

# STATEMENT OF CASE

## GROUND MOUNTED SOLAR ARRAY

### LAND NORTH OF THE M6 BETWEEN

### BIRMINGHAM AND COVENTRY



OCTOBER 2024



# ENVIROMENA

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*"The planning system should **support the transition to a low carbon future** in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to **radical reductions in greenhouse gas emissions**, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and **support renewable and low carbon energy** and associated infrastructure."*

(NPPF 157)

*"Local planning authorities should **support planning applications for all forms of renewable and low carbon development**. When determining planning applications for these developments, local planning authorities should: a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and **give significant weight to the proposal's contribution to renewable energy generation and a net zero future**; b) recognise that even small-scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions"*

(July 2024 draft consultation NPPF 164)

| Statement Revision and Issue Date | Report Author                      | Position            | Signed off By | Position                         |
|-----------------------------------|------------------------------------|---------------------|---------------|----------------------------------|
| Rev 1 October 2024                | Steven Bainbridge<br>BSc MSc MRTPI | Head of<br>Planning | Mark Harding  | European<br>Development Director |



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# 1. Introduction

- 1.1 This Planning Statement of Case (SoC) has been prepared by Enviromena (“the Appellant”) in support of a planning appeal under s.78 of the Town and Country Planning Act 1990.
- 1.2 It relates to “Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley” (“the Site”) in the Borough of North Warwickshire. For ease of reference, the site is indicated on the inset maps below:



- 1.3 Enviromena submitted the planning application to North Warwickshire Council in February 2023 for a solar farm with the following description (“the Development”):
- “Construction of a temporary Solar Farm, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure”*
- 1.4 The planning application was reported to planning committee three times; once to recommend a site visit, and twice recommended for approval by officers. At its second outing the planning committee requested further landscaping and that the concerns of a local flood group be considered further by Enviromena and the LLFA; both matters were dealt with. At its third outing the planning application was refused on Green Belt, landscape and visual grounds. A detailed transcript of the March and July 2024 meetings has been provided (Appendix 1).
- 1.5 Enviromena remain steadfastly of the view that the proposal complies with policies LP1, LP3, LP14, FNP02 and most importantly LP35. Whether the proposal conflicts with policies LP30 and FNP01 can be a matter for debate, but Enviromena take the view that these policies are ill-suited for assessing a ground mounted solar scheme and therefore there cannot be any real conflict at all.
- 1.6 Enviromena’s ability to secure the benefits arising from this scheme in short order is because Enviromena have secured the connection offer to enable connection to the grid, now.

1.7 On the question of whether material considerations convey very special circumstances, Enviromena contend that the planning balance in this appeal falls squarely and clearly in favour of the grant of planning permission. This is because the significant social, economic and environmental benefits of the development derive from its contribution to staying the unrivalled adverse effects of climate change, variously described as:

- The “*biggest threat modern humans have ever faced*” ([United Nations Press Release SC/14445, 23<sup>rd</sup> February 2021](#))
- “*Doubling the number of those [species] at risk of extinction*” (Nature, Research Highlights, 2<sup>nd</sup> June 2023) and “*Accelerating the Earth’s sixth mass extinction*” ([the Smithsonian, 30<sup>th</sup> April 2015](#)).
- “*In the longer term dominating the top 10 risks global populations will face*” ([World Economic Forum, Global Risks Report 2024](#))
- The “*biggest threat to global economy*” ([United Nations, 14<sup>th</sup> January 2016](#)).
- “*An existential threat*” ([US President Joe Biden to the UN, July 2023](#)).
- An “*emergency*” and a “*crisis*” by both Warwickshire County Council in July 2019 and North Warwickshire Borough Council in October 2019.
- “*Making the Earth uninhabitable*” ([United Nations, 23<sup>rd</sup> March 2023](#)).
- “*There is still a lot of work to be done to make sure we stop climate change and limit warming of the planet to 1.5 degrees*” (Northwarks Council 2<sup>nd</sup> September 2024):



1.8 Any impacts to Green Belt, landscape or visual receptors arising from this development are temporary<sup>1</sup>, whereas the social, economic and environmental benefits and legacy are long term, or “*major [and] long lasting*”<sup>2</sup>.

<sup>1</sup> “Particular factors a local planning authority will need to consider include: [...] that solar farms are normally **temporary** structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use” (Paragraph: 013 Reference ID: 5-013-20150327 Revision date: 27 03 2015).

<sup>2</sup> Local Plan paragraph 13.33.



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- 1.9 Enviromena will show that the material considerations in support of the development, including the wider environmental benefits associated with increased production of energy from renewable sources, clearly outweighs the harm contended by the Council.
- 1.10 In relation to landscape and visual matters, Enviromena will demonstrate that the proposed development complies with the development plan by reference to the development plan policy tests, and the methodically-assessed outcomes of the landscape and visual assessment, which were not disputed by the LPA.
- 1.11 Enviromena will also demonstrate that, conspicuous by its absence from the decision notice and committee deliberations, development plan policy LP35 is the key local plan policy for renewable energy developments in terms of the proposal's performance on landscape and visual grounds. Enviromena will demonstrate that the Council has not articulated a case in defence of refusal against local plan policy LP35, which must arguably be the most important policy; written for the purpose.
- 1.12 On the matter of the Green Belt, Enviromena contend there is no Green Belt crisis, to the contrary there are other crises which are driving the debate on Green Belt. As a matter of principle, Enviromena contend that solar farms are not 'urban sprawl', nor are they 'encroachment', they do not originate from the urban areas and they are not solely a 'symptom' of urban development. They are not development that urban areas are somehow imposing upon the countryside. They are a result of society-wide energy needs, urban and rural; inside of Green Belts, within the areas they cover and outside of them too.
- 1.13 Concerning claimed landscape and visual harms, there is no landscape crisis.
- 1.14 There is however a climate crisis, and a biodiversity crisis. There are also significant societal challenges in the form of fuel poverty and energy security. There are significant and impending policy and regulatory demands including net zero.
- 1.15 There is an ongoing economic downturn, part of the recovery from which is expected to derive from 'green growth' and a revisiting of inhibitive Green Belt policy and "*wider changes to support renewable energy development*"<sup>3,4</sup>.
- 1.16 In terms of Green Belt, Enviromena maintains that these proposals are an acceptable and inherently sustainable form of development, and that, compared to other forms of development, are singled out in NPPF paragraph 156 as having wider benefits capable of amounting to very special circumstances.
- 1.17 Bearing in mind the repeated positive position taken by officers, Enviromena is confident

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<sup>3</sup> [Point 5 of the new Government's Policy Paper 'Policy Statement on Onshore Wind', published on 8<sup>th</sup> July 2024 during the new Chancellor's inaugural speech.](#) Appendix 2

<sup>4</sup> 2024 NPPF consultation draft.

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that the scope of the hearing can be refined through the statement of common ground, which the parties are progressing with positively, on a ‘without prejudice’ basis. As with the Bishop’s Itchington appeal decision (3292579); “ *The application [i]s accompanied by a plethora of written material, [...]. However, it is clear that the matters at issue between the Appellant and the Council are narrow, and that most considerations are not in dispute between these parties. [...] single reason for refusal [...]. Having looked carefully at the submitted material, including the statement of common ground, I have no reason to question the fact that the majority of considerations are agreed between the 2 main parties*”.

- 1.18 At its heart, Enviromena’s case is straightforward. The overall thrust of Government policy and national policy documents is focused on the creation of sustainable renewable sources of energy which are secure<sup>5</sup>.
- 1.19 This is development that should be allowed whether or not development plan policies are accorded full-weight. Enviromena will demonstrate that the ability of the local plan to be as positive a strategy as possible for ground mounted solar is inherently curtailed by its evidence base, which is outdated and limited in scope or, indeed, a compelling sense of climate-urgency. Despite having variously declared a climate emergency and crisis in 2019, the 2021 local plan uses language which suggests the climate emergency is some way off yet, see local plan paragraph 13.33 as an example which talks of action “ *over the coming years*” rather than ‘action now’ and “ *influencing future policy background*” rather than ‘influencing policy now’.
- 1.20 The draft consultation version of the NPPF, and the changes made to further ‘green energy’, supports this argument in Enviromena’s opinion.
- 1.21 This proposal has a capacity near to the current threshold for nationally significant infrastructure projects, and therefore the policies of National Policy Statements EN1 and EN3 are pertinent (see Fobbing appeal 3328712 ¶166).
- 1.22 In that vein, “ *All nationally significant energy infrastructure projects will have adverse effects on the landscape, and that all energy infrastructure is likely to have visual effects for many receptors*”<sup>6</sup>. “ *There is a need to get on with development of renewable energy generation. There is always somewhere else that a developer is told to look in the game of planning hopscotch. As Inspector Baird colourfully put it at Halloughton [3279533], it is not possible to make an omelette without breaking eggs*”<sup>7</sup>.
- 1.23 In Halesowen (3341383) the Inspector opined that a battery storage system in a s78 appeal

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<sup>5</sup> Paragraph 1 of the Inspector’s Report to APP/T3725/V/23/3332671 Honiley Road Appendix 3

<sup>6</sup> Paragraph 39 of 3328712 Fobbing Appendix 3

<sup>7</sup> Paragraph 5.62 of the Report to the SoS 3293667 Telford Appendix 3

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should be considered low carbon infrastructure and therefore a “critical national policy”. At ¶34 Inspector Owen stated:

*“34. Balanced against that are the other considerations identified comprising the fact that low carbon development is a critical national policy which can help to achieve net zero, provide energy security and energy flexibility. I give these all significant weight. Added to this are the benefits to biodiversity, and a modest benefit to the local economy. I have also had regard to paragraph 4.1.7 of N-1 which states that it is likely that the need for CNP projects will outweigh the residual effects in all but the most exceptional cases”.*

- 1.24 Enviromena contend that this scheme does not breach the threshold for a national significant infrastructure project, however Enviromena contend that, like the s78 battery storage scheme in Halesowen, s78 solar farms are also low carbon development, and therefore critical national infrastructure, being driven by critical national policy. Enviromena contend this approach should be taken to low carbon energy proposals of all sizes because *“even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions”* (NPPF 163.a).
- 1.25 Enviromena respectfully request that this planning appeal be allowed and planning permission be granted for a development that complies with the development plan, and in the event they are needed, also benefits from a raft of significant and compelling material considerations.

## 2. The Proposed Development & Any Modifications

- 2.1 The development is a small-scale<sup>8</sup> solar farm of 40MW AC capacity. The site area is 61 hectares.
- 2.2 The current site location plan is revB.
- 2.3 The current planning layout is Planning Layout revE
- 2.4 Other key drawings based on the latest planning layout include:
  - Landscape Strategy drawing 17
  - Drainage Strategy 07
- 2.5 Through the course of the planning application, the proposed drainage scheme had ponds added to address flood issues claimed by a local flood interest group, who misinterpreted NPPF 170.a) as a requirement in this case. The ponds were added to appease the local flood group as part of local negotiations but were not proposed in

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<sup>8</sup> Planning for solar farms. House of Commons Library Research Briefing 20 May 2024 Appendix 4



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response to a proven need and Enviromena would prefer not to dig ponds that have no proven function and would be superfluous.

2.6 Conscious that mitigation must be *necessary* (NPPF and Development Plan policy LP1), and the ponds fail this test, Enviromena have provided a revised drawing that omits the ponds, if the Inspector considers it necessary. The drawing reference number is:

○ P007039-09-PlanningLayout\_revH

### 3. Appeal Site & Surroundings

3.1 The site is described in the Planning and Design and Access Statements by Stantec (Section 2 in both documents), and again in the Planning Committee Report dated 22<sup>nd</sup> May 2023 (bottom of page a/1 and top of page a/2).

3.2 To date there has been no dispute between the parties about each other's description of the site, and this can be confirmed in the Statement of Common Ground or disputed if that position changes.

3.3 For the sake of brevity, the content of these documents is not repeated here.

### 4. Planning History

4.1 By reference to the Council's committee reports and the Appellant's Planning Statement, the parties agree there is no site-specific planning history.

### 5. Enviromena's Interpretation of Development Plan Policies

5.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 both require that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

5.2 The development plan consists of:

○ North Warwickshire Local Plan (2011-2033) (Adopted 2021)

○ Fillongley Neighbourhood Plan (Adopted 2019)

5.3 The development plan, as required by the NPPF<sup>9</sup>, clearly lists which policies are strategic and which are non-strategic. The NPPF is clear on the approach to be taken to the use and

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<sup>9</sup> NPPF paragraph 21

application of strategic and non-strategic policies<sup>10</sup>. Drilling down from the wider list of ‘relevant policies’ set out in Table 7.1 of the Appellant’s Planning Statement, and by reference to the decision notice, Enviromena consider the following policies are central to decision making in the appeal:

| Policy | Topic                   | Strategic | Non-strategic | Development Management Policy | Neighbourhood Plan Policy |
|--------|-------------------------|-----------|---------------|-------------------------------|---------------------------|
| LP1    | Sustainable development |           |               |                               |                           |
| LP3    | Green Belt              |           |               |                               |                           |
| LP14   | Landscape               |           |               |                               |                           |
| LP30   | Built Form              |           |               |                               |                           |
| LP35   | Renewable energy        |           |               |                               |                           |
| FNP01  | Built environment       |           |               |                               |                           |
| FNP02  | Natural environment     |           |               |                               |                           |

### Policy LP35 Renewable Energy

- 5.4 Development Management Policy LP35 is the most important/relevant policy in the local plan insofar as renewable energy is concerned, covering as it does a host of key issues; landscape, environment, heritage, amenity and the economy.
- 5.5 Only the first paragraph of policy LP35 is relevant, the second deals with energy efficiency of buildings. The first paragraph of LP35 contains two distinct elements: the first directs decision makers on the approach to the application of the policy, and the second an objective method for assessing compliance.

**LP35 paragraph 1 element 1 “Renewable energy projects will be supported where they respect the capacity and sensitivity of the landscape and communities to accommodate them”.**

- 5.6 Respect is a subjective term. Community capacity and sensitivity (if this means public opinion) is inherently subjective. Weight of public opinion, informed or otherwise, is not a

<sup>10</sup> NPPF paragraphs 20, 21, 22, 23 and 28

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planning matter. In fact, recent changes to the NPPF (removal of footnotes 57 and 58) confirm that it is not the Government's intention for communities to prevent renewable energy development because of their 'sensitivities' or 'capacities' to accommodate it.

5.7 However, landscape capacity sensitivity were approached methodically in the LVA undertaken in line with the Landscape Institute's methodology for LVIA's (as confirmed in its Appendix 1). 'Sensitivity' is covered in paragraphs 2.12, 2.18, 2.23, 2.25, 3.5 of the LVA and paragraphs 1.1, 1.3 (the paragraph headed Landscape Sensitivity), 1.8 (the paragraph headed Sensitivity of Visual Receptors) and 1.12 of the LVA Appendix 1. Plus, LVA Appendix B Landscape Effects Table and Appendix C Visual Effects Table.

5.8 The LVA concluded that:

*"In conclusion, it is assessed that the Site's landscape character has the ability in which to absorb development of the scale and type proposed. The development of a solar farm and new planting is an appropriate design approach within this landscape context. The GI would be multifunctional in its design and management, so that it performs a range of functions, to include benefits for biodiversity, screening and climate change. New planting will help and management, so that it performs a range of functions, to include benefits for biodiversity, screening and climate change. New planting will help assimilate the development into its surroundings".*

5.9 It is asserted that *"the design and mitigation approaches adopted by the proposed development are appropriate and would minimise impacts on landscape and visual receptors in the longer term. In conclusion, it is assessed that the proposed development would not result in any unacceptable long-term landscape and visual effects".*

5.10 The committee report of 4th March dealt with the criteria of Policy LP35, and its capacity and sensitivity points in reaching the recommendation to committee that:

*"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"*

5.11 And therefore:

*"it is concluded that in overall terms the amended proposal would be acceptable under Policy LP35"*

5.12 Enviromena acknowledge that planning committee overturned the officers' recommendation, however, because the terms "capacity" and "sensitivity" are missing from the following, it is clear these policy issues were not discussed:

- 8<sup>th</sup> July committee report



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- 8<sup>th</sup> July committee meeting ‘minute’
  - The transcript of the 4<sup>th</sup> March and 8<sup>th</sup> July committee meetings.

5.13 The matter was covered in the 4<sup>th</sup> March committee report, which stated at its paragraph 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”.*

5.14 North Warwickshire’s planning committee made no comments or conclusions on this first part of policy LP35 beyond the positive recommendation in the committee reports, and certainly did not discuss the technical issues of capacity and sensitivity, took no exception to the submitted LVA, and took no counsel from their officers on the topic.

**LP35 paragraph 1 element 2** *“In particular, they will be assessed on their individual and cumulative impact on landscape quality, sites or features of natural importance, sites or buildings of historic or cultural importance, residential amenity and the local economy”.*

5.15 Taking each of these matters in turn:

#### ***Landscape quality***

5.16 The site is not in a designated or especially sensitive or valued landscape. The site is in Green Belt, but that is not a qualification of landscape quality.

5.17 The submitted LVA was clear that:

*“In conclusion, it is assessed that the Site’s landscape character has the ability in which to absorb development of the scale and type proposed. The development of a solar farm and new planting is an appropriate design approach within this landscape context. The GI would be multifunctional in its design and management, so that it performs a range of functions, to include benefits for biodiversity, screening and climate change. New planting will help assimilate the development into its surroundings.*

*It is assessed that the design and mitigation approaches adopted by the proposed development are appropriate and would minimise impacts on landscape and visual receptors in the longer term. In conclusion, it is assessed that the proposed development*

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*would not result in any unacceptable long-term landscape and visual effects”.*

5.18 The Council, having required an LVA to be submitted through its local validation guidance, did not dispute its conclusion and was also clear on this matter, the committee report of 4th March was clear at paragraph 4.60 that in relation to the proposals impact on landscape quality:

*“The subsequent receipt of the amended mitigation materially affects this conclusion as it addresses these reasons and renders the complete proposal “acceptable”.*

5.19 The only articulation on the topic of landscape impact from our transcriptions comes from Cllr Simpson, who said:

*“The report makes it clear that harm will be created, the final paragraph says, landscape harm is thus reduced to moderate in impact. I trouble is I don’t want my epitaph when I retire from the Council to be, oh dear old Cllr Simpson, he did his best to make sure that harm was never worse than moderate. Harm is harm and this is going to create harm.”*

5.20 For context, the committee report was clear at its paragraph 4.11 on the amendments made to the proposal, and how these reduced the impact on landscape to moderate (in the opinion of officers).

5.21 This echoed the submitted LVA, which more comprehensively stated:

*“At completion, the landscape effects are judged to be Moderate Adverse. By year 15 the landscape effects are judged to reduce to Moderate / Minor Adverse. The effects on the features of the site – vegetation will be Minor Beneficial by year 15 as planting approaches Maturity”.*

5.22 Enviromena are content that the proposal has complied with the requirements of the NPPF to *“approve the application if its impacts are (or can be made) acceptable”* and *“consider whether otherwise unacceptable development could be made acceptable through the use of conditions”*. The impact on landscape quality is acceptable because the development respects the assessed capacity and sensitivity of the landscape, in compliance with this part of the policy.

### ***Sites or features of natural importance***

5.23 Despite setting out at its paragraph 4.59 of the Council’s committee report of 4th March that *“Each of the elements in LP35 will now be assessed”*. The matter of ‘sites or features of natural importance’ is missing. Reference is made to *“the impact on the natural environment”*, and that is a consideration of BMV matters. The committee report clearly states *“It is not considered that that impact is of such weight to warrant a reason for*

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*refusal'.*

- 5.24 The draft statement of common ground is clear that there is no refusal on the grounds of BMV.
- 5.25 Enviromena are content that at a national level there is clear risk to the integrity of the country's largest areas of BMV land in the coming few decades and Government has been very clear through legislation and policy on the role that ground mounted solar development will play in lessening the climate emergency it has declared.
- 5.26 This part of the policy is complied with.

### *Sites or buildings of historic or cultural importance*

- 5.27 The submitted Heritage Assessment clearly concluded that:
- "The assessment of designated heritage assets has concluded **the Site does not contribute to the setting or significance of the majority of the designated assets within the study area and there will be no impact on their setting.** The assessment considered four additional assets in further detail due to the intervisibility of the Site and the assets. Three of these assets could be grouped at Park House (1186219, 1034837 and 1034838). The other asset was White House Farmhouse (1034868). These assets are Grade II Listed and have medium importance. In both cases, further assessment concluded the Site does not contribute to the setting or significance of the asset despite its contribution to the rural character of the wider surroundings. Views of the Site will be glimpsed and distant. **The impact upon the setting will be negligible and the significance of effect will be neutral in both cases.** The impacts are assessed as being less than substantial in terms of the NPPF."*
- 5.28 The 4th March committee report was clear at its paragraph 4.61 that *"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"*.
- 5.29 The draft Statement of Common Ground is clear that *"There is no heritage reason for refusal'.*
- 5.30 Enviromena contend that the conclusion of less than substantial harm must be at the very lowest end because of the conclusion of negligibility on the four assets discussed above. Negligible, is not no harm, but it is very close to it. Nevertheless, the less than substantial harm and public benefit balancing exercise is required, and Enviromena contend that the significant public benefits of renewable energy provision, energy security, helping to stay



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the adverse effect of climate change (including on heritage assets) and the economic development associated with ground mounted solar development outweighs the less than substantial harm (low end) to heritage, in compliance with the policy.

### *Residential amenity*

- 5.31 The submitted Planning Statement was clear and confident in its assertion at its paragraph 8.73 that *“The Development therefore accords with local Plan Policy LP29 and NPPF paragraph 127 in ensuring good levels of residential amenity are maintained”*.
- 5.32 The 4th March planning committee report was clear that *“Finally it was also concluded above that there would be unlikely to be any adverse residential amenity impacts”*.
- 5.33 There was no residential amenity reason for refusal.
- 5.34 This part of the policy is complied with.

### *Local economy*

- 5.35 The March 4th Planning Committee report claimed that *“The applicant is neither promoting benefits in terms of enhancing the local economy”*. This is not accurate.
- 5.36 The submitted Planning Statement included details from Enviromena’s website promoting the development which stated: *“The development of green energy projects like Fillongley Solar Farm also create business opportunities and economic activity which contribute to the country’s green recovery. We are committed to using local suppliers and contractors during construction and long-term operation of the project, which will benefit the local economy, and provide jobs to people in the local area”*. Elsewhere, the submitted Planning Statement talked of the development’s contribution to a decarbonised economy.
- 5.37 This part of the policy is complied with.
- 5.38 Policy LP35 is clear that the starting point for renewable energy projects is one of ‘support’.
- 5.39 The policy caveats this where proposals *“respect the capacity and sensitivity of the landscape”*. A landscape and visual assessment was duly submitted, written to the industry-standard methodology and, as set out in the supporting statements to this Statement of Case (from FPCR Appendix 5 and Pegasus Appendix 6), the landscape and visual capacity and sensitivity of the landscape to accommodate this development were duly assessed, concluding a moderate adverse impact, reducing to a moderate/minor adverse effect once mitigation planting and taken a hold, but with regard to the natural features on the site a minor beneficial effect at that stage.

5.40 Enviromena contend that it is normal practice to consider the effect of strategic mitigation to major planning development proposals because of the inherent likelihood of a short term impact that, in of itself, might initially breach policy tests, but over the lifetime of the development and once mitigation has taken effect, the mid to long-term effect of the development can be acceptable in planning terms.

5.41 In this case the assessed landscape effects at the 15-year point find themselves here on the scale:



|       |          |       |            |
|-------|----------|-------|------------|
| Major | Moderate | Minor | Negligible |
|-------|----------|-------|------------|

5.42 Policy LP35 does not include an objective policy-test, it includes the subjective test of 'respect'.

5.43 Having submitted an LVA which dealt with the issues directly, in an undesignated landscape, and having acceded to the planning committee's request for further landscaping (in the vein of NPPF paragraphs 55 and 163), Enviromena contend the application complies with the policy requirement to respect landscape capacity and sensitivity, as set out in the policy summary table below:

| Policy matter                                    | Enviromena comments on LP35   |
|--|---|
| Strategic or non-strategic                       | Non-strategic / development management. I.e. for decision making on individual proposals.   |
| Policy test                                      | 'Respecting' the capacity and sensitivity of the landscape.   |
| Assumed weight to policy                         | Full weight if the local plan presents a positive strategy (NPPF paragraph 160), lessened weight  |
| Issues affecting weight                          | Whether, taking the evidence base of the local plan into account, the policy could have been more positive. If the local plan does not provide a positive strategy, then the policy would be rendered out of date to the increasingly urgent national and international renewable and low carbon energy policy context.   |
| Conclusion (conflict or compliance and comments) | In so far as the policy requires the capacity and sensitivity of the landscape to be respected, and Enviromena have provided an assessment of the present capacity and sensitivity of the landscape and concluded only a moderate/minor adverse effect after 15 years and the 'bedding in' of strategic landscaping. Bearing in mind the adverse changes that landscapes will experience as a result of climate change, and the temporary and reversible nature of this development, a moderate/minor |

|  |   |
|--|---|
|  | adverse effect to an undesignated landscape is considered acceptable and to have respected the capacity and sensitivity of the borough's landscape. |
|--|---|

## Policy LP1 Sustainable Development

5.44 Strategic policy LP1 echoes the overarching presumption in favour of sustainable development from the NPPF.

5.45 The policy sets a clear statement of intent on the approach to sustainable development and out-of-date policies.

5.46 Under the heading of 'quality of development / place' the policy sets strategic principles for *"all development proposals"* to which Enviromena respond as follows and to the appropriate and relevant extent<sup>11</sup>:

- *"be supported by the required infrastructure"*: the solar farm will be supported by the relevant technical and power infrastructure, but also highways, drainage and landscape infrastructure as required, in compliance with this part of the policy.
- *"be consistent with the approach to place making set out through development management policies, including where relevant"*: Enviromena's response on relevant DM policies is set out further below.
- *"integrate appropriately with the natural and historic environment, protecting and enhancing rights of way network where appropriate"*: Enviromena contend that the findings of the submitted LVA demonstrate 'appropriate' integration of the solar farm into the local area (bearing in mind that NPS EN1 ¶4.7.2 and the direction to decision makers in NPPF ¶163 to *"approve the application if its impacts are or can be made acceptable"* which itself echoes the content of NPPF ¶55). The rights of way have been protected, and *"where appropriate"* have been enhanced with planting, in compliance with this part of the policy.
- *"demonstrate a high quality of sustainable design that positively improve the individual settlement's character, appearance and environmental quality of an area"*: Again, Enviromena contend that the findings of the submitted LVA and the landscape proposals demonstrate, as far as is reasonable for energy infrastructure development, high quality design (bearing in mind that NPS EN1 ¶4.7.2 and the direction to decision makers in NPPF ¶163 to *"approve the application if its impacts are or can be made acceptable"* which itself echoes the content of NPPF ¶55) in

<sup>11</sup> As per NPPF policy on the approach to strategic policies.

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compliance with this part of the policy.

- *“deter crime”*: The proposals include security measures that will deter crime.
- *“sustain, conserve and enhance the historic environment”*: The proposal sustains and conserves the historic environment (Heritage Assessment paragraphs 8.1 to 8.7) and the working draft statement of common ground is clear that *“there is less than substantial harm caused to heritage assets”* but also *“there is no heritage reason for refusal”*. Whilst the proposal cannot be said to enhance heritage assets per se, it does enhance the historic environment by reinstating historic field boundaries. This must be read in the context of the advice in EN1 ¶4.7.2 which states *“Applying good design to energy projects should produce sustainable infrastructure sensitive to place, including impacts on heritage, efficient in the use of natural resources, including land-use, and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic as far as possible. It is acknowledged, however that the nature of energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area”*. The requirement in strategic policy LP1 to enhance the historic environment, if approached punitively, finds itself at odds with both NPS EN1 which talks of enhancement *“where possible”* (¶5.9.13) and the NPPF which talks of enhancement in terms of its desirability (¶203.a). If there is any conflict with the requirement in LP1 to enhance the historic environment, that conflict must be lessened in the context of the evidently different tone struck by national policy.
- *“provide, conserve and enhance biodiversity”*: The significant levels of BNG (63% habitats and 26% hedgerow units) and other on-site mitigation measures will provide, conserve and enhance biodiversity.
- *“create linkages between green spaces, wildlife sites and corridors”*: The landscape mitigation proposals reinforce wildlife links and the onsite enhancement provides corridors for wildlife.
- *“development should protect the existing rights of way network and where possible contribute to its expansion and management”*: The proposals allow for the existing rights of way to be protected.

5.47 Policy LP1 is also clear that *“Infrastructure will be sought where it is necessary, directly related to the development and is fairly and reasonably related in scale and kind to the development. It may be related to social, economic and/or environmental issues”*.

5.48 Enviromena are content that the proposal complies with strategic policy LP1, in so far as it

*“should not extend to detailed matters that are more appropriately dealt with through neighbourhood plans or other non-strategic policies”* such as policy LP35.

| Policy matter                                     | Enviromena comments on LP1  |
|---|---|
| Strategic or non-strategic                        | Strategic.  |
| Policy test                                       | <p>In relation to ‘development quality’; <i>“must”</i> meet strategic criteria (bullet points 1 and 2).</p> <p><i>“Where relevant”</i> meet strategic criteria (bullet points 3 to 8).</p> <p>In addition and in relation to bullet point 3 on the natural environment; <i>“integrate appropriately”</i>.</p> <p>In relation to bullet point 4 appearance and environmental quality of an area; <i>“where relevant”</i>.</p> <p>In relation to rights of way <i>“protect”</i> existing and <i>“where possible”</i> expand and manage.</p> <p>In relation to infrastructure; the NPPF tests.</p>   |
| Assumed weight to policy                          | Full weight as a strategic policy because it does not contradict the content of the NPPF.   |
| Issues affecting weight                           | None.   |
| Conclusion (conflict or compliance and comments). | <p>The first part of the policy is a statement of intent that one cannot comply nor conflict with.</p> <p>The second part of the policy is a suite of strategic policy criterion which include their own policy tests, none of which are particularly onerous and to which Enviromena are content there is broad compliance as set out above.</p> <p>The third part of the policy repeats the tests from NPPF paragraph 57.</p> <p>In as far as a strategic policy can be brought to bear on any individual development proposal, Enviromena are content that the proposal complies with other relevant policies of the development plan, and in doing so is sustainable development by default, therefore complying with policy LP1.</p> |



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## Policy LP3 Green Belt

- 5.49 The local plan is clear that Policy LP3 has strategic and non-strategic elements at paragraph 5.2 where it states: *“Certain policies contain elements which are both ‘strategic’ and ‘non-strategic’, the principal distinction being where provisions relate to decision-taking as opposed to the Borough-wide approach”*.
- 5.50 The local plan is also clear that *“The National Planning Policy Framework provides the strategic policy guidance. It gives advice on where and what development is appropriate or inappropriate in the Green Belt. This policy builds on the NPPF, provides the local context and provides how it will be implemented in certain instances”*. The “instances” referred to are allocations.
- 5.51 The first sentence of Policy LP3 repeats the current NPPF ¶152 in relation to the need to demonstrate very special circumstances. The second sentence follows on by confirming that that *“Other than in instances where allocations are proposed, Green Belt within the Borough will be protected accordingly”*.
- 5.52 The local plan does not define the term ‘very special circumstances’.
- 5.53 Policy LP3 provides five strategic criteria that set out how Green Belt applies to land in North Warwickshire, **none of which are relevant to decision making** on a solar farm and are therefore of no consequence to decision making in this case.
- 5.54 The non-strategic part of **LP3** provides a suite of five *“considerations”* (earlier in the policy referred to as *“development management policies”*) that decision makers should have regard to when considering proposals, **none of which are relevant to decision making** on a solar farm and are therefore of no consequence to decision making in this case.
- 5.55 To comply with the strategic aim of Policy LP3 it will be necessary to demonstrate very special circumstances. Without a definition in the development plan, and taking the lead in LP3 to have *“regard”* to the NPPF *“when considering proposals within the Green Belt”*, it is necessary to defer to the NPPF for the *“strategic policy guidance”* required to interpret LP3.
- 5.56 Enviromena are content that, in the context of renewable energy development proposals, NPPF ¶156 clear states that *“very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources”*. Only renewable energy development gets this ‘nod’.
- 5.57 As a start and end point to decision making then, very special circumstances can clearly be achieved by ground mounted solar schemes, this much is clearly established by several Inspectors across multiple recent solar decisions including Harlow (3334690), Kemberton

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(3329815), Chelmsford (3300222) and Uttlesford<sup>12</sup>.

- 5.58 In relation to Green Belt harm assessment and very special circumstances, Enviromena's case was set out in detail in Stantec's Planning Statement and Planning Statement addendum, which built on the submitted LVA. However, in response to the planning committee's invocation of Green Belt as a reason for refusal, Enviromena have provided a further Green Belt assessment by Pegasus, as part of a refreshed look at the LVA.
- 5.59 The updated LVA takes into account comments made by the LPA about bare earth modelling and additional viewpoints, none of which have been in any way detrimental to this proposal.
- 5.60 The Pegasus Green Belt 'purposes assessment concludes' the following:
- "The Proposed Development would conflict with **one purpose** concerning encroachment in the countryside.*
- The surrounding landscape would retain its agricultural characteristics, whilst the strategic function of the remaining Green Belt for this purpose would remain intact. Notwithstanding the operational duration of the Proposed Development, it would be entirely reversible and would be decommissioned after 40 years.*
- In addition, as a farm diversification scheme, a proposed solar farm is not a form of development that is unusual or cannot be accommodated within a rural context, indeed, in England there is very limited opportunity for the roll out of ground mounted solar development, without it necessarily being located in rural areas.*
- It is acknowledged that substantial weight is to be applied to the openness of the Green Belt, however, the reversibility of the Proposed Development and limited impact at the lower end of the scale concerning the purposes of the Green Belt are key considerations in the planning balance'.*
- 5.61 It is currently common ground with the LPA that only Green Belt 'purpose c' might be affected.
- 5.62 Enviromena highlight their opinion that ground mounted solar development is neither "sprawl of large built up areas" nor "[urban] encroachment" that the countryside needs safeguarding from.
- 5.63 Notwithstanding, and on a precautionary approach, the Pegasus GBA acknowledges the substantial weight to be given to Green Belt harm. The LPA refer to this as the "*definitional harm*".

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<sup>12</sup> s62A/2024/0045 'Uttlesford' Decision Granted 13 September 2024

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5.64 The Pegasus GBA concludes the following in respect of effect on the openness of the Green Belt:

*“Consequently, both visually and spatially, the proposed development would result in **some limited and localised** harm to the openness of the Green Belt.*

*In terms of the visual aspect of openness, I consider the harm would be **minor** (adverse) and in terms of the spatial aspect of openness, the harm would be **minor**. And in overall terms, I consider that there would be **minor** (adverse) harm to the openness of the Green Belt though this would be **limited and highly localised** within the context of this wide designation”.*

5.65 The Pegasus GBA concludes the following in respect of effect on Green Belt ‘purpose c’:

*“the level of harm would be limited to a minor degree.”*

5.66 Overall the Pegasus LVA/GBA concludes that:

*“The author considers that there are no substantive landscape character, visual amenity or Green Belt reasons from a landscape planning perspective for refusing planning permission for the proposed solar farm”.*

5.67 Prior to planning committee, the LPA’s Head of Planning advised the planning committee that: *“In conclusion therefore the actual Green Belt harm caused is considered to be moderate”.*

5.68 And by default was content that very special circumstances were achieved.

5.69 The Council’s planning committee simply concluded “harm” and made no comment on very special circumstances.

5.70 Therefore, the harms are:

- Appellant = “*minor, limited and highly localised*”
- LPA = “*moderate*” (officers) or “*harm*” (committee)

5.71 To which substantial weight should be afforded.

5.72 The benefits, to which significant weight be afforded, are many and include:

- The “*wider environmental benefits of renewable energy*” which Enviromena contend include:
  - Contribution to radically reducing green house gas emissions (NPPF paragraph 157)
  - Valuable contribution to significant cutting greenhouse gas emissions (NPPF 163)

- Minimising vulnerability and improve resilience [to energy supply and security issues] (NPPF 157)
- Support renewable energy (NPPF 157)
- Providing net gains for biodiversity (NPPF 180d)
- Achieving multiple benefits from land uses and achieving net environmental gains (NPPF 124)
- Good design (NPPF paragraph 135 and NPS EN1 paragraph 4.7.2)
- Economic, social and environmental objectives (NPPF paragraph 8)

5.73 In the context of the existential threat that climate change presents, and the significant weight that needs to be attached to the benefits in that context, Enviromena contend that this clearly outweighs the variously moderate to minor harm to which substantial weight should be afforded, and very special circumstances are clearly demonstrated.

| Policy matter                                     | Enviromena comments on LP3   |
|---|--|
| Strategic or non-strategic                        | Strategic and non-strategic elements.  |
| Policy test                                       | Very special circumstances required for harmful development.<br>"Regard" to be had to the NPPF for proposals in green belt.  |
| Assumed weight to policy                          | Full because the policy test requiring VSC does not conflict with the NPPF.  |
| Issues affecting weight                           | None.  |
| Conclusion (conflict or compliance and comments). | The LPA committee report concluded very special circumstances were clearly shown. The planning committee had no comment on the matter.<br><br>Enviromena remain content that very special circumstances exist because the harms (which receive substantial weight) are clearly outweighed by the many benefits (which receive significant weight). |

### Policy LP14 Landscape

5.74 Strategic Policy LP14 places a requirement on developments within a range of landscape character areas. Enviromena understand that no areas of the borough are not covered by these areas, and therefore the requirement applies to the plan area as a whole.

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5.75 The first paragraph of LP14 states that “*development should look to conserve, enhance and where appropriate, restore landscape character as well as promote a resilient, functional landscape able to adapt to climate change*”. Insofar as the aim of conserving and enhancing landscape character is concerned the ‘aspirational’ policy-test is one of ‘looking to do’, not ‘doing’. Insofar as the aim of restoring landscape character is concerned the ‘aspirational’ policy-test is one of ‘looking to do’ “*where appropriate*”. Therefore, to comply with the strategic policy, applicants need only “*look to*” undertake the matters covered by the policy.

5.76 In terms of landscape, the FPCR Landscape and Visual Assessment concluded:

- “*At completion, the landscape effects are judged to be **Moderate Adverse**. By year 15 the landscape effects are judged to reduce to **Moderate / Minor Adverse**. The effects on the features of the site – vegetation will be **Minor Beneficial** by year 15 as planting approaches maturity*”

5.77 In terms of visual impact, the FPCR Landscape and Visual Assessment concluded:

- “*The majority of residential receptors that will be affected are located along the southern boundary of Fillongley (receptors A and B). Field survey work has determined the most noticeable visual effects for residents would be experienced by receptors of Park House Farm and Manor House Farm. Views from the properties to the Site will be available from first floor level, resultant long term visual effects are considered to be **Moderate / Minor Adverse**. The majority of the existing properties in the area will be unaffected by the proposed development and resultant long term visual effects are considered to be **Minor Adverse**.*
- *Views of the proposed development from Public Rights of Way will largely be limited to those in closest proximity to the Site, affording close and medium range visibility. It is considered that initial resultant visual effects will vary between **Major/Moderate Adverse** along PRow WK|175|M294/1 and **Negligible/None** where they are more distant along the western National Trail Heart of England Way. By year 15 with the maturing of the proposed mitigation planting, assessed effects reduce to between **Moderate and Minor Adverse** for those receptors which are assessed as initially having greater effects.*
- *Views of the proposed development from the local road network will be limited to the M6 and Meriden Road with users likely to experience a **Minor Adverse and Negligible** effect at completion and in 15 years. New planting along the Site boundaries would assist in screening and filtering views in the medium/long term”.*

5.78 In terms of the effect on landscape elements, the Pegasus Landscape and Visual



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Assessment has concluded:

- *“The proposed solar farm would have a **negligible adverse** effect on topography. In terms of trees with the additional planting there would be a **major beneficial** effect, and with regard to hedges **moderate beneficial** effect. There would be a **moderate adverse** effect with regard to land cover with the introduction of the solar farm superimposed over pastureland. The author considers that there would be some **beneficial effects** with regard to landscape elements that would form the green infrastructure of the Appeal Site as part of the solar farm”.*

5.79 In terms of the effect on landscape character, the Pegasus Landscape and Visual Assessment has concluded:

- *“In overall terms the author considers that there would be a **moderate adverse** effect upon the landscape character of the Appeal Site itself and its immediate environs. No off-site works requiring planning permission are required to enable this scheme to be implemented. The physical character of the surrounding landscape would remain and prevail **unchanged** with the proposed solar farm in place”.*

5.80 In terms of the effect on visual amenity, the Pegasus Landscape and Visual Assessment has concluded:

- *“In overall terms, the visual effects of the proposed solar farm would be **very limited** due to its substantial visual containment as a result of a combination of topography and surrounding vegetation. Where seen, only small elements of the scheme would be observed and it would not be possible to appreciate the totality of the scheme from any one viewpoint location”.*

5.81 Overall, the Pegasus LVA concluded:

- *“Whilst there would be some **limited adverse** effects on landscape character and visual amenity, these would be **localised**”.*

5.82 The first paragraph of LP14 concludes by stating that *“Specific landscape, geo-diversity, wildlife and historic features which contribute to local character will be protected and enhanced as appropriate”*. Local hedgerows and trees on the application site have been both protected and enhanced, in compliance with this part of the policy.

5.83 Under the heading *“A Landscape Proposals”* the policy states that *“New development should, as far as possible retain existing trees, hedgerows and nature conservation features”*. The policy-test with regard to existing features is to retain *“as far as possible”*. In this case Enviromena are not proposing to unnecessarily remove any existing features. The arboricultural impact assessment recommends the removal of two Ash trees (T4 and T13) because of poor health, or their felling and retention on site for habitat purposes. The

submitted BNG assessment is clear on the overall benefits to natural features, in compliance with this part of the policy.

5.84 Under the heading “*B New Landscape Features*” the policy states “*the landscape and hydrological impacts of development proposals which themselves directly alter the landscape [...] will be assessed against the descriptions in the landscape character areas*”. The proposal’s landscape features include hedgerow, shrubs and trees and the hydrological features include swales, infiltration trenches and detention basins<sup>13</sup> and the ‘performance’ of these features against the LCA descriptions is covered by the submitted LVA, in compliance with this part of the policy.

5.85 Policy LP14 concludes by requiring “*new landscape schemes will look to use native species and incorporate benefits for biodiversity*”, which this scheme does, in compliance with this part of the policy.

| Policy matter                                    | Enviromena comments on LP14   |
|--|---|
| Strategic or non-strategic                       | Strategic   |
| Policy test                                      | <p>“<i>Look to</i>” conserve and enhance landscape character.</p> <p>“<i>where appropriate</i>” restore landscape character.</p> <p>“<i>as far as possible</i>” retain features.</p> <p>“<i>look to</i>” use native species in landscaping.</p> |
| Assumed weight to policy                         | Full weight as policy does not conflict with the NPPF in relation to landscape strategy.  |
| Issues affecting weight                          | None.   |
| Conclusion (conflict or compliance and comments) | In as far as the policy sets a range of ‘aspirational’ policy tests, Enviromena are content that the proposal complies with policy LP14.  |

### Policy LP30 Built Form

5.86 Development management policy LP30 concerns ‘built form’.

5.87 Enviromena contends that policy LP30 is ill-suited for use in this case.

<sup>13</sup> The detention basins are discussed in Section 2.

- 5.88 The supporting text to the policy, at paragraphs 13.16 to 13.19 of the local plan, exhibits a clear disposition towards ‘buildings’. There is little in the policy or its supporting text which applies readily to renewable energy development. This is unsurprising for a district-wide policy written to cater for all development types, but also as the topic-specific policy LP35 itself has design criteria. The supporting text states that “*The policy introduces a set of criteria against which design issues can be assessed. The Borough Council has prepared Design Guides in order to illustrate these matters*”.
- 5.89 None of the Council’s design guides or SPDs relate to the design of renewable energy developments. Whilst Policy LP30 sets ‘general principles’ for all development, the approach to the consideration of the development against the principles should be read in the context of NPS EN1 (Section 4.7) and EN3 (paragraphs 2.10.18 to 2.10.49) on the design of renewable energy infrastructure.
- 5.90 Policy LP30 requires:

| LP30 general principle  | Enviromena’s response   |
|---|---|
| <i>All development in terms of its layout, form and density should respect and reflect the existing pattern, character and appearance of its setting.</i>     | The solar farm is ground mounted and laid out to respect the existing field patterns and the topography of the land. The character of the area is rural, and the development is a not-uncommon form of agricultural diversification. The landscaping scheme is designed to respect and reflect the rural character. |
| <i>Local design detail and characteristics should be reflected within the development</i>   | There are no relevant local design details or characteristics which a solar farm could reasonably be required to reflect.   |
| <i>All proposals should therefore:</i>  |   |
| <i>a) ensure that all of the elements of the proposal are well related to each other and harmonise with both the immediate setting and wider surroundings</i> | All of the elements of the solar farm are well related to one another. The degree to which energy infrastructure can harmonise with its surroundings is limited <sup>14</sup> , however, the use of landscaping and ecological  |

<sup>14</sup> NPS EN1 paragraph 4.7.2

|  |   |
|--|---|
|  | enhancements allow the development to harmonise with the surroundings in a manner that monocultural agricultural use does not.  |
| <i>b) make use of and enhance views into and out of the site both in and outside of the site</i>   | There are no known designated or identified important local views in either the local or neighbourhood plans. The LVA has identified viewpoints for assessment and recommended landscaping to both enhance the site design and mitigate impacts where required. |
| <i>c) make appropriate use of landmarks and local features</i>   | There are no landmarks or local features on site that can be made use of.   |
| <i>d) reflect the characteristic architectural styles, patterns and features taking into account their scale and proportion</i>                                      | It would not be reasonable for a solar farm to reflect local architectural styles.  |
| <i>e) reflect the predominant materials, colours, landscape and boundary treatments in the area</i>  | It would not be reasonable for a solar farm to reflect materials, colours and boundary treatments in the area. However, the landscaping and ecological enhancements reflect the landscape of the area.  |
| <i>f) ensure that the buildings and spaces connect with and maintain access to the surrounding area and with the wider built, water and natural environment</i>      | The on-site right of way has been retained in this way.   |
| <i>g) are designed to take into account the needs and practicalities of services and the long term management of public and shared private spaces and facilities</i> | This requirement is not relevant to a solar farm.   |
| <i>h) create a safe, secure, low crime environment through the layout, specification and positioning of buildings,</i>   | To the degree that this criterion is relevant, the site will be safe and secure.  |

|  |  |
|--|--|
| <i>spaces and uses in line with national Secured by Design standards</i>   |  |
| <i>i) reduce sky glow, glare and light trespass from external illumination</i>   | The site will only be lit by motion triggered security lighting on the few small buildings, reducing the risk of impact from any of these factors. |
| <i>j) ensure that existing water courses are fully integrated into site layout at an early stage and to ensure that space is made for water through de-culverting, re-naturalisation and potential channel diversion</i> | There are no water courses through the site.   |

5.91 Policy LP30 is ill-suited to the design assessment of renewable energy infrastructure, in any event Enviromena found no significant policy conflicts. In the context of advice in the NPPs the proposal can, when approached positively, be seen to comply with the general principles of policy LP30.

5.92 The remainder of policy LP30 (specific development types and alterations, extensions and replacements) is not relevant to decision making in this case.

5.93 Policy LP30 summary:

| Policy matter                                    | Enviromena comments on LP30   |
|--|---|
| Strategic or non-strategic                       | Non-strategic / development management  |
| Policy test                                      | "Should respect and reflect".   |
| Assumed weight to policy                         | Full weight to the policy insofar as it likely does not conflict with the design content of the NPPF, but its applicability to renewable energy development is limited, as discussed above. |
| Issues affecting weight                          | None.   |
| Conclusion (conflict or compliance and comments) | To the extent that LP30 is useful or applicable to a renewable energy development, Enviromena contend that the proposal complies with the policy.   |



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## Policy FNP01 Built Environment

- 5.94 Neighbourhood plan policy FNP01 requires “*Development proposals where possible should ensure the designs of new buildings (including extensions) do not cause a detrimental change to the overall character of the village, the rural landscape of the parish and the setting of the Church*”. Enviromena contends that policy FNP01 is ill-suited for use in this case.
- 5.95 Policy FNP01 is clear that its application to development proposals is only required “*where possible*”.
- 5.96 The policy requires development proposals to: “*ensure the designs of new buildings (including extensions) do not cause a detrimental change to the overall character of the village, the rural landscape of the parish and the setting of the Church*”
- 5.97 It is clear from the supporting text to FNP01 that the policy is aimed at buildings that are capable of conforming to the form of “traditional Arden Valley buildings”. Whilst Enviromena acknowledge that the 1990 Act’s definition of “building” as would include the solar panels, it would be unreasonable for the policy to expect solar panels to conform to local vernacular or “dispersed settlement pattern”. There is therefore a narrow and a wide interpretation of the reach of policy FNP01; the narrow interpretation that it was not written to deal with development like this and therefore the requirements of the policy are, at best, a ‘misfit’ to this development type, or, more likely, simply not applicable. Or the wider interpretation that, on a technicality, because the solar panels are defined as “buildings” in planning law, the policy has some effect in that it requires the “designs” of solar farms to achieve the various objectives of the policy, which in of itself could be said to be unreasonable.
- 5.98 The Fillongley Neighbourhood Plan Basic Conditions Statement (Appendix 7) further lends credence to the ‘narrow interpretation’ as it clearly states that “*This policy applies to all types of development both housing and commercial sector*”.
- 5.99 Enviromena’s opinion is that policy FNP01 is clearly of no practical use in this appeal, and to attempt otherwise, requires decision makers to ignore the clear intent of the policy.
- 5.100 Without prejudice to the above, and for the sake of argument, Enviromena respond as follows to the policy.
- 5.101 The question of whether a detrimental change is caused is a subjective one, and the policy talks of the overall character of the village. Whilst the solar farm may be visible from a small number of locations on the southwestern edge of the village, it is improbable that it would detrimentally change the overall character of the village, in compliance with the policy on either the narrow or wide interpretation.

5.102 Whilst the solar farm may, for some, cause detrimental change to the local landscape, it is improbable that it would detrimentally change the rural landscape of “the parish” in its entirety, occupying as it does only a small proportion of the parish area (which is shown on neighbourhood plan Map 1). On the narrow interpretation there is no conflict with this part of the policy. On the wider interpretation there could be a conflict with this part of the policy, but that requires decision makers to sidestep the clear intent of the policy.

5.103 The solar farm will not affect the setting of the church (BWB Heritage Assessment page 24) or “*has no particular function within its setting*” (Committee Report of 4<sup>th</sup> March 2024) and therefore complies with this part of the policy on either the narrow or wide interpretation.

5.104 Policy FNP01 provides a suite of criteria for considering development proposals, to which Enviromena respond in turn below:

- [“where possible”] “*Encouraging developments that use the scale, shapes, forms of traditional Arden Valley buildings’, especially in or close to the Conservation Area*”. It is not possible for, and it would be unreasonable to expect, a renewable energy development to reflect traditional Arden Valley buildings.
- [“where possible”] “*Development should conserve the built character of Ancient Arden Landscape by ensuring that new development reflects vernacular features as stated in ‘Design Guidelines for Development in Ancient Arden’ (WCC Arden Character Guidelines 1993)/(Evidence Base 05/03 National Character Assessment Area 97 Arden)’*. It is not possible for, and it would be unreasonable to expect, a renewable energy development to reflect vernacular features in the 1993 NCA.
- [“where possible”] “*Development that will affect the setting of the Church should be in accordance with the North Warwickshire Local Plan and the advice of Historic England’*. The development will not affect the setting of the church.

5.105 Policy FNP01 summary:

| Policy matter              | Enviromena comments on FNP01   |
|----------------------------|--|
| Strategic or non-strategic | Non-strategic / neighbourhood plan   |
| Policy test                | Compliance with various built environment criteria “ <i>where possible</i> ”.                          |
| Assumed weight to policy   | Full weight as the policy is likely consistent with built environment design requirements of the NPPF. |
| Issues affecting           | None.  |

|   |  |
|---|--|
| weight  |  |
| Conclusion<br>(conflict or<br>compliance and<br>comments) | On a narrow interpretation, the policy simply does not apply. On a 'generous' interpretation, itself based on a technicality in the definition of "buildings", then decision makers may see some conflict, however the overriding policy test is that the requirements of the policy only 'bite' "where possible". |

## Policy FNP02 Natural Environment

5.106 Neighbourhood Plan Policy FNP02 relates to the natural environment. Policy FNP02 is less committal in its requirements than FNP01, because of its policy tests "*where possible*" and "*seek to*" in relation to enhancing and conserving the natural environment.

5.107 The policy sets out a range of "*considerations*"<sup>15</sup> that proposals should meet in order to benefit from support in principle. Enviromena respond to these in turn (our emphasis):

- "*No adverse impacts on the visual appearance and important scenic aspects of the village centre (the setting) and other rural and natural features in the landscape*" – the development will not adversely affect the village centre. The neighbourhood plan does not define what it means by "*rural and natural features*". These 'features' are not described, listed or mapped. However, the focus on 'features' makes it clear that it is not the entirety of the landscape that the policy is talking of, just its unnamed features. Looking to the supporting text one might assume that these features include woodland, hedges, trees, wildlife and the 6 named open spaces. No adverse impacts to the visual appearance and important scenic aspects of such features will result from this development, in compliance with this criterion.
- "*Existing greenspaces that already exist within and on the edges of the developed areas of the Parish should be protected and enhanced **wherever possible***" – the policies aim to protect and enhance the identified existing greenspaces "*wherever possible*" will not be undermined by this development because none of those identified greenspaces are impacted.
- "*Protect and increase, **where possible**, current levels of biodiversity and interconnectivity by ensuring current wildlife corridors (using data from Biodiversity Interconnectivity Mapping) are maintained, and increased where practicable*" – the submitted ecology reports are clear on the current and post-development BNG scores. Notwithstanding that this policy has a 'low bar' to clear, the scheme exceeds its

<sup>15</sup> As distinct to more compelling 'requirements' for example.

requirements and both protects and increases biodiversity by significant levels.

- *“Any development should have regard to the Habitat Biodiversity Audit (EB 05/01)”* – The neighbourhood plan is supported by a raft of habitat survey information from 2014. Regard has been had to this data, however, the planning application was supported by more recent site-specific survey information.
- *“Section 106 payments/CIL financial contributions, should wherever possible go towards improvements to levels of biodiversity and interconnectivity using data from the Habitat Biodiversity Audit in the locality of the development (Reference EB 05/01)”* – No s106 or CIL monies are being levied from this scheme.
- *“Existing definitively mapped footpaths that criss-cross our Parish should be protected and enhanced **wherever possible**”* – to the extent possible, the proposed scheme protects and enhances onsite footpaths.
- *“Existing habitats of native species should be protected wherever possible (using data from Habitat Distinctiveness Area map)”* – the ecological survey information submitted with the planning application supported the BNG report and demonstrated that existing habitats and species would be protected as a result of the design and mitigation of the scheme.
- *“Protect traditional Arden landscaped hedges and native trees wherever possible”* – the submitted landscaping scheme is very clear on the proposals to not just protect hedges and trees, but to enhance them, beyond the requirements of the policy.

5.108 Solar farms commonly present significant opportunities for biodiversity net gain and this proposal is no exception, offering as it does a c.63% increase in habitat units and c.26% increase units.

5.109 **Policy FNP02** summary:

| Policy matter              | Enviromena comments on FNP02   |
|----------------------------|--|
| Strategic or non-strategic | Non-strategic / neighbourhood plan   |
| Policy test                | <i>“wherever possible”</i> and <i>“seek to”</i>  |
| Assumed weight to policy   | Full weight as assumed to be compliant with both the local plan and NPPF in terms of attention to the natural environment. |
| Issues affecting weight    | None.  |
| Conclusion                 | By both protecting and significantly enhancing the natural   |

|                                       |   |
|---------------------------------------|---|
| (conflict or compliance and comments) | environment on site and within its environs; the proposal complies with the policy. |
|---------------------------------------|---|

### Policies LP35, LP1, LP3, LP14, LP30, FNP01 and FNP02 Summary

- 5.110 Enviromena have taken a detailed approach to the development policies to fully and comprehensively assess compliance and conflict. Taking a step back and a higher-level view, the development plan is a fairly positive strategy<sup>16</sup> towards renewable energy, and the policies that have been arraigned against the development by the Council following the planning committee overturn are relatively facilitative towards development, featuring, as many of them do, the policy tests of “*where possible*” or “*where appropriate*”.
- 5.111 Enviromena contend that policies LP30 and FNP01 are ill-suited to decision making for a development of this type, and therefore any conflict that might be found should not weigh against the proposal.
- 5.112 Enviromena are content that the development complies with development plan policies LP1, LP3, LP14 and FNP02. Over and above this, the development complies with the most important policy LP35.

### Policies LP15, LP16, LP23, LP29, LP33

- 5.113 Notwithstanding the ‘without prejudice’ draft of the Statement of Common Ground being exchanged between the parties. Enviromena respond to these policies below.
- 5.114 LP15 Historic Environment - at the time of writing it is common ground between the parties that “*There is less than substantial harm caused to heritage assets. There is no heritage reason for refusal*”.
- 5.115 LP16 Natural Environment – at the time of writing it is common ground between the parties that “*There is no ecology/biodiversity*” reason for refusal as the proposal satisfies Local Plan policy LP16.
- 5.116 LP23 Transport Assessments - the policy relates to transport assessments. The NPPF is clear that “*all developments that will generate significant amounts of movement [...] should be supported by a transport assessment*”.
- 5.117 LP29 Development Considerations – at the time of writing it is common ground between

<sup>16</sup> Enviromena contend that had the local plan evidence base been more comprehensive and up to date (bearing in mind it is so old it doesn’t include ground mounted solar as a technology type), that the topic-specific policy LP35 could have been even more positive.



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that parties that “*There is no highway reason for refusal*” as the proposal satisfies the relevant Local Plan policy (LP29(6)) and NPPF policy (para 115)”.

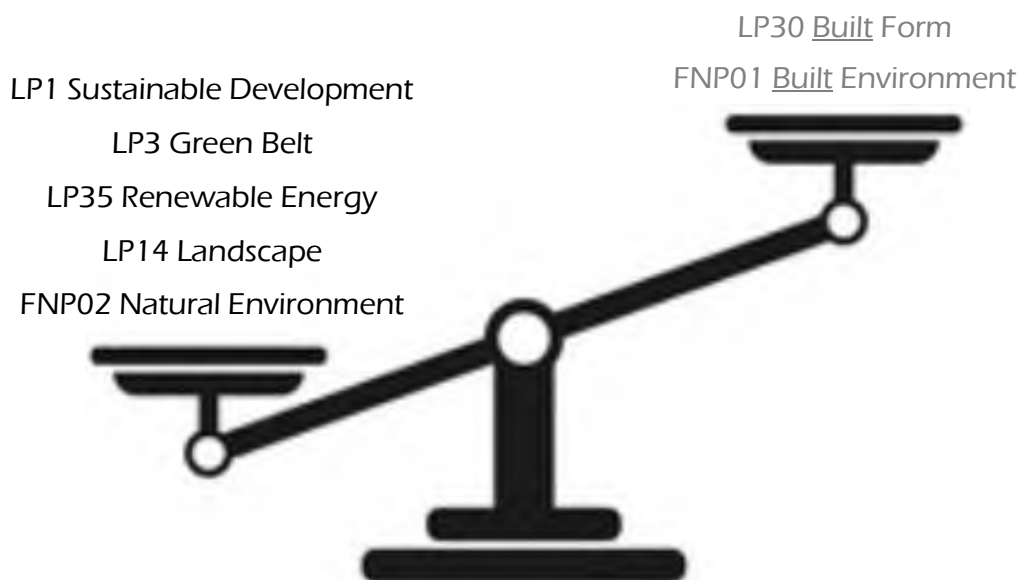
5.118 LP33 Water and Flood Risk Management – at the time of writing it is common ground between that parties that “There is no “*flooding*” or “*drainage*” reason for refusal as the proposal satisfies Local Plan policy LP33 and the relevant NPPF policy (para 175)”.

### Development Plan Summary

5.119 Enviromena approach the development plan policies on a full weight assumption, and have not needed to attack the weight of the policies on the basis that the development plan fails to provide a positive strategy for renewable energy development, in conflict with the NPPF.

5.120 Notwithstanding this, Enviromena take the view that the local plan’s coverage of renewable energy, and the approach of its relevant policy, would have been more positive, more facilitative and more compelling had the evidence base not been so very limited in scope and reach, omitting ground mounted solar as a technology type as it does and likely due to its age.

5.121 Enviromena’s conclusion on development plan compliance is shown below:



5.122 Enviromena are content that, approached positively and by reference to the relevant development plan policies and their varied policy-tests, the proposal complies with the development plan with only a relatively ‘standard’ set of planning conditions required to make development acceptable in planning terms.

5.123 Therefore, this is a straightforward matter of approval in line with Policy LP1 and NPPF

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paragraph 11.c) and the presumption in favour of sustainable development, there being no policy conflicts capable of justifying a different outcome, and no material considerations capable of indicating otherwise.

## Response to the Reason for Refusal

5.124 The LPA have advanced a reason for refusal which claims conflict with development plan policies, and therefore Enviromena turn to the constituent parts of the reason for refusal below. In doing so, Enviromena repeat the point that the reason for refusal bears little to no resemblance to the planning committee's comments, as demonstrated by the transcripts of the committee meeting recordings.

5.125 Enviromena approach the reason for refusal according to its four constituent parts:

*The proposed development is inappropriate development in the Green Belt. It is not considered that it would preserve the openness of the Green Belt as required by Policy LP3 of the North Warwickshire Local Plan 2021 and the National Planning Policy Framework (NPPF) 2023. It would additionally cause landscape and visual harm such that it does not accord with Policies LP1, LP14 and LP30 of the North Warwickshire Local Plan 2021, or Policies FNP01 and FNP02 of the Fillongley Neighbourhood Plan 2019. The Local and Neighbourhood Plan policies require new development to conserve and enhance the landscape; to integrate appropriately into the natural environment, harmonise with its immediate and wider settings, as well as to protect the rural landscape of the Parish, the scenic aspects of the village and the setting of the Church. The cumulative harms caused are considered to be substantial because of the development's proposed size, its siting on higher land, there being no surrounding higher land and its public visibility over a wide area. It is not considered that this substantial harm is clearly outweighed by any benefits that the proposal might give rise to.*

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5.126 Part 1 asserts the Council's position on Green Belt:

*"The proposed development is inappropriate development in the Green Belt. It is not considered that it would preserve the openness of the Green Belt as required by Policy LP3 of the North Warwickshire Local Plan 2021 and the National Planning Policy Framework (NPPF) 2023"*

5.127 Enviromena acknowledge that substantial weight should be given to any harm to Green Belt, but that does not mean that all Green Belt harm is equal, or as capable of being outweighed by positive material consideration. A more nuanced judgement is required.

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5.128 At this stage Enviromena and the Council have reached different Green Belt harm outcomes.

5.129 The Council concluding: substantial definitional harm and moderate actual harm. Enviromena find no authority for quantifying the definitional harm. The NPPF simply describes definitional harm as “harmful”. Therefore, it would be more correctly termed substantial weight to definitional harm, and substantial weight to moderate actual harm.

5.130 The NPPF is clear that the wider environmental benefits of renewable energy are capable of amounting to very special circumstances and that the two forms of Green Belt harm (described by the LPA in the 4<sup>th</sup> March committee report as definitional and actual) only need be “clearly” outweighed. “Clearly”; a measure of clarity, not volume.

5.131 Enviromena’s Green Belt assessment (Pegasus Landscape Statement – Appendix 6) concludes:

*“In terms of the visual aspect of openness, I consider the harm would be **minor** (adverse) and in terms of the spatial aspect of openness, the harm would be **minor**. And in overall terms, I consider that there would be **minor (adverse) harm** to the openness of the Green Belt though this would be **limited and highly localised** within the context of this wide designation.*

*In terms of safeguarding the countryside from encroachment, the proposed solar scheme would be physically **limited to the site itself**. There would continue to be a strong **disconnection** between the distant urban areas beyond the Green Belt with the scheme in place. The encroachment, as a consequence of the solar farm, would be **solely limited to the Appeal Site itself**, with the land beyond the remaining countryside. As such, the proposed solar farm would conflict with one purpose of Green Belt, that of encroachment in the countryside. However, the level of harm would be **limited to a minor degree**”.*

5.132 The benefits, to which significant weight be afforded, are many and include:

- The “*wider environmental benefits of renewable energy*” which Enviromena contend include:
  - Contribution to radically reducing green house gas emissions (NPPF paragraph 157)
  - Valuable contribution to significant cutting greenhouse gas emissions (NPPF 163)
  - Minimising vulnerability and improve resilience [to energy supply and security issues] (NPPF 157)
  - Support renewable energy (NPPF 157)
  - Providing net gains for biodiversity (NPPF 180d)

- 
- Achieving multiple benefits from land uses and achieving net environmental gains (NPPF 124)
  - Good design (NPPF paragraph 135 and NPS EN1 paragraph 4.7.2)
  - Economic, social and environmental objectives (NPPF paragraph 8)

5.133 In the context of the existential threat that climate change presents, and the significant weight that needs to be attached to the benefits in that context, Enviromena contend, that this clearly outweighs the variously moderate to minor harm to which substantial weight should be afforded, and (as the Council's Head of Planning recommended to committee, twice) very special circumstances are clearly demonstrated.

5.134 Part 2 asserts the Council's position on landscape and visual.

5.135 Reason for refusal part 2 concerns landscape and visual harm:

*"It would additionally cause landscape and visual harm such that it does not accord with Policies LP1, LP14 and LP30 of the North Warwickshire Local Plan 2021, or Policies FNP01 and FNP02 of the Fillongley Neighbourhood Plan 2019"*

5.136 The LPA references five policies in defence of this part of the reason for refusal. Enviromena have set out in detail above how the proposal performs against the policies and their policy tests in relation to the "landscape and visual harm" claim, and summarise that position below:

- LP1 requires proposals to meet its strategic criteria "where relevant". LP1 requires proposals to "integrate appropriately" with the natural environment, and Enviromena's arguments on how NPS EN1 advises this is approached in relation to the realistic expectations that should be placed on energy infrastructure are discussed above. Enviromena contend that the appeal scheme integrates with the natural environment "appropriately" for a solar farm; minimising landscape and visual harm (in line with NPPF paragraphs 55 and 163) and significantly boosting biodiversity, in accordance with policy LP1.
- LP14 is a strategic policy for landscape matters. Its policy tests require proposals to "look to" conserve and enhance landscape character. The policy requires proposals to restore landscape character "where appropriate" and "as far as possible" retain features. The submitted and amended landscape proposals surpass these policy tests in accordance with policy LP14.
- LP30 is, in Enviromena's opinion, a design policy geared towards the built environment ("*new buildings and extensions or alterations to existing buildings*"). Whilst it is acknowledged that the policy starts with the words "all development" it is,

after all, headed Built Form, and there is no built form for the development's layout, form and density to respect and reflect. This proposal should not be required to accord with policy LP30.

- FNP01 is a design policy, geared towards “*all types of development both housing and commercial sector*”. It is, at best, ill-suited to guiding decision making for a renewable energy development; the topic specific policy LP35 being the better vehicle for decision making. This proposal should not be required to accord with policy FNP01.
- FNP02 sets a high bar (for support in principle, as distinct to a test for refusal) of “*no adverse impacts on the visual appearance and important scenic aspects of the village centre*”. The proposal will not affect the village centre. This requirement extends to “rural and natural features in the landscape. The neighbourhood plan does not define what it means by “*rural and natural features*”. These ‘features’ are not described, listed or mapped. However, the focus on ‘features’ makes it clear that it is not the entirety of the landscape that the policy is talking of, just its unnamed features. Looking to the supporting text one might assume that these features include woodland, hedges, trees, wildlife and the 6 named open spaces. No adverse impacts to the visual appearance and important scenic aspects of such features will result from this development, in compliance with this criterion.

5.137 Enviromena are content that, where relevant, the proposed solar farm meets or exceeds the policy tests and criterion of the policies referred to, for the reasons given.

5.138 Part 3 is arranged as a statement of policy intent, but it is not accurate.

5.139 It is an agglomeration of policy extracts from the policies referred to in part 2, which appear to have been sourced as discussed below. In all cases the key policy tests are missing from the reason for refusal, which undermines their invocation.

| RfR extract   | Policy | Enviromena comment  |
|---|--------|---|
| <i>“conserve and enhance the landscape”</i>         | LP14   | The pre-cursor in policy LP14 is missing from the extract cited in the RfR, LP14 more fully says “ <b>look to conserve and enhance the landscape</b> ”, as discussed above. Other policy tests or caveats include the terms “ <i>where appropriate</i> ” and “ <i>as far as possible</i> ”. |
| <i>“to integrate appropriately into the natural</i> | LP1    | The pre-cursor is missing. LP1 applies the ‘integrate appropriately’ test “where relevant”, as discussed above.   |

|  |                        |   |
|--|------------------------|---|
| <i>environment</i>                                       |                        |   |
| <i>"harmonise with its immediate and wider settings"</i> | LP30a                  | As discussed above, policy LP30 is a misfit for renewable energy development, predisposed as it is to 'built development'. Policy in NPS EN1 and EN3 on the design expectations for energy infrastructure are also pertinent.   |
| <i>"protect the rural landscape of the Parish"</i>       | FNP01                  | As discussed above, on the 'narrow interpretation' FNP01 is not applicable. On the 'wider interpretation' the policy only bites <i>"where possible"</i> .   |
| <i>"the scenic aspects of the village"</i>               | FNP02 & NP para 2.10.2 | Policy FNP02 and its supporting text refers to: "the village centre" not "the village". The proposal will not affect the scenic aspects of the village centre.<br><br>The policy tests in FNP02 include <i>"wherever possible"</i> and <i>"seek to"</i> .<br><br>By both protecting and significantly enhancing the natural environment on site and within its environs; the proposal complies with the policy. |
| <i>"the setting of the Church"</i>                       | FNP01                  | As discussed above, on the 'narrow interpretation' FNP01 is not applicable. On the 'wider interpretation' the policy only bites <i>"where possible"</i> .   |

5.140 Reason for refusal part 4 concerns the Council's claimed impacts.

5.141 Enviromena understand the difficult task given to the Council's planning department of having to divine a reason for refusal from a relatively unevidenced committee overturn of a clear, compelling and repeated recommendation for approval. Looking to the transcripts of both the March and July 2024 planning committee meetings finds very few, if any, potential sources of these claims. It is therefore unclear where the claimed cumulative harms originate from, what they consist of, and by what means they have accumulated for the purposes of defending the planning committee's decision:

| RfR claim   | Enviromena response  |
|-------------|--|
| <i>"the</i> | Three committee members refer to the size of the development |



|  |   |
|--|---|
| <p><i>development's proposed size"</i></p>             | <p>thus:</p> <p>Cllr Hayfield <i>"this is a huge development that will have a very substantial visual impact"</i></p> <p>Cllr Simpson <i>"This is a huge development, 60+ hectares in the Green Belt"</i></p> <p>Cllr Hayfield reiterating Simpson <i>"this is a huge development that will have a very substantial visual impact on the Green Belt"</i>.</p> <p>The committee members provided no source or methodology for their claim of "substantial visual impact". The committee provided no reason for disagreeing with their officer's opinion on visual impact, and officer's provided no steerage to the committee's unfounded assertions, in contradiction to the Council's constitution which recommends such actions are taken in the event of committee overturns.</p> <p>The transcript of the March meeting records the head of planning cautioning committee on this point:</p> <p><i>"this is the largest of the Applications that Members of the Board have had to deal with and the size itself is not a reason for refusal; that is my advice to you"</i>.</p> |
| <p><i>"its siting on higher land"</i></p>              | <p>There is no apparent source for this claim. The Council do not explain what is meant by 'higher land', higher than what or where? It is not said. There is no reference to view points, and no disagreement with the Appellants LVA. Topographical mapping shows that there is higher ground some 2km to the west, and some 1km to the south on the other side of the M6, but there is nothing to say these positions represent sensitive locations.</p>   |
| <p><i>"there being no surrounding higher land"</i></p> | <p>The relevance or meaning of this point is unclear, and no source for the claim can be found.</p>   |
| <p><i>"its public visibility over a wide area"</i></p> | <p>The July transcript records one instance of a committee member discussing visibility. Cllr Ridley stated <i>"Thank you Chair. I'm completely conflicted like a lot of people are. Yes we have a</i></p>  |

|  |   |
|--|---|
|  | <p><i>climate emergency, we need green energy, we need it now, we don't need it in five years time. The issue I find with this is it's visible from everywhere". Evidently the proposal is not "visible from everywhere. The committee member was not dissuaded of this view by officers, and it appears to have crept into the reason for refusal unchallenged and unevidenced.</i></p> <p>The March meeting transcript records the Head of Planning cautioning the committee on this very point:</p> <p><i>"in terms of visibility, the fact that you can... Members will be aware of this when dealing with other applications, the fact that you can actually see the development is not a reason for refusal".</i></p>   |
| <p><i>"substantial harm is clearly outweighed by any benefits"</i></p> | <p>The transcript of the July planning committee meeting records the committee chair reiterating the committee's reason for refusal:</p> <p><i>"the planning reasons given were harm to the Green Belt because of the scale and the landscape harm, the use of Best and Most Versatile land and of course, it's not consistent with the Neighbourhood Plan. Right so I've got that put down"</i></p> <p>There is nothing about substantial harm outweighing benefits.</p> <p>However, looking elsewhere in that transcript, earlier in the meeting, it can be seen where this claim originates from. Cllr Simpson (our emphasis):</p> <p><i>"Once it's gone, it's gone. I know the argument is it's a temporary Application because it's only for 40 years. But I'm concerned for my life that's pretty [?] and for most of the people who live in that area it is permanent. And the planning content, I get that 40 years can be argued to be temporary. <b>What is the planning basis?</b> The report makes it quite clear the long mitigation [?since] the question of how much do you agree with the mitigation compared to the harm. [?4:38:09.0] the report says its considered the [?] of the planning balance comprises a substantial definition of Green Belt harm, moderate actual Green Belt harm, moderate landscape and minor visual impacts and the harm caused to the Best and Most Versatile land as well as, what's less than substantial harm for local heritage assets.</i></p> |

*None of that is saying there is no harm. There is clear harm to the Green Belt. Now agreed, there are advantages and it is important that we have green energy, but in my honest view, the advantages of this Application do not outweigh the substantial harm that is clearly outweighed by any of the benefits of [?the] development. This is a long-term, you know I get we need to [?deliver] green energy, we don't need to do it everywhere and we certainly do not need to do it in sensitive locations and we do not need to do it for the benefit of future generations in an area where 95% of the land is our Best and Most Versatile land. We do need to sort out energy, but on the land that grows more than anything else? Cllr, I get your point for the benefit of future generations, but **future generations need to eat too**".*

Taking these comments in turn:

*"Once it's gone its gone"*. Incorrect, the proposal is temporary. The Councillor was not corrected on this point.

*"what is the planning basis"*. The Councillor was not corrected and/or directed to the PPG.

*"none of that is saying there is no harm"*. There is no policy authority for the Councillor to take a *"no harm"* stance on development. The Councillor was not corrected on this point.

*"substantial harm that is clearly outweighed by any of the benefits"*. Even if the claim of substantial harm were based in any authoritative source, it should have been weighed against all the benefits, not *"any"*. This is critical, and important. The Councillor was not corrected on this crucial matter, which appears to have been extracted from an early point in the meeting, and used to justify the planning committee's overturn.

5.142 The committee meeting transcripts are invaluable in showing that these claims of substantial harm were poorly constructed and unevicenced by committee and unchallenged by officers, contrary to the Council's constitution which clearly says:

- *"there must always be **clear and convincing planning reasons** for the Board's decision. [...] if the Board makes a decision contrary to the officer's recommendation (whether for approval or refusal), a detailed minute of the Board's reasons should be made and*

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*a copy placed on the application file. Officers should also be given the opportunity to explain the implications of the contrary decision before it is taken”*

- *“Any Member who is contemplating proposing a motion to refuse an application contrary to the officer’s recommendation should contact the relevant officer to discuss his/her intention. The officer will advise the Member whether the Member’s concerns would constitute a valid planning reason for refusing permission; and if so, assist the Member in drafting reason[s] for refusal. **The Board will be advised as to the strength of the suggested reason for refusal and any possible financial implications for the Authority’.***

- 5.143 Enviromena contend that the reason for refusal, is not an accurate representation of the planning committee’s comments, necessarily omits policy tests and in doing so makes incorrect assertions of policy conflict which do not stand up to scrutiny.
- 5.144 Enviromena remain content that policies LP30 and FNP01 are ill-suited to decision making in this case and that the development complies with development plan policies LP1, LP3, LP14, LP35 and FNP02.

## 6. Residual Impacts & Planning Controls

- 6.1 Enviromena point to NPPF paragraph 163.b) which says “[*When determining planning applications for renewable and low carbon development, local planning authorities should:*] b) *approve the application if its impacts are (or can be made) acceptable”.*
- 6.2 NPPF paragraph 55 is clear that “*Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations”.*
- 6.3 The March 2024 planning committee report set out the planning conditions necessary for the grant of conditional planning permission. Of those conditions, only Conditions 15 and 18 reasonably relate to the matters in the reason for refusal (Green Belt harm to openness and landscape and visual harm).
- 6.4 As the committee meeting transcripts show, there was no discussion by the planning committee as to the adequacy, or otherwise, of these conditions to “*make development acceptable’.*
- 6.5 Enviromena remain content that the outcomes of the supporting reports and surveys were technically sound, accepted by the respective statutory consultees, and any planning controls deriving from them were more than sufficient to ensure compliance with the development plan, and certainly no residual impacts remain beyond the ability of planning

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controls to ‘make development acceptable’<sup>17</sup>, such that material considerations are needed to compel the grant of planning permission.

- 6.6 Notwithstanding, Enviromena draw the Inspector’s attention to the wealth of material considerations in support of the grant of planning permission and address any material considerations that may be considered to pull in the opposite direction below.

## 7. Material Considerations Advanced by the Appellant

- 7.1 Enviromena provide a raft of material policy, guidance and documents which have been grouped under the following general headings, although some references may well fit under more than one:

- Planning principle
- Appeals precedent
- Energy policy / energy security
- Climate change & net zero
- Landscape
- Biodiversity
- Heritage
- Economic development

### Planning principle

- 7.2 The repeated recommendations of approval to the Council’s planning committee, and the assessment, reasoning and policy analysis they contain are material considerations in the event of a committee overturn.
- 7.3 Enviromena reference the consultation draft NPPF July 2024 and accompanying Ministerial Statements and details on proposed changes to NSIPs, NPSs and planning legislation.
- 7.4 The current 2023 NPPF is perfectly clear on the matter:
- *“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,*

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<sup>17</sup> NPPF paragraphs 55 and 163b.

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*including brownfield registers and permission in principle, 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***" (NPPF 38, emphasis added).

- *"Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations"* (NPPF 55). Emphasis added.
- *"When determining planning applications for renewable and low carbon development, local planning authorities should: [...] b) **approve the application if its impacts are (or can be made) acceptable***" (NPPF 163, emphasis added).
- *"very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources"* (NPPF 156, emphasis added).
- *"Planning policies and decisions should: a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside; b) recognise that some undeveloped land can perform many functions"* (NPPF 124).
- *"The planning system should **support the transition** to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to **radical reductions** in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and **support renewable and low carbon energy** and associated infrastructure"* (NPPF 157). Emphasis added.
- *"Planning policies and decisions should contribute to and enhance the natural and local environment by: [...] d) minimising impacts on and providing net gains for biodiversity"* (NPPF 180).

7.5 The compelling direction of intent from the draft NPPF 2024 is also clear:

- *"To help increase the use and supply of renewable and low carbon energy and heat, plans should: [...] b) identify suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development;"* (draft NPPF 161)
- *"Local planning authorities should **support planning applications for all forms of renewable and low carbon development**. When determining planning applications*



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*for these developments, local planning authorities should: a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give **significant weight** to the proposal's contribution to renewable energy generation and a net zero future;" (draft NPPF 164, emphasis added).*

- *"In addition to the above, housing, commercial and other development in the Green Belt should not be regarded as inappropriate where:
  - a. *The development would utilise grey belt land in sustainable locations, the contributions set out in paragraph 155 below are provided, and the development would not fundamentally undermine the function of the Green Belt across the area of the plan as a whole; and*
  - b. *The local planning authority cannot demonstrate a five year supply of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 76) or where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years; or there is a demonstrable need for land to be released for development of local, regional or national importance.*
  - c. *Development is able to meet the planning policy requirements set out in paragraph 155". (draft NPPF 152, emphasis added)**
- *"Where major development takes place on land which has been released from the Green Belt through plan preparation or review, or on sites in the Green Belt permitted through development management, the following contributions should be made:
  - a. *In the case of schemes involving the provision of housing, at least 50% affordable housing [with an appropriate proportion being Social Rent], subject to viability;*
  - b. *Necessary improvements to local or national infrastructure; and*
  - c. *The provision of new, or improvements to existing, green spaces that are accessible to the public. Where residential development is involved, the objective should be for new residents to be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces". (draft NPPF 155).**

7.6 Enviromena acknowledge that decision makers may be affording limited weight to the draft NPPF as a material consideration because it is 'only' at consultation stage. Enviromena believe decision makers can be bolder than this.

7.7 The Government have been very clear on the importance of the intended changes to the NPPF, particularly in respect of 'green energy', the 'green economy' and becoming a 'green

energy superpower'. This is set out no more clearly than in the 'Easy Read' companion document to the draft NPPF consultation which puts it most simply:

## Green energy and the environment



We also **need** to change planning rules to make it **easier** to make **green energy**.

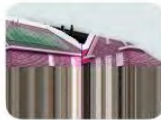
**Green energy** is electricity that is made in a way that is **good for the environment**.



To make green energy, we **need** to build things like **wind turbines** and **solar panels**.



**Wind turbines** use the power of the wind to make electricity.



**Solar panels** use the power of the sun to make electricity.

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**Question 74:** Should there be ways to protect places that are important for the environment?



We want to make it easier to build **small and medium-sized solar and wind projects**.



There are extra rules for solar and wind projects that are over a certain size.



We want to have a higher size limit, so that medium-sized solar and wind projects do not need to follow these extra rules.



This will help to build more **small and medium-sized projects**.

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We want to make planners think about how green energy projects can help the environment.



This will make it more likely that **green energy projects will get built**.



We also want to make councils look for places that would be good for green energy projects in their local area.



Sometimes, green energy projects might be built in places that are important for the environment.



**Question 73:** Do you agree with these changes?

78

## Making sure there is enough land to grow food



We need to protect the best land for growing food.



This will help us to make sure that everyone has enough food to eat.



There is a rule that says that planners must think about whether land is good for growing food before building projects can happen.



We do not think that we need this rule.

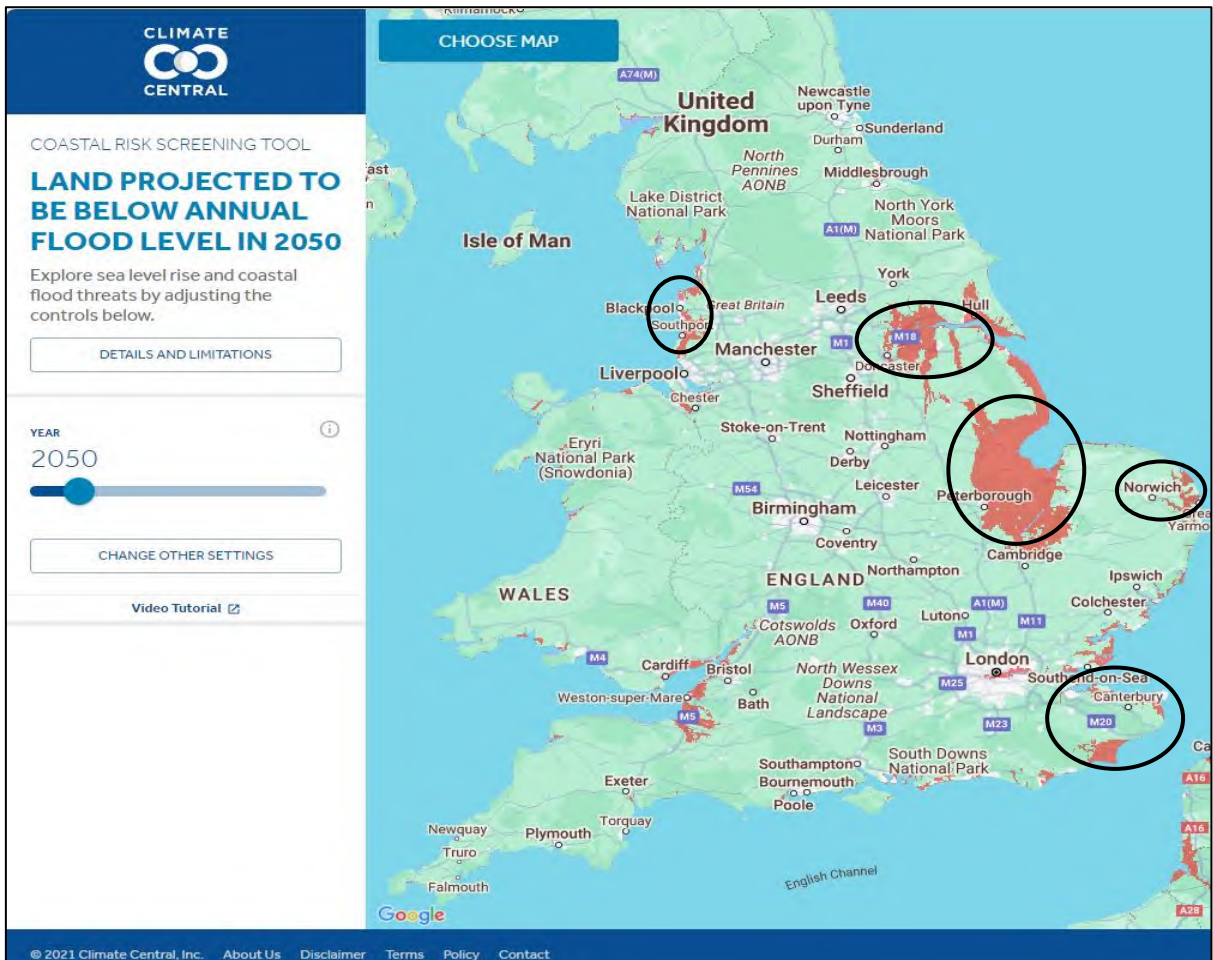
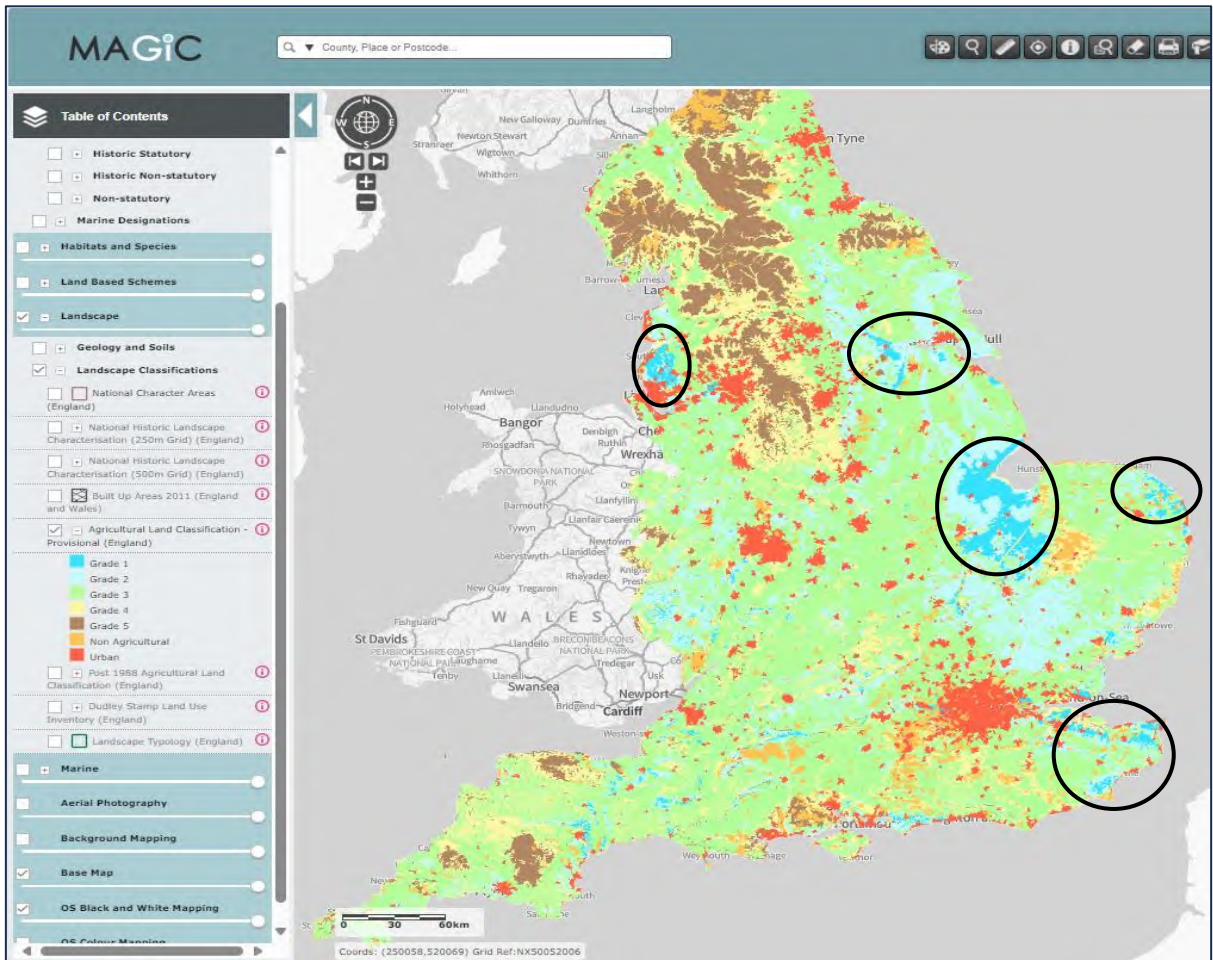
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- 7.8 In terms of decision making, it is compelling that the new Secretary of State's first decision was to grant permission for a solar farm in the Green Belt in Warwickshire (Honiley Road 3332671), alongside very many recent approvals for national infrastructure projects. Enviromena contend that this demonstrates a clear intention by Government to deliver ground mounted solar at scale and at pace; as required by the National Policy Statements and the draft NPPF.
- 7.9 Both current versions of the NPPF (the second published version from December 2023 and the draft version published for consultation in July 2024) are material considerations.
- 7.10 Enviromena acknowledge that the 2023 version has been published as a final version, and the 2024 version as a draft. The 2023 version is the policy expression of an administration that has been elected out of power, and the draft version is the policy expression of an administration recently and overwhelmingly elected into power, and at the very start of their term of Government.
- 7.11 Enviromena contend that, in the face of the climate crisis, any proposition that these clear policy intentions for 'green energy' which are central to the Government's sustainable development ambitions and for the country to become a 'green energy superpower', are susceptible to significant watering down or are merely a direction of travel, would hardly be the 'radical' decision making required by the NPPF.
- 7.12 Enviromena contend that the weight to the incoming NPPF should be at least the same as the outgoing NPPF where any conflicts between the two would act against this development. Enviromena contend that, in respect of renewable energy development, the draft NPPF reflects more closely the thrust of the NPSs, which are themselves material considerations, this further supports our contention that the draft NPPF does not have to be adopted for our assertions above to be correct – because the provisions already exist in the NPSs.
- 7.13 The Government's 'easy read' guide is correct. Making more green energy will help stop climate change and we need to protect the best land for food. The provision of 'green energy' is complimentary to the aim of protecting the best agricultural land from the impending adverse effects of climate change. The mapping<sup>18</sup> below highlights this point. It shows that large areas of BMV land are at risk from flooding by 2050, not least The Fens, England's single largest vegetable growing area and colloquially described as England's breadbasket:

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<sup>18</sup> <https://coastal.climatecentral.org/> and <https://magic.defra.gov.uk/>





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7.13 Enviromena contend that the message conveyed by the images above puts arguments about whether individual solar farm sites, or their constituent parts are BMV or not, into stark contrast.

7.14 With regard to the draft NPPF, Enviromena contend that several of the changes boost support to this development:

- New paragraph 164 which includes a new and clear ‘start point’ or presupposition of *“support for planning applications for all forms of [...] renewable development”* and at 164.a) the clarified *“significant weight”* to be given to *“the proposal’s contribution to renewable energy generation and a net zero future”* where 163.b) continues to remind decision makers that even small-scale projects provide a valuable contribution.
- New paragraph 152 which sets out that *“other development in the Green Belt should not be regarded as inappropriate where”* criteria a., b. and c. apply as relevant. Enviromena contend that this appeal scheme is capable of benefitting from this new category of ‘not-inappropriate’ development.
  - Criterion a) sets three tests:
    - *“The development would utilise grey belt land in sustainable locations”* – Enviromena contend that the appeal site could meet the new draft definition of Grey Belt. The proximity of the site to its Point of Connection means it is sustainably located for the purpose.
    - *“the contributions set out in paragraph 155 below are provided”* – the 155 contributions include affordable housing (not relevant), necessary improvements to local or national infrastructure (none proven to be necessary in this case) and the provision of new green spaces that are accessible to the public (provided in this case).
    - *“the development would not fundamentally undermine the function of the Green Belt across the area of the plan as a whole”* – approximately 65% of the local plan area is Green Belt (i.e. approx. 18,000ha). At 61ha, the appeal site hosting a temporary solar farm is unlikely to have this level of impact.
  - Criterion b) sets three tests:
    - *“The local planning authority cannot demonstrate a five year supply of deliverable housing sites”* – not relevant.
    - *“or where the Housing Delivery Test indicates that the delivery of housing*

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*was below 75% of the housing requirement over the previous three years” – not relevant.*

- *“or there is a demonstrable need for land to be released for development of local, regional or national importance” – there is a demonstrable need for the land to be developed for renewable energy of, at least, local and regional importance.*
- Criterion c) requires that *“Development is able to meet the planning policy requirements set out in paragraph 155”* which include:
  - *“a. In the case of schemes involving the provision of housing, at least 50% affordable housing, subject to viability” – not relevant.*
  - *“b. Necessary improvements to local or national infrastructure” – none demonstrated as necessary.*
  - *“c. The provision of new, or improvements to existing, green spaces that are accessible to the public. Where residential development is involved, the objective should be for new residents to be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces” – new community garden provided in this scheme.*

## Green Belt Appeals Precedent

7.15 Of the 578 solar farm appeals in 2023/24 concerning Green Belt, the majority (Appendix 3a) have been allowed:

- Chelmsford, Essex APP/W1525/W/22/3300222 (“Canon Barns Road”)  
6th February 2023, decision of Inspector Plenty (hearing)  
Allowed 49.9MW solar farm and battery storage
- Graveley Lane, Great Wymondley, Hertfordshire, APP/X1925/V/23/3323321 (“Graveley Lane”)  
11th March 2024, decision of SoS (Inspector Richard Clegg) (inquiry)  
Allowed 49.9MW solar farm and battery storage
- Land South of Marsh Farm, Fobbing APP/M1595/W/23/3328712 (“Fobbing”)  
22nd March 2024, decision of Inspector Woolcock (inquiry)  
Allowed 49.5MW solar farm and battery energy storage system



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- Park Farm, Essex APP/V1505/W/22/3301454 (“Park Farm”)  
5th April 2023, Secretary of State  
Allowed 2.4MW solar farm (cross boundary – part of a 30MW solar farm)
  - Crays Hall Farm, Basildon APP/V1505/W/23/3318171 (“Crays Hall”)  
30th August 2023, decision of Inspector Jackson (hearing)  
Allowed 25.6MW solar farm
  - Land west of the A46, Sherbourne APP/T3725/W/23/3317247 (“Sherbourne”)  
25th September 2023, decision of Inspector Bore (written reps)  
Allowed 20MW solar farm
  - Kemberton, Telford, APP/L3245/W/23/3329815 (“Kemberton”)  
22nd February 2024, decision of Inspector Partington (inquiry)  
Allowed up to 22MW solar farm
  - Land West of Great Wheatley Farm, Rayleigh APP/B1550/W/23/3329891 (“Rayleigh”)  
11th March 2024, decision of Inspector Partington (hearing)  
Allowed 30MW solar farm
  - Harlow Road, Roydon, Essex APP/J1535/W/23/3334690 (“Harlow Road”)  
3rd May 2024, decision of Inspector Shrigley (inquiry)  
Allowed 49.9MW solar farm and battery storage

7.16 It is generally accepted by Inspectors that solar schemes constitute inappropriate development in the Green Belt, which is by definition harmful, and should only be approved in very special circumstances (“VSC”), applying the standard tests in the National Planning Policy Framework (“NPPF”).

7.17 It is clear from the allowed appeals that the benefits of a solar farm can, more often than not, amount to VSC in principle.

### Other Relevant Appeals Precedent

7.18 Of the 578 solar farm appeals of potential relevance to this case, the majority (Appendix 3b) have been allowed:

- Halloughton, Nottinghamshire APP/B3030/W/21/3279533 (“Halloughton”)

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18th February 2022, decision of Inspector Baird (inquiry)

Allowed 49.9MW solar farm and battery stations

- Bishop's Itchington, Warwickshire APP/J3720/W/22/3292579 ("Bishop's Itchington")

1st December 2022, decision of Inspector Major (hearing)

Allowed 49.9MW solar farm

- Murton Road, Durham APP/X1355/W/22/3308881 ("Hawthorn Pit")

25th May 2023, decision of Inspector Brooker (hearing)

Allowed 49.9MW solar farm

- Scruton, APP/G2713/W/23/3315877

27th June 2023, decision of Inspector Partington (hearing)

Allowed 49.9MW solar farm

- Gunthorpe Road, Walpole APP/A2525/W/22/3295140 ("Gunthorpe")

29th September 2023, decision of Inspector Thompson (written reps)

Allowed 39MW solar farm and battery storage

- Washdyke Farm, Folkingham, Lincolnshire APP/E2530/W/24/3337544 ("Washdyke")

23rd April 2024, decision of Inspector Jordan (hearing)

Allowed 27 MW solar farm

- Washford, West Somerset, APP/E3335/W/24/3337226 ("Washford")

28th May 2024, decision of Inspector Parker (written reps)

Allowed solar farm and battery storage

## Energy Policy & Energy Security

### 7.19 Planning Practice Guidance:

- *"What technical considerations relating to renewable energy technologies affect their siting? Examples of the considerations for particular renewable energy technologies that can affect their siting include proximity of grid connection infrastructure and site size"* (Paragraph: 006 Reference ID: 5-006-20140306).

### 7.20 British Energy Security Strategy (April 2022):

- One of the aims of the BESS is simple, clear and compelling: *"Solar: Ramp up deployment, on both roofs and ground"*.

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- The related '2030 ambition' is to achieve "up to 70GW of solar by 2035"<sup>19</sup>.
  - The related '2050 ambition' is to achieve "a low-cost, net zero consistent electricity system, most likely to be composed predominantly of wind and solar generation".

7.21 Powering up Britain: Main Summary, Net Zero Growth Plan and Energy Security Plan (March 2023):

- "Accelerating deployment of renewables: Our goal is to develop up to 50GW of offshore wind by 2030 and to quintuple our solar power by 2035"
- "Solar has huge potential to help us decarbonise the power sector. We have ambitions for a fivefold increase in solar by 2035, up to 70GW, enough to power around 20 million homes. We need to maximise deployment of both ground and rooftop solar to achieve our overall target. Ground-mount solar is one of the cheapest forms of electricity generation and is readily deployable at scale. Government seeks large scale solar deployment across the UK"
- "Ground-mounted solar is one of the cheapest forms of electricity generation and is readily deployable at scale. The Government seeks large scale ground-mount solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land. Solar and farming can be complementary, supporting each other financially, environmentally and through shared use of land. We consider that meeting energy security and climate change goals is urgent and of critical importance to the country, and that these goals can be achieved together with maintaining food security for the UK. We encourage deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvement. The Government will therefore not be making changes to categories of agricultural land in ways that might constrain solar deployment. The Government considers that there is a strong need for increased solar deployment, as reflected in the latest draft of the Energy National Policy Statements. We recognise that as with any new development, solar projects may impact on communities and the environment. The planning system allows all views to be taken into account when decision makers balance local impacts with national need".
- "The UK has huge deployment potential for solar power, and we are aiming for 70 gigawatts of ground and rooftop capacity together by 2035. This amounts to a fivefold increase on current installed capacity. We need to maximise deployment of both types

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<sup>19</sup> In colloquial terms this is in the order of 80MW of renewable energy needing to be consented per week; or, to put it another way, that is two Fillongleys a week.

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*of solar to achieve our overall target”.*

## 7.22 Overarching National Policy Statement for Energy (EN-1):

- Section 4.7 provides criteria for good design for energy infrastructure which is useful in the interpretation of local plan policies on design and built form, which often predicate towards residential and commercial development.
- Paragraph 4.1.7 of NPS EN1 reads as:

*“4.1.7 Where this NPS or the relevant technology specific NPSs require an applicant to mitigate a particular impact as far as possible, but the Secretary of State considers that there would still be residual adverse effects after the implementation of such mitigation measures, the Secretary of State should weigh those residual effects against the benefits of the proposed development. For projects which qualify as CNP Infrastructure, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases. This presumption, however, does not apply to residual impacts which present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero. Further, the same exception applies to this presumption for residual impacts which present an unacceptable risk to, or unacceptable interference offshore to navigation, or onshore to flood and coastal erosion risk”.*
- Enviromena are mindful that it is necessary to have regard to other paragraphs of EN 1 in order to better establish that low carbon development is capable of benefitting from *“the need case outweigh[ing] the residual effects in all but the most exceptional cases”.*
- Paragraph 4.2.4 and 4.2.5 of EN 1 state:
  - *“4.2.4 Government has therefore concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure.*
  - *4.2.5 This does not extend the definition of what counts as nationally significant infrastructure: the scope remains as set out in the Planning Act 2008. Low carbon infrastructure for the purposes of this policy means: • for electricity generation, all onshore and offshore generation that does not involve fossil fuel combustion”.*
- Other contextual paragraphs from EN1 include:
  - *“1.1.1 This National Policy Statement (NPS) sets out national policy for the energy infrastructure described in Section 1.3 below. Part 1 of this NPS sets out the background context to the NPSs, including the scope of EN-1 and geographical coverage. Part 2 outlines the policy context for the development of nationally significant energy infrastructure. Part 3 explains the urgent need for significant*

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*amounts of large-scale energy infrastructure in meeting government's energy objectives. Part 4 sets out the general policies for the submission and assessment of energy infrastructure applications. Part 5 outlines generic impacts which arise from the development of all types of energy infrastructure covered by the energy NPSs."*

- *"1.2.1 In England, this NPS, in combination with any relevant technology specific NPSs, may be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended)."*
- *"2.3.4 Meeting these objectives necessitates a significant amount of new energy infrastructure, both large nationally significant developments and small-scale developments determined at a local level."*
- *"4.1.1 This part of EN-1, Assessment Principles, sets out the general policies for the submission and assessment of applications relating to energy infrastructure".*

7.23 National Policy Statement for Renewable Energy Infrastructure (EN-3)

7.24 EN3 is topic-specific and should be read in conjunction with NE1. The role of EN3 in the wider planning system is described in Section 1.2 of EN1 above.

7.25 EN3 contains a significant amount of valuable topic-specific information and guidance which decision makers will find is not included in either the NPPF or local plans. Therefore, Enviromena have set out pertinent and material extracts from Section 2.10 of EN3 in Appendix 9 for reference.

## Climate Change & Net Zero

- Kyoto Protocol (2005)
- UN Framework Convention on Climate Change: The Paris Agreement (2015)
- Climate Change Act (2008) - Net Zero 2050 (2019)
- IPCC Special Report on Global Warming of 1.5°C (2018)
- National Infrastructure Strategy – Fairer, Faster and Greener (November 2020)
- Energy White Paper (December 2020)
- Net Zero Strategy: Build Back Greener (October 2021) (December 2020)

## Landscape

- "Climate change is now the biggest threat to natural world heritage" (IUCN<sup>20</sup>, 2020).

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<sup>20</sup> [Climate change now top threat to natural World Heritage – IUCN report | IUCN](#)

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- “Climate change is the biggest threat to nature and the historic environment” (National Trust<sup>21</sup>).
  - NPPF paragraph 123 which states:

*“Planning policies and **decisions** should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions”. Emphasis added.*
  - NPPF paragraph 124 which states:

*“Planning policies and decisions should:*

    - a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;*
    - b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;”. Emphasis added.*
  - NPPF paragraph 158 which talks of taking *“a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for [amongst others] landscapes”*.
  - NPPF paragraph 160 which states:

*“To help increase the use and supply of renewable and low carbon energy and heat, plans should:*

    - a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts);*
    - b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development”*
  - NPPF paragraph 162 which states:

*“In determining planning applications, local planning authorities should expect new development to:*

    - a) comply with any development plan policies on local requirements for decentralised*

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<sup>21</sup> Protecting our environment and climate | National Trust



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*energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*

*b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption”.*

- NPPF paragraph 163 which states:

*“When determining planning applications for renewable and low carbon development, local planning authorities should:*

*a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;*

*b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas”.*

- NPPF paragraph 180 which states:

*“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;*

*c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*

*d) minimising impacts on and **providing net gains for biodiversity**, including by establishing coherent ecological networks that are more resilient to current and future pressures;*

*e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking*

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*into account relevant information such as river basin management plans; and  
f) remediating and mitigating despoiled, degraded, derelict, contaminated and  
unstable land, where appropriate”.*

- The Landscape Institute is clear that:

*“ We are in a climate and biodiversity crisis. The evidence of the multiple negative effects of climate change and biodiversity loss is clear, and humanity must take urgent, collective action to prevent global temperature rises and further ecosystem collapse. Governments have begun to address this challenge at the national and international level. The Climate Change Act (2008) made the UK the first country to establish a long-term, legally binding framework to cut emissions. In 2015, the UN Paris Agreement set the goal to limit global warming to below two degrees Celsius compared to pre- industrial levels. And in 2019, the UK Government committed to reach net zero emissions by 2050. As those who work to connect people, place, and nature, landscape professionals are uniquely placed to galvanise and lead a built environment response to this crisis [...] Supporting renewable energy development: Finding ways to enable renewable energy infrastructure within rural landscapes” (Landscape for 2030, The Landscape Institute 2021).*

- The Landscape Institute is also clear that:

*“ We are in a climate and biodiversity **crisis**. The science is absolutely clear that the impacts of climate change and biodiversity loss **are happening now**. I know many of us are seeing this in our everyday lives. Last year the Landscape Institute took the step of declaring an emergency; we knew as a profession that we had to take action, and fast. **We have under a decade to limit global warming to a maximum of 1.5°C.1 Anything short of this goal will see worsening droughts, floods and extreme heat, throwing millions worldwide into jeopardy. At home we are already seeing the effects: more than two-fifths of UK species have experienced significant decline in recent decades:***

*Landscape professionals are uniquely positioned to tackle this crisis head-on. [...] The **climate and biodiversity emergencies are the challenge of our lifetime** and as landscape professionals, we must play a key role in defining the path forward. We have the power to create resilient places and restore natural habitats, and be low carbon when we do so. We can make a difference. The time to deliver is now. [...] Our Royal Charter requires us work for the benefit of people, place and nature. In*

*fulfilling our mission and our public interest duties, the Landscape Institute declared a climate and biodiversity emergency in June 2019 – a first among the UK built and natural environment professional bodies” (Climate and biodiversity action plan, The Landscape Institute’s commitment to addressing the climate and biodiversity emergencies, 2020).*

- The Royal Town Planning Institute and the Town and Country Planning Association are both very clear that:

*“Addressing climate change must be a central priority of the planning system if we are to secure our future economic, environmental and social wellbeing. This guide sets out some of the ways that local authorities and communities can make a real difference in tackling the climate crisis. The threat of climate change is real, and time is running dangerously short. A resilient and sustainable future is achievable, but only if we act now” (The Climate Crisis, A Guide for Local Authorities on Planning for Climate Change, RTPI/TCPA, 2023).*

7.26 In relation to Biodiversity, Enviromena reference the following:

- Paragraph 186 of the NPPF provides clear principles for decision making on planning applications in relation to biodiversity, and that is to:
  - *Refuse planning permission if significant harm to biodiversity cannot be avoided*
  - *Not normally permit development that would have an adverse impact on an SSSI*
  - *Refuse planning permission for development that results in loss or deterioration of irreplaceable habitats*
  - *Integrate opportunities to improve biodiversity into development, especially where this achieves net gains for biodiversity.*

7.27 In relation to Heritage, Enviromena reference the following:

- The National Trust (with a membership of over 5.3million and a land holding of 250,000 hectares<sup>22</sup>) is clear<sup>23</sup> that:

*“The National Trust cares for more than 28,500 buildings across England, Wales and Northern Ireland, housing museum collections totaling over one million items. Over the long term climate change is likely to be the biggest threat they face”.*

<sup>22</sup> National Trust 2020-21 annual survey)

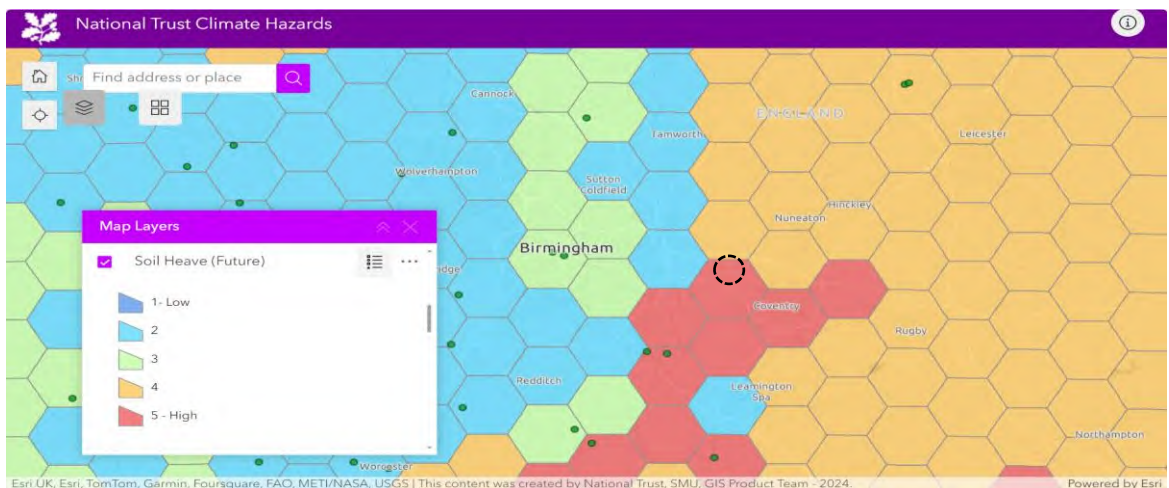
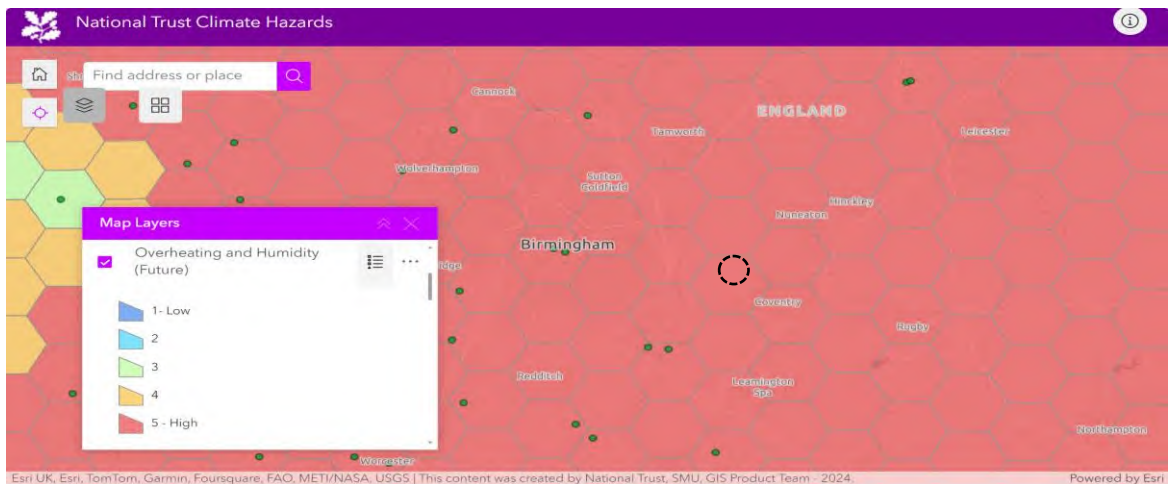
<sup>23</sup> A Climate for Change: Adaptation and the National Trust (2023)

- The National Trust has also said<sup>24</sup>:

*“Climate change is the biggest threat to the coastline, countryside and historic buildings we care for. Our new report reveals how we’re tackling its causes and effects and identifying future hazards. From protecting and planting trees to working with coastal communities, helping people, heritage and nature adapt to a changing climate is at the heart of everything we do [...]*

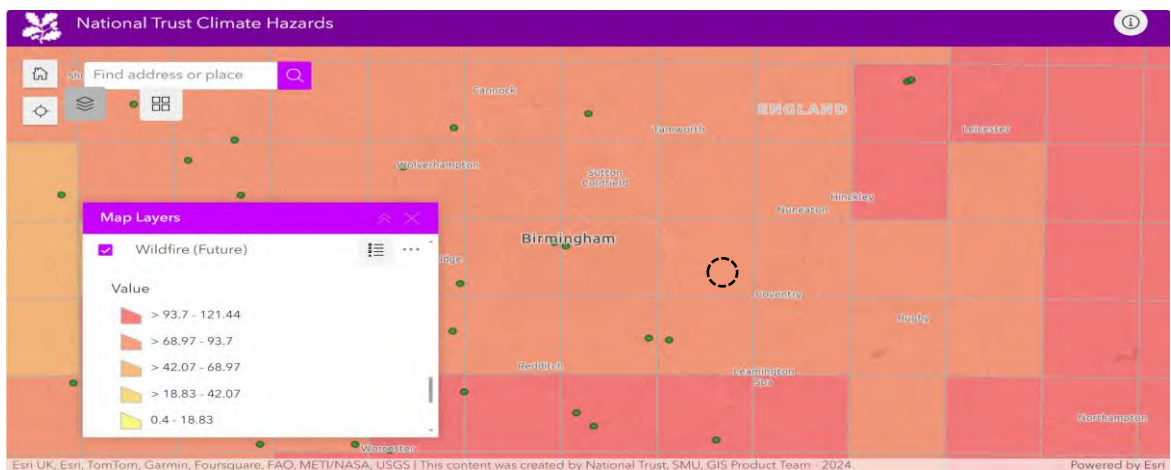
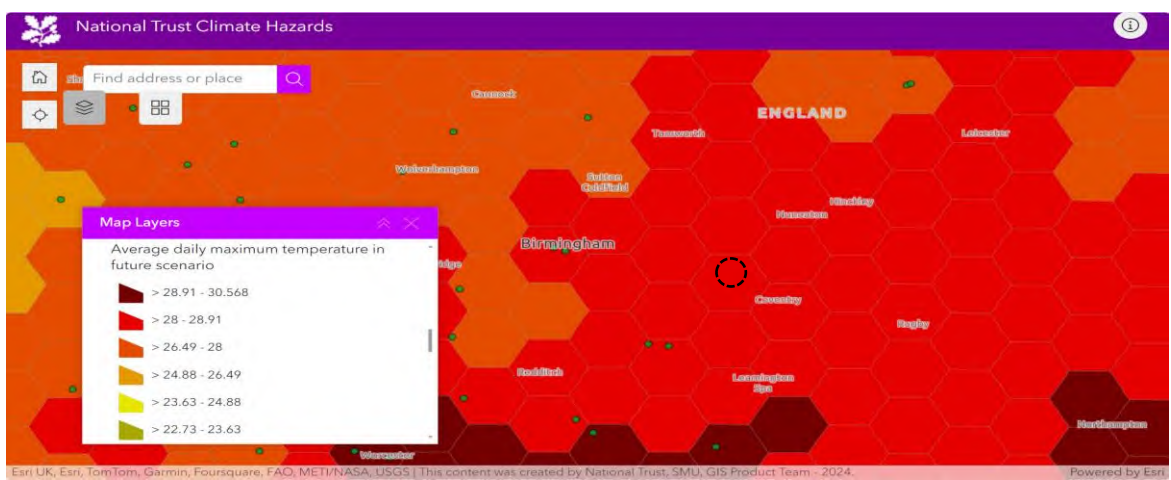
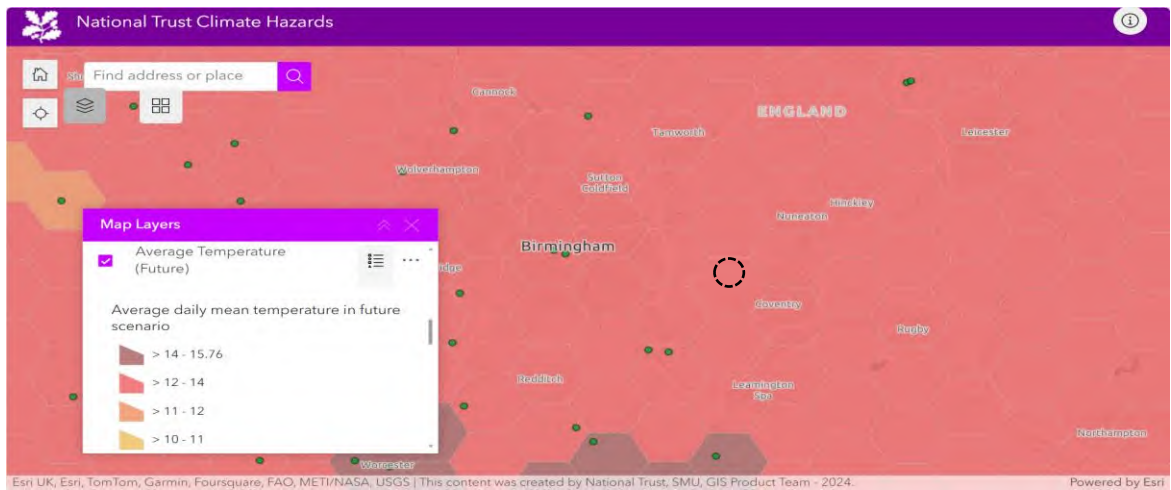
*If urgent and large-scale action isn’t taken to address climate change, we predict that more than 70 per cent of the places in our care will be at medium or high risk of climate-related hazards by 2060. We gained a better understanding of risks such as flooding and coastal erosion in 2021 with the launch of our Climate Change Hazard Map – a tool that continues to play a key role in how we plan our work to help places adapt to a changing climate. The new layers we’ve added to the map also allow regional teams to flag localised threats posed by climate change”.*

- Extracts of datasets from the National Trust Climate Change Hazard Map are inset below:



<sup>24</sup> How We’re Adapting to Climate Change [Adapting for climate change | National Trust](#)





- Historic England is clear<sup>25</sup> that:

*“The climate, energy and biodiversity crisis will affect every aspect of Historic England’s work. [...]. Sustainable energy sources are critical in reducing climate*

- NPPF 200. *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the*

<sup>25</sup> Heritage and Climate Change (Historic England 2022)



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*assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation".*

- NPPF 203. *"In determining applications, local planning authorities should take account of:
  - a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness".*
- NPPF 205. *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".*
- NPPF 206. *"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification".*
- NPPF 208. *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".*
- NPPF 209. *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset".*

7.28 In relation to Economic Development, Enviromena reference the following:

- NPPF paragraph 85 states that: "Planning policies and decisions should help create the

conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity”.

- The recent *Bewley Homes judgement*<sup>26</sup> has clarified that this does not necessarily translate to a generic significant weighting to all economic development. In a recent Secretary of State decision only limited weight was given to economic benefits arising from construction activities only. In our opinion this was incorrect on both the level of weighting, and the apparently narrow understanding of how renewable energy developments contribute to economic development. Our contention is that economic development associated with renewable energy goes far beyond the construction activities and includes the wider contribution that net zero industries make to the wider UK economy, including in the professional, design and engineering fields, as well as the indirect benefits of stabilised and secure domestic energy production, and its onward benefit to energy costs. Examples are given below for the avoidance of doubt.

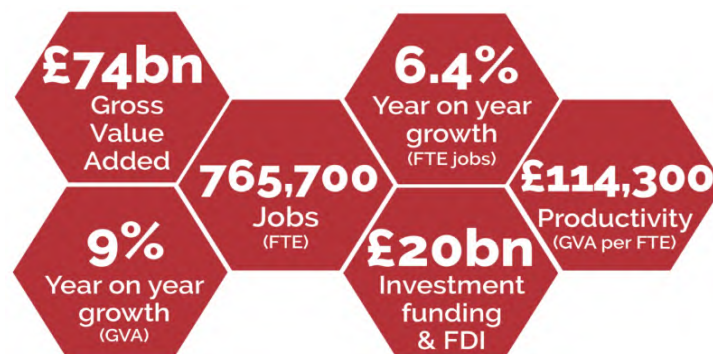
#### The scale of the net zero economy

Net zero activity already forms a key part of the UK economy, creating innovation-led, high-value employment opportunities and attracting foreign direct investment.

The net zero economy spans a number of new and emerging sectors, such as renewables, carbon capture, or green finance, as well as more traditional, established sectors, such as manufacturing.

This latest analysis shows that these businesses contributed £74 billion in Gross Value Added (GVA) in 2022-23, which is equivalent to 3.8% of the UK economy – larger than the economy of Wales (£66 billion). They also supported 765,700 Full Time Equivalent (FTE) jobs, equal to nearly 3% of total UK employment.

Their contributions include the value generated by their own activity (£25 billion) and their employees (218,500 jobs) as well as the wider economic contributions they supported through their expenditure with suppliers and the expenditure of their employees on goods and services. In essence, due to these wider spillover benefits, for every £1 million in GVA contributed by net zero businesses, nearly £2 million more was added through these wider economic contributions.



[Energy & Climate Intelligence Unit | The UK's net zero economy \(eciu.net\)](https://eciu.net)

<sup>26</sup> *Bewley Homes PLC v Secretary of State for Levelling Up, Housing and Communities & Anor* [2024] EWHC 1166 (Admin) (16 May 2024)

**Our transition to a green and sustainable future will provide new opportunities to grow and level up the UK economy and support hundreds of thousands of green, high skilled jobs, whilst ensuring the environment is in a better state for the next generation.** The policies and ambitions we have committed to will help leverage around £100 billion of private investment as we develop new industries and innovative low carbon technologies, and our ambitions will support up to 480,000 jobs in 2030.

### Green jobs and skills data

It is estimated that since November 2020, over 80,000 green jobs are currently supported, or in the pipeline across the UK economy as a result of new government policies and spending. Our ambitions could support up to 480,000 jobs in 2030.

The Government is working with the Office for National Statistics (ONS) to improve data on the green economy. The ONS estimate a 16% increase in direct employment in low carbon businesses across the economy from 2020 to 2021 - reaching nearly 250,000.

[Powering Up Britain - The Net Zero Growth Plan \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

**census** 2021 Data and analysis from Census 2021

[Home](#) > [Economy](#) > [Environmental accounts](#) > [Low carbon and renewable energy economy, UK](#)

## Low carbon and renewable energy economy, UK: 2022

Estimates of the size of the UK's low carbon and renewable energy economy, including turnover and employment.

### 1. Main points

- UK low carbon and renewable energy economy (LCREE) turnover and employment estimates are both at their highest level since the first comparable figures in 2015.
- UK LCREE turnover (in current prices) increased by an estimated 28.0% between 2021 and 2022, from £54.2 billion to £69.4 billion.
- UK LCREE employment also increased, by an estimated 8.0% between 2021 and 2022, from 252,300 to 272,400 full-time equivalents (FTEs).
- The low carbon electricity group within LCREE had the highest turnover (£29.0 billion) in 2022, while the energy efficient products group had the largest employment (134,900 FTEs).
- Electricity, gas, steam and air conditioning supply had the highest turnover among LCREE industries (£22.0 billion, 31.7% of the total) in 2022, while construction had the largest employment (99,100 FTEs, 36.4% of the total).

[Low carbon and renewable energy economy, UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk)

- Enviromena also contend that the vital nature of these considerations affords significant weight to be given in support of the economic development associated with renewable energy as a matter of principle.
- Footnote 44 to paragraph 85 of the NPPF directs the reader to the Government's Industrial Strategy 2017<sup>27</sup>.

<sup>27</sup> [Industrial Strategy: building a Britain fit for the future \(web-optimised PDF\) \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

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- The Industrial Strategy includes ‘Clean Growth’ as a key part of the UK’s industrial strategy and states:

*“Prospering from the energy revolution – Around 80 per cent of global energy use still comes from fossil fuels. To preserve a safe and stable climate, this has to change fast. Countries all over the world are moving to renewable energy, with investment more than doubling over the last decade”.*

- The Industrial Strategy links to the UK’s Clean Growth Strategy 2017<sup>28</sup>. It states that:

*“Capturing part of the global opportunity while continuing to drive down carbon emissions from our own activities could provide a real national economic boost. The UK low carbon economy could grow by an estimated 11 per cent per year between 2015 and 2030 – four times faster than the rest of the economy<sup>25</sup> – and could deliver between £60 billion and £170 billion of export sales of goods and services by 2030<sup>26</sup>. This means that clean growth can play a central part in our Industrial Strategy – building on our strengths to drive economic growth and boost earning power across the country. Action to deliver clean growth can also have wider benefits. For example, the co-benefit of cutting transport emissions is cleaner air, which has an important effect on public health, the economy, and the environment”.*

- Both the Industrial and Clean Growth strategies link to the British Energy Security Strategy 2022<sup>29</sup>, which states:

*“Energy is the lifeblood of the global economy. From heating our homes to powering our factories, everything we do depends on a reliable flow of affordable energy. So as the global economy reopened in the aftermath of the pandemic, the sudden surge in demand for everything from new cars to foreign holidays drove a massive spike in demand for oil and gas, dramatically increasing the price of these essential fuels. This has been compounded by Russia’s abhorrent and illegal invasion of Ukraine. As we are part of a global market, the price we pay for gas is set internationally. And President Putin has used this against us by restricting the supply of Russian gas to the European market, further pushing up prices. The vital sanctions imposed by the UK and its allies to support the Ukrainian people will also inevitably have an adverse effect on all economies. As a result of all these factors, European gas prices soared by more than 200% last year and coal prices increased by more than 100%. This record*

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<sup>28</sup> [Clean Growth Strategy \[publishing.service.gov.uk\]](https://publishing.service.gov.uk)

<sup>29</sup> [British energy security strategy - GOV.UK \[www.gov.uk\]](https://www.gov.uk)



*rise in global energy prices has led to an unavoidable increase in the cost of living in the UK, as we use gas both to generate electricity, and to heat the majority of our 28 million homes. The government's immediate priority has been to provide financial assistance to families and businesses struggling with higher energy bills.*

*But when the UK is spending the equivalent of over £1,200 per person this year, just to service the national debt, we cannot afford merely to rely on taxpayer funding to assist with paying ever higher bills; we need to bring down the bills themselves. The first step is to improve energy efficiency, reducing the amount of energy that households and businesses need. We have already saved households on the lowest incomes around £300 a year on bills through energy efficiency measures – and we are investing over £6 billion on decarbonising the nation's homes and we are investing over £6 billion on decarbonising the nation's homes and buildings.*

*But the long-term solution is to address our underlying vulnerability to international oil and gas prices by reducing our dependence on imported oil and gas. Even as we reduce imports, we will continue to need gas to heat our homes and oil to fill up our tanks for many years to come – so the cleanest and most secure way to do this is to source more of it domestically with a second lease of life for our North Sea. Net zero is a smooth transition, not an immediate extinction, for oil and gas.*

*Accelerating the transition away from oil and gas then depends critically on how quickly we can roll out new renewables. The government's 'Ten point plan for a green industrial revolution', together with the 'Net zero strategy' and this Energy Strategy, is driving an unprecedented £100 billion of private sector investment by 2030 into new British industries including offshore wind and supporting around 480,000 clean jobs by the end of the decade.*

*The growing proportion of our electricity coming from renewables reduces our exposure to volatile fossil fuel markets. Indeed, without the renewables we are putting on the grid today, and the green levies that support them, energy bills would be higher than they are now."*

- Enviromena trust that it is clear that not only does the renewables industry generate significant revenue for the UK economy, but it is also an engine of green skills and education, and a key part of the wider strategy for economic recovery and onward green growth.
- Enviromena contend that it follows that the weight to be given by decision makers to



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economic development generated by the renewables industry is significant, regardless of the size of the proposal, because even small-scale projects provide a valuable contribution to significantly cutting greenhouse gas emissions, boosting the green economy and upskilling the UK low carbon and renewable energy workforce.

- NPPF paragraph 87 is clear that: “Planning policies and decisions should recognise and address the specific locational requirements of different sectors”.

- 7.29 Enviromena will argue that the raft of significant and compelling material considerations weighs heavily in favour of granting planning permission.
- 7.30 Enviromena are content that whilst consistency in decision-making is important, this more appropriately applies to the application of policy, than the outcome of different proposals, where the tenet of deciding applications on their merits is paramount.
- 7.31 Therefore, whilst Enviromena will be drawing on various authorities in terms of policy interpretations, methodologies etc. Enviromena are first and foremost advancing a case based on the compliance with the development plan and the significant public and wider environmental merits of the scheme.

## 8. The Appellant’s Case on the Planning Balance

- 8.1 For the planning balance Enviromena use a scale of minor, moderate and significant in terms of benefits and disbenefits. Each of the scales awarded below are explained. For example, Enviromena contend that the biodiversity measures delivered by this development, in the context of the ecological crisis, warrant a major level of benefit because of the ecological crisis, to which significant weight is applied.
- 8.2 When applying weight Enviromena use a scale of minor, moderate and significant/substantial/great (depending on whether there is an NPPF prescription).
- 8.3 Enviromena remain content that the benefits (including the wider environmental benefits associated with increased production of energy from renewable sources) clearly<sup>30</sup> outweigh the substantially weighted minor harm to the Green Belt and limited and localised harm to landscape and visual interests.
- 8.4 The graphic below summarises Enviromena’s position on the planning balance:

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<sup>30</sup> As a measure of clarity, not quanta.

## Benefits

- Collective benefits of renewable energy (a valuable contribution to meeting the need for renewable energy, increasing domestic energy security, contributing to radically reducing greenhouse gas emissions, achieving net zero, lessening the adverse effects of climate change) in the context of the 'climate crisis' = **major level of benefit** to which **significant weight** is applied.
- Rapidity of deployment (in the context of a nationally constrained network) = **major level of benefit** to which **significant weight** is applied.
- Biodiversity (in the context of the ecological crisis) = **major level of benefit** because of the ecological crisis. To which **significant weight** is applied.
- Economic development (green growth, skills, education, training, energy costs) = **moderate level of benefit** to the green economy which requires constant investment and innovation. To which **significant weight** is applied (NPPF paragraph 85, in the context of Bewley Homes).
- Landscape and green infrastructure improvements tree planting and reinstatement of historic hedgerows which attract a **major beneficial effect** and **moderate beneficial effect** receiving **moderate weight** because the legacy aligns with the development plan aspirations.
- Improvements to air quality = from a loss of greenhouse gas emissions for alternative sources of energy, but difficult to quantify, therefore we rank this as a **minor but clear benefit** to which is applied **moderate weight** because it concerns human health.
- Benefits to soil health = **minor scale of benefit** receiving a **minor level of weight**. Localised benefit but no more significant in scale than the 'other side of the coin'; BMV.
- Combined use of land (renewable energy, pastoral farming and biodiversity) = **minor scale of benefit** receiving **moderate weight**.

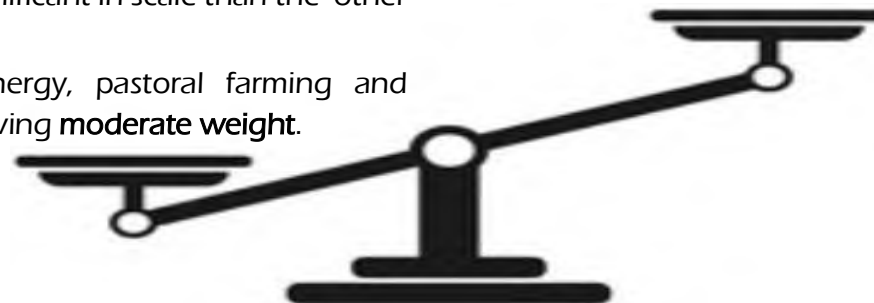
## Disbenefits

In relation to Green Belt (which receives **substantial weight** to any harms):

- Solar farms are considered to be inappropriate development in the Green Belt.
- In visual and spatial terms there would be "*some limited and localised harm to the openness of the Green Belt*" (Pegasus GBA).
- In respect of effect on Green Belt 'purpose c' "*the level of harm would be limited to a minor degree*" (Pegasus GBA).
- These harms will be **temporary**.

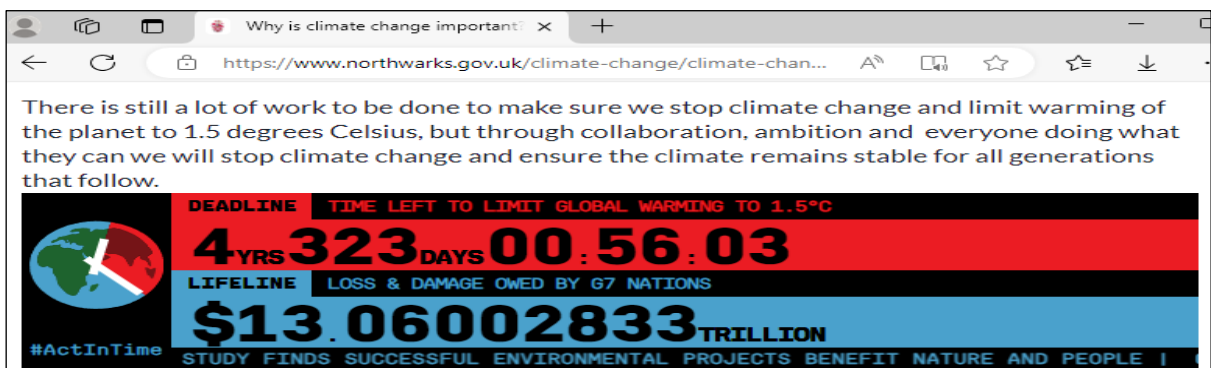
In relation to landscape character and appearance (which receives **moderate weight** because the landscape is not designated):

- Visual effects of the proposed solar farm would be **very limited**.
- **Moderate adverse effect** upon the landscape character of the Appeal Site itself and its immediate environs.
- Whilst there would be **some limited adverse effects** on landscape character and visual amenity, these would be localised.



## 9. Conclusion

- 9.1 The Council's decision notice includes a single reason for refusal, consisting of two elements; Green Belt and landscape/visual. In terms of Green Belt harm, Enviromena have demonstrated that the harm to openness from encroachment (if this is relevant) is limited and localised and far from the unevidenced claim made by the Council's planning committee; itself an uplift from the lesser level of harm that the recommendation of approval contended. In terms of the landscape and visual element, Enviromena find it noteworthy that the planning committee did not properly discuss the matter or express any concern over the methodology undertaken in the submitted landscape and visual assessment. Enviromena have demonstrated that the landscape and visual impacts of the appeal scheme are, or can be, made acceptable in planning terms, once one moves from the planning committee's inherently unreasonable 'no harm' expectation.
- 9.2 Enviromena do not dispute that North Warwickshire's planning committee was entitled to overturn the officer's repeated recommendation of approval, but the planning committee was meant to follow the Council's constitution and accepted planning practice; failing as it did in elucidating any evidential foundation for its officer-overturn and/or taking any advice whatsoever from its planning and legal officers for the decision they were about to take, preferring to dismiss the application within two minutes of the motion to refuse.
- 9.3 The proposed solar farm complies with the development plan policy LP35 Renewable Energy and other policies 'where possible/appropriate'<sup>31</sup>.
- 9.4 Very special circumstances are 'clearly' demonstrated such that inappropriate development in the Green Belt should be allowed as an exception to the general rule.
- 9.5 The material considerations are wide ranging and compelling, invoking as they do matters which justify significant weights in support of the grant of planning permission.
- 9.6 Northwarks Council acknowledge that time is running out to stop climate change:



- 9.7 Enviromena respectfully request that this planning appeal is allowed, and planning permission be granted for this necessary, valuable and eminently beneficial renewable energy development.

<sup>31</sup> The 'policy tests' included in LP1, LP14, FNP01 and FNP02.

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# Appendix 1 Transcripts of the March and July 2024 Planning Committee Meetings



**CLlr Simpson:** Ladies and gentlemen, welcome to tonight's meeting of the Planning and Development Board. I'm delighted to see so many members of the public. [Housekeeping & apologies]. Agenda item 3 is disposable pecuniary and non-pecuniary interest. Cllr Whapples?

Cllr Whapples: Yes I'd like to declare my non-pecuniary interests for 6h, thank you.

**CLlr Simpson:** Thank you. Cllr Melia?

Cllr Melia: Dordon Parish Council, the Neighbourhood Plan.

**CLlr Simpson:** Thank you, on the same Application?

Cllr Melia: On the same.

**CLlr Simpson:** Cllr Parsons.

Cllr Parsons: Polesworth Parish Council [?].

**CLlr Simpson:** Thank you everyone. Now as Members I'm sure will have recognised we have a large number of people in the public gallery. My spies advise me that the majority are here for the Fillongley Planning Application and then after that a number of people are here for the Dordon Application. So Members I'd like to vary the agenda so that we take the Fillongley Application first and then the Dordon Application second, which will save members of the public spending their entire evening. So we'll do that if that's acceptable. Members as I might speak as a local Councillor on the Fillongley application I will vacate the chair at that point and Cllr Bell will chair the meeting for that item. We now move then to consider Application no. 71 for Land 800m South of Park House Farm, Meriden Road, Fillongley and I will hand over to Cllr Bell.

Chair Cllr Bell: Thank you very much Chairman. So on this item we've got a few speakers. So can Mr Adrian White sir, like to take a seat in the chair while Mr Brown introduces this item.

**Planning Officer Mr Brown:** Thank you Madam Chairman. The slides are replicas of what you have in your papers in front of you. Right two plans, the top one is an ordinance survey plan illustrating the site edged in red. The easiest landmark there is the blue line that crosses the plan, which is the M6 and Fillongley you'll see is the settlement just to the north of that particular site. And then the bottom plan, the aerial photograph shows you that again. The red line is the application site, you can see the motorway there and also you can see the footpaths, which are referred to in the

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report. This plan is the latest plan [?] report showing the up to date layout of the site together with the additional landscaping and mitigation measures that were included and are referred to in the report. I've just included those plans and the rest of those are actually in the papers in front of you. Madam Chairman, I'm going to attempt to go through the report, this is a very [?old] report and I just need to update members on what's happened since the report was circulated. We had another five objections from residents in Fillongley and those reiterate the matters which are already summarised in the report in the papers in front of you. The Fillongley Parish Council, that I believe are registered to speak tonight, have submitted a couple of photographs, which they have... are circulated and are in front of you on your desks and they've also been circulated to the Applicants in advance of the meeting. One or two things Madam Chairman that happened today, and I apologise for the short notice, but this is the way things happen, we've had a letter of objection from the MP, who said he's been approached by several residents in Fillongley and basically the letter refers to objections which are already contained in the report, namely inappropriate development in the Green Belt, a potential flooding issue and also the biodiversity issue. This morning we had another objection from the North Warwickshire Heritage Forum, and they basically related to two matters: the loss of agricultural land and the impact on the conservation area. And then finally, later on today, we had an objection from the Fillongley Flood Group, who raised a number of matters to do with flooding and drainage, and I'll come back to that in a minute Madam Chairman. In terms of the conservation area, then the report, as you will see, does acknowledge that less than substantial harm would be caused. That is the view of the Council's Heritage Officer and that's the reason that it's included in the report. So the Heritage Officer is advising you that there is less than substantial harm caused to the conservation area and other heritage assets and that, as the report indicates, has to be weighed against the public benefits or anything the public [?] and might outweigh that harm. In terms of the Fillongley Flood Group then they raise a number of issues and I also understand that they intend to speak to you tonight and therefore they will update, I hope, what they said in the letter. The reason for that Madam Chairman is because I understand that they met representatives of the Applicant this afternoon on site and discussed much of the content of their objection. And I will precis this, I understand Madam Chairman, that when the speakers speak they can confirm or otherwise what I'm saying. I understand that the Flood Group is not satisfied but understand that the matters they

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have particular concern about, which is the maintenance of ditches on the site, can be covered by a condition in terms of the management of the particular site by the Applicant. But I understand that the Flood Group representatives and the Applicant will refer to those matters as we go through. On the drainage issue, as you will see from the report, it's the substantial weight that the Lead Local Flood Authority has not objected. And members will know that Officers of the county of that Authority are fully aware of the flooding situation in Fillongley and it's my understanding that they would not have raised no objection had they had issues with the Application. And that's the substantial weight, as I said, because of the local knowledge that the Authority has of the local issues. In general terms Madam Chairman, this is not the first solar farm application that you've had before you and therefore you will be familiar, Members will be familiar, with the operational requirements that solar farm operators need to run through in their search for sites. And that's very much to do with the capacity of the National Grid and the associated sub-stations, which Members were aware of when we discussed the other three Applications in this part of the Borough. And therefore I don't intend to go through that, I suspect the Applicant will refer to that later on. Having said that, this is the largest of the Applications that Members of the Board have had to deal with and the size itself is not a reason for refusal; that is my advice to you. The size of the site is not a reason for refusal unless you consider there is significant and substantial harm arising from that size. Similarly, in terms of visibility, the fact that you can... Members will be aware of this when dealing with other applications, the fact that you can actually see the development is not a reason for refusal. No one has a right to a view and that's not a material consideration as you're aware. So at the end of the day Madam Chairman, this comes down to a final planning balance and because this is in the Green Belt the test is whether the benefits and the case put forward by the Applicant clearly outweigh the harms that might be caused by this particular Application. You will see from the report Madam Chairman that I feel that that is in fact the case in this situation and that is very much due to the amendments that have been made recently in terms of the additional landscaping and planting proposed on the site. Thank you Madam Chairman.

Chair Cllr Bell: Thank you very much Mr Brown. And Mr Wright, I'll hand over to Mrs Ryan, who will explain [...].

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Mrs Ryan: Mr Wright, I understand that you're going to speak for two minutes and then Katherine France is going to speak for one minute, is that correct?

Mr Wright: Hmm.

Mrs Ryan: Would you like to come down? Between you you'll have three minutes to speak and I'll set the clock when you, Mr Wright, start speaking and then I'll let you know when there's one minute left. Okay I'll set it when you start speaking.

Cllr Wright: Madam Chairman, Members of the Board, I'm here tonight representing Fillongley Parish Council, that's the same Parish Council that the parishioners of the village helped to form our Neighbourhood Plan and I feel that is relevant. Our objections for this Application have been distributed to you, they're in the report, our views haven't changed and I will not repeat them other than to say, obviously, as Mr Brown has just commented on, this Application is on the Green Belt and we feel that that has got significant weight contrary to him saying that it isn't. I've sent you the two snapshots to show you how it can be seen that our Neighbourhood Plan [?] to have a transitory view of the solar farm and I don't think the topography of the land has been fully appreciated. And it can be seen, I accept it isn't a view but it can be seen, and the flow of our land around the village from several areas, specifically the one on Sandy Lane, which is 1.3 km away from the site, and that's over the other side of the village. The other aspect, which we think is important, is that the Best and Most Versatile, the BMV, is designed as grades I, II and III in the NPPF. In this case it's at 95%, 95% as opposed to the other applications mentioned in the report at 78%, there's clearly quite a difference. And obviously our Neighbourhood Plan was geared to Fillongley, not to the rest of the Borough and the report goes to great lengths to talk about how many percent of the Borough there is etc. Our Neighbourhood Plan was for Fillongley not for the Borough.

Mrs Ryan: One minute left.

Cllr Wright: At that stage we would like you to support us in accepting that this Application is contravening both FNP01 and FNP02 and as such we would like the Board to uphold that. The word 'temporary' is mentioned eight times in the report. It is our belief that 40 years is not

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temporary. I would hate to think that this Planning Board was going to leave a legacy for successors to sort out when many of us will not be here in 40 years time.

Mrs Ryan: Mr Wright, are you going to allow your fellow speaker to speak because you've got less than a minute left.

Katherine France: Thank you, thank you Lady Chairman, Members of the Board, good evening. You should have the Fillongley Flood Group letter of objection before you together with visuals. I have only got 30 seconds to persuade you to adjourn this matter. We have had a useful site visit with the Applicant this afternoon but it has raised more queries. As a Flood Group we haven't had the opportunity to collectively meet and liaise and we also want to speak to the Lead Local Flood Authority, questions have been raised, which are in our letter of objection. If you're not with me as far as adjournment is concerned, we are objecting [...].

Cllr Bell Chair: Thank you very much. Do we have any questions for our speakers please? Cllr Simpson.

Cllr Simpson: Thank you Madam Chairman. I'd just like to ask the second speaker if she would assist us in expanding a little more on the reasons for the Flood Group's request for an adjournment, particularly if she could give us some more information in terms of what happened at the meeting earlier tonight.

Katherine France: Thank you very much Mr Simpson. Yes we're seeking an adjournment because we understand that the Local Flood Authority have withdrawn its objection [?officially] to the development. However, we noted from the paperwork that because the consultation only took place via email and telephone conference, there appears to have been no site visit. What we don't know is whether the Lead Local Authority have actually seen the revised plans and the Landscape Strategy Plan, which was actually only placed on the Planning Portal on the 6 February from recollection. This is vital. We need to know; furthermore we've had no consultation with the Local Flood Authority. Today's site visit was useful, we were able to walk around the site, but we did ask questions about where the fencing was to be placed, whether there would be access for them to maintain the trees, the hedgerows because we're concerned about the debris falling into the water courses and then causing a problem with flooding. Flooding in Fillongley is quite unique,

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there's a trash screen there and debris collects with rainfall, if it's not cleared it causes a flood, that's a very simple way of putting it. And so we asked lots of questions about management and how that was going to be managed and whether we could have a condition that before the development started that the ditches, the waterways were cleaned, but we could quite clearly see today that there was debris in that. So there are more questions that we do need to ask. We appreciate that the Drainage Strategy and the Flood Risk Assessments have been on the Portal for a couple of months, but we have only just seen the revised plans and we certainly haven't been consulted by the Local Flood Authority. We as a Flood Group in the village are affiliated to the National Flood Forum and we do take what we do very seriously and we believe that we are trying to protect the village of Fillongley from flooding.

Cllr Bell Chair: Again...

**Cllr Simpson:** Thank you Madam Chairman. As I'm getting on a bit I just need to check that I have understood properly. What I think I heard you say was that the Lead Local Authority submitted their letter of no objection without consulting your local group.

Katherine France: Yeah.

**Cllr Simpson:** And without visiting the site.

Katherine France: As far as I understand, there's... Cllr Simpson I read I think in the Drainage Statement, a letter from BWB saying there had been an email between the Local Flood Authority and themselves and there had also been a telephone conference. I'm not aware [of a] site visit. Now if there was a site visit why wasn't it put in that letter? I just don't know. We've emailed the Flood Authority this morning; we were told that there was going to be... they had 21 days in which to respond. So therefore, we feel we need to have an adjournment. Till next month or the month after would be helpful. This is a big development, this is... it could potentially have a huge impact on the village and it shouldn't be taken lightly.

**Cllr Simpson:** Thank you Chairman.

Cllr Bell Chair: Alright Cllr Simpson and thank you, Cllr Parsons.

Cllr Parsons: Thank you Chair. Thank you for that explanation. Yeah I mean two things really, I mean how are you attempting to ascertain whether there's been a site visit or are you going on

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sort of the fact that it's not mentioned in the letter? And that's secondary, and then whose responsibility are the ditches, is it the farmers that have responsibility, because you know ditches generally aren't without responsibility.

Katherine France: Can I answer the last?

Cllr Parsons: Yeah absolutely.

Katherine France: I understand, because my own property backs onto a brook, that owners have repairing responsibilities and that those responsibilities takes you to half away into the brook. From looking at the site today, we weren't sure where the boundary went, where the watercourse went, although clearly on the map you can see that the two watercourses go through the site, but there was a question about where the fencing was going to be put and whether access was available for a tractor or a low maintenance vehicle to get through because that's going to have an impact on maintaining the area. And the first question, I can only take it from the letter; we haven't been able to make further enquiries. I'm afraid that the Flood Group are busy with their own commitments and have jobs and we haven't had the opportunity to make any further enquiries, we just spotted it in the letter. Thank you.

Cllr Bell Chair: Thank you. Are there any other questions of our speakers? In which case thank you very much both of you for your thoughts and we will move on to the discussion Members. I am going to start by asking Cllr Wright, who is not a Member of the Board [?2:42:34.1] local Member...

Mrs Ryan: Can I just ask, is there another speaker?

Cllr Bell Chair: No. There was a bit of confusion but no we don't have another speaker.

Mrs Ryan: Okay then.

Cllr Simpson: There is a speaker.

Cllr Bell Chair: We do?

Mrs Ryan: Yes I thought so. Mr Adams.

Cllr Bell Chair: I'm so sorry, I haven't got it on my list. Thank you very much. The next speaker [?].

Mr Adams I'm so sorry.

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Mrs Ryan: Mr Adams you'll have three minutes in which to speak and I'll let you know when its one minute left and start the clock when you start speaking.

Lee Adams: Good evening Chair and Committee, my name is Lee Adams, Chief Commercial Officer, Environmena. Firstly I'd like to praise the [?former] Chair and the pre-Committee process [?] the Officers and Members for their input [?in the formal] process. Environmena differ from other such operators in that we propose to construct, manage and maintain the scheme over its lifetime, as such we are heavily invested in the scheme and area. We have sought to work with the community and have presented several times to the Fillongley Parish community, informed and received their feedback. This has led to amendments to the layout including the provision of additional community garden and planting and screening. Should permission be granted we would love to work with the Parish to design the garden space. In addition, and outside of the planning consideration, we have committed to provide new play equipment for Fillongley Village and also support [?2:44:21.0]. The scheme presented today has had significant additional landscaping implemented and to directly address local concerns [?] regarding key viewpoints. In total 81 trees, 2.7 km of new hedgerow is proposed, reinstatement of former [?] boundaries, reinforcing existing planting and delivering significant biodiversity gains of 64%. Detailed discussions have been held with the Local Lead Flood Group and additional drainage testing has been undertaken at that request. The additional testing supports our drainage strategy which has been agreed by the LLFA as appropriate and suitable and will not increase the flood risk on [?2:44:58.3]. It is acknowledged that Fillongley Village has been subject to historic flooding, but it has been demonstrated and agreed with the LLFA that the site is not the source of the flooding and with its drainage improvements the proposal will not increase flood risk in the Village. Furthermore, in acknowledging the [?] comments received from the Fillongley Flood Group this morning, it should be noted that the watercourses and ditches will be cleared on a regular basis as part of our ongoing management plan, both pre and post construction, and we're happy for these to be a condition. Regarding Green Belt, there are [?multiple] decisions to support renewable energy and, as established, [?] exists special circumstances...

Mrs Ryan: One minute left.





Lee Adams: ...to justify development in the Green Belt. The potential scale of impact has been examined and agreed [?] by your Officers. In summary, there are no significant impacts arising from the scheme where harm has been identified, mitigation measures is proposed to minimise [?]. There are no objections from statutory consultees and North Warwickshire Officers and significant environmental, social and economic benefits can be delivered. As such we support the Officers' conclusion and respectfully request that the Planning Permission be granted. And I'm happy to take any questions [?].

Cllr Bell Chair: Of course. Do we have any questions to ask Mr Adams Cllr Simpson followed by Cllr Parsons.

**Cllr Simpson:** Thank you Madam Chairman and welcome back to Cllr House.

Cllr House: Thank you.

**Cllr Simpson:** Just a couple of questions if I may. The first one is largely following on from the discussion we just had. Are you aware whether the Lead Local Flood Authority visited the site?

Lee Adams: I honestly don't know whether they did or they don't, they were sent the report and they're working with the Council to evaluate it. I wouldn't like to comment. My understanding of it previous how the surveys happened is that they would have visited the site, but I wouldn't like to put on record, but I would be surprised if they came to their conclusion without understanding a lot of information including a site visit.

**Cllr Simpson:** Sure, thank you. So you're not aware they actually... they didn't approach you saying they were going to go?

Lee Adams: No, no. No but all of our [?surveys] have got access to the site, so I wouldn't like to say they didn't [?or they did] other than they came to the conclusion that they've got no objection.

**Cllr Simpson:** Thank you. And my second question, in his report the Senior Planning Officer makes a significant [?] attaching to the changed plans for landscaping the site and the additional screening that [?you will] put in.

Lee Adams: Yes.

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**Clrr Simpson:** Do you think you've gone as far as you can, as far as you should and as far as any other applicant on a similar site would have done in the UK?

Lee Adams: I can tell you from our original plans we have probably quadrupled the amount of planning and additional hedgerows and if I look back at the original plans, when we originally presented to the Council by our Design Team, this has led to probably, like I say, a four-fold increase in planting hedgerows, trees that we would have placed for a project of this size having a number across the UK. So in short, yes all [?].

**Clrr Simpson:** Thank you, that was very helpful although I'm not sure it entirely answered my question. Is there anything else you could do to mitigate the impact of this Application on the local area?

Lee Adams: No. In terms of, like I said, if I just reiterate, in terms of the flood measures, following the site visit today and discussing with my Team, we're happy that we understand the drainage and the ditches were a big concern, I understand the challenges, they are not very well maintained at the moment, given the ditches in question will be surrounding our... within our red line, we are happy and encourage the Officers, if it was to be approved, that both the cleaning and the maintenance and annual [?additions] would be conditioned and that would be over and above its current condition there.

**Clrr Simpson:** I'm sorry, I've just remembered one question Madam Chairman, I apologise. I understand that the additional landscaping, at the end of its reasonable growing period, will be a certain height. How much higher will the landscaping be than the panels are?

Lee Adams: The trees that are proposed?

**Clrr Simpson:** Well I was thinking more of the hedgerows.

Lee Adams: The hedgerows are designed to be... the plants that are proposed as part of the plan would be designed to grow higher than the [?] of the module, which I believe its 2.8 metres [?] I'll need to refer to my design, but the hedgerows are proposed and designed, that would need to be signed off by the Council and the Council's Landscaping Team would be proposed to disguise the modules.

**Clrr Simpson:** Okay, I'm not trying to lead you honestly...

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Lee Adams: No.

Cllr Simpson: ...but I thought that the landscaping was about 3 metres.

Lee Adams: Yeah, and the [?fact] that the modules are 3.8 metres high, so in short, yes.

Cllr Simpson: So less than the full height.

Lee Adams: Yes.

Cllr Simpson: Thank you, thank you Chairman.

Cllr Bell Chair: Thank you Cllr Simpson. Cllr Parsons.

Cllr Parsons: Thank you Chair. If I can pursue the flooding aspect [?of it]. I represent Polesworth and we do know a little bit about flooding in Polesworth [?]. And I've dealt with flooding issues and often its maintenance is in the hands of farmers because it always [?] onto [?] and yeah, I've seen that. Am I getting it right, are you saying that the operators of the site will assume responsibility for the maintaining and clearing those ditches, which appear to be [?]?

Lee Adams: Yes 100%, which will be a condition, which we're proposing and happy to take it by condition and obviously under the operations on being a power plant, we take our responsibility, not to bring planning conditions, but obviously economical reasons, very, very seriously.

Cllr Parsons: And that is throughout the duration of the site?

Lee Adams: 100%.

Cllr Parsons: Thank you.

Cllr Bell Chair: Cllr Hobley.

Cllr Hobley: Thank you Chair. It's only a quick one. I appreciate all the information is in... will be in there a lot, but it keeps popping up, the glint and glare, can you just go over that one more time?

Lee Adams: So I...

Cllr Hobley: Is it going to be a problem?

Lee Adams: No.

Cllr Hobley: Its not.

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Lee Adams: There is a substantial [?] solar farm sited beside motorways, I would need to check with my Team, but I can maybe ask [?] there would have been a Glint and Glare Assessment done and I would imagine the Highways would have been a statutory consultee, but there's no objections. Like I said, we site our projects beside railway lines and motorways for the reason that they are of less impact than the actual motorway itself.

Cllr Hobley: Yeah, thank you.

Cllr Bell Chair: That's alright Cllr Hobley, okay.

Cllr Hobley: Thank you. Sorry.

Cllr Bell Chair: That's alright. Are there any other questions of the last speaker? Thank you very much.

Lee Adams: Thank you Chair.

Cllr Bell Chair: So we're going to move into discussions, but I'm going to ask Cllr Wright to speak first as the Local Member as he has requested to speak [?].

Cllr Wright: Thank you Chair. I would like to speak against this proposal for the following reasons: first of all I disagree with the Lead Planning Officer, I think there is significant [?] special circumstances for this size of development in the **Green Belt are not being met, this is high grade agricultural land** and the loss of that will have a serious detrimental impact on the area. I would like to ask the Board if they would consider deferring this, following Katherine's Flood Group. We've heard that there's no site visit been met and this is, in my opinion, ludicrous and you know, desktop exercises, **not just flooding but the traffic, is just wrong**. And again, Mr Brown said that the Local Authority, **Flooding Authority for the County have got no objection, well it wont be the first time they've been wrong, they are particularly useless in my opinion** and we should seek to listen to local people, the Local Flood Group, they are the ones. We've seen significant increase in flooding in Fillongley since the motorway was turned into a smart motorway. Highways UK said they were going to provide flood alleviation or mitigation measures when they did that, but then they didn't because they ran out of money and, with all due respect to the Applicant, in my opinion again, clearing out the ditches will just make the water flow faster down to the village and flood it even quicker. So, as I say, **there is significant harm to the Green Belt**, the [2:55:10.7]

*Incorrect. Unsubstantiated.*

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special circumstances outweigh, as I say, I disagree with Mr Brown on that, and I'd ask the Board if they would defer for further reports and analysis to be undertaken.

Cllr Bell Chair: Thank you very much. Cllr Simpson.

Cllr Simpson: Thank you Madam Chairman. I have a couple of questions for the Planning Officer first if you don't mind. In his report the Planning Officer makes a point that it was of substantial weight that the Local Lead Flood Authority had withdrawn its objection. I'd like to ask if the Planning Officer still thinks that it is of substantial weight given the fact they didn't visit the site before withdrawing their objection.

PO Mr Brown: As I said in the introduction Madam Chairman, the Lead Local Authority is aware of the situation in Fillongley and they are aware of the Fillongley Flood Group and therefore they know the circumstances in the village and therefore they took those into account when they considered the Application and therefore withdrew their objection. They do know the site, they do know the situation there and therefore I still give it substantial weight as I indicated in the introduction.

Cllr Simpson: Thank Chairman. Could I ask the Officer, would you really not have expected them, given an Application of this magnitude and this importance, not go and visit the site before choosing to withdraw their objection?

PO Mr Brown: That's a matter for the Lead Local Authority Cllr Simpson, they know the site, they know the village, they know the circumstances, they know the contacts with the Fillongley Flood Group, so therefore, with that background, I still give substantial weight to their withdrawal of the objection.

Cllr Simpson: Thank you Chairman. My final question, before I make my other comments, is we've heard and in the report there is substance credence given to the revised landscaping. I accept there are some trees in there as well, I'm not saying it's entirely trees, but the hedgerows will be, from what I understand, 0.2 of a metre around a foot in old money, higher than the solar panels. I'd like to ask Mr Brown, given the height of the topography around this site, how much difference does he think, less than around a foot, 0.2 of a metre, will actually make to the impact that this

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will have across the site? From the houses that overlook the site on both sides, do you really think that 0.2 of a metre will make any difference?

PO Mr Brown: There are two answers Madam Chairman, the first is that it is not the intention of the landscaping to completely disguise or screen the site, that's not the purpose of mitigation, that will not be achieved and in fact that hasn't been achieved on any of the other sites that we've looked at in the Borough, its to whether or not the landscaping would mitigate it to a degree that the harm would be acceptable and that's what the policy says. And the second answer is that I think the length of the hedgerows is far more important than the height. In other words it's compartmentalising the site and it's that splitting up of the site which in fact provides the mitigation.

Cllr Simpson: Thank you Madam Chairman. This is a significant Planning Application for the Borough as well as for Fillongley Ward. You know, I don't seek to hide the fact that I am broadly in favour of solar power and alternative sources of power, the country needs these issues. You know, as a whole I understand the country is making substantial progress towards reducing its reliance upon fossil fuels and non-environmentally sources of power. Last week I had several panels fitted on part of the roof of my house that I can't see. It's important that we do move in that direction. But there's nothing in the Planning Policy that says that means you have to accept every application, that every application is acceptable. The National Planning Policy Framework, so far as I understand it, says that there has to be only special circumstances if you're going to grant a consent in the Green Belt. So this is not, so far as I understand it, you know Mr Brown, please tell me if I'm going wrong here, where you have to vote for this where it is inevitable if there's an application, that it will become acceptable in planning terms. Paragraph 4.52 makes it clear that the Applicant's case has to provide sufficient weight so as to clearly outweigh the cumulative harm caused and it's important, <sup>incorrect</sup> it can't just about do it, it has to clearly outweigh the harm caused. The reason for my questions to the Applicant and to Mr Brown were that I am not in the place where I believe, having read all the papers, having had presentations from the Applicant, that I can honestly say I believe this clearly outweighs the potential harm caused. I think the issues in terms of flooding are unclear and they may be possible to be resolved by condition, but frankly colleagues, I don't really know that. We were told there was a meeting today and this is of such

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importance locally, given the impact of flooding in Fillongley, that I sort of don't want to take that as the, oh we'll sort it out afterwards thank you very much, I'd like certainty on that and I haven't got it. In terms of the environmental impacts, in his initial comments Mr Brown said quite correctly that size is not a reason for refusal. I completely agree, but impact is, impact on the Green Belt, impact on the landscape of the area, those are issues that we should be considering. So this is difficult isn't it? We need an alternative source of power but we don't need it everywhere, we don't need to grant every application if there are genuine areas of harm that are being created. I particularly asked the Applicant if there was more they could do and the answer was no, there isn't anymore. **But I would actually like us to go through that in a bit further detail and try and understand is there anything that could be done to make this Application acceptable to get us to a point where we can all say, or at least the majority of us can say that the Applicant has done sufficient to clearly outweigh the cumulative harm caused.** I think that absolutely calls for a deferral so that we can consider those issues in greater detail, both with the Local Flood Group, with the Lead Authority on Flooding and with the Applicant as well as the objectors. So Madam Chairman, I move for deferral for the reasons I've just said.

Cllr Bell Chair: Thank you Cllr Simpson. I've got two speakers left, so I've got Cllr Parsons:

Cllr Parsons: Thank you Chair. I'd just like to make sure that we do... the Applicant has said that they are willing to be varied by condition to the maintenance of the ditches, streams across the site and I would like to see that enshrined as a condition whether we defer or whatever, I think that is an essential part of this. Thank you Chair.

Cllr Bell Chair: Thank you very much. Cllr Hobley.

Cllr Hobley: Thank you Chair. I mean I'm sure we all are, we're all aware of the need of alternative power sources and solar energy obviously is something that's massive at the minute that we're hearing about. My only worry is with deferring this Application is that **I feel as its been written and conditions have been put in place, the Applicant has done what its been asked to do** and I don't quite understand what... if its going to be able to go any further ever if that makes sense. Sorry, if that makes sense. I don't understand what more they can do to mitigate the whole Application because it's... there's a lot that's been done and I just don't understand how it's going to move

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forward if that makes sense. But it's not really a question or anything, its just a... I just don't even know why I was saying this, I just don't get it. Thank you Chair.

CLlr Bell Chair: Thank you. Cllr Fowler.

CLlr Fowler: Thank you Madam Chair. I would like to second and support what Cllr Simpson has said. I've listened to the speakers on the residential side from Cllr Wright talking about deferment and its clear there are still some hurdles to be overcome on this Application. And like Cllr Simpson, he knows that I very much like the thought of solar panels and the need to move forward in the UK for the obvious reasons, however, I still think that there needs to be deferment as Cllr Simpson has alluded to, so we can get clarity on this. Thank you Madam Chair.

CLlr Bell Chair: Cllr Humphreys.

CLlr Humphreys: Thank you Madam Chair. I would like to support what Fillongley have said there and stating the obvious, water does run downhill, it all ends up in the centre of the village. I've actually been at that village with the Lead Authority before where the inundation happens and there's a lady sat in the background there, she's actually showed me the tide mark where its gone through her front window and ended up half way up the wall. It does happen and anything that might make it worse I think the Lead Flood Authority needs to go back and have a proper look on site, not do a desktop arrangement; we need to try and make sure of that. And so I would also support a deferment so that we can fill in the blanks. Thank you.

CLlr Bell Chair: Thank you very much. And Cllr Hayfield.

CLlr Hayfield: Thank you Madam Chair. Yeah I too would support a deferment. This really is a [?] certificate application and I know [we would feel] comfortable [?]. I think Fillongley deserves that certainty that all the information has been gathered and presented [?] because, as the Chief Planning Officer says, it's a question whether, in terms of Green Belt, whether this Application can override the presumption against development in the Green Belt. And I'm not there on that yet, most certainly not there on that yet. Because yes, we need to encourage solar energy, but there is a balance in terms of its impact on the landscape and its impact on the local population of Fillongley. Yes I've seen cars under water by the Post Office in Fillongley or what was the Post Office in Fillongley, but the drainage area that causes those floodings goes right back to this area.

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It isn't just the immediate environment to the village that cause the flooding, as [?] says, water drains down and it's got a long way to go before it gets to the village, but it doesn't half get there. So I'm looking for more reassurance in terms of what the Flood Group have been saying and [?] I don't quite understand the size at issue because if you're building a building that size is usually held up as being an issue, this is a huge Application, it will be visible to large areas and that impact to me is a key factor of whether this overrides Green Belt considerations or not. So, cut to the chase, I support Cllr Simpson's [?].

Cllr Bell Chair: Thank you. Cllr Clews.

Cllr Clews: Thank you Chair. I know tonight that we're sitting and talking about Fillongley and the flooding, but I think most of the Cllrs here in all the Wards over the last few weeks have suffered the floods and [?] people and [?] saying about floods. So if by deferring this for another month would give me a bit more confidence and give the Cllrs and the Parish Council a little bit more to go into the flooding, then I'd like to support the deferment.

Cllr Bell Chair: Thank you. Cllr Dirveiks.

Cllr Dirveiks: Thank you. I've heard a lot of information this evening already. I have to admit that when I arrived here I wasn't at all sure whether I should support this Application or not because **it's very very difficult to find planning reasons to turn it down**. There is a need for electric and electricity being produced in greener ways, which holds that we need to have this. It is important we've declared a climate emergency, [what] are we actually doing about it. So [?] [?build] it I'm sure. I think what has convinced me not to support the Application tonight is the fact that I can't be absolutely certain that for [?] that is as large and as important as this one that the Lead Local Flood Authority has not actually sat down at the site with the company that is applying for it and the Local Flood Group and actually gone through it properly because, as has been said, you can't do it all on a desktop or even from memory because things change. And I know that the weather conditions that we've been having have changed the flooding in Fillongley and continue to do so because of the debris and the [?] that is washed down when we have downpours like this. So I would also support, as has been suggested, a deferment so that that can actually happen before this is determined. Thank you.

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Cllr Bell Chair: Cllr Whapples.

Cllr Whapples: Thanks Chair. Just to echo something that Cllr Dirveiks said. As a resident and Cllr at Polesworth, Cllr Parsons mentioned earlier that you know, it's not our first rodeo when it comes to floods. And one of the frustrating statements that we've had to endure is they haven't visited but it's not a flood area. And that really sickens me that people make these decisions based on what they think is going on locally. So I again would support. I'm not against the idea of solar panels at all, but I think we owe it to the residents of any of the Wards in the Borough to do a thorough due diligence of everything that we need to get on paper properly with proper site visits for people that matter and then make that decision based on facts rather than what they assume from desktops. So again, I'm not dissing the idea of the solar, but I think we owe it to the residents to make sure that we, as a Council, have provided them with all the information that we can do before the decision is made. So I will support the deferment.

Cllr Bell Chair: Thank you. Have I got any more speakers on this? Cllr Parsons.

Cllr Parsons: I've already spoken once I know, but with your indulgence Chair. I mean yes certainly I'm inclined to agree absolutely. What I would like though is to move from the anecdotal to the certain, and I appreciate what Mr Brown has told us, but I think we need to know exactly when this does occur, exactly what their conclusions are. And so what I'm asking for is some pretty rigorous detailing of the evidence essentially. I think tonight we don't know whether these people have visited or whether they haven't, we need to know that. Thank you Chair.

Cllr Bell Chair: Thank you. Anyone else? Okay, in which case I've got a proposal by Cllr Simpson seconded by Cllr Fowler that we defer this Application in order that we can look further into the flooding issues, and from Cllr Parsons' words, we can get some more definitive evidence about why decisions have been taken and also to look at any wider mitigation issues that can be put in place in terms of this Application. So if the proposers are content with that description then we'll move to the vote. So we're voting on whether we should defer this Application. Those in favour please show. And those against. Any abstentions? So [?] the Application is deferred. Thank you.

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**Cllr Simpson:** Members, we're now about to move onto Application No. 0071 for Land 800m South of Park House Farm, Meriden Road, Fillongley. **As this is an Application in my Ward** which I would wish to speak on it would be inappropriate of me to chair the meeting at this point, so I'm going to hand over to Cllr Bell, who I'm sure will guide you through this Application.

**Chair Cllr Bell:** Thank you. As you say, this is the Application 0071, Land 800m South of Park House Farm, Meriden Road, Fillongley. So the first speaker is Katherine France, who is going to come in via Teams. So I'm going to pass over to Mr Brown, who is going to take us through the Application and then we'll go onto Teams.

**Planning Officer Mr Brown:** Thank you Chair, I'll just run through the slides, there are not many of them. The first, Members will have seen before, the site outlined in red here north of the motorway. Meriden Road comes down through here and the Village of Fillongley is here with Corley Down here, Members are familiar with that and also the aerial photograph, those have been copied from previous reports. This is the current drainage scheme with additional ponds that's referred to in the report, 1, 2 and 3. The addition of the green lines here are the swales which have been put in, which Members were aware of originally as one of the amendments that came in through the Application. And details of these new ponds in terms of cross-sections are also at the bottom of the slide there and then finally, an extract where the additional planting is going to be, which is referred to in the report. Chair I'll go back to that I think because everything is on that slide so it shows you where it is. The report Chair obviously brings us up to date where following deferral back in March when we heard from the Flood Group and you can see that at the time of preparing the report the Flood Group had not yet come back following a joint meeting they had with the Applicant and the Lead Local Authority on site. I circulated a supplementary report this afternoon, which is in front of Members again tonight Chair, and I'll go through that because it is quite short and some Members may not have actually seen it. It brings Members up to date on two items. The first is on the Flood Group. As you can see from the main report on paragraph 2.8, I said that the Group had not yet responded to the latest plans at that time. We actually received a response from the Group late on Friday afternoon, 5 July, that was circulated to Members immediately and I also sent it to the Applicants and to the Lead Local Flood Authority at that same time. That letter is attached, as you can see, in the form of a report, which is Edenvale



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Young report, which you have in front of you as part of that package. There is also a timeline that the Flood Group has outlined and is contained in that same package, which goes through the time period [after] the last deferral to show you what they have been doing between the 4 March and effectively the weekend. The Local Flood Authority was asked to comment if it was possible to come back as soon as it could, and you can see that they came back in fact this morning. And that email is also attached to the package that you can see in front of you this evening. In effect the Local Authority is saying it still retains no objection to the proposals, even given the latest information and comments from the Flood Group. So I've attached that as part of the package. The Applicant, I've not heard from the Applicant because as the Applicant has said, he is going to speak tonight Chair, I suspect the Applicant may comment on it during that particular three minutes. Also you'll see in the supplementary report that I've received further representations since the report was written. One particular one draws attention to what the objector considers to be an omission from the report and you can see that in paragraph 3.1 of that supplementary report. He considers that an alternative site assessment is necessary and it was not mentioned in the July report and the different papers that you have in front of you. That's quite an important statement Chair so therefore I had to do a supplementary report for you. And paragraph 3.2 is the starting point of that. Each Appeal is determined on its own merits, each Planning Application is determined on its own merits and just because its [?factoring] one decision, it criticised the lack of an alternative site assessment doesn't mean to say that another Inspector would do the same, just as in a planning decision, Members of this Board Chair will take the decision based on the merits of the case in front of them. And that's explained in paragraph 3.2. This is why we have different appeal decisions, and also different decisions from the Local Authorities. An Inspector's decision can be a material planning consideration and Members will be familiar with material planning considerations, it can be a material planning consideration, [?] what weight do you give to it. You may not want to ignore it but you have to give it a weight. Fundamentally in this particular case, as explained in paragraph 3.3 of the supplementary report, there is no statutory requirement for such an assessment. In other words, each case is determined on its own merits. Plus, more significantly, the latest update that we've had from the government is the written ministerial statement, which is again attached to the main papers of your report; there is nothing in there requiring an assessment to be made. That ministerial statement deals with solar farms at the

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greater capacity in this one and those are nationally significant infrastructure projects, this is not a nationally significant infrastructure project, it falls below the threshold. And in that particular case the statement goes on to explain what Local Authorities should be looking at and that's quoted to you in paragraph 3.4. The final sentence of that is that there is a greater onus on the developers to show that the use of high quality land is necessary. In other words, the test that you have in front of you tonight Chair, is has the Applicant shown that the use of that land is necessary and then that relates back to the point I talked about, about each case being considered on its own merits, so is it necessary in this particular case. Finally, the Applicant has undertaken that test and there were issues that included the BMV, the use of BMV is necessary in this particular case. Now that test and the evidence that the Applicant has to show that is included in the paragraphs I've mentioned there in the July report that went out to you. That is from the previous report back in March, where the report went into some detail about Best and Most Versatile land. That report considered that test and we came to the view on balance that an alternative site assessment was not necessary. And the reasons for that are given to you in the same appendix and I haven't changed my view since the receipt of this further representation. Chair that's basically a quick run through of the report and I'll finish there because I know you have speakers for and against.

**Chair Cllr Bell:** Thank you Mr Brown. So Miss France, I think you're online and welcome, and over to you.

**Mrs Ryan:** Hello Miss France, you've probably already heard me say this a few times tonight, but I understand that you are just speaking for one minute and Cllr Robert Pargetter is speaking for two minutes. So I'll set the clock going when you start speaking and I'll let you know when you've spoken for one minute and then you can change over.

**Katherine France:** Good evening ladies and gentlemen, Members of the Planning Board, Chair, I am the Secretary of the Fillongley Flood Group. We were seeking a deferment, that has been refused, therefore we object to the Application. We had a site visit with the Lead Local Flood Authority and the Applicant on the 18 March, the tick box exercise and questions still remain. The Fillongley Flood Group instructed their own hydrology report – it sadly was only received last Thursday, I hope you have had the opportunity to read it – highlighting three of several issues in that report. The Applicant's modelling has not taken into account the runoff from the M6. The

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swales proposed are not fit for purpose, quote, 'the swale design as shown will not reduce the runoff rates anticipated', the same is said of the attenuation ponds. We do not accept the measures put forward by the Applicant in terms of betterment with mitigating the flood risk and therefore the Applicant and the Lead Local Flood Authority appear to be in breach of Warwickshire County Council's Local Flood Risk Management Strategy April 26<sup>th</sup>.

Mrs Ryan: One minute gone.

Chair Cllr Bell: Can we pass over to Cllr Robert Pargetter please?

Cllr Pargetter: Thank you Madam Chair, Members of the Board. Fillongley Parish Council would like you to reject this Application and our objection is backed by the majority of parishioners, I'd like to mention on three points, firstly the Green Belt. The NPPF states that building in the Green Belt is deemed incorrect inappropriate unless there are special circumstances. This Application has not demonstrated any special circumstances and therefore should be rejected on those grounds alone. Secondly, [?] for this proposal is on Best and Most Versatile land, 95% of the proposed area is BMV land. We do not deny the need for renewable energy; however, average yield on this land is capable of producing 1.1 million large loaves of bread every single year. The Applicant does say that sheeting goes under the panels, which has also come into the Parish Council Meeting about the bill for grass cutting, so the Applicant can't have it both ways. Also pollution from importing food is absolutely greatly significant. A further aspect is the enormous visual aspect that will be on the many many Parishioners, many that are here... wrong

Mrs Ryan: One minute left.

Cllr Pargetter: The land is seen from Sandy Lane, car parks, contra roads, green and red and the number of the effectiveness and [?] to support that [?]. It will be an inherent nuisance and a blot on the landscape to the residents and of course it will be seen by all vehicles travelling on the motorway in both directions. The huge development [?], which I'm sure you've seen Madam Chairman, would actually dwarf the area, its almost 150 acres. Screening proposals are ineffectual, the hedges would take time to grow and actually the topography of the land, even when fully grown would still be ineffective. I am therefore asking you please to reject this Application. Thank you.

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**Chair Cllr Bell:** Thank you very much. Have you got questions to Cllr Pargetter? Cllr Whapples.

**Cllr Whapples:** Thanks Chair. You mention that the majority of Parishioners have objected to this. How did you gather their votes please?

**Cllr Pargetter:** At a Parish Council Meeting we took a vote and I think there were about 70 Parishioners there. I believe there are three people, one of whom is a couple, wish to go ahead and all the rest voted against it.

**Cllr Whapples:** So it was just the majority at the meeting, not Parishioners.

**Cllr Pargetter:** Yes, which have all been [?].

**Cllr Whapples:** Okay thank you.

**Chair Cllr Bell:** Thank you. Are there any more questions? No. Okay, thank you very much Cllr Pargetter, thank you very much Miss France. And we have a second speaker, Mr Mark Harding, would you like to come forward, thank you.

**Mrs Ryan:** Hello Mr Harding, you've got three minutes in which to speak and I'll set the clock going when you start to speak and let you know when you've got one minute left.

**Mr Mark Harding:** Good evening Chair, Members of the Committee and Mr Brown. I'm Mark Harding, European Development Director, Environmena. In March the Council Planning Committee deferred the Officer's recommendation of approval, seeking additional information on local drainage issues and landscaping. The scheme in front of you today has been embellished in line with those requests. Following a site visit undertaken with the Flood Group and the LLFA shortly after the March Committee, the LLFA confirmed they still had no objections to the proposals, in fact indicating that the planning perception plan would act to provide betterment to the existing surface water runoff rates and that the improved vegetation cover on the land would slow the flow of water into the watercourses. Whilst meeting their requirements in terms of flooding, as set out in Planning policy, as part of our commitment to support the Village of Fillongley and their battle against flooding, we had agreed to add further attenuation features to the site by way of three retention basins to further help slow water flow into the watercourses. The Flood Authority has since approved the embellished scheme subject to conditions on two occasions with the latest no objection response received as recently as this morning. The

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landscape strategy has also been reviewed in response to the direct request of Members. An additional 16 trees are proposed along the eastern and northern boundaries interspersed with native hedgerow to help screen and assimilate the site from potential long-range views from Fillongley. In total 108 trees, almost 2,800 mm of native hedgerow and almost 12,000 sqm of native [?trug] planting is proposed within the site alongside a 980 sqm garden area. We have made extensive efforts to screen and filter views as far as practicable. Our Landscape Impact Assessment concludes the impact will be less than significant, which is acceptable in planning terms. I trust Members can see that we have paid considerable effort to drainage and landscaping matters as requested at the March meeting to help allay and address concerns. We also note recent concerns regarding the technical ability of the site to accommodate the proposed solar farm. I can confirm we have an agreed point of connection to the National Grid and a viable and feasible cable connection is achievable.

**Mrs Ryan:** One minute left.

**Mr Mark Harding:** Returning to the principle of this proposal, there is an urgent need for renewable energy projects in the UK. The National Energy Security Policy sets out that 70 GW of solar energy is required by 2035 if net zero targets are to be achieved and the UK's lights are to stay on. To assist with this and to tackle the continuing cost of energy prices, the government are driving the rate of solar deployment with 50 GW of solar energy to be generated by 2030. The Fillongley Scheme can be at the forefront of this solar resurgence. To summarise, there are still no significant impacts arising from the scheme, there are no objections from the statutory consultees or North Warwickshire Officers and significant environmental, social and economic benefits can be delivered. As such, we continue to support the Officers' conclusions and respectfully request that Planning Permission be granted.

**Chair Cllr Bell:** Thank you Mr Harding. Members do we have any questions for Mr Harding? Thank you.

**Male Cllr:** I just wanted to band around here [?] there's questions all bandied around the Council [?4:12:45.7] specialty. What is the carbon footprint of the actual installation and [?] so far?

**Mr Mark Harding:** The carbon footprint of the build and the sub [?]?

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**Male Cllr:** Yeah.

**Mr Mark Harding:** I don't have those figures to hand with me, I've got the carbon savings of the project once it goes live, which is, again, the avoidance of 10,000 tons of carbon on an annual basis for the term of the development, which is 40 years. I think one of the things, which [?4:13:22.7] mentioned, is we do also model up the front end of all of our projects in line with our ESG credentials, the build aspect of that in terms of sourcing our modules from far afield and obviously from local as well. So all of that is captured but I don't actually have that data for this project.

**Male Cllr:** Thank you.

**Chair Cllr Bell:** Thank you. Over to you Cllr [?4:13:47.7].

**Female Cllr [?4:13:50.0]:** Thank you Chair, everybody's struggling with my name. Thank you Mr Harding. I just wondered you did say Environmena has got a commitment to support the villagers from flooding going forward. I take it if you're going to be there for 40 years would it be, flooding could change dramatically over that time, and I wonder, I think everybody's concerns would be flooding does seem – and its been a terrible year this year – it does seem to be getting worse and worse. So what guarantee can you give the villagers if this Planning Application was to go through, that they would be able to call on Environmena to assist should things get dramatically worse?

**Mr Mark Harding:** I think that you just did touch on a couple of points [?] before I actually answer that question. So you're right, Environmena as a developer are here to develop, build, own and operate the asset in terms of the project, so unlike some other developments which you may well see in the solar industry, renewals industry, where you have a developer who then sells on the project to someone else, but that isn't the case. So first of all, the custodian of this project, Environmena, we're here for good. I think, as I said before, our commitment to the community with all of our projects is key. We've looked to engage with the Fillongley local community from the outset of this project. I think from a flooding in the village, it quite clearly became evident as a real issue that Fillongley face. I think with regards to our site plans, I think all of the relevant kind of data that has been assessed, so the drainage strategy and the flood risk assessment, takes into account predicted changes in climate change. Now clearly like I sit here today, not everyone knows what climate change might be, so there's a lot of added kind of buffers added to that to

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actually ensure that we look to capture climate change, as we do on all of our projects. And I think the [?] is that our commitment to be here today, I think there was a suggestion that the Fillongley Flood Group having an annual walk around of the site as part of one of the comments that came in today to add to the conditions of this project to be granted. I mean we're happy very much to continue that ongoing engagement with the Flood Group to help support the wider picture, albeit recognising that with the repeated no objection now from the statutory consultee, the Lead Flood Authority who have actually now suggested even that the further betterment for each [part of the] development proposed, we do not believe that the development is going to impact on Fillongley flooding as a wider picture.

**Chair Cllr Bell:** Okay, thank you. Are there any more questions for Mr Harding? No. Thank you very much then, thank you. Just before we go into discussions Members, can I just check that everybody's happy to do this. Mr Brown has taken us through; if anybody needs any time to read please indicate. Nobody's indicating so I assume you've all read it and you all [?]. Thank you very much. So we now move into discussion. Who would like to start? **Cllr Simpson.**

**Cllr Simpson:** Thank you Madam Chairman. This is the second time Members that you've all seen this Application. We've had a site visit and [we all] understand what the Application is. I think it's also important to recognise what the local community feel. The Parish Council of Fillongley object, Corley Parish Council object, the Chairman of Fillongley Parish Council indicated that a substantial number of residents had been to a meeting and objected and we've had 60 letters from a very sparsely populated area. So this is not something that local people could be said to be desperately keen for. I think it's important to recognise with the climate emergency and energy security that alternative forms of energy are important and are required across the country. I think by and large across the country we're making pretty significant strides towards achieving that, and that's something that I think we all agree with, we'd all like to see cleaner energy and better energy. You know we all use phones, electricity all the time, so there is a lot of good in what the Applicant is trying to achieve. I genuinely support the use of alternative energy and I've voted for a number of Applications in our Borough where we have consented so far. So I'm not here before you as a **NIMBY** saying I hate it, I don't like it. I recognise the importance of greener energy and the positive impact that that can have to all of us, but that doesn't mean that every Application should be

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granted, however good some aspects of it are. This is a huge development, 60+ hectares in the Green Belt, 95% of the land that it will use is classified as the Best and Most Versatile in the country. And that may be said to be a relatively small proportion of the land in the Borough and I daresay it is an even smaller proportion of the land in the country, but nevertheless, 95% of the land that will be taken out of agricultural production on this site is the Best and Most Versatile land we have. Cllr Pargetter mentioned earlier on that that land is estimated in its agricultural production to equate to 1.1 billion loaves of bread a year. We have an issue on energy security; we equally have an issue on food security. The ability of our farmers to continue to farm and feed us is pretty important as well as green energy. This site is in the Green Belt, the strongest policy we as a Council have, we all try and protect the Green Belt. This will take a substantial amount of Green Belt land. The report, you know I'm just glancing over it again, I didn't see anything in here that said it would be positive, they are all mitigations to the damage and the harm, but there is still harm nevertheless. It also talks about the impact on LP30 and the need to enhance. The NPF, broad as it is, requires that, at paragraph 180, the decision should recognise the intrinsic character and beauty of the countryside. I can't, with my hand on my heart, honestly say that covering fields with solar panels recognises the intrinsic character and beauty of the countryside in what is **one of our most beautiful areas**, it's not on the edge of the issue, it's in the heart of the countryside and 95% is our Best and Most Versatile, most productive agricultural land. **I'm deeply concerned about the impact this will have on landscape harm.** The report makes it clear that harm will be created, the final paragraph says, landscape harm is thus reduced to **moderate in impact**. **I trouble is I don't want my epitaph when I retire from the Council to be, oh dear old Cllr Simpson, he did his best to make sure that harm was never worse than moderate. Harm is harm and this is going to create harm.** Planning, at the end of the day, is all about balance [?4:22:11.4], about what [?] is better and what is worse. We do definitely need greener energy, I have no doubt we all do, but we don't need green energy at the expense of our Best and Most Versatile land and a 62 hectare hole in the middle of the Green Belt. Some of my concern, like this Application said, it is vast. I have voted for a number of successful solar farm Applications and I'm sure I will in the future, but this Application is too much and in **too sensitive an area**. Now I'm not going to say it was an easy call to go against it because I see the merit on both sides, but in the final analysis, when you look at the impact on Green Belt, the impact on landscape, the impact on our Best and Most Versatile land, together

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with the issue that there are issues that are unresolved if you will in terms of drainage. In my final analysis I condone to giving substantially more weight to the impact on the Green Belt and the Landscape Assessment. I can't, with my hand on my heart, say that there is not an adverse impact on the Green Belt, on agricultural production and on the landscape. So Madam Chair, I'd like to move that consent is refused. The Application is inappropriate development of the Green Belt and I don't consider that it will preserve the openness and therefore **is contrary to policy LP3; it also doesn't accord with policies LP1, LP14 and LP13 of the North Warwickshire Local Plan. It does not concur with policy FNPO1 and FNPO2 of the Fillongley Neighbourhood Plan.** If we're going to put people to the effort, ages of effort in having a Local Plan, why would we just ignore it? It's important and **we've got an awful lot of local people saying they don't want it** for sound reasons, not just 'not in my back yard' but through a democratically constituted and adopted Local Plan. There are so many reasons why I am concerned about this Application, first and foremost Green Belt, secondly the use of our Best and Most Versatile land and thirdly, but not thirdly, is the impact on the landscape. These are critical issues. Energy security is equally a critical issue, but in my view, Green Belt, landscape character damage and Best and Most Versatile land on this occasion must take precedence. So Members I would honestly, **from the bottom of my heart, appeal to you to vote against this Application.**

No explanation

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**Chair Cllr Bell:** Thank you. Cllr Hayfield.

**Cllr Hayfield:** Thank you Chair. My colleague has been very eloquent as usual and I agree with him. I think the Developers must take credit because they have tried to adapt their Application to meet some of the concerns, however, I agree with Cllr Simpson that it is the impact on the Green Belt that is a step too far in this case. I know this part of Fillongley well, it is a wonderful open countryside area and this is a huge development that **will have a very substantial visual impact** on the Green Belt. Yes there are benefits, green energy, and we should be working more towards green energy, but the cost of that shouldn't be to the greater detriment of the rural communities that are going to be affected by this. If I sum it up Chair, it's too big and it's in the wrong place.

Incorrect. No explanation.

**Chair Cllr Bell:** Cllr Hobley.

**Cllr Hobley:** Thank you Chair. Obviously this has come before the Planning Board before and, as Members of the Board are now on [?4:26:50.3] for renewable energy, I've got a young family who



really try to be as green as we can. As Cllr Hayfield has just said, we've got to give credit to the massive amount of effort put in by the Applicant. I feel like every time we've given them a problem they've given us some sort of solution. I've had to weigh it up, you know we have to do it on this board, I know the further deferral was requested and refused due to the flood risk management. Obviously that's come back with no objections. So there are no planning reasons really why we should vote against this. Just one thing on the visual impact, I understand, I completely understand what you're saying about the visual impact, but as a person in my community, the visual impact is positive as well. You know you can see, if you're driving past, this is Fillongley, this is what we're doing for renewable energy, that's something to be proud of [background voices], it's something to be proud of. And I really appreciate the passion of the residents and everybody coming and making so much effort, but on that note I will be abstaining on this because I am too conflicted with it. So thank you Chair.

Chair Cllr Bell: Thank you. Cllr Fowler.

Cllr Fowler: Thank you Madam Chair. I have to say I join and support the words that Cllr Hayfield has just said and also how eloquent that Cllr Simpson put his thoughts across. As a, firstly, Borough Council's Climate Change Champion, we have supported quite a few solar farms, albeit these are much smaller than this and one thing that Cllr Simpson also echoed as well is the amount of work that Fillongley in particular, spent time on their Local Plan and that people are potentially going against what they've spent so long. And then you talked about the comments that were made at the Parish Council, the amount of letters that we've had far and wide from the area. And yes, I think that, as I said, we've certainly supported [?] on smaller Applications but I have to say I agree with Cllr Simpson and Hayfield that this one is just far too big for us and certainly agree, again, in the Green Belt and is echoed again, best land. I have to say, Cllr Hobley, yes its visual aspect, but its visual for all the neighbours, all the parishes that are in that area that have to see that every single time they pass by. So I'm one Madam Chairman, with Cllr Simpson and Cllr Hayfield's comments that I don't think we should take forward. Thank you.

Chair Cllr Bell: Thank you. Cllr Phillips.

Cllr Phillips: I'd like to echo some of the comments. It always seems very suspicious doesn't it we [interruption], sorry I do apologise. It always seems very suspicious that us with all the green... the

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green pastures always seem to be very open [?] and it's always **suspicious** that it's always our land, its never near housing. So I'm always under the impression that large power stations and other things they could be near population centres and suddenly we're all connected to the Grid when... when we got broadband a couple of years ago. I also think that the visual impact is quite substantial and I think in that respect, even though I would desperately like, for the green reason, I'd like to vote for it, I will be abstaining from this for that reason because I do think they are a [?4:31:14.0].

**Chair Cllr Bell:** Thank you. Cllr Parsons.

**Cllr Parsons:** Thank you Chair. Yes, I'm going to sound a different note. I understand the passionate arguments that have been made there and I have to ask the question, yes, if this is the wrong place where is the right place? And when we look at our local planning, places have been allocated things, much of it objected to, and the good [?] those objections have been overruled, those objections have been ignored. Now that isn't a reason for approving this scheme, but looking at this scheme, you know there are many many places that have had their green spaces that are going to be built on. There are going to be many places that are having these schemes put in place and what we're being asked to do here is to make a special case. Now alright, there is Green Belt there, **but there is a climate emergency, there is a world need for green renewable energy and I don't see a planning reason for actually objecting to this development.** I appreciate that wont be popular in the room, but it is a realistic view I believe. Your mitigation is thorough and well worked. The objections to it have been looked at and rejected. I believe that there are good planning reasons for going ahead with this development and I will be voting [?] for the development.

**Chair Cllr Bell:** Thank you. Cllr Whapples.

**Cllr Whapples:** Thanks Chair. I echo what Cllr Parsons says actually and also some of what Cllr Hobleby says, but I also understand why there are passionate views from the local residents, but going back to the biggest point of this, and we're on a Planning Board, **we have no planning objections to make.** So for me I will be voting for. Thank you.

**Chair Cllr Bell:** Cllr Ridley.

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Cllr Ridley: Thank you Chair. I'm completely conflicted like a lot of people are. Yes we have a climate emergency, we need green energy, we need it now, we don't need it in five years time. The issue I find with this is it's visible from everywhere. It's very difficult to mitigate the rows and rows and rows of solar panels. I think efforts have been made by the Environmena to try and disguise it to a certain extent and mitigation that they're trying to put in for flooding I applaud and I'm glad that they did carry on and work with the residents and the Flood Protection Group in order to try and make sure that, going forward, flooding is going to get worse, but Fillongley is protected. The one issue that it is for me is the fact that there is an agreed point of connection. There is so much area there that we could put in solar farms and solar facilities but it can't be connected. It makes it not viable. So that's what I worry about, I worry about actually being able to deliver something and deliver something now. We can't have something in ten years time, we need to start delivering now and we have, like Cllr Simpson said, there are many solar farms that have come to us, certainly within my 18 months, and we have passed all of them. And I am passionate about our green spaces, I represent Dordon, we have no Green Belt and I think, [?though very vocal], everybody knows, on our Neighbourhood Plan [?] trying to preserve the green spaces that we've got. So I completely and utterly respect Fillongley's Green Belt and the preservation that we need to keep a bit. I still think planning weight is [?], we do need to support our green infrastructure. We need to be able to deliver for our children and our grandchildren and we need to start delivering now. I do hope that Environmena and the residents, should this be passed, can actually form some sort of community group and there will be some sort of societal benefit for the residents of Fillongley. And I really do, my heart does go out to [?residents] very much so, but for the future of our children, our grandchildren I think we need to deliver now and I will be supporting this Planning Application. Thank you.

Chair Cllr Bell: Thank you. Cllr Simpson, do you want to speak?

Cllr Simpson: Thank you. I'd just like to answer a couple of the points that have been raised. And, [?like I say], in many ways Environmena have been a model Applicant, they have engaged with the Parish Council, they've engaged with the Borough Council, they have come forward with a number of changes and they've engaged with the Flood Group and I think that that is... there have been some benefits. I'm not trying to say that at all. Planning is about balance. Now you know, I

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genuinely do not disagree that we need to do something now, but the Green Belt and for a landscape character is a once only opportunity. **Once it's gone, it's gone. I know the argument is it's a temporary Application because it's only for 40 years. But I'm concerned for my life that's** pretty [?] and for most of the people who live in that area it is permanent. And the planning content, I get that 40 years can be argued to be temporary. **What is the planning basis?** The report makes it quite clear the long mitigation [?since] the question of how much do you agree with the mitigation compared to the harm. [?4:38:09.0] the report says its considered the [?] of **the planning balance comprises a substantial definition of Green Belt harm, moderate actual Green Belt harm, moderate landscape and minor visual impacts** and the harm caused to the Best and Most Versatile land as well as, what's less than substantial harm for local heritage assets. **None of that is saying there is no harm.** There is clear harm to the Green Belt. Now agreed, there are advantages and it is important that we have green energy, **but in my honest view, the advantages of this Application do not outweigh the substantial harm** that is clearly outweighed by any of the benefits of [?the] development. This is a long-term, you know I get we need to [?deliver] green energy, we don't need to do it everywhere and we certainly do not need to do it in sensitive locations and we do not need to do it for the benefit of future generations in an area where 95% of the land is our Best and Most Versatile land. We do need to sort out energy, but on the land that grows more than anything else? Cllr, I get your point for the benefit of future generations, but future generations need to eat too.

Chair Cllr Bell: Thank you. Cllr Ririe.

Cllr Ririe: **I'm very conflicted about this for the reasons that everybody else has set out.** Just one question, a lot has been made of the fact that its good quality agricultural land, but is it currently used as agricultural land?

Chair Cllr Bell: Yes.

Cllr Simpson: Yes.

Cllr Ririe: I thought it was, I just wanted to check because it's a while since I've been. Thank you.

Chair Cllr Bell: Thank you. Any one else want to speak? Right so I have a proposal for refusal from Cllr Simpson, did I have a seconder to that? Cllr Hayfield.

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CLlr Hayfield: I second it.

Chair Cllr Bell: Okay Cllr Hayfield. And the planning reasons given were harm to the Green Belt because of the scale and the landscape harm, the use of Best and Most Versatile land and of course, it's not consistent with the Neighbourhood Plan. Right so I've got that put down. Have I got any other proposal? Cllr Ridley.

CLlr Ridley: Thank you Chair, I've got a proposal to accept [?].

Chair Cllr Bell: Right so a proposal for the recommendation to approve. Have I got a seconder? Cllr Whapples, thank you. [?]. So is everybody clear, this is what we're voting on is to refuse the Planning Application on the grounds that I've mentioned. Can I see those in favour of refusal please? Thank you. And those against refusal? And abstentions? So refusal is carried so this Application is refused.

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## Appendix 2 DLUHC Policy Statement July 2024



Ministry of Housing,  
Communities &  
Local Government



HM Treasury



Department for  
Energy Security  
& Net Zero



Department for Levelling Up,  
Housing & Communities

Policy paper

# Policy statement on onshore wind

Published 8 July 2024

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1. Delivering our clean power mission will help boost Britain's energy independence, save money on energy bills, support high-skilled jobs and tackle the climate crisis. We are therefore committed to doubling onshore wind energy by 2030. That means immediately removing the de facto ban on onshore wind in England, in place since 2015. We are revising planning policy to place onshore wind on the same footing as other energy development in the National Planning Policy Framework (NPPF).
2. Currently, planning policy includes two tests, set out in footnotes 57 and 58 to paragraph 163 of the NPPF, that apply only to onshore wind. Together they say that development can only be considered acceptable:
  - a. In areas either allocated in a development plan or through Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders. This sets a higher bar than is set for other forms of development.
  - b. With the narrow exception of proposals brought forward by Neighbourhood Development Orders and Community Right to Build Orders, where the proposal has proved community support. In practice this has often been interpreted to mean that any opposition means the proposal cannot be considered acceptable.
3. These policy tests no longer apply. The removal of these tests from planning policy means that onshore wind applications will be treated in the same way as other energy development proposals.
4. These changes take effect today (8 July 2024). The government will confirm this position to Parliament on 18 July, following the State Opening. These changes will also be reflected in the forthcoming NPPF update.
5. Through that update we will go further and set our proposals for wider changes to support renewable energy development. Alongside this we will consult on bringing large onshore proposals into the Nationally Significant Infrastructure Project regime, to support quick determination, followed by a revised National Policy Statement. Local communities will play an essential part in delivering this mission and we will empower them to participate in decisions on local infrastructure. Communities should rightly benefit from hosting local renewable energy infrastructure and that is why we will shortly publish an update to the Community Benefits Protocol for Onshore Wind in England.

### **Annotated NPPF extract**

162. In determining planning applications, local planning authorities should expect new development to:

a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

163. When determining planning applications [57](#) for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;

b) approve the application if its impacts are (or can be made) acceptable [58](#). Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and

c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site, and approve the proposal if its impacts are or can be made acceptable.

Footnotes to paragraph 163 **(no longer apply)**

**57 (no longer applies)** Wind energy development involving one or more turbines can also be permitted through Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders. In the case of Local Development Orders, it should be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.

**58 (no longer applies)** Except for applications for the repowering and life-extension of existing wind turbines, a planning application for wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan or a supplementary planning document; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.



**OGL**



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## Appendix 3a Green Belt Appeals



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# Appeal Decision

Hearing held on 6 December 2022

Site visit made on 5 December 2022

**by Ben Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 February 2023**

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**Appeal Ref: APP/W1525/W/22/3300222**

**Land east & west of A130 and north & south Of Canon Barns Road,  
East Hanningfield, Chelmsford, Essex CM3 8BD**

**Easting:575325, Northing:198892**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Low Carbon Solar Park 5 Limited against the decision of Chelmsford City Council.
  - The application Ref 21/00394/FUL, dated 22 February 2021, was refused by notice dated 9 December 2021.
  - The development proposed is the construction and operation of a solar farm and battery storage system together with all associated works, equipment and necessary infrastructure.
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## Decision

1. The appeal is allowed and planning permission is granted for the Installation of a solar photovoltaic (PV) park generating up to 49.9 MW of electricity spread over three sites (sited either side of the A130/Canon Barns Road), comprising of ground-mounted photovoltaic solar arrays, battery-based electricity storage containers, together with inverters/transformer stations, Distribution Network Operator (DNO) Substation, customer substation/switchgear and meter kiosk, batteries, internal buried cabling and grid connection cables, internal access tracks, security fencing and gates and CCTV cameras, other ancillary infrastructure, landscaping and biodiversity enhancements at Land east & west of A130 and north & south Of Canon Barns Road, Chelmsford CM3 8BD, in accordance with the terms of the application, Ref 21/00394/FUL, dated 22 February 2021, and the plans submitted with it, subject to the schedule of attached conditions.

## Preliminary Matters

2. Since the Council's refusal of the proposal, two nearby solar farms have received planning permission. The 'Canon Barns site'<sup>1</sup> is southeast of the appeal site, would generate 8 MW of electricity, and is within the Green Belt. The 'Hill Farm site'<sup>2</sup> is northeast of the appeal site. This will generate 36.7 MW of electricity and is adjacent to the Green Belt. These decisions are material considerations that I will take into account within this decision.

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<sup>1</sup> Planning Application Reference: 21/00502/FUL

<sup>2</sup> Planning Application Reference: 21/00555/FUL



3. A site visit was undertaken the day before the Hearing. During my visit I walked the site and its surroundings with a representative from the Council and the Appellant using a walking route agreed between main parties (Doc B). I therefore have a good awareness of the site and its surroundings.
4. A screening opinion, undertaken by the Council in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 concluded that the proposal was not deemed to be EIA development. I see no reason, within the evidence, to disagree with this view.
5. At the Hearing I was handed three letters of objection from the Parish Councils of West Hanningfield and East Hanningfield and from Mr Malcolm Thomas, a local resident (Docs D, E and F). These raised a range of points, the majority of which were already matters discussed in previously submitted objections. Nevertheless, I decided to accept these and am satisfied that no party would be prejudiced by my taking these into consideration as part of the appeal evidence.
6. The description of development, found on both the Council's Decision Notice and the appeal form, includes a more detailed description to that on the application form. The Appellant explains, at Section E of the appeal form, that the description was changed. As this has been agreed between main parties, and more accurately describes the scheme, I shall use the revised version in the permission.
7. Furthermore, since the refusal of the scheme the Appellant has continued discussions with UK Power Networks. As a result, the proposed 35 metre One Point of Connection Mast is no longer necessary. I understand that instead the development would be connected into the network at the point of an existing pylon. This has resulted in the submission of an amended plan, removing the mast. This alteration was discussed at the Hearing and has reduced the overall visual effect of the proposal, albeit to a small extent. Consequently, I have taken the revised plan into account without causing prejudice to any party.

### **Background and Main Issues**

8. The proposed development is located within the metropolitan Green Belt. Section 13 of the National Planning Policy Framework (the Framework) establishes the national policy objective to protect the Green Belt. Paragraphs 149 and 150 define different types of development that would not be inappropriate development in the Green Belt. It is uncontested by main parties that the proposed solar farm would not comply with any such provisions. I see no reason, within the evidence or in matters discussed at the Hearing, to disagree with this assertion. The proposal would therefore be deemed to be inappropriate development in the Green Belt.
9. Paragraph 147 and 148 of the Framework state that inappropriate development in the Green Belt is, by definition, harmful and carries substantial weight. Such development should not be approved except in very special circumstances. It continues that very special circumstances will only exist if the harm to the Green Belt by its inappropriateness, and any other harm, would be clearly outweighed by other considerations.
10. Turning to a separate matter, during the course of the planning application consideration, the Council undertook an Appropriate Assessment to consider

the effect of the proposed development on the Crouch and Roach Estuaries (Mid Essex Coast Phase 3) Special Protection Area (SPA). Following consultation with Natural England, the Council was content the impacts could be suitably addressed with mitigation secured by condition. Nevertheless, it is incumbent upon me, as the competent authority, to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA. It is therefore still necessary to consider this matter as a main issue.

11. Accordingly, in consideration of the evidence, the main issues are:

- The effect of the proposal on the openness of, and purposes of including land within, the Green Belt;
- The effects of the development on the settings of the Grade II\* listed building Church of St Mary and St Edward, and the Grade II listed building Church House and other non-designated heritage assets;
- The effects of the proposed development on the landscape character and appearance of the area;
- The effect of the proposal on agricultural land;
- The effect of the development on the integrity of the SPA; and
- Whether the harm caused by the proposal, by virtue of being inappropriate development in the Green Belt, and any other identified harm, would be clearly outweighed by other considerations to result in 'Very Special Circumstances'

## **Reasons**

### *Green Belt - openness and purposes*

12. The fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open<sup>3</sup>. Openness has both visual and spatial qualities. The site consists of six fields. These are enclosed by tree and hedge boundaries, including some woodland areas, especially to the south of the main site. In terms of topography, the site is within gently undulating land with higher land to the south, north and centre of the site. The landform, and extent of field boundary screening, would reduce the overall visual effect of the proposal from wider views.
13. The site is currently farmland. From a spatial perspective, the proposed solar arrays would introduce substantial development into the area in terms of ground cover due to the quantity of arrays within the scheme. Furthermore, the associated access track, substation, inverter stations, fencing and CCTV facilities would result in additional built form that would further diminish the openness of the Green Belt spatially.
14. Nevertheless, the proposed solar arrays would be relatively modest in mass and footprint and would be spaced out at regular intervals reducing the overall scale of the development. Furthermore, the scheme would be in place for a temporary 40-year period. It would then be fully demounted, and land returned to its former condition, at the end of its use. As such, whilst 40 years is a long period of time, it is not permanent. Therefore, the impact on the openness of the Green Belt would be reduced with the site ultimately reinstated to its

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<sup>3</sup> Paragraph 137 of the National Planning Policy Framework

former open character. Consequently, both visually and spatially, the proposed development would result in moderate harm to the openness of the Green Belt.

15. Paragraph 138 of the Framework defines the five key purposes of the Green Belt. These are to check unrestricted sprawl of large built-up areas, prevent neighbouring towns merging, safeguard the countryside from encroachment, preserve the setting of historic towns and assist in urban regeneration (by encouraging the reuse of urban land). It was agreed between main parties at the Hearing that historic towns would be unaffected. Furthermore, despite the comments of the Council I am unconvinced that the proposal would contribute towards urban sprawl or towns merging as the site is not close to a built-up area. Nevertheless, the proposal could result in encroachment and would not contribute to the reuse of urban land.
16. In terms of encroachment, the proposed scheme would place a large number of solar arrays across six fields. Their operation would be supported by consumer units and a main compound. Although maintaining some space between them, the arrays and associated equipment would fundamentally alter the appearance of the fields. These would alter from a sequence of open green spaces to accommodating solar equipment that would be interspersed with retained field boundaries. Such an effect would result in encroachment, in contradiction of a Green Belt purpose.
17. A further purpose of the Green Belt is to deflect new development towards previously developed land (PDL) to assist in urban regeneration. At the Hearing the Appellants stated that it would not be cost effective to locate such a use on PDL due to land values and rates of return. Accepting this I am also unconvinced that the reuse of PDL for such a scheme would secure the most efficient or optimum reuse of such land for a temporary period of time. Accordingly, the proposal would not be in conflict with this purpose of the Green Belt.
18. The proposal, as inappropriate development, would by definition harm the Green Belt. It would result in encroachment and moderate harm to the openness of the Green Belt in both visual and spatial terms. Accordingly, the proposed development would conflict with policies DM6 and DM10 of the Chelmsford Local Plan (LP) and the Framework. These seek to resist inappropriate development and only allow engineering operations that would preserve openness and not conflict with the purposes of including land within the Green Belt. All harm to the Green Belt carries substantial weight.

#### *Heritage Assets*

19. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or setting or any features of special architectural interest which it possesses. The Framework defines the setting of a heritage asset as the surroundings in which the asset is experienced.
20. The proposal has the capability to affect a range of designated and non-designated heritage assets found around the site. These are identified within



the Appellant's Heritage Assessment<sup>4</sup> as including eight listed buildings and forty non-designated Heritage Assets (NDHAs). Four of these are identified as having an adverse effect on their settings. The setting of a heritage asset is not fixed and may change as the asset and its surroundings evolve. Guidance from Historic England explains that the extent and importance of setting is often expressed in visual terms but may also include other matters including our understanding of the historic relationship between places<sup>5</sup>.

21. The Church of St Mary and St Edward, a Grade II\* listed building, is on the north side of Church Road set away from the highway, within West Hanningfield. It originates from the 12<sup>th</sup> century with 14<sup>th</sup> century additions including a timber frame belfry. It was also extended in the 18<sup>th</sup> and 19<sup>th</sup> centuries. The church consists of various facing materials providing an interesting if slightly eclectic appearance. Its significance derives from its intact historic fabric and the architectural interest of its unusual medieval belfry, and its spatial relationship with the surrounding village. Its setting includes the surrounding agricultural land to the north and south and include its approach from Church Road.
22. However, due to the recessed nature of the building from Church Road and the site's relationship with surrounding built form, intervisibility between the listed building and its grounds and site would be highly restricted. Furthermore, whilst having a social and functional relationship with the surrounding countryside, there is nothing before me to indicate that the appeal site makes a specific or important contribution to its setting. As a result, the proposal would preserve the setting of this listed building and would not harm its significance.
23. Church House, a Grade II listed building, is a timber framed, plastered house that originates from the 18<sup>th</sup> century. It is a large two-storey dwelling with white rendered walls, clay roof tiles and brick stacks. Its significance appears to derive from its relationship with the adjacent church, its use of traditional materials located within a rural setting. Views from the front of the dwelling, over Church Road, take in fields and parts of the appeal site. Field boundaries and rising topography screen most of the site. Therefore, the site makes a limited contribution to the setting of the listed building. The proposal would also be largely screened from this vantage offering only distant views of the eastern part of the solar farm and boundary related features. The surrounding farmland contributes to its setting, but I am unconvinced that the appeal site itself makes a significant contribution to this. Due to the substantial separation distance, field boundary screening and topographical features, I am unconvinced that the proposal would result in any harm to the setting of Church House, which would accordingly preserve its significance.
24. The proposal would preserve the significance of the two identified listed buildings and would therefore accord with S66 of the Act. It would therefore comply with LP policy DM13, which requires proposed development within the setting of a listed building to not adversely affect its significance, including views to and from the building.
25. Cobb Cottage, a NDHA, was initially constructed as a pair of cottages in the C19 and has since been combined into one dwelling. Its significance appears to derive from its former use as a pair of agricultural worker's dwellings and being

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<sup>4</sup> Historic Environment Desk-Based Assessment, by AECOM, dated February 2021

<sup>5</sup> Historic England – The Setting of Heritage Assets 2015

of a traditional agrarian style of farmstead. Its surrounding fields make a contribution to its setting as its rear elevation overlooks the surrounding open countryside. Views from this dwelling would be similar to those from Church House affording distant views of a small part of the proposal. Although nearer to the appeal site, than Church House, its significance is reduced. Accordingly, the setting of Cobb Cottage would only experience limited change, that would not affect the significance of this NDHA.

26. Hophedges, a NDHA, is a cottage adjacent to the north boundary of the site. It appears on the village map in 1840. It is a white render cottage with weatherboarding, decorative dormers and a central brick stack. Its significance appears to derive from its historic interest and traditional agrarian character within a countryside setting. The rear elevation of the dwelling is adjacent to a field with the appeal site including the adjacent field beyond. An access track is proposed beyond the boundary hedge, with solar arrays proposed in the far corner of this adjacent field, around 750 metres from the NDHA. The closest part of the appeal site therefore makes a small contribution to the setting of the NDHA being within its local context. Furthermore, occupiers of this dwelling would be likely to experience some views of the proposal from first floor windows, albeit over a significant distance. Due to the close proximity of the scheme to the NDHA, and its intervisibility, the proposal would result in harm to its setting during the construction and operation of the proposal, albeit limited. Accordingly, this change to the setting of the building would amount to harm at the lower end of such harm.
27. The Framework states that when considering harm to NDHAs a balanced judgement will be required having regard to the scale of any harm and the significance of the asset. The impact of the proposal would cause limited harm to the significance of a non-designated asset, being an asset of lower importance. The negligible harm conveyed to the NDHA would be offset by the separation distance to the track and operational site beyond, existing screening and the merits conveyed through the generation of renewable energy. Accordingly, the proposal would also comply with LP policy DM14, where harm to the significance of a non-designated heritage asset, must be justified following a balanced judgement.

#### *Landscape and Visual Impact*

28. Both main parties acknowledge that the proposal would result in harm to the character and appearance of the area. However, there is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people observing the development in places where it can be viewed, such as from roads, public rights of way and individual dwellings.

#### *Landscape character*

29. The appeal site consists of six fields, the site and surrounding fields are used for a range of arable and pastoral purposes. The fields within the site are arranged in a cluster around the A130 and Canon Barns Road. Purely for convenience I shall refer to the various fields using the numbering convention found in the Appellant's Zoning Layout Plan<sup>6</sup> that refers to Development Zones (DZs).

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<sup>6</sup> drawing number LCS039-DZ-01 revision 10

30. The site includes one field to the east of the A130 (DZs 4 and 6) with the remainder of the site being to the west of this highway, in two similar sized parcels. These are to the north (DZs 1, 2, 3, and 5) and south (DZ 7) of Canon Barns Road. The site is bound partly along its western boundary by a row of electricity pylons, that generally follow a ridge line, and the Essex and Suffolk Waters Hanningfield Water Treatment Works. Also, the A130 follows a shallow valley floor alongside and through the site. Consequently, the site's undulating landform includes a number of relatively substantial man-made interventions.
31. The site is within Natural England's National Character Area 111: Northern Thames Basin, including woodlands, mixed farming and arable land. The site is also within the South Essex Farmlands area E1, within the County Council's character assessment. This is defined as consisting of small to medium sized arable and pastoral fields where tall thick boundary hedges contribute to an enclosed character. It is notable that this also recognises that overhead pylons and major roads visually interrupt the landscape.
32. At a district level, the site is within the South Hanningfield Wooded Farmland: F11<sup>7</sup> in the Council's Landscape Character Assessment. This area is described as consisting of undulating farmland of medium to large arable fields that include hedged field boundaries and wooded horizons. The site is also adjacent to the East Hanningfield Woodland Farmland character area: F12. This is defined as having large arable fields, pockets of pony and pasture paddocks and mature treed field boundaries. The appeal site appears to generally align with these character assessments, especially F11, and therefore makes a positive contribution towards the landscape character.
33. The pattern and arrangement of character area F11 form low-lying land with elevated ridges. This area is largely to the north and east of the site on gradually climbing land. The A130 passes through the landscape along embankments and cuttings, with the adjacent reservoir and its associated buildings and pylons adding to the features evident within the area. The proposed development would locate solar arrays within the existing field pattern. It would retain and enhance field boundaries, leaving most wooded areas. It would retain the structure of field boundaries and keep field patterns intact. As such, the proposal would have a largely non-invasive impact on the landscape features defined as important to the character areas.
34. The appeal site, whilst relatively extensive, represents only a small proportion of the national and county character areas. At a district level, the impact on the landscape would be greater, but as the existing natural features of the site would be largely retained and enhanced, the overall landscape effect would be limited. Furthermore, the solar arrays would be low-lying, open sided features that would be temporary in nature, limiting the overall effect on the wider landscape. However, the proposed development would alter the landscape with the introduction of industrial development and equipment across a relatively broad area. Therefore, this would result in some localised landscape harm. As a consequence, the scheme would result in a moderate adverse impact on the area's landscape character.

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<sup>7</sup> Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment



### Visual Impact

35. Visual amenity relates to the direct visual impacts on receptors (people) rather than on the landscape. The Appellant's visual assessment was undertaken in December when leaves from deciduous trees would have fallen, offering a 'worst case scenario' of views through the site, when the site would be at its most exposed. Equally, my visit was undertaken at a similar time of the year enabling a similar useful assessment of the visual effects of the proposal to be most appreciated. The Appellant's Landscape and Visual Impact Assessment<sup>8</sup> (LVIA) and its Addendum<sup>9</sup> identify 33 viewpoints which assess the effect of the scheme on Visual Receptors (VRs). The viewpoints have been accepted by the council as being the most significant in understanding the visual effects of the proposal. These selected viewpoints provide only a snapshot of the site and would not necessarily reflect the experience of receptors walking through or around the site.
36. Figure 4 of the LVIA, shows the theoretical visibility of the scheme demonstrating that the majority of views outside the site would be from an arc from the northwest through to the east. In a southern arc around the site, from the west to the southeast, woodland and topography obscure most views. The LVIA considers the visual effects of the proposal both at year one and at year ten, the second assessment taking into account the growth of proposed landscape screening as it approaches maturity.
37. The general topography of the site, and its surroundings, provide screening from many wider views forming a degree of enclosure. Furthermore, man-made features also obscure some views of the site, such as by the embankments of Canon Barns Road and Church Road. The combination of these features would disaggregate and limit some views of the site.
38. The local roads and the A130 provide visual receptors from motorists that have a low sensitivity to change. Road users would primarily be paying due care and attention to other road users and hazards, taking in only limited glimpses of the site, resulting in only negligible adverse visual effect. Motorists of Southend Road (VR6a), Pan Lane (VR5) and Church Road (VR19 and VR21) would be travelling closer to the site and would have the opportunity to take in more of the area affected by development. Nevertheless, such views would result in only a 'minor adverse' effect in the first year, leading to 'negligible adverse' effects (for VR6a, VR19 and VR21) and 'neutral' effects (VR5) at year ten. The view of the scheme from motorists would be largely fleeting and offer only partially glimpsed views of constrained sections of the arrays and equipment. As such, the visual impact on motorists would be of low magnitude, resulting in only 'minor adverse' and 'neutral' effects.
39. Views of the proposal, from the northwest of the site and West Hanningfield, would be limited. Viewpoint VR18, for users of the Public Right of Way (PRoW) 236\_26 and for residents of West Hanningfield (VR18a), southeast views take in fields and hedgerow planting and a ridgeline to the east. These features would limit most views of the solar arrays and their associated equipment. These viewpoints would experience only a small portion of the solar arrays, the fencing and CCTV columns that would enclose, and be within, area DZ2. Once

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<sup>8</sup> Landscape and Visual Impact Assessment, by AECOM, February 2021

<sup>9</sup> Landscape and Visual Impact Assessment, by AECOM, September 2021

- the proposed hedgerow screening has developed, after 10 years, the effect of such views would move from 'minor adverse' to 'negligible adverse'.
40. Views from VR26, on PRoW 236\_36 looking southeast towards the site, would be similar to VR18 and VR18a, albeit closer to the site. These would also provide views of the edge of the solar array farm, only seeing those elements within area DZ2. This viewpoint would initially result in a 'moderate adverse' effect but would lessen over time. I am unconvinced that after 10 years this effect would remain 'moderate adverse'. The substation would be discreet beyond the ridgeline, with only boundary fencing and CCTV columns being evident in the distance behind the established landscape screening. Consequently, the visual effect after this period would be 'minor adverse' only after 10 years.
  41. VR20a considers the rear view for occupiers of Hophedges. The SoCG identified that this VR point was in dispute, but the Council withdrew its dispute at the Hearing, but raised concerns due to the visual effect of the use of the access track. Vehicles using the access track would be infrequent based on the use of the site and as such the overall effect of the development on occupiers would be negligible. Accordingly, given the proximity and scale of existing tree and hedgerow screening views of the proposal from this vantage would be neutral.
  42. Views from VR23 and VR24 look south towards the northern edge of the site, towards area DZ1. These take in viewpoints from walkers using PRoW 236\_47. The addendum shows that these views would remain largely unchanged. The visual effect from these views would change from 'minor adverse' initially to 'minor adverse' and 'negligible adverse' effects respectively after 10 years.
  43. The views from VR3 and VR3a, by users of PRoW 218\_7 and occupiers of Hill Farm and Dunnock Cottage, are elevated and look down towards the site to the southwest. These take in the eastern and northern parts of the site in a wide context with the fields of Hill Farm and the A130 forming the fore ground and middle views respectively. Much of the development zones would be screened by field boundary landscaping and the bridge and road embankments of Church Road and Cano Barns Road where these cross the A130. The effect on the view to VRs would initially be 'minor adverse'. With landscaping developing over future years this effect would reduce to 'negligible adverse' after ten years. Even if parts of the solar farm remained visible these would be likely to be seen as small parcels of development, interspersed by field boundaries and the established new landscaping, within distant views. The impact on these would therefore be 'negligible' after 10 years.
  44. Walkers, cyclists and horse riders, among other slow moving road users, using local roads would be highly sensitive to change. However, such views would only experience small pockets of the proposal and would not provide a broad perception of most of the scheme. These views would also be partially obscured by topography and natural screening that would limit the overall visual effect of the scheme from 'minor adverse' in year one to 'negligible' in year ten.
  45. The site is crossed by a number of public rights of way (PRoW). PRoW 218\_12 runs through the north and south parcels of the site either side of Canon Barns Road. The PRoW of 236\_36 comes into the site from the northwest and runs between DZ2. Also, PRoW 218\_15 connects to 236\_36 and runs through the middle and side of the north parcels (DZs 1, 3 and 5). The PRoWs that cross the site cut through several fields and follow the perimeter of others within the

site. Users of these routes through the site currently enjoy an open aspect over the countryside. However, PRow 218\_12 exits the site to the west runs alongside the waterworks between tall hedges. This is within a relatively narrow walkway in an enclosed route.

46. VR27, on PRow 218\_15, assesses the typical effect of the proposed development on walkers from inside the site. These would be highly sensitive to visual change. Views of the scheme, from the routes that cross through the site, would fundamentally change from the current outlook over open arable land. The effect on users would be 'major adverse' in the first year. However, the sense of enclosure would partially replicate the effect of other sections of this route. Therefore, whilst views from the PRows through the site would become more enclosed, the visual impact on users of the PRows would be reduced to 'moderately adverse' by year ten.
47. A fence up to 5 metres high alongside the A130, has been offered by the Appellant to remove the Council's concerns with respect to glint and glare. In some viewpoints this would result in initial visual effects being diminished. The fence would screen the arrays, especially from views VR6 and VR7 from Southend Road. Accordingly, the proposed fence if deemed necessary, would moderate visual benefits of the proposal in screening some views.
48. Taking the above visual affects into account, most views of the proposal would be 'minor' or 'negligible' by year 10. Whilst the visual impacts of the proposal would be 'major adverse' from the PRow from Visual Receptors through the site, these effects would be diminished to 'minor adverse' once the landscape screening has become established. Consequently, due to the arrangement of local topography the most adverse visual effects would be largely confined to localised effects only. Accordingly, taking all of the above impacts into consideration the visual impact of the proposal would result in moderate harm.

#### Cumulative visual and landscape effects

49. The proposal would be close to the two recently approved solar farms at Canon Barns Road and Hill Farm. Table 4-A, of the addendum LVIA, considers the cumulative visual effects from these viewpoints. The addendum shows how the visual effect from two viewpoints, VR9 and VR29, would change in cumulative terms. Viewpoint VR9, from Canon Barns Road, shows the eastern part of the scheme with the Hill Farm and Canon Barns sites having a 'moderate adverse' visual effect on this view. Viewpoint VR29, from Pans Lane, shows parts of the Hill Farm and Canon Barns sites but also illustrates that the proposed scheme itself would not be visible.
50. Accordingly, the LVIA demonstrates that the cumulative visual effects of all three sites would increase the visual effects of most views from 'negligible' impact to 'minor adverse'. Consequently, in most wider views, the proposal would not materially contribute to a cumulative visual effect of these sites. Accordingly, the overall visual effects of all three sites would be limited and would not substantially increase the visual effect of the scheme from moderately harmful.
51. As has been found above, the proposal itself would only result in localised and a 'moderate adverse' effect on the landscape, for the 40-year duration of the proposed development. The cumulative effect of the development on the landscape, in combination with the two approved schemes, would be greater.



Nevertheless, the combined effect, would only have a further limited adverse impact on the landscape character. Accordingly, the overall effect on the landscape character would remain as a 'moderate adverse' effect in this geographic context.

52. Consequently, despite its overall scale, the proposal would result in a 'moderate adverse' effect on the landscape character and moderate harm to the visual appearance of the area. In identifying harm, the proposal would conflict with LP policies DM6, DM10 and DM19, the Council's Solar Farm SPD and the Framework. These seek, among other matters, for development to not result in an unacceptable visual impact which would be harmful to the character of the area and to protect valued landscapes, to which I attribute moderate weight in the planning balance.

#### *Effect on arable land*

53. Paragraph 174(b), of the Framework, places value on recognising the intrinsic character and beauty of the countryside including the best and most versatile agricultural land. The Framework's Glossary defines Best and Most versatile (BMV) agricultural land as being land in grades 1, 2 and 3a. Most of the site would not qualify as BMV by this categorisation. Nevertheless, it is recognised that the site provides arable value. It would no longer be capable of providing such a function. Also, I recognise that the Appellant suggests that the site could be used for sheep grazing, but such an activity would be unlikely to fully offset the sites current capability for agricultural use.
54. The Appellant's Agricultural Land Assessment has considered the range of crops that can be grown, the type and consistency of yield and the cost of producing the crop. This has found that the appeal site mainly consists of grade 3b agricultural land. Only a small parcel (of two hectares) was identified as being 3a agricultural land. The methodology and findings of the Assessment has not been disputed by the Council.
55. The PPG<sup>10</sup> requires local planning authorities to aim to protect BMV agricultural land from significant, inappropriate or unsustainable development proposals. The Council's Solar Farm SPD also advises that such development should first favour the use of previously developed land and arable land graded as 3b, 4 or 5. Nevertheless, as the significant majority of the site does not meet a BMV classification, the loss of the small parcel of 3a graded arable land is attributed minor harm in the planning balance.

#### *Integrity of the SPA*

56. Natural England identifies that the proposal could have potential significant effects on Crouch and Roach Estuaries (Mid Essex Phase 3) Special Protection Area (SPA) and Ramsar, Crouch and Roach Estuaries Site of Special Scientific Interest (SSSI) and Hanningfield Reservoir SSSI.
57. The site is around 4.7km from the SPA. This is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations) and is a wetland of international importance. The Habitats Regulations impose a duty on me, as the competent authority, to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA, either alone or in combination with other

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<sup>10</sup> Guide to assessing development proposals on agricultural land, 2021

plans and projects. In 2018, the Court of Justice of the European Union held that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA), rather than at the screening stage<sup>11</sup>.

58. Evidence shows that the SPA is used by a large number of skylark and corn bunting birds. Wintering dark-bellied brent geese, black-tailed godwit, shelduck and shoveler birds also regularly visit the SPA in nationally important numbers. In addition, the mud along the Crouch and Roach is used by redshank and dunlin for feeding and as a roosting site for lapwing and golden plover.
59. The site is also around 250 metres from the Hanningfield Reservoir SSSI. Its main scientific interest derives from its breeding and wintering wildfowl including Gadwall, Pochard, Shoveler, Teal, Tufted Duck and Shelduck.
60. The Appellant's Ornithological Survey<sup>12</sup> Report demonstrates that 46 species of wintering birds and 51 species of breeding birds visit the site. This includes small numbers of little egret, skylark and black-headed gull which are waterbird species found within the SPA. The Ornithological Report has concluded that the distance between the SPA and the Site, the absence of wetland habitat on site and the abundance of similar farmland habitat between the sites indicates that the site is not especially important to the populations of these birds occurring within the SPA. These seem to be reasonable conclusions and although the proposal would affect the integrity of the SPA, this effect would be limited.
61. The Appellant's Skylark Mitigation Strategy<sup>13</sup> seeks to deliver long term habitats for the territories of skylark found on site, both during breeding and non-breeding seasons. These would include tightly mown plots, unmanaged grassland areas and cover-crops within the mitigation areas. This approach would ensure that the site would maintain a succession of occupation and productivity of the population of skylark as identified on site. The proposal would therefore minimise any direct impact on skylarks.
62. In assessment of the Council's AA, Natural England has concluded that the integrity of the SPA<sup>14</sup> would not be adversely affected subject to the proposed mitigation within the Ornithological survey and Skylark Mitigation Strategy. I see no reason to disagree with this conclusion. Therefore, I am satisfied, based on the specific evidence before me, that a condition requiring the mitigation measures detailed in the surveys would prevent an adverse effect on the integrity of the SPA.
63. I therefore conclude through my AA that, with the provided mitigation, the proposal would not harm the integrity of the SPA and accord with the Habitat Regulations. I am also satisfied that the mitigation offered to address the adverse effects on the SPA and Ramsar site would mitigate the effects of development on the identified SSSIs.

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<sup>11</sup> People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

<sup>12</sup> AECOM Ornithological Survey Report, June 2021

<sup>13</sup> Skylark Mitigation - Technical note, by AECOM, date 20 October 2021

<sup>14</sup> Natural England letter dated 7 October 2021

## **Other matters**

### *Flooding*

64. The Appellant's Flood Risk Assessment<sup>15</sup> identifies that most of the site is within flood zone 1. A small section is in flood zone 3a, alongside Sandon Brook, although no work is proposed within it. The Assessment finds that rainfall falling on solar panels would runoff at an angle and result in a small increase in post development run-off rates. To account for the extra volume a sustainable drainage system (SUDs) would be installed. The proposed drainage system would reduce current run-off rates from the site resulting in betterment over the existing drainage arrangements.
65. The County's SUDs team raised no objection to the proposal subject to the provision of a sustainable urban drainage strategy. As such, despite the concerns raised by interested parties that the development would increase off-site flooding especially onto Church Road, I see no compelling evidence that any off-site flooding would be exacerbated by the proposal. Consequently, the scheme would accord with the requirements of LP policy DM18.

### *Wildlife impacts*

66. The fields within the appeal site are enclosed by hedgerows that include trees within the field boundaries. The hedgerows provide habitats for a diverse range of avian wildlife including hobby and barn owls and 12 priority bird species including skylark, thrush and yellow hammers. Whilst the hedgerows are considered to be a high value resource, the fields are of limited ecological interest being used as a combination of arable farmland and pastoral. The Appellant's desk based Ecological Assessment<sup>16</sup> and associated surveys conclude that the effects on wildlife would be limited, and these could be mitigated through the preparation of a landscape and ecological management plan and a construction environmental management plan, both of which could be secured by condition.
67. In terms of bats, a bat survey identified that certain trees on site could offer suitable habitat. As these trees are proposed for retention, bats species would not be affected by the proposal. In terms of badgers, the submitted survey has been considered by the Council's ecologist and the required mitigation measures can be incorporated into an ecological management plan. A pond near Link House Farm has been found to include Great Crested Newts, a low impact class license would be required to be obtained from Natural England due to the proximity of this to the site.
68. The proposal includes new planting in the form of enhanced hedgerows both around the perimeter of the site, especially along the A130 corridor, and adjacent to the PRoWs that cross the site. The tree and species rich hedgerow planting, including reinforcement of existing hedging, would enhance the existing planting within the site and its wildlife value. Wild green grassland and new planting corridors would also be provided around the margins of the fenced area enhancing foraging routes.

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<sup>15</sup> Flood Risk Assessment and Drainage Strategy, by AECOM, dated February 2021

<sup>16</sup> By Aecom, dated February 2021



69. The Bio-diversity Assessment<sup>17</sup> concludes that the proposal would exceed the 10% bio-diversity net gain objective of upcoming legislation. The proposal would result in a loss of 33% river unit habitat, due to the encroachment of the access route into the 10m riparian zone of the Sandon Brook. Nevertheless, the access route could be partially adjusted when the final layout of the site is agreed by condition and the effect further reduced by habitat enhancement that could be secured by condition. Overall, the proposal would result in a net bio-diversity gain of around 82% habitat units and 29% hedgerow units which would be of significant benefit to the wildlife within the area. A condition for a landscape scheme could be used to determine compliance with the biodiversity net gain metric to ensure it would deliver and manage the calculated gains in perpetuity.
70. Interested parties have identified that the proposal would reduce routes through the site used by large mammals, such as deer. Large mammals, traversing the site, have not been identified as using the site through the ecological assessment and surveys undertaken. However, whether present or not, I am unconvinced that the site offers a particularly important route through the area. Furthermore, the proposal would retain the ability to accommodate some routes through the site for wildlife where within the landscape scheme that could be secured by planning condition.

#### *Highway safety*

71. The proposal includes six access points, four of which would be from Canon Barns Road. These would be used for construction access and then post construction occasionally used for maintenance purposes. The access into the site from Church Road would be for emergencies and to access the substation. Church Road is a single carriageway road with a 60mph speed restriction and is unlit. It also has limited passing points but has no recorded collisions within the prescribed study period. Speed analysis data has shown that actual recorded speeds are around 48mph and the proposed visibility splays, at the access, would enable safe egress and access in this context.
72. The Appellant's Transport Statement<sup>18</sup> demonstrates that the proposal would generate a relatively low level of vehicular activity, with a nominal number of movements of four two-way vehicle trips a week. As such, due to the nature of the use, traffic associated with the operation of the facility would be light and infrequent. I am therefore satisfied that the use would operate without detriment to highway safety, a point supported by the County's Highway Authority.

#### *Security matters*

73. Essex Police has identified that solar farms, within other parts of the country, have been the target of theft<sup>19</sup>. The proposal would include security fencing and CCTV to attempt to protect the site and combat criminal activity. Interested parties have raised concerns that the proposal security measures would be ineffective to deter crime. Although recognising these concerns, there is no compelling evidence that the proposal would be especially vulnerable to theft, that the Appellants security measures would be ineffective or that the proposed

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<sup>17</sup> By Aecom, dated September 2021

<sup>18</sup> Transport Statement, Low Carbon, February 2021

<sup>19</sup> Essex Police – Design out Crime Team, Mr Stephen Armson-Smith, 22/03/21

scheme would raise criminal activity in the area. Furthermore, this could be suitably addressed through agreement of the specification of robust boundary treatment and CCTV coverage by planning condition.

74. The CCTV cameras would be a significant distance from the nearest residential properties. Consequently, I am unconvinced that these would be capable of substantive overlooking into private spaces. Furthermore, this matter could be further mitigated through a planning condition, with respect to camera views, if deemed necessary by the Council.
75. Other concerns raised by interested parties, such as the health effects of the production of solar panels and operation of solar farms, and its impact on local property values are noted but do not have a material bearing on the main issues associated with this appeal.

### **Other Considerations**

#### *Renewable energy*

76. A material consideration in the determination of planning proposals for renewable energy are the National Policy Statements (NPS) for the delivery of major energy infrastructure. The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. In September 2021, draft updates to the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3) were published.
77. The draft NPS EN-3 states that:
- "solar farms are one of the most established renewable energy technologies in the UK and the cheapest form of electricity generation worldwide. Solar farms can be built quickly and, coupled with consistent reductions in the cost of materials and improvements in the efficiency of panels, large scale solar is now viable in some cases to deploy subsidy free and little to no extra cost to the consumer."*
78. Both the existing and proposed NPSs state that the NPSs can be a material consideration in decision making on applications that both exceed or sit under the thresholds for nationally significant projects.
79. The UK Government has declared a climate emergency and set a statutory target of achieving net zero emissions by 2050, and this is also a material consideration. Since the declaration, the Sixth Assessment Report of the Intergovernmental Panel on Climate Change has indicated that there is a greater than 50% chance that global temperature increases will exceed 1.5 degrees Celsius above pre-industrial levels. The report indicates that delay in global action to address climate change will miss a rapidly narrowing window of opportunity to secure a liveable and sustainable future for all<sup>20</sup>.
80. The UK Energy White Paper, Powering our Net Zero Future (2020), describes the costs of inaction as follows:
- "We can expect to see severe impacts under 3°C of warming. Globally, the chances of there being a major heatwave in any given year would increase to about 79%, compared to a 5% chance now. Many regions of the world would*

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<sup>20</sup> IPCC Sixth Assessment Report - Summary for Policymakers, paragraph D.5.3

*see what is now considered a 1-in-100-year drought happening every two to five years.*

*At 3°C of global warming, the UK is expected to be significantly affected, seeing sea level rise of up to 0.83 m. River flooding would cause twice as much economic damage and affect twice as many people, compared to today, while by 2050, up to 7,000 people could die every year due to heat, compared to approximately 2,000 today. And, without action now, we cannot rule out 4°C of warming by the end of the century, with real risks of higher warming than that. A warming of 4°C would increase the risk of passing thresholds that would result in large scale and irreversible changes to the global climate, including large-scale methane release from thawing permafrost and the collapse of the Atlantic Meridional Overturning Circulation. The loss of ice sheets could result in multi-metre rises in sea level on time scales of a century to millennia.”*

81. The draft NSPs recognise that to meet the Government’s objectives and targets for net zero by 2050, significant large and small scale energy infrastructure is required. This includes the need to ‘dramatically increase the volume of energy supplied from low carbon sources’ and reduce the amount provided by fossil fuels. Solar and wind are recognised specifically in Draft EN-1 (para 3.3.21) as being the lowest cost way of generating electricity and that by 2050, secure, reliable, affordable, net zero energy systems are ‘likely to be composed predominantly of wind and solar’. The Government aims by 2030 to quadruple offshore wind capacity so as to generate more power than all homes use today. This would therefore be delivered in collaboration with solar energy, and other measures, to provide a robust supply.
82. Planning Practice Guidance (PPG), on renewable and low carbon energy, states that ‘there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and critically, the potential impacts on the local environment, including from cumulative impacts.’<sup>21</sup>
83. The Framework explains that when dealing with planning applications, planning authorities should not require a developer to demonstrate a need for low carbon or renewable energy projects, and should recognise that even small-scale projects can help reduce greenhouse gas emissions. Paragraph 158(b) also explains that such schemes should be approved if any impacts are, or can be made, acceptable. Furthermore, it identifies once areas have been identified for such projects, by local authorities in local plans, any subsequent applications should demonstrate how they would meet the criteria used in identifying suitable locations.
84. The Council has not allocated any sites for renewable energy schemes in the district. However, it’s Solar Farm Development – Supplementary Planning Document-2021 (SPD) includes locational principles that guide its consideration of suitable sites. Paragraph 8.2 requires solar farms in the Green Belt to demonstrate very special circumstances and, among other matters, to not adversely impact on the identified character and beauty of the Rural Area. Paragraph 5.5 reiterates guidance of the Framework in identifying that Very Special Circumstances may include wider environmental benefits associated with the production of energy from renewable sources.

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<sup>21</sup> PPG, Paragraph: 005 Reference ID: 5-005-20150618



85. The approved Cannon Barns site was allowed in the Green Belt. The Council found that the benefits of renewable energy would outweigh the harm to the openness of the Green Belt, the low level of 'less than substantial' harm to heritage assets and the modest harm to landscape character. Whilst each case must be considered on its own merits, this recent decision provides a useful insight into the weight the Council has applied in the past to renewable energy projects in the Green Belt.
86. The proposed solar farm is substantially larger than the Canon Barns site, with clear contextual differences. Nevertheless, it is plainly evident that a larger site, such as the current proposal that may have a greater impact, would also deliver a greater level of power output thus making a greater contribution towards the production of renewable energy. This benefit weighs strongly in favour of the scheme.

### **Planning balance**

87. I have concluded that the appeal scheme would result in harm to the Green Belt from inappropriateness and loss of openness, to which I afford substantial weight. Furthermore, the proposal would also result in moderate harm to the landscape character and convey moderate visual harm to the area. The proposal would also convey limited harm to the loss of a small proportion of BMV arable land, attracting limited adverse weight. The limited harm identified to the NDHA would be outweighed by the public benefits of the proposal. Nevertheless, for the purpose of my overall planning balance this harm contributes to the adverse effects of the proposal.
88. The proposed scheme would not harm the integrity of the SPA, weighing neither for nor against the proposal. Furthermore, the other matters identified raise issues that either result in no harm or raise technical matters that could be adequately addressed through the imposition of appropriate conditions to negate the harm.
89. Conversely, the proposal would deliver a renewable energy facility that would create up to 49.9MW of power. This would provide power for around 16,581 households, result in a carbon dioxide displacement of around 11,210 tonnes per annum and therefore help combat climate change. The appeal site, whilst large is relatively unobtrusive, within a depression of land that prevents most wide views of the site to be experienced. The surrounding landscape also includes a range of man-made interventions. These features enable the area to accommodate a degree of change where other locally approved solar farms would contribute to the visual evolution of the appearance of the area.
90. The Framework identifies that many renewable energy projects in the Green Belt will comprise inappropriate development. In such cases, developers will need to demonstrate very special circumstances which could include the wider environmental benefits associated with the increased production of energy from renewable sources. Whilst this lends support for renewable projects in the Green Belt it does not confer an automatic approval of such schemes, where the effects of such development must take into account a broad range of issues in mind of the general presumption against inappropriate development and the resultant substantial harm conveyed to the Green Belt by this.

91. The benefits of renewable energy raise substantial benefits in favour of the proposal. These benefits are recognised in the Council's local policies and guidance and national policy in accordance with the Climate Change Act of 2008. It is also clearly identified, in Section 14 of the Framework, where it seeks to increase the use and supply of renewable and low-cost energy and to maximise the potential for suitable such development. The delivery of suitable renewable energy projects is fundamental to facilitate the country's transition to a low carbon future in a changing climate.
92. Also, a solar farm requires grid capacity and a viable connection to operate. As such, this requirement places a locational restriction on site selection that limits the number of appropriate sites for such a facility. The Appellant explains that the national grid suffers capacity difficulties and limits suitable points of connection. The Appellant proposes to connect to the adjacent electrical pylons placing the site in an advantageous location satisfying the connection constraints that exist. The Appellant has therefore demonstrated that a rational approach was taken to site selection lending support for the selected site.
93. Accordingly, the public benefits of the proposal are of sufficient magnitude to outweigh the substantial harm found to the Green Belt and all other harm identified above. These benefits identified attract very substantial weight in favour of the scheme. In this context, the harm to the Green Belt would be clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development exist. Accordingly, the proposal would satisfy the local and national Green Belt policies I have already outlined.

### **Conditions**

94. I have considered the use of conditions in line with the guidance set out in the PPG. I shall take the conditions within the agreed SoCG into consideration and impose these with some amendments and adjustments for clarity.
95. A number of conditions are necessary that relate to the submission of details prior to the commencement of development. These seek details relating to the specific placement of equipment on site, a landscape scheme, temporary fencing, arboricultural method statement, soil management plan, archaeological investigation and definition of exclusion zones, construction ecological management plan, construction traffic management plan and a surface water drainage strategy. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse permission. These details are required at a pre-commencement stage as they relate to matters that may influence the configuration of equipment on site and relate to its initial setting out.
96. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty. Conditions are also necessary to determine the precise location of the equipment, grant only a temporary consent, establish a decommissioning strategy, decommissioning in the event of early closure of the facility and to require notification as to when power provision begins. These conditions would be required to manage the overall landscape impact of the development and comply with LP policy DM19.
97. Conditions are necessary with respect to the provision of a landscape planting scheme, an ecological management plan, construction ecological plan, to

prevent the installation of external lighting, breeding bird mitigation and monitoring strategy and arboricultural method statement in the interests of the character and appearance of the area and to ensure the delivery of a net gain to Biodiversity.

98. It is necessary to require details of boundary treatment and the proposed CCTV system to ensure the proposed works integrate well with their surroundings.
99. During the Hearing the Council explained that it would also require a condition for temporary fencing to prevent glint and glare to motorists. I acknowledge that there is no clear evidence before me that clearly demonstrates that solar farms cause glint and glare that might contribute towards accidents. Nevertheless, the County Highway Engineer's evidence illustrates that some motorists have stated, in accident reports, that dazzle was a distracting component. Therefore, despite the solar panels not being especially reflective, I find that a requirement for screening would be necessary due to the site's proximity to the A130 and the extent of panels that would otherwise be visible from this vantage. Accordingly, this condition would be necessary in the interests of highway safety.
100. It is also necessary for the submission of a construction traffic management plan, site access point specifications and for hardstanding around the accesses to be hard bound, all in the interests of highway safety. Furthermore, conditions are necessary to satisfy the archaeological interests of the site and to define any localised exclusion zones in accordance with LP policy DM15.
101. It is also necessary for the provision of a surface water drainage strategy and its maintenance plan to ensure that a SUDs scheme is installed to mitigate against any flood risk. Furthermore, a condition would be required to ensure that a soil management plan is submitted to manage soil compaction, water runoff and drainage.

### **Conclusion**

102. For the above reasons, the appeal is allowed, and planning permission is granted subject to the conditions within the attached schedule.

*Ben Plenty*

INSPECTOR



## APPEARANCES

### For the Appellant;

|                    |                              |
|--------------------|------------------------------|
| Thomas Smith       | - Technical Director, AECOM  |
| Richard Hammond    | - Landscape architect, AECOM |
| Jonathan Hill      | - Associate Director, AECOM  |
| James Hartley-Bond | - Low Carbon                 |

### For the Council;

|                     |  |
|---------------------|--|
| Ruth Mabbutt        | - Senior Planning Officer, Chelmsford City Council |
| Ryan Mills          | - Place, Essex County Council                      |
| Sarah Hill-Saunders | - Planning Officer, Chelmsford City Council        |
| Richard Mackrodt    | - Highway Engineer, Essex County Council           |

### Interested parties;

Cllr Richard Poultnier, for Bicknacre and East and West Hanningfield Ward  
Cllr Sue Dobson, for Bicknacre and East and West Hanningfield Ward  
Cllr Les Draper, East Hanningfield Parish Council  
Cllr Malcolm Thomas, East Hanningfield Parish Council (and acting as resident)  
Paul Galley, West Hanningfield Parish Council  
John Dunton, West Hanningfield Parish Council  
Mr and Mrs Hellings, residents

### Additional documents

|        |   |
|--------|---|
| Doc A: | Statement of Common Ground (signed version)                                   |
| Doc B: | Viewpoint suggestions and plan for site visit walking route from main parties |
| Doc C: | Plan of Public Rights of Way  |
| Doc D: | objection from West Hanningfield Parish Councils                              |
| Doc E: | objection from East Hanningfield Parish Councils                              |
| Doc F: | objection from Mr Malcolm Thomas, a local resident                            |
| Doc G: | Attendance List   |

## Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans and conditions listed on this decision notice: LCS039-SP-01\_rev02 (Site Location Plan), LCS039-DZ-01\_rev10 (Zoning Layout Plan), LCS-SD-11\_rev02 (Panel Cross Section), LCS-SD-01\_rev02 (DNO Substation Elevations and Dimensions Plan), LCS-SD-02\_rev02 (Customer Substation Elevations and Dimensions Plan), LCS-SD-03\_rev01 (Indicative CCTV Post), LCS-SD-04\_rev02 (Security Fence and CCTV Standard Detail), LCS-SD-08\_rev02 (Inverter Elevations and Dimensions Plan), LCS-SD-01\_rev01 (DNO Substation Floor Plan), LCS-SD-15\_rev01 (Customer Substation Floor Plan), LCS-SD-16\_rev01 (Inverter Floor Plan), LCS-SD-21\_rev01 (53ft Battery Container (HVAC on roof) Standard Detail), LCS-SD-23\_rev01 (POC Mast Compound), LCS-SD-25\_rev01 (Meter Kiosk Standard Detail), LCS039-PLE-01\_rev22 (Indicative Site Layout (amended post-decision)), 60644715-ACM-LCSF-SD-DR-DS-000001 Rev P02 (Sandon Brook Solar Farm Outline Drainage Strategy).
- 3) The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity generated by the solar panels is first exported to the National Grid. At the end of this 40-year period, the development shall be removed, and the land restored to its previous agricultural use in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to their installation, full details of the final location, design and materials to be used for the: (a) panel arrays, (b) transformers, (c) inverters, (d) battery storage, (e) control room, (f) substations, (g) CCTV cameras, (h) fencing and gates, and (i) Any other auxiliary buildings. These details shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and thereafter permanently maintained in the agreed form unless otherwise agreed in writing with the Local Planning Authority.
- 5) No later than six months prior to the expiry of the planning permission, or within six months of the cessation of electricity generation by this solar PV park, whichever is the sooner, a detailed scheme of works for the removal of the development (excluding the approved landscaping and biodiversity works) shall be submitted to and approved in writing by the Local Planning Authority (LPA). The scheme of works shall include the following: (a) a programme of works; (b) a method statement for the decommissioning and dismantling of all equipment and surfacing on site; (c) details of any items to be retained on site; (d) a method statement for restoring the land to agriculture; (e) timescale for the decommissioning, removal and reinstatement of the land; (f) a method statement for the disposal/recycling of redundant equipment/structures. The scheme of works shall be undertaken in accordance with the approved details and timescales. The operator shall notify the Local Planning Authority in writing within five working days following the cessation of electricity generation.

- 6) The applicant/developer shall notify the Local Planning Authority in writing within 10 working days of electricity being generated from the development being first exported to the National Grid.
- 7) If the solar farm ceases to export electricity to the grid for a continuous period of twelve months, a scheme shall be submitted to the Local Planning Authority for its written approval within three months from the end of the twelve-month period for the removal of the solar farm and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within nine months of the written approval being given.
- 8) No construction or decommissioning works shall take place except between the following hours: 08:00 to 18:00 Monday to Friday, and 08:00 to 13:00 Saturday. No construction or decommissioning works shall take place at any time on Sunday or a Bank Holiday.
- 9) Prior to the commencement of development, a landscaping scheme containing details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. Subsequently the works shall be carried out as approved prior to the first exportation to the National Grid, or in the first available planting season following such exportation and permanently retained and maintained in accordance with the agreed lifetime of the development. The details to be submitted shall include: (a) Hard surfacing including pathways and driveways, other hard landscape features and materials; (b) Existing trees, hedges or other soft features to be retained; (c) Planting plans including specifications of species, sizes, planting centres, number and percentage mix; (d) Details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife; (e) compliance with the biodiversity net gain metric and (f) the continuation of unobstructed movement of species within the site.
- 10) A Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the local planning authority prior to first exportation to the National Grid. The content of the LEMP shall include the following: (a) Description and evaluation of features to be managed; (b) Ecological trends and constraints on site that might influence management; (c) Aims and objectives of management; (d) Appropriate management options for achieving 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 five-year period); (g) Details of the body or organisation responsible for implementation of the plan; (h) Ongoing monitoring and remedial measures. The LEMP shall include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.



- 11) Prior to their installation, details of boundary treatment and CCTV cameras shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall be carried out as approved prior to first exportation to the National Grid and permanently retained and maintained in accordance with the agreed form subject to any such variation that has been previously agreed in writing with the Local Planning Authority. The details to be submitted shall include: (a) Details of the proposed treatment of all boundary fencing; and (b) Details of the CCTV cameras; (c) Whole perimeter fencing plan including provision for the ingress and egress of badgers and other small mammals.
- 12) Prior to the commencement of development, a scheme to deal with the provision of temporary boundary fencing to address glint and glare shall be submitted to and approved in writing by the Local Planning Authority. The temporary fencing should be installed to approximately 3 metres in height (or where necessary to a previously agreed greater height) and shall provide continuous unbroken screening, above the carriageway levels of the A130 and Southend Road. The fencing shall remain in place until the new planting and any additional planting to enhance the existing established planting has reached a minimum height of 3 metres (or greater), to be determined in writing with the Local Planning Authority. Prior to the removal of the temporary fencing, evidence shall be submitted to and approved in writing by the Local Planning Authority, which demonstrates the boundary landscaping has reached a height of 3 metres (or where necessary to a previously agreed greater height) and provides a continuous unbroken screen, above the carriageway levels of the A130 and Southend Road.

In the event of an extraordinary event, where the temporary screening along the perimeter of the site, as shown on the detailed site layout plan secured under Condition 4, is partially or completely removed or destroyed, an Emergency Plan shall be provided prior to the commencement of the development that identifies: i. the procedure to install temporary screening, with associated construction management plan; ii. permanent remedial actions; iii. the party or party's responsible; and iv. provision of any Traffic Management required to the A130 and Southend Road carriageways, as required by the LPA and the Highway Authority. Full details of the Emergency Plan will be agreed in writing with the Local Planning Authority and the Local Highway Authority prior to commencement.

- 13) In relation to tree protection, no works shall take place until an Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall only be carried out in accordance with the submitted Arboricultural Method Statement subject to such minor variations as may be agreed by the Local Planning Authority. The details to be submitted shall include: (a) Details of trees and hedges to be retained and removed; (b) Details of tree surgery work to retained trees; (c) Specification for tree protection including layout and type of tree protection for construction including change that may occur during development; (d) Location and installation of services, utilities and drainage; (e) Details of construction within the root protection area of retained trees; (f) Details of site access,

temporary parking, welfare facilities, loading and unloading, storage of equipment, materials, fuels and waste; (g) Boundary treatments within the root protection areas; (h) Arboricultural supervision and inspection, including timings, reporting of inspections and supervision; (i) Boundary treatments within the root protection areas, and (j) Arboricultural supervision and inspection, including timings, reporting of inspections and supervision.

- 14) Prior to first exportation to the National Grid, a wintering and farmland breeding bird mitigation and monitoring strategy, that includes reference to skylarks, shall be submitted to and approved in writing by the Local Planning Authority prior to the completion of the development. Thereafter, the works shall only proceed in accordance with the approved mitigation and monitoring strategy, subject to any minor variation that may be agreed in writing with the Local Planning Authority. The strategy shall include details of the following: (a) Purpose and conservation objectives for the proposed measures; (b) Detailed methodology for measures to be delivered; (c) Location of the proposed measures; and (d) the Mechanism for implementation and monitoring of delivery. The farmland bird mitigation strategy shall be implemented in the first nesting season following completion of the development and in accordance with the approved details or any such variation that has been previously agreed in writing by the Local Planning Authority and shall be delivered for a minimum period of 10 years from first implementation.
- 15) No work shall take place until a soil management plan has been submitted to, and approved in writing by, the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details and thereafter permanently maintained in the agreed form unless otherwise agreed in writing with the Local Planning Authority.
- 16) No unbound material shall be used in the surface treatment of the vehicular access hereby permitted within 6 metres of the highway boundary.
- 17) Prior to their construction, details of the construction of the site accesses, visibility sight splays, dropped kerb vehicular crossings of the footway and details of surface water discharge from the highway, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the access points shall be constructed ready for use prior to first export to the National Grid in accordance with the approved details. The accesses shall be permanently retained in accordance with the agreed form at all times.
- 18) No development shall take place within the whole site until a programme of archaeological work has been secured and implemented, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. The scheme of investigation shall include an assessment of significance and research questions; and: (a) The programme and methodology of site investigation and recording; (b) The programme for post investigation assessment; (c) Provision to be made for analysis of the site investigation and recording; (d) Provision to be made for publication and dissemination of the analysis and records of the site investigation; (e) Provision to be made for archive deposition of the analysis and records of the site

investigation; (f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation; (g) The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

The solar farm shall not be brought into operation until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation, and the provision made for analysis, publication and dissemination of results and archive deposition.

- 19) Prior to commencement of the development a detailed site plan including Archaeological Exclusion Zones will be submitted to and approved by the Local Planning Authority. Following the approval and completion of the archaeological evaluation referred to in Condition 18 and prior to the commencement of development, a final detailed site layout plan with full details of the final locations, design and materials to be used for the panel arrays, inverters, customer switchgear, substations, CCTV cameras, fencing, foundations and cabling will be submitted for approval.

Should the archaeological evaluation identify any significant archaeological deposits, the final detailed site layout plan will define Archaeological Exclusion Zones within which below and above ground development will be excluded or provide sufficient design mitigation including but not limited to the use of above ground cables, concrete shoes or other means to avoid any impact on archaeological deposits if required.

The final detailed site layout plan shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the County Council's Lead Archaeologist. Subsequently the development shall be carried out in accordance with the approved details.

If there are archaeological areas to be preserved in situ, a management plan will be produced for any archaeological areas to be preserved in situ, setting out the methodology to secure the ongoing protection of these areas both during construction, operation and decommissioning of the solar farm.

- 20) No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details for the control and management of noise and dust during the construction phase, and with respect to noise shall have due consideration of the guidance within BS 5228:2009+A1:2014. The CEMP will be adhered to by the contractor throughout the construction process. The CEMP shall include the following: (a) Risk assessment of potentially damaging construction activities; (b) Identification of "biodiversity protection zones"; (c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements); (d) The location and timing of sensitive works to avoid harm to biodiversity features; (e) The times during construction when specialist ecologists need to be present on site



to oversee works; (f) Responsible persons and lines of communication; (g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; (h) Use of protective fences, exclusion barriers and warning signs; (i) Details for the control and management of noise and dust during the construction phase; and (j) Shall have due consideration of noise guidance contained within BS 5228:2009+A1:2014. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

- 21) No development shall take place, including any ground works or demolition, until a Construction Traffic Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Statement shall provide for: (a) Suitable construction vehicle routes for all construction vehicles, to be agreed with the Highway Authority; (b) The parking of vehicles of site operatives and visitors; (c) Loading and unloading of plant and materials iv. storage of plant and materials used in constructing the development; (d) Wheel and underbody washing facilities; (e) The location of the construction compound; and (f) Construction signage and traffic management measures.
- 22) No development shall commence until details of the strategy for the disposal of surface water on the site have been submitted to and approved in writing by the local planning authority (LPA).
- 23) Prior to first use of the development hereby permitted a detailed maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. It should additionally show that there is a regular and strict maintenance plan in place for the outfall to reduce the risk of blockage. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.
- 24) No external lighting, including lighting required for construction and decommissioning, shall be installed at the site until such time as a lighting strategy for biodiversity has been submitted to and approved in writing by the local planning authority. All external lighting shall be installed in accordance with the details agreed in the strategy and shall be maintained thereafter in accordance with the agreed details, subject to any such variation that may be agreed with the Local Planning Authority. No additional external lighting shall be installed without prior written consent from the local planning authority.

## **End of conditions**



## Appeal Decision

Site visit made on 21 February 2023

**by A Berry MTCP (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 April 2023**

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**Appeal Ref: APP/V1505/W/22/3301454**

**Park Farm, Dunton Road, Herongate CM13 3SG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr James Nicol of Crouch Solar Farm Limited against the decision of Basildon Borough Council.
  - The application Ref 21/00758/FULL, dated 5 May 2021, was refused by notice dated 27 January 2022.
  - The development proposed is described as “construction and operation of a solar farm together with all associated works, equipment and necessary infrastructure”.
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### Decision

1. The appeal is allowed, and planning permission is granted, for the construction and operation of a solar farm together with all associated works, equipment and necessary infrastructure at Park Farm, Dunton Road, Herongate CM13 3SG in accordance with the terms of the application, Ref 21/00758/FULL, dated 5 May 2021, subject to the conditions in the schedule to this decision.

### Procedural Matters

2. The Council reference emerging policies within the Basildon Borough Local Plan 2014-2034. However, the Council withdrew the plan from examination in March 2022. Therefore, these policies are no longer relevant to the appeal. I have therefore determined the appeal on this basis.

### Background

3. The whole solar farm development straddles three local authority administrative areas; Basildon Borough Council, Brentwood Borough Council and Thurrock Borough Council. Approximately 35 hectares of the site falls within Brentwood Borough Council, approximately 3 hectares and part of the underground cable route falls within Basildon Borough Council, and a small section comprising part of the underground cable route falls within Thurrock Borough Council.
4. The development contained within Brentwood Borough Council’s administrative area was approved in November 2021<sup>1</sup>. The Council referred the decision to the Secretary of State as a departure from the development plan and the Secretary of State confirmed that the application would not be called in. Two separate planning applications for the connector cable were approved by Basildon

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<sup>1</sup> Planning Reference 21/00834/FULL

Borough Council in January 2022<sup>2</sup> and Thurrock Borough Council in December 2021<sup>3</sup>.

5. This appeal therefore relates only to the approximate 3 hectares of the site that falls within Basildon Borough Council, excluding the connector cable route.

### **Main Issues**

6. The appeal site is located within the Green Belt. The National Planning Policy Framework ('the Framework') states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 149 and 150 of the Framework define different types of development that could be an exception to inappropriate development in the Green Belt. It is uncontested by the main parties that the solar farm would not comply with any of these exceptions. From the evidence before me, I see no reason to disagree with this assertion. The proposal would therefore be inappropriate development in the Green Belt.
7. Accordingly, the main issues are:
  - the effect of the proposed development on the openness of, and the purposes of including land within, the Green Belt, having regard to the Framework; and
  - whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### **Reasons**

#### *Green Belt – Openness and Purposes*

8. The Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness has both visual and spatial qualities. Policy BAS GB1 of the Basildon District Local Plan Saved Policies, adopted 2007 (LP) seeks to ensure the long-term expansion of built-up areas is acceptable in the context of the purposes of the Green Belt and other provisions in the Local Plan. Thus, insofar as is relevant to this appeal, LP Policy BAS GB1 is broadly consistent with the Framework.
9. The appeal site comprises approximately one quarter of an existing agricultural field that is demarcated by tree and hedge field boundaries to the south and east and follows the irregular and imaginary line of the Council's administrative boundary to the north and west. It is currently devoid of any buildings or structures. The proposed solar panels would be sited in horizontal rows, covering an area of approximately 3 hectares. Perimeter fencing of 2m in height would be erected along the southern and eastern boundaries and CCTV cameras mounted on top of 2.5m high poles would be positioned at approximate 50m intervals around the perimeter. In spatial terms, the proposed development would reduce the openness of the Green Belt.
10. A Public Right of Way (PRoW) traversing north to south would navigate in close proximity to the appeal site, and a bridleway traverses east to west along the southern boundary of the appeal site. Furthermore, the A127 (the Southend

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<sup>2</sup> Planning Reference 21/01765/FULL

<sup>3</sup> Planning Reference 21/01752/FUL

Arterial Road) is located in close proximity of the appeal site to the south which has pavements along either side. Users of the PRoW, bridleway and A-road would be afforded a clear view of the proposed development and therefore it would be visually prominent within localised views. The proposal would also be visible from the property located near to the southeast corner of the appeal site. The undulating landform of the surrounding area together with tree belts would restrict longer-range views of the site.

11. The proposed solar arrays would be relatively modest in mass and footprint and would be spaced at regular 3.2m intervals that would reduce the overall scale of the development. Furthermore, the proposed development would be in place for a period of up to 40 years, before being fully demounted and the land returned to its former condition at the end of its use. As such, whilst 40 years is a long period of time, it is not permanent. Therefore, the impact on the openness of the Green Belt would be reduced with the site ultimately reinstated to its current open character. Consequently, both visually and spatially, the proposed development would result in harm to the openness of the Green Belt.
12. Introducing man-made structures into what is currently an open field, the appeal scheme would represent encroachment of development into the countryside. This would be contrary to one of the purposes of including land within the Green Belt, as set out in paragraph 138 of the Framework.
13. Therefore, in addition to the harm arising from the development comprising inappropriate development in the Green Belt, the proposed development would impact on the openness of the Green Belt in both visual and spatial terms and would be contrary to one of the purposes of including land within the Green Belt. The proposed development would conflict with Chapter 13 of the Framework. For the same reason, it would also conflict with the aims of Policy BAS GB1 of the LP.

#### *Other Considerations*

##### *Climate Change*

14. The appellant has directed me to a series of international, national and local publications and Acts in respect of climate change. A material consideration in the determination of planning proposals for renewable energy that fall under the Town and Country Planning Act 1990 (as amended) are the National Policy Statements (NPSs) for the delivery of energy infrastructure. The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. In September 2021, draft updates to the Overarching NPS for Energy (EN-1) and the NPS for Renewable Energy Infrastructure (EN-3) were published.
15. The draft NPS EN-3 states that:

*"Solar farms are one of the most established renewable electricity technologies in the UK and the cheapest form of electricity generation worldwide. Solar farms can be built quickly and, coupled with consistent reductions in the cost of materials and improvements in the efficiency of panels, large-scale solar is now viable in some cases to deploy subsidy-free and at little to no extra cost to the consumer. The Government has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero*



*emissions. As such solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector".*

16. The UK Government has declared a climate emergency and set a statutory target of achieving net zero emissions against a 1990 baseline by 2050 within the Climate Change Act 2008 (as amended). Furthermore, the government's Net Zero Strategy: Build Back Greener (2021) seeks to fully decarbonise our power supply by 2035 and accelerate deployment of low-cost renewable generation, including wind and solar. Both of which are a material consideration.
17. Paragraph 152 of the Framework states that the planning system should support the transition to a low carbon future and support renewable and low carbon energy and associated infrastructure. While paragraph 158 states that in determining planning applications, applicants are not required to demonstrate the overall need for renewable or low carbon energy; that decision makers should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable.
18. The solar arrays within the appeal site would generate approximately 2.4MW, the equivalent of powering the needs of approximately 797 dwellings in Basildon and saving 539 tonnes of CO<sub>2</sub> per annum. Therefore, the energy benefit of the proposal must be afforded considerable weight.

#### *Approved Scheme*

19. The appeal site forms a small part of the overall solar farm. As previously discussed, approximately 35 hectares of the surrounding agricultural fields have approval for a solar farm<sup>4</sup>. Accordingly, approximately three quarters of the field in which the appeal site is located would be covered with solar panels. Furthermore, the three fields to the north of the appeal site would also be covered with solar panels and associated buildings/structures.
20. The approved solar farm would be sited adjacent to the PRoW, closer to it than the appeal site, and would also be sited a similar proximity to the bridleway and the A127. Furthermore, it would be sited close to properties to the north and east fronting onto Dunton Road. Therefore, due to the scale and siting of the approved scheme, it would have a significant impact in visual and spatial terms on the openness of the Green Belt and would represent encroachment into the countryside. Consequently, due to the limited size and scale of the appeal proposal, when compared to the approved solar farm, it would result in limited additional harm to the openness of the Green Belt.

#### **Other Matters**

21. I have had regard to the comments of interested parties. Matters in respect of works traffic and the route it would use could be controlled by condition, while Essex Highways confirmed that there have been no recorded incidents for two junctions referred to by an interested party. While the construction phase of the development could potentially be disruptive, it would be short-term, and some effects could be mitigated by condition. The potential effect of the development on the environment for animals, birds and plant life could also be mitigated by condition.

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<sup>4</sup> Planning Reference 21/00834/FULL

22. I have no substantive evidence before me to corroborate that solar panels are constructed of dangerous chemicals that have the potential to leak, and there is no indication that this would likely occur in this instance. The loss of a view and the potential devaluation of property are not material planning considerations. In any event, the proposal would not be permanent.

### **Conditions**

23. I have had regard to the conditions suggested by the Council and the tests for conditions set out within the Framework. As a result, I have made amendments to some of the conditions in the interests of clarity, precision and to avoid repetition. In addition to the standard condition, which relates to the commencement of development, I have specified the approved plans for the avoidance of doubt.

24. Conditions requiring a commencement notice to be submitted, and for the cessation of the development and the land returned to its current condition either no later than 40 years from the date of the commencement notice or if the solar farm ceases to export electricity to the grid for a continuous period of 6 months are required to ensure that the development is not permanent, to support the very special circumstances of allowing the proposed development, and to preserve the openness of the Green Belt.

25. Conditions securing the precise details of the proposed development's final layout is necessary to ensure its appearance does not harm the character or appearance of the surrounding area or the living conditions of the occupiers of residential properties. However, it is not necessary to attach a separate condition in respect of the colour and details of materials for any proposed buildings or structures, as the appeal site does not contain any of these features. I have therefore omitted this suggested condition.

26. I am satisfied that conditions in respect of a Construction Management Plan are necessary in respect of highway safety. Conditions in respect of Sustainable Urban Drainage Systems (SUDS) to prevent potential flood risk elsewhere and to mitigate any environmental harm which may be caused to the local water environment are required. However, I have amended the wording of Condition 10(b) to accord with the wording of the same condition applied to the larger part of the site, following a recently approved s73 application<sup>5</sup> by Brentwood Borough Council. I am also satisfied that a condition in respect of security details is necessary to ensure that the proposed measures are appropriate to the rural character of the site and from a health and safety requirement.

27. Conditions in respect of archaeology are necessary due to the conclusions of the Historic Environment Desk-Based Assessment (2021) submitted with the appeal. Similarly, conditions in respect of a Construction Environmental Management Plan, a Landscape and Ecological Management Plan and a Landscaping Scheme are necessary to conserve and enhance the biodiversity of the appeal site, to reduce the proposal's visual impact on the surrounding area, and to mitigate noise and dust impacts during the construction phase.

28. The appellant has confirmed they are agreeable to the imposition of those conditions that are pre-commencement conditions. I am also satisfied they are justifiably pre-commencement.

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<sup>5</sup> Planning Ref: 22/00667/FUL

## **Planning Balance and Conclusion**

29. The proposed development would be inappropriate development in the Green Belt, it would harm the openness of the Green Belt and it would conflict with one of the purposes of including land within the Green Belt. As such, the Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
30. I have found that considerable weight should be afforded to the benefits of the proposed development in respect of climate change, and that the proposed development would result in limited additional harm to the openness of the Green Belt when considered in the context of the significantly larger approved solar farm of which the appeal site forms a part. Therefore, the material considerations are of sufficient weight to clearly outweigh the substantial harm to the Green Belt and the very special circumstances necessary to justify the development exist.
31. The appellant has advanced other benefits that the proposed development would provide, such as biodiversity enhancements and the economic benefits of the diversification of agricultural businesses. However, as I have already found that the material considerations detailed above clearly outweigh the substantial harm to the Green Belt, I do not consider it necessary to analyse these other benefits.
32. For the reasons set out above, having regard to the development plan as a whole and all other matters raised, I conclude that the appeal should be allowed.

*A Berry*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall be begun not later than three years from the date of this permission.
- 2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans:
  - SP-01 Revision 02
  - DZ-01 Revision 03
  - SD-01 Revision 01
  - SD-01 Revision 02
  - SD-02 Revision 02
  - SD-03 Revision 01
  - SD-04 Revision 02
  - SD-08 Revision 02
  - SD-15 Revision 01
  - SD-16 Revision 01
  - SD-17 Revision 01
- 3) Prior to the commencement of the development hereby permitted, a final detailed site layout plan including full details of the final locations, design and materials for the panel arrays, fencing, gates and CCTV cameras, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter permanently retained in the agreed form.
- 4) If the solar farm ceases to export electricity to the grid for a continuous period of 6 months, a scheme shall be submitted to the local planning authority for its written approval within 3 months from the end of the 6-month period for the removal of the solar farm and associated equipment and the restoration of that part of the site to agricultural use. The approved scheme of restoration shall be fully implemented within twelve months of the written approval being given.
- 5) The development hereby permitted shall not begin the export of electricity until a commencement notice has been submitted to, and acknowledged by, the local planning authority detailing the start date of first electricity export.
- 6) No later than 40 years from the date of the commencement notice detailing the start date of first electricity export, all buildings, hardstandings, access tracks, walls/fences/gates, containers, chattels, plant and related equipment on the site shall be permanently removed from the site, together with all waste materials resulting from such removal, and the restoration of the land to agricultural use. Furthermore, if the use as described in the application permanently ceases before that time, then the site clearance and restoration shall occur within 28 days of that cessation occurring, or other period as may be agreed in writing by the local planning authority.
- 7) Prior to the commencement of development, including any ground works, a Construction Management Plan shall be submitted to, and approved in



writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period and shall provide for:

- a. Suitable construction vehicle routes for all construction vehicles.
  - b. The parking of vehicles of site operatives and visitors.
  - c. Loading and unloading of plant and materials.
  - d. Storage of plant and materials used in constructing the development.
  - e. Wheel and underbody washing facilities.
  - f. The location of the construction compound.
  - g. Construction signage and traffic management measures.
  - h. Details of a nominated developer/resident liaison representative with an address and contact telephone number to be circulated to those residents consulted on the application by the developer's representatives. This person will act as first point of contact for residents who have any problems or questions related to the ongoing development.
- 8) Part 1 – Prior to the commencement of development, a programme of archaeological work shall be secured and implemented, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the local planning authority. The scheme of investigation shall include an assessment of significance and research questions and:
- a. The programme and methodology of site investigation and recording.
  - b. The programme for post investigation assessment.
  - c. Provision to be made for analysis of the site investigation and recording.
  - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
  - e. Provision to be made for archive deposition of the analysis and records of the site investigation.
  - f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
  - g. The site investigation shall be completed prior to the commencement of development, or in such other phased arrangement, as agreed and approved in writing by the local planning authority.

Part 2 - The solar farm shall not be brought into operation until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the local planning authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Part 1 of this condition, and the provision made for analysis, publication and dissemination of results and archive deposition.

- 9) Part 1 - Should the archaeological evaluation referred to in Condition 8 identify any significant archaeological deposits, the final detailed site layout plan required by condition 3 shall include Archaeological Exclusion Zones within which below and above ground development will be excluded or provide sufficient design mitigation including but not limited to the use of above ground cables, concrete shoes or other means to avoid any impact on archaeological deposits if required.

Part 2 - If there are archaeological areas to be preserved in situ, prior to the commencement of development, a management plan for these areas shall be submitted to and approved in writing by the local planning authority, setting out the methodology to secure the ongoing protection of these areas during construction, operation and decommissioning of the solar farm. The development shall be undertaken in accordance with the approved details.

- 10) Prior to the commencement of development, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.

The scheme should include but not be limited to:

- a. Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
  - b. If infiltration is not viable, then the drainage scheme should be shown to be limiting discharge rates to Q1 greenfield run-off rate for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
  - c. Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
  - d. Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
  - e. Final modelling and calculations for all areas of the drainage system.
  - f. The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
  - g. Detailed engineering drawings of each component of the drainage scheme.
  - h. A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
  - i. A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- 11) Prior to the commencement of development, a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works and prevent pollution shall be submitted to, and approved in writing by, the local planning authority. The development shall be undertaken in accordance with the approved details.
- 12) Prior to first use of the development hereby permitted, a maintenance plan detailing the maintenance arrangements including, who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed in

writing, by the local planning authority. It should additionally show that there is a regular and strict maintenance plan in place for the outfall to reduce the risk of blockage. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided. The development shall be undertaken in accordance with the approved details.

- 13) The applicant or any successor in title shall maintain yearly logs of maintenance which should be carried out in accordance with any approved maintenance plan. These must be available for inspection upon a request by the local planning authority.
- 14) Prior to the commencement of development (including ground works and vegetation clearance), a construction environmental management plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The construction process shall be undertaken in accordance with the approved details.

The CEMP shall include the following:

- a. Risk assessment of potentially damaging construction activities.
  - b. Identification of "biodiversity protection zones".
  - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - d. The location and timing of sensitive works to avoid harm to biodiversity features.
  - e. The times during construction when specialist ecologists need to be present on site to oversee works.
  - f. Responsible persons and lines of communication.
  - g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h. Use of protective fences, exclusion barriers and warning signs.
  - i. Details for the control and management of noise and dust during the construction phase.
  - j. Shall have due consideration of noise guidance contained within BS 5228:2009+A1:2014.
- 15) Prior to the commencement of development, a landscape and ecological management plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority. The content of the LEMP shall include the following:
    - a. Description and evaluation of features to be managed.
    - b. Ecological trends and constraints on site that might influence management.
    - c. Aims and objectives of management.
    - d. Appropriate management options for achieving 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 five-year period).
    - g. Details of the body or organisation responsible for implementation of the plan.
    - h. Ongoing monitoring and remedial measures.
    - i. Details of seed mixtures to be sown in 'cover crop' areas.

- j. Details of appropriate management of cover crops.
- k. Details of stocking densities (if sheep are to be used to manage grassland areas).
- l. Details of maximised grassland margins to increase likelihood of providing nesting Skylark habitat.
- m. Details of proposed planting specifications.
- n. Details of landscaping and biodiversity net gain areas.
- o. Details of who will manage and maintain these areas once operational.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 16) Prior to the commencement of development, and notwithstanding the details contained with the LEMP, a landscaping scheme containing details of both hard and soft landscape works and soft landscaping management shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details prior to the first exportation to the National Grid, or in the first available planting season following such exportation and shall be permanently retained and maintained in accordance with the agreed lifetime of the development.

The details to be submitted shall include:

- a. Hard surfacing including pathways and driveways, other hard landscape features and materials.
  - b. Existing trees, hedges or other soft features to be retained.
  - c. Planting plans including specification of species, trees, planting centres, number and percentage mix.
  - d. Details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife.
- 17) Prior to the first use of the development, full details of the security systems and physical measures to protect the equipment from damage and discourage unauthorised entry (for example CCTV, fencing and other safety or monitoring systems) shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.

**\*\*\*End of Conditions\*\*\***





## Appeal Decision

Site visit made on 11 September 2023

**by Jonathan Bore MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 September 2023

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**Appeal Ref: APP/T3725/W/23/3317247**

**Land to the west of the A46, Sherbourne, Warwick, CV35 8AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by PD412WAR Limited against the decision of Warwick District Council.
  - The application Ref W/22/0548, dated 30 May 2022, was refused by notice dated 26 August 2022.
  - The development proposed is a solar farm and associated development.
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### Decision

1. The appeal is allowed and planning permission is granted for a solar farm and associated development on land to the west of the A46, Warwick, CV35 8AH in accordance with the terms of the application, ref W/22/0548, dated 30 May 2022, and the plans referred to in Condition 2, subject to the conditions set out in the schedule to this decision.

### Main Issues

2. The main issues in this case are:
  1. the effect of the proposal on the West Midlands Green Belt and on the landscape character;
  2. the effect on archaeological remains;
  3. the impact on highway safety and the highway network;
  4. the impact on biodiversity and nature conservation;
  5. the impact on flood risk; and
  6. whether there are very special circumstances to allow this development in the Green Belt.

### Reasons

*Issue 1: the effect of the proposals on the West Midlands Green Belt and on landscape character*

3. The proposal is for a solar farm of about 20MW. It would occupy two parcels of arable land totalling about 29.8 hectares near the junction of the M40 and the A46, within the Green Belt. It is common ground that the proposal amounts to

inappropriate development in the Green Belt. There is a presumption against such development, and permission should not be granted other than in very special circumstances.

4. The scheme would have a spatial and visual impact on the openness of the Green Belt; it would be seen from bridges over the M40, from the A46, from the B4463 and from parts of the public footpath network. From these viewpoints it would appear as an encroachment of manmade structures into the countryside. However, views of the installation would not be widespread, and even the northernmost part of the site, which would be expected to be more prominent because it is on a slight rise, would not have a wide visual impact. Parts of the site offer the opportunity of additional boundary screening. Moreover, the development would be seen in the context of the major road infrastructure around the junction of the M40, A46, A4298 and B4463, which itself has a significant effect on the openness, rural character and the tranquillity of its surroundings. In this context the additional visual impact of the scheme on the openness of the Green Belt would be relatively limited.
5. Similar points apply to the scheme's landscape impact. The Warwickshire Landscapes Guidelines SPG places the site within the Avon Terrace Farmlands and the Wooded Estatelands. Local Plan policies BE1 and NE4 seek good design and the protection and enhancement of landscape character. The landscape on and around the site consists of pleasant countryside of low relief with fields bordered with hedges, mature trees and minor watercourses, but it does not carry any special local or national designation. It is inescapable that there would be a degree of conflict with policies BE1 and NE4 because the solar farm would change the character of the landscape on which it is sited. However, it would be seen in close association with the major road infrastructure, and with its impermanent, relatively low panels, slender 15m lattice tower, and modest-sized ancillary cabins and other equipment, would have a limited additional impact on the character of the landscape. Its impact would be mitigated through landscaping including boundary planting as required by Conditions 4 and 5. To control the appearance of the scheme, Condition 17 requires the approval of the details of the materials and layout.
6. The above conclusions relate to the scheme on its own. Planning permission has recently been granted under reference W/23/150 for another solar farm, again in two parts, close to the appeal scheme. Both parts of scheme W/23/150 would extend further westwards than the corresponding parts of the appeal scheme, pushing further into open countryside away from the major highway junction. The southern part of that scheme would have a considerably wider spread than the appeal scheme when seen from the direction of the A46 and would have a notably greater impact on the public rights of way north of the A46. In my assessment scheme W/23/150, which was granted planning permission in the Green Belt on the basis of very special circumstances, would have a greater visual effect on the countryside and the Green Belt than the appeal scheme.
7. Should the appeal scheme and the permitted scheme both go ahead, a more extensive area would be covered by solar panels. However, the appeal scheme would not extend further westward into open countryside than the scheme that has already been permitted; rather, both the northern and southern parts of the appeal site would largely be contained between the corresponding parts of scheme W/23/150 and the highway infrastructure. As a result, the appeal

scheme would have a relatively small additional impact on the Green Belt and landscape compared with that which has already been permitted.

8. The scheme would have a 40 year life. To enable the site to be returned to open land, Conditions 18 and 19 limit the permission to 40 years from the date on which electricity is first exported and contain requirements for the decommissioning and removal of the solar farm.
9. Overall, therefore, both alone and in conjunction with permitted scheme W/23/150, and subject to the conditions discussed above, the appeal proposal in practical terms would cause limited harm to the openness of the Green Belt, and to landscape character. The question of very special circumstances is dealt with as the final issue in this decision.

*Issue 2: the effect on archaeological remains*

10. The historic environment desk-based assessment dated February 2022 refers to the existence of a number of archaeological finds and features of different periods in the locality. The geophysical survey carried out on behalf of the appellants has not conclusively identified significant features on the sites themselves; much of the northern part of the site has been subject to excavation in connection with nearby highway works, and deep ploughing is likely to have had an adverse impact on the preservation of archaeological features. Nevertheless, the assessment concludes that the potential for undiscovered remains at the site is high, particularly of the prehistoric, Romano-British and medieval periods, with potential for finds, features and sites of greater than local significance. When Junction 15 of the M40 was constructed in 2008 and 2009, an area of buried remains comprising an Iron Age D-shaped enclosure was preserved in situ within the northern part of the site.
11. The proposed development therefore has the potential to disturb buried archaeological features. However, a solar farm has a more limited subsurface impact than a permanent building, and the layout is adaptable. In the circumstances, therefore, permission can be granted subject to a condition requiring further archaeological investigative work prior to the commencement of development. The final form of the development may need to be tailored to take into account any feature of archaeological interest that should remain in situ and should be submitted to and approved by the local planning authority subsequent to the investigation. The investigation should also inform the final construction management plan. This variation is allowed for in conditions 2, 3, 13 and 17. Compliance with these conditions will ensure that any important remains are capable of being retained in situ and will enable the scheme to comply with the objectives of Local Plan policy HE4 Policy which resists development which would cause substantial harm to archaeological remains of national importance and their settings.

*Issue 3: the impact on highway safety and the highway network*

12. The scheme would have a noticeable transport impact only during the 40 week construction period, when there would be between 23 and 30 average daily HGV trips for deliveries to the site, with an overall average of 13 trips in and 13 out split between the two northern accesses. The Indicative Revised Traffic Management Plan (Rev A, February 2023) provides further explanation of the access arrangements. This version was produced after the Council issued its

decision notice, but as it takes into account comments made by the Council, the Highway Authority and other representations, and does not involve any substantive physical changes, no-one's interest is prejudiced. There would be three access points from the B4463 and no direct access from the A46. All HGV deliveries would be made to the northern part of the site and then transported to the southern part using lighter vehicles, making use of an existing concrete access track. This track is in part a public right of way and its use would be affected during the construction period, but HGVs would not use this route and given the temporary impact this aspect of the proposal is acceptable.

13. Appended to the Indicative Revised Traffic Management Plan is an independent road safety audit (February 2023). The appellants propose to undertake a number of measures in response to the recommendations of the audit. These include controlling vehicle movements through an agreed construction traffic management plan, amending the access designs to avoid over-running or over-sailing kerb lines or encroachment into opposing lanes, creating a level dwell area at one of the accesses, providing construction phase signage to reduce the likelihood of sudden vehicle manoeuvres, providing longer visibility splays and cutting back and raising the canopies of trees at the northern access point, and creating an additional vehicle waiting bay on the track leading to the southern access point. In response to the Highway Authority's comments, junction visibility and vehicular swept paths are analysed in the technical Transport Note of February 2023 and demonstrate that there is scope to provide adequate junction geometry. All the arrangements discussed in this paragraph and paragraph 11 above are taken into account by conditions 13 to 16.
14. A glint and glare study has identified no significant impacts on road safety or aviation activity.
15. Access from the highway network for construction traffic would be good because the sites are very close to the M40/A46/B4463 junction. Construction traffic would therefore have a limited impact on the road network and on local communities. The Indicative Revised Traffic Management Plan sets out acceptable measures for construction traffic management.
16. After construction, the scheme would generate very little traffic: the Indicative Traffic Management Plan (March 2022, revised February 2023) anticipates two van movements per month (in other words one visit) for maintenance. No cycling or pedestrian visits are envisaged. This level of movement does not require a transport assessment or travel plan.
17. Subject to the conditions discussed above, the scheme would not cause significant harm to highway safety, and traffic from the scheme would not add significantly to congestion on the highway network or have any significant effect on local living conditions. The scheme would accord with Policy TR1 of the Local Plan which seeks safe access and would not conflict with the objectives of Policy TR2 which seeks to control and reduce the impact of vehicular movements on the environment.

*Issue 4: the impact on biodiversity and nature conservation*

18. The site does not have any national or local nature conservation designation. However, it supports breeding birds and badgers and has the potential to support a range of other species including great crested newts. Initial survey work did not find great crested newts on the site, and their environmental DNA



was not detected by scientific survey, but there is potential for newts to inhabit the ditches and ponds, so Condition 8 is attached requiring further survey work.

19. The scheme would not require any trees to be removed. All the hedgerows would be retained except for two short sections, and the best use would be made of existing entranceways. The Preliminary Ecological Appraisal recommends that the mature trees and hedgerows should be protected during the construction work, and that if this is carried out, further surveys for bats are not required. However, the road safety audit refers to the potential need to trim trees in connection with vehicle access arrangements. Conditions 4, 6, 7 and 9 are therefore attached requiring the trees to be protected; details of any trimming necessary; and a further bat survey to be submitted should it be necessary to carry out works to any trees.
20. The ecological appraisal recommends that precautionary methods of working and reasonable avoidance methods should be adopted in respect of great crested newts, hedgehogs, reptiles, otters and water voles. Condition 11 is attached requiring the submission of a detailed landscape and ecological management plan which will include such measures.
21. The scheme would take the site out of arable use and, with the enhancement of the hedgerows, would provide the opportunity for creating biodiversity gain. The preliminary biodiversity net gain metric indicated on site net percentage change of about 76% in habitat units and 15% in hedgerow units. To ensure that biodiversity is adequately taken into account and that opportunities for enhancement are taken, Condition 10 is attached which requires a biodiversity impact assessment together with the submission of biodiversity enhancement measures.
22. Subject to the conditions referred to above, the scheme would improve the biodiversity of the site and would not harm any protected or priority species. It would be in accordance with Local Plan policy NE2 which seeks to protect such species, and with policy NE3 which aims to protect and enhance biodiversity.

*Issue 5: the impact on flood risk*

23. The submitted flood risk assessment indicates that the southern part of the site is situated within Flood Zone 1, but some of the northern part of the site is at risk from fluvial flooding and falls within Flood Zones 2 and 3. This is associated with the Horse Brook, which is culverted beneath the M40 and mostly runs on the opposite side of the motorway but also weirs into part of the site. Producing a full hydraulic model would require extensive data on topography and the surface network around the M40 which would be a disproportionate task given the nature of the scheme and the limited risks involved, as discussed below. However, using Environment Agency JFLOW data and LIDAR mapping, the submitted flood risk assessment estimates that the identified area is at risk of between 200mm and 100mm of flooding for the 1 in 100 year plus 40% of fluvial flooding. There is one area at risk of around 670 mm of flooding for a 1 in 100 year flood event including an allowance for climate change and this is used as a conservative figure for future mitigation.
24. The National Planning Policy Framework seeks to avoid inappropriate development in areas at risk from flooding by directing development away from the areas of highest risk, and Local Plan policy FW1 shares the same objective.

The NPPF states that if it is not possible for development to be located in areas with a lower risk of flooding, an exception test is applied, informed by a flood risk assessment, and it should be demonstrated that the development would provide wider sustainability benefits to the community that would outweigh the risk, and that it will be safe for its lifetime taking account the vulnerability of its users, without increasing flood risk elsewhere. Where possible, flood risk overall should be reduced. In this instance the scheme would pass the exception test for a number of reasons.

25. Firstly, the risk to users would be low: the site would attract one visit per month for maintenance when the development is operational, and all essential infrastructure for the scheme would be located in Flood Zone 1.
26. Secondly, the scheme would have a negligible effect on flooding on the site. The proposed panels would be a minimum of 800 mm above the ground which in practical terms would raise them out of the flood risk zone. The panels would be held on racking supported by a steel pile system on support posts of around 0.1m diameter, spaced to allow for the free flow of water and the design would only introduce a small area of impermeable surface. There would be a minimum of 10mm gap between the modules; rain falling on each module would run off the surface and flow into in the sheltered rain shadow area beneath.
27. Thirdly, the scheme would not increase flooding or give rise to detrimental effects elsewhere, and would be likely to be beneficial in this respect. Vegetation would grow below the panels, which would prevent and reduce the erosion of sediment from the site. A swale system would provide surface water runoff storage. Access and maintenance roads would be constructed from permeable materials. The existing grass covered areas, which are likely to provide infiltration, would only be marginally reduced. There would be significant benefits in comparison with typical farming activity because the fields would not be ploughed, would retain vegetation throughout the year and would not be regularly traversed by heavy machinery. The likelihood therefore is that runoff rates from the site would be reduced, and ground infiltration would be improved.
28. Fourthly, the scheme has a specific reason to be located here, which is to make use of a power line with spare capacity, and it would have wider environmental and sustainability benefits, as discussed below.
29. Taking all these matters into account, and subject to Condition 12 requiring the implementation of an approved surface water drainage scheme, the proposal would not give rise to additional flood risk on or off site and would accord with national policy in the NPPF and with the aims of Local Plan Policy FW1.

*Issue 6: whether there are very special circumstances to allow this development in the Green Belt*

30. The National Planning Policy Framework states that the planning system should support the transition to a low carbon future and support renewable and low carbon energy and associated infrastructure. It adds that when such projects are located in the Green Belt, very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. The appeal scheme would power the equivalent of about

- 6,600 local homes annually for 40 years, or the equivalent of one tenth of the dwellings in the district per year. This is a significant environmental benefit.
31. The appellants have conducted an extensive, reasonable and proportionate site search, and the assessment report demonstrates the difficulty of finding suitable sites outside the Green Belt or on brownfield land. The site has locational advantages in that it would make use of spare capacity in the 33kV power line which runs through the site; the site is large enough to be economically viable, is available, is not required for another purpose, is not in a position where residential living conditions would be adversely affected and is not best and most versatile agricultural land.
  32. Warwick Local Plan policy CC2 "Planning for Renewable Energy and Low Carbon Generation" supports proposals for renewable energy projects where they minimise impacts on adjacent land uses and local residential amenity, minimise the impact on landscape, ecology and visual impact, conserve heritage assets and maximise appropriate opportunities to address the energy needs of neighbouring uses. The effects of the scheme are discussed in connection with the preceding issues, and the scheme meets these policy criteria.
  33. The Council have argued in respect of a number of the issues that insufficient information was submitted with the application. I do not find that to be the case, and where additional information has subsequently been submitted – a normal feature of the preparation for a planning appeal – it has enabled certain matters to be clarified without introducing significant changes and without prejudicing the interests of any party in the locality. The National Planning Policy Framework states that, when determining applications for renewable and low carbon development, local planning authorities should approve the application if its impacts are (or can be made) acceptable. In this case the development can be made acceptable through the imposition of planning conditions. Suitable conditions would ensure that the impacts on landscape, archaeological remains, highway safety, ecology and biodiversity and flood risk are minimised. As national planning practice guidance states, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects.
  34. Given the national targets for a transition towards a low carbon future, the importance attached to the objective by the Council in declaring a climate emergency, the clear support given to renewable energy development in the NPPF, and the support for renewable energy within Local Plan policy CC2, it is evident that the proposal would provide a very significant environmental benefit. The impact on the openness of the Green Belt and the effect on the landscape would be limited, whether this site is considered on its own or in conjunction with the nearby permitted scheme. The environmental benefits would significantly outweigh the harm to the Green Belt and the impact on the landscape. Subject to the conditions discussed in this decision, there would be no harm in respect of any of the other issues. There are therefore very special circumstances in this case to allow this appeal.

### **Conditions**

35. Conditions are set out in the attached schedule. The need for these conditions is discussed above under the relevant issues and is not repeated here. The Council's suggested conditions have been taken into account, but adjustments

have been made to avoid overlapping or over-prescription, or to respond to submitted evidence. There is no substantive evidence to support the Council's suggested noise condition and given the location of the site next to major highways such a condition is not necessary.

**Conclusion**

36. For all the reasons given I conclude that the appeal should be allowed.

*Jonathan Bore MRTPI*

INSPECTOR



APP/T3725/W/23/3317247

## SCHEDULE OF PLANNING CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans and conditions listed on this decision notice, subject to any variations required in connection with Condition 3(c) and 17:
  - a) Red line boundary Scale 1:10000 Date 7/3/2022
  - b) Existing Site Plan Rev. A1 dated 07/03/2022
  - c) Switchgear Housing Rev. A1 dated 13/01/2022
  - d) Substation Housing Rev. A1 dated 13/01/2022
  - e) Racking Detail Rev. A1 dated 13/01/2022
  - f) Inverter/ Transformer detail Rev. A1 dated 18/01/2022
  - g) Storage/ Comms/ Switch Room Rev. A1 dated 13/01/2022
  - h) WPD-10238 Rev. A (15m SLP2 Tower (C50-B50-B48) c/w Anti-climb, Feeders, Latchways)
  - i) Solar Farm Layout Rev. No. D1 dated 16/08/2022
  - j) CCTV Detail Rev. A1 dated 13/01/2022
  - k) Fence detail Rev. A1 dated 13/01/2022
- 3) No development shall take place until:
  - a) a written scheme of investigation for a programme of archaeological evaluative work 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 scheme 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 planning authority;
  - c) a mitigation strategy, informed by the results of the archaeological evaluation, has been submitted to and approved in writing by the local planning authority, to include any archaeological mitigation measures, including any necessary adjustment to the layout and details of the scheme and any requirement to be included in the construction management plan. Any such adjustment shall be incorporated into the details submitted under conditions 2, 13 and 17.

The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition, shall be undertaken in accordance with the approved archaeological mitigation strategy.

- 4) The development hereby permitted shall not commence until a landscaping scheme containing details of hard and soft landscape works has been submitted to and approved in writing by the local planning authority. The details to be submitted shall include:
- a) the treatment proposed for all ground surfaces, including hard surfaced areas;
  - b) existing trees, hedges or other soft features to be retained;
  - c) all existing trees, hedges and other landscape features, indicating clearly any to be removed;
  - d) details of the trimming and cutting back of any tree and hedgerow in connection with access arrangements for the construction phase;
  - e) planting schedules across the site, noting the species, sizes, numbers and densities of plants and trees;
  - f) details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife;
  - g) compliance with the biodiversity net gain metric;
  - h) the continuation of unobstructed movement of species within the site;
  - i) finished levels or contours within any landscaped areas;
  - j) any structures to be erected or constructed within any landscaped areas means of enclosure;
  - k) functional services above and below ground within landscaped areas.

The works shall be carried out as approved prior to the first exportation to the National Grid, or in the first available planting season following such exportation and retained and maintained in accordance with the agreed lifetime of the development.

- 5) Any tree or shrub which within a period of five years from the completion of the development dies, is removed or becomes seriously damaged, defective or diseased shall be replaced in the next planting season with another of the same size and species as that originally planted. All hedging, trees and shrubs shall be planted in accordance with British Standard BS4043 Transplanting Root-balled Trees and BS4428 Code of Practice for General Landscape Operations.
- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the trees on the site (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the trees shall be carried out as approved.
- 7) No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner, other than in accordance with the approved

plans and details, without the prior written approval of the local planning authority. "Retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 8) No development shall take place until a detailed survey to establish the presence or absence of great crested newts in and around the ponds, ditches and water bodies, to include details of any necessary mitigation and protection measures, has been carried out by a qualified ecologist and has been submitted to and approved in writing by the local planning authority. The protection and mitigation measures shall be implemented in accordance with approved details.
- 9) In the event that it is necessary to carry out any works to the trees on the site, no development shall take place until a bat survey has been carried out by a suitably qualified surveyor, and a report of findings submitted to and approved in writing by the Local Planning Authority. The report should include, where the presence of bat or bat roost is established, appropriate measures to safeguard the protected species. Such measures shall be carried out in accordance with a programme to be incorporated in the report and agreed in writing by the local planning authority.
- 10) No development shall commence until:
  - a) a biodiversity impact assessment has been submitted to and approved in writing by the local planning authority to ensure that the scheme does not lead to the net loss of biodiversity, and where possible provides a net gain; and
  - b) the biodiversity enhancement measures approved under (a) have been completed in accordance with the approved details, with the exception of any planting, which must be completed within the first planting season following first occupation.

The biodiversity enhancement measures shall thereafter be retained and maintained in accordance with the approved details for the lifetime of the development.

- 11) The development hereby permitted shall not commence until a landscape and ecological management plan has been submitted to and approved in writing by the local planning authority, to include details of precautionary methods of working and reasonable avoidance methods in respect of great crested newts, hedgehogs, reptiles, otters, water voles and breeding birds, together with habitat enhancement and creation measures and their management. The measures shall thereafter be implemented in full in accordance with the approved plan.
- 12) The solar farm shall not be brought into operation until surface water drainage works based on sustainable drainage principles have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The submitted details shall:
  - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- b) include a timetable for its implementation; and,
  - c) provide a management and maintenance plan for the lifetime of the development which shall include arrangements to secure the operation of the scheme throughout its lifetime.
- 13) The development hereby permitted shall not commence until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall provide for: highway safety management of vehicular traffic entering and exiting the access, including signage and the creation of any necessary dwell area; the parking of vehicles of site operatives and visitors; site working hours and delivery times; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; the erection and maintenance of any security hoarding; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during construction, together with any details in relation to noise and vibration; and a scheme for recycling or disposing of any waste resulting from construction works. The development shall be carried out in accordance with the approved construction management plan.
- 14) Prior to the commencement of development, full details of the proposed accesses shall be submitted to and approved in writing by the local planning authority. The submitted details shall include suitable visibility splays, swept path analysis, construction specifications and a Stage 1 Road Safety Audit. The approved details shall be implemented in accordance with approved plans and constructed ready for use prior to first export to the National Grid and shall be retained for the lifetime of the development.
- 15) No vehicle shall enter the site directly from the A46.
- 16) No HGVs shall access the southern part of the site.
- 17) Prior to their installation, full details of the final location, design and materials to be used for the panel arrays, transformers/inverter cabins, storage/communication/switch room cabins, substation, switchgear unit, CCTV cameras, feeder tower, fencing and gates, external lighting and any other auxiliary buildings or structures shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and maintained in the agreed form for the lifetime of the development unless otherwise agreed in writing with the local planning authority.
- 18) Within one month of the first commercial export of electricity from the site, the developer shall submit to the local planning authority a notice stating the date on which the first commercial export of electricity commenced. The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity generated by the solar panels is first exported to the National Grid. At the end of the 40-year period, or prior to that date if the solar farm ceases to export electricity to the grid for a continuous period of 12 months, the development shall be removed, and the land restored to its previous



agricultural use in accordance with details that shall have been previously submitted to and approved in writing by the local planning authority.

- 19) The details required by Condition 18 shall be submitted to the local planning authority no later than 6 months prior to the expiry of the planning permission or no later than 10 working days after the continuous period of 12 months referred to in Condition 3, and shall include the following:
- a) a programme of works;
  - b) a method statement for the decommissioning, dismantling and removal of the solar farm and all associated above ground works/surfacing and foundations below ground;
  - c) details of any items to be retained on site;
  - d) a method statement for restoring the land to agriculture;
  - e) the timescale for the decommissioning, removal and reinstatement of the land;
  - f) a method statement for the disposal/recycling of redundant equipment/structures and any associated infrastructure.



## Appeal Decision

Hearing held on 18 July 2023

Site visit made on 17 and 18 July 2023

**by Paul Jackson B Arch (Hons) RIBA**

an Inspector appointed by the Secretary of State

**Decision date: 30 August 2023**

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**Appeal Ref: APP/V1505/W/23/3318171**

**Land at Crays Hall Farm, Church Lane, Crays Hill, Essex CM11 2UN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Boom Power Ltd against the decision of Basildon District Council.
  - The application Ref 22/00296/FULL, dated 25 February 2022, was refused by notice dated 1 December 2022.
  - The development proposed is installation of renewable energy generating station comprising ground mounted photovoltaic solar arrays together with substation, transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements.
- 

### Decision

1. The appeal is allowed and planning permission is granted for installation of renewable energy generating station comprising ground mounted photovoltaic solar arrays together with substation, transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancement on Land at Crays Hall Farm, Church Lane, Crays Hill, Essex CM11 2UN in accordance with the terms of the application, 22/00296/FULL, dated 25 February 2022 and the plans submitted with it, subject to the conditions in the schedule at the end of this decision.

### Application for costs

2. An application for costs was made by Boom Energy Ltd against Basildon Borough Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are as follows:
  - The effect of the proposed new solar farm and associated infrastructure on the openness of the Metropolitan Green Belt, taking into account the existing Outwood Solar Farm;
  - The effect on landscape character and visual amenity;

- Whether an undertaking or agreement is necessary to make the development acceptable in terms of the effects on farmland birds, healthcare, decommissioning and monitoring; and
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## **Reasons**

### *Policy background*

4. The Development Plan for the area includes the Basildon District Local Plan Saved Policies of 2007 (LP). No LP policies are referred to in the reasons for refusal, which relies on national guidance in the National Planning Policy Framework (NPPF).
5. A replacement Local Plan was withdrawn from examination in 2022 and this attracts no weight. However the evidence base for the emerging plan included the Green Belt Review of 2017 and The Landscape Character Assessment and Capacity Study of Basildon Borough of 2014 (LCABB). The former aimed to determine permanent Green Belt boundaries for the long term and assisting in identifying spatial opportunities where growth could take place to address the Borough's needs for housing and employment. It does not address renewable energy or solar power but provides useful background information on the character and openness of various parcels of land which encompass the appeal site. The LCABB carried out by the Landscape Partnership provides helpful advice on landscape character, sensitivity and capacity and attracts significant weight. It does not however directly address the sensitivity or capacity of the landscape for any specific type of renewable energy development. The Council confirmed that no work had been done on this.
6. Other relevant guidance now of some age include Basildon's Renewable and Low Carbon Energy Constraints and Opportunities Assessment of 2015 (RLCECOA) which showed that large scale solar arrays could provide the most electricity for the Borough followed by microgeneration and wind turbines; and a Renewable and Low Carbon Energy Options Topic Paper of 2017. The RLCECOA indicates at page 37 areas suitable for large scale solar arrays following analysis of the physical and policy constraints suggested in the 2011 East of England Renewable and Low Carbon Energy Capacity Study by Aecom (RLCECS). The potential sites are all designated as Green Belt.
7. As background, the Council intends to work towards net-zero carbon emissions from the Council's operations by 2030, and for the borough as a whole by 2050.
8. Paragraph 158 of the NPPF says that applicants for energy development should not have to demonstrate the overall need for renewable or low carbon energy. Applications should be approved if their impacts are (or can be made) acceptable. National policy as a whole supports and encourages the development of renewable energy sources. Photovoltaic development is a key technology in achieving this. Paragraph 5.10.12 of the Overarching National Policy Statement for Energy (EN-1) says that all proposed energy infrastructure is likely to have visual effects for many receptors around proposed sites and (5.10.13) that a judgement has to be made on whether the visual effects on

sensitive receptors, such as local residents and visitors to the area, outweigh the benefits of the project.

9. National Planning Practice Guidance (PPG) advises that 'the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively'. Paragraph 151 of the NPPF advises that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development: in such cases developers will need to demonstrate very special circumstances if projects are to proceed. The paragraph goes on to say that such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

### *Openness*

10. The area of Green Belt between Billericay, Wickford and Basildon consists in the most part of open arable countryside in the broad valley of the River Crouch, interspersed with farm buildings, industrial structures and isolated individual dwellings, some semi-detached or in loose clusters. The edges of the built settlements noted above are visible and sometimes abrupt on the higher ground to the west, south and east but the valley is approximately 2.4 kilometres wide at Crays Hall Farm and visibly extends further towards woodland on Kent Hill to the north beyond a railway line. Within the valley, the land is gently undulating. Irregular fields are mostly separated by mature native hedges with prominent trees. Some hedge lines are of considerable depth, especially where incorporating footpaths.
11. The introduction of the proposed solar panels would detract from the openness of a significant part of the central part of the valley and would be seen alongside existing panels comprising the extended Outwood solar farm. The essentially industrial, metallic and reflective repetitive nature of the panels along with associated structures and installations such as transformers, security fencing and CCTV poles would contrast starkly with the historic predominantly agricultural landscape. However, the existing Outwood solar farm to the north of the appeal site lies in similar sized fields and this provides a useful comparative reference point and indicates that the effect on openness would be mitigated by the limited field sizes and odd shapes, undulating ground, frequent hedges with mature trees and the proposed biodiversity enhancements. In considering this matter I have taken into account the Council's concerns that new mitigation planting would not be as effective as the appellant anticipates. However the submitted photomontages indicate that for the great majority of the time the panels are in place, there would be a good level of vegetation cover of a type already consistent with existing hedges and field boundaries.
12. The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. PPG advises that the reversibility of a scheme is a relevant consideration to assessing the impact on the openness on the Green Belt. The harm to openness for 40 years nevertheless attracts substantial weight.



### *Landscape character*

13. The site lies in an area designated as Landscape Character Area (LCA) 9 *Upper Crouch Valley Farmlands*. Key characteristics include the gently sloping landform, intact historic pattern of medium scale fields with good hedges and mixed arable and pasture to the centre of the area running north/south between Crays Hill and Barrenleys Wood. Physical influences include vegetation following the line of the river and good hedgerow structure and linear woods. This character is apparent seen from the surrounding higher ground. However industrial uses, farm buildings (some of significant size), dwellings and the surrounding urban edge indicate that the landscape supports a 'medium' level of sensitivity and I note that the parties agree on this assessment. The area is affected by farming activity and noise in the background from traffic on surrounding roads but is relatively tranquil at its centre. The proposed site is split into the 'northern' section north of the isolated St Mary's Church and the 'southern' fields west of the extensive farm complex at Crays Hall farm.
14. The existing Outwood solar farm is on the south facing (north) side of the valley and largely concealed by existing and reinforced boundary vegetation. It is of limited area and because of the overall scale of the valley only has a minor impact on landscape character, except in close views from footpath 164 which runs along its northern edge. The proposed new panels in the northern fields (parcel 1) would not be easily or frequently seen in conjunction with those at Outwood because of field boundary vegetation, topography and because of gaps and intervening fields remaining under cultivation. Enhancements to the stream corridor across the fields and new native tree and hedgerow planting adjacent to footpath 33 would be effective in reducing its visibility and landscape impact. New panels and equipment in the southern fields (parcels 2 and 3) would occupy a significant area of ground and would have a much more obvious and extensive impact. They would be on be seen in conjunction with Outwood panels in views from Church Lane and Crays Hill, albeit separated by trees and vegetation. However, overall, the degree of change in the character in the valley west of the farm would still be limited simply because the important components of the broad valley landscape which contribute most to its character would remain largely unaffected. Moreover, the proposed infilling of gaps and hedgerow planting along footpaths 34 and 36 which borders the northern edge and divides the southern fields would do much to reduce visibility of the development and would enable the landscape to absorb much of the negative impact of the panels.
15. Accordingly there would be a locally moderate adverse effect on landscape character. This would diminish with time as mitigation planting matures. I consider that with regular maintenance, the mitigating effect of field boundary planting and hedgerow reinforcement would increase beyond the 5 years shown in the submitted visualisations. The NPPF at paragraph 174 requires decision makers to contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. The harm caused to landscape character, which would pertain for 40 years, needs to be considered in the balance.

### *Visual amenity*

16. The area is popular with local residents, horse-riders, walkers and cyclists. The open undeveloped landscape is highly valued by local communities and

performs an important role in maintaining a sense of separation between the three main settlements in the Borough. Many public rights of way (PROWs) cross the site linking local communities and facilitating recreation. Following planting enhancements, the development would not be easily perceived from drivers on main roads such as the A129 but would be seen by pedestrians and from the rear gardens and windows of houses on the ridge of Crays Hill and glimpsed from some other properties. The views across the Crouch valley are highly valued by residents but for most these would be wide and would include other parts of the valley not affected by the development.

17. Walkers and residents are of high sensitivity. However it is common ground that the landscape is not a 'valued' landscape in the meaning expressed in the NPPF at paragraph 174 (a). Even if it were, the extent of the harm to visual amenity caused by Outwood and the appeal scheme together would not be so severe as to suggest it could not be made acceptable.
18. There is an isolated and remote feel to the centre of the area around St Mary's Crays Hill where public footpaths cross with links to wooded hills to the north. The existence of the solar farm and its equipment would be quickly apparent to users of PROWs passing the church and proceeding west or north. However any negative experiences caused by the development by these users would be brief. The countryside beyond the solar farm would retain its intrinsic beauty. The proposed mitigation planting would do a great deal to reinforce field boundaries and protect the experience of users, whilst increasing biodiversity interest<sup>1</sup>. There would be no more than a moderate adverse effect on residential receptors. The effect on users of PROWs would be greater, but brief and mitigated to an extent by biodiversity enhancements including the planting of a meadow mix between the arrays, filtering views, and an increase in variety of species in the hedgerows.
19. The 'Ramsden Crays Circular Walk' would be most seriously affected, including views of solar arrays at Outwood together with the appeal scheme. There would remain plenty of views available outside and between solar installations, but it is accepted that the value of this suggested and promoted walk as a rural experience would be appreciably diminished. The long distance Essex Medieval Mingle route (which includes footpath 164) would not be affected to the extent that the appreciation of this rural route would be seriously compromised.
20. The development would conflict with several aims of the LCABB but this study, whilst providing helpful guidance and advice, was not focussed on the development of renewable energy. Having regard to the Council's Landscape and Visual Hearing Statement and the table of significance of effects I do not disagree with the conclusions therein. The harm is taken forward to consider in the final balance.

*Whether an undertaking or agreement is necessary*

21. The Council agreed at the hearing that the matters of concern, healthcare and decommissioning and monitoring had either fallen way or could be the subject of conditions. The protection of farmland birds is the subject of a 'Grampian' condition which has the effect of providing alternative nesting space which I am satisfied meets the requirements of PPG.

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<sup>1</sup> Including in the Site of Importance for Nature Conservation crossing the site along the route of PROWs 34/158

## **Other matters**

22. Turning to heritage considerations, the Grade II\* listed St Mary's church lies near the eastern edge of the development. It has an extensive church yard which contributes to its setting. The solar arrays would not encroach near enough to the church or its curtilage to prevent appreciation of its heritage significance. Nor would visitors approaching the church find that their experience of this heritage asset would be significantly affected. The Saxon field pattern is not affected. Any walkers approaching the church along footpaths 8 and 33 would notice the arrays in the northern field and some views of the tower would include solar panels, but these would not cause anything other than a very low level of less than substantial harm in the terms used in the NPPF. The benefits of renewable energy together with the temporary nature of the effects, in the context of a 12-14<sup>th</sup> century building restored in the 19<sup>th</sup> century, indicate that the substantial public benefits outweigh the harm.
23. The proposed Barleylands solar farm<sup>2</sup> adjacent to the southern fields has been refused planning permission by the Council. It is unlikely to occur and in accordance with the recommendations in the Guidelines for Landscape and Visual Impact Assessment (3<sup>rd</sup> edition) Chapter 7, I do not consider the potential cumulative effects further.

## **Very special circumstances**

24. The NPPF advises 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. A number of circumstances combine to indicate the proposed site may be suitable for solar renewable energy, including the proximate grid connection, the lack of any evidence of any 'best and most versatile' agricultural land on the site, the mixed nature of the area including industrial, farm and domestic buildings and not least, its identification as suitable, along with other areas of Green Belt countryside around Basildon, by the Council in the RLCECOA. No available sites providing anything approaching an equivalent contribution to renewable energy have become available in Basildon, and no comparable schemes on brownfield land or on commercial roofs. No other sites have come forward except that at Barleylands adjacent to the proposed Crays Hall Farm scheme and that has been rejected. The proposal allows for continued commercial use for sheep grazing and includes very significant biodiversity enhancements. The Council maintains that very special circumstances do not exist for any of these factors individually, but acknowledges that in combination some circumstances may collectively outweigh the harm to the Green Belt by reason of inappropriateness.
25. Economic benefits in terms of construction, employment and maintenance, any benefits attached to ceasing intensive agricultural use and increased business rates could apply to any site and would be unlikely to represent very special circumstances. However the provision of a renewable energy scheme with a generation capacity of 25.6MW, and annual generation output of 36,499.26 MWh, offsetting 13,300 tonnes of CO<sub>2</sub> emissions annually whilst potentially meeting the electrical needs of 12,585 homes attracts very significant weight. The intrinsic reversibility of the scheme and the longer term benefits to soil

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<sup>2</sup> Ref 22/00411/FULL

- structure add weight to the environmental benefits of the project overall. The biodiversity benefits (landscaping and land management proposals that would result in a 94% gain (area based habitats) 53% gain (linear habitats)) are very significant and would lead to noticeable and beneficial improvements for the area and those who use it and attract substantial weight.
26. A moderate level of harm would arise to landscape character diminishing with distance and reducing noticeably within 5 years and further within 10. The solar development at Outwood already partly defines the landscape locally. The additional impact of the appeal scheme would increase the level of harm but not to the extent that the broad open character of the majority of the Crouch valley would be seriously affected.
27. The effect on visual amenity would be moderate to major adverse, reducing to moderate with mitigation within a few years. However none of the PROWs would be affected for a significant distance except the Circular Walk.
28. The proposal allows for continued agricultural use for grazing where applicable and encourages biodiversity improvements around arrays. The Council does not dispute that the proposal goes beyond policy requirements in this regard and significant positive weight attaches to this.
29. The Council recognises the pressing need for renewable energy sources and the large amount of national legislation, guidance and policy which strongly supports the transition to a low carbon future. The potential energy generation together with the limited degree of harm to landscape character and visual amenity alone comprise the very special circumstances that outweigh the harm by reason of inappropriateness, and the other harm identified, that allow this project to proceed. The substantial environmental and biodiversity benefits and the lack of suitable sites in Basildon add weight to my conclusion that planning permission should be granted.

### **Conditions**

30. Apart from the usual time limitation on development, conditions are necessary to ensure that the solar panels and associated infrastructure is removed and the land returned to agriculture after 40 years, or after a period during which no electricity is generated. The mitigation and enhancement works are an important part of the project which must be in place before any electricity is exported. The times during works can take place are limited in the interests of local residents, unless agreed in advance by the Council.
31. A Construction Environmental Management Plan, a Construction Environmental Management Plan (Biodiversity), a Landscape and Ecological Management Plan, a Biodiversity Enhancement Strategy for protected and priority species and a programme of archaeological investigation are all necessary to ensure that the development proceeds with all the proper safeguards for biodiversity, the environment and heritage interests. Other conditions ensure that flooding and external lighting is properly controlled. An Arboricultural Method Statement is required to ensure that existing trees are properly protected. A 'Grampian' condition has been agreed between the parties which facilitates a Farmland Bird Mitigation Strategy securing offsite compensation measures for nesting skylark, lapwing and yellow wagtail. Finally, the development needs to be constructed in accordance with the approved drawings and documents, for the avoidance of doubt and in the interests of proper planning.



## **Conclusion**

32. National policy sets out the urgency for new energy infrastructure to contribute to a secure, diverse and affordable energy supply. The Council's 2020 Climate Change Strategy and Action Plan calls for and requires significant and urgent action. Increasing local renewable energy generation forms part of one of the three key pillars of the Action Plan.
33. There are no relevant up to date development plan policies. The presumption in favour of sustainable development at paragraph 11(d) of the NPPF in respect of decision-taking sets out that where there are no relevant development plan policies, or the policies which are most important for determining an application are out of date, planning permission should be granted unless (i) the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development. This includes land designated as Green Belt. It has not been shown that national policy or guidance provides a clear reason to refuse this scheme and for all the above reasons the appeal should succeed.

*Paul Jackson*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

|   |            |
|---|------------|
| Jonathan Clay                                     | Of Counsel |
| Chris COX BSc (Hons) MA MRTPI                     | Pegasus    |
| Frances Horne BA BA (Hons) Dip LA<br>Dip UED CMLI | Pegasus    |
| Gail Stoten MCifA FSA                             | Pegasus    |
| Si Gillett  | Humbeat    |
| Jack Spurway BSc (Hons)                           | Boom Power |
| Jacob Lane  | Boom Power |

### FOR THE LOCAL PLANNING AUTHORITY:

|   |  |
|---|--|
| Louise Cook BA (Hons) MA MRTPI                      | Principal Planner, Basildon Council        |
| Christine Lyons BSc (Hons) PGDipTP<br>MRTPI         | Head of Planning, Basildon Council         |
| Robert Browne BA(Hons) MA CMLI                      | Place Services                             |
| Lewis Reynolds BA(Hons) PGCert MA<br>MIAgrM MCIHort | Place Services                             |
| Charles Sweeney BSc(Hons)<br>PGDipTP CertUD MRTPI   | Development Team Manager, Basildon Council |

## DOCUMENTS

- 1 R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant); [2020]
- 2 Wychavon DC v Secretary of State for Communities and Local Government [2008] EWCA Civ 692; [2009]
- 3 Basildon Borough Council Planning Committee Officers Report 22/01486/FULL, 7 June 2023
- 4 Appellant's closing submission and costs application
- 5 Suggested agreed 'Grampian' condition to provide farmland bird mitigation

## Schedule of conditions

- 1) The development hereby permitted shall begin not later than [3] years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, submitted reports and conditions listed on this decision notice:
  - A001 Rev 1.2 (Location Plan)
  - P21-3208.003 Rev B (Landscape Masterplan)

- B004 Rev 3.0 (Cable Route)
  - B104 Rev 1.0 (Compound Area Layout)
  - B105 Rev 1.0 (Education Board Elevations)
  - B008 Rev 1.0 (Education Board Location)
  - B107 Rev 1.0 (Internal Access Track Cross Section)
  - B001 Rev 2.1 (Overall Layout Planning)
  - B112 Rev 1.2 (Perimeter Deer Fence Elevations)
  - Proposed Advert (Unnumbered)
  - B005 Rev 1.0 (DNO 33kv Substations Foundations & Elevations)
  - B101 Rev 1.0 (CCTV Pole Elevations Fence)
  - B114 Rev 1.0 (Site Entrance Gates Elevation Wooden)
  - B115 Rev 1.0 (Solar Farm Cross Section)
  - B002 Rev 1.1 (Solar Panel Elevations)
  - B003 Rev 1.1 (Solar Panel Layout)
  - B116 Rev 1.0 (Storage Container Foundations & Elevations)
  - 36762IPLS-01 Sheets 1 to 21 (Topographical Survey)
  - B117 Rev 1.2 (Transformer Substations Foundations & Elevations)
  - B119 Rev 1.1 (Trenching Cross Section)
  - Arboricultural Survey, Impact Assessment and Protection Plan by Andrew Cunningham dated 28th January 2022
  - Drainage Operation and Maintenance Manual by Pegasus Group dated January 2022
  - Ecological Impact Assessment by Clarkson and Woods dated February 2022
    - Flood Risk Assessment & Surface Water Drainage Strategy by Pegasus Group dated January 2022
    - Construction Traffic Management Plan by Pegasus Group dated January 2022 and Figure 2.1 (Site Location and Construction Traffic Routing Plan)
- 3) The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity generated by the solar panels is first exported to the Grid. The applicant/developer shall notify the Local Planning Authority in writing within 10 working days of electricity being generated from the development being first exported to the Grid.
- 4) No later than six months prior to the expiry of the planning permission, or within six months of the cessation of electricity generation by this solar PV farm, whichever is the sooner, a detailed scheme of works for the removal of the development (excluding the approved landscaping and biodiversity works) shall be submitted to and approved in writing by the Local Planning Authority (LPA). The scheme of works shall include the following: (a) a programme of works; (b) a method statement for the decommissioning and dismantling of all equipment and surfacing on site; (c) details of any items to be retained on site; (d) a method statement

- for restoring the land to agriculture; (e) timescale for the decommissioning, removal and reinstatement of the land; (f) a method statement for the disposal/recycling of redundant equipment/structures; (g) soil management plan. The scheme of works shall be undertaken in accordance with the approved details and timescales. The operator shall notify the Local Planning Authority in writing within five working days following the cessation of electricity generation.
- 5) If the solar farm ceases to export electricity to the grid for a continuous period of twelve months, a scheme shall be submitted to the Local Planning Authority for its written approval within three months from the end of the twelve-month period for the removal of the solar farm and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within nine months of the written approval being given.
  - 6) No construction or decommissioning works shall take place except between the following hours: 08:00 to 18:00 Monday to Friday, and 08:00 to 13:00 Saturday, unless otherwise approved in advance in writing by the Local Planning Authority. No construction or decommissioning works shall take place at any time on Sunday or a Bank Holiday.
  - 7) Before any electricity is exported to the grid, all mitigation and enhancement measures and/or works shall have been carried out in accordance with the details contained in Ecological Impact Assessment (Clarkson and Woods Ltd, February 2022). This must include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall supervise all activities, and works shall be carried out, in accordance with the approved details.
  - 8) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority following the recommendations made within the Ecological Impact Assessment (Clarkson and Woods Ltd, February 2022). The CEMP (Biodiversity) shall include the following:
    - a) Risk assessment of potentially damaging construction activities.
    - b) Identification of "biodiversity protection zones".
    - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
    - d) The location and timing of sensitive works to avoid harm to biodiversity features.
    - e) The times during construction when specialist ecologists need to be present on site to oversee works.
    - f) Responsible persons and lines of communication.
    - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
    - h) Use of protective fences, exclusion barriers and warning signs.



The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

- 9) A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority, following the recommendations made by Clarkson and Woods Ltd, February 2022. The content of the Biodiversity Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed enhancement measures;
  - b) detailed designs to achieve stated objectives;
  - c) locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where applicable);
  - d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
  - e) persons responsible for implementing the enhancement measures; and
  - f) details of initial aftercare and long-term maintenance (where relevant).
  - g) a timetable for the works.

The works shall be implemented in accordance with the approved details and timetable prior to occupation and shall be retained thereafter.

- 10) Before any works commence, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the local planning authority prior to first exportation to the National Grid. The content of the LEMP shall include the following:
- (a) Description and evaluation of features to be managed;
  - (b) Ecological trends and constraints on site that might influence management;
  - (c) Aims and objectives of management;
  - (d) Appropriate management options for achieving 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 five-year period);
  - (g) Details of the body or organisation responsible for implementation of the plan;
  - (h) Ongoing monitoring and remedial measures;
  - (i) a timetable for the works.

The LEMP shall include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning

biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details and timetable.

- 11) No development or preliminary groundworks of any kind shall take place within the whole site until a programme of archaeological investigation has been secured and implemented, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the Local Planning Authority following the completion of the archaeological evaluation.

No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the Local Planning Authority.

The applicant shall submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Local Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

- 12) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details for the control and management of noise and dust during the construction phase, and with respect to noise shall have due consideration of the guidance within BS 5228:2009+A1:2014. The CEMP will be adhered to by the contractor throughout the construction process. The CEMP shall include the following:

(a) the parking of vehicles of site operatives and visitors;

(b) details of access to the site;

(c) loading and unloading and the storage of plant and materials used in constructing the development;

(d) the erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate;

(e) wheel washing facilities;

(f) measures to control the emission of noise, dust and dirt during construction;

(g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and

(h) details of a nominated developer/resident liaison representative with an address and contact telephone number to be circulated to those residents consulted on the application by the developer's representatives. This person will act as first point of contact for residents who have any problems or questions related to the ongoing development.

- 13) No development shall take place until a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved before any power is exported to the grid.
- 14) No external lighting, including lighting required for construction and decommissioning, shall be installed at the site until such time as a lighting strategy for biodiversity has been submitted to and approved in writing by the local planning authority. All external lighting shall be installed in accordance with the details agreed in the strategy and shall be maintained thereafter in accordance with the agreed details, subject to any such variation that may be agreed with the Local Planning Authority. No additional external lighting shall be installed without prior written consent from the Local Planning Authority.
- 15) Prior to commencement of development, an Arboricultural Method Statement (including any demolition, groundworks and site clearance) shall be submitted to and approved in writing by the Local Planning Authority. The Statement should include details of the following:
  - (a) Measures for the protection of those trees and hedges on the application site that are to be retained, in accordance with the requirements of BS 5837: 2012 – Trees in Relation to Design, Demolition and Construction;
  - (b) Details of all construction measures within the 'Root Protection Area' (defined by a radius of  $dbh \times 12$  where  $dbh$  is the diameter of the trunk measured at a height of 1.5m above ground level) of those trees on the application site which are to be retained specifying the position, depth, and method of construction/installation/excavation of service trenches, building foundations, hardstanding, roads and footpaths;
  - (c) A schedule of proposed surgery works to be undertaken to those trees and hedges on the application site which are to be retained.

Within the root protection areas the existing ground level shall be neither raised nor lowered and no materials, temporary buildings / structures, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

The development shall be carried out in accordance with the approved Method Statement. The protection measures as approved shall be undertaken at the site in accordance with the approved Method Statement before any work in connection with the development hereby permitted commences at the site, and shall be retained for the entire period of the duration of any work at the site.
- 16) Prior to the commencement of development, a Farmland Bird Mitigation Strategy shall be submitted to and approved by the local planning authority to compensate the loss or displacement of any Farmland Bird territories (including 11 skylark territories, 3 lapwing territories and 1 yellow wagtail territory) identified as lost or displaced. This shall include the provision of offsite compensation measures to be secured in nearby

agricultural land. The Farmland Bird Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed compensation measure eg. Skylark nest plots;
- b) detailed methodology for the compensation measures eg. Skylark plots must follow Agri-Environment Scheme option: 'AB4 Skylark Plots';
- c) locations of the compensation measures by appropriate maps and/or plans;
- d) persons responsible for implementing the compensation measure; and
- e) timescales.

The Farmland Bird Mitigation Strategy shall be implemented in accordance with the approved timescales and all features shall be retained for a minimum period of 10 years.





Department for Levelling Up,  
Housing & Communities

Phil Roden  
Well House Barns  
Bretton  
Chester  
CH4 0DH

Our ref: APP/X1925/V/23/3323321  
Your ref: 21/03380/FP

11 March 2024

*By email only*  
Philliprod@axis.co.uk

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION MADE BY AGR 4 SOLAR LTD  
LAND AT GRAVELEY LANE AND TO THE EAST OF GREAT WYMONDLEY,  
HERTFORDSHIRE.  
APPLICATION REF: 21/03380/FP**

*This decision was made by Simon Hoare MP, Parliamentary Under Secretary of State for Local Government, on behalf of the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of Richard Clegg BA(Hons) DMS MRTPI who held a public local inquiry which sat for 7 days between 12 to 22 September 2023 into your clients' planning application for the following development: Proposed solar array with associated battery storage containers and ancillary development including means of access and grid connection cable on land at Graveley Lane and to the east of Great Wymondley, Hertfordshire, in accordance with application Ref. 21/03380/FP, dated 6 December 2021.
2. On 26 May 2023, this application was called in for decision by the Secretary of State by a direction, made under Section 77 of the Town and County Planning Act (TCPA) 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the application be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, but disagrees with his recommendation. He has decided to grant planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to the IR.

**Matters arising since the close of the inquiry**

4. A revised version of the National Planning Policy Framework (the Framework) was published on 20 December 2023. The Secretary of State referred back to parties on 17 January 2024. At the same time the updated versions of National Policy Statements (NPS) EN-1 and EN-3 were referenced back for parties to comment on. A list of representations received in response to this letter is at Annex A. These representations,

and responses to them, were circulated to the main parties. The responses covered a range of issues, including, among other matters, the increased emphasis on the requirement for renewable energy, and that this policy statement referred to Nationally Significant Infrastructure Projects (NSIPs) of 50MW or more, which this application is not, and the amendments in relation to Best and Most Versatile (BMV) agricultural land. The Secretary of State has taken these representations into account when reaching his decision. Conclusions on specific matters are set out below. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.

5. Provisions relating to mandatory Biodiversity Net Gain (BNG) have been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permission granted for applications made before this date are not subject to mandatory BNG.

### **Policy and statutory considerations**

6. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan consists of the North Hertfordshire Local Plan (2011-2031), the Wymondley Parish Neighbourhood Plan (2015-2031) and the Hertfordshire Minerals Local Plan Review (2002-2016). The Secretary of State agrees with the Inspector at IR5.1 that the Hertfordshire Waste Core Strategy and Development Management Policies Document, and Hertfordshire Waste Site Allocations Document are not relevant to the application proposal. The Secretary of State considers that relevant development plan policies include those set out at IR5.2-5.8.
8. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance), plus the other publications listed at IR5.9.
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

### *Emerging plan*

10. The emerging Hertfordshire Mineral and Waste Local Plan 2040 is at consultation stage. The Local Planning Authority (LPA) has consulted upon a draft version of the Plan and are currently reviewing those comments.
11. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. As the emerging plan is at an early stage, the Secretary of State affords it very limited weight in the determination of this application.

## **Main issues**

12. The Secretary of State agrees that the main issues are those set out by the Inspector at IR 12.1.

### *Green Belt*

13. The Secretary of State agrees with the Inspector and parties that the proposal represents inappropriate development in the Green Belt (IR12.2).
14. For the reasons given in IR12.3-12.4, the Secretary of State agrees with the Inspector that the proposal would have an adverse impact insofar as the spatial aspect of openness is concerned (IR12.3), and would result in a significant loss of openness, both spatially and visually, in the Green Belt (IR12.4).
15. For the reasons given at IR12.6-12.9 the Secretary of State agrees that the introduction of development onto the site, would be harmful to purposes of the Green Belt (a) to check the unrestricted sprawl of large built-up areas, (b) to prevent neighbouring towns merging into one another, (c) assisting in safeguarding the countryside from encroachment and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
16. Policies SP5 of the Local Plan and GB1 of the Neighbourhood Plan refer to the need to demonstrate Very Special Circumstances (VSCs), and to ensure compliance with Government Green Belt policy respectively. Paragraphs 152-153 (formerly 147-148) of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in VSCs. VSCs will not exist unless the potential harm to the Green Belt and any other harm resulting from the proposal, is clearly outweighed by other considerations. The Secretary of State has gone on to consider these matters. His conclusion on whether VSCs exist, and therefore on whether the application complies with Policies SP5 and GB1 is set out at paragraph 39 below.

### *Climate Change and Energy Security*

17. As a renewable energy scheme, the Secretary of State finds that the proposal accords with Local Plan policy SP11(a). The Secretary of State notes that the proposal would have a 49.995MW export capacity during peak operation (IR4.1) representing an important contribution to the Government's expectation of a five-fold increase in solar deployment by 2035 (IR12.13), and that the District and County Councils both declared a Climate Emergency in 2019 (IR12.14). He further notes that planning permission has only been granted for two solar farms in North Hertfordshire: that both are small with generating capacities of 6MW and 5MW, and that no permission has been granted since 2015 (IR12.15). Local Plan Policy SP1 looks to ensure sustainable development in North Hertfordshire, and specifically refers to providing the necessary infrastructure required to support an increasing population. Like the Inspector in IR5.5, the Secretary of State concludes that Policy SP1 lends support to the application proposals.
18. With regard to the weight to be attached to the development's contribution towards renewable energy targets, the Secretary of State disagrees with the Inspector's conclusion at IR12.16 that these carry significant weight (IR12.16). Rather, he considers that, for the reasons given in paragraph 17 of this letter, plus the generation of sufficient electricity to meet the requirements of about 31% of the homes in the District (IR12.15), and the significance of that contribution towards moving away from reliance on fossil fuel sources of energy, that substantial weight should be afforded to this benefit. .

### *Character and Appearance*

19. The Secretary of State agrees that although the site is considered to be of low sensitivity in landscape terms and to have low-moderate visual sensitivity, its open views would be sensitive to the introduction of further urbanising features (IR12.18). He further agrees that there would be no alteration to the field pattern, and the proximity of the motorway reduces the susceptibility to change (IR12.19). For the reasons given at IR12.19 the Secretary of State agrees that there would be a moderate adverse impact on the landscape character area, both following construction (year 0) and when planting had become established (year 10).
20. The Secretary of State agrees that additional planting would be a positive contribution to the character of the site and its environs (IR12.21). He further agrees that the replacement of large arable fields would represent a major and adverse change to the landscape of the site and given the scale of development, planting would not materially lessen the impact on the local landscape (IR12.21). He agrees that the proposal would not recognise the intrinsic character and beauty of the stretch of countryside to the east of Great Wymondley. For the reasons given at IR12.22 the Secretary of State agrees that the proposed development would not adversely affect the setting of the Chilterns National Landscape approximately 5.3km to the west.
21. For the reasons given at IR12.23 the Secretary of State agrees that in the short-term the introduction of the solar farm would have major to moderate adverse effects from parts of the Hertfordshire Way and Graveley Lane. For the reasons given in IR12.24, the Secretary of State agrees that when planting becomes established it would not compensate for the restriction of views across the open fields of the site from Graveley Lane and the Hertfordshire Way. For the reasons given in IR12.25-12.28, the Secretary of State agrees with the Inspector that the sensitivity of users of the A1(M) is low (IR12.25). Further to this, he agrees that from Graveley Road and the nearby castle remains in Great Wymondley, only heavily filtered views towards the site are available, and planting would restrict these even further and that from western edge of Graveley, the development would have a negligible effect (IR12.27). He also agrees that planting reduces levels of harm to minor for the footpaths described in IR12.26. Like the Inspector, he considers that the proposed development would have a damaging effect on the character and appearance of the area, and it would therefore be contrary to Local Plan Policies SP12, NE2 (IR12.29) and D1, which requires proposals to respond positively to their local context (IR12.64).

### *Habitats and Biodiversity*

22. For the reasons given at IR12.30-12.34, the Secretary of State finds concern with the certainty over the mitigation proposed for displaced skylarks and agrees with the Inspector's conclusion that this carries moderate weight against the proposal (IR12.38).
23. The Secretary of State finds the delivery of BNG of 205.96% in habitat units and 102.29% in hedgerow units (IR12.37) would be a significant positive contribution resulting from the development. He therefore agrees with the Inspector's conclusion at IR12.38 that this carries significant weight.

### *Heritage Assets*

24. For the reasons given at IR12.40-12.45, the Secretary of State agrees with the Inspector at IR12.45 that the proposal would detract from the setting of Great Wymondley Conservation Area (GWCA) and the scheduled monument of Great Wymondley Castle,



with the harm to the GWCA at the upper end of the less than substantial harm spectrum and to the castle at the lower end.

25. The Secretary of State has carefully considered the reasons given at IR12.46-IR12.49 in relation to the grade I listed Wymondley Priory, however he disagrees with the Inspector's assessment at IR12.49 that the proposal would cause serious harm to the setting of the scheduled monument, together with that of the grade I listed priory and the grade II\* listed nearby tithe barn, and less than substantial harm to the contribution which setting makes to their significance. As set out at IR12.48 the intervisibility between the priory and the application site is limited, and the proposed planting would restrict this further. The Secretary of State considers that the proposed development retains visual separation between the priory complex and the farmland setting would remain as a result of the proposed development, as would the ability to appreciate the contribution of that setting to the significance of the priory complex. He therefore concludes that there would be a moderate level of harm to the setting of the scheduled monument. Like the Inspector concludes at IR12.48, the Secretary of State agrees concern does not extend to the conduit head due to its concealment by existing trees and whose relationship with the main complex across open farmland would remain distinct.
26. For the reasons given at IR12.50-12.51, the Secretary of State agrees with the Inspector that the proposed development would not materially affect the setting of the grade II\* listed St. Mary's Church and the grade II listed buildings at Graveley Hall Farm.
27. As per paragraph 205 (formerly 199) of the framework, at IR12.89 the Inspector assigns great weight to the collective harm to all the Heritage Assets and concludes the proposal would conflict with Local and Neighbourhood Plan policies. The Secretary of State notes out of the four groups of heritage assets, the Inspector finds no material effect to two groups. The Secretary of State notes the Inspector's analysis of paragraph 208 of the Framework (formerly paragraph 202) and the Inspector's assessment of the public benefits of the scheme at IR12.87-88. The Inspector does not find conflict with Local Plan policies HE3 and HE4, relating to heritage, with which the Secretary of State agrees. Local Plan policy SP13 explains that, when considering the impact of development on the significance of a designated heritage asset, great weight will be given to the asset's conservation and the management of its setting. Local Plan policy HE1 requires less than substantial harm to the significance of a designated heritage asset to be assessed against the public benefits of the development proposed, mirroring the heritage test set out in paragraph 208 (formerly paragraph 202) of the Framework. He has returned to this matter at paragraph 38 below.

### *Agricultural Land*

28. For the reasons given at IR12.55-12.61 the Secretary of State agrees that the proposed development would be consistent with the provisions of paragraph 180(b) (formerly 174) of the Framework. Like the Inspector, the Secretary of State agrees the proposal would enable agricultural use of the land to continue through grazing.
29. Footnote 62 of the Framework, concerning the importance of the availability of agricultural land used for food production has been given further consideration in relation to this application. The Secretary of State upholds his opinion that the proposed development would be consistent with paragraph 180(b) (formerly 174) of the Framework and finds the updated Footnote 62 to have limited bearing on the application.

### *Site Selection*

30. The Secretary of State notes the Inspector's concerns set out at IR12.77 and his conclusion that the site selection exercise does not provide clear support for the development of the solar farm on the application site. He has carefully considered the assessment of six extra-high voltage substations, and six 132kV substations, plus the applicant's evidence at IR7.1 and 7.2 concerning engagement with other potential sites to the west and south. He disagrees with the Inspector's conclusions in this regard and in his judgement, he considers that the selection of the application site followed a robust and reasonable approach to site selection.
31. Further to this, the Secretary of State agrees with the Inspector for the reasons given at IR12.79 and IR12.88 that the scheme's availability and deliverability and the urgency of addressing the climate crisis, are matters which lend significant support to the proposal, and he considers these matters attract significant weight.

*Other benefits or disbenefits to be weighed in the planning balance*

32. The Secretary of State agrees that the economic benefits arising from employment (IR12.86) and the reversibility of the development (IR12.88) should be taken into account and considers they should hold limited weight.
33. Furthermore, the Secretary of State agrees that the reduction in flood risk (IR12.68) and the provision of permissive paths (IR12.85) should carry moderate weight.

**Planning conditions**

34. The Secretary of State had regard to the Inspector's analysis at IR12.87, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision.

**Planning balance and overall conclusion**

35. For the reasons given above, the Secretary of State has found that the application is in conflict with Local Plan policies SP12, NE2 and D1 in relation to impact on landscape and character. With regard to heritage, the Secretary of State, like the Inspector finds that there is compliance with Policy HE3 and HE4, however given his findings with regard to the heritage balance set out at para 38 below, he also finds, unlike the Inspector, that the proposals are compliant with policies SP13 and HE1. He also finds the application to be compliant with local policies relating to biodiversity, BMV land and flooding. The Secretary of State also finds that the proposal is in accordance with Policy SP5 and NP Policy GB1 given that he deems (in para 39 below) that there are VSCs which outweigh the harm to the Green Belt. Given his findings in respect of Green Belt and heritage matters above, and his overall conclusions in respect of the scheme, the Secretary of state also concludes that the scheme complies with Local Plan policies SP11(a) and SP1. Taking into account his conclusions set out above, the Secretary of State has concluded that overall, the application is in broad compliance with the development plan taken as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
36. Weighing in favour of the proposal is the production of renewable energy which the Secretary of State considers carries substantial weight, including the wider environmental

benefits associated with increased production of energy from renewable sources, as set out in paragraph 156 (formerly 151) of the Framework and the contribution which the proposals make to the generation of sufficient electricity to meet the requirements of about 31% of the homes in the District; the BNG contribution which carries significant weight, and the deliverability of the scheme which is afforded significant weight. Further to this are the positive benefits arising from the reduction in flood risk and contribution to permissive footpaths, to which moderate weight is afforded and from the reversibility of development and economic benefits from employment, which carry limited weight.

37. Weighing against the proposal is harm to the Green Belt which carries substantial weight, harm to heritage which carries great weight and uncertainty about mitigation for displaced Skylarks which carries moderate weight. Further to this, harm is found to the impact on views from Graveley Lane and the Hertfordshire Way which carries considerable weight, to the landscape of the site and its immediate surroundings which carries significant weight and to the effect on landscape character area which carries moderate weight.
38. The Secretary of State has considered paragraph 208 (formerly paragraph 202) of the Framework. He considers that the public benefits of the proposal do outweigh the less than substantial harm to the designated heritage assets and therefore, in his judgement, the Framework's heritage balance is favourable to the proposal.
39. The Secretary of State has considered paragraph 153 (formerly paragraph 148) of the Framework. He considers that 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, and therefore considers that VSCs exist.
40. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the overall accordance with the development plan and the material considerations in this case indicate that permission should be granted.
41. The Secretary of State therefore concludes that planning permission for the application should be granted.

### **Formal decision**

42. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby grants planning permission for a solar array with associated battery storage containers and ancillary development including means of access and grid connection cable, in accordance with application Ref. 21/03380/FP, dated 6 December 2021.

### **Right to challenge the decision**

43. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.
44. A copy of this letter has been sent to North Hertfordshire Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*L. Thomas*

Decision officer

*This decision was made by the Parliamentary Under Secretary of State for Local Government, Simon Hoare MP, on behalf of the Secretary of State, and signed on his behalf*



## Annex A Schedule of representations

### Representations received in response to the Secretary of State's reference back letter of

| <b>Party</b>                           | <b>Date</b>     |
|--|-----------------|
| Joint Objector's Group – Jed Griffiths | 28 January 2024 |
| Axis (on behalf of the applicant)      | 31 January 2024 |

### Representations received in response to the Secretary of State's recirculation letter of

| <b>Party</b>                           | <b>Date</b>      |
|--|------------------|
| North Hertfordshire Council            | 7 February 2024  |
| Joint Objector's Group – Jed Griffiths | 12 February 2024 |

## Annex B List of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings:
  - i) Drawing No. 3004-01-001 Rev B – location plan
  - ii) Drawing No. 3004-01-002 Rev B – statutory plan (location plan)
  - iii) Drawing No. 3004-01-003 Rev F – general arrangement (site plan)
  - iv) Drawing No. 3004-01-012 Rev F – landscape proposals
  - v) Drawing No. 3004-01-004 – illustrative PV frame and panels
  - vi) Drawing No. 3004-01-005 – indicative inverter-transformer station
  - vii) Drawing No. 3004-01-006 – storage building
  - viii) Drawing No. 3004-01-007 – control building
  - ix) Drawing No. 3004-01-008 – switchgear building
  - x) Drawing No. 3004-01-009 – battery storage container
  - xi) Drawing No. 3004-01-010 Rev A - indicative deer/stock fencing, access track and CCTV
  - xii) Drawing No. 3004-01-011 – typical cable trench
  - xiii) Drawing No. 3004-01-D04 – proposed passing place and junction visibility splays
  - xiv) Drawing No. 3004-01-D05- forward visibility splays
  - xv) Drawing No. 3004-01-ATR03 - swept path assessment – northern access
  - xvi) Drawing No. 3004-01-ATR01 Rev D - swept path assessment construction phase.

Reason - To provide certainty.

- 3) Notwithstanding condition No 2, no development (excluding demolition, tree protection works, groundworks/investigations) shall take place until details (including layout, materials, colour and finish) of the following have been submitted to and approved in writing by the Local Planning Authority:
  - i) solar panels and frames.
  - ii) CCTV columns.

iii) Satellite communication dish and column.

iv) Location of ancillary buildings, and details of equipment and enclosures

The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: To protect the character of the area.

- 4) Within 1 month of the date of first export of electricity to the National Grid (the date of first export) confirmation shall be given in writing to the Local Planning Authority of the same. The development hereby permitted shall cease on or before the expiry of a 40 years period from the date of first export. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work and an ecological assessment report detailing site requirements in respect of retaining ecological features.

The scheme of decommissioning work and the ecological assessment report shall be submitted to and approved in writing by the Local Planning Authority no later than 39 years from the date of first export and subsequently implemented as approved.

Reason - For the protection of the Green Belt and in accordance with the time limited nature of the application.

- 5) In the event that the development hereby permitted ceases to export electricity to the grid for a continuous period of 12 months at any point after the date of first export (other than for operational reasons outside of the operator's control), a scheme of early decommissioning works (the early decommissioning scheme) and an ecological assessment report detailing site requirements in respect of retaining ecological features (the early ecological assessment report) shall be submitted no later than 3 months after the end of the 12 months non-electricity generating period to the Local Planning Authority for its approval in writing. The approved early decommissioning scheme and the approved early ecological assessment report shall be implemented in full in accordance with a timetable that shall be set out in the early decommissioning scheme.

Reason - The use and associated buildings and structures are not in accordance with national and local policy for the protection of the Green Belt. The use and associated buildings and structures should therefore be removed as soon as possible if the solar farm is no longer required.

- 6) No development shall take place (including demolition, ground works and vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include details of the following:
- i) A timetable for the construction works.
  - ii) The control and management of noise and dust during the construction phase.
  - iii) On-site waste management.
  - iv) A risk assessment of potentially damaging construction activities.

- v) Identification of biodiversity protection zones.
- vi) Physical measures and sensitive working practices to avoid or reduce impacts during construction (which may be provided as a set of method statements).
- vii) The location and timing of sensitive works to avoid harm to biodiversity features.
- viii) The times during the construction period when specialist ecologists need to be present on site to oversee works.
- ix) Responsible persons and lines of communication.
- x) The role and responsibilities on site of an ecological clerk of works or similar competent person.
- xi) The use of protective fences, exclusion barriers and warning signs.
- xii) Soil management across the site.
- xiii) A flood management plan, which shall include a requirement for the contractor to sign up to the Environment Agency flood warning service, and which shall set out the actions to be taken in the event that a flood alert and/or flood warning is received from the Environment Agency (including a requirement that no new trenches are excavated until the Environment Agency has issued an All Clear).
- xiv) Construction and storage compounds, and post-construction reinstatement of these areas.

The development shall be implemented in accordance with the approved CEMP throughout the construction period.

Reason – To safeguard the living conditions of nearby residents, to ensure that construction works do not have a harmful environmental effect, and to ensure that there is no obstruction to flood water flows and no increase in flood risk elsewhere during construction of the development.

- 7) During the installation of underground cables, no spoil or material shall be stored adjacent to Stevenage Road, Little Wymondley within the extent of flood zone 3, nor along any part of Priory Lane.

Reason: To ensure that the storage of spoil and other material does not impede flood water flows nor increase flood risk during construction of the development, and to comply with Policy NE7 of the North Hertfordshire Local Plan 2011-2031.

- 8) No development shall take place until a construction traffic management plan (CTMP) has been submitted to, and approved in writing by, the local planning authority. The CTMP shall include details of the following:
  - i) Construction vehicle numbers, type and routeing.
  - ii) Access arrangements onto the site.
  - iii) Traffic management measures.



- iv) Areas designated for car parking, loading/unloading and vehicle turning.
- v) Wheel washing facilities.
- vi) Arrangements for the cleaning of site entrances, internal site tracks and the adjacent public highway.

The development shall be implemented in accordance with the approved CTMP throughout the construction period.

Reason - In the interest of highway safety, to safeguard the living conditions of local residents, and to ensure that construction traffic does not have a harmful environmental effect.

- 9) No development shall take place until a landscape and ecological management plan (LEMP) has been submitted to, and approved in writing by, the local planning authority. The LEMP shall include the following:
- i) Description and evaluation of features to be managed.
  - ii) Ecological trends and constraints on the site that might influence management.
  - iii) The aims and objectives of management.
  - iv) Appropriate management options for achieving aims and objectives.
  - v) Prescriptions for management action.
  - vi) A work schedule, including an annual work plan capable of being rolled forward over five-year periods to a minimum period of 30 years from the date of first export of electricity to the grid.
  - vii) Details of the organisation responsible for implementation of the plan.
  - viii) Ongoing monitoring and remedial measures.
  - ix) Details of species selected to achieve target habitat conditions as identified in the biodiversity metric 4.0 and stated and marked on plans.
  - x) Measures to safeguard wildlife, in accordance with paragraphs 4.7.1-4.7.46 of the Ecological Assessment Report ref AxisL-043—1480.
  - xi) Details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured.
  - xii) The means by which contingencies and/or remedial action will be identified, agreed and implemented in order that the development delivers the biodiversity objectives of the approved scheme.

The development shall be carried out in accordance with the approved LEMP.

Reason - To ensure the delivery of measurable biodiversity net gain.

- 10) No development shall take place until a fire risk management plan (FRMP) has been submitted to, and approved in writing by, the Local Planning Authority. The FRMP

shall include details of battery management, response to fire at the development, and emergency vehicle access.

Reason - To manage fire risk and ensure public safety.

- 11) No external lighting shall be installed on the site before a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be designed in accordance with the advice on lighting set out in the Institute of Lighting Professionals (ILP) (2023) Guidance Note 8/18: Bats and Artificial Lighting in the UK- Bats and the Built Environment Series. BCT London (or any successor document). The lighting shall be installed in accordance with the approved scheme.

Reason: To prevent light pollution, to protect the character of the area, and to avoid harm to bats.

- 12) Notwithstanding any details submitted, no development shall take place until details of hard and soft landscaping (the landscaping scheme) have been submitted to, and approved in writing by, the local planning authority. The landscaping scheme shall include details of the following:

- i) A timetable for implementation of the scheme.
- ii) External hard surfacing materials.
- iii) Means of enclosure.
- iv) Proposed and existing services above and below ground.
- v) Soft landscape works including planting plans, written specifications for cultivation and other operations associated with plant and grass establishment, and schedules of plants including species, plant sizes and proposed numbers or densities.
- vi) Finished levels and contours.

The landscaping shall be implemented in accordance with the approved scheme and timetable. Any tree or shrub which forms part of the approved landscaping scheme, and which, within a period of 5 years from planting, fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be agreed with the local planning authority.

Reason – To safeguard the character and appearance of the area.

- 13) Notwithstanding the submitted Archaeological Mitigation Strategy – Written Scheme of Investigation (WSI) by AOC Archaeology Group, ref 25806/80064, no development shall take place until the pre-development actions specified in a revised WSI, which has been submitted to and approved in writing by the local planning authority, have been completed. The scheme shall include:

- i) The programme and methodology of site investigation and recording.
- ii) Identification of the no-dig areas.

- iii) The programme for post investigation assessment.
- iv) Arrangements for analysis of the site investigation and recording.
- v) Arrangements for publication and dissemination of the analysis and records of the site investigation.
- vi) Arrangements for archive deposition of the analysis and records of the site investigation.
- vii) Nomination of a competent person or organisation to undertake the works set out within the revised WSI.

The development shall take place in accordance with the programme of archaeological works set out in the approved WSI.

Reason –To safeguard and to ensure the investigation and recording of archaeological assets within the site.

14)No excavation activities shall be undertaken within the no-dig areas identified in the revised WSI.

Reason - To safeguard archaeological assets within the site.

15)During the construction phase of the development hereby approved no construction activities shall take place outside the following hours: Monday to Friday 08:00-18:00, and Saturdays 08:00-13:00. No construction activities shall take place at any time on Sundays or bank holidays, and piling shall only be undertaken between 09.00 and 17.00 Monday to Friday.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

16)No noise generating plant shall be installed before details of such plant and any mitigation measures, which demonstrate compliance with the source noise levels detailed in Section 6.2.3 of the Noise Impact Assessment reference R21.0906/DRK dated 7 October 2021, have been submitted to, and approved in writing by, the Local Planning Authority. The plant shall be installed in accordance with the approved scheme.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

17)No development, including ground works and ground preparation works, shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The submitted surface water drainage scheme shall include:

- i) Methods to ensure that surface water run-off generated from the development site does not exceed run-off rates from the undeveloped site for the corresponding rainfall event up to and including 1 in 100 years + climate change critical storm.

- ii) Methods to ensure that the scheme provides betterment in respect of the pre-development overland flow paths for the 1 in 30-year event.
- iii) A condition survey of the 285m culvert that crosses the northern part of the site.
- iv) Retention of the existing overland flow pathways across the site free of obstruction.
- v) Detailed drawings of the attenuation basins including location, size, volume, depth, inlet and outlet features, connecting pipe runs and all calculations and modelling to ensure that the scheme caters for all rainfall events up to and including the 1 in 100 year plus climate change event.
- vi) Detailed drawings of all proposed discharge locations, including headwall details, and evidence of land ownership with evidence of any required third-party permissions.
- vii) Run-off quality treatment.
- viii) Provision of half drain down times for surface water drainage features within 24 hours.
- ix) Silt traps for protection of any residual tanked elements.
- x) Arrangements for maintenance and management of the scheme.
- xi) A timetable for implementation of the scheme.

The development shall be carried out in accordance with the approved scheme and timetable.

Reason – To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

18) No development shall take place until a scheme of interim and temporary drainage measures during the construction period have been submitted to, and approved in writing by, the local planning authority. The scheme shall provide full details of the responsibility for maintaining the temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. Construction shall be carried out in accordance with the approved scheme.

Reason - To ensure adequate drainage provision and to prevent flooding and pollution offsite.

19) No electricity shall be exported to the National Grid, until, upon completion of the surface water drainage/flood management works for the development hereby permitted, the following documents have been submitted to and approved in writing by the Local Planning Authority:

- i) Provision of a verification report, including evidence demonstrating that the approved construction details and specifications have been implemented in



accordance with the surface water drainage scheme. The verification report shall include photographs of excavations and soil profiles/horizons, installation of any surface water structures (during construction and final make up) and the control mechanism.

- ii) Provision of a complete set of built drawings for site drainage.
- iii) A management and maintenance plan for the sustainable drainage features and drainage network.
- iv) The management and maintenance plan for the sustainable drainage features and drainage network shall be implemented as approved.

Reason - To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

20) No excavation of trenches for cabling within Wymondley Transforming Station Local Wildlife Site (LWS) shall take place until a soil management plan has been submitted to and approved in writing by the Local Planning Authority. The soil management plan shall include the following:

- i) An ecological survey of the route across the LWS.
- ii) Details relating to the lifting, storage and replacement of turves, including the season when this will take place.
- iii) Proposed aftercare and management.

The works shall be undertaken in accordance with the approved management plan.

Reason - To minimise the impact upon the ecological and biodiversity interest of the Wymondley Transforming Station LWS in accordance with Policy NE4 of the North Hertfordshire Local Plan 2011-2031.

21) No development shall take place until an arboricultural method statement identifying measures to protect trees and hedgerows to be retained, has been submitted to, and approved in writing by, the local planning authority. The statement shall include a tree and hedgerow protection plan and measures to protect trees and hedgerows during site preparation, construction, and landscaping operations.

Reason - To protect trees and hedgerows, and to safeguard the character and appearance of the area.

22) No development shall take place until a skylark mitigation strategy has been submitted to, and approved in writing, by the local planning authority. The skylark mitigation strategy shall include details of the following:

- i) Identification of the proposed area for the implementation of mitigation.
- ii) Details of how the area will be managed.
- iii) Arrangements to secure the delivery of proposed measures, including a timetable of delivery; and a management and monitoring plan for a period of not less than 5 years

from the date of first export of electricity to the grid. Ecological monitoring reports should be submitted to the Local Planning Authority in year 2 and year 5 of the plan.

- iv) Identification of persons responsible for implementing the measures included in the strategy.

The development shall be carried out in accordance with the approved strategy and timetable, and the mitigation measures shall be retained for the lifetime of the development.

Reason – To provide alternative foraging and nesting opportunities for skylarks displaced from the application site.

- 23) No electricity shall be exported to the National Grid until a grazing management plan (GMP) has been submitted to and approved in writing by the Local Planning Authority. The GMP shall detail which parts of the site shall be used for the grazing of livestock, during which months of the year, and how the grazing is to be managed. Within three years of the date of first export, the grazing of livestock shall commence on the site in accordance with the GMP. The approved GMP shall be implemented thereafter. Any changes to the GMP during the lifetime of the permission shall be submitted to the Local Planning Authority for approval in writing and shall not be carried out except in accordance with the approved revised GMP.

Reason - To ensure that agricultural use continues on the site.

- 24) No electricity shall be exported to the National Grid until a scheme relating to the proposed permissive footpaths shown on submitted drawing No. 3004-01-003 Rev F has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of surfacing, a timetable for implementation, signage, waymarks and interpretative panels relating to the proposal. The footpaths shall be implemented and made available for public use in accordance with the approved scheme and timetable.

Reason - To enhance pedestrian movement within and around the site.

- 25) No development shall take place until detailed engineering drawings of the accesses, as shown on plans ref 3004-01-D04 and 3004-01-D05, have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include details of hardsurfacing for at least the first 20 metres from the back edge of the carriageway and associated drainage, and visibility splays of 2.4m x 105m to the west and 2.4m x 148m to the east, within which there shall be no vertical obstruction between 0.6m and 2m. No other development shall take place until the site accesses arrangements have been constructed in accordance with the approved drawings.

Reason – In the interest of highway safety.

- 26) No development shall take place until detailed engineering drawings of the passing bay on Graveley Lane, as shown on plans ref 3004-01-D04 and 3004-01-D05 have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include measures to demonstrate how the passing bay will be prevented from being used for parking purposes. No other development shall take place until the passing bay has been provided in accordance with the approved drawings.

Reason – In the interest of highway safety and the free movement of traffic.

27) Within 3 months of completion of construction, both accesses shall be modified in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority. The revised designs shall reduce the width of both site accesses and provide associated tighter kerb radii to accommodate ongoing maintenance and agricultural vehicles.

Reason: To ensure the provision of an appropriate standard of access for the operational development and to protect the character and appearance of the area.

28) Within 3 months of completion of construction, the passing bay on Graveley Lane shall be removed, and the verge/embankment and vegetation reinstated, in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the area and in the interest of biodiversity.



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# **Report to the Secretary of State for Levelling Up, Housing & Communities**

**by Richard Clegg BA(Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Date 11 December 2023**

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## **TOWN AND COUNTRY PLANNING ACT 1990 NORTH HERTFORDSHIRE DISTRICT COUNCIL**

### **APPLICATION BY AGR 4 SOLAR LTD**

Inquiry opened on 12 September 2023

Land at Graveley Lane and to the east of Great Wymondley

File Ref: APP/X1925/V/23/3323321



**File Ref: APP/X1925/V/23/3323321**

**Land at Graveley Lane and to the east of Great Wymondley, Hertfordshire.**

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 26 May 2023.
- The application is made by AGR 4 Solar Ltd to North Hertfordshire District Council.
- The application Ref 21/03380/FP is dated 6 December 2021.
- The development proposed is described as 'a photovoltaic solar array on land at Priory Farm to the east of Great Wymondley, North Hertfordshire'.
- The reason given for making the direction was that the Secretary of State decided, in the light of his policy on calling in planning applications, that the application should be called in.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
  - a) The extent to which the proposed development is consistent with Government policies for protecting Green Belt land as set out in the National Planning Policy Framework (NPPF) (Chapter 13);
  - b) The extent to which the proposed development is consistent with Government policies for meeting the challenge of climate change, flooding and coastal change as set out in the NPPF (Chapter 14);
  - c) The extent to which the proposed development is consistent with Government policies for conserving and enhancing the natural environment as set out in the NPPF (Chapter 15);
  - d) The extent to which the proposed development is consistent with the development plan for the area; and
  - e) Any other matters the Inspector considers relevant.
- The inquiry sat for seven days: 12-15, 19, 20 & 22 September 2023.
- Site visits took place on 21 & 22 September 2023.

**Summary of Recommendation: That planning permission be refused.**

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## 1. Procedural Matters

- 1.1 The Joint Objectors Group (JOG), comprising Great Wymondley Village Association and Wymondley Parish Council, served a statement of case in accordance with Rule 6(6) of the Town and Country Planning (Inquiries procedure) (England) Rules 2000, and it took a full part in the proceedings of the inquiry. Together with the Applicant and the Local Planning Authority (LPA) it is a main party in the consideration of this application.
- 1.2 A case management conference was held on 18 July 2023 to consider the ongoing management of the case and arrangements for the inquiry. There was no discussion of the merits of any parties' cases at the conference. A note of the meeting (core document 139 (CD139)) was posted on the website for the inquiry, which can be accessed via the following link: [Solar Farm Public Inquiry North Herts Council \(north-herts.gov.uk\)](https://www.north-herts.gov.uk/solar-farm-public-inquiry) . The website includes all core documents.
- 1.3 On the application form, the location of the site is given as *Priory Farm, Graveley Lane, Great Wymondley*. At the case management conference, it was agreed that the site should be referred to as *Land at Graveley Lane and to the east of Great Wymondley*, and I have identified it accordingly in the application details above.
- 1.4 It was also agreed at the case management conference that the proposal should be described as *a solar array with associated battery storage containers, and*

*ancillary development including means of access and grid connection cable, and I have considered the application on this basis.*

- 1.5 The statement of common ground between the Applicant and the LPA (CD140) identifies the plans which were considered by the LPA. The location plan (CD13) only shows a short section of the cable route, whereas it is clear from the planning and design & access statement<sup>1</sup> and the statutory plan (CD14) that the full length of the cable route to Wymondley sub-station forms part of the application site. The submitted plan of the construction phase swept paths at the site accesses from Graveley Lane (CD28) had not been updated with the revised access configuration on the north side of the road, as shown on the site plan (CD16) and the plan of the revised northern access arrangements (CD27). Revised plans were submitted during the inquiry by the Applicant to address these discrepancies (CDs 208 & 217): there was no dispute from other parties that the revised plans correctly show the proposed scheme. I am satisfied that no prejudice would be caused to any party by taking the revised plans into account in considering the application, and I have proceeded accordingly.
- 1.6 The site plan (CD16) shows two surface water attenuation basins, whereas in evidence to the inquiry, the Applicant's flood risk witness proposed three such basins (CD163, para 4.32). It is suggested by the main parties that, should planning permission be granted, a surface water drainage scheme would be required by means of a condition. That scheme would include details of attenuation basins. Moreover the main parties, including the JOG, had the opportunity to discuss the proposed surface water drainage arrangements at the inquiry. I do not consider that the proposed change would materially alter the proposal nor that any prejudice would be caused by taking it into account in my consideration of the proposed development.
- 1.7 On drawing ref 3004-01-D04 (CD25), the plan which shows the southern access junction visibility splays includes a note which incorrectly refers to the 2.4m x 105m splay envelope as being to the east of the junction. It is clear from the plan that this splay envelope is on the west side of the junction.
- 1.8 On 5 September 2023, shortly before the inquiry was due to open, the Government issued a revised version of the NPPF (CD56). The revised NPPF was drawn to the attention of the main parties, and it is this version which I have taken into account in my consideration of the application.
- 1.9 The Chilterns Area of Outstanding Natural Beauty (AONB) has been referred to in documents for this case and was mentioned at the inquiry. On 22 November 2023, all AONBs became known as national landscapes. Consequently, I have referred to The Chilterns AONB as The Chilterns National Landscape in this report. The policy status of the area is unchanged
- 1.10 The matters on which the Secretary of State particularly wishes to be informed refer to Chapter 14 of the NPPF. The content of this chapter concerning coastal change is not relevant to the application, and I have framed my main considerations accordingly (below, para 12.1).

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<sup>1</sup> CD14, para 2.1.1.

1.11 This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendation. Sections 7 - 10 set out the material points of the parties' cases, and do not form part of the conclusions. Lists of possible conditions, appearances and inquiry documents are appended.

## **2. The Site and Surroundings**

- 2.1 The main part of the site comprises two large parcels of land to the north and south of Graveley Lane, a minor road which runs between Great Wymondley and Graveley. On the east side of this land is the A1(M) motorway, and Priory Lane leads south from the western end of Graveley Lane to Little Wymondley.
- 2.2 The site lies in an area of countryside between the towns of Letchworth Garden City, Hitchin and Stevenage, where the two large parcels form part of a more extensive area of gently undulating agricultural land, including fields in arable use. The small settlements of Great Wymondley and Graveley are nearby: Great Wymondley is a short distance to the west of the main part of the application site, whilst Graveley is situated on the east side of the A1(M). Little Wymondley is about 600m to the south-west of the southern parcel of the site, and the cable route passes along roads through this settlement to the sub-station at Wymondley Transforming Station which is further to the south-west. The transforming station is contained by Wymondley Transforming Station Local Wildlife Site (LWS)<sup>2</sup>. The Chilterns National Landscape is about 5.3km to the west<sup>3</sup>.
- 2.3 There are a large number of heritage assets in the vicinity of the site<sup>4</sup>. Great Wymondley Conservation Area includes several listed buildings, and to the south is the main part of the scheduled monument of Wymondley Priory: a detached part of the monument – the Conduit Head – is situated within a field about 70m to the west of the southern parcel of the application site. There is evidence of a Roman settlement between Great Wymondley and the site<sup>5</sup>, and archaeological remains have been found on and around the land.
- 2.4 The application site amounts to about 88ha, the majority of which (84.7ha) is contained in the parcels of land to the north and south of Graveley Lane. This land slopes down in a westerly and south-westerly direction from about 110m above Ordnance Datum (AOD) to about 90m AOD<sup>6</sup>. It is currently cultivated as arable fields, with hedgerows and groups of trees on field boundaries. In terms of land quality, 32.2% is grade 2 and 67.8% is sub-grade 3a<sup>7</sup>, categories which are recognised in the NPPF as being included in the best and most versatile (BMV) agricultural land. The Applicant has submitted an extract from Natural England's Likelihood of BMV maps, which also identifies much of the land in the surrounding area as having a high likelihood of falling within the BMV category<sup>8</sup>.

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<sup>2</sup> CD7, paras 4.2.5 & 4.2.6.

<sup>3</sup> CD140, para 2.1.5. The location of the AONB is shown on the maps at CDs 211 & 212.

<sup>4</sup> CD5 -Heritage Impact Assessment – see plans at figures 2-5 and site gazetteer at appendix 2.

<sup>5</sup> CD2, para 2.1.13.

<sup>6</sup> CD140, para 2.1.7.

<sup>7</sup> CD169, para 3.4.

<sup>8</sup> CD169, para 3.2 and insert 2.

A long-distance footpath – the Hertfordshire Way – runs along the northern and north-eastern boundaries of the northern parcel of farmland. The site also includes the cable route along roads through Little Wymondley to the sub-station, and two strips of land along field boundaries to the west of the southern parcel. With the exception of about 700m of the cable route along Stevenage Road which is in flood zone 3, the site is in flood zone 1<sup>9</sup>.

### **3. Planning History**

- 3.1 My attention has not been drawn to any previous relevant planning applications on the appeal site.

### **4. The Proposal**

- 4.1 The proposed development is described in the statement of common ground and shown on the submitted plans<sup>10</sup>. It would have the capacity to export up to 49.995MW of electricity to the National Grid during peak operation<sup>11</sup>. Solar panels would extend in arrays across the large fields which comprise the north and south parcels of the site. A geophysical survey identified three concentrations of anomalies of archaeological origin<sup>12</sup>. These have been used to define archaeologically sensitive areas where the panels would be installed using a no-dig method<sup>13</sup>. Elsewhere the panels would be mounted on posts driven into the ground.
- 4.2 A number of inverter/ transformer stations and battery storage containers would be located alongside access tracks within the two parcels, and a control building, a storage building, and a switchgear building would be positioned close to the access to the northern parcel. Access to both parcels would be taken directly from Graveley Lane: to the southern parcel by an upgraded field access, whilst a new access would be formed to the northern parcel. Tree and hedgerow planting would be undertaken within and around the site, and a 12m buffer would be established around the perimeter of the fields to encourage an increase in biodiversity. Planting would also take place on the two strips of land to the west of the southern parcel. Stock fencing to a height of 2.1m would be erected around the arrays and set back from the buffer strips and boundary planting, and close circuit television cameras (CCTV) would be mounted on 4m high posts on this part of the site.
- 4.3 The drainage scheme proposed for the site includes three surface water attenuation basins and three surface water detention basins to hold water from the access tracks and hardstandings and from the panelled part of the site respectively. At the inquiry, the Applicant's flood risk witness confirmed that, notwithstanding their differing names, all the basins were intended to attenuate surface water flow.

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<sup>9</sup> CD6, section 4.2 and figure 5.

<sup>10</sup> CD140, section 3. The submitted plans are listed in table 3.1, with amendments to the location and northern access swept path plans as referred to in para 1.5 of this report.

<sup>11</sup> CD156, para 2.3.3.

<sup>12</sup> CD167, paras 4.4-4.6.

<sup>13</sup> The no-dig areas are shown on both the general arrangement and landscape plans (CDs 16 & 24). An example of the installation of solar panels without ground penetration is shown in CD213.



- 4.4 The output from the solar panels would be connected to the grid at Wymondley GSP sub-station by a cable running underneath Graveley Lane, Priory Lane, Stevenage Road, Blakemore End Road and Sperberry Hill.
- 4.5 The application seeks permission for an operational life for the development of 40 years, following which it would be decommissioned and the site restored<sup>14</sup>. During operation of the solar farm, the land within the stock fence would be used for the grazing of sheep, and a condition was suggested by the Applicant to secure this intention<sup>15</sup>.
- 4.6 Permissive footpaths would be provided as part of the scheme. On the northern parcel, a path would be formed along the western and southern boundaries, with the latter extending across land at the eastern end of the site to join the Hertfordshire Way. In addition a footpath would be provided on the southern side of Graveley Lane from its junction with Priory Lane and Graveley Road to a point opposite the south-west corner of the northern parcel.

## **5. Planning Policies and Guidance**

### ***The Development Plan***

- 5.1 The Development Plan comprises the North Hertfordshire Local Plan 2011-2031 (CD39a, adopted 2022), Wymondley Parish Neighbourhood Plan 2015-2031 (CD40, adopted 2018), Hertfordshire Minerals Local Plan Review (CD241, adopted 2007), Hertfordshire Waste Core Strategy and Development Management Policies Document (adopted 2012), and Hertfordshire Waste Site Allocations Document (2014)<sup>16</sup>. The two waste development plan documents are not relevant to the appeal proposal.

### ***The Local Plan***

- 5.2 With the exception of a short length of the cable route in Little Wymondley, the application site is in the Green Belt<sup>17</sup>. Policy SP5 makes clear that development proposals within the Green Belt should only be permitted where very special circumstances have been demonstrated. Natural resources and sustainability are the subject of Policy SP11 which, amongst other provisions, supports proposals for renewable and low carbon energy developments in appropriate locations. The solar arrays would be installed on BMV agricultural land (above, para 2.4): Policy NE12 says that proposals for solar farms on such land are to be determined in accordance with national policy.
- 5.3 Policy SP12 includes a commitment to respect landscape character, scenic beauty, and locally sensitive features, particularly in relation to The Chilterns AONB (National Landscape). Other parts of the policy concern the protection of designated nature conservation sites, with priority given to international and national sites ahead of local sites, and seeking to ensure measurable net gains for biodiversity. Proposals should not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area (Policy NE2), and permission should only be granted for proposals affecting the setting

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<sup>14</sup> CD140, para 3.1.2.

<sup>15</sup> CD218, suggested condition 22.

<sup>16</sup> CD140, para 5.1.1.

<sup>17</sup> See the Local Plan Policies Map for Hitchin, Letchworth Garden City and Baldock, CD39d.

of the AONB (National Landscape) if they at least conserve its special qualities, distinctive character and biodiversity, amongst other considerations. Policy NE4 reiterates the requirement for all development to deliver measurable net gains for biodiversity.

- 5.4 A series of policies concerns the historic environment. Strategic Policy SP13 explains that, when considering the impact of development on the significance of a designated heritage asset, great weight will be given to the asset's conservation and the management of its setting. In accordance with Policy HE1, proposals affecting designated assets or their settings will be permitted where, amongst other considerations, they lead to less than substantial harm to the asset's significance and this harm is outweighed by the public benefits of the development. Where harm would be caused to a non-designated asset, permission should only be granted if a balanced judgement has been made which assesses the scale of harm or loss of significance (Policy HE3). Archaeology is addressed by Policy HE4: proposals should demonstrate how archaeological remains will be preserved and incorporated into the layout if in situ preservation is considered preferable.
- 5.5 Other policies of relevance include SP1, SP6, D1, and NE7. Policy SP1 supports proposals which provide the infrastructure required to support an increasing population, and Policy SP6, which is concerned with sustainable transport, requires, amongst other measures, applicants to demonstrate the safety of their proposals. Policy D1 requires proposals to respond positively to their local context, and Policy NE7 stipulates that development is located outside flood zones 2 and 3 where possible and is designed to ensure that the risk of flooding is reduced and not increased elsewhere.

### ***The Neighbourhood Plan***

- 5.6 The Neighbourhood Plan includes a number of policies of relevance to the proposed development. Policy GB1 concerns the Green Belt: proposals should comply with Government policy and not impact negatively in terms of visual impact on the openness of the Green Belt landscape. Where appropriate, applications should be accompanied by an assessment of their impact on landscape character (Policy NHE1).
- 5.7 Policy NHE2 requires that, where appropriate, proposals are supported by measures to ensure net gains in biodiversity, and Policy NHE3 stipulates that proposals affecting designated sites should comply with the relevant European, national and local policy requirements. Under Policy NHE8, appropriate native species are expected to be used in landscaping schemes. Proposals affecting heritage assets and their settings must comply with national planning policy and the Development Plan (Policy NHE9). Policy FR1 is concerned with flood risk, and makes clear that proposals which would result in an increase in risk will not be supported.

### ***The Minerals Local Plan Review***

- 5.8 A large part of the site falls within a minerals safeguarding area for sand and gravel shown on the policies map for the emerging Hertfordshire Minerals and Waste Local Plan 2040. Minerals Policy 5 is concerned to prevent mineral sterilisation. Extraction is encouraged prior to other development where any significant mineral resources would otherwise be sterilised, and development

proposals will be resisted within areas of potential mineral resource which would prevent future extraction unless certain circumstances apply.

### ***National planning policy and guidance***

5.9 I have had regard to national planning policy and guidance contained in the NPPF and Planning Practice Guidance (PPG). The National Policy Statement (NPS) for Energy (CD57) and that for Renewable Energy Infrastructure (CD58) are of relevance to the proposal, and, whilst their weight is limited, I have also taken into account the draft NPSs on these subjects (CDs 59 & 60). The British Energy Security Strategy (BESS) expects a fivefold increase in the deployment of solar capacity from 14 gigawatts (GW) in 2022 (to 70GW) by 2035<sup>18</sup>.

## **6. Agreed Matters**

6.1 A signed statement of common ground (CD140) between the Applicant and the LPA sets out matters agreed by those parties. Matters agreed include the following:

- The farmland within the site is a mixture of grade 2 and grade 3a land.
- The site is not covered by any statutory landscape or ecological designation, and it does not constitute a valued landscape as referred to in paragraph 174(a) of the NPPF.
- Field boundaries are defined by established hedgerows which limits visibility from Great Wymondley, sections of the Hertfordshire Way and sections of Graveley Lane.
- The proposal would cause less than substantial harm, at the lower end of the spectrum, to the significance of the following designated heritage assets, through development within their settings:
  - i) Graveley Hall, grade II listed building
  - ii) St Mary's Church, Little Wymondley, grade II\* listed building
  - iii) Wymondley Priory, scheduled monument
  - iv) The Priory, grade I listed building
  - v) Tithebarn at Wymondley Priory, grade II\* listed building
  - vi) Barn and stable at Priory Farm, grade II listed building
  - vii) Garden walls at The Priory, grade II listed building
  - viii) Conduit Head, grade II listed building
  - ix) Wymondley Castle, scheduled monument
  - x) Castle Cottage, grade II listed building
  - xi) Wymondley Hall, grade II\* listed building
  - xii) Great Wymondley Conservation Area

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<sup>18</sup> CD46, page 19.

- Construction work would take place between 0800 and 1800 from Monday to Friday and between 0800 and 1300 on Saturday. Piling would be undertaken between 0900 and 1700 from Monday to Friday.
- Those Development Plan policies considered relevant.
- North Hertfordshire District Council and Hertfordshire County Council have both declared a climate change emergency.
- The LPA has not granted planning permission for a commercial renewable energy generation scheme since 2015.
- The capacity of the development (49.995MW, above para 4.1) would meet the needs of about 17,756 homes, which is about 31% of the homes in North Hertfordshire and would provide for a reduction of about 20,289 cubic tonnes of CO<sub>2</sub> emissions annually.
- The proposal would produce a biodiversity net gain of over 205% in habitat units and 102% in hedgerow units.
- The harm to the Green Belt and any other harm is clearly outweighed by other considerations, including the wider environmental benefits of the scheme, and very special circumstances exist in this case.

## **7. The Case for the Applicant**

### ***Introduction***

- 7.1 Wymondley GSP is considered to be the only substation into which this scheme can connect. Site identification takes account of the availability of substations which would not be constrained by solar curtailment, that is action by National Grid to reduce the output of solar energy generation to balance energy supply. Six extra high voltage (EHV) substations were identified in areas of low-moderate curtailment and where there may potentially be Grid capacity. However each is subject to constraints in terms of the physical size and capacity of the substation itself (as opposed to the grid), and/or the limitations imposed by an urban location, the level of disruption likely to be involved in establishing a connection, and the cost of the cable route<sup>19</sup>. Details relating to the technical capacity of substations are set out in the supplementary table for Grid connection and site identification submitted at CD233.
- 7.2 It is potentially possible to connect to National Grid 132kV substations, of which six were identified<sup>20</sup>. The reason for connecting at Wymondley GSP rather than other substations is the type and viability of the connection. It is likely that all other connections would have resulted in a 132kV connection, which is substantially more expensive, and is generally only viable for connections above 50MW<sup>21</sup>. Four kilometres is considered to be the maximum distance radially from the point of connection to a site, and the area of search was set at that dimension<sup>22</sup>. Beyond that, the evidence was of an exponential increase in costs

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<sup>19</sup> The substations are shown on figure 5.2, and details of the constraints are set out in para 5.4.76 of CD2 and para 1.9 of CD232.

<sup>20</sup> CD2, para 5.4.73.

<sup>21</sup> CD232, 2.4 & 2.5.

<sup>22</sup> CD232, para 3.1.



and complexity and the scheme would not be built. A number of landowners were interested in engaging with the project. Some were further to the west and closer to the National Landscape. A site to the south was the subject of discussions with another operator who has now secured consent for a battery energy storage system. A connection offer for Wymondley has been secured, and, if planning permission is granted, it is expected that the solar farm could be connected to the grid by 2025-26. In contrast, the current lead-time for connection following a new request is 46 months<sup>23</sup>. As a result, the application site was chosen because it was available, deliverable, unconstrained at a high-level appraisal and viable. There are no non-Green Belt alternatives for the proposed development.

- 7.3 There is an immediate and pressing need for deployment of renewable energy generating infrastructure across the UK, which is intrinsically linked to the legally binding obligations to reach net zero by 2050. The proposed development would make a material contribution to meeting the amended Climate Change 2008 targets. Central Government has emphasised through national policy that continued deployment of solar farms is a key part of the UK's transition to achieving a low carbon economy, switching to carbon free energy generation by 2035, as set out as a commitment in the Net Zero Strategy of 2021<sup>24</sup>, and tackling climate change.

### **Green Belt**

- 7.4 It is acknowledged that all solar farms are inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The solar arrays would introduce substantial development in terms of ground cover due to the quantity of arrays within the scheme. Furthermore, the associated access track, substation, inverter stations, fencing and CCTV facilities would result in additional built form that would further diminish the openness of the Green Belt spatially. Nevertheless, the solar arrays would be relatively modest in mass and footprint, and would be spaced out at regular intervals, reducing the overall scale of the development. Furthermore, the scheme would be in place for a temporary 40 years period. It would then be fully demounted, and the land returned to its former condition. Therefore, the impact on the openness of the Green Belt would be reduced, with the site ultimately reinstated to its former open character. Consequently, both spatially and visually, the proposed development would result in limited and temporary harm to the openness of the Green Belt.
- 7.5 The proposal would accord with the first two purposes for including land within the Green Belt<sup>25</sup>, and the last two are not relevant to the application. The development would introduce built development to a countryside location. However, the site adjoins the A1(M) and thus is in an area which is already degraded by urbanising influences. The proposed development would be of a low height and would sit within the landscape framework, such that once the proposed mitigation planting was established it would not be intrusive. Harm in terms of encroachment would be limited.

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<sup>23</sup> Connection times were given in oral evidence by Mr Collier.

<sup>24</sup> CD44, page 94.

<sup>25</sup> The purposes for including land in the Green Belt are set out in paragraph 138 of the NPPF.

## **Landscape and visual harm**

- 7.6 The proposal would increase the influence of built development across the site, resulting in a moderate adverse effect. However, the pattern of vegetation cover in the landscape is such that tree belts and hedgerows would provide considerable screening, greatly reducing the overall extent over which the proposed development would be perceived as a new landscape characteristic. The effect on landscape character would not be substantial beyond the site boundary, with a moderate to minor adverse effect, which would not be significant, and landscape harm would be limited.
- 7.7 There would be limited visibility of the proposed development due to its low height, existing screening, and the influence of landform. In the short-term, major to moderate adverse visual effects would occur from parts of the Hertfordshire Way along the northern boundary of the site and from part of Graveley Lane. From these routes the adverse visual effects relate to gaps in the existing boundary vegetation. In the long-term, once the proposed mitigation planting has established, the visual effects would reduce, and would be no greater than moderate adverse from a limited number of locations in close proximity to the site.

## **Heritage**

- 7.8 The Heritage Impact Assessment identified a high potential for remains of prehistoric, Roman and medieval date within the site<sup>26</sup>. A subsequent geophysical survey identified three concentrations of anomalies of archaeological origin<sup>27</sup>. The design of the development within the archaeologically sensitive areas would be achieved by a no dig solution which would be secured by condition<sup>28</sup>, and which would avoid a requirement to bury cables below ground. Where unknown remains are concerned, the provision detailed in the written scheme of investigation (WSI) for a 3% evaluation outside the three archaeologically sensitive areas would provide a means of recording or ensuring preservation of any significant buried remains in place.
- 7.9 Insofar as designated heritage assets are concerned, visibility of the proposed development would be limited across the landscape and specifically from the majority of designated assets located within 2km of the site<sup>29</sup>. The zone of theoretical visibility which takes account of existing features demonstrates limited visibility from Great Wymondley Conservation Area. The Conservation Area Character Statement for Great Wymondley (CD 93) identifies key views and character photographs, none of which would be adversely affected by the proposed development. There would be only limited visibility of the proposed development from the churchyard of the grade II\* listed St Mary's Church at Little Wymondley. Similarly, there would be limited visibility from the grounds of Wymondley Priory. The historic landholding relationships between the site and surrounding designated assets were also considered. This resulted in identification of less than substantial harm to the Graveley Farm assets and Great Wymondley Conservation Area.

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<sup>26</sup> CD5, paras 5.2.7, 5.3.8, 5.4.7.

<sup>27</sup> See figures 23,29, 30 &32 in CD32.

<sup>28</sup> The intended no dig areas are shown on the general arrangement plan, CD16.

<sup>29</sup> CD107 zone of theoretical visibility and designated heritage assets, figure 2.

## **Ecology**

- 7.10 Subject to the imposition of appropriate conditions, no nature-focused consultee or organisation has objected to the application or raised substantive concerns. The current ecological value of the site is almost exclusively in its hedgerows, woodland and managed field margins. The open fields offer little by the way of refuge or food for wildlife, and are intensively managed for food production, including the use of agricultural chemicals.
- 7.11 Field survey data was used to aid the design of the proposed development with the resultant layout avoiding hedgerows and woodland and incorporating 12m field margins. The scheme would include substantial areas of habitat creation and enhancement, in particular new areas of grassland, native species woodland and hedgerows. These habitats would increase the ecological value of the application site for a large number of species and further strengthen ecological connectivity with the wider countryside.
- 7.12 There would be impacts on some species. Largely these would be limited to the construction phase; however standard good-practice measures secured by planning conditions would ensure legislative and policy compliance and minimise effects. Once construction is completed, populations of these temporarily impacted species would recover and with the habitat creation implemented, can be expected to strengthen. Inevitably, those few bird species which rely on open fields would be unable to persist within the application site. Skylark is a ground-nesting species which prefers open habitats, and the breeding bird survey had estimated 15 territories or pairs of skylarks within the application site<sup>30</sup>. There is little evidence of nesting by skylark occurring within solar farms, and the development would potentially displace this activity<sup>31</sup>. Such species are, though, entirely dependent on the cropping regime in any one year, and can be lost where markets dictate other priorities. Moreover, the Applicant has agreed to a condition requiring the delivery of a skylark mitigation plan<sup>32</sup> which would ensure that the local population of this species is secured for at least the next 30 years.
- 7.13 With regard to bats, the boundary habitat, hedgerows and linear planting, which provide support for these species would be maintained and improved. Gaps or mammal gates would be installed in the perimeter fencing to allow small mammals to move into and out of the site<sup>33</sup>.
- 7.14 The proposed development would not adversely affect any statutory designated sites for nature conservation. Temporary impacts on the Wymondley Local Wildlife Site could not be avoided as the substation connection is entirely within the LWS; however, these will be limited to the digging of a temporary trench with subsequent reinstatement.
- 7.15 The application includes a biodiversity net gain (BNG) calculation, using the recently developed Metric Version 4.0 system (CD237). The BNG calculations show a substantial BNG increase, 205.96% in habitat units and 102.29% in

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<sup>30</sup> Paragraph 3.5.2 of the Ecological Assessment Report (CD7) refers to 19 pairs of skylarks. The Applicant's ecology witness explained that this figure included four pairs within the wider survey area which extended beyond the application site – see figure 6 of CD7.

<sup>31</sup> Oral evidence by the Applicant's ecology witness.

<sup>32</sup> See possible condition No 21 in CD218 and the illustrative skylarks plots plan at CD 219.

<sup>33</sup> CD7, para 4.7.21.

hedgerow units, which would be substantially above the forthcoming 10% requirement under the Environment Act 2021<sup>34</sup>. The proposed development accords with the requirement in Policy NE4 of the Local Plan to deliver a measurable biodiversity gain and contribute to ecological networks, and with paragraphs 174 and 179 of the NPPF.

### **Transport**

- 7.16 Construction is the most onerous phase for a solar farm in traffic terms and would last around 36 weeks. In the first 4 weeks there would be 40 two-way heavy goods vehicle (HGV) and 120 two-way light vehicle (staff) movements per day<sup>35</sup>. Volumetrically, that is equal to one additional vehicle movement every 4 minutes or so, on average, and would be imperceptible. In the following 32 weeks there would be 8 two-way HGV and up to 120 two-way light vehicle (staff) movements per day. In the operational phase there are likely to be in the order of 1 to 2 visits per week in a light vehicle by a maintenance engineer, on average. The decommissioning phase would mirror the construction phase but with traffic more evenly spread out. All deliveries and HGV movements to the site would be routed via the A1(M) Junction 9, the A505, the B197 and Graveley Lane. This route would avoid sensitive receptors in local settlements and congested areas.
- 7.17 Perhaps most disruption would be experienced during the installation of the cable route. However, the roadworks would be phased, and each phase would be shorter than construction on the main site, perhaps one to two weeks in length. They would be agreed as part of a separate consenting regime (a section 50 licence) with the Local Highway Authority, and diversions and traffic management measures would be in place.

### **Agricultural land**

- 7.18 The proposal is a temporary form of development and the majority of the land beneath the solar panels would remain in agricultural use, through sheep grazing, for the 40 years operational life of the solar farm. After this, it would be returned to full agricultural use following decommissioning. Removing land from intensive agricultural use for the life of the development would improve soil health by increasing the organic matter in the soil and improving soil structure and drainage, a consideration acknowledged in a recent appeal decision for a solar farm which included the use of arable land<sup>36</sup>.
- 7.19 Whilst there may be limited harm associated with the temporary loss of versatility and function of the farmland, there would be long-term benefits to soil health, soil structure and carbon sequestration. Overall, there would be no harm to the best and most versatile land.
- 7.20 There is no planning policy to require land to be used for food production; there is no food security crisis or concern; the Government funds arable land conversions to grassland, and is not seeking increased food production as a consequence; the actual implications of retaining the site for food production would be modest (119 tonnes per annum from a national production of 24

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<sup>34</sup> CD237, page 7, headline results.

<sup>35</sup> CD10 Transport Statement, tables 4.2 & 4.3.

<sup>36</sup> CD121, para 21.



million tonnes of cereals<sup>37</sup>), whereas the benefits in terms of carbon sequestration, organic matter, reduced erosion, reduced compaction and improved biodiversity would be substantial.

### **Flood risk**

- 7.21 The main part of the site has a low - very low risk of surface water flooding. The flood risk assessment indicated the potential presence of four overland flow pathways across the site<sup>38</sup>. Detailed hydraulic modelling indicates that the maximum depth of flooding for all pathways and events would be less than 100mm even during the 1 in 100 year event (plus climate change)<sup>39</sup>. The panels, inverter/transformer containers, storage building, control building and battery storage containers would all be raised above ground. The switchgear building would not be raised, but it would not be located on a defined overland flow pathway. As such overland flow pathways would be unobstructed. In the no dig areas, concrete sleds which run perpendicular to the panels would not impede flow.
- 7.22 A 700m length of the cable route along Stevenage Road is located in land indicated to be at a high risk of flooding from Ash Brook (flood zone 3). The cable installation works would not increase flood risk elsewhere because the cables would be laid within narrow trenches located in the highway and relatively short lengths of trenches<sup>40</sup> would be excavated with re-instatement generally occurring within one week. It is agreed that no spoil would be stored adjacent to Stevenage Road or on Priory Lane<sup>41</sup>, and that a requirement to this effect should be included in a condition concerning a construction management plan.
- 7.23 Little Wymondley has a history of flooding, with reports of incidents between 1926 and 1956, in 1968, 1993, 2000-01, 2013, 2014, 2016, 2019 and 2020<sup>42</sup>. The principal source of flooding is Ash Brook, and the main part of the site falls within the catchment of this watercourse. The site is currently bare earth for a significant part of the year, whilst the panelled site will comprise grassland. This is expected to significantly reduce peak runoff rates. Moreover six basins would store surface water, which would be released at a controlled rate. Peak run-off from the site would be reduced by 14.3% for the present-day 1 in 30 year event, and 3.6-4.8% for larger events, assuming that the site comprises grassland both prior to and after development<sup>43</sup>. The actual betterment is expected to be greater because the site is bare earth for part of the year. The proposal would reduce the peak runoff rates from the main site, thereby reducing peak flood flows in the Priory Lane Stream, along Priory Lane and hence in Little Wymondley.

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<sup>37</sup> CD169, paras 6.18 & 6.19.

<sup>38</sup> CD6, section 4.3 and figures 6 & 7.

<sup>39</sup> CD31, para 14.

<sup>40</sup> 50-100m, Technical Note 01 – Assessment of Grid Connection Route Cable Laying Process, para 17 (CD216).

<sup>41</sup> CD216, paras 29 & 30.

<sup>42</sup> CD40 Neighbourhood Plan, para 8.6; CD87 Flood investigation Report – Little Wymondley – Hertfordshire CC, section 2.

<sup>43</sup> CD163 Dr Tilford's proof, tables 1 & 2.

## **Benefits**

7.24 Other considerations relied on to outweigh the harm caused by inappropriateness and any other harm are:

- i) The significant national need to reduce carbon emissions and address the global challenge of climate change.
- ii) The urgent national need for renewable energy generation to achieve net zero by 2050 and a net zero electricity system by 2035.
- iii) The significant local need to deliver on North Hertfordshire's declaration of a climate emergency and commitment to achieve a net zero District by 2040<sup>44</sup>.
- iv) The significant constraint posed by the extent of the existing Green Belt and AONB (National Landscape) designations within North Hertfordshire.
- v) The wider environmental benefits associated with the landscape proposals which would deliver a biodiversity net gain well above the emerging national target of 10%; would reduce carbon emissions by taking the land out of intensive arable agricultural use; and would increase carbon sequestration in the soils and proposed vegetation.
- vi) The reversibility of the proposed development, such that the land could be easily returned to its current use.
- vii) The availability of the grid connection at Wymondley, and the deliverability of the development in the context that North Hertfordshire has not consented a commercial scale renewable energy generation scheme since 2015.

## **Consistency with policies on climate change and flooding**

7.25 Chapter 14 of the NPPF supports the development of renewable and low carbon energy and associated infrastructure, such as the proposal. Paragraph 155 of the NPPF sets out that the planning system should help increase the use and supply of renewable and low carbon energy such as the proposed development. There is no requirement to demonstrate a need for the proposed development. However, the significant shortfall in delivery of solar generation capacity in the context of the 70GW 2035 target in the BESS should be given substantial weight in the planning balance. The proposed development is in accordance with Chapter 14 in respect of directing development away from areas at risk of flooding and ensuring that flood risk is not increased elsewhere.

## **Consistency with policies for conserving and enhancing the natural environment**

7.26 The proposed development would not have any significant effects on any valued landscape or on the setting of The Chiltern Hills National Landscape. In addition, landscape and visual effects would be localised, and in the case of visual effects could be mitigated effectively within 5-10 years. Following decommissioning, there would be beneficial effects associated with the retention of hedgerow and

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<sup>44</sup> CD65A, page 11.

woodland planting. Overall, the landscape and visual effects should be given moderate weight in the planning balance.

- 7.27 There would be no significant harm to nature conservation as a result of the proposed development, but there would be significant positive biodiversity gains during the operational life of the solar farm and beyond. As such, the proposed development would not conflict with Chapter 15 of the NPPF.

### ***Consistency with the Development Plan***

- 7.28 The solar farm would not lead to permanent loss of BMV land, and the proposed development accords with Policy NE12. Policy SP11 of the Local Plan supports proposals for renewable and low carbon energy development in appropriate locations, and the suitability of the location of the proposed development has been demonstrated. A landscape and visual impact assessment has demonstrated compliance with criteria in Policy NE2 of the Local Plan. The impact of the proposal on landscape character has been assessed in accordance with Policy NHE1 of the Neighbourhood Plan, and the proposed development would respect landscape character, scenic beauty and locally sensitive features and would comply with Policy SP12 of the Local Plan. Any harm to heritage would be outweighed by the wider benefits of the scheme, and there would be compliance with Policies HE1, HE2<sup>45</sup>, HE3 and HE4 of the Local Plan and Policy NHE9 of the Neighbourhood Plan. There would be significant biodiversity net gain and the development would comply with Policy NE4 of the Local Plan and Policies NHE2 and NHE3 of the Neighbourhood Plan. Highway safety issues have been addressed to the satisfaction of the Local Highway Authority, and the proposed development accords with Local Plan Policy SP6. Drawing all of the policy strands together very special circumstances would exist and Policy SP5 of the Local Plan concerning the Green Belt would be satisfied. The proposed development accords with Green Belt policy and as a result, accords with the Development Plan when read as a whole.

### ***Conclusions***

- 7.29 The point of connection to the grid has to be at Wymondley GSP, and there are no suitable non-Green Belt alternative locations for the development. The harm would be clearly outweighed by other considerations, and the proposal would comply with Green Belt policies in the Development Plan and the NPPF. Action is required now to dramatically alter the current path of future greenhouse gas emissions within the District and nationally. The proposed development would be built. It is requested that a recommendation be made for planning permission to be granted.

## **8. The Case for the Local Planning Authority**

### ***Green Belt***

- 8.1 The proposal would be inappropriate development in the Green Belt, and it would give rise to significant harm to openness in both spatial and visual terms. The introduction of development into an area of land where currently there is none would diminish the openness of the Green Belt. However the extent of the

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<sup>45</sup> Policy HE2 is concerned with heritage assets at risk. It is not referred to in the statement of common ground (CD140) as a relevant Development Plan policy.

spatial effect would be moderated to some extent by the open areas between and under the solar panels and the various landscape buffer zones. In relation to the visual impact on openness, this adverse impact would relate principally to an intermittent range of views around the site but, in accordance with the analysis undertaken by the Applicant's Landscape and Visual Impact Assessment (LVIA, CD4) and the LPA's consultants, this impact would in time be mitigated by the proposed planting. The LPA recognises the lengthy operational period, and this is why it gives little weight to the temporary nature of the proposal.

- 8.2 A review of the Green Belt in 2016 (CD143) considered the contribution that specific parcels of land made to the purposes of the Green Belt. The land to the north of Graveley Lane is included in sub-parcel 14f and the land to the south in sub-parcel 10c. Both these sub-parcels were assessed as making a significant contribution to the purposes of the Green Belt<sup>46</sup>.
- 8.3 The impact of the proposal in relation to the purposes of the Green Belt is judged to constitute limited harm to purposes (a) (to check the unrestricted sprawl of large built-up areas) and (b) (to prevent neighbouring towns merging into one another), as well as significant harm to purpose (c) (to assist in safeguarding the countryside from encroachment). As the LPA considers that the very special circumstances test is made out, it does not consider that the proposal conflicts with NPPF Green Belt policy or Local Plan Policy SP5. It does however consider that there would be some conflict with Wymondley Neighbourhood Plan Policy GB1, which defers to national policy but further states that development proposals should not impact negatively on Wymondley Parish, particularly in terms of visual impact on the openness of the Green Belt landscape.
- 8.4 There has been a net gain in Green Belt in North Hertfordshire following the adoption of the Local Plan of approximately 4,000 hectares, resulting in the Green Belt coverage of the district rising from about 38% to about 47%. This is due to the substantial area of new Green Belt around Offley and Whitwell added through Policy SP5(b).

### ***The challenge of climate change***

- 8.5 The draft NPS EN-3 is a material consideration in the determination of this application and an articulation of the most up-to-date Government thinking on issues relating to solar development. It confirms the Government's commitment to sustained growth in solar capacity to ensure that progress is made to meeting net zero emissions<sup>47</sup>. It describes solar as being a key part of the Government's strategy for low-cost decarbonisation of the energy sector<sup>48</sup>, aligning with the Energy White Paper's (December 2020, CD136) description of solar as one of the key building blocks of the future generation mix<sup>49</sup>. The draft NPS also recognises the important role that solar has to play in delivering the

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<sup>46</sup> CD143, table 3.1. An update to the Review was produced in 2018 to take explicit account of the effect of proposed development on the visual dimension of openness in addition to the spatial dimension. The assessment that sub-parcels 10c and 14f make a significant overall contribution to the purposes of the Green Belt was unchanged (CD135, table 2).

<sup>47</sup> CD60, para 3.10.1.

<sup>48</sup> CD60, para 3.10.1.

<sup>49</sup> CD136, page 45.



Government's goals for greater energy independence and it expresses support for solar development that is, as here, co-located with other functions such as agriculture to maximise the efficiency of land use<sup>50</sup>. The draft NPS refers to the BESS objective that the Government expects a five-fold increase in solar deployment by 2035 with the current approximate capacity being 14GW.

- 8.6 Having regard to the assessment that the solar farm would meet the equivalent of the electricity demand from approximately 31% of the homes within North Hertfordshire (above, para 6.1), the LPA considers that this development would make a very significant contribution to providing energy from a renewable source. The proposal is strongly supported by national and local policy regarding the deployment of renewable energy, and very substantial and substantial positive weight should be accorded to its contribution towards renewable energy generation at a national level and meeting local needs respectively.
- 8.7 The absence of the site's allocation in a development plan for solar or other renewable energy development is not an impediment to permission being granted. It is usual for local planning authorities to consider and approve proposals for development that have not been specifically allocated in a development plan. There is an imperative at a national level for the speedy delivery of renewable energy and no requirement that it only be delivered on allocated land.

### ***The character and appearance of the area***

- 8.8 There would be significant landscape harm in that the proposal would result in moderate to major adverse impacts at the site and at a local scale in landscape character terms, but improvements to the landscape character area would be achieved following decommissioning due to landscape mitigation measures. There would be some significant adverse effects in respect of views from parts of the Hertfordshire Way in the early years of the operation of the development, but these would be effectively mitigated through planting such that the medium to long term effects would not be significant. The adverse landscape character and visual impacts of the proposal should be given moderate negative weight in the planning balance. Although the proposal is not in landscape terms unacceptable overall, the harm gives rise to an element of conflict with Policy NE2 of the Local Plan, specifically criterion (b).

### ***Habitats and biodiversity***

- 8.9 There has been no objection to the proposal from any nature conservation organisation or consultee. Following the submission of a revised biodiversity net gain assessment based on the updated metric, Hertfordshire Landscape, Ecology, Archaeology, Design & Sustainability (LEADS) service has confirmed its advice that it has no ecological objections subject to the imposition of conditions (CD220). The LPA accepts its advice that the *predicted biodiversity net gain is ambitious but, in principle can be achieved*, and that a *BNG well in excess of the Government's proposed minimum requirement of 10% would be delivered and that impacts on biodiversity do not represent a fundamental constraint on the proposed development*. The matters about which the JOG is concerned are

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<sup>50</sup> CD60, para 3.10.2.

appropriately addressed by conditions, which would require further details to be submitted and agreed by the LPA in due course.

### ***Heritage assets***

- 8.10 The LPA's, the Applicant's and Historic England's views<sup>51</sup> as to the heritage impact of the proposal are in broad alignment. It is agreed between these parties that the proposal would give rise to less than substantial harm at the lower end of the scale to a number of local designated heritage assets through development within their setting. The position of the JOG's witness that there would be substantial harm to a large number of assets is an outlier, and very limited weight should be afforded to this evidence, in contrast to the views of the other main parties and Historic England.
- 8.11 The potential archaeological significance of the site is not in dispute. It is recognised, in the light of the conclusions of the Applicant's geophysical survey and the advice received from the Hertfordshire County Council Archaeological advisor, that the site has high potential for significant archaeological remains. The LPA, on the advice of the County's archaeological advisor, is satisfied that the mitigation strategy put forward by the Applicant to be secured by condition, which includes substantial no dig areas in the locations of high potential and trial trenching across 3% of the remainder of the site, is appropriate and accords with relevant national and local policy<sup>52</sup>.

### ***Agricultural land***

- 8.12 The most recent government thinking on best and most versatile agricultural land is that expressed in draft NPS EN-3, which states that land type should not be a predominating factor in solar site selection. It also states that where possible, brownfield, contaminated and industrial land should be used and that poorer quality land should be preferred over higher quality land, avoiding the use of BMV land where possible<sup>53</sup>. Although the Written Ministerial Statement from 2015 refers to compelling evidence being required for solar farms to be located on BMV land, this is now rather aged and a number of documents have been produced by the Government since then, including several revisions of the NPPF and the draft NPS EN-3, which do not prohibit solar development on good quality agricultural land.
- 8.13 The Applicant's agricultural witness explained that grade 2 and 3a land is not rare in the local area. Importantly, this proposal would not result in loss of BMV land given that a proposed condition would secure sheep grazing during the operation of the development. The LPA does consider that negative weight should be attributed to the loss of productivity and flexibility in terms of agricultural production, but does not consider that the proposal is inconsistent with policy or guidance on the use of BMV land. However, this matter should only attract limited negative weight in the light of the Applicant's evidence regarding the scale of contribution to cereal production in a national context presently made by the site (above, para 7.20).

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<sup>51</sup> Historic England's consultation response is summarised in the LPA's report (CD35a) at para 3.9.

<sup>52</sup> CD35a, para s 3.23.1, 3.23.2, & 4.5.107-4.5.110. CD173, paras 9.9 & 9.10.

<sup>53</sup> CD60, para 3.10.14.

### **Other matters**

- 8.14 As the Applicant's flood risk witness explained (above, para 7.23), given that the main part of the application site currently comprises bare earth for part of the year, the change to grassland in itself would be likely to reduce run off rates. Moreover, the scheme includes six basins for the storage areas for the storage of surface water, which would ensure a betterment in terms of the run-off from the site and a marginal betterment within Little Wymondley, having regard to the fact that the site is only a small contributing part to the catchment that causes flooding in the village. These measures would be secured by conditions. The LPA is also satisfied with the suggested conditions to manage flood risk in relation to the cable laying work<sup>54</sup>.
- 8.15 National policy and guidance does not set a sequential test whereby non-Green Belt land must be considered before Green Belt land for solar farms. The LPA's report on the application noted that constraints, such as access to the National Grid or capacity limitations, were likely to influence the site selection process<sup>55</sup>. This is consistent with the subsequently published draft NPS EN-3, which describes the capacity of the local grid network to accept the likely output as *critical to the technical and commercial feasibility of a development proposal*<sup>56</sup>. It also reflects the Applicant's site selection process which, due to network capacity, curtailment issues, and substation constraints, landed upon the connection to Wymondley Substation as the deliverable and achievable option within the area. The development would provide economic benefits through employment opportunities during construction, operation and decommissioning.

### **The planning balance**

- 8.16 The proposal would cause harm to the Green Belt, an adverse landscape and visual impact, heritage harm and harm through the loss of flexibility/productivity of BMV agricultural land. In relation to benefits, very substantial and substantial positive weight should be attributed to the contribution made to renewable energy generation in general and in North Hertfordshire specifically, significant weight to the economic and energy security benefits of the proposal, moderate weight to biodiversity net gain, limited weight to the achievement of betterment to local drainage and flood risk, and minor weight to the introduction of new permissive footpaths for the duration of the operation of the development.
- 8.17 The public benefits are cumulatively of sufficient weight to outweigh the low level of less than substantial harm to designated heritage assets. The Green Belt harm, taken together with the other harms identified, is clearly outweighed by the public benefits taken as a whole, but with particular regard to the climate change context and the need to accelerate deployment of renewable generation at a national and local scale. The effect of this is that the very special circumstances test is satisfied.
- 8.18 The proposal gives rise to some conflict with Policy NE2 of the Local Plan and Neighbourhood Plan Policy GB1 in respect of landscape and Green Belt matters,

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<sup>54</sup> CD216, paras 29-33.

<sup>55</sup> CD35a, para 4.5.182.

<sup>56</sup> CD60, para 3.10.35.

but it otherwise accords with the relevant policies of the Development Plan. It is the LPA's view that the application should be approved.

## **9. The case for the Joint Objectors Group**

### ***Green Belt***

- 9.1 It is agreed that the proposed development would be inappropriate in the Green Belt. This application should not be approved unless very special circumstances exist. The proposed development would result in substantial harm to the Green Belt, which clearly outweighs the need for a solar array in this particular location.
- 9.2 The JOG is not opposed to renewable forms of energy, but the sheer size and scale of this proposal is not appropriate in this particular location. The visual impact of the development would be considerable, given the open nature of the site. It is clear that the bulk of the site would be covered by the solar panels and associated infrastructure.
- 9.3 The site lies within the Metropolitan Green Belt, and there would be some impact on purpose (a) to check the outward sprawl of Greater London into Hertfordshire. The key issue is the potential harm to Green Belt purposes (b) and (c). The Policies Map shows the open gap between Stevenage, Hitchin, and Letchworth, which the Local Plan seeks to protect. The proposed development would fill a large part of this gap, and there would be a significant adverse effect on purpose (b). The site consists of open fields, and there would be significant harm in terms of encroachment on the countryside. In the Green Belt Review 2016 the application site was divided between sub-parcels 10b and 14f. An assessment confirmed that both of these parcels make a significant contribution to Green Belt purposes. This reinforces the JOG's view that the development would make a fundamental difference to the integrity of the Green Belt in this part of North Hertfordshire.

### ***Temporary or permanent development***

- 9.4 The JOG considers that in view of its life of 40 years and scale of construction, the development should be viewed as permanent. This point was acknowledged in the decision by an Inspector on an application for a solar farm at Manuden in Uttlesford<sup>57</sup>, and in an appeal decision for ground mounted solar panels at Swadlincote, Derbyshire<sup>58</sup>.

### ***Site location***

- 9.5 It seems that too many criteria were adopted which led to limited outcomes in the search for a site. The 4km distance from a substation reduces options based on financial aspects to which the JOG was not a party. It is understood that some schemes can enter the network via an existing cable route and then operate with a longer distance to the substation. The search criteria did not seem to have shown any sensitivity to such matters as BMV agricultural land, Green Belt, openness, and heritage. If they had, a solution on a smaller scale, which would have been more appropriate, may have been selected.

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<sup>57</sup> CD144, para 18.

<sup>58</sup> CD188, para 48.



- 9.6 The JOG has questioned the amount of land required to provide the 49.955MW output, which appears greater than in other locations. As technology develops solar installations are becoming more efficient. For example, it is understood that bi-facial panels cost 10% more but are 20% more efficient, a consideration which could reduce the land used by 20%. It is understood that two other proposals in North Hertfordshire involve a 25MW array on 35ha and a 40MW array on 53ha. These would both achieve more MW per hectare than the application.
- 9.7 It seems that a robust brownfield investigation was not undertaken, nor that serious consideration was given to roof-top solar panels. The JOG also questions whether soil studies were undertaken on other sites. Renewable energy generation is an important criterion that should rightly carry weight as efforts are made to achieve the net zero target by 2050. It should not however disregard other matters and it must follow a rigorous path of investigation.

### ***Development plans***

- 9.8 The proposal is a major application that has no reference point in a relevant plan. The Council chose to declare a climate emergency with a view to achieving net zero by 2040 (7.24(iii)), but it is questioned whether that should be a driver rather than the Government's overriding plan to target 2050. There is time for a plan review with consultation and options.

### ***Landscape character***

- 9.9 The proposed development would have a harmful impact on the landscape and its character. The site is very open in nature and could not be screened completely. In the North Hertfordshire and Stevenage Landscape Character Assessment, the site falls within the Arlesley-Great Wymondley Landscape Character Area which refers to expansive views from higher ground creating a sense of space and openness<sup>59</sup>. This characteristic can be seen in photographs showing the application site<sup>60</sup>. The site is an essential part of the setting of Great Wymondley, which is washed over by the Green Belt. The development is contrary to Local Plan Policy NE2 which seeks to avoid unacceptable harm to landscape character and appearance.

### ***Heritage and archaeology***

- 9.10 Great Wymondley has a long history, linked to the landscape over two thousand years. In particular the field systems have shown glimpses of occupation from Roman times through to the medieval period, and the importance of the Roman road near to Graveley points to a trade route. Hence it is not surprising that the Applicant's geophysical survey suggests a possible ladder settlement<sup>61</sup>. Great Wymondley was important as a crossroads with a farming estate in Anglo Saxon times. The Augustine priory was built close to a spring, and there was a whole priory economy built around that valuable fresh water supply. In the later medieval period the motte and bailey fortress was erected. Great Wymondley is exceptional in its richness of heritage, and is inextricably linked to the lands around it.

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<sup>59</sup> CD71, pg 108.

<sup>60</sup> In CD184.

<sup>61</sup> CD32, paras 6.7-6.13 and figures 29 & 30.

- 9.11 The archaeological mitigation strategy proposed by the Applicant is considered to involve damage limitation. A no dig principle is intended on parts of the site which might aid understanding of the area's heritage. Elsewhere, trial trenches have raised concerns as to what would happen if significant finds are made.
- 9.12 Great Wymondley and the surrounding area are important in terms of built heritage: there are many listed buildings within 2km of the application site and several within Great Wymondley Conservation Area<sup>62</sup>. Their landscape setting is an important consideration. The Priory is a scheduled monument, and the proposal would harm its setting. Even if the proposal would cause less than substantial harm, this would carry more significant weight than suggested by the Applicant.

### **Agriculture**

- 9.13 The site comprises BMV agricultural land. It is important to retain good quality land for food security. Versatile land enables flexibility to change crops in the future to meet changing needs. Little seems to have been done to establish if a location could be found comprising 3b land.

### **Ecology and biodiversity**

- 9.14 Typically, the margins around solar arrays are used for vehicular access<sup>63</sup>. This can be expected to cause disturbance and displacement to birds which nest in hedges and forage on the ground alongside such edge habitats, including yellowhammer, which is listed as a rare and threatened species under section 41 of the Natural Environment and Rural Communities Act 2006<sup>64</sup>.
- 9.15 There is also concern about ground-nesting species, particularly skylark. No skylark nests have been found within a solar array, and compensation measures require detailed knowledge of the fields proposed for use<sup>65</sup>. It is not clear whether there has been any survey work on the proposed fields to ascertain the presence of existing skylark territories, or the suitability of the fields: no written evidence has been presented for management of the mitigation measures, and skylark measures are not certain to be successful.
- 9.16 The Ecological Assessment Report referred to records of seven species of bat<sup>66</sup>. The report also noted the presence of potential bat roosts as well as commuting and foraging habitat within the site and nearby, with good connectivity to higher value habitat, and concluded that the site provides moderate value bat foraging and commuting habitat. However no bat surveys had been carried out and the JOG is not aware of specific bat mitigation measures or lighting strategies for bat protection proposed by the Applicant.
- 9.17 It is not correct that the arable fields would be replaced with species-rich wildflower grassland: the majority of the area (78.15ha) comprising the land within the security/stock-proof fencing, would be sown with a grass mixture

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<sup>62</sup> CD5, paras 6.2.3 & 6.2.4 and figure 2.

<sup>63</sup> Reference was made to an aerial photograph showing this arrangement at a solar array in Gisburn, Lancashire; CD176, appendix B.

<sup>64</sup> CD7, para 3.5.2.

<sup>65</sup> See CD223, Blithe spirit: Are skylarks being overlooked in impact assessment? by H Fox.

<sup>66</sup> CD7, paras 3.5.6-3.5.9.

with two varieties of just one broadleaved species – white clover<sup>67</sup>. With much of the proposed grazed pasture under the panels, the effects of shade, significantly reduced temperatures and dryer conditions may impact on the successful establishment of this proposed sward.

### ***Flood risk and drainage***

9.18 There is a problem of flooding in Little Wymondley on Priory Lane and Stevenage Road. It is argued that the scheme will bring marginal benefits, but there are unknowns, including the impact of the major archaeological dig, the potential loss of land drains, and the general introduction of a built environment of roads and buildings. Such change would bring risk and uncertainty to the situation downstream. Whilst the LPA and the Applicant consider there would be no harm and minor benefit, the JOG adopts a more neutral position.

### ***Transport***

9.19 Laying the cable down Priory Lane and along Stevenage Road would cause problems. Disruption would be very damaging to local businesses and their financial viability. Working closely with property owners, diversions and the provision of steel plates to allow access would all be important elements of the solution.

### ***Noise and vibration***

9.20 There is concern that noise from the site, for example from inverters, would cause disturbance to people using nearby footpaths, the recreation ground and community orchard, potentially local residents, and wildlife. There would be significant noise during construction. In addition JOG is concerned that the panels would deflect noise from traffic on the A1(M).

### ***Fire risk***

9.21 There is concern about fire risk, particularly from the battery storage units. A condition is proposed to address this matter, and JOG would wish to be consulted on any details submitted in accordance with such a condition.

### ***Community harm***

9.22 Local residents benefit from peaceful enjoyment of the rural setting and use of the Hertfordshire Way. Views in the changing seasons and agricultural activity that are an intrinsic part of the experience of going into the countryside would be replaced by the monotony of a single unchanging vista of solar panels. This would have a negative effect upon people's mental health and wellbeing. The fencing and CCTV are also of concern.

9.23 Proposals would involve enclosing the pathways with hedging and trees to obscure the solar array. The feeling of enclosure would create a very frightening proposition for women who use the paths for running alone, and would adversely impact their safety and confidence. Additionally, there is concern about the prospect of theft from the solar farm and the consequent security implications.

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<sup>67</sup> CD2 Design and Access Statement, para 3.1.40 and table 2.1.

## **Conclusions**

- 9.24 The development would cause harm to productive agricultural land, harm to the Green Belt, harm to openness and visual amenity, harm to the setting of listed buildings, harm to Great Wymondley Conservation Area, harm to archaeology, harm to wildlife and the natural environment, harm to public rights of way, and harm to the community's safety and wellbeing, all to be weighed against the benefit of clean energy production and storage.
- 9.25 The community has had to accept the shrinking of the Green Belt in the Parish to potentially facilitate over 300 homes, doubling the size of Little Wymondley. In addition, the Parish is already home to a major substation and main north-south train and road links. That should not mean that it has to accommodate the solar arrays. The application should be turned down.

## **10. Written Representations**

### ***Responses to notification of call-in***

- 10.1 The CPRE Hertfordshire is concerned that the proposal would result in industrialisation of the landscape. Ground-mounted solar energy installations should not be permitted in protected areas such as Green Belt. Previously developed land is more suitable for such development, and roof-mounted installations are also an alternative to use of the open countryside. The proposal would represent definitional harm to the Green Belt, and would remove openness and harm visual amenity. The period of operation of forty years is not considered to be a temporary period. Other concerns relate to the effect on BMV farmland, harm to wildlife, noise and security fencing. The fencing would remove traditional pathways for animal movement. There are several other proposals for ground-mounted solar installations in Hertfordshire, and consideration should be given to the cumulative effect of these schemes. Very special circumstances to support inappropriate development in the Green Belt have not been demonstrated.
- 10.2 The Friends of The Hertfordshire Way refer to the loss of visual amenity from the proposal, which would have a significant impact on enjoyment when walking on the route. In addition, Green Belt land and good quality farmland should be maintained.
- 10.3 North Hertfordshire Archaeological Society resubmitted an earlier objection to the application in which it referred to an inadequate level of information, with particular mention made of the absence of a geophysical survey and trial trench evaluation reports<sup>68</sup>.
- 10.4 The principle of the development is supported by North Herts & Stevenage Green Party. The proposal would contribute to attaining net zero, would benefit the soil, and planting would mitigate the visual impact. Conditions should be imposed to ensure farming continues on the site, that the land remains available for agriculture when the solar farm is decommissioned, and to achieve a minimum 10% biodiversity net gain. There is concern about the extent of CCTV installations and that the development would place restrictions on the movement of wildlife.

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<sup>68</sup> The report of a geophysical survey was subsequently submitted in support of the application (CD32) (para 7.8).



- 10.5 Councillor Riches-Duit is a member of Wymondley Parish Council. She supports renewable energy and, whilst agriculture can cause damage to the land and wildlife, a solar farm has environmental benefits.
- 10.6 Fifteen individual objections were submitted at this stage. Objections refer to harm to the character and appearance of the area, the loss of openness in the Green Belt, noise, flood risk, the possibility of alternative arrangements for generating solar energy, traffic disruption caused by laying the cable, prematurity given improvements in efficiency of the technology, conflict with policies in the Local Plan and the Neighbourhood Plan, and the harmful effect on wildlife, archaeological remains, heritage assets, and agricultural land. Several objectors make the point that they do not object to the principle of renewable energy proposals. Should planning permission be granted, there is a suggestion that conditions should be imposed relating to working hours and requiring approval of work plans.

### ***Responses prior to call-in***

- 10.7 Representations submitted prior to call-in are summarised in the LPA's report on the planning application<sup>69</sup>. In addition to Wymondley Parish Council (which is part of the JOG), the CPRE Hertfordshire and the North Hertfordshire Archaeology Society, a number of other organisations submitted representations prior to call-in of the application. Graveley Parish Council expressed concern about traffic movement through the village. Following submission of the amended landscaping plan, the Herts & Middlesex Wildlife Trust raised no objection subject to a condition requiring a plan to achieve biodiversity net gain.
- 10.8 Initially the application generated 171 individual objections, a letter of objection with a list of 44 names, and a petition with 25 signatures. A further 20 objections were received following the submission of revised plans. The objections included similar concerns to the written representations put forward following call-in. Additionally, six representations were made in support of the application. These responses referred to the contribution of the development to achieving net zero and meeting future energy demand, and expressed the view that the site is relatively remote from housing and that it would be easily returned to farmland. Supporters also commented that there would be no effect on flooding, and no increased effect on wildlife.

## **11. Possible Conditions**

- 11.1 Possible conditions were discussed at the inquiry. A schedule, prepared by the Applicant in the light of earlier discussions, covers the following matters: final details of the scheme, duration and decommissioning, construction implications, ecology, fire safety, lighting, landscaping, archaeology, noise, drainage, trees, agricultural use, rights of way, and highway safety (CD218), and suggested conditions in relation to ecological matters were submitted during the inquiry by Hertfordshire LEADS (CD220).

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<sup>69</sup> CD35a, section 3.

## 12. Conclusions

References to earlier paragraphs in this report are in square brackets [].

### **Main considerations**

12.1 Having regard to the call-in direction and the representations submitted, I have identified the following main considerations in this case:

- (i) The effect of the proposed development on the Green Belt.
- (ii) The implications of the proposal for meeting the challenge of climate change.
- (iii) The effect of the proposal on the character and appearance of the area.
- (iv) The effect of the proposed development on habitats and biodiversity.
- (v) The effect of the proposal on heritage assets.
- (vi) Whether the proposal would be consistent with policies and guidance concerning the use of agricultural land.
- (vii) Whether the proposed development would be consistent with the Development Plan and other relevant policies.
- (viii) The effect of other considerations on the overall planning balance.

### **The Green Belt**

12.2 Both the Local Plan (Policy SP5) and the Neighbourhood Development Plan (Policy GB1) refer to national planning policy when considering proposals for development in the Green Belt. The proposal for the solar array with battery storage containers and associated development does not fall within any of the categories of development which are not inappropriate in the Green Belt, set out in paragraphs 149 and 150 of the NPPF. Paragraph 151 makes specific reference to renewable energy schemes, making it clear that elements of many such projects will comprise inappropriate development when located in the Green Belt. It is common ground between the main parties that the proposal would be inappropriate in the Green Belt [7.4, 8.1, 9.1], and I have no reason to take a different view.

12.3 The array would extend across the fields which comprise the greater part of the site (84.7ha of a total of 88ha), and the associated buildings would be positioned alongside and between blocks of panels [2.4, 4.1, 4.2]. Although the panels would be set in from field boundaries, and there would be space for access tracks, offsets in relation to a gas pipeline on the eastern part of the site, and some areas of landscaping, the proposal would result in the loss of the existing extensive open fields. Space between the rows and below the panels would effectively be contained within the blocks. The proposal would have an adverse impact insofar as the spatial aspect of openness is concerned.

12.4 The panels would be relatively low structures, with a maximum height of 3m. Most of the other structures would be a similar height or slightly lower, although the switchgear building would be about 3.9m tall. Hedgerows and tree cover around the northern and southern parcels of the site is not continuous, and following construction the solar development would be apparent from a number

of local viewpoints, particularly on The Hertfordshire Way which runs along the northern boundary, and from the western part of Graveley Lane which is at a similar level to the adjacent fields. It would also be visible, albeit fleetingly, from the A1(M) which runs close to the eastern site boundary [2.1]. As part of the proposal it is proposed to strengthen planting around the two parcels, and to establish two strips of cover to the west of the southern parcel [4.2]. Over time, the planting proposed would provide screening and limit views of the development. However planting would not prevent awareness of the presence of the development, particularly after leaf fall. There would be a visual impact on openness, and in this respect the proposal would conflict with Policy GB1 of the Neighbourhood Plan. I find that the introduction of the proposed development across these extensive fields would result in a significant loss of openness, both spatially and visually, in the Green Belt.

- 12.5 The purposes for including land in the Green Belt are set out in paragraph 138 of the NPPF. The LPA's reviews assessed the contribution which parcels and sub-parcels of land make to Green Belt purposes [8.2]. The land to the north of Graveley Lane is included in sub-parcel 14f and the land to the south in sub-parcel 10c. Purpose (a) is to check the unrestricted sprawl of large built-up areas. Green Belt in Hertfordshire was originally designated as part of the Metropolitan Green Belt around London [9.3]; however sub-parcels 14f and 10c are within a tract of open land which lies between Hitchin, Letchworth Garden City and Stevenage, and the reviews consider the sub-parcels in relation to these towns. Given their relationship to these towns and the distance from London, I agree with this approach.
- 12.6 Whilst the land within the application site does not abut the built-up areas of any of the towns, it forms an integral part of sub-parcels which do adjoin Letchworth and Stevenage. Moreover the southern part of the site is only a short distance from the north-west edge of Stevenage. As such, the open fields to the north and south of Graveley Lane make an important contribution to checking the outward expansion of the nearby towns, and the proposed development would cause significant harm to this purpose of the Green Belt.
- 12.7 Between Hitchin and Stevenage the Green Belt is only about 2.4-3km wide, and is somewhat deeper between Letchworth and Stevenage. Development of the application site would weaken the Green Belt, with a reduction in the amount of open land between these towns. The Green Belt reviews refer to sub-parcel 14f as playing a critical role in the separation of Letchworth and Stevenage, and sub-parcel 10c as playing a critical role between Hitchin and Stevenage. I consider that this assessment is equally applicable to the fields of the application site, given their aggregate size and position between nearby towns in this part of the Green Belt. Consequently the proposal would result in significant harm to purpose (b), to prevent neighbouring towns merging into one another.
- 12.8 The installation of the solar array across the fields of the application site, notwithstanding the retention of certain open areas, would introduce a large development onto open land. The proposal would represent substantial encroachment into the countryside, contrary to purpose (c) in paragraph 138 of the NPPF. Whilst the intended landscaping would limit visibility, it would not lessen the extent of the physical encroachment.

- 12.9 I agree with the Applicant and the LPA that there would be no conflict with purpose (d) to preserve the setting and special character of historic towns. Great Wymondley is close to the site and has several heritage assets, but it is a small settlement, and is not covered by the ordinary meaning of a town. The site is sufficiently removed from the historic parts of nearby towns to have any adverse effect on their character and setting. Purpose (e) encourages the recycling of derelict and other urban land: most development proposals within the Green Belt would run counter to this purpose.
- 12.10 I conclude that the proposal would amount to inappropriate development in the Green Belt, that it would result in a significant loss of openness, and conflict with several of the purpose of including land in the Green Belt. The operational life of the development would be 40 years [4.5]. Although it is intended that the land would be returned to its former condition after that period, 40 years is a considerable length of time, and the fixed period does not diminish my concern about the harm to the Green Belt. In accordance with paragraph 148 of the NPPF, the harm to the Green Belt carries substantial weight.

### ***Climate change and energy security***

- 12.11 Paragraph 152 of the NPPF makes clear that the planning system should support the transition to a low carbon future in a changing climate. The Climate Change Act 2008 (as amended) imposes a statutory requirement for the level of greenhouse gas emissions in the UK to be reduced to net zero by 2050<sup>70</sup>. Subsequently, in its Net Zero Strategy and in response to the Sixth Carbon Budget, the Government has set out an indicative pathway to net zero which would involve a 78% reduction in emissions by 2035<sup>71</sup>. The Overarching National Policy Statement (NPS) for Energy (EN-1) refers to a commitment for the UK to receive 15% of its total energy (across the sectors of transport, electricity and heat) from renewable sources by 2020, and an ambition to largely decarbonise the power sector by 2030, pointing to the need for new renewable energy projects to come forward urgently in consequence<sup>72</sup>. Subsequently, the Net Zero Strategy of 2021 set out a commitment to achieve carbon free energy generation by 2035 [7.3], and the draft version of EN-1 reiterates the need to increase the supply of clean energy from renewables<sup>73</sup>.
- 12.12 The Government has also published an amended version of EN-3, the NPS for Renewable Energy Infrastructure. Whilst this is the latest version of EN-3, it is a draft NPS, and accordingly carries only limited weight. Nevertheless, it makes clear that solar generation is a key part of the Government's strategy for low-cost decarbonisation of the energy sector, and that it also has an important role in delivering goals for greater energy independence<sup>74</sup>.
- 12.13 Solar generation is also recognised as having a key role by the BESS of 2022, which aims to boost domestic sources of energy to achieve greater security. As part of the Strategy, a five-fold increase in solar deployment from 14GW to 70GW capacity is sought by 2035 [5.9]. The solar farm would make an

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<sup>70</sup> The Act was amended by The Climate Change Act (2050 Target Amendment) Order 2019, CD43.

<sup>71</sup> CD44, figure 12.

<sup>72</sup> CD57, para 3.4.5.

<sup>73</sup> CD59, para 2.3.6.

<sup>74</sup> CD60, paras 3.10.1 & 3.10.2.



important contribution to this additional capacity, with battery storage enabling electricity supply to the grid to reflect periods of higher and lower demand.

- 12.14 The Council declared a climate emergency in 2019. A climate change strategy seeks to achieve carbon neutrality for the Council's operations by 2030, and a net zero carbon district by 2040, amongst other objectives [7.24(iii)]. Hertfordshire County Council declared a climate emergency in the same year<sup>75</sup>. It is not clear that the proposed development would be of direct assistance in reducing the carbon footprints of the operations of the two local authorities, but it would undoubtedly make a significant contribution in progressing towards net zero emissions in both the District and the County.
- 12.15 Paragraph 158(a) of the NPPF explains that applicants should not be required to demonstrate the overall need for renewable energy. However, it is the undisputed evidence of the Applicant that planning permission has only been granted for two solar farms in North Hertfordshire: that both are small with generating capacities of 6MW and 5MW, and that no permission has been granted since 2015<sup>76</sup>. At paragraph 158(a), the NPPF points out that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. In this case, it is agreed between the Applicant and the LPA, and not disputed by the JOG, that the development east of Great Wymondley would generate sufficient electricity to meet the requirements of about 31% of the homes in the District [6.1]: that would be a significant contribution towards moving away from reliance on fossil fuel sources of energy.
- 12.16 There is an urgent need to generate electricity from renewable sources in order to meet national and local targets concerning carbon neutrality, and to contribute to addressing the global challenge of climate change. Solar energy is acknowledged by the Government as having a key role in achieving decarbonisation of the energy sector, and also in achieving greater security of supply. These are factors which carry significant weight in support of the application. Chapter 14 of the NPPF provides support for proposals which would assist in addressing the challenge of climate change, and paragraph 158(b) advises that applications for renewable development should be approved if their impacts would be acceptable.

### ***Character and appearance***

- 12.17 The North Herts Landscape Study (CD71) is based on the Hertfordshire Landscape Character Assessment (CD70), including additional content on sensitivity and capacity together with certain additional guidelines. As such, the more recent district level study provides the appropriate point of reference for landscape character.
- 12.18 The site lies within the Arlesley- Great Wymondley Landscape Character Area, which extends around much of Letchworth and to the south towards Stevenage. In the south of the character area, where the site is located, the key characteristic is identified as a rolling landscape of large-scale fields and with relatively few trees. Reference is made to the pressure of urban areas, electricity pylons and transport infrastructure, including the A1(M) and the

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<sup>75</sup> CD55, minutes 6.11 & 6.13.

<sup>76</sup> CD156, Mr Hoyle's proof of evidence, para 4.4.38.

railway, and to expansive views from higher ground. It is considered to be of low sensitivity in landscape terms and to have low-moderate visual sensitivity. I note, though, that the Assessment comments that the open views would be sensitive to the introduction of further urbanising features.

- 12.19 The parcels of land to the north and south of Graveley Lane reflect the character of the southern part of the landscape character area. There would be no alteration to the field pattern, and the proximity of the motorway reduces the susceptibility to change. Nevertheless, the proposal would introduce built development across a substantial area, projecting through the open landscape. Planting would strengthen the field boundaries and provide some areas of additional cover. It would not, however, minimise the extent of the change to the landscape. I agree with the LPA's review that there would be a moderate adverse effect on the landscape character area, both following construction (year 0) and when planting had become established (year 10)<sup>77</sup>.
- 12.20 I have also considered the effect of the proposal on the landscape of the site and its immediate surroundings. This area of countryside does not benefit from any designation, nor has it been identified as a valued landscape in terms of paragraph 174(a) of the NPPF. That does not mean that it has no value, and it is clear from the written representations [10.6] and the evidence of the JOG at the inquiry [9.22] that members of the local community appreciate and make use of the countryside which includes the appeal site.
- 12.21 The strengthening and extension of existing hedgerows and the planting of additional trees would contribute positively to the character of the site and its environs. However this is a large site, extending across much of the open land between Great Wymondley and Graveley. The replacement of large arable fields, which are characteristic of the wider countryside would represent a major and adverse change to the landscape of the site, the influence of which would extend for some distance around it. As the planting around and within the site matured its beneficial effect would increase, but, given the scale of the development, that would not materially lessen the impact on the local landscape. Contrary to paragraph 174(b) of the NPPF, the proposal would not recognise the intrinsic character and beauty of the stretch of countryside to the east of Great Wymondley.
- 12.22 The higher land of The Chilterns National Landscape is about 5.3km to the west [2.2], and is apparent from locations around the site, for instance viewpoints 3 and 9 in the Landscape & Visual Impact assessment (LVIA). At this distance, and taking into account the relatively low height of the panels and other structures, I do not consider that the proposed development would adversely affect the setting of the National Landscape.
- 12.23 I turn now to consider the visual effects of the appeal proposal. The Applicant acknowledges that in the short-term the introduction of the solar farm would have major to moderate adverse effects from parts of the Hertfordshire Way and Graveley Lane [7.7]. Both of these routes adjoin the site, and they afford views of and over the large fields. At its eastern end, views from Graveley Lane are restricted as the road runs at a lower level than the adjoining land, and elsewhere and in places along the Hertfordshire Way, hedgerows and trees

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<sup>77</sup> CD86a, para 5.2.8.

provide some screening. This is limited in extent, though, and the expanse of open land encompassing the application site is readily apparent. It is clear that the Hertfordshire Way is a well-used recreational route, which provides the opportunity to view the site for some time when the large fields are passed at walking pace. Receptors on this route are appropriately identified as having high sensitivity in the LPA's review<sup>78</sup>.

12.24 Once the hedgerows and tree belts in the landscaping scheme became established, the impact of the development within the site would be reduced to an extent, but planting would not prevent awareness of the presence of the development, particularly after leaf fall. Moreover, the proposed planting would not compensate for the restriction of views across the open fields of the site from Graveley Lane and the Hertfordshire Way. This is a harm to which I accord considerable weight. Accordingly, insofar as the effect on character and appearance of the area is concerned, I do not regard the retention of the proposed landscaping beyond the intended life of the solar farm as a benefit of the scheme.

12.25 Both the north and south parcels can be seen from the A1(M), although views of the latter are more restricted because of level differences. Traffic on this road is generally travelling at speed and in consequence only fleeting glimpses of the site are possible. In any event, I anticipate that users of this major road are principally concerned with their journey and not appreciation of the countryside. Accordingly their sensitivity to the development is low.

12.26 To the south-west, on the public footpath which runs between Priory Lane and Great Wymondley, arrays on the site would be distinct features beyond the fields of the foreground, as shown in the year 0 photomontage from viewpoint 7, and would have a major adverse effect. To the north, from the public footpath which descends to join the Hertfordshire Way at the north-east corner of the site (viewpoint 9), vegetation only permits a much more restricted and partial view of the arrays. To the extent that these features would encroach into a rural view there would be a moderate level of harm. In both cases, the planting proposed would provide effective screening without unduly curtailing views, and the level of harm would reduce to minor.

12.27 From Graveley Road and the nearby castle remains in Great Wymondley, only heavily filtered views towards the site are available, and planting would restrict these even further. From viewpoints 10 and 11 on the western edge of Graveley, the development would have a negligible effect due to the intervening landform and the presence of the motorway. In this gently rolling landscape, the development would not be prominent in views further from the site.

12.28 The development is intended to be reversible, with the various structures removed after 40 years, and the land returned to full agricultural use. Whilst I do not question the current intention of the Applicant, there is inevitably some uncertainty about the circumstances which will have a bearing on the future of the land in 40 years time. In any event, the removal of the solar farm after this period and restoration of the site does not alter my concern: harm to the character and appearance of the area would ensue for a prolonged period.

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<sup>78</sup> CD86a, para 5.3.2.

12.29 The proposed development would have a moderate - major adverse effect on the landscape, with the greatest harm to the landscape of the site and its immediate surroundings, harm to which I attach significant weight. There would also be harm to visual amenity; the adverse impact on views from the Hertfordshire Way and Graveley Lane merits considerable weight, even taking into account the establishment of planting. Some additional harm would also be caused to visual amenity, principally in the short-term, from certain viewpoints to the south-west and north of the site. I conclude that the proposed development would have a damaging effect on the character and appearance of the area, and that in this respect it would conflict with Policies SP12 and NE2 of the Local Plan, and paragraph 174(b) of the NPPF.

### ***Habitats and biodiversity***

12.30 The representations cover a number of species. It became apparent from the discussion at the inquiry that the principal areas of disagreement concern the effect of the proposal on ground nesting birds, particularly skylarks, and on bats.

12.31 The scheme includes a 12m buffer around the perimeter of the fields with the express intention of providing opportunities for wildlife and improving ecological connectivity [4.2]. However the loss of the open fields would affect skylarks which are ground nesting birds<sup>79</sup>. Whilst this species may use solar farms for foraging, it was acknowledged by the Applicant's ecology witness that there was little evidence of nesting occurring within solar farms, and that the development would potentially displace this activity [7.12]. The breeding bird survey had estimated 15 territories or pairs of skylarks within the application site [7.12].

12.32 In response, the Applicant has proposed mitigation in the form of skylark plots, to provide additional foraging opportunities in nearby fields, and to be secured by a condition [7.12]. It is clear from the material referred to at the inquiry that this form of mitigation may be successful for skylarks. Part of the area proposed for the provision of the plots was included in the breeding bird survey; however the remaining area was not and the overall extent of use by skylarks in the prospective receptor area is unknown. In the absence of additional survey work and an assessment of the capacity of the additional land, it is not clear that appropriate mitigation could be provided for skylarks within the vicinity of the application site. The Applicant suggested that bird species which require open fields could be affected if the cropping regime were to change [7.12]. There is no indication that the fields which constitute the site would be taken out of arable use if the proposed development were not to proceed, and the baseline position, recorded in the Ecological Assessment Report and against which the proposal should be assessed, includes the presence of the ground-nesting skylark.

12.33 The JOG expressed concern that no survey of bat activity had been undertaken, notwithstanding reference to potential bat roosts in the Ecological Assessment Report [9.16]. The report points to the use of hedgerows, trees, woodland and ditches in providing foraging and commuting habitat for bats, and, although the JOG's ecology witness referred to some species foraging across open arable land, she acknowledged that bats do use linear and wooded

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<sup>79</sup> CD228, page 1.



habitats. As part of the proposed development, linear features in the form of hedgerows and tree cover would be strengthened, which should support bat activity in the area. A condition is suggested which would require approval of any external lighting, to be designed taking into account advice in relation to bats. Given that the development would provide relatively broad buffer strips alongside strengthened field boundaries, I consider that the approach to bats is proportionate, and that the absence of a bat survey is not a shortcoming of the application.

12.34 The blocks of solar panels would be surrounded by security fencing. Concern has been expressed by the CPRE that this fencing would constitute a barrier to the movement of animals [10.1]. That consequence has been anticipated in the Ecological Assessment Report, which explains that gaps or mammal gates would be installed in the perimeter fencing to allow small mammals to move into and out of the site [7.13]. This measure could be included in a landscape and ecological management plan, which it is suggested should be the subject of a condition if planning permission were granted.

12.35 Wymondley Transforming Station is contained by the LWS, and would consequently be crossed by the cable route [2.2]. The LWS is a former gravel pit, the raised banks of which support coarse calcareous grassland with scrub invading slowly from the edges<sup>80</sup>. Access to the station requires the formation of a trench across the LWS: the trench would be approximately 0.9m wide and up to 1.5m deep. It would be backfilled, and no above ground infrastructure would be installed. The County Ecology Service has suggested a condition requiring a soil management plan; it is intended that this would ensure that layers of soil would be replaced in their previous position. Subject to the imposition of such a condition, no objections have been received from consultees to the effect of the development on the LWS, and I do not consider that the disturbance caused would amount to material harm.

12.36 There is no dispute between the Applicant and the JOG that the field margins are of greater ecological value than the arable fields overall. Species rich grassland buffers are proposed along field boundaries, hedgerows would be strengthened, and grassland would be established between and below the arrays. In addition, an area of species rich grassland is proposed at the south-west corner of the northern parcel and another on the eastern side of the northern parcel. The JOG points out that, although the Ecological Assessment Report refers to species rich grassland replacing the arable fields, this area would be sown with a mixture with two varieties of one broad-leaved species [9.17]. I note that the landscape proposals identify these areas as low maintenance pasture and not species rich grassland<sup>81</sup>.

12.37 Nevertheless, the proposal would result in a net gain in biodiversity across the site. Applying the latest version of the biodiversity calculator (CD237) gives an increase of 205.96% in habitat units and 102.29% in hedgerow units [7.13]. Whilst the County Council has commented that this level of gain is ambitious, it also acknowledges that in principle it could be achieved [8.9]. More importantly, the level of increase would be substantially above the forthcoming level of 10% which would be required under the Environment Act 2021.

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<sup>80</sup> CD7, Ecological Assessment Report, table 3.2.

<sup>81</sup> CD24, Landscape proposals plan.

12.38 I conclude that the proposal would enhance biodiversity, delivering a net gain, in accordance with Policy NE4 of the Local Plan. A landscape and ecological management plan would be instrumental in securing biodiversity net gain, and a condition could be imposed to this end. With this safeguard, the proposal would comply with Policy NHE2 of the Neighbourhood Plan. I am satisfied that the proposal would also be consistent with paragraph 180(d) of the NPPF, which makes clear that opportunities to improve biodiversity should be integrated into the design of developments. I give significant weight to the biodiversity net gain which the proposal is expected to deliver. Whilst the proposal would minimise the impact on Wymondley Transforming Station LWS in accordance with paragraph 174(d) of the NPPF, I am concerned that there is insufficient certainty about the mitigation proposed for displaced skylarks. That is a negative feature of the proposal to which I accord moderate weight.

### ***Heritage assets***

12.39 The heritage impact assessment considered the proposal in relation to the setting of four groups of designated heritage assets: Great Wymondley Conservation Area and the designated assets within it, the scheduled monument of Wymondley Priory with its associated structures, St Mary's Church (grade II\*) at Little Wymondley, and Graveley Hall Farm (grade II) and its associated structures. I have adopted the same approach.

#### *Great Wymondley designated heritage assets*

12.40 The conservation area encompasses the small village of Great Wymondley, which is encircled by the surrounding open countryside. It extends along the roads which meet at the two junctions towards its northern end, and contains a number of listed buildings. In the quadrant between Arch Road and Graveley Road is the grade I listed church of St Mary the Virgin, which is a focal point of the settlement. The significance of the conservation area derives in part from the architectural and historic interest of the heritage assets within it and their interrelationships. As a rural settlement, the open landscape in which Great Wymondley is situated is also of importance. Historic maps included with the Applicant's Heritage Impact Assessment reveal changes in field boundaries within the site between the eighteenth century and the present-day<sup>82</sup>. However the fields remain in agricultural use, and, together with other nearby farmland, assist in the appreciation of Great Wymondley as a small rural settlement set in an open landscape. In this way, the setting of the conservation area makes an important contribution to the significance of this heritage asset.

12.41 The eastern point of the conservation area, at Milksey Cottages, is only about 150m from the northern parcel of the application site. Although the distance is short, hedgerows and tree cover along Graveley Road and elsewhere within the village restrict views of the fields within the application site. As additional planting became established, particularly on the western side of the northern parcel and within the strips to the west of the southern parcel, that position would be reinforced. However the role of the open landscape in contributing to the setting of the conservation area is not dependent upon views into or out of Great Wymondley, and I note that in Historic England's Good Practice Advice in

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<sup>82</sup> CD5, figures 6-8.

Planning Note 3, the surrounding landscape is listed as a separate attribute to views<sup>83</sup>.

- 12.42 The development would represent a major change to the setting of the conservation area, encroaching substantially into the open farmland to its east. Given the scale of the proposal, Great Wymondley would no longer be a village immersed in a rural landscape. That change would be apparent from Graveley Lane and Priory Lane and nearby footpaths. Whilst the planting of trees and the strengthening of hedgerows would, over time, lessen visibility of the solar arrays, the presence of the development would nevertheless be apparent in filtered views and gaps, such as that indicated in the year 10 photomontage from viewpoint 7 and at the site accesses. Moreover the curtailment of open views across the site due to planting (above, para 12.24) would in itself adversely affect the setting of the conservation area.
- 12.43 St Mary's Church, which dates from the 12<sup>th</sup> century, has a central position within the conservation area. It is well enclosed by tree cover, with only glimpses of the tower visible across the landscape. The immediate setting of the church is provided by the churchyard and nearby buildings, and its relationship with other heritage assets would be unchanged. I do not consider that the proposed development would have any material effect upon its setting. I have reached the same view in respect of the other listed buildings within Great Wymondley. Their settings are less extensive than that of the conservation area, and, in the case of these individual buildings, their separation from the application site and the presence of intervening cover are sufficient to avoid harm from the development outside the village.
- 12.44 I turn now to the scheduled monument of Great Wymondley Castle. The earthwork remains of this motte and bailey castle are situated on the eastern side of the conservation area on an elevated piece of ground. The Applicant's heritage consultant comments that it was likely designed to look over the surrounding landscape, and as a local stronghold I expect that it was intended to dominate the immediate locality. In view of that historic role, I consider that the setting of the castle extends onto the open land on the east side of the village. Despite the restricted intervisibility with the application site, the encroachment of the solar arrays onto the open land on this side of Great Wymondley would diminish the traditional relationship of the castle with the surrounding landscape, and thereby detract from the contribution which setting makes to its significance.
- 12.45 For the reasons given above, I conclude that the proposed development would detract from the setting of Great Wymondley Conservation Area and Great Wymondley Castle and would thereby conflict with Policy SP13(a) of the Local Plan and in consequence Policy NHE9 of the NDP. Having regard to paragraph 202 of the NPPF, this would represent less than substantial harm to the significance of these heritage assets. Insofar as the conservation area is concerned, given the significant change to its rural setting I place the harm towards the upper end of the spectrum. The castle is enclosed to the west by the village and is a relatively modest structure, and the harm caused would be towards the lower end of the scale of less than substantial harm.

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<sup>83</sup> CD91 page 11, Assessment Step 2 checklist.

### *Wymondley Priory*

- 12.46 Wymondley Priory is situated on Priory Lane, about 250m to the west of the southern parcel of fields within the application site. The priory was originally an Augustinian monastic establishment dating from the 13<sup>th</sup> century. Following dissolution, the priory church was converted to a manor house<sup>84</sup>. The house is a grade I listed building and the nearby tithe barn is a grade II\* listed building. These buildings are located within a moated precinct, beyond which are low earthworks marking components which were associated with the priory. Another barn and garden walls at the Priory are grade II listed buildings. To the east is the detached site of the conduit head, which was the source of the water supply for the priory, the remains of which are a grade II listed building. The site of the priory (including the conduit head) is a scheduled monument, but the manor, the above ground remains of the priory and most of the farm buildings (except the grade II\* barn) are excluded from the scheduling<sup>85</sup>.
- 12.47 The Applicant's heritage witness acknowledges that the spatial relationship between the priory and the outlying earthworks and the diversity of components present offer valuable insights into the religious and economic lifestyles of monastic communities. Land in the southern part of the application site lies within the historic landholding of the priory<sup>86</sup>, and the extent of the farmland to the east of the priory serves as a reminder of the functional link that existed between the priory complex and the application site. This land forms part of the setting of Wymondley Priory and makes an important contribution to the significance of this group of heritage assets, in particular to the scheduled monument itself, and to the listed priory and the listed tithe barn<sup>87</sup> as key components of the priory complex.
- 12.48 Intervisibility between the priory and the application site is limited, and the proposed planting would restrict this further. That said, the extent of the development on the southern parcel of the site would diminish the relationship between the priory complex and its farmland setting and the ability to appreciate the contribution of that setting to the significance of the priory complex. My concern does not extend to the detached conduit head which is almost entirely contained by trees, and whose relationship with the main complex across open farmland would remain distinct.
- 12.49 Notwithstanding my finding in respect of the conduit head, I conclude that the proposal would cause serious harm to the setting of the scheduled monument, together with that of the listed priory and the listed tithe barn, and less than substantial harm to the contribution which setting makes to their significance. In consequence there would be conflict with Policy SP13(a) of the Local Plan and Policy NHE9 of the NDP.

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<sup>84</sup> CD98, The Priory official list entry.

<sup>85</sup> CD100, Wymondley Priory official list entry.

<sup>86</sup> CD5, para 6.2.17.

<sup>87</sup> The Heritage Impact Assessment (CD5) refers to the tithe barn as an early post-Dissolution barn (CD5, para 6.2.13). However, the official list entry (CD99) explains that the building was erected for the prior and community of Wymondley Priory.



### *St Mary's Church, Little Wymondley*

12.50 The church is a modest structure dating from the 12<sup>th</sup> century when it was associated with Wymondley Priory<sup>88</sup>. It is a grade II\* listed building, and, having regard to its connection with the Priory and the detailed list description, I agree with the Applicant's heritage witness that its significance lies primarily in its historic and architectural interest. The church stands in an elevated position in Little Wymondley, about 600m from the south-west corner of the southern parcel of the application site. There are only limited glimpses of the church from the eastern part of the site, and of the site from the church. Moreover, the church is positioned to the south of more modern buildings in Little Wymondley beyond which is a railway line. It does not have a strong relationship with the application site, and I conclude that the proposed development would not materially affect its setting.

### *Graveley Hall Farm*

12.51 Graveley Hall Farm is a grade II listed building within Graveley Conservation Area. Associated barns, farm buildings and a boundary wall are also grade II listed buildings. The Heritage Impact Assessment explains that, historically, much of the southern part of the application site was included within the holding of the farm, which was part of the Priory estate<sup>89</sup>. However the relationship with that land was substantially diminished by the construction of the A1(M) motorway which runs to the west of Graveley, and there is no intervisibility with the application site. Due to the presence of the motorway, the historical association of Graveley Hall Farm with the application site cannot be readily appreciated, and I conclude that the proposed development would not materially affect the setting of the listed buildings there.

### *Archaeological remains*

12.52 It is common ground between the main parties that there is a high potential for archaeological remains to be present within the site [7.8, 8.11, 9.10]. As expected by paragraph 194 of the NPPF, the Applicant has undertaken an appropriate assessment and evaluation of the site. The Heritage Impact Assessment refers specifically to the prospect of prehistoric, Roman and medieval remains [7.8]. A geophysical survey has identified three concentrations of anomalies of archaeological origin. In order to safeguard remains in these areas, it is proposed that panels would be installed employing a no-dig solution, being mounted on concrete sleepers with cable runs being above ground [7.8]. The JOG referred to the possibility of remains being adversely affected by compression, but there is no specific evidence to substantiate this concern.

12.53 Elsewhere a series of trial trenches would be dug, covering 3% of the site, and it is intended that a revised written scheme of investigation would specify the arrangements for this exercise, in addition to specifying the no-dig areas [7.8]. A condition is suggested which would require the submission of a revised written scheme of investigation and to prevent development of the solar farm until actions to protect archaeological interests have taken place. I am satisfied that

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<sup>88</sup> CD5, Heritage Impact Assessment, appendix B site 22.

<sup>89</sup> CD5, para 6.2.7.

with the safeguard of such a condition, the proposed development would not adversely affect archaeological interests in the parcels of land to the north and south of Graveley Lane. There would be no conflict with Policy HE4 of the Local Plan or Policy NHE9 of the NDP.

#### *Other heritage assets*

12.54 There are a number of other heritage assets, both designated and non-designated within the surrounding area<sup>90</sup>. None have a relationship to the application site such that their settings would be adversely affected by the proposed development.

#### **Agricultural land**

12.55 The fields where the solar arrays would be installed are recognised as being BMV agricultural land [2.4]. The Applicant argued that BMV land is not a rare resource, pointing to information from Natural England which estimates that it amounts to about 42% of farmland in England<sup>91</sup>.

12.56 Notwithstanding the proportion of farmland included in grades 1-3a, national planning policy requires that particular attention should be given to this higher quality land. Paragraph 174(b) of the NPPF explains that both planning policies and decisions should contribute to and enhance the natural and local environment by (amongst other measures) recognising the economic and other benefits of BMV land. PPG on Renewable and low carbon energy includes specific reference to large scale solar farms: paragraph 5-013 encourages 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 greenfield land is proposed for use, consideration should be given to whether the use of agricultural land is necessary, whether poorer quality land has been used in preference to land of higher quality, and whether the proposal allows for continuing agricultural use where applicable.

12.57 The application does not seek to replace the agricultural use of the site, but for agricultural use to continue alongside the solar farm. The land around and below the panels would be sown with grass and used for the grazing of sheep [7.18]. Although the presence of the panels would prevent rainfall from reaching the ground below, the Applicant's agricultural witness explained that water would travel laterally through the ground. There is nothing before me to indicate that grass cover would be unable to be established on the developed site, nor that the height and position of the solar panels would prevent the land being grazed by sheep. The Applicant had no objection to a condition requiring approval of a grazing management plan, which would set out arrangements for the continuing agricultural use of the land.

12.58 Grazing by sheep would occur around the solar arrays, and would be prevented by stock fencing from extending to the perimeter buffer strips and the areas in the northern parcel proposed to be planted as species-rich grassland. Some field margins are subject to a countryside stewardship scheme: the Ecological Assessment Report records these margins as 5-6m

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<sup>90</sup> The location of heritage assets is shown on the plans at figures 2-4 of the Heritage Impact Assessment, CD5.

<sup>91</sup> CD170, Appendix 2 to Mr Kernon's proof, Natural England Technical Information Note TIN049, page 2.

wide<sup>92</sup>, approximately half the width of the proposed perimeter buffer strips. The evidence before me indicates that the extent of the site which is not currently in agricultural use is somewhat smaller than that which would be taken out of agricultural use by the development. Consequently, whilst there would be a slight reduction in the area of BMV which would be farmed I do not consider that that would be sufficient to constitute material harm.

12.59 The LPA referred to lower productivity and flexibility from use of the fields for sheep grazing as opposed to arable farming [8.13]. However there is no policy support for this position. Accordingly a reduced level of food production and the associated issue of food security are not matters which count against the application to a significant degree. On the other hand the Applicant's evidence that the removal of land from intensive agricultural use for a period of time would improve soil health and structure was not disputed by any specific evidence.

12.60 My attention has been drawn to a decision dismissing an appeal for solar panels in Swadlincote, Derbyshire on a site of which almost half of 34ha was classified as BMV land (CD188). In that case the Inspector concluded that the appellant had failed to demonstrate that there was no land of a lesser agricultural quality available within the study area. The site assessment exercise was also criticised in a decision refusing planning permission for a solar farm at Manuden (CD144). I consider arguments relating to site selection in this case below (paras 12.75-12.78), but, although the JOG queried whether enough had been done to establish if a location could be found comprising 3b land [9.13], there is no substantive evidence to contradict that of the Applicant that there is a high likelihood that much of the land in the locality falls into the BMV category [2.4].

12.61 The proposal would enable agricultural use of the land to continue, and there is no evidence of sufficient non-agricultural land or land of lower quality being available. Any reduction in productivity of the application site is counterbalanced by the benefit to soil condition resulting from a break in intensive agricultural production. I conclude that, due to continuing agricultural use, the proposed development would be consistent with the provisions of paragraph 174(b) of the NPPF and paragraph 5-013 of PPG concerning BMV land: in consequence it would comply with Policy NE12 of the Local Plan.

## ***The Development Plan***

### *The Local Plan*

12.62 The proposal is inappropriate development in the Green Belt, and compliance with Policy SP5 is contingent upon such development being justified by very special circumstances. That is a matter which I consider in my overall conclusions.

12.63 As a renewable energy scheme, Policy SP11(a) provides support in principle for the development, as does Policy SP1 concerning the provision of infrastructure to support the population. The policy includes a caveat that such development should be in appropriate locations. Appropriate locations are not

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<sup>92</sup> CD7, para 3.4.3.

defined in the supporting text, but I have found that the development of the solar farm on the land at Graveley Lane would not only be inappropriate due to the Green Belt designation but would also cause harm to the character and appearance of the area and to the setting of Great Wymondley Conservation Area, Wymondley Castle and the scheduled monument, listed priory and listed tithe barn at Wymondley Priory. Whilst other considerations have to be considered against such harm in my conclusions, that harm itself indicates that in the first instance the application site is not an appropriate location for the development proposed.

- 12.64 The proposal would not have a material effect upon the setting of The Chilterns National Landscape. It would nevertheless cause harm to the character and appearance of the surrounding area, and in consequence there would be conflict with Policies SP12, NE2 and D1.
- 12.65 There is an extensive range of designated and non-designated heritage assets in the area. The development of the solar farm would not have a direct effect upon any designated assets and non-designated archaeological assets could be safeguarded by mitigation measures including no-dig areas and trial trenching. However harm would be caused to the setting of Great Wymondley Conservation Area, Wymondley Castle and designated heritage assets at Wymondley Priory. In accordance with Policy SP13 great weight should be given to the management of their setting, but compliance with Policy HE1 necessitates a balance between the less than substantial harm to the assets' significance and the public benefits of the development, a matter I consider below (paras 12.88 & 12.89). Measures are proposed to safeguard archaeological remains in accordance with Policy HE4, and there would no adverse effect on the setting of non-designated heritage assets, securing compliance with Policy HE3.
- 12.66 In accordance with Policy NE4, there would be a measurable net gain in biodiversity, and the effect on the LWS at Wymondley Transforming Station would not cause material harm. The proposal would also comply with Policy NE12 since it would be consistent with national policy in respect of its effect on BMV land. The scheme would satisfactorily address transport implications, and it would not result in a reduction in highway safety contrary to Policy SP6.
- 12.67 Part of the route of the cable run is in flood zone 3 on Stevenage Road [2.4]. It is common ground between the Applicant and the JOG that there is a history of flooding in Little Wymondley [7.23, 9.18]. Floodwater has entered properties and extended along parts of Priory Lane and Stevenage Road. As the cable would be buried beneath the road, the completed works would not increase flood risk. To avoid a potential obstruction to the movement of water from excavated material, it is intended that this would not be stored on either Priory Lane or adjacent to Stevenage Road [7.22]. The cable would be essential infrastructure, required in this location to connect the arrays to the grid. It would not give rise to any additional flood risk and the development overall would reduce flood risk elsewhere, and consequently it would comply with the exception test in paragraph 164 of the NPPF.
- 12.68 The fields where the solar arrays would be installed are at low risk of flooding, and their installation here would be consistent with part (a) of Policy NE7, and the sequential test set out in paragraph 162 of the NPPF. Most structures on the



site would be raised off the ground and would not impede overland movement of water, as required by part (g). The grassed surface would have a lower rate of run-off than the bare earth which is present for part of the year, and the scheme includes six attenuation basins which would restrict run-off from the site. Modelling indicates that the development would lead to a reduction in surface water run-off from the site. As the site is within the catchment of Ash Brook which is the principal source of flooding in Little Wymondley, a modest reduction in off-site flood risk is expected to result. No increase in flood risk should result from the development, in line with paragraph 167 of the NPPF. Conditions could be imposed to prevent the storage of excavated material on Priory Lane or adjacent to Stevenage Road, to secure the surface water drainage scheme, and a flood management plan as part of a more extensive construction environmental management plan. The proposal would comply with Policy NE7 and the approach to flood risk in Chapter 14 of the NPPF.

### *The Neighbourhood Plan*

12.69 The solar farm would erode the openness of the Green Belt, due not only to its physical presence but also to its visual impact. Policy GB1 also refers to compliance with national policy. The proposal would be inappropriate development in the Green Belt, and compliance with the NPPF, and therefore Policy GB1, is contingent upon such development being justified by very special circumstances. As mentioned above (para 12.62), that is a matter which I consider in my overall conclusions.

12.70 The application was accompanied by a landscape and visual impact assessment as required under Policy NHE1. Although I have found that there would be a harmful effect on the character and appearance of the area, that is not a matter which brings the proposal into conflict with the specific provisions of the policy.

12.71 Insofar as heritage assets are concerned, Policy NHE9 defers to the Development Plan and national policy. Compliance with Policy HE1 of the Local Plan necessitates a balance with the public benefits of the development, as prescribed in paragraph 202 of the NPPF, a matter I consider below (paras 12.88 & 12.89). Similarly, Policy NHE3 defers to local policy in respect of local wildlife sites, and I have found compliance with Policy NE4 of the Local Plan.

12.72 As there would be a net gain in biodiversity, a slight betterment with regard to flood risk, and the opportunity for native species to be used in landscaping, the scheme would comply with Policies NHE2, FR1, and NHE8.

### *The Minerals Local Plan Review*

12.73 Although part of the site falls within an area which has been identified for the safeguarding of sand and gravel reserves [5.8], this resource would not be sterilised since the proposal seeks permission for a temporary period of 40 years. Consequently there would be no conflict with Minerals Policy 5.

### *The Development Plan as a whole*

12.74 The proposal would not conflict with the relevant policy in the Minerals Local Plan Review, and it would comply with several policies in both the Local Plan and the Neighbourhood Plan. However, even though there is support in Policy SP11 of the Local Plan for the principle of renewable energy development, the

site is not an appropriate location, and there is also conflict with policies concerning the character and appearance of the area. Important policies concerning the Green Belt and heritage assets require consideration to be given to other matters. I deal with those balancing exercises in my overall conclusions where I also conclude on the Development Plan as a whole.

### **Other considerations**

#### *i) Site selection*

12.75 The inquiry heard that an initial step in site selection is to avoid those areas with a high level of curtailment, where the export of electricity is susceptible to being prevented during periods of high generation. Six EHV sub-stations were identified as having the potential for connection on the basis of their association with areas of low to moderate curtailment [7.1]. Small size and capacity are limiting factors at most of these sub-stations, and difficulties due to an urban setting, disruption to residents, and the cost of the cable route are referred to in respect of four EHV substations [7.1].

12.76 Six 132kV substations were also identified, but only Wymondley GSP offers the type of connection sought [7.2]. The alternative 132kV connections elsewhere would be considerably more expensive, and it is the undisputed evidence of the Applicant that generally this arrangement is only viable for connections in excess of 50MW<sup>93</sup>. A site for the arrays was sought based on connection at Wymondley, within a maximum radial distance of 4km [7.2]. Virtually all of the land within this distance from Wymondley substation and outside the built-up areas of Hitchin and Stevenage lies within the Green Belt. The application site is within this search area and is technically unconstrained.

12.77 It is self-evident that costs will increase with distance from the point of connection, but whilst the Applicant refers to a maximum distance of 4km for projects of this size having regard to viability [7.2], there is no clear evidence to demonstrate that that is the case. Similarly, South Hitchin EHV substation is not included in the supplementary table which provides information on substation capacity [7.1], and there is no detailed information to substantiate concerns about constraints there. In the absence of more substantive evidence on these matters, it is not clear that the site selection exercise was so tightly constrained that there is no alternative location outside the Green Belt for the proposed development. My finding that the status of the application site as BVM land does not count against the proposal (above, paras 12.60 & 12.61) is insufficient to outweigh these considerations.

12.78 On the information before me, I conclude that the site selection exercise does not provide clear support for the development of the solar farm on the application site.

#### *ii) Deliverability*

12.79 The appeal site is available and deliverable. If planning permission is granted, it is expected that the solar farm would be connected to the grid by 2025-26. In contrast, the current lead-time for connection following a new request is 46 months [7.2]. An alternative scheme could, therefore, take up to two years

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<sup>93</sup> CD232, para 2.5.

longer to come on stream once a proposal had been prepared. Given the urgency of addressing the climate crisis, that is a matter which lends significant support to the proposal.

*iii) Noise*

12.80 The JOG expressed concern about noise from equipment on the site, and also the possibility that the panels would deflect traffic noise from the A1(M). The noise and vibration assessment reported on sound monitoring and predicted noise levels from the battery store, inverters, and transformers. It found that the noise from maximum site operations during both day and night time would be below the representative background sound level, and would have a low impact<sup>94</sup>.

12.81 In a consultation response addressing noise, the Council's Environmental Health Officer only identified a potential for noise nuisance to arise during the construction period, and recommended conditions to restrict working hours and require adherence to a construction phasing and environmental management programme (subsequently referred to as a construction environmental management plan) which would include measures to minimise noise. With these safeguards in place I do not consider that the proposal would harm the living conditions of local residents.

*iv) Transport implications*

12.82 Once operational, the solar farm would generate little traffic. The Applicant indicated that there would be 1-2 visits per week using a light vehicle, a matter which was not disputed by other parties. Traffic movement would be greater during the 36 weeks construction period, involving heavy goods vehicles in addition to lighter vehicles [7.16]. Even so the additional number of movements would be modest, and deliveries and HGVs would be routed from the motorway to the east [7.16], thereby avoiding the villages of Great Wymondley and Little Wymondley. The routing of construction traffic could be included within a construction traffic management plan, secured by condition. At a point on Graveley Lane where the carriageway is narrower a passing bay would be formed to avoid disruption to the free movement of traffic. Conditions could be imposed to secure both the formation of the passing bay, and its removal once construction had been completed.

12.83 The JOG referred to the potential for disruption on Priory Lane and Stevenage Road during works to lay the cable. It is expected that some temporary road closures and diversions would be necessary. The works within the carriageway and associated traffic management measures would be subject to a separate consenting regime and would require approval by the local highway authority [7.17]. They are not a reason to resist the grant of planning permission.

*v) Fire risk*

12.84 Hertfordshire Fire Service has advised that certain measures, including a perimeter road and an emergency water supply, should be included in the development (CD200). In response, a fire risk management plan is proposed, the implementation of which could be secured by means of a condition.

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<sup>94</sup> CD8, paras 7(iii) & 9(v).

*vi) Permissive footpaths*

12.85 The scheme proposes the creation of several lengths of permissive footpath, to remain in place for the duration of the development. There would be a footpath along the west and south sides of the northern parcel, with a short northwards spur at its eastern end. This footpath would link to the Hertfordshire Way at each end, providing the opportunity for a circular walk on the north side of Graveley Lane. A separate path on the south side of the road would provide a link from the junction at the eastern end of the village to the path around the northern parcel. The provision of these temporary paths would provide a benefit to local residents and other walkers in the countryside to which I ascribe moderate weight.

*vii) Economic considerations*

12.86 Employment opportunities would provide an economic benefit [8.15], but during the operational phase of the development there are only expected to be 1-2 visits per week by staff (above, para 12.82). Construction would involve more people but would only last for about 36 weeks, and decommissioning would similarly be relatively short compared to the 40 years operational life of the solar farm. Consequently I ascribe limited weight to this benefit.

**Conditions**

12.87 I have considered the suggested conditions (CD218) in the light of the advice in PPG and the discussion on conditions at the inquiry. In accordance with section 100ZA(5) of the Town & Country Planning Act 1990, the Applicant has agreed to those conditions which would be pre-commencement conditions (CD250). Those conditions which I consider would be necessary if planning permission were granted are listed in the annex to this report, together with the reasons for their imposition.

**Overall conclusions**

12.88 The proposal would lead to less than substantial harm to the significance of Great Wymondley Conservation Area, the scheduled monument of Wymondley Castle, and heritage assets at Wymondley Priory. Where that is the case, paragraph 202 of the NPPF requires that the harm should be weighed against the public benefits of the proposal. The urgent need to generate electricity from renewable sources, including solar installations, in order to meet national and local targets, and supported by paragraph 152 of the NPPF, is an important factor which carries significant weight in support of the application. The proposal would contribute to meeting that need, and is deliverable within a relatively short time-frame. That adds further significant weight to the case in favour of the proposed solar farm. I also give significant weight to the biodiversity gain which would be achieved as a result of the design of the scheme. Further public benefits, which merit moderate weight, arise from the limited reduction in flood risk and the provision of permissive footpaths on and leading to the site. The development would be reversible, and whilst the eventual return of the site to open countryside would be a benefit compared to a permanent permission, 40 years is a considerable period of time, and I give limited weight to this matter. I also give limited weight to the economic benefits arising from employment in connection with the proposal.



12.89 Whereas the harm occasioned to the significance of the castle would be towards the lower end of the spectrum of less than substantial harm, the harm in respect of Great Wymondley Conservation Area and the scheduled monument of Wymondley Priory, together with the listed priory and the listed tithe barn would be markedly greater. I am concerned that the development would cause serious harm to their settings, and in consequence the presence of the solar farm would damage the significance of these important assets for a prolonged period of time. Paragraph 199 of the NPPF makes it clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I am in no doubt that the harm to designated heritage assets which I have identified outweighs the public benefits which the proposed development would produce. In consequence the proposal would fail to comply with Policy HE1 of the Local Plan and Policy NHE9 of the Neighbourhood Plan.

12.90 I turn now to the Green Belt balance. The proposal would amount to inappropriate development, it would result in a significant loss of openness over a considerable period of time, and it would conflict with several of the purposes of including land in the Green Belt. Harm to the Green Belt carries substantial weight. There would be serious harm to the setting of several important heritage assets. Additionally the development of a solar farm to the east of Great Wymondley would harm the character and appearance of the area. I attach significant weight to the adverse impact on the landscape of the site and its immediate surroundings, and moderate weight to the effect on the landscape character area of which the site forms part. Insofar as visual amenity is concerned, the adverse impact on views from The Hertfordshire Way and Graveley Lane merits considerable weight, and there would be some additional harm from viewpoints to the north and south-west. I am concerned that there is insufficient certainty about the mitigation proposed for displaced skylarks, and I attach moderate weight to this aspect of the scheme.

12.91 There are no additional factors to the public benefits identified above (para 12.88) to weigh in favour of the proposal. I acknowledge that there would be some improvement to soil structure in the fields where the panels would be installed but this would be counterbalanced by the loss of productivity of the farmland. This part of Hertfordshire is constrained by the extent of the Green Belt and the presence of The Chilterns National Landscape. However the evidence submitted in respect of site selection is not sufficient to demonstrate that these constraints are such as to provide support for development of the proposal in this countryside location within the Green Belt and within the setting of a number of designated heritage assets.

12.92 I conclude that the harm to the Green Belt by reason of inappropriateness and the other harms identified would not be clearly outweighed by other considerations. Consequently very special circumstances to justify the development do not exist in this case: it would, therefore, conflict with Policy SP5 of the Local Plan, Policy GB1 of the Neighbourhood Plan, and paragraph 147 of the NPPF.

12.93 Bringing together my earlier findings on the Development Plan and my conclusions on the heritage and Green Belt balances, I conclude that the proposed development would conflict with the Development Plan considered as

a whole, and that the impacts of the development would not be acceptable, contrary to paragraph 158(b) of the NPPF.

### **13. Recommendation**

13.1 For the reasons given above, and having regard to all matters raised, I recommend that planning permission be refused. Should the Secretary of State reach a different conclusion on the merits of the application, I recommend that the conditions in the Annex to this report should be imposed on a grant of planning permission.

*Richard Clegg*

INSPECTOR

## **ANNEX**

### **SCHEDULE - SUGGESTED CONDITIONS**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings:
  - i) Drawing No. 3004-01-001 Rev B – location plan
  - ii) Drawing No. 3004-01-002 Rev B – statutory plan (location plan)
  - iii) Drawing No. 3004-01-003 Rev F – general arrangement (site plan)
  - iv) Drawing No. 3004-01-012 Rev F – landscape proposals
  - v) Drawing No. 3004-01-004 – illustrative PV frame and panels
  - vi) Drawing No. 3004-01-005 – indicative inverter-transformer station
  - vii) Drawing No. 3004-01-006 – storage building
  - viii) Drawing No. 3004-01-007 – control building
  - ix) Drawing No. 3004-01-008 – switchgear building
  - x) Drawing No. 3004-01-009 – battery storage container
  - xi) Drawing No. 3004-01-010 Rev A - indicative deer/stock fencing, access track and CCTV
  - xii) Drawing No. 3004-01-011 – typical cable trench
  - xiii) Drawing No. 3004-01-D04 – proposed passing place and junction visibility splays
  - xiv) Drawing No. 3004-01-D05- forward visibility splays
  - xv) Drawing No. 3004-01-ATR03 - swept path assessment – northern access
  - xvi) Drawing No. 3004-01-ATR01 Rev D - swept path assessment construction phase.

Reason - To provide certainty.

- 3) Notwithstanding condition No 2, no development (excluding demolition, tree protection works, groundworks/investigations) shall take place until details (including layout, materials, colour and finish) of the following have been submitted to and approved in writing by the Local Planning Authority:
  - i) solar panels and frames.
  - ii) CCTV columns.

- iii) Satellite communication dish and column.
- iv) Location of ancillary buildings, and details of equipment and enclosures

The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: To protect the character of the area.

- 4) Within 1 month of the date of first export of electricity to the National Grid (the date of first export) confirmation shall be given in writing to the Local Planning Authority of the same. The development hereby permitted shall cease on or before the expiry of a 40 years period from the date of first export. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work and an ecological assessment report detailing site requirements in respect of retaining ecological features.

The scheme of decommissioning work and the ecological assessment report shall be submitted to and approved in writing by the Local Planning Authority no later than 39 years from the date of first export and subsequently implemented as approved.

Reason - For the protection of the Green Belt and in accordance with the time limited nature of the application.

- 5) In the event that the development hereby permitted ceases to export electricity to the grid for a continuous period of 12 months at any point after the date of first export (other than for operational reasons outside of the operator's control), a scheme of early decommissioning works (the early decommissioning scheme) and an ecological assessment report detailing site requirements in respect of retaining ecological features (the early ecological assessment report) shall be submitted no later than 3 months after the end of the 12 months non-electricity generating period to the Local Planning Authority for its approval in writing. The approved early decommissioning scheme and the approved early ecological assessment report shall be implemented in full in accordance with a timetable that shall be set out in the early decommissioning scheme.

Reason - The use and associated buildings and structures are not in accordance with national and local policy for the protection of the Green Belt. The use and associated buildings and structures should therefore be removed as soon as possible if the solar farm is no longer required.

- 6) No development shall take place (including demolition, ground works and vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include details of the following:
  - i) A timetable for the construction works.

- ii) The control and management of noise and dust during the construction phase.
- iii) On-site waste management.
- iv) A risk assessment of potentially damaging construction activities.
- v) Identification of biodiversity protection zones.
- vi) Physical measures and sensitive working practices to avoid or reduce impacts during construction (which may be provided as a set of method statements).
- vii) The location and timing of sensitive works to avoid harm to biodiversity features.
- viii) The times during the construction period when specialist ecologists need to be present on site to oversee works.
- ix) Responsible persons and lines of communication.
- x) The role and responsibilities on site of an ecological clerk of works or similar competent person.
- xi) The use of protective fences, exclusion barriers and warning signs.
- xii) Soil management across the site.
- xiii) A flood management plan, which shall include a requirement for the contractor to sign up to the Environment Agency flood warning service, and which shall set out the actions to be taken in the event that a flood alert and/or flood warning is received from the Environment Agency (including a requirement that no new trenches are excavated until the Environment Agency has issued an All Clear).
- xiv) Construction and storage compounds, and post-construction reinstatement of these areas.

The development shall be implemented in accordance with the approved CEMP throughout the construction period.

Reason – To safeguard the living conditions of nearby residents, to ensure that construction works do not have a harmful environmental effect, and to ensure that there is no obstruction to flood water flows and no increase in flood risk elsewhere during construction of the development.

- 7) During the installation of underground cables, no spoil or material shall be stored adjacent to Stevenage Road, Little Wymondley within the extent of flood zone 3, nor along any part of Priory Lane.

Reason: To ensure that the storage of spoil and other material does not impede flood water flows nor increase flood risk during construction of the development, and to comply with Policy NE7 of the North Hertfordshire Local Plan 2011-2031.

- 8) No development shall take place until a construction traffic management plan (CTMP) has been submitted to, and approved in writing by, the local planning authority. The CTMP shall include details of the following:
  - i) Construction vehicle numbers, type and routeing.
  - ii) Access arrangements onto the site.
  - iii) Traffic management measures.



- iv) Areas designated for car parking, loading/unloading and vehicle turning.
- v) Wheel washing facilities.
- vi) Arrangements for the cleaning of site entrances, internal site tracks and the adjacent public highway.

The development shall be implemented in accordance with the approved CTMP throughout the construction period.

Reason - In the interest of highway safety, to safeguard the living conditions of local residents, and to ensure that construction traffic does not have a harmful environmental effect.

- 9) No development shall take place until a landscape and ecological management plan (LEMP) has been submitted to, and approved in writing by, the local planning authority. The LEMP shall include the following:
- i) Description and evaluation of features to be managed.
  - ii) Ecological trends and constraints on the site that might influence management.
  - iii) The aims and objectives of management.
  - iv) Appropriate management options for achieving aims and objectives.
  - v) Prescriptions for management action.
  - vi) A work schedule, including an annual work plan capable of being rolled forward over five-year periods to a minimum period of 30 years from the date of first export of electricity to the grid.
  - vii) Details of the organisation responsible for implementation of the plan.
  - viii) Ongoing monitoring and remedial measures.
  - ix) Details of species selected to achieve target habitat conditions as identified in the biodiversity metric 4.0, and stated and marked on plans.
  - x) Measures to safeguard wildlife, in accordance with paragraphs 4.7.1-4.7.46 of the Ecological Assessment Report ref AxisL-043—1480.
  - xi) Details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured.
  - xii) The means by which contingencies and/or remedial action will be identified, agreed and implemented in order that the development delivers the biodiversity objectives of the approved scheme.

The development shall be carried out in accordance with the approved LEMP.

Reason - To ensure the delivery of measurable biodiversity net gain.

- 10) No development shall take place until a fire risk management plan (FRMP) has been submitted to, and approved in writing by, the Local Planning Authority. The FRMP shall include details of battery management, response to fire at the development, and emergency vehicle access.

Reason - To manage fire risk and ensure public safety.

- 11) No external lighting shall be installed on the site before a lighting scheme has been submitted to and approved in writing by the Local Planning Authority.

The lighting scheme shall be designed in accordance with the advice on lighting set out in the Institute of Lighting Professionals (ILP) (2023) Guidance Note 8/18: Bats and Artificial Lighting in the UK- Bats and the Built Environment Series. BCT London (or any successor document). The lighting shall be installed in accordance with the approved scheme.

Reason: To prevent light pollution, to protect the character of the area, and to avoid harm to bats.

- 12) Notwithstanding any details submitted, no development shall take place until details of hard and soft landscaping (the landscaping scheme) have been submitted to, and approved in writing by, the local planning authority. The landscaping scheme shall include details of the following:
- i) A timetable for implementation of the scheme.
  - ii) External hard surfacing materials.
  - iii) Means of enclosure.
  - iv) Proposed and existing services above and below ground.
  - v) Soft landscape works including planting plans, written specifications for cultivation and other operations associated with plant and grass establishment, and schedules of plants including species, plant sizes and proposed numbers or densities.
  - vi) Finished levels and contours.

The landscaping shall be implemented in accordance with the approved scheme and timetable. Any tree or shrub which forms part of the approved landscaping scheme, and which, within a period of 5 years from planting, fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be agreed with the local planning authority.

Reason – To safeguard the character and appearance of the area.

- 13) Notwithstanding the submitted Archaeological Mitigation Strategy – Written Scheme of Investigation (WSI) by AOC Archaeology Group, ref 25806/80064, no development shall take place until the pre-development actions specified in a revised WSI, which has been submitted to and approved in writing by the local planning authority, have been completed. The scheme shall include:
- i) The programme and methodology of site investigation and recording.
  - ii) Identification of the no-dig areas.
  - iii) The programme for post investigation assessment.
  - iv) Arrangements for analysis of the site investigation and recording.
  - v) Arrangements for publication and dissemination of the analysis and records of the site investigation.
  - vi) Arrangements for archive deposition of the analysis and records of the site investigation.
  - vii) Nomination of a competent person or organisation to undertake the works set out within the revised WSI.

The development shall take place in accordance with the programme of archaeological works set out in the approved WSI.

Reason –To safeguard and to ensure the investigation and recording of archaeological assets within the site.

- 14) No excavation activities shall be undertaken within the no-dig areas identified in the revised WSI.

Reason - To safeguard archaeological assets within the site.

- 15) During the construction phase of the development hereby approved no construction activities shall take place outside the following hours: Monday to Friday 08:00-18:00, and Saturdays 08:00-13:00. No construction activities shall take place at any time on Sundays or bank holidays, and piling shall only be undertaken between 09.00 and 17.00 Monday to Friday.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

- 16) No noise generating plant shall be installed before details of such plant and any mitigation measures, which demonstrate compliance with the source noise levels detailed in Section 6.2.3 of the Noise Impact Assessment reference R21.0906/DRK dated 7 October 2021, have been submitted to, and approved in writing by, the Local Planning Authority. The plant shall be installed in accordance with the approved scheme.

Reason: To protect the living conditions of local residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

- 17) No development, including ground works and ground preparation works, shall take place until a surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The submitted surface water drainage scheme shall include:

- i) Methods to ensure that surface water run-off generated from the development site does not exceed run-off rates from the undeveloped site for the corresponding rainfall event up to and including 1 in 100 years + climate change critical storm.
- ii) Methods to ensure that the scheme provides betterment in respect of the pre-development overland flow paths for the 1 in 30-year event.
- iii) A condition survey of the 285m culvert that crosses the northern part of the site.
- iv) Retention of the existing overland flow pathways across the site free of obstruction.

- v) Detailed drawings of the attenuation basins including location, size, volume, depth, inlet and outlet features, connecting pipe runs and all calculations and modelling to ensure that the scheme caters for all rainfall events up to and including the 1 in 100 year plus climate change event.
- vi) Detailed drawings of all proposed discharge locations, including headwall details, and evidence of land ownership with evidence of any required third-party permissions.
- vii) Run-off quality treatment.
- viii) Provision of half drain down times for surface water drainage features within 24 hours.
- ix) Silt traps for protection of any residual tanked elements.
- x) Arrangements for maintenance and management of the scheme.
- xi) A timetable for implementation of the scheme.

The development shall be carried out in accordance with the approved scheme and timetable.

Reason – To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

- 18) No development shall take place until a scheme of interim and temporary drainage measures during the construction period have been submitted to, and approved in writing by, the local planning authority. The scheme shall provide full details of the responsibility for maintaining the temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. Construction shall be carried out in accordance with the approved scheme.

Reason - To ensure adequate drainage provision and to prevent flooding and pollution offsite.

- 19) No electricity shall be exported to the National Grid, until, upon completion of the surface water drainage/flood management works for the development hereby permitted, the following documents have been submitted to and approved in writing by the Local Planning Authority:

- i) Provision of a verification report, including evidence demonstrating that the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme. The verification report shall include photographs of excavations and soil profiles/horizons, installation of any surface water structures (during construction and final make up) and the control mechanism.
- ii) Provision of a complete set of built drawings for site drainage.
- iii) A management and maintenance plan for the sustainable drainage features and drainage network.

The management and maintenance plan for the sustainable drainage features and drainage network shall be implemented as approved.

Reason - To ensure adequate drainage provision and to avoid an increased risk of flooding, both on and off the site.

20) No excavation of trenches for cabling within Wymondley Transforming Station Local Wildlife Site (LWS) shall take place until a soil management plan has been submitted to and approved in writing by the Local Planning Authority. The soil management plan shall include the following:

- i) An ecological survey of the route across the LWS.
- ii) Details relating to the lifting, storage and replacement of turves, including the season when this will take place.
- iii) Proposed aftercare and management.

The works shall be undertaken in accordance with the approved management plan.

Reason - To minimise the impact upon the ecological and biodiversity interest of the Wymondley Transforming Station LWS in accordance with Policy NE4 of the North Hertfordshire Local Plan 2011-2031.

21) No development shall take place until an arboricultural method statement identifying measures to protect trees and hedgerows to be retained, has been submitted to, and approved in writing by, the local planning authority. The statement shall include a tree and hedgerow protection plan and measures to protect trees and hedgerows during site preparation, construction, and landscaping operations.

Reason - To protect trees and hedgerows, and to safeguard the character and appearance of the area.

22) No development shall take place until a skylark mitigation strategy has been submitted to, and approved in writing, by the local planning authority. The skylark mitigation strategy shall include details of the following:

- i) Identification of the proposed area for the implementation of mitigation.
- ii) Details of how the area will be managed.
- iii) Arrangements to secure the delivery of proposed measures, including a timetable of delivery; and a management and monitoring plan for a period of not less than 5 years from the date of first export of electricity to the grid. Ecological monitoring reports should be submitted to the Local Planning Authority in year 2 and year 5 of the plan.
- iv) Identification of persons responsible for implementing the measures included in the strategy.



The development shall be carried out in accordance with the approved strategy and timetable, and the mitigation measures shall be retained for the lifetime of the development.

Reason – To provide alternative foraging and nesting opportunities for skylarks displaced from the application site.

- 23) No electricity shall be exported to the National Grid until a grazing management plan (GMP) has been submitted to and approved in writing by the Local Planning Authority. The GMP shall detail which parts of the site shall be used for the grazing of livestock, during which months of the year, and how the grazing is to be managed. Within three years of the date of first export, the grazing of livestock shall commence on the site in accordance with the GMP. The approved GMP shall be implemented thereafter. Any changes to the GMP during the lifetime of the permission shall be submitted to the Local Planning Authority for approval in writing and shall not be carried out except in accordance with the approved revised GMP.

Reason - To ensure that agricultural use continues on the site.

- 24) No electricity shall be exported to the National Grid until a scheme relating to the proposed permissive footpaths shown on submitted drawing No. 3004-01-003 Rev F has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of surfacing, a timetable for implementation, signage, waymarks and interpretative panels relating to the proposal. The footpaths shall be implemented and made available for public use in accordance with the approved scheme and timetable.

Reason - To enhance pedestrian movement within and around the site.

- 25) No development shall take place until detailed engineering drawings of the accesses, as shown on plans ref 3004-01-D04 and 3004-01-D05, have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include details of hardsurfacing for at least the first 20 metres from the back edge of the carriageway and associated drainage, and visibility splays of 2.4m x 105m to the west and 2.4m x 148m to the east, within which there shall be no vertical obstruction between 0.6m and 2m. No other development shall take place until the site accesses arrangements have been constructed in accordance with the approved drawings.

Reason – In the interest of highway safety.

- 26) No development shall take place until detailed engineering drawings of the passing bay on Graveley Lane, as shown on plans ref 3004-01-D04 and 3004-01-D05 have been submitted to, and approved in writing by, the Local Planning Authority. The drawings shall include measures to demonstrate how the passing bay will be prevented from being used for parking purposes. No

other development shall take place until the passing bay has been provided in accordance with the approved drawings.

Reason – In the interest of highway safety and the free movement of traffic.

- 27) Within 3 months of completion of construction, both accesses shall be modified in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority. The revised designs shall reduce the width of both site accesses and provide associated tighter kerb radii to accommodate ongoing maintenance and agricultural vehicles.

Reason: To ensure the provision of an appropriate standard of access for the operational development and to protect the character and appearance of the area.

- 28) Within 3 months of completion of construction, the passing bay on Graveley Lane shall be removed, and the verge/embankment and vegetation reinstated, in accordance with detailed engineering drawings which have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the area and in the interest of biodiversity.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

|                                       |  |
|---------------------------------------|--|
| Ms C Daly                             | Counsel for North Hertfordshire District Council |
| She called                            |  |
| Mr M Robinson BA(Hons)<br>DipTP MRTPI | Planning consultant                              |

### FOR THE APPELLANT:

|  |   |
|--|---|
| Mr D Hardy   | Partner, CMS Cameron McKenna Nabarro<br>Olswang LLP |
| He called  |   |
| Ms L Roy BA(Hons) MSc<br>MCIfA FSA(Scot)             | Senior Project Manager, AOC Holdings Ltd            |
| Mr J Mason BSc(Hons)<br>DipLA CMLI                   | Technical Director, Axis                            |
| Mr L Kendall BA(Hons)<br>MCIHT MTPS                  | Technical Director, Axis                            |
| Dr K Tilford BSc MSc<br>PhD MBA C.WEM<br>FCIWEM CEnv | Managing Director, Weetwood Services Ltd            |
| Mr A P Kernon<br>BSc(Hons) MRAC MRICS<br>FBIAC       | Principal, Kernon Countryside Consultants           |
| Mr A I Hoyle BSc(Hons)<br>MCD MRTPI                  | Associate Director, Axis                            |
| Mr H Fearn MSc MCIEEM                                | Director, Avian Ecology Ltd                         |
| Mr J Collier MEng CFA                                | Investment Manager, AGR Renewables                  |

### FOR THE JOINT OBJECTORS GROUP:

|  |   |
|--|---|
| Mr P S Harding BSC FRICS               | Resident of Great Wymondley and Member of<br>Wymondley Parish Council         |
| He gave evidence<br>himself and called |   |
| Mr D Jackson BA(Hons)<br>MBA           | Resident of Great Wymondley and of the Great<br>Wymondley Village Association |
| Mrs J Simpson MBE                      | Resident of Great Wymondley   |
| Mr J Griffiths MA DipTP<br>FRTPI       | Planning consultant   |
| Mrs E Hamilton MA MSc                  | Trustee of the Campaign to Protect Rural England<br>Hertfordshire             |

## INQUIRY DOCUMENTS

Superseded documents are not included in this list

- CD200 Letter dated 8 September 2023 from Hertfordshire CC providing a freedom of information response in respect of Fire Service comments on the application.
- CD201 Mr Hardy's opening statement on behalf of the Applicant.
- CD202 Ms Daly's opening statement on behalf of the LPA.
- CD203 Mr Harding's statement on behalf of the JOG.
- CD204 Mr Jackson's revised proof of evidence.
- CD205 Video – Solar Harm. Submitted by Mr Jackson.
- CD206 Notification letter about the calling-in of the application.
- CD207 List of recipients of CD206.
- CD208 Revised location plan, ref 3004-01-001 rev B.
- CD209 List of heritage assets within the study area.
- CD210 Slide pack - community harm objection. Submitted by Mrs Simpson.
- CD211 Map of The Chilterns AONB.
- CD212 Map of the north-eastern part of The Chilterns AONB.
- CD213 Webpage showing examples of above ground bases for solar panels.
- CD215 Composite plan of proposed drainage layout, ref 5208-110-P1.
- CD216 Technical Note 01 – Assessment of Grid Connection Route Cable Laying Process. Submitted by Mr Kendall and Dr Tilford.
- CD217 Revised plan showing construction swept paths, ref 3004-01-ATR01 rev D.
- CD218 Revised list of possible conditions (18 September). Submitted by the Applicant.
- CD219 Illustrative skylarks plot plan. Submitted by the Applicant.
- CD220 Letter dated 15 September 2023 from Hertfordshire CC to the LPA concerning the revised biodiversity metric applied to the proposal.
- CD221 Note on a planning application for a solar farm at St Ippolyts. Prepared by the LPA.
- CD222 Birds of Conservation Concern 5. Referred to in footnote 2 of Mrs Hamilton's proof of evidence.
- CD223 Blithe spirit: Are skylarks being overlooked in impact assessment? by H Fox. From in practice, September 2022. Referred to in footnote 4 of Mrs Hamilton's proof of evidence.
- CD224 Land Management for Wildlife – Yellowhammer, RSPB. Referred to in footnote 5 of Mrs Hamilton's proof of evidence.
- CD225 The effects of solar farms on local biodiversity: A comparative study, by H Montag, G Parker & T Clarkson. Referred to in footnote 8 of Mrs Hamilton's proof of evidence.
- CD226 Densities and population estimates of breeding skylarks *alauda arvensis* in Britain in 1997, by S Browne, J Vickery & D Chamberlain. From Bird Study 47:1. Referred to in footnote 9 of Mrs Hamilton's proof of evidence.
- CD227 Habitat selection by skylarks *alauda arvensis* wintering in Britain in 1997/98, by S Gillings & R J Fuller. From Bird Study 48:3.

- CD228 Land Management for Wildlife – Skylark, RSPB. Referred to in footnote 11 of Mrs Hamilton’s proof of evidence.
- CD229 Potential ecological impacts of ground-mounted photovoltaic solar panels – An introduction and literature review, by R Taylor, J Conway, O Gabb & J Gillespie. Referred to in footnote 13 of Mrs Hamilton’s proof of evidence.
- CD230 Renewable energies and biodiversity: Impact of ground-mounted solar photovoltaic sites on bat activity, by E Tinsley, J S P Froidevaux, S Zsebok, K L Szabadi & G Jones. From Journal of Applied Ecology 2023;00. Referred to in footnote 14 of Mrs Hamilton’s proof of evidence.
- CD231 Life in a hedge, by R Woolton. From British Wildlife June 2015. Referred to in footnote 15 of Mrs Hamilton’s proof of evidence.
- CD232 Mr Collier’s statement on grid connection and site identification.
- CD233 Supplementary table to Document CD232.
- CD234 Solar park microclimate and vegetation management effects on grassland carbon cycling, by A Armstrong, N J Ostle & J Whitaker. From Environmental Research Letters, volume 11, number 7. Referred to in footnote 16 of Mrs Hamilton’s proof of evidence.
- CD235 Note on agricultural land classification statistics. Submitted by Mr Kernon.
- CD236 Plans showing proposed revised site visits itinerary. Agreed by the main parties.
- CD237 The Biodiversity Metric 4.0, calculation for the proposed development.
- CD238 Mr Harding’s response to CD216.
- CD239 Appeal decision concerning ground-mounted solar arrays and associated development at Crays Hill, Essex. Submitted by the Applicant.
- CD240 Technical glossary. Submitted by the Applicant.
- CD241 Extract from the Hertfordshire Minerals Local Plan Review 2002-2016.
- CD242 Extract from the Hertfordshire Minerals and Waste Local Plan 2040 – Draft Plan.
- CD243 Extract from the Hertfordshire Minerals and Waste Local Plan 2040 – Policies Map.
- CD244 Mr Harding’s closing submissions on behalf of the JOG.
- CD245 Ms Daly’s closing submissions on behalf of the LPA.
- CD246 Mr Hardy’s closing submissions on behalf of the Applicant.
- CD247 Email dated 28 September 2023 on behalf of the Applicant to The Planning Inspectorate concerning a cessation of generation condition.
- CD248 Email dated 28 September 2023 from the JOG to The Planning Inspectorate concerning possible conditions.
- CD249 Regulation 2(4) notice concerning pre-commencement conditions.
- CD250 The Applicant’s response to CD 249.





# Department for Levelling Up, Housing & Communities

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## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

## SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

## SECTION 2: ENFORCEMENT APPEALS

### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

## SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

## SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



## Appeal Decision

Inquiry held on 9-11 January 2024

Site visit made on 12 January 2024

**by J Woolcock BNatRes MURP DipLaw MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> March 2024**

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### **Appeal Ref: APP/M1595/W/23/3328712**

#### **Land to South of Marsh Farm, Fobbing, SS17 9JW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Rayleigh Green Limited against the decision of Thurrock Borough Council (TBC).
  - The application Ref: 21/01635/FUL, dated 23 September 2021, was refused by notice dated 12 June 2023.
  - The development proposed is the installation of a renewable led energy generation station, comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter/transformers stations, site access, internal access tracks, security measures, access gates, other ancillary infrastructure, grid connection cable, landscaping and biodiversity enhancements.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the installation of a renewable led energy generation station, comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter/transformers stations, site access, internal access tracks, security measures, access gates, other ancillary infrastructure, grid connection cable, landscaping and biodiversity enhancements at Land to South of Marsh Farm, Fobbing, SS17 9JW, in accordance with the terms of the application, Ref: 21/01635/FUL, dated 23 September 2021, and the plans submitted with it, as amended, subject to the conditions set out in the Schedule of Conditions attached to this decision.

### **Preliminary matters**

2. The Inquiry sat for three days and there was an accompanied site visit on the fourth day. With the agreement of the parties, I also visited off-site locations unaccompanied. Closing submissions were in writing and the Inquiry was closed in writing on 11 March 2024.<sup>1</sup> TBC and the appellant agreed a Statement of Common Ground (SoCG) and an addendum was submitted regarding the updated version of the National Planning Policy Framework (NPPF) published on 19 December 2023.<sup>2</sup>
3. In refusing the application against officer recommendation for approval, TBC considered a revised scheme from that originally submitted with the application. The revised scheme reduced the size of the area for solar panels, along with minor amendments to the proposed planting. It is the scheme (shown on Drawing Nos. FO2.0 Rev 19 site plan and 7428\_100 Rev E

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<sup>1</sup> ID12 and ID13.

<sup>2</sup> CD C10 and CD C19.

Landscape Ecology Enhancement Plan) that I have used in my consideration of the appeal. Drawing No. 7428\_100 Rev E depicts new ponds, an orchard, off-site hedge and diverse planting, along with natural areas, all outside the appeal site edged red.<sup>3</sup> These are part of wider estate biodiversity enhancements. This off-site landscaping is not the subject of any planning obligation or suggested planning condition that relates to the appeal scheme. In determining this appeal, I have given no weight to these off-site works.

4. The application was accompanied by an Environmental Statement (ES). I am satisfied that the ES reasonably complies with Schedule 4 of the EIA Regulations. In deciding the appeal, I have had regard to the Environmental Information.<sup>4</sup>
5. Part of the appeal scheme, comprising a section of the cable route corridor connecting to the National Grid substation at Rayleigh, falls within Basildon District. Planning permission for this development was granted by Basildon Council on 8 September 2023.<sup>5</sup>
6. The development plan for the locality includes the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) adopted in 2015.<sup>6</sup> The appeal site is within the Green Belt as designated in the development plan. The parties are agreed that the proposed development would be inappropriate development in the Green Belt. I concur with that position.
7. Policy PMD6 accords with Green Belt policy in the NPPF. However, Policy C SSP4 refers to PPG2 and does not incorporate current provisions in the NPPF regarding very special circumstances.<sup>7</sup> I have, therefore, given more weight to the NPPF in applying Green Belt policy.
8. The National Planning Practice Guidance (NPPG) includes guidance about renewable and low carbon energy.<sup>8</sup> Factors to consider include 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.
9. On 22 November 2023 Overarching National Policy Statement for Energy (EN-1) and National Policy Statement for Renewable Energy Infrastructure (EN-3) were published and laid before Parliament for approval. The Secretary of State for Energy Security and Net Zero announced in a written ministerial statement on 17 January 2024 that these had been approved and designated under the provisions of the Planning Act 2008. Given that the capacity of the proposed generation station in this appeal would be so close to the 50 megawatt (MW) threshold for a nationally significant infrastructure project (NSIP), I consider that EN-1 and EN-3 are material considerations in

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<sup>3</sup> ID9.

<sup>4</sup> The Environmental Information means the environmental statement, including any representations made by any body required by the Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development.

<sup>5</sup> Basildon Council Ref:21/01452/FULL.

<sup>6</sup> All references in this decision to 'Policy' and 'Policies' are to policies of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) adopted in 2015.

<sup>7</sup> PPG2 is a former Green Belt policy.

<sup>8</sup> The NPPG includes reference to a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013 and written ministerial statement on solar energy: protecting the local and global environment made on 25 March 2015.

determining this appeal.<sup>9</sup> EN-1 and EN-3 were raised at the Inquiry and were the subject of submissions by the parties.

10. The appeal site is located to the east of Fobbing and wholly within the London Area Green Belt. The village of Fobbing lies to the east of the town of Corringham. The Church of St Michael in Fobbing is a grade I listed building. I am required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of a listed building. The historic core of Fobbing is a designated Conservation Area. Footpath 14 traverses the appeal site in a north/south direction and Footpath 199 crosses the site east/west. Both footpaths are Public Rights of Way (PROW). The England Coast Path lies further to the east and south of the site.

### **Proposed development**

11. Rayleigh Green Limited has entered into a Bilateral Connection Agreement with National Grid Electricity System Operator, with a connection date of 31 October 2025, at the Rayleigh National Grid 400/33 kV Substation.<sup>10</sup> Solar panels generate electricity in direct current (DC), which is converted by inverters to alternating current (AC) for export to the grid. Capacity can be measured in different ways, including in terms of combined capacity of installed solar panels (in DC), or in terms of combined capacity of installed inverters (in AC). The Technical Note I requested for the Inquiry states:<sup>11</sup>

“2.3 The connection allows for 57MW import and 57MW export of electricity.

2.4 Although the total export capacity is 57MW, as this is the capacity of the tertiary connection secured, the 57MW export capacity is split into two stages 49.9MW and 7.1MW. This is restricted via a contractual arrangement with National Grid.

2.5 Through splitting the connection it is designed to keep the actual built capacity of the solar farm to 49.9MW to ensure that the maximum export capacity of the project remains below the threshold for a generating station to be considered a Nationally Significant Infrastructure Project. The AC output will in practice be restricted to 49.9MW through the installed combined inverter/transformer units.

2.6 The import and export capacity of the battery energy storage system will utilise the 49.9MW and also the remaining 7.1MW of the connection.”

The Planning Act 2008 specifies that if a generating station is (when constructed) expected to be a generating station whose capacity is more than 50 MW then it is defined as an NSIP.<sup>12</sup>

12. The design for the appeal scheme includes 99,120 panels, equating to a generating capacity of 49.5 MW, based on a panel specification of 500 Watts. The appeal scheme does not specify the capacity of the proposed inverters. With an 11.2% load factor derived from DUKES, a 49.9 MW scheme would generate 48.99 million kWh per year.<sup>13</sup> The proposed generation station would

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<sup>9</sup> EN-1 paragraphs 1.2.1 and 1.2.2.

<sup>10</sup> ID10.

<sup>11</sup> CD C17.

<sup>12</sup> Sections 14(1)(a) and 15(2)(c) of the Planning Act 2008.

<sup>13</sup> ID5. DUKES is an abbreviation for the Digest of UK Energy Statistics.

operate for 40 years from the date of the first exportation of electricity from the appeal site.<sup>14</sup>

13. The solar panels would be up to 3m high, ground mounted on tracking frames with bifacial panels and a tracking system to follow the path of the sun. This means that their height would vary throughout the day. The arrays, apart from those in an area of archaeological interest, would be installed on posts driven into the ground. The scheme includes sixteen inverter/transformer stations housed in metal containers approximately 12m long x 2.4m wide x 2.9m high. The scheme includes a Battery Energy Storage System (BESS). Twenty-four battery storage units would be housed in metal containers of the same dimensions as the containers for the inverters/transformers. A generating substation and auxiliary switchgear area on the site, approximately 12m long x 4m wide x 4m high, would combine electricity from the transformers and batteries before transferring it to the Rayleigh Substation, which is located 7.6 km to the north-east of the proposed generation station. The electricity would enter the national grid for national use.
14. Deer fencing 2.1m high would be installed around the perimeter of the site. A higher specification of security fencing (2.4m high) is proposed around the battery storage area, along with a system of CCTV cameras. The appeal site is proposed to be accessed via an existing gated farm access from High Road, which links Fobbing with the A13 to the north.

### **Main issues**

15. The main issues in this appeal are:
  - (1) The effects of the proposed development on the character and appearance of the area.
  - (2) The effects of the proposed development on heritage assets.
  - (3) Whether the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

### **Reasons**

#### *Green Belt*

16. Paragraph 156 of the NPPF provides that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development, where developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.
17. The Government attaches great importance to Green Belts and the fundamental aim of policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In considering applications substantial weight should be given

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<sup>14</sup> CD C17.



to any harm to the Green Belt. The NPPF adds 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.

18. The appeal scheme would be inappropriate development, which is by definition harmful to the Green Belt. The proposed panels and associated infrastructure would occupy an area that is currently open fields. The installation of 99,120 solar PV panels, sixteen inverter/transformer stations and twenty-four battery storage units, all housed in metal containers, along with a substation and auxiliary switchgear area, would result in a substantial built form that would have a significant adverse effect on the openness of this part of the Green Belt, in both spatial and visual terms. This harm would persist for the 40-year life of the proposed generation station.
19. The parties acknowledge that the proposal would result in some harm to Green Belt purpose c). I concur because the solar arrays and associated infrastructure in this context would appear as utilitarian structures that would not assist in safeguarding the countryside from encroachment. There is also agreement that the appeal scheme would not undermine Green Belt purpose a) concerning unrestricted sprawl of large built-up areas. I have no reason to find otherwise. However, there is a dispute about whether the proposed development would harm Green Belt purposes b), d) and e).
20. The solar panels and associated infrastructure would be set back some distance from the Vange suburb of Basildon, and beyond large fields to the east of Fobbing.<sup>15</sup> Taking into account the evidence adduced at the Inquiry and what I saw at my site visit, I am satisfied that the appeal scheme would not be perceived as development that merged Basildon with Corringham. I find no conflict with purpose b) to prevent neighbouring towns merging into one another.
21. The fact that Fobbing has a designated Conservation Area is not sufficient by itself to elevate its status as a village to a historic town. There is no conflict with Green Belt purpose d) to preserve the setting and special character of historic towns. Nor would the proposal be at odds with Green Belt purpose e) to assist in urban regeneration because of the unlikely availability of derelict or other urban land to accommodate a solar generation station of sufficient scale to utilise the available grid connection.
22. Harm to the Green Belt arises from inappropriate development, impairment of openness, and conflict with Green Belt purpose c). The following sections of this decision consider whether the appeal scheme would result in any other harm, and then has regard to other considerations, so that a balancing exercise can be undertaken to determine whether very special circumstances exist.

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<sup>15</sup> Fobbing High Road is about 600 m from the nearest part of the appeal site that would contain solar panels and containers. The southern part of Vange is about 650 m from the appeal site.

### *Character and appearance*

23. TBC refused the application on Green Belt grounds, but argued at the Inquiry that the appeal site is a valued landscape. NPPF paragraph 180 provides that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, a) protecting and enhancing valued landscapes, and b) recognising the intrinsic character and beauty of the countryside. The NPPF does not define valued landscapes and I was referred to the Landscape Institute's Technical Guidance Note (TGN) 02/21 *Assessing landscape value outside national designations*.<sup>16</sup> In applying the factors in TGN 02/21 Table 1, I have considered not only the site itself and its features, elements, characteristics and qualities, but also their relationship with, and the role they play within, the site's context.<sup>17</sup>
24. This landscape has some natural heritage interest by reason of the local topography, reedbeds and hedgerows, but the majority of the appeal site is arable farmland. As indicated in the next section of this decision the appeal site makes some contribution to the setting of heritage assets in the wider landscape. But cultural heritage in the locality here does not add significantly to its landscape value. In terms of landscape condition, the area's overall good condition is adversely affected to some degree by the proximity of large-scale industrial infrastructure. There is some association of the area with the Peasants' Revolt because one of the leaders, Thomas Baker, was born in Fobbing.
25. This fringe landscape between marshland along the River Thames and the higher settled or wooded ridges has a particular identity, but it lacks rare or unusual features that would confer a strong sense of place or identity.<sup>18</sup> This is not a particularly distinctive landscape. The two PRoW across the site provide recreational opportunities to experience this landscape, which results in some community value. The area offers expansive views over the landscape, especially from higher vantage points. However, this high scenic quality is diminished to some extent by the industrial development in the wider area. The influence of the overhead power lines, transport and industrial infrastructure also detracts from appreciating the tranquillity and wildness of the wider marshland landscape. The marshes provide flood storage with some reedbeds. The area also has some landscape value as an undeveloped space between Corringham, Basildon and South Benfleet/Canvey Island.
26. Taking into account all the factors in TGN 02/21, the evidence before the Inquiry and what I experienced on site, I consider that the landscape qualities of the area do not elevate it above other more everyday landscapes. My overall judgement is that the appeal site is not part of a valued landscape for the purposes of applying NPPF paragraph 180. I turn next to the effect of the proposal on landscape character.

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<sup>16</sup> CD C12B.

<sup>17</sup> The factors cited are Natural heritage, Cultural heritage, Landscape condition, Associations, Distinctiveness, Recreational, Perceptual (Scenic), Perceptual (Wildness and tranquillity) and Functional. TGN 02/21 also states that value is best appreciated at the scale at which a landscape is perceived – rarely is this on a field-by-field basis.

<sup>18</sup> CD C11B Appendix 6 compares the proposed development with marshland in Thurrock.

27. The area is located within NCA 81 Greater Thames Estuary.<sup>19</sup> In local character assessments the majority of the appeal site lies within Landscape Character Area C1. Fobbing Marshes, with part of the proposed access road within LCA B3. Fobbing Ridge Rolling Farmland / Wooded Ridge. LCA 1. Bowers and Vange Estuary Marshlands is located to the north and north-east of the appeal site.<sup>20</sup> A Landscape Character Assessment was undertaken in 2018, in which the Landscape Character Profiles for LCA F4 Fobbing Marshes & Haven Creek and LCA H3 Fobbing Ridge Open Undulating Farmland are generally consistent with the original Landscape Character Assessment.<sup>21</sup> The appeal site and surrounds is identified within the Essex Historic Landscape Character Assessment as comprising "20<sup>th</sup> century agriculture (drained reclamation C19<sup>th</sup>-20<sup>th</sup>)" and "coastal drained enclosure (Post-1950 Boundary Loss)".<sup>22</sup> However, these characterisations are largely reflected through the alignment of boundaries, that would not be harmed by the proposed development.
28. Key characteristics of the Fobbing Marshes LCAs include a low-lying flat and exposed landscape with a network of winding ditches, with extensive areas of grazing marsh. The absence of settlements and roads create a sense of wildness and remoteness in a large-scale landscape. Sweeping views are dominated by sky, but with a confusion of vertical structures to the south that includes London Gateway.
29. The proposed solar panels, substation, BESS and access would occupy 65.44 ha, rendering the appeal scheme a large-scale development that would, in terms of overall scale, be reasonably commensurate with the large-scale landscape in which it would be sited.<sup>23</sup> However, the proposed development would have a strong horizontal emphasis that would contrast with the vertical elements in the landscape, such as the pylons and industrial structures to the south of the site. The metal and glass panels, along with their regular arrangement in long rows, would be out of keeping with the character of the area. The colour and texture of the panels would not be typical of its agricultural and marshland context, and so the proposed development would introduce a discordant element into the local landscape. Mitigation planting would not have much impact on this harm to the landscape character of the area. I find that the proposal would have an adverse effect on the Fobbing Marshes LCAs of moderate significance up to 500 m from the appeal site (excluding the access), with this adverse impact reducing beyond this distance.
30. Given the proximity and characteristics of LCA 1. Bowers and Vange Estuary Marshlands, I consider that the appeal scheme would also have an adverse effect on this character area of moderate significance. LCA B3. Fobbing Ridge Rolling Farmland/Wooded Ridge and LCA H3 Fobbing Ridge Open Undulating Farmland have a lower sensitivity and with a reduced magnitude of effect the appeal scheme would, overall, have an adverse impact of minimal significance. However, some land towards the eastern boundary of these LCAs would fall within 500 m of the appeal site where the adverse landscape effect would be of moderate significance.

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<sup>19</sup> CD F2.

<sup>20</sup> Thurrock Landscape Capacity Study 2005 at CD F5 and Landscape Character Assessment of Basildon 2014.

<sup>21</sup> CD F7.

<sup>22</sup> CD F10, 11 and 12.

<sup>23</sup> The total area of the appeal site is about 134 ha, but the layout (not accounting for undeveloped spacing between rows of panels) would occupy 65.44 ha. CD C11B Table 2.

31. Turning to visual effects, the NPPG advises that in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero. The mostly flat landscape here provides considerable scope to screen and soften the visual impact of the proposed development.<sup>24</sup>
32. The proposed solar panels would be installed in Fields 1-7, 9 and 10, separated by drainage ditches and PRoW, where space would be provided for new hedgerows and landscaping.<sup>25</sup> These fields extend some 2.2 km north/south and up to about 1 km east/west. This elongated form of development, combined with the local topography, would make it unlikely that the whole of the appeal scheme could be seen from any single vantage point. Visual receptors would see some unscreened parts of the scheme, in combination or succession, and those moving through this landscape would experience some sequential cumulative visual effects. The appearance of the panels would also change throughout the day as they tracked the path of the sun. The proposed inverter/transformer and battery containers would have an industrial appearance and the panels would appear as utilitarian structures in this agricultural/marshland setting.
33. Visual receptors within and near to the appeal site would experience a large scale of effect that would result in an adverse visual impact of major/moderate significance.<sup>26</sup> It would be difficult to screen out all views of the proposed development from higher vantage points, such as Fobbing High Road.<sup>27</sup> However, because of the local topography only a small section of the solar panels would be visible from the grounds of the Church of St Michael. The highest part of the appeal site that would contain solar panels is within Field 1, located to the east of Whitehall Farm. The proposed 15 m wide new structure planting hedgerow along the western boundary of Field 1 would, in time, effectively screen views from the west, but not from lower vantage points to the north and east.<sup>28</sup>
34. It was apparent from my site visit that in views from elevated vantage points in Langdon Hills, Basildon Golf Club and Vange, the appeal scheme would be seen in the distance as part of a wide panoramic view that included the marshland, fringe development and large-scale industrial development.<sup>29</sup> Given the separation distance and the extent that the proposed development would contribute to the overall panorama, I consider that the appeal scheme would have a negligible visual impact in these views.
35. The flat topography would permit much of the proposed development to be effectively screened over time with new hedgerow planting and by allowing existing hedges to grow up.<sup>30</sup> However, the effect of this would be to screen out many of the long-distance views over the expansive agricultural and marshland landscape that are currently a significant feature of this area.<sup>31</sup> This

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<sup>24</sup> The Zone of Visual Influence at Figure 6 CD C11B, includes Fobbing High Road, parts of Vange, and PRoW to the east and south of the appeal site, including those near to Wat Tyler Country Park.

<sup>25</sup> Field 8 would be managed for screening purposes (to adjacent PRoW) and biodiversity habitat for farmland birds.

<sup>26</sup> CD C11B VP01, VP02 and additional VP A.

<sup>27</sup> CD C11B VP06 and VP07. CD C11D Photos 1, 2, 4 and 5.

<sup>28</sup> CD C11B VP03 and VP09. CD C11D Photos 6, 7 and 8.

<sup>29</sup> CD C11B VP8 and VP10. CD C11D.

<sup>30</sup> The site is generally flat between 1.75 m AOD and 2.25 m AOD with the land rising in Field 1 to about 17.5 m AOD.

<sup>31</sup> CD C11B VP04. CD C11D Photo 3.

planting would create a more enclosed landscape, in which PRoW would be largely contained within green corridors, albeit some of which would be wide.<sup>32</sup> Given the local context, I disagree with the appellant's assessment about the effect of mitigation planting on the visual amenity of the area, and find that the proposal would have an adverse visual impact of major/moderate significance during the lifetime of the proposed development.<sup>33</sup>

36. This level of harm would not be permanent, but 40 years far exceeds what is regarded as long term.<sup>34</sup> Overall, I find that the proposal would have an adverse effect on the landscape resource of moderate significance and that it would have an adverse visual impact of major/moderate significance. This harm to the character and appearance of the area weighs against the proposal in the planning balance.
37. Policy CSTP23 states that TBC will protect, manage and enhance the character of Thurrock to ensure improved quality and strengthened sense of place. Part I of the policy identifies key areas where character is a key issue, which include rural landscapes and Green Belt. No evidence was adduced at the Inquiry to identify significant features for the purposes of applying part II of the policy requiring retention and enhancement of such features, or to specify any local views that contribute to a distinctive sense of place that would invoke part III of the policy. Nevertheless, the likely harm to landscape character I have identified brings the proposal into some conflict with Policy CSTP23.
38. Policy PMD2 concerning design and layout requires mitigation of negative impacts. It also sets out criteria that all development proposals must satisfy. These include that development must contribute positively to the character of the area in which it is proposed, and to surrounding areas that may be affected by it. Mitigation here has its usual meaning to moderate and make less severe adverse effects. I am satisfied that the proposal would moderate its adverse landscape and visual impact, but for the reasons set out above it would not contribute positively to the character of the area and its surrounds.
39. However, for NSIPs EN-1 notes that virtually all nationally significant energy infrastructure projects will have adverse effects on the landscape, and that all energy infrastructure is likely to have visual effects for many receptors.<sup>35</sup> Given that the capacity of the appeal scheme falls just below the NSIP threshold, I believe that EN-1 is a material consideration, and that its underlying aims for energy development should be given more weight in this case than any conflict with Policies CSTP23 and PMD2.

#### *Heritage assets*

40. The Church of St Michael and Fobbing Conservation Area are designated heritage assets and great weight should be given to their conservation.<sup>36</sup> The church lies about 680 m to the west of the appeal site on a prominent site overlooking the Thames Marshes. It was evident at my site visit that the local topography would largely limit views of the proposed development from the Churchyard to solar panels within part of Field 7. However, the church tower is

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<sup>32</sup> Drawing No. 7428\_100 revE Landscape Ecology Enhancement Plan states that the PRoW corridor to the east of Field 10 would be a minimum 55 m wide, and depicts the corridor between Fields 1 and 10 even wider.

<sup>33</sup> CD A19.

<sup>34</sup> GLVIA paragraph 5.51 at CD F1 refers to long term as ten to twenty-five years.

<sup>35</sup> EN-1 paragraphs 5.10.5 and 5.10.13.

<sup>36</sup> NPPF paragraph 205.



a visible skyline feature in the wider landscape and from many parts of the appeal site. The church tower is likely to have been used historically for navigation within the marshes. It now marks the location of the settlement on the higher ground. In this regard the setting of the church contributes to its heritage significance. The proposed development and screen planting would obscure some views towards the church tower, but given its elevation above the low level of the appeal site it would often be seen over the top of the solar panels, especially from vantage points in the east. Nevertheless, the appeal scheme would introduce modern infrastructure that would detract from what remains of the historic marshland setting of the church. I consider that this would result in less than substantial harm to the significance, through its setting, of the grade I listed building, but towards the lower end of the spectrum of less than substantial harm.

41. The Church of St Michael lies within Fobbing Conservation Area and similar considerations apply for the setting of the conservation area to that of the church. There are views out of the conservation area towards the appeal site from Fobbing High Road and part of the Recreation Ground, which lie on a ridge.<sup>37</sup> In addition, the conservation area includes a lower area that was a wharf giving direct access to the River Thames before the creek was dammed in 1953. The setting of the conservation area contributes to its significance in that the former creek has historic illustrative value pertaining to the siting of the settlement at this end of the ridge. The historic marshland has been altered by improved drainage and removal of creeks, but the proposed development would result in a more intrusive change to the area, that would adversely affect views to and from the conservation area and so would, to some extent, harm its setting. This would result in less than substantial harm to the significance of a designated heritage asset, but towards the lower end of the scale.
42. I have given considerable importance and weight to the harm to the significance of the grade I listed building. In the NPPF paragraph 208 balancing exercise, I consider that the less than substantial harm I have identified to the significance of the designated heritage assets here is outweighed by the public benefits that would be attributable to the renewable energy generated by the proposal. Further details about these benefits are set out later in this decision.
43. Two areas of 'redhill' salt working and two areas of anti-aircraft features remain on the appeal site. Other non-designated heritage assets here are Marsh Lane and Vange and Fobbing marshes pasture grazing areas.
44. The redhills are formed by reddish deposits from distinctive pottery types and burnt materials used in salt production in the later prehistoric, Romano-British or possibly medieval times. Their significance derives primarily from the archaeological interest of the remains. The topography indicates that salt production was undertaken at these sites, which are on higher ground adjacent to the marshes. The local topography contributes to the setting of these assets, but the remains are not now legible in the landscape, which has been drained. No panels are proposed in one redhill area, and the appeal scheme proposes the use of no-dig ballast foundations in the other. Nevertheless, minor harm would result to the significance of these assets due to the

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<sup>37</sup> CD H6.

- obstruction of views that assist in the legibility of the area as former marshland.
45. The anti-glider/aircraft features are slot trenches on the flat marshlands that have now been filled in. There is no evidence before the Inquiry to indicate that any physical remains of these trenches survive on the site. If there are such remains, then the proposed development would not have much of an impact on the assets or their setting because of the changes that have already taken place to the former marshland landscape. Any harm would be of negligible significance.
46. Marsh Lane is a medieval trackway extending down the slope from Fobbing High Road towards the appeal site. The farm it once led to has now been demolished. Its heritage value now largely lies in the indication it provides of an historic route from Fobbing into the wider marshes characterised by curvilinear boundaries and ditches. The appeal scheme would, to some extent, reduce the legibility of this wider setting to the trackway. But this would be a minor impact to a non-designated asset of minimal heritage value.
47. Vange and Fobbing Marshes is an area of former marshland that has experienced various degrees of reclamation and improved management over time, but its irregular enclosures and curvilinear boundaries are indicators of its marshland origin. Solar panels on a part of this area would make it more difficult to appreciate the significance of these sinuous boundaries and this would result in a minor level of harm.
48. Given the scale of the harm I have identified and the significance of the non-designated heritage assets in this case, it is my balanced judgement that any harm to these assets from the proposed development would not weigh much against the proposal.<sup>38</sup>
49. The harm I have identified would occur for the lifetime of the proposed development. Taking all these considerations into account, I consider that the appeal scheme would result in minor harm to heritage assets. I find no conflict with Policies CSTP24 and PMD4, because they provide for the appropriate protection and enhancement of heritage assets in accordance with their significance and following the approach set out in the NPPF.

#### *Other matters*

50. With the exception of a part of its north-western corner the appeal site lies within Flood Zone 3a, with a high probability of flooding. However, this area will benefit from tidal flood defences for the lifetime of the proposed development.<sup>39</sup> As set out in Annex 3 of the NPPF the proposed generation station is 'essential infrastructure'. The Sequential and Exception Tests apply.<sup>40</sup> The NPPG adds that in Flood Zone 3a essential infrastructure should be designed and constructed to remain operational and safe in times of flood.
51. I asked at the Inquiry why one of the exclusionary criteria applied in the Sequential Test was a minimum site requirement of 120 ha for a tracking system, and queried how this squared with the NPPG, which provides that considering reasonably available sites could include a series of smaller sites.

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<sup>38</sup> NPPF paragraph 209.

<sup>39</sup> CD B1.

<sup>40</sup> TBC considers that both the Sequential and Exception Tests are passed. SoCG paragraphs 8.24 and 8.25.

However, I accept that the approach adopted by the appellant was appropriate in the circumstances that apply here, given the likely difficulties in obtaining planning permission for a number of separate sites, and the practicalities of coordinating multiple sites so as to utilise the identified grid capacity in the time period specified in the grid connection offer. I concur with the parties that the proposal satisfies the Sequential Test.<sup>41</sup>

52. The solar panels would be elevated 0.8m above ground level and so would not be likely to impede any surface water flow paths or displace any ponding of surface water. I am satisfied that the submitted Flood Risk Assessment demonstrates that the proposed development would not result in any increase in flood risk off-site or increase flood risk on-site.<sup>42</sup> Measures proposed for fluvial and tidal flooding would adequately address any groundwater flooding. The evidence before the Inquiry is that the scheme could be designed and constructed to remain operational and safe in times of flood. These are matters that could be addressed by the imposition of an appropriate planning condition. Renewable energy from the scheme would provide wider sustainability benefits to the community that would outweigh any flood risk. The proposed development complies with the Exception Test. I find no conflict with Policies CSTP27 and PMD15 concerning flood risk assessment and management.
53. There is local concern about the effects of construction vehicles on the local highway network, particularly with regard to the railway level crossing and nearby bends in High Road. However, there is no technical evidence to indicate that traffic from the proposed development would pose an unacceptable adverse effect on highway safety. The Highway Authority does not object to the proposal subject to the imposition of planning conditions.<sup>43</sup> I find no conflict with Policies PMD9 and PMD10 concerning the road network and transport impacts.
54. Noise from the proposed generation station could be controlled by a planning condition.<sup>44</sup> There is concern about glint and glare from the solar panels adversely impacting residential properties and aviation. The technical evidence does not support this view and indicates that glint and glare are matters that could be addressed by implementing an approved management plan.<sup>45</sup>
55. There is local concern about battery fires. However, there are no outstanding objections from Essex County Fire and Rescue Service.<sup>46</sup> I am satisfied that fire safety is a matter that could be reasonably addressed by implementing an up to date and approved Battery Safety Management Plan.
56. The agricultural land within the appeal site is classified as grade 3b. The proposal would not, therefore, utilise the best and most versatile agricultural land. Some agricultural activity is proposed to be continued on the land during the lifetime of the generating station by grazing between the panels. A grazing management plan could be required by imposition of a planning condition. On

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<sup>41</sup> CD C16, ID4 and ID10.

<sup>42</sup> CD A9.

<sup>43</sup> CD B4.

<sup>44</sup> CD A10.

<sup>45</sup> CD A25.

<sup>46</sup> CD B3.

decommissioning of the generation station, the site would revert to agricultural use.<sup>47</sup>

57. The Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar sites are located 3 km to the south of the appeal site. I have had regard to the submitted Habitats Regulations Assessment (HRA).<sup>48</sup> This found that, when applied to the project alone, a likely significant effect on the SPA and Ramsar sites cannot be ruled out. Both sites have interest features that are non-breeding birds and assemblages of waterbirds. The Ramsar site has interest features that are plant and invertebrate species. I have taken into account the consultation responses from Natural England, Essex Wildlife Trust and the Royal Society for the Protection of Birds.<sup>49</sup> Natural England has no objection to the amended proposal subject to a long-term ecological management plan secured by a suitably worded condition attached to any permission.
58. I am satisfied that the HRA provides sufficient information for me to undertake an Appropriate Assessment having regard to the interest features and conservation objectives for these sites.<sup>50</sup> The appeal scheme proposes the creation of waterbird mitigation land. The creation, management and monitoring of the waterbird mitigation land could be secured through an approved Ecological Management Plan. Subject to mitigation measures that could be secured by the imposition of appropriate planning conditions, I conclude that the proposed development, alone or in combination with other plans or projects, would not affect the achievement of the conservation objectives of the SPA and Ramsar sites, and would not adversely affect the integrity of these sites.
59. In addition to the matters dealt with elsewhere in this decision, third party written representations raised concerns about a number of other matters. These are summarised in CD C11A Appendix 4 and include; tracking panels are unreliable and are incompatible with sheep grazing, the development would be too close to homes, would result in an invasion of privacy from CCTV cameras, and have a negative impact on the mental health and well-being of local residents. The evidence adduced does not indicate, subject to the imposition of appropriate planning conditions, that these are matters that weigh against the proposal. I have taken into account all other matters raised in the written representations at the application and appeal stages.

#### *Other considerations*

60. TBC and the appellant set out in a joint statement their respective views about 'other considerations' for the purposes of undertaking the very special circumstances balance.<sup>51</sup> The 'considerations' listed in the joint statement are underlined in the following paragraphs.
61. Renewable energy generation and subsequent reduction in carbon emissions. The proposed generation station would supply up to 49.9 MW of electricity to the national grid. This would be the equivalent to the annual electricity needs of about 16,100 family homes in Thurrock. It is estimated that this would displace around 23,600 tonnes per annum of carbon dioxide. Paragraph 157 of

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<sup>47</sup> CD A14 and SoCG paragraphs 8.31 and 8.32.

<sup>48</sup> CD A17, CD A23 and CD A24.

<sup>49</sup> CD B8, CD B13 and CD B14.

<sup>50</sup> CD C18.

<sup>51</sup> CD C15.

the NPPF states that the planning system should support the transition to a low carbon future in a changing climate, and support renewable and low carbon energy and associated infrastructure.

62. The associated battery storage facility would assist in balancing peak demand for electricity, providing more flexibility for the grid and the possibility of offsetting fossil fuel requirements at peak times. The co-location of a BESS would mean that the renewable energy generated could be used more effectively.<sup>52</sup> The scheme would be beneficial for energy security. It would help to deliver the Government's goals for greater energy independence. This adds to the weight to be given to the generation of renewable energy per se. The lack of alternative sites to take advantage of the available grid connection is a consideration that warrants some slight weight. But this is a consideration that is closely related to the overall benefits of the scheme arising from the renewable energy that would be generated.
63. The UK Government and TBC have both declared a climate emergency.<sup>53</sup> These declarations point to a need for the rapid delivery of renewable energy generation. By themselves such declarations do not increase the weight to be attributed to the renewable energy benefits of the proposed development. For a comparable scheme the carbon benefits would remain the same for a local authority that had not declared a climate emergency.
64. The appellant argues that utilising a solar tracking system with bi-facial panels would increase continuous electrical productivity by 20-25% when compared with fixed solar arrays, and that the use of best available technology should be given weight in its own right. But I am not convinced that this is additional weight. It would be in the commercial interests of the operator to fully use the secured grid connection capacity. Fixed panels would be a cheaper option, but it is unlikely that fixed panels occupying the same area proposed for solar panels in the appeal scheme would make effective use of the available grid connection.
65. In a transmission versus grid connection consideration additional weight is claimed for a connection directly into the National Grid rather than via the Distribution Network. While this might avoid delays in securing a connection agreement with the Distribution Network Operator, it seems to me that meeting national targets will require all available capacity within the electricity distribution network to be fully exploited, and that the circumstances that apply here should not be given additional weight.
66. Policy CSTP26 provides encouragement for opportunities to generate energy from non-fossil fuel and low-carbon sources, but adds that a proposal would be unacceptable where it produces a significant adverse impact that cannot be mitigated. The harm I have identified to the Green Belt from inappropriate development cannot be mitigated. This brings the proposal into some conflict with Policy CSTP26. The appeal scheme would not constitute Critical National Priority NSIP development for the purposes of applying EN-1.<sup>54</sup> However, EN-1 provides that the Secretary of State will take as the starting point for decision-making that such infrastructure is to be treated as if it has met any very

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<sup>52</sup> The NPPG Paragraph 032 provides that storage can enable decarbonisation of the energy system through grid balancing, maximising usable output from intermittent low carbon generation, and avoiding the need for costly network upgrades and new generation capacity.

<sup>53</sup> CD E3.

<sup>54</sup> EN-1 paragraphs 4.2.4 and 4.2.5.



special circumstances test.<sup>55</sup> Given that the capacity of the appeal scheme falls just below the NSIP threshold, I believe that EN-1 is a material consideration, and that its underlying aims for energy development should be given more weight in this case than any conflict with Policy CSTP26.

67. The provisions of EN-1 and EN-3 do not apply a policy test to the appeal scheme. However, Section 2.10 of EN-3 provides that the Government is committed to sustained growth in solar capacity as a key part of its strategy for low-cost decarbonisation of the energy sector. It adds that solar also has an important role in delivering the Government's goals for greater energy independence and refers to *Powering Up Britain: Energy Security Plan*.<sup>56</sup> EN-3 cites the *British Energy Security Strategy* supporting solar that is 'co-located' with other functions, for example storage, to maximise the efficiency of land use.<sup>57</sup> I consider that the proposed generation station with the co-location of BESS gains support from the Government's underlying aims for solar development as expressed in EN-3. The proposal would make a cumulative contribution to meeting the target set out in the Climate Change Act 2008<sup>58</sup> and gains support from the UK Government Solar Strategy 2014<sup>59</sup>, the Net Zero Strategy<sup>60</sup> and Energy White Paper<sup>61</sup>.
68. Overall, I consider that the collective benefits from renewable energy generation with co-location of BESS and energy security advantages should be given substantial positive weight in the very special circumstances balance.
69. The Fobbing Reedbeds Local Wildlife Site (LWS) is located within the appeal site. The Vange Creek Marshes LWS borders the site on its eastern side and the Corringham/Fobbing Marsh LWS borders the site on its eastern and south-eastern sides. Subject to the imposition of appropriate planning conditions I am satisfied that the appeal scheme would not have an unacceptable adverse effect on the nature conservation interests of these or other sites of wildlife interest further afield. Turning to Biodiversity Net Gain (BNG) the proposed development includes provision of 5.8 ha of waterbird mitigation land, 2.3 ha for a farmland bird feeding area, along with grassland enhancement and carr scrub planting.
70. The scheme would result in a BNG on the appeal site of approximately 28% for habitats and 1,353% for hedgerows.<sup>62</sup> This could be achieved with implementation and enforcement of appropriate planning conditions. The scheme gains some support from Policies CSTP19 and PMD7, which encourage development to include measures that contribute positively to the overall biodiversity in the Borough and seek to achieve net gains where possible. I consider that the biodiversity benefits of the proposal should be given moderate weight in the very special circumstances balance.
71. Economic benefits including construction jobs, contribution to the local economy and rural diversification should be given slight/moderate weight. Paragraph 88 of the NPPF provides that planning decisions should enable the diversification of agricultural businesses. In assessing the weight to be given

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<sup>55</sup> EN-1 paragraph 4.2.16.

<sup>56</sup> CD D19.

<sup>57</sup> CD D16.

<sup>58</sup> CD D6 and CD D7.

<sup>59</sup> CD D4.

<sup>60</sup> CD D15.

<sup>61</sup> CD D10

<sup>62</sup> SoCG paragraph 8.29.

to 'other considerations' for the balancing exercise that applies here, I consider that farm diversification would be largely a benefit to the local economy, and as such would not justify an allocation of separate weight in the planning balance. Nevertheless, to the extent that the scheme would contribute towards making British agriculture carbon neutral it should be awarded some positive weight.<sup>63</sup> But again, this is a consideration closely related to the overall benefits of the scheme arising from the renewable energy that would be generated and so could result in 'double counting' with the first 'consideration' in this section of my decision.

72. The appellant claims weight for green infrastructure enhancements that would include two green corridors through the proposed development. These enhancements, although beneficial, are intended to offset harmful impacts of the appeal scheme. They should not, in my view, be given much weight in a very special circumstances balancing exercise. The west/east corridor would incorporate a permissive path along a route that is currently used as an unofficial path. The proposed permissive path should attract no weight because it appears that the unofficial path was created because Footpath 199 is obstructed.
73. I am not convinced that soil regeneration should weigh positively in this balancing exercise. Leaving the soil undisturbed for 40 years would increase soil organic matter and benefit soil structure, but there is no evidence to indicate what effect removing solar panel foundations and other infrastructure on decommissioning would have on soil quality. Furthermore, suggested planning Condition 4 would require reinstatement of the land so that with aftercare it was of the same grade of agricultural quality as currently exists. Compliance with such a condition would not require enhancement of the soil. The proposal gains no support from Policy CSTP21, which recognises the importance of food security and ensures the protection, conservation and enhancement of agriculture, productive land and soil.
74. As an 'other consideration' to be weighed in the very special circumstances balance no weight should be given to the good design of the scheme, which I have found would result in significant harm to the character and appearance of the area.

#### *Planning balance*

75. In the planning balance that applies here the harm to the Green Belt attracts substantial weight. I consider that significant weight should be given to the harm that would result to the character and appearance of the area. Harm to the Church of St Michael attracts considerable importance and weight.<sup>64</sup> However, in my judgement, the overall minor harm to the heritage of the area I have identified should be given slight weight in the planning balance. Against this overall harm must be weighed the benefits of the proposed development. Chief amongst these is the significant contribution of the appeal scheme towards the generation of renewable energy and the reduction in greenhouse gas emissions, which warrants substantial weight. This, along with the weight to be given to the biodiversity and economic benefits of the appeal scheme would, in my judgement, clearly outweigh the harm I have identified.

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<sup>63</sup> CD D21.

<sup>64</sup> CD I24.

## Conditions

76. The appellant and TBC agreed suggested planning conditions in the event that the appeal succeeded, except for a requirement that the development be carried out in accordance with the recommendations and mitigation measures contained within the ES and schemes submitted with the application.<sup>65</sup> Such a condition would not meet the test for a reasonable planning condition because some of the recommendations and mitigation measures in the ES and submitted schemes do not specify with the necessary precision what would be required to comply with the condition.
77. In addition to the standard commencement condition, it would be necessary to define the permission and ensure that the development was carried out in accordance with the approved plans (Conditions 1 and 2). For the avoidance of doubt, it would be necessary to specify that the approval applied only to land within the site boundary edged red on Drawing 2033/D001.1 Revision v.k and within the administrative area of TBC, because some development is shown on the drawings outside the red line, and because the red line boundary extends into neighbouring Basildon.
78. This would be a temporary permission and reinstatement of the Green Belt site would be required after the use ceased in accordance with Policy PMD6 (Conditions 3 and 4). A separate Decommissioning Traffic Management Plan (DTMP) would be necessary as it would not be appropriate after 40 years to rely on the plan approved for construction traffic. A revised Construction Traffic Management Plan (CTMP) would need to be approved, and provision made for road surveys, in the interests of highway safety in accordance with Policy PMD1 (Conditions 5 and 7). Approval of a Construction Environmental Management Plan (CEMP) would be needed to safeguard the amenity of the area (Condition 6).
79. A Landscape and Ecological Management Plan (LEMP) would be necessary for landscape and biodiversity reasons in accordance with Policies PMD1, PMD2, PMD6 and PMD7. The July 2021 Landscape and Ecological Management Plan refers to a management programme for the site and funding arrangements, along with a monitoring programme.<sup>66</sup> For the avoidance of doubt it would be necessary to specify that these are matters that would need to be included in an approved LEMP (Condition 8).
80. An Ecological Management Plan requiring waterbird mitigation land would be necessary to mitigate any adverse impact on the integrity of the SPA and Ramsar sites. Given the importance of the Ecological Management Plan, no development or preliminary groundworks should commence prior to its approval, and it would need to be implemented in strict accordance with the approved details. The waterbird mitigation land would need to be created prior to the installation of any part of the proposed development. The tailpiece in the suggested planning condition, which would permit the Local Planning Authority to approve in writing deviations from the approved Ecological Management Plan, should not apply because of the possibility of unforeseen adverse impact affecting the integrity of the SPA and Ramsar sites (Condition 9).

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<sup>65</sup> ID11.

<sup>66</sup> ID7 Sections 5 and 6.

81. Provision would need to be made for the remediation of any land contamination for health and safety reasons in accordance with Policy PMD1 (Condition 10). An archaeology condition in accordance with Policy PMD4 would deal adequately with local heritage considerations (Condition 11). Lighting would need to be controlled in the interests of the appearance of the area in accordance with Policies PMD1, PMD2 and PMD7 (Condition 12).
82. Implementation of an up to date Battery Safety Management Plan (BSMP) would be necessary for fire safety reasons in accordance with Policy PMD1 (Condition 13). This Policy would also apply to glint and glare, which would need to be controlled to safeguard the amenity of the area (Condition 14). For similar reasons, a noise condition would also be required (Condition 15). Securing continued agricultural use of the site by grazing would be necessary to accord with the scheme that was considered at the Inquiry (Condition 16).
83. Paragraph 8.28 of the SoCG states that planning conditions relating to managing flood risk and drainage should be included if the appeal was allowed. I concur. But no such condition was included in the suggested conditions. A planning condition would be necessary to give effect to the requirements of the Flood Risk Assessment and Drainage Strategy (Parts 1 and 2), prepared by RMA Environmental, dated July 2021 (R010) (Condition 17).<sup>67</sup>
84. It is the appellant's intention that the AC output of the energy generation station would be restricted to 49.9 MW through the installed combined inverter/transformer units. That would be consistent with policy for NSIPs. EN-3 states that the combined capacity of the installed inverters (measured in AC) should be used for the purposes of determining solar site capacity.<sup>68</sup> The capacity of the proposed inverters for the appeal scheme is unspecified. Although not suggested by the parties, I consider that it would be necessary to impose a condition requiring approval of details about the proposed inverters that included their capacity (Condition 18).
85. Some minor changes to the wording of suggested conditions would be necessary for clarity and enforceability reasons.

## **Conclusions**

86. I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.
87. Given my finding of very special circumstances, and subject to the imposition of appropriate planning conditions, I am satisfied that the impacts of the proposed development could be made acceptable, and that in accordance with NPPF paragraph 163 b) the scheme should be approved. The proposal complies with the NPPF taken as a whole.
88. The existence of very special circumstances for the purposes of applying the NPPF means that the proposal accords with Policy PMD6, which seeks to maintain, protect and enhance the open character of the Green Belt in Thurrock in accordance with the provisions of the NPPF. The appeal scheme would not be at odds with the part of Policy PMD6 which states that TBC will plan positively to enhance the beneficial use of the Green Belt by looking for

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<sup>67</sup> CD A9A and B.

<sup>68</sup> EN-3 paragraph 2.48.7.

opportunities to, amongst other things, retain and enhance landscapes and visual amenity. Any conflict with Policies CSTP23, CSTP26 and PMD2 would not be sufficient to bring the proposal into contravention of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development, when considered as a whole. I find no conflict with other relevant development plan policies and consider that the proposal accords with the development plan taken as a whole.

89. I have taken into account all other matters raised in evidence, but I have found nothing of sufficient weight to alter my conclusions. For the reasons given I conclude that the appeal should succeed.

*J Woolcock*

INSPECTOR



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

|  |   |
|--|---|
| Mark O'Brien O'Reilly of counsel           | Instructed by Caroline Robins<br>Locum Principal Solicitor Thurrock Council |
| He called                                  |   |
| Christopher Whitehouse BSc<br>(Hons) MRICS | Managing Director NextPhase   |

### FOR THE APPELLANT:

|   |  |
|---|--|
| Thea Osmund-Smith of counsel<br>and<br>Odette Chalaby | Instructed by Paul Burrell Executive Director<br>Pegasus Group |
| They called   |  |
| Ben Croot BSc (Hons) MSc CMLI                         | Associate LDA Design Consulting Ltd                            |
| Gail Stoten BA (Hons) MCIfA FSA                       | Executive Director (Heritage) Pegasus Group                    |
| Paul Burrell BSc (Hons) Dip UP<br>MRTPI               | Executive Director (Planning) Pegasus Group                    |

## DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

|    |    |   |
|----|----|---|
| ID | 1  | Opening Statement on behalf of the Appellant                                  |
| ID | 2  | Opening Submissions on behalf of the Local Planning Authority                 |
| ID | 3  | Alfreton Appeal Ref:APP/M1005/W/22/3299953                                    |
| ID | 4  | Further Note on Flood Risk Sequential Test                                    |
| ID | 5  | C17 Technical Note Queries Response   |
| ID | 6  | Walpole Marsh Appeal Ref:APP/A2525/W/22/3295140 and<br>APP/V2635/W/22/3295141 |
| ID | 7  | Landscape and Ecological Management Plan July 2021                            |
| ID | 8  | Viewpoint A   |
| ID | 9  | Annotated Wider Landscaping Plan  |
| ID | 10 | Offer Summary Document National Grid  |
| ID | 11 | Suggested planning conditions dated 12 January 2024                           |
| ID | 12 | Closing submission on behalf of the Local Planning Authority                  |
| ID | 13 | Closing submission on behalf of the appellant                                 |

## CORE DOCUMENTS (CD)

| Reference | Documents and Drawings  |   |
|-----------|---|---|
| A1        | A   | Thurrock Council Application Form, including Ownership Certificates   |
|           | B   | Basildon Borough Council Application Form, including Ownership Certificates                                   |
| A2        | A   | Covering Letter to Thurrock Council prepared by Enso Energy, dated 23 <sup>rd</sup> September 2021            |
|           | B   | Covering Letter to Basildon Borough Council prepared by Enso Energy, dated 23 <sup>rd</sup> September 2021    |
| A3        | A   | Planning Application Drawing Pack, prepared by Aardvark EM Limited and Cero (ROO2)                            |
|           | Bi)   | Site Location Plan 1 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> June (2033/D001.1 Rev v.i) |
|           | Bii)  | Site Location Plan 2 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> June (2033/D001.2 Rev v.i) |
|           | Biii)   | Site Location Plan 3 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> June (2033/D001.3 Rev v.i) |
|           | Biv)  | Site Location Plan 4 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> June (2033/D001.4 Rev v.i) |
|           | Bv)   | Site Location Plan 5 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> June (2033/D001.5 Rev v.i) |
|           | Bvi)  | Site Location Plan 6 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> June (2033/D001.6 Rev v.i) |
|           | C   | Proposed Site Plan, prepared by Enso Energy and Cero, dated 24 <sup>th</sup> June 2021 (FO2.0 Rev 15)         |
|           | D   | Auxiliary Transformer, prepared by Cero, dated 17 <sup>th</sup> March 2021 (FO10.0 Rev 01)                    |
|           | E   | Battery Container Elevations, prepared by Cero, dated 17 <sup>th</sup> March 2021 (FO12.0 Re v01)             |
|           | F   | Battery Fence and Gate Elevations, prepared by Cero, dated 4 <sup>th</sup> June 2021 (FO14.0 Rev 01)          |
|           | G   | Cable Trough, prepared by Cero, dated 4 <sup>th</sup> June 2021 (FO15.0 Rev 01) – reference on plan FO15.0    |
|           | H   | CCTV Elevations, prepared by Cero, dated 17 <sup>th</sup> March 2021 (FO11.0 Rev 01)                          |
|           | I   | Control Room Elevations, Prepared by Cero, dated 17 <sup>th</sup> March 2021 (FO9.0 Rev 01)                   |
|           | J   | Fence and gate elevations, prepared by Cero, dated 4 <sup>th</sup> June 2021 (FO6.0 Rev 02)                   |
|           | K   | Internal Access Road Detail, prepared by Cero, dated 17 <sup>th</sup> March 2021 (FO5.0 Rev 01)               |
| L         | Inverter/Transformer Station, prepared by Cero, dated 17 <sup>th</sup> March 2021 (FO4.0 Rev 01)    |   |
| M         | PV Elevations Ballast, prepared by Cero, dated 22 <sup>nd</sup> July 2021 (FO3.1 Rev 02)            |   |
| N         | PV Elevations Pile, dated 22 <sup>nd</sup> July 2021 (FO3.0 Rev 02)                                 |   |
| O         | High Road Access Junction Arrangement, prepared TPA, dated 20 <sup>th</sup> March 2020 (SK01 Rev C) |   |
| P         | Storage Container Elevations, prepared by Cero, dated 17 <sup>th</sup> March 2021 (FO13.0 Rev 01)   |   |

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|----|--------|--|
|    | Q      | Substation Elevations, prepared by Cero, dated 17 <sup>th</sup> March 2021 (FO8.0 Rev 01)  |
|    | R      | Weather Station, prepared by Cero, dated 17 <sup>th</sup> March 2021 (FO7.0 Rev 01)  |
|    | S      | Proposed Landscape and Ecological Enhancement Plan, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_100 Rev B)  |
|    | Ti)    | Detailed Soft Landscaping Plan: Overview Plan, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_200 Rev B)       |
|    | Tii)   | Detailed Soft Landscaping Plan 1 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_201 Rev B)               |
|    | Tiii)  | Detailed Soft Landscaping Plan 2 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_202 Rev B)               |
|    | Tiv)   | Detailed Soft Landscaping Plan 3 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_203 Rev B)               |
|    | Tv)    | Detailed Soft Landscaping Plan 4 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_204 Rev B)               |
|    | Tvi)   | Detailed Soft Landscaping Plan 5 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_205 Rev B)               |
|    | Tvii)  | Detailed Soft Landscaping Plan 6 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_206 Rev B)               |
|    | Tviii) | Detailed Soft Landscaping Plan 7 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_207 Rev B)               |
|    | U      | Planting Schedule, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_208 Rev B)                                   |
| A4 |        | Planning Statement, prepared by Aardvark EM Limited, dated July 2021 (ROO3)  |
| A5 |        | Design and Access Statement, prepared by Aardvark EM Limited, dated July 2021 (ROO4)   |
| A6 | A      | Non-Technical Summary of the Environmental Statement (Part 1 of 2), prepared by Aardvark EM Limited, dated July 2021 (ROO6)      |
|    | B      | Non-Technical Summary of the Environmental Statement (Part 2 of 2), prepared by Aardvark EM Limited, dated July 2021 (ROO6)      |
| A7 | A      | Environment Statement- Contents Page (Part 1 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)                     |
|    | B      | Environment Statement- Chapter 1- Introduction (Part 2 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)           |
|    | C      | Environment Statement- Chapter 2- Site and Its Environs (Part 3 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)  |
|    | D      | Environment Statement- Chapter 3- Proposed Development (Part 4 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)   |
|    | E      | Environment Statement- Chapter 4- Policy (Part 5 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)                 |
|    | F      | Environment Statement- Chapter 5- Assessment Methodology (Part 6 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7) |
|    | G      | Environment Statement- Chapter 6- Landscape and Visual (Part 7 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)   |
|    | H      | Environment Statement- Chapter 7- Biodiversity (Part 8 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)           |

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|     | I     | Environment Statement- Chapter 8- Cultural Heritage (Part 9 of 11), prepared by Aardvark EM Limited, dated July 2021 (R007)                                     |
|     | J     | Environment Statement- Chapter 9- Other Considerations (Part 10 of 11), prepared by Aardvark EM Limited, dated July 2021 (R007)                                 |
|     | K     | Environment Statement- Chapter 10- Glossary (Part 11 of 11), prepared by Aardvark EM Limited, dated July 2021 (R007)  |
| A8  | A     | Environment Statement-Appendix 1.1: TC Screening Opinion (Part 1 of 16), prepared by Thurrock Council, dated 28 <sup>th</sup> July 2020 (R008)                  |
|     | B     | Environment Statement-Appendix 1.2: TC Screening Opinion (Part 2 of 16), prepared by Thurrock Council, dated 9 <sup>th</sup> September 2020 (R008)              |
|     | C     | Environment Statement-Appendix 1.3: EIA Team (Part 3 of 16), prepared by Aardvark EM Limited (R008)   |
|     | D     | Environment Statement-Appendices 6.1 to 6.6: LVIA (Part 4 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)                                 |
|     | E     | Environment Statement-Appendix 6.7 LVIA- Figures 6.1 to 6.6 (Part 5 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)                       |
|     | F     | Environment Statement-Appendix 6.7 LVIA- Figure 6.7.1- 6.7.10 (Part 6 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)                     |
|     | Gi)   | Environment Statement-Appendix 6.7 LVIA- Part 1 Photomontages- Figure 6.8.1 (Part 7 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)       |
|     | Gii)  | Environment Statement-Appendix 6.7 LVIA- Part 2 Photomontages- Figure 6.8.2-6.8.3 (Part 8 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008) |
|     | Giii) | Environment Statement-Appendix 6.7 LVIA- Part 3 Photomontages- Figure 6.8.4 (Part 9 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)       |
|     | H     | Environment Statement-Appendix 7.1 Findings of the Ecology Surveys (Part 10 of 16), BSG Ecology, June 2021 (R008)   |
|     | I     | Environment Statement-Appendix 7.2 Assessment of Intervisibility (Part 11 of 16), BSG Ecology, June 2021 (R008)   |
|     | J     | Environment Statement-Appendix 7.3 BNG Report (Part 12 of 16), BSG Ecology, June 2021 (R008)  |
|     | Ki)   | Environment Statement- Heritage Technical Appendix 8.1 (Part 13 of 16) prepared by Headland Archaeology, dated August 2020 (R008)                               |
|     | Kii)  | Environment Statement- Heritage Technical Appendix 8.2 (Part 14 of 16), prepared by Wessex Archaeology, dated February 2021 (R008)                              |
|     | Kiii) | Environment Statement- Heritage Technical Appendix 8.2 (Part 15 of 16), prepared by Wessex Archaeology, dated February 2021 (R008)                              |
|     | Kiv)  | Environment Statement- Heritage Technical Appendix 8.2 (Part 16 of 16), prepared by Wessex Archaeology, dated February 2021 (R008)                              |
| A9  | A     | Flood Risk Assessment and Drainage Strategy (Part 1 of 2), prepared by RMA Environmental, dated July 2021 (R010)  |
|     | B     | Flood Risk Assessment and Drainage Strategy (Part 2 of 2), prepared by RMA Environmental, dated July 2021 (R010) March 2021                                     |
| A10 |       | Noise Impact Assessment, prepared by Inacoustic, dated July 2021 (R011)   |
| A11 |       | Glint and Glare Assessment, prepared by Pager Power, dated June 2021 (R012)   |

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| A12  |   | Statement of Community Involvement, prepared by Alpaca Communications, dated July 2021 (RO13)                                       |
| A13  |   | Ground Investigation Report, prepared by Jomas Associates, dated July 2021 (RO14)   |
| A14  |   | Agricultural Land Classification, prepared by Amet Property, dated July 2021 (RO15)   |
| Thurrock Council Re-submission 1 <sup>st</sup> October 2021  |   |   |
| A15  | A | Site Location Plan 1 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> September 2021 (2033/D001.1 Rev v.k)             |
|  | B | Site Location Plan 2 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> September 2021 (2033/D001.2 Rev v.k)             |
|  | C | Site Location Plan 3 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> September 2021 (2033/D001.3 Rev v.k)             |
|  | D | Site Location Plan 4 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> September 2021 (2033/D001.4 Rev v.k)             |
|  | E | Site Location Plan 5 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> September 2021 (2033/D001.5 Rev v.j)             |
|  | F | Site Location Plan 6 of 6, prepared by Aardvark EM Limited, dated 30 <sup>th</sup> September 2021 (2033/D001.6 Rev v.j)             |
| Thurrock Council Re-submission 11 <sup>th</sup> October 2021 |   |   |
| A16  |   | Construction Traffic Management Plan, prepared by TPA, dated June 2021 (Ref R005)   |
| Thurrock Council Re-submission 16 <sup>th</sup> March 2022   |   |   |
| A17  |   | Ecology Report to Inform Appropriate Assessment, prepared by BSG, dated March 2022 (P21-948)  |
| Thurrock Council Re-submission 5 <sup>th</sup> December 2022 |   |   |
| A18  |   | Technical Note on changes to BNG Calculations, prepared by BSG, dated December 2022   |
| A19  |   | Landscape Amendments Briefing Note, prepared by LDA Design, dated December 2022   |
| Thurrock Council Re-submission 5 <sup>th</sup> December 2022 |   |   |
| A20  |   | Landscape and Ecology Enhancement Plan, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_100 Rev B)                 |
| A21  |   | Proposed Site Plan Showing Reduced Site Areas, prepared by Enso Energy and Cero, dated 13 <sup>th</sup> October 2022 (F02.0 Rev 19) |
| A22  |   | Proposed Site Plan, prepared by Enso Energy and Cero, dated 14 <sup>th</sup> October 2022 (F02.0 Rev 19)                            |
| A23  |   | Non-breeding Waterbird Migration Technical Note, prepared by BSG, dated August 2022   |
| Thurrock Council Submitted 22 <sup>nd</sup> February 2023    |   |   |
| A24  |   | Habitat Regulation Assessment, prepared by Thurrock Council, dated February 2023  |
| Thurrock Council Re-submission 10 <sup>th</sup> May 2023     |   |   |
| A25  |   | Glint and Glare Assessment with Site Survey, Mitigation and Management Plan, prepared by Page Power, dated May 2023                 |
| Committee Reports  |   |   |
| A26  |   | Thurrock Council Committee Report 16 <sup>th</sup> March 2023   |



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| A27  |   | Thurrock Council Committee Report Updates 8 <sup>th</sup> June 2023           |
| A28  |   | Basildon Council Committee Report 5 <sup>th</sup> September 2023              |
| Committee Meeting Minutes                                  |   |   |
| A29  |   | Thurrock Council Committee Minutes 16 <sup>th</sup> March 2023                |
| A30  |   | Thurrock Council Committee Minutes 8 <sup>th</sup> June 2023                  |
| A31  |   | Basildon Council Committee Minutes 5 <sup>th</sup> July 2023                  |
| A32  |   | Basildon Council Committee Minutes 7 <sup>th</sup> September 2023             |
| Decision Notice  |   |   |
| A33  |   | Thurrock Council Decision Notice, dated 12 <sup>TH</sup> June 2023            |
| Acknowledgement Letter                                     |   |   |
| A34  |   | Basildon Council Acknowledgement Letter 22 <sup>nd</sup> October 2021         |
| Thurrock Council Application Statutory Consultee Responses |   |   |
| B1   |   | Environment Agency, dated 2 <sup>nd</sup> November 2021                       |
| B2   |   | Essex Police, dated 10 <sup>th</sup> November 2021                            |
| B3   | A | Fire Brigade, dated 12 <sup>th</sup> May 2023                                 |
|  | B | Fire Brigade, dated 18 <sup>th</sup> May 2023                                 |
|  | C | Fire Brigade, email dated 30 <sup>th</sup> May 2023                           |
|  | D | Fire Brigade, dated 19 <sup>th</sup> April 2023                               |
| B4   | A | Highways Authority, dated 14 <sup>th</sup> October 2021                       |
|  | B | Highways Authority, dated 1 <sup>st</sup> November 2021                       |
| B5   |   | Historic England, dated 6 <sup>th</sup> December 2021                         |
| B6   |   | Historic Buildings, dated 21 <sup>st</sup> December 2021                      |
| B7   | A | Landscape, Arboriculture and Ecology, dated 10 <sup>th</sup> January 2022     |
|  | B | Landscape, Arboriculture and Ecology, dated 8 <sup>th</sup> February 2023     |
| B8   |   | Natural England, dated 26 <sup>th</sup> January 2023                          |
| B9   |   | Public Rights of Way, dated 2 <sup>nd</sup> November 2021                     |
| B10  |   | Specialist Archaeological Advice, dated 29 <sup>th</sup> October 2021         |
| B11  |   | Cadent Gas Limited, dated 14 <sup>th</sup> October 2021                       |
| B12  |   | Environment Health, dated 22 <sup>nd</sup> March 2022                         |
| B13  |   | Essex Wildlife Trust, email dated 18 <sup>th</sup> January 2023               |
| B14  |   | RSPB, dated 25 <sup>th</sup> January 2023                                     |
| B15  |   | Rochford District Council, dated 10 <sup>th</sup> March 2023                  |
| Planning Appeal  |   |   |
| Appeal Administration                                      |   |   |
| C1   |   | Thurrock Council Pre-Notification Form dated 11 <sup>th</sup> July 2023       |
| C2   |   | Basildon Borough Council Decision Notice dated 8 <sup>th</sup> September 2023 |
| C3   |   | Submitted Appeal Forms, dated 31 <sup>st</sup> August 2023                    |
| C4   |   | Thurrock Council Appeal Questionnaire, dated 26 <sup>th</sup> September 2023  |
| C5   | A | Neighbour Notification Letter, dated 22 <sup>nd</sup> September 2023          |
|  | B | Neighbour Notification List, dated 20 <sup>th</sup> September 2023            |
|  | C | Newspaper advertisement, dated 14 <sup>th</sup> October 2023                  |

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| Statements of Case                                 |   |  |
| C8   |   | Statement of Case, prepared by Pegasus Group, dated August 2023  |
| C9   |   | Statement of Case, prepared by Thurrock Council, dated 23 <sup>rd</sup> October 2023   |
| Statement of Common Ground                         |   |  |
| C10  |   | Agreed Statement of Common Ground, dated 14 <sup>th</sup> November 2023  |
| Proofs of Evidence                                 |   |  |
| C11  | A | Planning Policy Considerations and the Planning Balance, by Paul Burrell   |
|  | B | Landscape and Visual and Green Belt Purposes, by Ben Croot   |
|  | C | Heritage Considerations, by Gail Stoten  |
|  | D | Planning Policy Considerations and the Planning Balance, Chris Whitehouse  |
|  | E | Planning PoE: Erratum, by Christopher Whitehouse   |
| Rebuttals  |   |  |
| C12  | A | Planning Rebuttal Evidence, by Paul Burrell  |
|  | B | Rebuttal Landscape Proof of Evidence, by Ben Croot   |
|  | C | Heritage rebuttal, by Gail Stoten  |
| Conditions   |   |  |
| C13  |   | Draft Planning Conditions  |
| Position Statements                                |   |  |
| C14  |   | Planning Policy Joint Position Statement between the Appellant and Thurrock Council  |
| C15  |   | Joint Position Statement between the Appellant and Thurrock Council on 'other considerations' for the purposes of NPPF Paragraph 153 (Green Belt Very Special Circumstances balance) |
| C16  |   | Position Statement – Sequential and Exception Tests, prepared by the Appellant   |
| C17  |   | Fobbing Solar Farm – Technical Note, prepared by the Appellant   |
| C18  |   | Habitat Regulations Assessment – Thames Estuary RAMSAR/SPA between the Appellant and Thurrock Council  |
| Statement of Common Ground - Addendum              |   |  |
| C19  |   | Agreed Addendum to the Statement of Common Ground, dated January 2024  |
| National Planning Policy, Guidance and Legislation |   |  |
| D1   |   | National Planning Practice Guide ( <i>Electronic Version only</i> )  |
| D2   | A | Overarching National Policy Statement for Energy (EN-1) (July 2011)  |
|  | B | Overarching National Policy Statement for Energy (EN-1) (November 2023)  |
| D3   | A | National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011)   |
|  | B | National Policy Statement for Renewable Energy Infrastructure (EN-3) (November 2023)   |
| D4   |   | UK Government Solar Strategy 2014  |
| D5   |   | Written Ministerial Statement on Solar Energy: protecting the local and global environment made on 25th March 2015   |
| D6   |   | Climate Change Act 2008  |

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| D7  | Climate Change Act (2050 target amendment) Order 2019   |
| D8  | Clean Growth Strategy, published by the Department for Business, Energy and Industrial Strategy (BEIS) in October 2017  |
| D9  | UK Parliament declaration of an Environmental and Climate Change Emergency in May 2019  |
| D10   | Energy White Paper: Powering our Net Zero Future published in December 2020   |
| D11   | UK Government press release of acceleration of carbon reduction to 2035, dated April 2021   |
| D12   | The latest version of the 'Digest of United Kingdom Energy Statistics', July 2023   |
| D13   | UK Energy Statistics Press Release published by the Department for Business, Energy & Industrial Strategy, June 2020.   |
| D14   | 'Achieving Net Zero' published by the National Audit Office in December 2020  |
| D15   | Net Zero Strategy: Build Back Greener, dated October 2021.  |
| D16   | British Energy Security Strategy, updated 7th April 2022.   |
| D17   | 2021 UK Greenhouse Gas Emissions, Provisional Figures, published by Department for Business, Energy and Industrial Strategy, dated 31 <sup>st</sup> March 2022. |
| D18   | Subnational Electricity Consumption, Great Britain, 2005-2021, published by the Department for Business, Energy & Industrial Strategy, dated 22nd December 2022 |
| D19   | Powering Up Britain – Energy Security Plan (March 2023)   |
| D20   | UK Battery Strategy, published by the Department for Business & Trade (November 2023)   |
| D21   | Achieving Net Zero – Farming’s 2040 goal, published by the NFU, dated September 2019  |
| D22   | FES in Five, dated July 2023  |
| Local Planning Policy, Guidance and Documents |   |
| E1  | Saved policies of the Thurrock Borough Local Plan 2012 (adopted September 1997)   |
| E2  | Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) adopted January 2015                                 |
| E3  | Thurrock Council Climate Emergency (October 2019)   |
| Landscape                                     |   |
| F1  | Guidelines for Landscape and Visual Impact Assessment 3rd Edition   |
| F2  | National Character Area Profiles Greater Thames Estuary (NCA 81), dated 2014  |
| F3  | Thurrock Greengrid Strategy 2006- 2011 (2006)   |
| F4  | Thurrock Green Infrastructure Framework Plan (2007)   |
| F5  | Thurrock Landscape Capacity Study (2005)  |
| F6  | Essex Landscape Character Assessment (2003)   |
| F7  | Thurrock Integrated Landscape Character Assessment – Part 2: Landscape Character Profiles Oct 2018 (LUC)  |
| F8  | Landscape Institute Technical Guidance Note 02/21 - Assessing landscape value outside of national designations  |
| F9  | Thurrock Integrated Landscape Character Assessment – Part 1: Introductory Chapters and Appendices Oct 2018 (LUC)  |
| F10   | The Essex Historic Landscape Characterisation Project (February 2011)   |

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| F11  | Figure 1: Historic Landscape Characterisation – drawing no: P23-1652  |  |
| F12  | The Historic Landscape Characterisation Report for Essex, Volume 4 – Appendices (February 2011)   |  |
| Green Belt   |   |  |
| G1   | Thurrock Strategy Green Belt Assessment Stages 1a and 1b, January 2019 (PBA)  |  |
| G2   | Thurrock Strategy Green Belt Assessment Stages 1a and 1b, January 2019 (PBA) Appendices E and F   |  |
| Heritage   |   |  |
| H1   | Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15, dated February 2021                           |  |
| H2   | Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment, dated July 2015 |  |
| H3   | Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Second Edition), dated December 2017                  |  |
| H4   | Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment, dated April 2008                         |  |
| H5   | Statements of Heritage Significance, Analysing Significance in Heritage Assets, Historic England Advice Note 12, dated October 2019.                |  |
| H6   | Fobbing Conservation Area Appraisal, Thurrock Council, March 2007   |  |
| Relevant Decisions, Legal Judgements and Officer Reports |   |  |
| I1   | Catesby Estates Ltd v. Steer, EWCA Civ 1697, dated 18 <sup>th</sup> July 2018   |  |
| I2   | EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council, dated 26 <sup>th</sup> July 2013  |  |
| I3   | Application for the Cleve Hill Solar Park Order ("Cleeve Hill") reference EN010085  |  |
| I4   | Halloughton, Nottinghamshire APP/B3030/W/21/3279533 ("Halloughton"), solar farm and battery storage allowed on 18 <sup>th</sup> February 2022       |  |
| I5   | Langford, Devon APP/Y/1138/W/22/3293104 ("Langford") solar farm and battery storage allowed by Secretary of State on 5 <sup>th</sup> December 2022  |  |
| I6   | Chelmsford, Essex APP/W1525/W/22/3300222 ("Chelmsford"), solar farm and battery storage, allowed on 6 <sup>th</sup> February 2023                   |  |
| I7   | Bramley, Hampshire APP/H1705/W/22/3304561 ("Bramley"), solar & battery storage, allowed on 13 <sup>th</sup> February 2023                           |  |
| I8   | New Works Lane, Telford APP/C3240/W/22/3293667 ("Telford"), solar farm, allowed by Secretary of State on 27 <sup>th</sup> March 2023                |  |
| I9   | Wellington, Telford APP/C3240/W/22/3308481 ("Wellington"), solar farm, allowed on 9 <sup>th</sup> May 2023  |  |
| I10  | Scruton, Yorkshire APP/G2713/W/23/3315877 ("Scruton"), solar farm, allowed on 27 <sup>th</sup> June 2023  |  |
| I11  | A   | Larks Green, Oxford ("Larks Green"), solar farm, approved by South Gloucestershire Council on 5 <sup>th</sup> January 2021 (Decision Notice) |
|  | B   | Larks Green, Oxford ("Larks Green"), solar farm, approved by South Gloucestershire Council on 4 <sup>th</sup> December 2020 (Officer Report) |
| I12  | A   | Cowley Oxford ("Cowley") solar farm, approved by South Oxfordshire District Council on 11 <sup>th</sup> January 2022 (Decision Notice)       |
|  | B   | Cowley Oxford ("Cowley") solar farm, approved by South Oxfordshire District Council on 15 <sup>th</sup> December 2021 (Officer's Report)     |

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| I13 |   | Land at Bishop's Itchington, Stratford on Avon AP/J3720/W/22/3292589 ("Bishop's Itchington"), allowed on 1 <sup>st</sup> December 2022   |
| I14 |   | Land at Halse Road, south of Greatworth, Northamptonshire APP/W2845/W/23/3315771 ("Copse Lodge"), solar farm, allowed on 14 <sup>th</sup> November 2023  |
| I15 |   | R. (on the application of William Corbett) v The Cornwall Council [2020] EWCA Civ 508  |
| I16 |   | Land at Crays Hall Farm, Church Lane, Crays Hill, Essex APP/V1505/W/23/3318171 ("Crays Hall"), solar farm, allowed on 30 <sup>th</sup> August 2023   |
| I17 |   | Rawfield Lane, Fairburn, Selby APP/N2739/W/22/3300623 ("Rawfield Lane"), battery storage, allowed on 1 <sup>st</sup> December 2022   |
| I18 |   | Land to the west of the A46, Sherbourne, Warwick APP/T3725/W/23/3317247 ("Sherbourne"), solar farm, allowed on 25 <sup>th</sup> September 2023   |
| I19 |   | Land West of Wolverhampton West Primary Substation, South Staffordshire Railway Walk, Wolverhampton APP/C3430/W/22/3292837, ("Wolverhampton Substation"), battery storage, allowed on 16 <sup>th</sup> August 2022 |
| I20 | A | Harrow Lane, Bulphan, Essex ("Harrow Lane"), approved by Thurrock Council on 21 <sup>st</sup> October 2021 (Officer's Report)  |
|     | B | Harrow Lane, Bulphan, Essex ("Harrow Lane"), approved by Thurrock Council on 21 <sup>st</sup> October 2021 (Decision Notice)   |
| I21 |   | Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government and others [2014] EWCA Civ 1386  |
| I22 |   | Turner v. SSCLG [2016] EWCA (CIV 466)  |
| I23 |   | Samuel Smith R (on the application of Samuel Smith Old Brewery [Tadcaster] and others (Respondents) V North Yorkshire County Council (Appellant) [2020] UKSC3)   |
| I24 |   | Barnwell Manor Wind Energy Limited Vs East Northampton District Council & Ors [2014] EWCA Civ 137  |
| I25 |   | Wychavon DC v Secretary of State for Communities and Local Government and Butler [2008] EWCA Civ 692   |
| I26 |   | Palmer vs Herefordshire Council & ANR [2016] EWCA Civ 1061, dated 4 <sup>th</sup> November 2016  |
| I27 |   | Mordue vs Secretary of State for Communities and Local Government and South Northamptonshire Council [2015] EWCA Civ 1243, dated 3 <sup>rd</sup> December 2015   |
| I28 |   | Bedford Borough Council vs Secretary of State for Communities and Local Government and Nuon UK Ltd [2013] EWHC 2847 (Admin), dated 26 <sup>th</sup> July 2013  |
| I29 |   | Forge Field Society vs Swindon Borough Council [2014] EWHC 1895 (Admin), dated 12 <sup>th</sup> June 2014  |
| I30 |   | Stroud District Council vs Secretary of State for Communities and Local Government & Gladman Developments Limited [2015] EWHC 488 (Admin), dated 6 <sup>th</sup> February 2015                                     |



SCHEDULE OF CONDITIONS (1-18)

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans within the site boundary edged red on Drawing 2033/D001.1 Revision v.k and within the administrative area of Thurrock Borough Council:

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| 2033/D001.1 Revision v.k | Site Location Plan 1 of 6                 |
| 2033/D001.2 Revision v.k | Site Location Plan 2 of 6                 |
| 2033/D001.3 Revision v.k | Site Location Plan 3 of 6                 |
| 2033/D001.4 Revision v.k | Site Location Plan 4 of 6                 |
| 2033/D001.5 Revision v.j | Site Location Plan 5 of 6                 |
| 2033/D001.6 Revision v.j | Site Location Plan 6 of 6                 |
| SK01 Revision C          | Access Junction Arrangement               |
| FO3.0 REV.02             | PV Elevations                             |
| FO3.1 REV.02             | PV Elevations Ballast Foundation          |
| FO4.0 REV.01             | Inverter/Transformer Stations             |
| FO5.0 REV.01             | Internal Access Road Detail               |
| FO6.0 REV.02             | Fence and Gate Elevations                 |
| FO7.0 REV.01             | Weather Station Detail                    |
| FO8.0 REV.01             | Substation Elevations                     |
| FO9.0 REV.01             | Control Room Elevations                   |
| FO10.0 REV.01            | Auxiliary Transformer                     |
| FO11.0 REV.01            | CCTV Elevations                           |
| FO12.0 REV.01            | Battery Container Elevations 40ft         |
| FO13.0 REV.01            | Storage Container Elevations 40ft         |
| FO14.0 REV.01            | Battery Fence and Gate Elevations         |
| FO15.0 REV.01            | Cable Trough                              |
| 7428_100 REV E           | Landscape and Ecology<br>Enhancement Plan |
| FO2.0 Rev 19             | Proposed Site Plan                        |

- 3) Planning permission is hereby granted for a temporary period of 40 years from the first commercial export of energy from the development hereby permitted. No later than one month following the first commercial export of energy the operator shall supply written notice to the Local Planning Authority of this event. On the 40<sup>th</sup> anniversary of the first commercial export of energy the development hereby permitted shall cease. The site shall thereafter be decommissioned in accordance with the Decommissioning Method Statement approved pursuant to Condition 4.
- 4) The development hereby permitted shall be removed from the site if the generation station is no longer in use or after a period of 40 years from the first commercial export of energy, whichever occurs earlier. No later than six months before the end of the 40-year period from the first commercial export of energy, or within six months of the generation

station being no longer in use, a Decommissioning Method Statement (DMS) for the decommissioning and site restoration, including a timetable for its implementation, shall be submitted for the written approval of the Local Planning Authority. The DMS shall make provision for the removal of the solar panels and associated works approved under this permission, and for the reinstatement of the land within the site so that with aftercare it is of the same grade of agricultural quality as when this permission was granted. The DMS shall include a Decommissioning Traffic Management Plan (DTMP). The DTMP shall include the number of HGV movements, routing of decommissioning vehicles and the timing of HGVs accessing the site. The DMS, as approved, shall be implemented in accordance with the approved details.

- 5) No construction works shall commence until a revised Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The revised CTMP shall include the number of HGV movements, routing of construction vehicles and the timing of HGVs accessing the site. Construction works shall only take place in accordance with the approved CTMP.
- 6) No construction works shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall contain or address the following matters:
  - a) Details about the construction of any access or temporary access, and details of temporary parking requirements;
  - b) Location and size of on-site compounds including the design layout of any proposed temporary artificial lighting systems;
  - c) Details of any temporary hardstandings;
  - d) Details of temporary hoarding;
  - e) Contact details for site managers including information about community liaison including a method for handling and monitoring complaints;
  - f) Wheel washing facilities;
  - g) Days and hours of construction activities; and
  - h) Detail outlined in the "Technical Note following consultation with Natural England" dated 19 August 2022 detailing how the timing/phasing of construction of the generation station will minimise disturbance to birds.Works on site shall only take place in accordance with the approved CEMP.
- 7) No construction works shall commence until a Road Condition Survey Plan (RCSP) has been submitted to and approved in writing by the Local Planning Authority. The RCSP shall survey the roads leading to the site before development commences and shall survey the roads within one month following the completion of construction works. Any degradation of the existing road surfaces directly due to the impact of construction of the development shall be remediated in accordance with remediation details to be included in the RCSP within three months following the completion of the construction works.
- 8) Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) in accordance with the LEMP dated July 2021 (Ref: R009) shall be submitted to and approved in writing by the Local

Planning Authority. The submitted LEMP shall be based on the Landscape and Ecology Enhancement Plan (drawing ref: 7428\_100 Rev E, dated June 2021) and shall include a management programme and funding arrangements for the site, along with a monitoring programme. The development shall be carried out in accordance with the approved details. Any trees or plants, which within a period of five years from the completion of the development dies, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size or species unless the Local Planning Authority approves alternatives in writing.

- 9) No development or preliminary groundworks shall commence until an Ecological Management Plan setting out the details of the creation, ongoing management and monitoring of the "waterbird mitigation land", which reflects the detail outlined in the "Technical Note following consultation with Natural England", dated 19 August 2022, as shown on Drawing No. 7428\_100 Rev E, has been submitted to and approved in writing by the Local Planning Authority. The waterbird mitigation land shall be created prior to the installation of any part of the development hereby permitted. The waterbird mitigation land shall be created, and thereafter retained, managed and monitored, in strict accordance with the approved Ecological Management Plan.
- 10) In the event that contamination is found 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. Work on site must stop and an investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme, including a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority. Remediation shall be carried out in accordance with the approved details. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority before works can recommence.
- 11) No development or preliminary groundworks shall commence until a programme of archaeological investigations has been secured and undertaken in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. A mitigation strategy detailing the excavation/preservation strategy for any archaeological deposits shall be submitted to and approved in writing by the Local Planning Authority following the completion of this work. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the completion of fieldwork, as detailed in the approved mitigation strategy. A post excavation assessment shall be submitted within six months of the completion of the fieldwork, unless otherwise approved in advance with the Local Planning Authority in writing. This shall include completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.
- 12) No artificial external lighting or other security measures shall be installed until a lighting and security scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for

- no permanent security lighting within the site, and that emergency lighting shall be manually operated. It shall include details about the type, quantity, height, intensity, position and direction of lighting, and usage during construction and operational phases. The lighting and security measures shall be implemented as approved and shall be retained at all times thereafter. No further lighting shall be installed without first having obtained planning permission from the Local Planning Authority.
- 13) Development of the battery compound and installation of the battery-based electricity storage system shall not commence until a Battery Safety Management Plan (BSMP) has been submitted to and approved in writing by the Local Planning Authority. The BSMP shall demonstrate how the operator has consulted with the Health and Safety Executive and the Fire and Rescue Service in prescribing and implementing the measures set out in the BSMP, which shall facilitate safety during the construction, operation and decommissioning of the battery storage facility, including the transport of new, used and replacement battery cells both to and from the development hereby permitted. The BSMP shall be implemented as approved. Thereafter, an updated BSMP, incorporating best practice guidance, policy and/or regulation at that time, shall be submitted to the Local Planning Authority for written approval every five years throughout the lifetime of the development. The most up to date approved BSMP shall be fully implemented at all times.
  - 14) Development on site shall only take place in accordance with the Glint and Glare Assessment (Ref: R012 dated May 2023) and in accordance with the Glint and Glare Management Plan included in Chapter 8.
  - 15) The cumulative rating sound level of the operational plant and equipment hereby permitted as part of this development shall have an operational noise level no greater than the existing background sound level during the operation of the scheme at the closest noise-sensitive receptors to the site as assessed in the Noise Impact Assessment (Ref: R011 dated July 2021).
  - 16) No development shall take place until a Solar Farm Grazing Management Plan (SFGMP) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall describe the methods by which grazing will be maintained throughout the lifetime of the development. The development shall be carried out in accordance with the approved SFGMP.
  - 17) Development on site shall only take place in accordance with the Flood Risk Assessment and Drainage Strategy (Parts 1 and 2) prepared by RMA Environmental (Ref: R010 dated July 2021).
  - 18) No development shall take place until details of the inverters, including their capacity, have been submitted to and approved in writing by the Local Planning Authority. The inverters shall be implemented as approved and shall be retained at all times thereafter.



## Appeal Decision

Inquiry held on 9 – 12 January 2024

Site visit made on 12 January 2024

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> February 2024**

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**Appeal Ref: APP/L3245/W/23/3329815**

**Land to the South of Hall Lane, Kemberton, Telford, TF11 9LB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr K Philpott (Vattenfall) against the decision of Shropshire Council.
  - The application Ref 22/02441/FUL, dated 13 May 2022, was refused by notice dated 20 March 2023.
  - The development proposed is the installation of a solar farm and associated infrastructure.
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### Decision

1. The appeal is allowed and planning permission is granted for the installation of a solar farm and associated infrastructure at land to the south of Hall Lane, Kemberton, Telford, TF11 9LB in accordance with the terms of the application, Ref 22/02441/FUL, dated 13 May 2022, subject to the conditions set out in Annex A.

### Procedural Matters

2. The Council confirmed (25 April 2022) that an Environmental Impact Assessment was not required. There is no reason to disagree.
3. One of the reasons for refusal related to the impact on landscape character. However, the Council confirmed at the Case Management Conference and in the Statement of Common Ground that they would not be contesting that reason for refusal.
4. A revised Landscape Mitigation Plan was submitted with the appeal. This shows additional biodiversity enhancements in the south-east corner of the site and additional hedgerow planting to the east of the substation enclosures. The council expressed no concern with the use of this revised plan. I consider the changes are relatively minor and I am satisfied that no party would be prejudiced by my taking the amended plan into account. Accordingly, the Inquiry proceeded on this basis.

### Main Issues

5. The parties are agreed that the proposal is inappropriate development in the Green Belt in terms of local and national policy.
6. Given this, the main issues in the appeal are:



- The effect of the proposed development on the openness of the Green Belt and the purposes of including land within it;
- The effect of the proposal on, and the potential loss of, agricultural land and an agricultural enterprise; and
- Whether the harm to Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposed development.

## **Reasons**

### *The site, the surrounding area and the proposal*

7. The appeal site comprises 2 fields that form a L-shape and which total approximately 20 ha. External and internal field boundaries are mainly defined by mixed hedgerows and mature trees, the exception being the eastern boundary of the southern field that is marked by a post and wire fence. A public right of way, which forms part of the Monarch's Way long distance path, traverses the south-east corner of the site.
8. The site is located between the village of Kemberton to the east and the built edge of Telford to the west, both of which occupy higher ground. It is also within the West Midlands Green Belt. Immediately adjacent to the northern and western boundaries lie Hall Lane and the B4379 respectively. Beyond these roads and adjacent to the other boundaries is a mix of arable and pastoral agricultural land with a rolling topography.
9. The proposal would consist of ground mounted solar arrays arranged in rows across the majority of the two fields along with essential electricity generation infrastructure, internal access tracks, security fencing, pole mounted CCTV cameras and boundary landscaping.

### *Planning policy context*

10. The development plan comprises the *Shropshire Core Strategy 2006 – 2026 (adopted February 2011)* (CS) and the *Site Allocations and Management of Development Plan (adopted December 2015)* (SAMDev).
11. Leaving aside the third reason for refusal on landscape character which is not being contested, the reasons for refusal reference Policy CS5 which deals with development in the Green Belt and the countryside, CS13 which addresses economic development, enterprise and employment, and CS15 on Town and Rural Centres. At the Inquiry the Council could not identify how the proposal was contrary to any part of CS15. I would agree with that conclusion and so will not consider it further.
12. Although not mentioned in the reasons for refusal, the need to make effective use of land and safeguard natural resources, including high quality agricultural land, is set out in CS Policy CS6. In addition, Policy CS8 of the CS supports low carbon and renewable energy generation proposals where they would not have significant adverse impacts on recognised environmental assets.
13. The Council are currently in the process of producing a new Local Plan (LP). This was submitted for examination in 2022. But it was confirmed at the Inquiry that a further hearing session is expected in the summer with

consultation on the main modifications in late 2024. The Council made reference to Policies DP18 and DP26 within the LP but in the absence of any indication of the level of unresolved objections on these policies and whether modifications may be needed to make them sound, I give minimal weight to them.

14. The *National Planning Policy Framework* (the Framework), the *Planning Practice Guidance* (PPG), the *National Policy Statement on Energy* (EN-1) and the *National Policy Statement on Renewable Energy Infrastructure* (EN-3) are all material considerations.
15. Kemberton produced a Parish Plan in 2017 which sets out a framework for the future of Kemberton. Whilst this was subject to consultation with the community, it underwent no independent examination to ascertain whether it aligns with development plan and is not a Neighbourhood Plan. As such, whilst I take note of the factual information it contains, I give minimal weight to any of its aspirations in relation to planning and development.

#### *Green Belt openness*

16. Policy CS5 of the CS indicates that development in the Green Belt will be controlled in accordance with national policy which is currently set out in the Framework.
17. The Government attaches great importance to the Green Belt. The fundamental aim is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belt are their openness and their permanence. Openness has both a visual and spatial element.
18. The appeal site currently comprises 2 open fields. The proposal would introduce development across the majority of these fields. Although the footprint of the posts holding the arrays would be small, the panels themselves are larger. They would have the effect of covering more of the ground area, albeit that their mass would be broken up by the grass in between each row and the fact that there would be 'airspace' and functioning soil beneath the panels. In addition, there would be access tracks, fencing, substations and transformers as part of the proposal. As a result, I consider that the proposal would slightly diminish the openness of the Green Belt spatially.
19. In visual terms, the appellant's landscape witness considered the effects to be very limited and localised due to the existing and proposed vegetation around the site and the local topography. This is supported by the findings of the Landscape and Visual Impact Assessment (LVIA) which found that the only publicly accessible viewpoints which would have more than 'negligible' visual effects were a section of the Monarch's Way footpath (viewpoints 1-4), sections of footpaths to the north and west of Kemberton (viewpoint 7) and the roads adjacent to the site (viewpoint 5). In all cases the visual effect from these would be reduced as the new planting is established with only Monarch's Way remaining more than 'negligible' at 'slight adverse'.
20. The Council highlighted that the Zone of Theoretical Visibility (ZTV) shows there to be visibility of 100% of the site from the ridge of the Halesfield Industrial Estate. However, the only publicly accessible point on this ridge is the road. Road users would primarily be paying due care and attention to other road users and hazards, so would only take in limited glimpses of the site,

resulting in only a negligible adverse visual effect. Even for passengers, views would only be fleeting. Whilst the views would be less fleeting for pedestrians, the absence of any footway on the road at this point, suggests this route is unlikely to be heavily utilised by pedestrians.

21. The other point on the ZTV where there is 100% visibility, was indicated to be a field with no public accessibility. Views of the site are also possible from the car park and outside seating areas to the rear of the Mason's Arms Public House in Kemberton. What views of the site that are possible from these areas are similar to that from viewpoint 1 and are at present heavily screened by the existing boundary vegetation. As this existing hedging would relatively quickly mature to its new height, views of the proposal would be minimal.
22. The Council did not provide any technical evidence to counter the findings of the LVIA and from my own observations I would agree with the conclusions it reached on the likely visual effects of the proposal.
23. The appellant's landscape witness considered that the proposed planting would take slightly longer to establish than suggested in the LVIA – 5-10 years rather than 3-5 years. I consider that the proposed increase in height of the existing hedges to 3m could be achieved in 3 years, bringing the mitigation benefits to the majority of the viewpoints highlighted above within a relatively short timeframe. Whilst the full screening effect of the new mitigation planting is more likely to take between 5 and 10 years to achieve, I am not persuaded this slightly longer timeframe significantly alters the visual impact of the proposal.
24. All in all, initially, I consider the proposal would cause moderate harm to the visual openness of the Green Belt, but this would reduce to slight as the mitigation planting matures. Given the very localised nature of this visual impact overall, I consider it would only have a slight impact on the visual openness of the Green Belt.
25. The LVIA acknowledges that there would be some views of the proposal from various residential properties in the vicinity, although, when the mitigation planting is fully established, at worst the visual effect would be "slight adverse". Moreover, these are private not public views and the Council accepted that the proposal would not cause any unacceptable harm to the living conditions of the occupiers of these dwellings. There are no other existing or proposed solar farms in the LVIA study area, so there would be no cumulative landscape or visual effects.
26. The PPG indicates that when assessing the impact of a development on the openness of the Green Belt, the duration of the development and its remediability, and the degree of activity it would be likely to generate, are matters to take into consideration. The proposal would occupy the site for 40 years which although a significant period of time is not permanent. At the end of this period the site could be restored to agricultural land. In addition, apart from during the construction phase and during de-commissioning, the development would generate minimal activity.
27. Taking all of the above together, both visually and spatially, the proposal would result in slight harm to the openness of the Green Belt. This adds to the harm caused by reason of inappropriateness.

### *Green Belt purposes*

28. As defined by paragraph 143 of the Framework, the Green Belt serves 5 purposes (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and spatial character of historic towns; and (e) to assist in urban regeneration by encouraging the recycling of derelict and other urban land.
29. It is agreed that the fourth purpose, relating to historic towns, is not relevant in this instance. In addition, the Council indicated that all parts of the Green Belt contribute equally to the fifth purpose.
30. As part of the evidence base for the emerging LP an assessment of how land within the Green Belt contributed to the five Green Belt purposes has been undertaken. In this the appeal site lies within area BA2. The assessment concludes that this area makes no contribution to purpose 1, a moderate contribution to the second purpose and a strong contribution to purpose 3. The land on the other side of the B4379 lies in area P22, which the assessment concludes makes a strong contribution to purpose 1, a weak contribution to purpose 2 and a moderate contribution to purpose 3.
31. The Framework does not provide a definition of what constitutes "sprawl", but it is a matter considered by the Council's Green Belt Assessment. This notes that definitions of 'sprawl' vary but concludes that "land immediately adjacent to the large built up area is likely to contribute to this purpose as it provides the boundary and zone of constraint to urban expansion."
32. Although the appeal site is situated in what is a relatively narrow gap between Telford and Kemberton, it is not immediately adjacent to either the built edge of Telford, or Kemberton (although the latter is not a large built up area), as intervening fields lie between the site and both settlements. As a result, the proposed development would be visually discrete from both settlements.
33. Moreover, the solar panels and associated infrastructure would be relatively low-lying features, that would have a completely different character and form to either the industrial units on the edge of Telford or buildings in Kemberton. As such, the proposal would not be seen as the spreading out of either settlement. Thus, even if 'sprawl' encompasses 'leapfrog development' as suggested by the Council, the proposed development would not be contrary to this purpose.
34. With regard to the second purpose of including land in the Green Belt, the Council's Green Belt assessment highlights that the Framework specifically refers to preventing the merging of towns, not the merging of towns with smaller settlements, or the merging of smaller settlements with each other. Whilst Kemberton was referred to as either a village or a hamlet, it is agreed that it is not a town.
35. The Green Belt in the area has a role to play in preventing the coalescence of Telford with the town of Shifnal. However, the appeal site does not lie directly between these 2 settlements and so the proposal would not contribute to any narrowing of the gap between Telford and Shifnal. In addition, should it be considered that the site lies between Telford and Albrighton, the considerable

distance between these two towns means the proposal would not reduce this gap to any significant degree.

36. The proposed development would result in the partial infilling of the gap between Kemberton and Telford and so physically would lead to a narrowing of this gap. Nonetheless, open fields would remain between the site and both settlements. Additionally, the LVIA shows that there would be very little visibility of the proposal from the public realm and so visually the impact the proposal would have on the perceived openness of this gap would be very limited. Consequently, even if it is considered that the second purpose relates to the gap between Telford and Kemberton, the proposal would not, in my view, be contrary to this purpose.
37. It is not disputed that the proposal would represent development in the countryside. However, the busy nature of the 'B' road adjacent to the site does detract from the rural character of the area. The appeal scheme would introduce man-made structures into the fields and would change their character. Nonetheless, the solar arrays would be located within the existing field pattern and the scheme would retain and enhance the existing field boundaries which would result in minimal visibility of the scheme from outside the site. Furthermore, the solar arrays would be low-lying, open sided features, that would be temporary in nature, limiting the overall effect on the countryside.
38. Therefore, the proposal would cause encroachment into the countryside, contrary to this purpose. However, the degree of harm it would cause would be limited.

#### *Green Belt conclusion*

39. The parties agree that the proposal is inappropriate development in the Green Belt. This is, by definition, harmful to the Green Belt. The development would also cause some slight harm to the openness of the Green Belt and by causing some degree of encroachment into the countryside would conflict with one of the purposes of including land in the Green Belt. In line with paragraph 153 of the Framework, the harm to the Green Belt from these matters results in substantial weight against the proposal. The proposal would not accord with Policy CS5 or the Framework.
40. The Council highlighted other recent solar farm developments that had been approved in the Green Belt in the Albrighton area. It was suggested they were more acceptable because they did not conflict with any of the purposes of including land in the Green Belt and were not as close to urban areas. Be that as it may, I have considered the appeal scheme on its own merits.

#### *Effect on, and potential loss of, agricultural land*

41. Amongst other things, CS Policy CS6 seeks to make efficient use of land and safeguard natural resources including high quality agricultural land. Whilst paragraph 180b of the Framework states that planning decisions should take into account the economic and other benefits of the best and most versatile (BMV) agricultural land, it does not prevent the use of such land for non-agricultural uses. Further guidance regarding the use of BMV land is provided in footnote 62 of the Framework. This footnote is linked to paragraph 181 not 180b, and the former relates to plan making not decision taking. However even



- if it is considered to be relevant to decision taking it simply indicates that the availability of land for food production is a consideration to be taken into account, rather than preventing the use of such land.
42. The Written Ministerial Statement on solar energy (25 March 2015) indicates that the use of BMV for solar farms has to be justified by the most compelling evidence.
43. In addition, *The Planning Practice Guidance* (PPG) on renewable and low carbon energy, which also dates from 2015, provides a list of planning considerations that relate to large scale ground mounted solar photovoltaic farms<sup>1</sup>. These include: encouraging the effective use of land by focussing such developments on previously developed and non-agricultural land provided it is not of high environmental value; and where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
44. It is agreed that the majority of the appeal site (71%) comprises Grade 3b agricultural land with the rest being Grade 3a. Whilst the latter constitutes BMV land, it is not a discrete element that could be farmed separately. The wider area comprises overwhelmingly of Grade 2 and 3 land, with no grade 5 land and only small amounts of Grade 4. In this context, the use of a site that is predominantly Grade 3b would constitute using poorer quality agricultural land as required in the PPG.
45. In addition, the appellant's Site Selection Process report (SSP), identified all potentially suitable land within an area that would be able to connect to either the Halesfield or Shifnal substations, where there was connection capacity. The Council suggested that there are other substations with capacity in the region. However, this failed to recognise the difference between transformer capacity and export capacity. As the appellant's evidence is based on detailed discussions with the local electricity distribution network operator, I have no reason to doubt that Halesfield and Shifnal are the only two substations with viable connection capacity. As such, the search area used in the SSP is reasonable.
46. The SSP found that within the search area there was no urban or brownfield land that would be large enough for the proposal. 36 greenfield sites were identified, but many of these were ruled out due to being too small or because they were Grade 2 agricultural land. Two of the sites were outside the Green Belt but both of these were being actively developed for housing. Whilst a detailed assessment of the other sites classified as Grade 3 land has not been undertaken to clarify if any of them contain less Grade 3a land than the appeal site, appendix 2 of the SSP gives good reasons as to why all of them were discounted. I therefore consider that the SSP represents a robust analysis of other potential sites. In this respect this appeal differs from the appeal referred to by the Council.<sup>2</sup>
47. In the absence of any evidence to the contrary regarding the availability and suitability of alternative sites, I see no reason to disagree with the conclusions

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<sup>1</sup> Paragraph ID:5-013-20150327

<sup>2</sup> Appeal Decision APP/F1040/W/22/3313316

- of this report, which shows there is no poorer quality agricultural land or urban/brownfield land available that would be able to use the available grid connections. Therefore, in accordance with the PPG, it has been demonstrated that the use of agricultural land would be necessary, and that poorer quality land would be used in preference to higher quality agricultural land.
48. It was highlighted that the SSP was not submitted when the planning application was lodged but later in the determination period. However, there is no national or local policy requirement to carry out an assessment of alternative sites for solar farm developments and to submit this as part of an application. From the evidence before me I am satisfied that the SSP explains adequately the process the appellant went through in identifying potential sites. Moreover, whilst the land on the other side of the B4379 may be closer to the sub-station the evidence shows it is not available for such developments.
49. The proposal would change the use of the land for a period of 40 years which, although a significant period of time, is not permanent. Furthermore, during the operational period it is indicated that the land around the solar panels would be used for the grazing of sheep. As a result, apart from the small areas used for the fixed infrastructure, the majority of the land would still be used for some agricultural purposes during the 40 year period the solar farm operated. It is the intention that it would be returned fully to agricultural land at the end.
50. I note the concerns that the productivity and versatility of the land would be reduced and that grazing by sheep during the operational period is not guaranteed. Nevertheless, the specific way agricultural land is farmed is not a matter that is subject to planning controls. As such, there would be nothing in planning terms to prevent the owners using the fields that form the appeal site for the grazing of sheep at present or even leaving them fallow.
51. 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 and can be returned to agricultural use in the future. Nor is there any substantive evidence to show that cumulatively solar farm developments are having an unacceptable impact on the amount of agricultural land available in the county.
52. The appellant has indicated that the footings for the solar panels would be piled. As such this would cause minimal disturbance to the soil and the quality of the land. This conclusion is supported by the findings of post-construction surveys of other solar farms provided by the appellant. Nor is there any evidence to show that the proposal would cause the release of the carbon stored in the soil as a result of the organic farming practices that the land has been subject to in recent years.
53. Whilst the land currently has organic status, this relates to how the land is managed rather than the land quality. This status could be lost if it was rented out differently and could also be regained at the end of the lifetime of the development.
54. Overall, I am satisfied that the proposal would not result in the temporary or permanent loss of agricultural land as the land could continue to be used for some agricultural purposes whilst also being used to produce solar energy. Nor would the proposal be detrimental to the quality of the land, so a return to agricultural use at a later date would still be possible.

*Effect on, and potential loss of, an agricultural enterprise*

55. Policy CS13 of the CS seeks to develop and diversify the economy and deliver sustainable economic growth. It indicates that in rural areas particular emphasis will be placed on recognising the continued importance of farming for food production and to supporting rural enterprise and diversification of the economy. As part of supporting a prosperous rural economy, paragraph 88b of the Framework also supports the development and diversification of agricultural and other land based rural businesses.
56. Until recently the fields that form the appeal site were used as pasture by the adjacent organic dairy farm and so were only indirectly used for food production. However, Policy CS6 does not state that any proposal that leads to a loss of area used for food production is unacceptable. Moreover, at the inquiry, the Council acknowledged that the use of agricultural land for solar energy is an example of economic activity associated with agricultural and farm diversification even if not listed as such in this policy.
57. Whilst the adjacent dairy farm had been using the land for around 20 years, it was rented by them on an annual basis with no security of tenure. As such, irrespective of the appeal proposal, there was no guarantee that the land would have necessarily continued to be available to rent by the dairy farm. Given the nature of this tenancy arrangement with the dairy farm, the Council accepted that it was incorrect for the second reason for refusal to allege the proposal would adversely affect this tenancy for 40 years. They also accepted that the rest of this second reason for refusal was based on the misunderstanding of the tenancy.
58. Moreover, there is no evidence that the loss of the two fields to the dairy farm would adversely impact on milk production or the viability of the business albeit that, as a consequence of the inability to continue renting this land, the business may incur costs in finding new land. In fact, the evidence of the owner of the dairy at the inquiry was that despite the loss of this land the business continued to be thriving. As such, the proposal would not cause any harm to food production.
59. Consequently, I consider that the proposed development would not be detrimental to, or lead to the loss of, an agricultural enterprise.

*Conclusion on Agricultural Considerations*

60. Overall, I consider that the proposal would not result in the loss of either agricultural land or an agricultural enterprise. Nor would it have an unacceptable impact on either agricultural land or an agricultural enterprise. The land could continue to be used for agricultural purposes alongside the production of renewable energy and could return fully to agricultural use at the end of the lifetime of the development. Accordingly, there would be no conflict with Policies CS13 and CS6 of the CS or with the Framework outlined above.

*Benefit arising from the provision of renewable energy*

61. The proposal would have an installed capacity of approximately 22MW, estimated to provide sufficient electricity to power around 6,000 homes a year and saving approximately 5,280 tonnes of CO<sub>2</sub> per annum. The site benefits from an immediate connection to the grid at the Halesfield substation which is clearly beneficial in enabling the energy produced to be exported without delay.

62. In recent years both the Government and the Council have declared an Environmental and Climate Change Emergency. Various recent government publications have highlighted the need to significantly increase generation from onshore wind and solar energy production, as it seeks to ensure that by 2035 all our electricity will come from low carbon sources and that it achieves net-zero emissions by 2050. In addition, the Shropshire Climate Action Partnership, of which the Council is one of the founders, has set the objective of achieving a net-zero carbon county by 2030.
63. Documents such as the British Energy Security Strategy reinforce the need for electricity to come from low carbon sources for energy security and economic stability. This is also reflected in various local documents such as the Energy Strategy for The Marches Local Enterprise Partnership.
64. To achieve these ambitious targets, it is clear that considerable growth in large scale solar farms will be necessary and this cannot be achieved solely by the use of brownfield land or roof top installations.
65. The support in both national and local policy for renewable energy is caveated by the need for the impacts to be acceptable, or capable of being made so. Nevertheless, the renewable energy benefit of the proposal, both in terms of its contribution towards energy security and resilience and the reduction in greenhouse gas emissions, must be accorded substantial weight.

#### *Other considerations*

66. The proposal would include a variety of landscape and biodiversity measures including new and improved hedging, wildflower grass strips, new tree planting, a new pond and the provision of bird and bat boxes. The biodiversity metric shows that it would deliver biodiversity net gain both in terms of primary and linear habitats. Whilst the net gain may not be as high as achieved on other solar farm schemes in the area, it is still a permanent benefit of the scheme, that, along with the landscape benefits, attract moderate weight.
67. There would be some economic benefit during the construction period albeit this would reduce significantly once the development was operational. It would also result in additional business rates and would support the rural economy through the diversification of the farm business that owns the land. I give moderate weight to these economic benefits. It has been suggested that the proposal could lead to job losses. However, there was no evidence to support this claim and the owner of the dairy did not indicate that the loss of these two fields had had any impact on the number of people they employed. This unsubstantiated claim therefore does not weigh against the proposal.

#### **Other Matters**

68. Kemberton Conservation Area lies approximately 150m to the east of the site and 5 Hall Lane, St Andrew's Church and Brockton Hall Farm are all Grade II Listed Buildings in the vicinity of the site. The appellant's Heritage Impact Assessment considered the changes the proposal would cause to the setting of these heritage assets and the impact this would have on their significance. Given the distance to the site and the intervening vegetation that already exists, it is agreed that the proposal would not result in harm to Brockton Hall Farm. From the evidence before me, and what I saw at my site visits, I agree that there would be no harm to the significance of this heritage asset.

69. The undeveloped agricultural fields currently make a positive contribution to the setting of the south-western part of the Conservation Area and the Listed Buildings within it (5 Hall Lane and St Andrew's Church). The topography, existing and proposed vegetation and limited height of the panels means that the majority of the development would not impact on the setting and significance of the heritage assets. However, the introduction of security fencing and security cameras along the north-eastern boundary would cause some limited visual harm to the setting of the Conservation Area and the Listed Buildings and thereby to their significance. However, employing the terminology of the Framework, I consider this would result in 'less than substantial harm', at the lower end of the scale, to these heritage assets. Nonetheless, in accordance with the Framework and the statutory obligations imposed I give great weight to this harm. I shall weigh this against the public benefits later in my decision.
70. The appeal site is in Flood Zone 1 but due to its size a Flood Risk Assessment was produced. This considered all types of Flood Risk and concluded that there was a negligible flood risk, and no specific mitigation was required. Local residents produce photographic evidence showing flooding that already occurs on the adjacent roads and raised concerns that the proposal would exacerbate this further. However, subject to conditions, which includes a condition requiring a surface water run-off mitigation strategy, the Lead Local Flood Authority had no objection to the proposal. In the absence of any substantive evidence to the contrary I see no reason to come to a different conclusion in this regard.
71. The application was accompanied by a Glint and Glare Assessment which considered the impacts on a wide range of different local receptors and concluded that, after taking account of mitigation measures, the impact on all receptors would be low or none and therefore not significant.
72. As well as the houses on Hall Lane there are a small number of other isolated dwellings in the vicinity. The distance between these various properties and the closest panels, together with the existing and proposed intervening vegetation, means that the proposal would not unacceptably harm the living conditions of occupiers, in terms of noise and disturbance or glint and glare.
73. The Parish Plan indicates that the local footpath network attracts tourists and visitors. Whilst tourism can rely considerably on the quality of the countryside, the LVIA specifically considered the impact of the proposal both on the users of the local footpath network and on the wider landscape and found it to be acceptable. This concurs with what I observed on my site visit and the conclusions of the LVIA were not disputed by the Council. I am not persuaded that the changes to the landscape in this case would be detrimental to users of the public footpath network or would lead to the loss of viability of any existing tourism related business.
74. It has been suggested that the appeal scheme would set a precedent for further similar developments. However, no directly comparable sites to which this might apply were put forward. Each application and appeal must be considered on its merits and a generalised concern of this nature does not justify withholding permission in this case.
75. The Parish Council have stated that the Council made some errors on the appeal questionnaire. However, it is not disputed that the appeal site is in the



Green Belt and from the maps provided showing the boundary of Kemberton Conservation Area, the site is not adjacent to the boundary.

### **Planning Balance and Conclusion**

76. It is agreed that the proposal is inappropriate development in the Green Belt. This, by definition, is harmful to the Green Belt. In addition, the proposal would result in slight harm to the openness of the Green Belt and would be contrary to one of the purposes of including land in the Green Belt. In line with the Framework, I give substantial weight to the harm the proposal would cause to the Green Belt. In addition, the proposal would cause less than substantial harm to the setting of nearby designated heritage assets.
77. On the other side of the planning balance, the Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable low carbon future. The appeal scheme would make a significant contribution to this, and I give substantial weight both to the contribution the proposal makes to cutting greenhouse gas emissions and to improving energy resilience and security.
78. In addition, I give moderate weight to both the landscape and biodiversity enhancements that would be achieved, and to the economic benefits.
79. The Framework requires that where a proposal causes less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefits of the proposal. I attribute significant weight to this harm but the contribution the scheme would make to the generation of clean and secure energy is a substantial public benefit and together with the other benefits outlined above, outweigh the less than substantial harm to the designated heritage assets.
80. The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. In this case I consider that the public benefits of the proposal are of a magnitude that they would clearly outweigh the combined weight of the harm to the Green Belt and to the heritage assets. Therefore, the very special circumstances needed to justify the development exist, and the proposal would not conflict with the policies in the development plan outlined above or the Framework. Consequently, I conclude that the appeal should be allowed.

### **Conditions**

81. The Council and the appellant agreed a set of conditions that were discussed at the Inquiry. I have considered these in the light of paragraph 56 of the Framework and have revised a number of them as discussed at the Inquiry.
82. In addition to the standard implementation condition (condition 1), to provide certainty it is necessary to define the plans with which the scheme should accord (condition 2). Conditions 3 and 4 are reasonable and necessary to limit the period of the permission and to ensure the site is decommissioned either at the end of the permission or when energy generation ceases.
83. In the interest of the character and appearance of the area conditions 5, 9, 10 and 11 are necessary. Conditions 9 and 10 both need to be pre-commencement conditions. The former to ensure adequate protection is given

to the existing trees before any construction works start and the other as it relates to works that need to be undertaken during the construction period.

84. Conditions 6, 7, 8 and 16 are necessary for highway safety. Both conditions 6 and 8 need to be pre-commencement conditions. The former to ensure that a safe access is provided for construction traffic before construction work begins and the latter as it relates to works that need to be undertaken during the construction period.
85. In the interest of biodiversity conditions 12, 13, 14 and 15 are necessary.
86. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the pre-commencement conditions.

*Alison Partington*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Gwion Lewis KC instructed by Mr Barry Butchart on behalf of Vattenfall

He called:

|  |  |
|--|--|
| Mr Alastair Field BA (Hons), MSc,<br>FBIAC, PIEMA, MI Soil Sci, FRGS | Director & Company Secretary –<br>Reading Agricultural Consultants Ltd |
| Mr John Ingham BA (Hons), Dip LA,<br>CMLI                            | Director of Landscape Planning,<br>Stephenson Haliday                  |
| Mr Barry Butchart BSc (Hons),<br>MRTPI                               | Director, Mallory Land   |

### FOR THE LOCAL PLANNING AUTHORITY:

Sioned Davies Counsel instructed by Ms Kim Brown, Solicitor on behalf of the Council

She called:

|                              |   |
|------------------------------|---|
| Cllr Edward Potter           | Member of Southern Planning<br>Committee        |
| Ms Lynn Parker BA (Hons), MA | Senior Planning Officer – Shropshire<br>Council |
| Cllr Tony Parsons            | Member of Southern Planning<br>Committee        |

### INTERESTED PARTIES:

|              |                                |
|--------------|--------------------------------|
| Philip Jones | Chair Kemberton Parish Council |
| Alan Chatham | Chatham Dairy                  |

## INQUIRY DOCUMENTS

|      |   |
|------|---|
| INQ1 | Opening statement by Appellant                                |
| INQ2 | Opening statement by Council                                  |
| INQ3 | Statement by Mr P Jones on behalf of Kemberton Parish Council |
| INQ4 | Emerging Local Plan position – email from Council             |
| INQ5 | Letter from Farms for Farming                                 |
| INQ6 | Closing statement by Council                                  |
| INQ7 | Closing statement by Appellant                                |
| INQ8 | Map showing Conservation Area boundary on Hall Lane           |

## CORE DOCUMENTS

Can be accessed using the following link:

[Hall Lane, Kemberton, Telford, TF11 9LB - public enquiry docs | Shropshire Council](#)

## **Annex A**

### **Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision. Such date shall be referred to hereinafter as 'the Commencement Date'.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Ref SA39827-01; Initial Layout Ref Figure 2a; Landscape Mitigation Plan Drawing No 3109-001 Rev D; Panel and Access Details Ref Figure 3; Security Ref Figure 4; Customer Substation Ref Figure 6; Containerised DNO Substation Ref Figure 7b; and Site Access and Construction Layout Drawing No SA42435-BRY-ST-PL-A-0002.
- 3) The permission hereby permitted shall be limited to a period of 40 years from the date when electricity is first exported from the solar panels to the electricity network (the First Export Date). Written notification of the First Export Date shall be given to the local planning authority within 14 days of the event.
- 4) Within 6 months of the cessation of the export of electrical power from the site, or within a period of 39 years and 6 months following the First Export Date, a Scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, to include a programme for the completion of the decommissioning and restoration works, shall be submitted to the local planning authority for its written approval. The solar farm and its ancillary equipment shall be dismantled and removed from the site and the land restored in accordance with the approved scheme and timescales.
- 5) Prior to their erection on site details of the proposed materials and finish including colour of all solar panels, frames, ancillary buildings, equipment, and enclosures shall be submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and shall be maintained as such for the lifetime of the development hereby permitted.
- 6) No development shall take place until the proposed site access, as shown on Drawing No SA42435-BRY-ST-PL-A-0002, has been constructed, and the first 15m of the proposed access has been surfaced with a bound material. The access shall be retained as such for the lifetime of the development hereby permitted.
- 7) Before the new site access is brought into use all obstructions exceeding 0.6 metres high shall be cleared from the land within the visibility splays as shown on Drawing No SA42435-BRY-ST-PL-A-0002. Thereafter, the visibility splays shall be kept free of obstructions exceeding 0.6 metres in height for the lifetime of the development hereby permitted.
- 8) No development shall take place until a mitigation strategy to prevent exceedance flows from the development contributing to flooding outside of the development site has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be fully implemented before the First Export Date.

- 9) No development shall take place until the pre-commencement tree works and tree protection measures as detailed in Section 2 (Arboricultural Impact Assessment), Section 3 (Arboricultural Method Statement), Schedule 1 (Tree Schedule), Appendix 5 (Tree Protective Barrier), Appendix 6 (Ground Protection) and Plan 2 (Tree Protection Plan) of the approved Arboricultural Appraisal (SC: 596AA, Salopian Consultancy Ltd, 17.05.2022) have been implemented and have been approved as such, in writing, by the local planning authority. The approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the construction phase of the development and until all equipment, machinery and surplus materials have been removed from the site.
- 10) No development shall take place until a scheme providing full details of the soft landscaping to be implemented on the site (the 'Landscaping Scheme') has been submitted to, and approved in writing by, the local planning authority. The scheme submitted shall be in accordance with the details illustrated on approved Landscape Mitigation Plan (Drawing 3109-001 Rev D). The scheme shall include a planting plan and specification (including cultivation and other operations associated with plant and grassland establishment) providing schedules for all new planting and seeding noting species, mixes, planting sizes and proposed numbers/densities where appropriate and a timetable for implementation. All new planting shall be implemented in accordance with the approved details and implementation programme. If within a period of 5 years from the date of planting, any tree, shrub or hedgerow or any replacement planting is removed, uprooted or dies or becomes seriously damaged or diseased replacement planting of the same species and size shall be planted in the same location in the next planting season.
- 11) Prior to the First Export Date, a Landscape Management Plan including long term design objectives, maintenance schedules and a programme of management activities for landscape areas identified in the Landscaping Scheme, including the establishment and thereafter maintenance of hedgerows of a minimum of 3m high, shall be submitted to, and approved in writing by, the local planning authority. The landscape management plan shall cover all existing vegetation within the site as well as any new planting and grassland implemented as part of the development. All vegetation within the site shall be managed in accordance with the approved Landscape Management Plan for the full duration of the development hereby permitted.
- 12) Prior to the First Export Date, the makes, models and locations of bat and bird boxes shall be submitted to, and approved in writing by, the local planning authority. This should make provision for: a) A minimum of 4 external woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species; b) A minimum of 4 external bird boxes, suitable for Starlings (42mm hole, starling specific), Sparrows (32mm hole, terrace design), House Martins (House Martin nesting cups) and/or small birds (32mm hole, standard design). The boxes shall be erected on the site prior to the First Export Date in accordance with the approved details and shall thereafter be retained for the lifetime of the development.



- 13) No external lighting shall be installed other than in complete accordance with a scheme that has previously been submitted to, and approved in writing by, the local planning authority. Any external lighting so installed shall thereafter be maintained in accordance with the approved details for the lifetime of the development.
- 14) No works to trees and shrubs, or vegetation clearance, shall occur between 1st March and 31st August in any year unless, immediately prior to any clearance/works, a detailed bird nest survey, undertaken by a suitably experienced ecologist has been carried out and has been submitted to, and approved in writing by, the local planning authority demonstrating that no active bird nests are present.
- 15) Prior to the First Export Date, an appropriately qualified and experienced ecologist shall provide a report to the local planning authority demonstrating implementation of the recommendations made in Section 4 of the Biodiversity Net Gain Assessment by Salopian Consultancy dated 17<sup>th</sup> June 2022.
- 16) All works to the site shall occur strictly in accordance with the Construction Traffic Management Plan set out in Section 4 of the Transport Statement (Doc Ref: SA42435\_TS1 dated March 2022).



## Appeal Decision

Hearing held on 6 February 2024

Site visits made on 5 and 6 February 2024

**by Alison Partington BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 11 March 2024**

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**Appeal Ref: APP/B1550/W/23/3329891**

**Land West of Great Wheatley Farm, Great Wheatley Road, Rayleigh, SS6 7AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Aura Power Solar UK Ltd against the decision of Rochford District Council.
  - The application Ref 22/00175/FUL, dated 17 February 2022, was refused by notice dated 5 July 2023.
  - The development proposed is a solar farm, access, ancillary infrastructure and cable route.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a solar farm, access, ancillary infrastructure and cable route at land west of Great Wheatley Farm, Great Wheatley Road, Rayleigh, SS6 7AR in accordance with the terms of the application, Ref 22/00175/FUL, dated 15 February 2022, subject to the conditions set out in Annex A.

### Application for costs

2. An application for costs was made by Aura Power Solar UK Ltd against Rochford District Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The Council confirmed (14 January 2022) that an Environmental Impact Assessment was not required. There is no reason to disagree.
4. A revised Module Array Layout plan was submitted with the appeal. This corrects a minor drafting error in respect of the alignment of the proposed boundary fence and site boundary in the south-west corner of the site. The Council considered that no party would be prejudiced by the use of this revised plan. Given the very minor changes it involves, this is a conclusion I agree with. Accordingly, I have determined the appeal on this basis.

### Main Issues

5. The parties are agreed that the proposal is inappropriate development in the Green Belt in terms of local and national policy.
6. Given this, the main issues in the appeal are:

- The effect of the proposed development on the openness of the Green Belt and the purposes of including land within it; and
- Whether the harm to Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposed development.

## **Reasons**

### *The site, the surrounding area and the proposal*

7. The appeal site comprises a number of connected agricultural fields which total approximately 45 ha. External boundaries are mainly defined by mature vegetation. Pylons and associated cabling cross the northern part of the site.
8. The site is located in the Green Belt to the west of the settlement of Rayleigh. Due to the topography of the area the fields are at a significantly lower level than the houses located in the Great Wheatley Road area. Immediately adjacent to the southern boundary is the A127, whilst the northern boundary abuts a railway line. Fields lie beyond the eastern and western boundaries. The wider area is a mosaic of open land, residential and commercial development which is crossed by major transport routes.
9. The proposal would consist of ground mounted solar arrays arranged in rows across the majority of the fields along with essential electricity generation infrastructure, internal access tracks, security fencing and new boundary landscaping. The proposal would link to Rayleigh Substation which is around 75m to the north-east of the site.

### *Planning Policy Context*

10. The development plan comprises the *Core Strategy (adopted December 2011) (CS)*, the *Allocations Plan (adopted February 2014)* and the *Development Management Plan (adopted December 2014) (DMP)*.
11. CS Policy GB1 deals with the protection of the Green Belt. Policy ENV6 of the CS supports large scale renewable energy projects where they would not be located on, or near, areas designated for ecological or landscape purposes and where they would not have a significant adverse visual impact.
12. The *National Planning Policy Framework (the Framework)*, the *Planning Practice Guidance (PPG)*, the *National Policy Statement on Energy (EN-1)* and the *National Policy Statement on Renewable Energy Infrastructure (EN-3)* are all material considerations.

### *Green Belt Openness*

13. Policy GB1 of the CS seeks to direct development away from the Green Belt, prioritising the protection of Green Belt land based on how well the land helps to achieve the purposes of the Green Belt. The supporting text indicates that development would be controlled in line with national policy as it stood at the time.
14. National policy is currently set out in the Framework. This indicates that the Government attaches great importance to the Green Belt. The fundamental aim is to prevent urban sprawl by keeping land permanently open; the essential

- characteristics of the Green Belt are their openness and their permanence. Openness has both a visual and spatial element.
15. The appeal site currently comprises arable fields. The proposal would introduce development across the majority of these fields. Although the footprint of the posts holding the arrays would be small, the panels themselves are larger. They would have the effect of covering more of the ground area, albeit that their mass would be broken up by the grass in between each row and the fact that there would be 'airspace' and functioning soil beneath the panels. In addition, there would be access tracks, fencing, substations and transformers as part of the proposal. As a result, I consider that the proposal would slightly diminish the openness of the Green Belt spatially.
  16. Due to the topography and the degree of enclosure provided by the existing vegetation there is limited visibility of the appeal site from outside the site at present. Notwithstanding the change in levels across the site, the proposed panels and associated structures would be of limited height and would also be able to be screened from view to a large part by the existing and proposed vegetation, which it is proposed would be maintained at a height of around 3.5m.
  17. This is confirmed by the Zone of Theoretical Visibility that forms part of the appellant's Landscape and Visual Impact Assessment (LVIA) which shows that potential visibility of the proposal would be very limited and localised. The LVIA undertook a detailed assessment of 4 viewpoints. Given the limited visibility of the proposal demonstrated on the ZTV, I consider the number and location of the viewpoints is adequate.
  18. The only publicly accessible viewpoint with any clear view of the site is the public footpath to the east as it descends the hillside from Great Wheatley Road. In this view the proposal would be seen as part of a wider panorama that includes a mix of power lines, major transport corridors, warehouses and other developments and open fields. The conclusion of the LVIA is that the visual effect on receptors would be moderate and over time this would be reduced as the new planting is established.
  19. The LVIA indicates that the patches of visibility identified in the ZTV that are not in the immediate vicinity of the site are largely fields with no public access. Moreover, the proposal, where visible from these areas, would be a minor component in a long-range view. As such the visual effect would be negligible. Some fleeting views from moving vehicles would also be possible from a short stretch of the elevated section of the A130. However, given the distance to the site (around 1 km), the fact that views would be perpendicular to the direction of travel and the intervening development, the visual impact would be limited.
  20. It was suggested by Councillors that, compared to the current open fields, the proposal's impact would be like a "burnt field". However, the Council did not provide any technical evidence to support this claim or to counter the findings of the LVIA. From my observations I agree with the conclusions the LVIA reaches on the likely visual effects of the proposal.
  21. Overall, I consider that the proposal would cause moderate visual harm but given the very localised nature of this visual impact, I consider it would only have a slight impact on the visual openness of the Green Belt.

22. The LVIA acknowledges there would be some views of the proposal from a number of properties that occupy an elevated position on the edge of Rayleigh in the Great Wheatley Road area. However, these are private rather than public views, and I observed at my site visit that even in winter, garden and other intervening vegetation limit the views of the site that are possible. Moreover, the low-level nature of the development means it would not prevent views of the wider panorama. In addition, the fundamental nature of the view, which is of a patchwork of open fields, built, development, power lines and busy road corridors would not alter significantly. Given this, and the distance between these houses and the eastern boundary of the site, the visual effect would be 'slight adverse' at worst. I consider the impact on living conditions later in my decision.
23. There are a limited number of properties on the southern side of the A127, but views of the site from these are already limited by existing vegetation. It is proposed to strengthen this, and this together with the volume of traffic on the road, means there would be little, if any visibility of the proposal from them.
24. There is no evidence that indicates that there are other existing or proposed solar farms in the LVIA study area, so there would be no cumulative landscape or visual effects.
25. The PPG indicates that when assessing the impact of a development on the openness of the Green Belt, the duration of the development and its remediability, and the degree of activity it would be likely to generate, are matters to take into consideration. The proposal would occupy the site for 40 years and this can be secured by condition. Although a significant period of time, the proposal would not be permanent. At the end of this period the site could be restored to agricultural land. In addition, apart from during the construction phase and during de-commissioning, the development would generate minimal activity.
26. Third parties drew my attention to an appeal decision from 2015<sup>1</sup> which I was told concluded that, in that case, limited weight should be given to the fact that the site can be returned to its former use at the end of the permission. However, the planning policy context in relation to renewable energy has changed significantly since 2015, so I give this minimal weight.
27. Taking all of the above together, both visually and spatially, the proposal would result in slight harm to the openness of the Green Belt. This adds to the harm caused by reason of inappropriateness.

### *Green Belt Purposes*

28. As defined by paragraph 143 of the Framework, the Green Belt serves 5 purposes (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and spatial character of historic towns; and (e) to assist in urban regeneration by encouraging the recycling of derelict and other urban land.
29. Whilst Rayleigh has a historic core, it is surrounded by modern development and it is not a "historic town". Moreover, the appeal site does not contribute to

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<sup>1</sup> Appeal Reference APP/K1128/V/15/3132968



- preserving the setting or special character of the designated heritage assets at the centre, so this purpose is not relevant in this instance.
30. As part of the evidence base for the emerging Local Plan an assessment of how land within the Green Belt contributed to the five Green Belt purposes has been undertaken. In this the appeal site forms part of 'Parcel 19' – an extensive area of land that covers land to the north and west of Rayleigh and Hockley. This assessment concludes that this area makes a moderate contribution to purposes 1 and 2, and a strong contribution to purposes 3 and 5. However, with regard to the latter it indicates that all Green Belt land can be considered to support urban regeneration and it is not possible to distinguish which parcels perform this to a greater or lesser degree. As such, all parcels were scored as strong in this regard.
  31. Reference was also made to the findings of the stage 2 assessment in the Green Belt study. This assessed the potential harm of releasing parcels of land from the Green Belt for development. Whilst this found the release of Assessment Area AA18 which includes the appeal site would cause moderate-high harm, the proposed development would not result in the appeal site being removed from the Green Belt. As such, it does not follow that the development would cause moderate to high harm to the Green Belt. Nor would the development weaken the integrity of the Green Belt or its boundaries as it would remain within the Green Belt.
  32. The appeal site is not immediately adjacent to the built edge of Rayleigh, being separated from it by open land. As a result, the proposed development would be visually discrete from it. Moreover, the solar panels and associated infrastructure would be relatively low-lying features, that would have a completely different character and form to the residential development on the edge of Rayleigh. As such, the proposal would not be seen as the spreading out of the settlement and would not be contrary to this purpose.
  33. The Green Belt in this area has a role to play in preventing the coalescence of Rayleigh with Wickford to the west and Thundersley to the south. A significant gap would remain between these built up areas and as highlighted above the proposal would have a completely different character and form to the urban areas. Additionally, the LVIA shows there would be limited visibility of the proposal from the public realm and so visually the impact the proposal would have on the perceived openness of these gaps would be very limited. Consequently, the appeal scheme would not be contrary to this purpose.
  34. The proposal would represent development in the countryside. However, the busy A127 adjacent to the site, nearby warehousing and power lines all detract from the rural character of the area. The appeal scheme would introduce man-made structures into the fields and so would change their character. Nonetheless, the solar arrays would be located within the existing field pattern and the scheme would retain and enhance the existing field boundaries and reintroduce internal field boundaries. This would result in minimal visibility of the scheme from outside the site. Furthermore, the solar arrays would be low-lying, open sided features, that would be temporary in nature, limiting the overall effect on the countryside.
  35. The appellant's evidence sets out the site selection process that was undertaken to identify sites that would be able to utilise the connection capacity that is available at Rayleigh sub-station. This concluded that there

were no sites of the sized needed to ensure a financially viable scheme that were brownfield land or that were not located in the Green Belt. In the absence of any evidence to counter I see no reason to dispute this conclusion. In the light of this, I consider that the proposal would have limited impact on the fifth Green Belt purpose.

36. Overall, the proposal would cause encroachment into the countryside, contrary to this purpose of the Green Belt. However, the degree of harm it would cause would be limited.

*Green Belt conclusion*

37. The parties agree that the proposal is inappropriate development in the Green Belt. This is, by definition, harmful to the Green Belt. The development would also cause some slight harm to the openness of the Green Belt and by causing some degree of encroachment into the countryside would conflict with one of the purposes of including land in the Green Belt. In line with paragraph 153 of the Framework, the harm to the Green Belt from these matters results in substantial weight against the proposal. The proposal would not accord with CS Policy GB1 or the Framework outlined above.
38. The Council highlighted that this scheme had a lower energy output when compared to other schemes in the district that had been approved in the Green Belt that have been in the region of 49.9MW. To this end they referred to two decisions elsewhere in the country for 30MW solar farms that had been refused.
39. However, the appellant stated that the energy that could be generated by the scheme was limited by the capacity at the substation. Moreover, their evidence shows that the energy output per hectare of the scheme would be similar or better than existing or proposed schemes in the area. As such, the proposal would still be making efficient use of Green Belt land.
40. In addition, neither of the appeals referred to by the Council were in the Green Belt and so they are not directly comparable with the appeal scheme.

*Benefits arising from the provision of renewable energy*

41. The proposal would have an installed capacity of approximately 30MW, estimated to provide sufficient electricity to power around 9,400 homes a year and saving approximately 9,939 tonnes of CO<sub>2</sub> per annum. The site benefits from an immediate connection to the grid at the Rayleigh substation which is clearly beneficial in enabling the energy produced to be exported without delay.
42. In recent years both the Government and the Council have declared an Environmental and Climate Change Emergency. Various recent government publications have highlighted the need to significantly increase generation from onshore wind and solar energy production, as it seeks to ensure that by 2035 all our electricity will come from low carbon sources and that it achieves net-zero emissions by 2050. The Council has set the objective of reducing carbon emissions by 80% by 2030 and of being carbon neutral by 2050.
43. Documents such as the British Energy Security Strategy reinforce the need for electricity to come from low carbon sources for energy security and economic stability.

44. To achieve these ambitious targets, it is clear that considerable growth in large scale solar farms will be necessary and this cannot be achieved solely by the use of brownfield land or roof top installations.
45. In order to support the aim of achieving carbon-neutrality and where possible carbon negativity, the Council's Sustainability Action Plan 2022-2030 indicates it will continue to support large scale renewable energy projects with the desired outcome being to reach a renewable energy capacity of 100MW by 2030. It was highlighted that this figure has already been reached.
46. However, there is nothing in this document that indicates that this should be taken as a maximum target. Given the aim is to go beyond carbon neutrality to achieve carbon negativity where possible, setting an upper limit on renewable energy generation would be counter intuitive. Furthermore, since this application was determined, another scheme in the Green Belt with a capacity of 49.9MW has been approved by the Council. This shows that this figure is not an upper target.
47. The support in both national and local policy for renewable energy is caveated by the need for the impacts to be acceptable, or capable of being made so. Nevertheless, the renewable energy benefit of the proposal, both in terms of its contribution towards energy security and resilience and the reduction in greenhouse gas emissions, must be accorded substantial weight.

#### *Other considerations*

48. The proposal would include a variety of landscape and biodiversity measures including new and improved hedging, new tree planting, creation of species rich grassland and wildflower meadows and the provision of bird and bat boxes. The biodiversity metric shows that it would deliver significant biodiversity net gain in the region of 141% for primary habitats and 165% for linear habitats. This is a permanent benefit of the scheme which attracts significant weight.
49. There would be some economic benefit during the construction period albeit this would reduce significantly once the development was operational. It would also result in additional business rates. I give moderate weight to these economic benefits.
50. It was suggested at the hearing that the proposal could lead to job losses at Great Wheatley Farm which has developed the vineyard and associated business to the east of the site, as it was stated they would not progress plans to develop and expand the business. However, no detailed evidence of these expansion plans and the job estimates were provided. Nor has planning permission been secured for any of the infrastructure necessary to support these plans. Furthermore, I am not persuaded that the development which would be a small component in the view from the farm buildings which also includes power lines and busy transport corridors would prevent the expansion plans of the business. Consequently, this suggestion does not weigh against the proposal.

#### **Other Matters**

##### *Agricultural Land*

51. The national Agricultural Land Classification map indicates that the site is Grade 3 land. However, this is indicative of the type of land in the area rather than

providing an assessment of any particular field. As a result, the appellant submitted an Agricultural Land Quality report which was based on a detailed soil and agricultural quality survey of the site. This was carried out in accordance with national guidelines for such surveys and the Council have not disputed the methodology. This concludes that the entire site is Grade 3b land.

52. Although not objecting to the proposal, the response from Natural England indicates that the development is likely to affect the best and most versatile (BMV) agricultural land. However, there is no evidence that this statement is based on a detailed survey of the site as has been provided by the appellant.
53. In my view, it is more appropriate to rely on the results of the detailed site survey. As a result, I consider that the appeal site does not form BMV agricultural land. In addition, the proposal would allow the continued use of the land for agricultural purposes through the grazing of sheep during the operational period.
54. Consequently, the proposal would satisfy the advice in the PPG<sup>2</sup> that where a proposal involves greenfield land, poorer quality land should be used in preference to higher quality, and that proposals should allow for continued agricultural use.

#### *Heritage*

55. Great Wheatley Farmhouse and the adjacent barns are Grade II Listed Buildings whose significance lies in the fact that they form a coherent example of a developed post-medieval East Anglian farmstead. The appellant's Heritage Impact Assessment considered the potential impacts of the proposal on the setting of these assets. This noted that the principal visual and contextual relationships which make up the asset's setting are the relationships between the building themselves. Nonetheless the agricultural fields to the west which include the appeal site contribute to an understanding of its original agricultural settings and thus to their significance.
56. The distance and intervening vegetation means there would be limited visibility between the buildings and the proposed development. In addition, a number of agricultural fields would remain around the farmstead enabling the agricultural setting to still be appreciated. As a result, I agree with the conclusion that the proposal would cause less than substantial harm, at the lower end of the scale, to the significance of these designated heritage assets. Nonetheless, in accordance with the Framework and the statutory obligations imposed I give great weight to this harm. I shall weigh this against the public benefits later in my decision.
57. The Heritage Impact Assessment also concluded that further intrusive archaeological evaluation should be undertaken. This can be secured by a condition.

#### *Living Conditions*

58. As noted above there is some limited visibility from a number of properties on the edge of Rayleigh to the east of the site. I visited a number of these as part of my site visit. These properties are located in excess of 250m from the eastern boundary of the site. Given this, whilst the proposal may alter the view

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<sup>2</sup> Paragraph ID 5-013-21050327

from these properties, it would not have any unacceptable impact on the living conditions of the occupiers.

59. In addition, a condition could be used to control any external lighting used on the site to ensure the proposal would not cause any unacceptable light pollution either for residents or road users. In addition, there is no substantive evidence that shows that there are any health risks for local residents associated with large scale solar farms either in terms of radiation exposure or noise.
60. Although it has been argued that the scheme would result in a loss of property prices the Planning Practice Guidance states that “[the courts] have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations<sup>3</sup>.”

### *Trees*

61. The majority of existing trees and hedges on the site would be retained and enhanced as part of the proposed development. However, a small number of low quality trees that form a linear group along the boundary with the A127 would need to be removed to facilitate changes to the access to the site. In addition, an oak tree of moderate quality located more centrally within the site also needs to be removed. However, it is proposed to plant a significant number of new hedges, trees and woodlands as part of the landscaping of the site. This would more than compensate for the number of trees that would be lost.

### *Highways*

62. The construction of the solar array would result in some additional traffic movements, but this would only be for a temporary period. A temporary construction access arrangement is proposed onto the A127 to ensure vehicles can enter and exit the site safely. In the light of the lack of objection by the highways authority, and from my own observations, I am satisfied that, subject to conditions, these additional movements could be safely accommodated within the existing highway network. Therefore, this matter does not weigh against the proposal.

## **Planning Balance and Conclusion**

63. It is agreed that the proposal is inappropriate development in the Green Belt. This, by definition, is harmful to the Green Belt. In addition, the proposal would result in slight harm to the openness of the Green Belt and would be contrary to one of the purposes of including land in the Green Belt. In line with the Framework, I give substantial weight to the harm the proposal would cause to the Green Belt. In addition, the proposal would cause less than substantial harm to the setting of nearby designated heritage assets.
64. On the other side of the planning balance, the Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable low carbon future. The appeal scheme would make a significant contribution to this, and I give substantial

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<sup>3</sup> Paragraph Reference ID 21b-008-20140306



- weight both to the contribution the proposal makes to cutting greenhouse gas emissions and to improving energy resilience and security.
65. In addition, I give significant weight to the landscape and biodiversity enhancements that would be achieved by the appeal scheme and moderate weight to its economic benefits.
66. The Framework requires that where a proposal causes less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefits of the proposal. I attribute significant weight to this harm but the contribution the scheme would make to the generation of clean and secure energy is a substantial public benefit and together with the other public benefits outlined above, outweigh the less than substantial harm to the designated heritage assets.
67. The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. In this case I consider that the public benefits of the proposal are of a magnitude that they would clearly outweigh the combined weight of the harm to the Green Belt and to the heritage assets. Therefore, the very special circumstances needed to justify the development exist, and the proposal would not conflict with the policies in the development plan outlined above or the Framework. Consequently, I conclude that the appeal should be allowed.

### **Conditions**

68. The Council and the appellant agreed a set of conditions that were discussed at the hearing. I have considered these in the light of paragraph 56 of the Framework and have revised a number of them as discussed at the hearing.
69. In addition to the standard implementation condition (condition 1), to provide certainty it is necessary to define the plans with which the scheme should accord (condition 2). Conditions 3 and 4 are reasonable and necessary to limit the period of the permission and to ensure the site is decommissioned either at the end of the permission or when energy generation ceases. Condition 5 is required to protect the living conditions of nearby residents and to accord with Policy DM1 of the DMP.
70. In the interest of the character and appearance of the area, biodiversity and in line with DMP Policies DM1, DM25 and DM26, conditions 6, 7, and 8 are necessary. Condition 6 needs to be a pre-commencement condition as it relates to works that need to be undertaken during the construction period. Conditions 9 and 22 are necessary in the interests of the visual amenity of the area and to accord with Policies DM1 and DM26 of the DMP. In the interests of biodiversity condition 23 is necessary.
71. Conditions 10 and 11 are necessary for highway safety reasons, to protect the living conditions of residents and to accord with DMP Policy DM1. Condition 10 needs to be a pre-commencement condition as it relates to how the construction period is carried out. Conditions 13, 14, 15, 16 and 17 are all required for highway safety reasons. Conditions 13 and 15 both need to be pre-commencement conditions. The former to ensure that a safe access is provided for construction traffic before construction work begins and the latter as it relates to works that need to be undertaken during the construction period.

72. To protect and record any potential archaeological remains on the site, condition 12 is necessary. This needs to be a pre-commencement condition as it relates to works which need to be undertaken before construction works disturb the site. To protect soil quality condition 21 is required and this needs to be a pre-commencement condition because it relates to how the construction phase is carried out.
73. Conditions 18, 19 and 20 are necessary to ensure the site is properly drained. Condition 19 needs to be a pre-commencement condition as it relates to works that need to be in place before construction works commence.
74. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the pre-commencement conditions.

*Alison Partington*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

|                                   |                                  |
|-----------------------------------|----------------------------------|
| Thea Osmund Smith                 | Counsel                          |
| Andrew Ross BSc (Hons), MA, MRTPI | Director - Turley                |
| Peter Thomas PhD                  | Head of Development – Aura Power |
| Jon Mason BSc (Hons), DipLA, CMLI | Director - Axis                  |
| Steph Palmer                      | Aura Power                       |

### FOR THE LOCAL PLANNING AUTHORITY:

|                   |  |
|-------------------|--|
| Mike Stranks      | Team Leader – Rochford District Council      |
| Yvonne Dunn       | Planning Officer – Rochford District Council |
| Cllr Michael Hoy  | Rochford District Council                    |
| Cllr Adrian Eves  | Rochford District Council                    |
| Cllr Wilma Wilson | Rochford District Council                    |

### INTERESTED PARTIES:

|             |                               |
|-------------|-------------------------------|
| Jon Fuller  | SE Essex Friends of the Earth |
| Jill Waight | Resident                      |
| Tony Dean   | Resident                      |
| Aron Priest | Resident                      |

## Annex A

### Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be undertaken in accordance with planning and document reference numbers:
  - Module Array Layout GBR.2263.DEV.M4.001.0 Rev.M.a
  - Site Location Plan Issue 03 (JE)
  - Proposed Site Access from A127 during Construction Phase 2999-01-SK03
  - Customer Switchroom / Control Building AP.4
  - Typical Cable Trench Cross Section GBR.2263.DEV.E4.017.3 Rev 0
  - Typical Transformer Station GBR.2263.DEV.M4.014.1 Rev 0
  - Typical Fence and Gate GBR.2263.DEV.M4.016.3 Rev A
  - Indicative Solar Panel Elevation GBR.2263.DEV.M4.018.3 Rev 0
  - Typical Spare Parts Container GBR.2263.DEV.M4.021.3 Rev 0
  - Typical Track Cross Section GBR.2263.DEV.M4.031.3 Rev 0
  - Typical Hedge Gate GBR.2263.DEV.M4.037.3 Rev 0
  - Indicative Bund Location Plan Version No. 1
  - New Junction SW Drainage Proposed Options Alternative 2 Appendix 5 of KRS Flood Risk Assessment KRS .0616.002.R.001.C
  - Tree Retention Plan 1 10819-T-03 Rev D
  - Tree Retention Plan 2 10819-T-04 Rev D
  - Tree Protection Plan 1 10819-T-05 Rev D
  - Tree Protection Plan 2 10819-T-06 Rev D.
- 3) The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity generated by the solar panels is first exported to the electricity grid. This date is referred to hereinafter as 'the First Export Date'. Written notification of the First Export Date shall be given to the local planning authority within 10 working days of the event.
- 4) No later than six months prior to the expiry of the planning permission, or within six months of the cessation of electricity generation by this solar PV park, whichever is the sooner, a detailed scheme of works for the removal of the development (excluding the approved landscaping and biodiversity works) shall be submitted to, and approved in writing by, the local planning authority. The scheme of works shall include the following:
  - (a) a programme of works;
  - (b) a method statement for the decommissioning and dismantling of all equipment and surfacing on site;
  - (c) details of any items to be retained on site;
  - (d) a method statement for restoring the land to agriculture;
  - (e) timescale for the decommissioning, removal and reinstatement of the land; and
  - (f) a method statement for the disposal/recycling of redundant equipment/structures.

The scheme of works shall be undertaken in accordance with the approved details and timescales. The operator shall notify the Local

Planning Authority in writing within five working days following the cessation of electricity generation.

- 5) No construction or decommissioning works shall take place except between the following hours: 0730 to 1830 Monday to Friday, and 0830 to 1300 Saturday and Sunday.
- 6) No development shall take place until a scheme providing full details of the landscaping to be implemented on the site (the 'Landscaping Scheme') has been submitted to, and approved in writing by, the local planning authority. The scheme shall be in accordance with the details illustrated on the previously submitted Illustrative Landscape Masterplan 2999-01-03 Rev A. The scheme shall include:
  - a. precise widths of all new hedges and woodland planting including the additional planting along the southern boundary;
  - b. Details of Hard surfacing including pathways and driveways, other hard landscape features and materials;
  - c. Existing trees, hedges or other soft features to be retained;
  - d. A planting plan and specification (including cultivation and other operations associated with plant and grassland establishment) providing schedules for all new planting and seeding noting species, mixes, planting sizes and proposed numbers/densities where appropriate;
  - e. Details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife;
  - f. compliance with the biodiversity net gain metric; and
  - g. a timetable for implementation.

All new planting shall be implemented in accordance with the approved details and implementation programme. If within a period of 5 years from the date of planting, any tree, shrub or hedgerow or any replacement planting is removed, uprooted or dies or becomes seriously damaged or diseased replacement planting of the same species and size shall be planted in the same location in the next planting season.

- 7) Prior to the First Export Date, a Landscape Management Plan including long term design objectives, maintenance schedules and a programme of management activities for landscape areas identified in the Landscaping Scheme, including the establishment and thereafter maintenance of hedgerows of a minimum of 3.5m high, shall be submitted to, and approved in writing by, the local planning authority. The landscape management plan shall cover all existing vegetation within the site as well as any new planting and grassland implemented as part of the development. All vegetation within the site shall be managed in accordance with the approved Landscape Management Plan for the full duration of the development hereby permitted.
- 8) During the operation of the development, in the event that existing hedgerows directly adjacent to the south of the development site, to the north of the A127, along the extent of the development site boundary are extensively removed and not replaced within 24 months of removal, a scheme for mitigation planting on the development site shall be submitted to, and agreed in writing by, the local planning authority and implemented thereafter in accordance with the approved details.



- 9) The development hereby permitted shall be undertaken in strict accordance with the Arboricultural Assessment Revision C (dated February 2023) and Tree Protection Plan coinciding with the revised access visibility splay details.
- 10) No development shall take place until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The plan shall include but not be limited to details of:
- traffic management including measures to enable vehicles to enter and leave the site in a forward gear;
  - The parking of vehicles of site operatives and visitors;
  - Loading and unloading of plant and materials;
  - Storage of plant and materials to be used in constructing the development;
  - the height, construction and colour of any fences proposed to be erected around any site compounds;
  - Wheel and underbody washing facilities;
  - Routeing of vehicles; and
  - Measures that will be implemented to minimise the creation and impact of noise, vibration and dust resulting from the site preparation, groundwork and construction phases of the development.

The Construction Management Plan as so approved shall be adhered to throughout the construction period.

- 11) No external lighting, including lighting required for construction and decommissioning, shall be installed at the site until such time as a lighting strategy has been submitted to, and approved in writing by, the local planning authority. All external lighting shall be installed in accordance with the details agreed in the strategy and shall be maintained thereafter in accordance with the agreed details.
- 12) No development shall take place until a written scheme of investigation (WSI) has been submitted to, and approved in writing by, the local planning authority. The WSI shall include:
- the statement of significance and research objectives;
  - the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works; and
  - the programme (including timescales) for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material.

The written scheme of investigation will need to be prepared and implemented by a suitably qualified professionally accredited archaeological practice. No development shall take place until the site investigations and post investigation assessment has been undertaken in accordance with the agreed programme and details.

- 13) No development shall take place (other than works directly required for the delivery of the access referenced by this condition) until the access point on the A127 Eastbound has been provided in accordance with details that have first been submitted to, and agreed in writing by, the local planning authority. The vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway with 10m radii into an 8m carriageway and associated clear to ground

visibility splays shall be provided before the access is first used by vehicular traffic and always maintained free of any obstruction thereafter and retained for that purpose at all times.

- 14) No unbound material shall be used in the surface treatment of the vehicular access within 20 metres of the highway boundary.
- 15) No development shall take place until details showing the means to prevent the discharge of surface water from the development onto the highway have been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained for the lifetime of the development hereby permitted.
- 16) Prior to the First Export Date, the access from the A127 (the details of which are as referenced at condition 13) shall be modified to remove the deceleration lane commensurate with the requirements of future servicing traffic in accordance with details that shall have been previously submitted to, and approved in writing by, the local planning authority. The access shall be retained as such for the lifetime of the development hereby permitted.
- 17) Gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 20 metres from the back edge of the carriageway.
- 18) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment, document KRS.0616.002.R.001.b by KRS Environmental, dated June 2022 and the provision of the following, the details of which shall previously have been submitted to, and approved in writing by, the local planning authority:
  - Shallow swales/bunds as shown on drawing entitled "Indicative Bund Location Plan" dated 17/04/23.
  - Detailed engineering drawings of each component of the drainage scheme.
  - A final drainage plan which details exceedance and conveyance routes, ground levels, and location and sizing of any drainage features.
  - A written report summarising the final strategy and highlighting any minor changes to the approved strategy.All measures shall be fully implemented prior to the First Export Date.
- 19) No development shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run off and groundwater during construction works and to prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall include measures to maintain public highways in the vicinity of the scheme free of site generated detritus and a programme of implementation. The scheme shall subsequently be implemented in accordance with the approved details and programme of implementation.
- 20) Prior to the First Export Date a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies shall have been submitted to, and approved in writing by, the local planning authority. The maintenance plan shall include for the provision of yearly logs of maintenance, which must be

made available for inspection upon request by the local planning authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided. The development over the lifetime of its use shall be managed in accordance with this agreed maintenance plan.

- 21) The development hereby permitted shall not take place until a soil management plan has been submitted to, and approved in writing by, the local planning authority. This shall include, but not be limited to:
  - protection of topsoil and mitigation of compaction during foundation construction and panel installation; and
  - explanation of the functioning of the proposed "mud mat".The scheme shall be implemented in accordance with the details as may be approved.
- 22) Prior to their erection on site details of the proposed materials and finish including colour of all solar panels, frames, ancillary buildings, equipment, and enclosures shall be submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and be maintained as such for the lifetime of the development hereby permitted.
- 23) The development hereby permitted shall be carried out in accordance with the recommendations of the Breeding Bird Survey Report V2 by Avian Ecology dated 10 February 2022 and the Badger Survey Report V2 by Avian Ecology dated 10 February 2022.



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## Appeal Decision

Inquiry Held on 3-5 and 10-11 April 2024

Site visit made on 9 April 2024

**by M Shrigley BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3<sup>rd</sup> May 2024

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**Appeal Ref: APP/J1535/W/23/3334690**

**Land Adjacent to Harlow Road, Near Roydon, Essex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Low Carbon Solar Park 18 Limited against the decision of Epping Forest District Council.
  - The application Ref EPF/1974/22, dated 24 August 2022, was refused by notice dated 29 June 2023.
  - The development is for the construction and operation of a solar photovoltaic ('PV') farm and associated infrastructure, including inverters, DNO substation, customer switchgear, security cameras, fencing, access tracks and landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction and operation of a solar photovoltaic ('PV') farm and associated infrastructure, including inverters, DNO substation, customer switchgear, security cameras, fencing, access tracks and landscaping on land adjacent to Harlow Road, Near Roydon, Essex in accordance with the terms of the application, reference EPF/1974/22, dated 29 June 2023, subject to the 'Schedule of Conditions' set out at the end of this decision.

### Procedural Matters

2. Additional indicative landscaping and layout plan information to supplement the flexibility principles agreed with Epping Forest District Council (EFDC) at application stage were submitted by the Appellant during the appeal process. The plans provide further information than would otherwise be the case, as an aid to all parties, alongside usual scope for conventional planning condition use and EFDC have not contented their inclusion. Therefore, I have taken them into account in my findings.
3. I have dealt with local policy implications largely within the main issues. But various elements of the dispute require wider consideration of national policy, and strategy. Some concluding aspects of the main issue arguments subject to the appeal also extend to the overall planning balance applied, as indicated in my reasoning.

### Main Issues

4. The main issues are the effects of the development: i) on the Green Belt having regard to its openness and purpose; ii) the loss of farmland for food production; and iii) the overall scheme merits applicable including whether the

harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it, as well as recognition of all harms and benefits in the planning balance.

## Reasons

### *Green Belt openness and purpose effects*

5. The main parties both agree that the appeal scheme should be treated as 'inappropriate development' when applying national and local planning policy terminology linked to protecting the Green Belt. Whilst some Green Belt harm is accepted by the Appellant, the level of resultant harm and the specific reasons such harm arises are matters in dispute.
6. From a local policy perspective Epping Forest District Local Plan 2011-2033 Part One, March 2023 (EFDLP) Policy SP5 seeks that the openness of the Green Belt will be protected from inappropriate development. EFDLP Policy DM4 sets out Green Belt purposes and the very special circumstances test. Additionally, Policy DM20 states that renewable energy development will not be supported where it has any adverse impact on the openness of the Green Belt.
7. As per paragraph 142 of the National Planning Policy Framework (the Framework), the government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
8. The wording of the reason for refusal given in the Decision Notice contested describes the development as being contrary to development plan policies that refer to both 'openness' and 'purpose' aims. As part of their case EFDC allege specific conflict with paragraph 138 (b) of the Framework and repeated in (EFDLP) Policy DM4 which is to 'prevent neighbouring towns merging into one another'.
9. At the Inquiry EFDC also cited harm related to Framework paragraph 138 purpose (a): '*to check the unrestricted sprawl of large built-up areas*'; and (c): '*to assist in safeguarding the countryside from encroachment*'. It otherwise being broad common ground that conflict with purposes (d) and (e) do not arise.
10. The Supreme Court judgement in *R (Samuel Smith Old Brewery) v North Yorkshire County Council 2020* was referred to during proceedings, and I recognise that assessing openness involves spatial concepts. Whilst any visual impact on openness is still important, spatial factors and the presence or otherwise of built or urban development is a notable element of the disagreement for this appeal.
11. In gauging the overall Green Belt openness effects, at my site visit I could see the appeal site comprises a series of open undulating agricultural fields approximately 0.5km east of Roydon and 1.5km west of Harlow. Nearby surrounding features include the river Stort and railway line located roughly to the north of the site. An industrial estate and agricultural fields are located adjacent to the eastern boundary. Further afield are other open fields, trees, and residential properties.