehicular access to the swimming pool, as highlighted by interested parties.
21. Support for a proposal does not equate to a lack of harm. Whilst enabling a degree of community use, it would result in unacceptable harm to highway safety and the living conditions of neighbouring occupants. The swimming pool would not be for sole use by residents of the village, such that this could be considered as a benefit of the proposal.
22. I must have regard to the Public Sector Equality Duty, contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic such as disability, and people who do not share it. Whilst it is suggested that swimming lessons would cater for those that fall within the protected characteristics defined within S149, it would not be exclusive provision.
23. I acknowledge that some people may benefit from learning to swim in a more private environment that would be offered by the appeal site. However, the lack of adaptations and specialist equipment would limit its value to disabled people. The Council's evidence makes it clear that there are alternative provisions elsewhere within the Borough that would be more likely to meet the needs of people with such protected characteristics, due to the services and apparatus provided.
24. Having carefully considered the potential benefits of the scheme, dismissal of the appeal is a proportionate response to the well-established planning objectives of protecting the living conditions of neighbouring occupiers and highway and pedestrian safety.

### **Conclusion**

25. The development with the condition varied as proposed would conflict with the development plan as a whole. There are no material considerations either individually or in combination that suggest a decision should be made otherwise in accordance with the development plan. The appeal is dismissed.

*M Clowes*

INSPECTOR

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<sup>6</sup> Appeal reference APP/R3705/W/3307971 and Council letter dated 17 February 2024 as submitted at the final comments stage.