

12. In spatial terms, some 48.4ha of the total approximate 70ha appeal site area would be occupied by the solar farm, for up to 40 years. The introduction of engineered structures associated to it would be a significant spatial change which would markedly reduce Green Belt openness levels of the appeal site.
13. That said, the panels would be low-lying, set on posts, and restricted to about 3 metres in maximum height. Grassland would otherwise remain on the surface of the ground with almost no hardstanding elsewhere covering the land.
14. Aside from spatial openness changes the visual openness implications involved relate to a site with largely contained characteristics. There is a noticeable degree of enclosure created by existing hedgerows and treeline screening the site from Roydon, and the industrial buildings of the business park screening it from residential Harlow. Owing to topography, surrounding vegetation, and existing built form, vantages of the entire site are restricted.
15. In tandem, the Appellant proposes an extensive package of landscape mitigation, comprising of native hedgerow and tree planting, which would further screen and filter views of the development, for walkers using the Public Right of Way (PRoW) networks. Once that mitigation has reached full maturity, only sparse and occasional glimpsed views of the panels would remain.
16. Contrary to the Council's views the impact on openness arising from new tree and hedge plantings would not erode or be harmful to Green Belt openness or permanence, either during operation of the scheme or following any decommissioning work if left in place. Indeed, it would become legacy planting which enhances the character and biodiversity of the area as a welcomed scheme benefit.
17. The design parameters of the proposed solar farm arrays enables the retention of open agricultural land beneath and surrounding them. Although there would be a clear reduction in spatial and visual openness of the Green Belt from the presence of the solar arrays and associated equipment, the level of openness reduction would otherwise be tempered by substantial swathes of undeveloped greenery remaining in situ.
18. Bringing the spatial and visual aspects of the resultant openness reduction together, when having regard to purpose 138 (a) functionally and characteristically, I accept that the solar farm would be different to other forms of development which would be usually characterised as 'urban'.
19. I have also had regard to the reversibility arguments made and decommissioning conditions would ensure that any aspect of openness intrusion is reversible. I agree ease of reversibility plays an important role, and that the groundworks involved are not unduly intrusive.
20. Moreover, whilst Harlow is a town with a population of approximately 90,000, Roydon is a small village with a population of approximately 1,500 and is not a 'town' by definition, as confirmed by the development plan. Therefore, the scheme would not result in two towns merging if applying Framework policy wording in the strictest sense. But even if considering both settlements as towns, the resultant effect would not lead to coalescence because of the clear differences in characteristics between the settlements and that of the solar

- farm, the low-lying stature of the arrays, and because of the substantial intervening natural greenery remaining.
21. In making their arguments, EFDC place much emphasis on the 'Stage 2 Green Belt Review' they conducted. But tellingly that document is silent on solar development. Subsequently, it has little bearing in the dispute before me.
  22. Having regard to all arguments made toward Framework paragraph 138 purpose (a) and (b), I agree the solar farm would have a completely different character to existing 'built-up' areas either side of it also acknowledging it has substantial landscaping greenery as part of its overall composition.
  23. In the absence of any shared characteristics to nearby built-up areas, the solar farm would be read and experienced in the local landscape as being entirely distinct from the urbanised and built-up qualities of Roydon or Harlow.
  24. Consequently, although the solar panels and associated development are no doubt engineered built features, recognition of that point does not suggest to me it would result in urban sprawl of an existing built-up area.
  25. Thus, I disagree that the scheme would contribute to sprawl from either Harlow or Roydon because distinctions in character would remain reinforced by natural landscaping. This is consistent with the principles contained within the Kemberton appeal decision<sup>1</sup>.
  26. Nonetheless, there would be inevitable conflict with Framework paragraph 138 purpose (c). That is because of the significant encroachment into the countryside with engineered structures covering an extensive land area which would otherwise entail prevalent open naturalistic qualities.
  27. Aside from material openness reduction and encroachment into countryside forming the Green Belt giving rise to harm, I acknowledge definitional harm associated to inappropriate development set by policy arises by default.
  28. All in all, the resultant effect of the development would give rise to a moderate level of overall harm to the Green Belt accounting for: openness impacts; the specific purposes the development would conflict with; and relative to the scheme's magnitude. Aligned with the content of Paragraph 153 of the Framework I give substantial weight to the demonstrable harm arising.
  29. Accordingly, I find there would be conflict with the collective aims of SP5, DM4 and DM20 of the EFDLP which combined seek to protect and conserve the openness and purpose of the Green Belt. Apart from definitional harm arising linked to policy, there would be a marked reduction in openness through encroachment into undeveloped countryside. The resultant effect would conflict with paragraph 138 (c) of the Framework, but not parts (a) or (b).

*Loss of farmland for food production*

30. EFDC's second reason for refusal focuses on the loss of farmland for food production and is linked to the content of EFDLP Policy DM5 for Green and Blue Infrastructure provision. I note the references to the 2021 Framework it also comprises were superseded by the December 2023 changes.

---

<sup>1</sup> Reference APP/L3245/W/23/3329815

31. As part of their argument EFDC alleges failure to demonstrate compelling evidence of a lack of less harmful alternative sites, and the subsequent 'loss' of BMV land as being unacceptable.
32. In that context, the main parties broadly accept that the policy term 'Green Infrastructure' can relate to farmland for food production. And that Policy DM5 seeks to ensure that development proposals are designed and located in a way that retains and enhances such assets taking into a range of criteria.
33. In tandem with local policy provision, the Framework identifies farmland falling into Grades 1, 2 and Subgrade 3a would constitute 'best and most versatile' (BMV) land. Yet notably, none of the detailed criteria listed within Policy DM5 directly refers to BMV or such grading for assessing policy compliance with it.
34. However, the Framework advises me, at paragraph 180 (b), that the economic benefits of BMV land should be recognised. Footnote 62, in the context of plan making in paragraph 181, advises that where significant development of agricultural land is involved, poorer quality land should be used in preference.
35. Footnote 62 includes that the availability of agricultural land used for food production should be considered, alongside other policies in the Framework, when deciding what sites are most appropriate for development. Accordingly, I have borne in mind such advice.
36. The Appellant's submitted Agricultural Land Classification (ALC) assessment (July 2022) confirms to me that the appeal site is primarily Grade 3b (at some 73%) with smaller areas of Grade 3a (some 23%) and Grade 2 (2%) in addition to 'other land' (of 2%). The survey is identified as being in accordance with the guidelines endorsed by Natural England<sup>2</sup>, and therefore carries substantial weight.
37. The ALC evidence taken as a whole, highlights that the site does comprise a mixture of Grades 2, 3a and 3b. But it is shown to mostly comprise of subgrade 3b moderate agricultural quality overall. With only approximately 25% falling as BMV, distributed in a complex uneven pattern.
38. Factoring the Appellant's quantitative assessments, I note that in practical terms the BMV land referred to could notionally produce up to around 25 tonnes of wheat more than poorer quality land. Were the panels to be moved from the appeal site to poorer quality land elsewhere. That notional figure is comparative to the overall UK production of circa 22 million tonnes evidenced.
39. I also recognise that irregular patches of BMV land in the areas south of Harlow Road would not be able to be utilised separately for food production purposes. As this would be impractical for commercial farming management requiring full site availability and access.
40. Moreover, based on the Appellant's assessment, the appeal site represents in the order of 0.3% of the overall farmland within the District. Consequently, I accept it is extremely probable that greater proportions of higher graded agricultural land would be present elsewhere locally.

---

<sup>2</sup> Agricultural Land Classification of England and Wales (Ministry of Agriculture, Fisheries and Food), 1998.

41. Notional sheep grazing would be possible with the development in place. But there are no binding landowner guarantees any grazing use would ensue. Furthermore, scope for a planning condition would not meet the test of necessity in this case, owing to it having no strong policy basis behind it.
42. Even if some sheep grazing use did ensue with the development, which I accept notionally it could, it would not be comparable to the more intensive farming practices possible without the development. Therefore, I find potential grazing uses referred to as a continuation of food production to carry little substance.
43. Furthermore, I appreciate that the wording of the reason for refusal given by EFDC is based on food production and Policy DM5 does not require agricultural land nor BMV land to be farmed.
44. As to wider alternative site arguments posed and the presence of the extant March 2015 Written Ministerial Statement (WMS). I realise that adopted local and national policy as well as underlying energy need circumstances have evolved since the WMS was issued. Plus, there is no policy requirement for the Appellant to have assessed alternative sites, nor any other compelling reasons for them to. The ACL evidence is comprehensive and sufficient in meeting what current prevailing policy requires.
45. Likewise, it is credible resting fields from agricultural activity during the scheme's life span would allow soil health to improve, up to decommissioning stage. I have also had regard to the favourable embedded landscaping possible in gauging overall Green Infrastructure impact arguments.
46. That said, there would be some inevitable conflict with Policy DM5 through the solar farm occupying green infrastructure otherwise capable of producing food, for its full lifespan. I have considered the economic arguments of retaining BMV land for food production. Whilst there would be uptake of a modest area of high quality grade land the Appellant otherwise demonstrates lower graded land would in the main be utilised. It would be impractical to cordon out quality variations site wide for commercial food production purposes.
47. Given all those factors, I find when applying the terms of the Framework relating to economic and environmental considerations involved, the degree of conflict with EFDLP Policy DM5 should only carry limited negative weight.

*Other planning merit considerations*

48. Beyond Green Belt considerations, separate landscape and visual harm arguments do not feature in EFDC's reasons for refusal. Nor do they make any case there is any alleged breach of development plan policy directly related to those matters. That position is consistent with the content of the officer report evidenced and the associated landscape advice feeding into it.
49. Nonetheless, national policy does recognise that a degree of landscape and visual harm is inevitable for renewable energy schemes of this nature which necessitate a countryside location. The Appellant acknowledges this in its submissions accepting there would be some landscape and visual harm. There would be moderate landscape and visual harm which would be largely contained within the appeal site boundary, which I attribute significant weight to.



50. Whilst heritage impacts are not in dispute, they do form part of the overall planning balance triggered. The statutory duties contained within the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to have special regard to the desirability of preserving designated heritage assets or their setting, or any features of special architectural or historic interest which they possess.
51. 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. 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.
52. The Appellant's heritage impact assessment identifies there would be less than substantial harm at the lower end of the spectrum to the setting of Roydon Village Conservation Area (CA) and East End Farmhouse (Grade II Listed).
53. East End Farmhouse which has distinctive 17<sup>th</sup> century architectural features lies about 75 metres away to the north-east. The fields of the northernmost area of the appeal site are evidenced to have an association to it, from historic working of local land. But no panels are proposed in that part. Plus, there would only be glimpsed and filtered views to panels to the north-east of the asset and from the public road close to it.
54. Within the core of Roydon Village CA are a wide range of buildings of special architectural and historic interest dating from the 13<sup>th</sup> to the 19<sup>th</sup> century. Glimpsed views into part of the northern area of the site are possible from the northern edge of the CA and on the wider approach. But there is substantial separation to the historic core, with intervening fields and natural landscape features.
55. As a result, EFDC do not object to any heritage impact referenced nor did they raise any additional impacts during the Inquiry. Accordingly, taking into account all aspects I have no reason to disagree with the heritage impact conclusions forming the case.
56. In relation to the Appellant's overarching need arguments, the Framework supports the increased use and supply of renewable energy. It is estimated that the solar panels would generate approximately 49.9 MW of renewable energy, which is enough to power around 16,581 homes and deliver an anticipated carbon dioxide displacement of around 11,210 tonnes per annum.
57. The energy production evidenced is equivalent of supplying renewable energy to around 30% of homes in EFDC's administrative area. Furthermore, the appeal site area represents only around 0.21% of the total area of Green Belt land encompassing approximately 90% of the entire District.
58. Recognition of those points is important because the Climate Change Act 2008, as amended sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100%, Net Zero, by 2050. Recently, the

- Government committed to reduce emissions by 78% compared with 1990 levels by 2035.
59. The National Policy Statements (NPSs) for the delivery of major energy infrastructure are also material considerations in my decision. The NPSs recognise that large scale energy generating projects such as this will inevitably have impacts, particularly if sited in rural areas.
  60. NPSs EN-1 and 3 identify that, as part of the strategy for the low-cost decarbonisation of the energy sector, solar farms provide a clean, low cost and secure source of electricity.
  61. Connected to NPS considerations, I have had regard to Government's Net Zero Strategy: Build Back Greener (2021) which also has relevance. It explains that subject to security of supply, the UK will be powered entirely by clean electricity through, amongst other things, the accelerated deployment of low-cost renewable energy generation such as solar.
  62. I am also aware the Government's British Energy Security Strategy (April 2022) does not set a firm target for solar but expects a five-fold increase in deployment by 2035. This aligns to the strategy's aim that by 2030, 95% of British electricity could be low carbon; and by 2035 that the electricity system will be able to be decarbonised, subject to security of supply.
  63. Locally, I note that EFDC declared a climate emergency in September 2019 and in July 2023 published a Climate Change Action Plan which supports the Council's ambition to "*do everything within its power to become carbon neutral by 2030*". In the context of that commitment there are no other large scale solar farm proposals cited as coming forward within the District.
  64. As referenced in Government's 'Powering Up Britain' (March 2023) Plan, solar is one of the cheapest forms of electricity generation. I recognise that with more locally derived renewable energy the UK would become less reliant on price volatility from imports.
  65. Based on the Climate Change Act, NPSs, wider government strategy, EFDC's own declaration and subsequent Climate Change Action Plan I accept there is an urgent need for renewable energy electricity projects to be brought forward.
  66. Importantly, the site benefits from a grid connection nearby, and the Appellant references a connection offer as being in place. As such, I agree the scheme would make an early and significant contribution to the objective of achieving Net Zero and the commitment to reducing emissions by 78% compared with 1990 levels by 2035. Accordingly, the clean and secure energy benefits on offer attract substantial overarching weight in my decision.
  67. The Biodiversity Net Gain (BNG) anticipated would involve planting new native species hedgerows and new trees enhancing the natural as well as the visual features of the existing landscape. The evidence alongside planning condition use agreement suggests ecological enhancement for a minimum of a 70% increase for 'habitat units' and around 150% uplift for 'hedgerow units' can be achieved. This would be consistent with development plan strategy supporting ecological and landscape enhancements, which carry significant weight.

68. The Flood Risk Assessment information evidenced confirms that the risk of fluvial flooding to the site is low and the development would not increase the risk of flooding off site. Even so, the design of the scheme through condition use would incorporate SuDS drainage features, offering some further increased flood risk resilience and overall natural habitat betterments integrated with other expected landscaping provision.
69. There would be some economic benefit attributed to allowing construction work. There is no clear indication existing agricultural jobs would be lost. But even if that was the case, maintenance of the wider site is likely to require opportunities in landscape and ecological management. Consequently, I give the overall economic betterment from all job opportunities modest weight accepting that the overall betterment is more favourable in relation to construction phases.
70. Additionally, there would be short lived harm to local amenity arising from construction traffic movements and site-work. Such construction period activity is likely to result in unavoidable impacts to residents, drivers, and pedestrians. However, all the evidence suggests that there would be no significant highway safety detriment if the appeal was allowed. That is because construction period impacts would be able to be mitigated by management arrangements achieved through planning condition use.
71. Outside of the main issues I have carefully considered other interested party objections. The local PRow network can be maintained during construction and operation with landscaping along these routes, including infilling of existing and new hedgerows. A condition for a detailed CTMP would enable this for the construction phases with PRow management to be submitted and approved.
72. Beyond aesthetic considerations of some people disliking the appearance of the solar farm, once completed, there is no convincing basis to conclude it would prevent the enjoyment of the countryside for recreation or using the public routes within it.
73. I have considered potential for glint and glare problems to arise but the distances and buffers involved to surrounding roads and property are adequate. At operational stages there is nothing convincing demonstrating that the scheme would result in harm to amenity by virtue of noise or the solar farm's positioning.
74. There are no other public safety issues arising that are incapable of being addressed by planning condition. Furthermore, I am satisfied protected species, other ecological interests coupled with decommissioning requirements could be properly safeguarded, controlled, and enforced through planning condition use.
75. In relation to most aspects of the appeal I have been referred to a long list of appeal decisions and judgements. Considering those, I do not find any conflict with the broad principles of decision making triggered by this case. Collectively, the other cases also involve a combination of different sites and sets of circumstances which do not lead me to alter my findings.

## **Conditions**

76. Without prejudice, the main parties compiled a list of conditions in the event the appeal were to be allowed, which was also subject to refinement discussion

- at the Inquiry itself. In the main, the majority of the conditions detailed are appropriate and meet the statutory tests.
77. Standard conditions would be needed to specify the time limit and plans in line with statutory provision and to provide a formal mechanism for amendment. I agree separating out the 'indicative' plan information tabled, is necessary as there are some inconsistencies influencing the overall layout owing to the internal access track position to be formalised which other agreed conditions are reliant upon. Due flexibility is required on related aspects of the layout dependant on the type of solar array to be eventually agreed on by the site operator.
78. I also note that the existing access provision from the public highway which runs a good way into the site would still be utilised as a fixed entrance and exit point irrespective of allowing such condition flexibility.
79. A range of conditions are necessary and appropriate securing: landscape and ecological enhancement measures, including BNG provision; protection measures for existing trees; mitigation for breeding birds as well as a Skylark Mitigation Strategy. This is to ensure an acceptable level of visual amenity and that biodiversity is respected along with an appropriate level of future ecological management.
80. The approval of precise details for the layout and appearance of the development including the solar panels, inverters, substation, access tracks, CCTV, fencing, and related infrastructure is warranted in the interests of safeguarding visual amenity and owing to indicative elements of the scheme.
81. Decommissioning conditions would ensure site restoration is properly undertaken in the interests of protecting the character and appearance of the area. The removal of permitted development rights is necessary to ensure the visual appearance of the area is respected. It is necessary to limit the export capacity of the scheme to a maximum of 49.9MW given the description of the development is broad.
82. Additionally, further detailed conditions would be required to ensure: suitable drainage and flood risk management; overall construction management and future repair work is respectful to the area; any land contamination is properly dealt with; noise from plant and machinery is controlled; highway safety is maintained during construction and operation; and that any new lighting does not give rise to ecological or other wider amenity harm.
83. There are no clear commitments or specific policy requirements for sheep grazing. To allow such activity would be a prerogative of the landowner. Thus, a grazing plan secured by way of condition would not meet the test of necessity nor would it be enforceable in this case.

### **Planning Balance and Conclusion**

84. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

85. There would be conflict with the Council's development plan arising from the main issues disputed related to Green Belt impacts as well as the uptake of farmland, recognised as green infrastructure provision locally.
86. Having regard to the Framework, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework advises me at paragraph 153 that substantial weight is given to any harm to the Green Belt. '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.
87. I note Framework paragraph 153, is holistic in nature in assessing harm. In this case the level of overall harm to the Green Belt arising from the solar farm would be moderate, also bearing in mind the site would eventually be decommissioned. Albeit a generational time span is involved.
88. The Appellant's overall very special circumstances case is reliant on the level of Green Belt harm that would result as well as the need for solar renewable energy development at a national scale, in tandem with the range of other scheme benefits which would be delivered.
89. I agree the Appellant's justification case is compelling and that the combined scheme benefits on offer, in particular, the clean and secure renewable energy generation which would result constitute very special circumstances. Such justifications clearly outweigh the moderate Green Belt detriment arising.
90. The development would prevent land from being farmed for food production during its lifespan. There is some conflict with EFDLP Policy DM5. But I find only limited negative weight should apply to the loss of farmland given most of the land in question is not BMV, in tandem with the other economic and environmental considerations referred to.
91. In addition, as directed by paragraph 202 of the Framework I am required to assess designated asset harm in relation to any public benefits on offer. I have attributed significant weight to the less than substantial harm arising to two nearby designated assets. However, there would be significant benefits from the appeal scheme encouraged by other elements of the Council's development plan and the content of the Framework.
92. This includes benefits from legacy planting provision for ecological and visual enhancements long term. Overall, the public benefits, in this case, outweigh the 'less than substantial harm' to the settings of designated heritage assets, bearing in mind the overall intervening landscape evident in concluding on such harm.
93. From a wider decision-making perspective, recognising all the harms I have identified and referenced in my above reasoning including that to: the Green Belt (linked to definitional harm, openness reduction, and its purpose); the limited uptake of land of higher grade best and most versatile agricultural land and farmland attributed to green infrastructure locally; the setting and significance of two designated heritage assets; landscape and the visual appearance of the area; and the disruption to local roads and amenity levels probable during construction periods, taken collectively. Combined all those

considerations attract significant negative weight within the planning balance. Nevertheless, the level of overall scheme benefits on offer still exceeds all of those harms combined.

94. Overall, my decision is made on the total level of harms arising against any overall benefits attributed to this appeal scheme. Having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 I have identified there is some conflict with EFDC's development plan. However, benefits of the proposal are material considerations which outweigh the conflict with the development plan and all harms that I have identified. Subsequently the direct benefits arising from the development give me sufficient reasons to allow the development to proceed.
95. Taking all matters raised in the round I find that the overall benefits of the development would far exceed the harms it would cause. For the reasons set out above the appeal succeeds.

*M Shrigley*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Thea Osmund-Smith Counsel

### WHO CALLED:

Charles Mylchreest Landscape Witness

Tony Kernon Agricultural Land Witness

Nick Bowen Planning Witness

### FOR THE LOCAL PLANNING AUTHORITY:

Olivia Davies Counsel

### WHO CALLED:

Ian Lanchbury Landscape Witness

Liz Fitzgerald Planning Witness

### INTERESTED PARTIES (WHO SPOKE AT THE INQUIRY):

Roberto Lagna-Fietta Cllr Rodon Parish Council

Michael Berendt Local Resident



DOCUMENTS SUBMITTED DURING THE INQUIRY:

INQ1 – Appellant’s Opening

INQ2 – Council’s Opening

INQ3 – Written closings of the Council

INQ5 – Written closings of the Appellant

DOCUMENTS SUBMITTED AFTER THE INQUIRY:

None.

**Schedule of Planning Conditions**

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out and retained in accordance with the following approved plans: SP-01 Rev 1 and DZ-01 Rev 3, unless written consent is given to any variation by the Local Planning Authority.
3. The development hereby permitted shall be carried out in accordance with the details shown on the approved Indicative Site Layout Plan ref. PLE-01 Rev 10, except as controlled or modified by conditions of this permission, or otherwise varied by the written agreement of the Planning Authority.
4. Prior to the commencement of the development, full details of the layout and appearance of the development, including the solar arrays, inverters, DNO substation, access tracks, CCTV cameras, fencing, and other associated infrastructure must be submitted to and approved in writing by the local planning authority. The details must not exceed the maximum dimensions shown on plan refs. SD-01 Rev 02, (DNO Substation Elevations and Dimensions Plan), SD-02 Rev 02 (Customer Substation Elevations and Dimensions Plan), SD-03 Rev 01 (Indicative CCTV Post- Standard Detail), SD-04 Rev 02 (Security Fence and CCTV Standard Detail), SD-07 Rev 02 (Indicative Deer Fence- Standard Detail), SD-08 Rev 02 (Inverter Elevations and Dimensions Plan), SD-17 Rev 01 (Panel Arrangement 4 29.5 Degree Tilt). The development must be constructed and operated fully in accordance with the approved details.
5. All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Appraisal (EDP, August 2022), Winter Bird Survey Report (Dominic Mitchell, April 2022) and the Breeding Bird Survey Report (Dominic Mitchell, August 2022) as submitted and hereby approved.
6. Prior to the commencement of the development, a Skylark Mitigation Strategy must be submitted to and approved in writing by the local planning authority to compensate the loss of any Skylark territories at the site.

The Skylark Mitigation Strategy must include provision of the evidenced number of Skylark nest plots, prior to commencement of the development. The content of the Skylark Mitigation Strategy must include the following details:

- i. the purpose and conservation objectives for the proposed Skylark nest plots;
- ii. a detailed methodology for the Skylark nest plots following Agri-Environment Scheme option: 'AB4 Skylark Plots';
- iii. locations of the Skylark nest plots shown on appropriate maps and/or plans; and
- iv. the persons or body responsible for implementing the Skylark Mitigation Scheme;
- v. the timescale for retention and any long term management.

The development shall thereafter be carried out and retained in accordance with the approved strategy.

7. 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, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
  - 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.
  - Limiting discharge rates to 1.28l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party.
  - Final modelling and calculations for all areas of the drainage system.
  - 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.
  - Detailed engineering drawings of each component of the drainage scheme.
  - A final drainage plan which details exceedance and conveyance routes, FFL and 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.
  - A maintenance plan detailing the maintenance arrangements, including who is responsible for different elements of the surface water drainage scheme and the maintenance activities/frequencies. Should any part be maintainable by a maintenance company, details of the long-term funding arrangement should be provided.

The scheme shall be implemented in accordance with the approved details and shall be provided on site prior to the First Export Date and shall be retained for the lifetime of the development.

8. Prior to the commencement of development a scheme to minimise the risk of offsite 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.
9. Prior to the commencement of the development, a Construction Traffic Management Plan (CTMP) must be submitted to and approved in writing by the local planning authority. The plan must include details of the following:
  - i. construction traffic access routing to the site to ensure all construction traffic accesses and exits the site to the East to ensure that no construction traffic shall travel through Roydon village;
  - ii. site access arrangements;
  - iii. swept paths and visibility splays at the site accesses;
  - iv. the types of construction vehicles accessing the site and vehicle frequency;
  - v. investigations of the feasibility to utilise existing hedgerow gaps within the site to accommodate temporary construction access routes;
  - vi. temporary construction access routes within the site;
  - vii. arrangements for site operative and visitor parking;
  - viii. traffic management measures;
  - ix. temporary highway signage;
  - x. Loading and unloading of plant and materials;
  - xi. Storage of plant and materials used in constructing the development;
  - xii. The erection and maintenance of site hoarding;
  - xiii. Measures to control the emission of dust and dirt during construction, including wheel washing; and
  - xiv. measures for protection and management of the public rights of way (PRoW) network during construction, including a plan showing the position and widths of PRoW, proposed crossing points, use of banksmen, signage, fencing, gates and how surfaces will be protected and maintained at crossing points to ensure the safety and convenience of users of the PRoW network.

With regards to dust control measures and wheel washing, reference shall be made to the Institute of Air Quality Management (IAQM) best practice Guidance on air quality monitoring in the vicinity of demolition and construction sites and Guidance on the assessment of dust from demolition and construction.

The approved CTMP shall be adhered to throughout the construction phase of the development hereby approved.

10. Prior to the commencement of development, a construction environmental management plan (CEMP: Biodiversity) is submitted to and approved in writing by the local planning authority. 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;
  - i) Containment, control and removal of any Invasive non-native species present on site.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

11. A Landscape, Ecology and Arboricultural Management Plan (LEAMP) shall be prepared in accordance with the principles set out in the approved Landscape, Ecology and Arboricultural Management Framework (LEAMF). The LEAMP shall be submitted to, and be approved in writing by, the Local Planning Authority prior to commencement of the development. 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 LEAMP 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 LEAMP 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 LEAMP will be implemented in accordance with the approved details.

12. No development or preliminary groundworks of any kind shall take place until:-

- i. A programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant and subsequently approved in writing by the Local Planning Authority.
- ii. The completion of the programme of archaeological evaluation identified in the WSI defined in Part 1 and confirmed by the Local Planning Authority.
- iii. A mitigation strategy detailing the excavation / preservation strategy shall then be submitted to the Local Planning Authority following the completion of the archaeological evaluation. No development or preliminary groundworks shall 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.
- iv. The applicant will 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.

13. No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents.

14. Prior to any above ground works, full details of both hard and soft landscape works (including tree planting) shown on the Indicative Landscape Strategy ref. edp7471\_d011 rev J and implementation programme (linked to the development schedule) except as controlled or modified by conditions of this permission shall be submitted to and approved in writing by the Local Planning

Authority. All hard and soft landscaping shall be carried out in accordance with the implementation programme approved.

The hard landscaping details shall include: means of enclosure; lighting, signs, services above and below ground and access roads. For the avoidance of doubt no unbound material shall be used in the surface treatment of the vehicular access hereby permitted within 6 metres of the highway boundary.

The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted, or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place.

15. 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.
16. Prior to any above ground works, details of the precise location and external finishes to all solar panels and all other on site infrastructure 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. Any replacement of obsolete or damaged structures shall be replaced on a like for like basis, unless otherwise agreed by the Local Planning Authority through an appropriate application.
17. Prior to commencement of development a scheme for the safe removal and disposal of waste material detailed in Section 8 of the Phase 1 Contaminated Land Report and an associated remediation strategy shall be submitted to and approved in writing by the Local Planning Authority.  

The removal and disposal of waste shall thereafter be removed from the site and the land remediated in accordance with the approved details. A verification report of the removal by a suitably qualified contaminated land practitioner shall then be submitted to and approved in writing by the Local Planning Authority prior to operation of the development.
18. During construction, no deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 08:00 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.
19. Should any previously unidentified discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works



- should be stopped and an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced) shall be undertaken. If any contamination is found then the site shall be remediated. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.
20. 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 measures to prevent surface water discharge onto 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 the First Export Date in accordance with the approved details. The accesses shall be permanently retained in accordance with the agreed form at all times.
  21. All plant and machinery shall be operated and maintained to ensure that noise does not exceed the background noise level of 40dB LA90 (as identified within the LF Acoustics Noise Assessment dated September 2022) when measured 1m from the closest noise sensitive premises.
  22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any amending Order, the erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure, as described in Schedule 2 Part 2, Class A of the Order shall not be undertaken without the prior written permission, obtained through the submission of an application, of the Local Planning Authority.
  23. Other than in an emergency, all planned repairs, planned maintenance and servicing shall take place between 8am and 7pm Mondays to Saturdays and at no times on Sundays, Bank or Public Holidays.
  24. Not less than one month prior to the first export of energy to the National Grid, the developer/operator shall notify the Local Planning Authority in writing of their intent to commence the export and state the date of anticipated first export.
  25. 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, excluding testing and commissioning. 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.
  26. No later than six months prior to the expiry of the planning permission, or within six months of the cessation of electricity generation at the site, 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;
- 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 three months following the cessation of electricity generation.

27. If the solar farm ceases to export electricity to the grid for a continuous period of more than 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.
28. Prior to any site clearance, or the commencement of the development, a Soil Management Plan (SMP) must be submitted to and approved in writing by the local planning authority. The SMP shall be prepared by a suitably qualified soils and agriculture expert. All development and site clearance shall be carried out in accordance with the approved SMP. Before decommissioning commences, the expert should review the SMP and make recommendations as to measures necessary to ensure the land is restored to its original condition at decommissioning, taking into account any updates in statutory or policy requirements. The following details must be included in the SMP:
- soil resource survey;
  - site preparation;
  - details of the handling and storage of soils during the construction, operational and decommissioning phases;
  - import of construction materials, plant and equipment to Site;
  - establishment of Site construction compounds and welfare facilities;
  - cable installation;
  - temporary construction compounds;
  - trenching in sections;
  - upgrading existing tracks and construction of new access tracks and roads within the Site;
  - the upgrade or construction of crossing points (bridges /culverts) at drainage ditches within the Site;
  - appropriate storage, capping and management of soil;

- appropriate construction drainage;
- sectionalised approach of duct installation;
- excavation and installation of jointing pits;
- cable pulling;
- testing and commissioning;

The SMP must be implemented as approved.

29. Prior to the implementation of the soft landscape scheme and biodiversity mitigation and enhancement measures, commencement of any above ground works, a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
- a) an updated Biodiversity Metric (version 4.0), based upon the detailed soft landscape proposals, demonstrating a net gain of at least 70% in habitat units, and at least 150% in hedgerow units;
  - b) locations of proposed enhancement measures by appropriate maps and plans;
  - c) persons responsible for implementing the enhancement measures;
  - d) details of initial aftercare and long-term maintenance (where relevant) for a minimum of 30 years;
- The works shall be implemented in accordance with the approved details prior to first use of the development and shall be retained in that manner thereafter.
30. Prior to the First Export Date an Educational Strategy shall be submitted for the written approval of the Local Planning Authority. The Strategy shall detail the measures which the developer will take to ensure that appropriate access is given to the site for educational purposes in accordance with the approved benefits statement.
31. Once operational, the development hereby permitted shall have an export capacity of not more than 49.9MW (AC).

## **End of Schedule**

---

## Appendix 3b Other Relevant Appeals



## Appeal Decision

Inquiry Held on 7 December 2021

Site visit made on 16 December 2021

**by S R G Baird BA (Hons) MRTPI**

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

**Decision date: 18 February 2022**

---

**Appeal Ref: APP/B3030/W/21/3279533**

**Land north of Halloughton, Southwell, Nottinghamshire**

- 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 JBM Solar Projects 6 Limited against the decision of Newark & Sherwood District Council.
  - The application Ref 20/01242/FULM, dated 7 July 2020, was refused by notice dated 4 March 2021.
  - The development proposed is the construction of a solar farm and battery stations together with all associated works, equipment, and necessary infrastructure.
- 

### Preliminary Matters

1. Further to Regulation 14(5) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 571/2017), the Secretary of State issued a direction that an Environmental Statement (ES) was required. An ES was submitted on 30 November 2021. At the inquiry, the appellant submitted a revised Biodiversity Nett Gain Assessment (BNG) using the updated Biodiversity Metric 3 issued in July 2021. I have had regard to its contents and the representations made.
2. The appellant requested that the appeal be determined based on an amended plan, *P18-2917\_12 Rev M Site Layout and Planting Proposal*, and an additional plan *P18-2917\_26 Indicative Landscape Site Section (Year 5 & 15)*. Whilst the boundaries of the site remain unchanged, the amendment involves, the removal of solar panels and associated infrastructure from Fields 7 and 12, additional planting in the south-west corner of Field 3 and on the northern boundary of Field 1 and the introduction of a rewilding area in the north-west corner of Field 1. Following public consultation and formal consideration the local planning authority (lpa) has no objection to the proposal being determined on these plans. No party would be prejudiced by the appeal being determined based on Drawing Nos. P18-2917\_12 Rev M and P18-2917\_26 and I have proceeded on this basis.
3. To allow for consideration of the ES, the revised BNG assessment and receipt of closing submissions, the inquiry was adjourned and closed in writing on 14 January 2022.

### Decision

4. The appeal is allowed, and planning permission is granted for the construction of a solar farm and battery stations together with all associated works, equipment, and necessary infrastructure on land north of Halloughton, Southwell, Nottinghamshire in accordance with the terms of the application,

Ref 20/01242/FULM, dated 7 July 2020, and the plans submitted with it, subject to the conditions contained in Annex A to this decision.

## **Main Issues**

5. These are: (1) the landscape and visual impact of the scheme; (2) the effect on heritage assets (HA); and (3) whether the proposal would conflict with the development plan and if so whether there are any material considerations that would outweigh that conflict; the planning balance.

*Development Plan and other relevant Policy Guidance*

6. The development plan includes the Newark and Sherwood Amended Core Strategy (CS), the Allocations and Development Management Development Plan Document (A&DM) and the Southwell Neighbourhood Plan (SNP).

*Core Strategy*

7. The objective of Policy CP 9 is the protection and enhancement of the natural environment. Policy CP 10 indicates that proposals for renewable energy generation will be supported, where adverse impacts have been satisfactorily addressed. To assist decision makers in assessing the impact of proposed developments on landscape character, the Ipa has adopted the Newark and Sherwood Landscape Character Assessment Supplementary Planning Document (SPD). The SPD identifies Landscape Policy Zones (LPZ), and landscape conservation and enhancement aims for each LPZ. Policy CP 13 seeks to secure development that positively addresses the implications of the relevant LPZs consistent with the landscape conservation and enhancement aims for those areas ensuring that landscapes, including valued landscapes, have been protected and enhanced. Policy CP 14 seeks the conservation and enhancement of the character, appearance and setting of HAs in line with their significance.

*Allocations and Development Management Development Plan Document*

8. Policy DM 4 indicates that applications for renewable energy schemes will be permitted where the benefits are not outweighed by harm to, amongst other things, landscape character, HAs or living conditions. Policy DM5 lists the criteria against which proposals are assessed. These include access, amenity, landscape, biodiversity, green infrastructure, ecology, and flood risk. Policy DM9 adopts a positive approach to proposals to reflect the overarching presumption in favour of sustainable development.

*Southwell Neighbourhood Plan*

9. The supporting text to Policy E6 indicates that the SNP seeks to increase the amount of energy generated locally from renewable sources. Low carbon energy schemes will be supported where, amongst other things, they would not negatively impact on local landscape character. Whilst Policy E6 refers to effect on the setting and character of HAs, this criterion relates to Policy DH3, which solely relates to Southwell and as such is not relevant to this proposal.

*National Planning Policy Framework Framework) and Planning Practice Guidance (PPG)*

10. The Framework and PPG provide generic and specific policy and guidance on development in general and renewable energy developments. These cover



considerations such as biodiversity, historic environment, landscape and visual effects, traffic, living conditions and socio-economic benefits.

## Reasons

### Issue 1 – Landscape & Visual Impact

11. Given their nature and scale, it is inevitable that large scale solar farms may result in landscape harm. In this context, national and development plan policy adopts a positive approach indicating that development will be approved where the harm would be outweighed by the benefits of a scheme.

### Landscape Character

12. Framework, paragraph 174, indicates that the intrinsic character and beauty of the countryside should be recognised. That said, the Framework does not seek to protect, for its own sake, all countryside from development; rather it concentrates on the protection of valued landscapes. The site does not form part of any designated landscape and the Ipa acknowledges that for the purposes of the Framework, the site is not a valued landscape.
13. The Framework does not define what constitutes a valued landscape. However, given that all landscapes are valued by someone at some time, the term, valued landscape, must mean a landscape that is of value because of demonstrable attributes that takes it to a level of more than just mere open countryside. I note the strong feelings eloquently expressed both at the inquiry and in writing by residents about their attachment to and value they place on Halloughton and its surroundings. However, nothing I have read, heard, or seen would elevate this site and its surroundings to that of a Framework valued landscape.
14. Of the various landscape character documents referred to, the most relevant is the SPD. The site extends over 12 fields at the confluence of 3 LPZs. Fields 1 to 5 and 12 are within LPZ 37 – Halam Village Farmlands with Ancient Woodlands. Part of Field 8 and Fields 9 to 11 are within LPZ 38 - Halloughton Village Farmlands. Field 7 and the balance of Field 8 is found within LPZ 39 - Thurgarton Village Farmlands with Ancient Woodlands.
15. The landscape characteristics of the site and immediate surroundings are consistent with the characteristic visual features listed for the LPZs. These are: a predominantly arable agricultural landscape with medium to large scale fields with some smaller pasture fields; field boundaries comprising well-maintained hedgerows albeit fragmented in places, with some mature hedgerow trees; blocks of woodland of varying age and linear sections of woodland along field boundaries, streams, and drains. Topography is gently undulating and rounded with medium distance skyline views enclosed by hedgerows and woodland.
16. The assessments of the individual LPZs conclude on their value and sensitivity. However, as the LPZs cover extensive areas and the site extends over a relatively small part of these LPZs, I see it as an area of transition. Here, it would be inappropriate to apply the wider area values and sensitivities uncritically. For example, Field 7 and less than half of Field 8 is located within LPZ 39. However, there is nothing on the ground that would distinguish that part of Field 8 falling within LPZ 38, which is judged to be of moderate landscape sensitivity from that part in LPZ 39, which is judged to

have a high landscape sensitivity. Taking the landscape characteristics, condition, and sensitivities of each of the 3 LPZs as a starting point and looking at value and sensitivity in the round, the site and its surroundings have a medium landscape value and medium sensitivity to change.

17. The key elements that contribute to landscape character are topography, land use/land cover, tree/woodland, hedgerows, public footpaths, and watercourses. Although for some of these elements, the conclusions reached by the lpa and appellant differ in terms of value, susceptibility and sensitivity, there is a large measure of agreement on the significance of effect.
18. Apart from the proposed permanent electricity substation, the solar panels and associated infrastructure, would, for the want of a better phrase, sit lightly on the affected fields, with no material change to topography. As to land use/land cover, most of the site would be retained in agricultural use as grazing pasture. Sheep grazing is an accepted part of solar farm developments as a means of naturally managing the pasture. Seeking opportunities to restore arable land to pasture is an "action" promoted by the SPD. For these landscape elements, the lpa and appellant agree that the degree/scale of effect would be *Not Significant* in landscape character terms.
19. For trees and hedgerows, whilst the lpa accepts there would be some minor to moderate beneficial impacts from the proposed mitigation, it regards these changes as Not Significant. The appellant, on the other hand, assesses the changes as being Major Beneficial and Significant. Relative to the existing fund of trees/woodland in the area, the additional tree planting on the southern edges of Fields 8 and 9, the northern edges of Fields 7 to 11, the western and southern edges of Field 4 and on the northern edge of Field 1 does appear modest. However, these are strategic areas for planting and the impact belies their extent. In my view the outcome would be a Major and Significant Beneficial Effect. A similar approach can be adopted for hedgerows. Here, the existing 8km of hedgerow around and within the site would be supplemented by some 1.2km of new planting. This would be a significant expansion and result in a Major and Significant Beneficial Effect. Moreover, tree and hedgerow planting are consistent with "actions" promoted by the SPD, which are, to conserve and enhance hedgerow and tree cover
20. For public footpaths there would be no change. For watercourses, whilst there is a difference between the parties as to the scale of beneficial effect, there is agreement that it would be Not Significant in terms of landscape character effect.
21. It is common ground that, given their spatial extent, there would be no significant adverse effects on the landscape character of the wider LPZs. Moreover, the lpa accepts there would be no direct impacts on landscape character outside the boundaries of the site. Given the topography of the area, existing planting and overhead power lines/pylons that bisect Fields 6 and 8 to 11, the lpa acknowledges there are, limited medium distance views and visibility of the site. Accordingly, whilst the solar panels and associated infrastructure would, in Environmental Impact Assessment terms, have a Significant Adverse effect on landscape character, it would be highly localised.
22. In terms of the degree/scale of impact of the scheme, the assessments carried out by the lpa and the appellant concentrate on the construction period and Years 1 and 10. During the construction period and at Year 1, it

is agreed that within the site, the scale of effect would be Major and have a Significant adverse effect on landscape character. In my view, this significant adverse effect would be experienced at several places where there are views into the site. However, given the relatively short construction period, some 26 weeks, and at a time when the mitigation planting would be young, such adverse impacts cannot be avoided. Thus, the weight I attach to these early effects is limited. As François Athenase de Charette de la Contrie<sup>1</sup> is reputed to have said, “...you cannot make an omelette without breaking a few eggs”.

23. The lpa acknowledges that over the lifetime of the scheme the planting would increasingly mitigate the landscape impact of the solar panels and associated infrastructure. The main difference between the parties is that by Year 10 the appellant considers that the adverse effect would be reduced to a largely Moderate Adverse impact and Not Significant in landscape character terms whereas the lpa submit that there would still be a Major Adverse and Significant effect on landscape character. The difference appears to rest largely on the lpa’s conclusion that the impacts of the proposed mitigation measures rather than the presence of the solar panels and associated infrastructure would be the source of the enduring adverse landscape effect. Essentially, the additional tree cover, hedgerow reinforcement and allowing the hedgerows to grow out would result in long term harm by interrupting or curtailing medium distance views.
24. The lpa acknowledges that the proposed mitigation, is consistent with the nature and character of existing planting. Moreover, these works are entirely consistent with the “actions” to conserve and reinforce hedgerow and tree cover promoted for these LPZs. Indeed, the landscape character changes the lpa assert would be a harmful is something that has already occurred in the landscape to the north of the village. Here, over the last 2 decades landowners have engaged in extensive tree planting and hedgerow maintenance. The prime example of this is the extensive and dense woodland planting to the east and south of Fields 10 and 11.
25. No important or protected views were identified by the lpa. However, residents refer to the loss of views of the twin towers of Southwell Minster, looking eastwards from public footpaths that run along the western and northern boundaries of the site. That said, whilst there are some views of the tops of the Minster towers from the field to the west of Fields 2 and 4, these are not from the official line of the public footpath that runs hard against the hedge line of Fields 2 and 4, but a desire line that follows vehicle tracks across the centre of the field. In any event, these views are not sequential, but glimpsed and any loss would be limited.

#### Visual Impact

26. The assessment of visual impact is based on an assessment of views from 18 agreed representative viewpoints<sup>2</sup> (VP). In concluding on visual impact, I acknowledge that, (a) the views obtained from these VPs are a snapshot of the site and do not reflect the experience of walkers as they proceed along the road/public footpath and (b) the photographs were taken when the deciduous trees and hedgerows were in full leaf. That said, my visits to the

---

<sup>1</sup> Breton soldier and politician 1863 to 1796.

<sup>2</sup> In addition, there are views from 3 points on the edge of Southwell included for the assessment of impact on heritage assets.

site and its surrounding were in winter, which presents a worst-case scenario. Moreover, on views, the area is well endowed with extensive tree and hedge cover that limits views to short or medium range. Moreover, given the topography and existing tree/hedgerow cover, the opportunity for sequential views is limited. This is particularly the case where Footpath 209/74/1 runs along the southern boundary of Field 6 and where Footpath 209/42/1 runs northwards along Fields 4 and 2.

27. The parties agree that the Year 10 assessments of effect are the most important to assess the visual impact of the scheme. It is these effects that would last for most of the life of scheme. That said, the existing and proposed planting would continue to grow and increasingly screen the development. Thus, the Year 10 assessment of effect must be regarded as a worst-case scenario. It is common ground that there would be no significant visual effects after decommissioning.
28. There is a significant amount of agreement between the parties regarding visual impact. Taking the lpa's conclusions in each case as a worst-case scenario, the visual effect at VPs 1, 3, 5, 6, 7, 9, 10 to 13 and 16 to 18 are judged as Negligible and Not Significant. In landscape assessment terms, a negligible effect is where the proposed changes would maintain the existing view or where, on balance, the proposed changes would maintain the quality of the view, which could include adverse effects that would be offset by beneficial effects for the same receptor. At VPs 2 and 8, the visual effect is judged as Minor Adverse and Not Significant. Typically, this is where a proposal would represent a low magnitude of change and/or the proposal would result in a slight deterioration of the view.
29. The effect at VPs 4 and 14 is described as a Moderate to Negligible Adverse effect. A moderate adverse effect is typically described as a Medium Magnitude of change where the proposal would result in a clear deterioration in the view. In this context, I would also describe the views to the north-west obtained when walking west on Footpath 209/74/1, towards VP 2 as being Moderate Adverse and Not Significant. On this stretch of path, views of panels in Fields 3 and 5 would be obtained across the shallow valley containing the Westhorpe Dumble where the field hedgerow is heavily gapped.
30. One Significant Year 10 effect would occur on Public Footpath 209/43/1 at VP 15, and a Major Adverse effect would be experienced by walkers on the stretch between VPs 14 and 15. Here, the footpath runs along the southern edge of a tall, dense, mature hedge that has been allowed to grow out limiting the visual effect to one side of one field. That said, the lpa agreed, the effect is limited geographically and of short duration. Any impact on the footpath where it extends to the east beyond Field 1, VP 16, or to the west and north of Field 2, would, due to existing screening, be limited if not negligible. Here, the proposed mitigation includes a native hedgerow with trees along the northern edge of the solar panels and a substantial area left for rewilding in the north-east corner of Field 1. As the planting matures, the solar panels would largely disappear behind the planting mitigating the visual harm.
31. Currently, on Footpath 209/43/1, between VPs 14 and 15, the walker experiences an open aspect to the south-east albeit the extent of view is short range as Field 1 rises to the south-east and a mature hedgerow along the

eastern boundary of Field 1. Concern was expressed that the narrowness of the gap between the existing hedge and the proposed mitigation would result in walkers experiencing an unacceptable tunnel effect. Whilst walkers may experience what the appellant suggests would be a "green corridor" this is not an unusual feature of the area. Footpath 209/80/2 to the north of Halloughton Wood runs for a significant length with dense woodland on either side and Footpath 209/74/1 runs between tall dense *Miscanthus* planting on its northern and southern side as shown by the view from VP 3.

32. Drawing the above together, it is inevitable that located in a countryside location a solar farm of this scale would have some adverse landscape character and visual impact. However, through a combination of topography, existing screening and the introduction of landscape mitigation, the adverse effect would be limited and very localised. Moreover, as the existing and proposed planting matures, the adverse effects, would be acceptably mitigated. Whilst the 40-year lifetime of the scheme is significant, once the solar farm was decommissioned, there would be no residual adverse landscape effects. Rather the scheme would, through the mitigation planting, leave an enhanced landscape consistent with the objectives of the development plan and the SPD.

#### Issue 2 - Heritage

33. The site lies partly within the Halloughton Conservation Area (CA), and within the settings of several Listed Buildings (LB). Regarding the LBs, there would be no direct physical impact, rather the potential for harm would be indirect. As to effect, the key difference between the parties is the contribution the Halloughton Prebend makes to the heritage interest these HAs. Briefly, a Prebend is a salary generally given to clergymen, the Prebendary, derived from tithes on agricultural land. Here, the Halloughton Prebend was given to Canons of Southwell Minister and ceased around 1840. At that time, the estate reverted to the Diocese of Southwell and in 1952 sold to the tenants.
34. The Prebend is not, on its own, an HA rather it is a matter of historical record, and no tangible connection can be experienced on the ground or in the wider landscape; it is a non-visual historic consideration. That said, there are many LBs whose significance is founded on historic associations that are not reflected in their physical appearance or surroundings. The appellant's submissions on the relevance of the Prebend to the heritage interest of the 5 LBs and CA were deftly put. However, whilst I recognise the Prebend is now a matter of historic record rather than a physical manifestation, it is of historic interest and as such contributes to the heritage interest of these HAs.

#### *Halloughton Manor Farmhouse, Pigeon Cote, Granary and Stable*

35. Although listed separately, these buildings are part of the same complex. Halloughton Manor Farmhouse (HMF) is listed as Grade 2\*, the Pigeon Cote, Granary, Stable and Barn are listed as Grade 2. HMF, was originally the Prebendal House constructed in the 13<sup>th</sup> Century with additions and alterations during the medieval, post medieval and 19<sup>th</sup> century. At the core of this building is a 3-storey tower largely constructed of coursed rubble with ashlar dressings with the later addition of a pitched pantile roof and brick gables. A substantial part of the frontage elevation of the tower is obscured by what appear to be late 19<sup>th</sup> century single-storey extensions.



36. The Pigeon Cote, Granary, Stable and Barn were constructed during the 18<sup>th</sup> and 19<sup>th</sup> centuries as the farmstead expanded. The Pigeon Cote, Granary and Stable, a 2-storey building, constructed in red brick with a pantile roof. Located at the core of the complex, views of the building are restricted to the upper storey: the Pigeon Cote. Added to the complex in the 19<sup>th</sup> century, the Barn albeit it has some decorative elements, is a large functional red brick building with a pantile roof abutting Bridle Farm Road<sup>3</sup> (BFR).
37. At Grade 2\* HMF is a HA of the highest significance and at Grade 2 the Pigeon Cote, Granary, Stable and Barn is acknowledged as less than the highest significance<sup>4</sup>. The heritage interest of these buildings is architectural and historic. In the case of HMF, the tower is an example of a medieval tower house albeit it has been altered and extended over the years. The historic interest of the Pigeon Cote, Granary, Stable and Barn lies in the physical demonstration of the development and expansion of the agricultural economy, in the 18<sup>th</sup> and 19<sup>th</sup> centuries. Whilst the Prebend is now a matter of historic record rather than a physical manifestation, HMF was the prebendary house, which adds to its historic interest.
38. Given its serpentine nature, the settings of these assets is confined, largely to a short stretch of BFR. Other than from the south and south-west and largely limited to HMF itself there are few, if any, views of this complex of buildings from the solar farm site and its surrounding landscape. Any that may be obtained are limited by topography or heavily obscured by existing woodland and hedgerow and are no more than fleeting glimpses. Thus, medium to long range views do not contribute to the interest of these HAs. Whilst historically, initially, through the Prebend and after its abandonment, the wider agricultural surroundings, including parts of the solar farm site formed part of the setting of HMF, in that produce from the land passed through and was stored on the complex, that link no longer exists. Thus, the contribution that historic link makes to the significance of these assets is limited.
39. Drawing all the above together, given the degree of separation between the solar farm site and these HAs and the nature of existing and proposed screening, the development would result in no harm to the architectural interest of these HAs. That said, given the association with the Halloughton Prebend, I consider there would be some limited harm to the historic interest of these HAs albeit it would fall within the category of less than substantial harm and at the lowest end of that spectrum.

#### Church of St James

40. Although parts date from the 13<sup>th</sup> century, the church was substantially rebuilt in the late 19<sup>th</sup> century under the direction of Ewan Christian an English architect noted for the restoration of Southwell Minster, Carlisle Cathedral, and the design of the National Portrait Gallery. The church, Grade 2 listed, is constructed in course rubble with some ashlar detail. The church is simple in form comprising a nave, chancel, modest windows, and decoration from the 14<sup>th</sup>, 17<sup>th</sup>, and 19<sup>th</sup> centuries. The frontage to BFR is defined by a random

---

<sup>3</sup> The street map for Halloughton does not show road having a name. The appellant's submitted documentation variously refers to the village street as either Bridle Farm Road or Cotmoor Lane. More than one document refers to it as Bridle Farm Road and for the purposes of this decision, I have adopted Bridle Farm Road.

<sup>4</sup> Framework paragraph 200.



stone wall backed by several evenly spaced mature trees and the church is set well back into a well-defined plot.

41. The heritage interest of the church is architectural and historic. The architectural interest is grounded in it being a good example of a late Victorian Parish Church. The historic interest relates to its association with HMF and its role as the medieval Prebendal church and the association with Ewan Christian. The churchyard setting with its ubiquitous yew tree and location next to an orchard and agricultural fields immediately to the north adds to the church's heritage interest.
42. It was clear from my extensive walks before and after the inquiry that the church is not experienced from the public footpaths that cross and go around the proposed solar farm nor from any of the fields that would make up the solar farm or its surroundings. Given the deep setback from the road, the church is mainly experienced from a limited stretch of BFR. Whilst there would in wintertime heavily filter views of a limited number of panels, the way the heritage interest of the church is experienced would not be changed. That said, given the association with the Halloughton Prebend, there would be some limited harm to the historic interest of this HA, albeit it would fall within the category of less than substantial and at the lowest end of that spectrum.

#### Barn at Bridle Road Farm

43. The barn is a large functional 2-storey red brick building with limited decorative detail and a steep pantile roof built in the 18<sup>th</sup> century. The farmstead at Bridle Road Farm is tight knit, with the barn, farmhouse and other vernacular buildings forming a courtyard comprising areas of grass and hardstanding. Heritage interest derives from its vernacular architecture and as an example of historic agricultural development. Again, the Prebend, adds to the historic interest of this HA.
44. Views of the barn are from BFR and the public footpath 186/3/1 that runs from the farm entrance, through the yard and branches off to the south-east. Views from BFR are limited due to its serpentine nature. The main area where the barn is experienced is from several points on the public footpath where the farmstead dips in and out of view. In views closer to the farmstead some panels would be seen in the same view as the barn. That said, glimpses of some panels over the roof of the barn would have a limited impact on its heritage interest. That said, given the association of the village with the Halloughton Prebend, there would be some limited harm to the historic significance of this HA, albeit it would fall within the category of less than substantial and at the lower end of that spectrum.

#### Halloughton Conservation Area

45. Halloughton CA was designated in 1972 and is primarily focused on the linear form of the village core and several adjoining fields. The character, appearance and heritage of the CA is largely derived from its sunken serpentine form giving it an enclosed and intimate character, the historic buildings, the open approaches to the village core from the east and west, boundary walling and grass verges. Whilst the agricultural land beyond the CA boundary, does contribute to the interest of the CA, this is, in my view, of less importance than the contribution of the various HAs and features described above. There are few views out towards the solar farm from the CA

and across it to the CA, resulting in only limited change to some views of the wider rural area and of the CA. In this context, the solar farm would have no material impact on the character and appearance of the CA.

46. The only element of the proposal to fall within the CA would be the vehicular access from BFR some 45 to 50m from the junction with the A612 Highcross Hill and a short length of access track running through an area of semi-mature woodland. Whilst this area of BFR forms the entrance to the CA, it is a wide engineered junction with extensive visibility splays that makes a limited contribution to the character of the CA. The start of the CA experience is from where BFR approaches and passes the church and HMF leading into the serpentine and intimate route to the west. During the relatively short construction period, the access and its use would have an impact on the appearance of the CA. However, on completion, the character and appearance of the access would revert to that of an agricultural access of which there are several within the wider CA. Therefore, any harm would be limited and of a short duration.
47. Given my conclusions on the effect of the proposal on the various LBs within the CA, the relevance of the Prebend and the impact of the proposed access, there would be some limited harm to the historic interest of this CA, albeit it would fall within the category of less than substantial and at the lower end of that spectrum.

#### Brackenhurst Hall Complex

48. Brackenhurst Hall as a complex has 4 Grade 2 listed elements. These are (1) Brackenhurst Hall, Coach House, Orangery and Garden Wall; (2) the Gateway and Railings; (3) the Lodge and (4) Garden Walls and Potting Sheds located some 100m to the north-east of the Hall. The Hall and its surrounds are part of the Nottingham Trent University Campus. Since the land was acquired by the University the facilities have been extensively extended to include student accommodation, lecture, and administrative buildings, some of which have been added recently and are interspersed to the north and west of the HAs.
49. Constructed in the early 19<sup>th</sup> century, the Hall is a substantial building that has been extensively remodelled during the late 19<sup>th</sup> century by its various owners. The Hall and its adjacent HAs have architectural and historic interest as, an example of a large 19<sup>th</sup> century country estate house and the former home of Reverend Thomas Coats Cane and the birthplace of Field Marshall Viscount Allenby. There is as far as I am aware no functional, historic, or physical relationship between the Hall and the appeal site. There are only limited glimpses of the upper parts of the Hall's tower from eastern part of the site. In terms of its setting, where it is appreciated this is entirely located within its grounds and to the east and south.
50. Whilst the Hall and its associated assets may be an example of a 19<sup>th</sup> century estate, the appeal site makes no contribution to its setting and significance. Moreover, the setting and significance of the Hall and its associated HAs have been significantly eroded and compromised by the development of the University campus. Some of which are bland functional structures and others "in your face" modern. In this context, the proposed solar farm would result in no harm to the heritage interest of these assets.

### South Hill House

51. South Hill House is 2-storey red brick house constructed at the beginning of the 19<sup>th</sup> century and now forms part of the Nottingham Trent University Campus. The building is Grade 2 listed and has architectural and historic significance as a high status former farmhouse. There appears to be no historical, physical, or functional relationship with the appeal site or its surrounds. Whilst the main facade is orientated to the south, the building is heavily screened from views from the appeal site by dense tree and hedge planting and mostly experienced from the adjacent main road. Given the above, the proposed solar farm would result in no harm to the heritage interest of this asset.

### Other Considerations

#### *Renewable Energy*

52. The Government recognises that climate change is happening through increased greenhouse gas emissions, and that action is required to mitigate its effects. One action being promoted is a significant boost to the deployment of renewable energy generation. The Climate Change Act 2008, as amended sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100%, Net Zero, by 2050. Recently, the Government committed to reduce emissions by 78% compared with 1990 levels by 2035. The Clean Growth Strategy 2017 anticipates that the 2050, targets require, amongst other things, a diverse electricity system based on the growth of renewable energy sources.
53. A material consideration in the determination of planning proposals are 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. Whilst NPSs EN-1 and EN-3 do not specifically refer to solar generated power they reiterate the urgent need for renewable energy electricity projects to be brought forward. Draft updates to NPSs EN-1 and 3 identify that, as part of the strategy for the low-cost decarbonisation of the energy sector, solar farming provides a clean, low cost and secure source of electricity.
54. The December 2020 Energy White Paper (WP) reiterates that setting a net zero target is not enough, it must be achieved through, amongst other things, a change how energy is produced. The WP sets out that solar is one of the key building blocks of the future generation mix. In October 2021, the Government published the Net Zero Strategy: Build Back Greener where under Key Policies it explains that subject to security of supply, the UK will be powered entirely by clean electricity through, amongst other things, the accelerated deployment of low-cost renewable generation such as solar.
55. The development has a capacity of some 49.9Mw, generating a significant amount of electricity from a clean, renewable source. This would provide for a reduction of approximately 20,690t<sup>3</sup> of CO<sub>2</sub> emissions annually and meet the energy needs of approximately 12,000 homes. The lpa acknowledges that this is a substantial benefit that attracts significant weight. There are no physical constraints limiting early development of this site and a grid connection offer is in place. As such, the scheme could make an early and significant contribution to the objective of achieving the statutory Net Zero

target set for 2050 and the commitment to reducing emissions by 78% compared with 1990 levels by 2035. Given this imperative, this benefit attracts significant weight.

*Ecology and Biodiversity.*

56. Subject to the implementation of appropriate mitigation, neither Natural England (NE) nor the Nottinghamshire Wildlife Trust, object to the proposal. The SoCG confirms that, the proposal would not conflict with the relevant sections of CS Policy 12 and LP Policy DM5.
57. The appellant provided an updated BNG assessment of the proposed Biodiversity Management Plan. The mitigation includes additional tree/hedgerow planting and the long-term management of existing trees/hedgerows, sowing a species rich grassland beneath the panels and the provision of bat and bird boxes around the site.
58. The BNG Metric is a tool for measuring and accounting for nature losses and gains resulting from development or changes in land management. The appellant's Metric 2 calculation identifies a net gain of 37%<sup>5</sup> in habitat units and 24% in hedgerow units. Based on the Metric 3 calculation, there would be a net gain of 92% in habitat units and 32% in hedgerow units. The lpa's assessment<sup>6</sup> disputes the extent of the total loss of other neutral grass land placing this at some 7ha whereas the appellant calculates a loss of some 1ha. That said, based on the 7ha figure, the lpa calculates that the net gain would be some 73% in habitat units.
59. Notwithstanding the difference in the figures, the lpa acknowledges that Metric 3 provides a more accurate calculation of BNG. The increase from the Metric 2 figure would result in a significant benefit. The context for the lpa when ascribing weight to this benefit is, that ecological mitigation, management, and enhancement reflects common practice and accords with local and national planning policy, it is a by-product of the development and there would be an overall loss of arable agricultural land for crop production. On this basis, the weight the lpa attaches to BNG is moderate/significant. The appellant submits that significant weight should be attached to the acknowledged BNG. Whilst BNG will be a requirement of the Environment Act 2021, the minimum requirement is currently set at 10%. Thus, even acknowledging that the assessment starts from a low base in terms of the ecological value of the site, a gain of some 73%, is substantial and a benefit that attracts significant weight.

*Access and Highway Safety*

60. Most of the traffic generated would occur during the construction period with deliveries being made by heavy goods vehicles (HGV). Over the 26-week construction period, delivery traffic generation would equate to some 6 vehicles or 12 movements per day. Up to 80 construction workers would be onsite at any one time and depending on their origin most would be transported to the site by minibus. Post construction it is anticipated that the site would be monitored remotely with limited occasional visits of between 10 and 20 vehicles per annum. I have no reason to dispute these figures or consider them to be unrealistic.

---

<sup>5</sup> Percentages have rounded up to the nearest whole number.

<sup>6</sup> Carried out for the lpa by an Ecological Consultant from Via East Midlands.

61. Vehicular access would be from BFR, some 45 to 50m from the junction with the A612 Highcross Hill. BFR is a no through road and there would be no need for site traffic to enter the built-up area of the village. The access has been designed to accommodate HGV traffic and visibility to the east and west is acceptable. The immediate road network has a good safety record with no personal injury accidents reported in the vicinity of the site access or the junction with Highcross Hill in recent years. The junction of BFR and Highcross Hill, has adequate visibility to the north and south and it could accommodate the nature and level of traffic generated by the proposal without a material impact on highway safety. Nottingham County Council (NCC) as Highway Authority and the lpa have, subject to the imposition of conditions, no objection to the proposal on highway safety or traffic generation grounds. Drawing the above together, the proposal would not have an unacceptable effect on the safety and free flow of traffic.

#### *Flooding & Drainage*

62. In line with the Framework, CS Policy 9, AD&M Policy DM5 and SNP Policy E2 seeks to steer development away from areas of high flood risk and ensure that proposals manage surface water run-off with Sustainable Drainage Systems (SuDS). Whilst the site is located within Flood Zone 1, a low risk flood area, areas downstream of the site have experienced flooding. Following an independent Flood Risk Assessment (FRA), the Environment Agency and NCC, the Lead Local Flood Authority, have no objection to the proposal subject to the imposition of an appropriate condition.
63. The FRA is a robust assessment, which forms the basis for a SuDs compliant system, the details of which would be covered by a condition. Whilst the extent of potential betterment is not quantified, the lpa acknowledges there is potential for betterment and accepts that the development would not adversely impact on flooding or drainage. In this regard, the proposal would accord with the Framework and development plan policies.

#### *Agricultural Land*

64. Framework paragraph 174 indicates that decisions should recognise the economic and other benefits of best and most versatile (B&MV) agricultural land. PPG<sup>7</sup> defines B&MV agricultural land as Grades 1, 2 and 3a indicating that agricultural land quality is a factor when assessing proposals. These considerations include, whether the use of any agricultural land is necessary and whether a proposal allows for continued agricultural use. AD&M Policy DM8 indicates that proposals resulting in the loss of B&MV agricultural land, will be required to apply a sequential approach to site selection and demonstrate environmental or community benefits that outweigh the loss.
65. The lpa accepts that site is Grade 3b and is not B&MV agricultural land or that it was necessary to consult NE. Moreover, given the assessment was carried out by a suitably qualified professional and the results conform with the NE MAGIC database, the lpa did not consider it necessary to undertake its own analysis given the grading was. That approach is not unreasonable.
66. The SoCG notes that, the land would continue in agricultural use through sheep grazing, that as a time-limited scheme, other than for the electricity

---

<sup>7</sup> Natural Environment Paragraph 001 Ref ID 8-001-20190721 & Renewable & Low carbon Energy Paragraph 013 Ref ID 5-013-20150327.



substation, it would not result in the permanent loss of agricultural land and there are no suitable alternative brownfield sites to accommodate the scale of the development. In terms of site selection, one of the elements is the availability of a grid connection. Here, the site is crossed by overhead power lines providing access the national grid easily and economically.

67. NE's Agricultural Land Classification Map shows the site to be located within an area identified as Grade 3 land i.e., good to moderate quality agricultural land. Whether the site is Grade 3a - good quality or Grade 3b - moderate quality can only be determined by site and soil examination. The appellant, using an appropriately qualified agricultural assessor, undertook a comprehensive site and soil assessment that included 98 sample locations involving the excavation of 3 trial pits and augur samples based on one sample per hectare. Assessment of the samples combined with other relevant factors contained in the guidance concludes that the site falls within Grade 3b.
68. Objectors submit that the report is deficient in that it does not account of the presence of Grade 2 - very good quality land in the locality, include a consideration of economics or any account of the application of husbandry. This last point is regarded as important, given that maize, a cereal crop dependent on good soil condition, has been grown locally.
69. The Grade 2 land shown on the NE Classification Map is some distance to the north of the site and is not indicative of the potential quality of the appeal site. Experience indicates that soil quality can vary dramatically over a small area and obtaining a clear differentiation between grades can only be achieved through site and soil examination.
70. The NE classification notes that Grade 3b land can produce moderate yields of cereal crops. Thus, the reference to maize being grown is not, on its own, an indication that the land falls to be considered as B&MV. There is no indication as to the extent of the yield achieved. Moreover, as I understand it, yield data and financial assessment of the farm business are explicitly excluded from the classification methodology. This is because, unlike site and soil examination, it is not possible to make allowances for variables such as management skill, levels of input and short term weather factors.
71. It is suggested that the net value of the solar farm should be measured in terms of national energy production and security against the net value of arable crop production and UK food security. Given that agricultural land is a finite commodity and food security is equally important as energy security, superficially this appears to be reasonable. However, in my experience, this is not something that an individual appellant or lpa could realistically or reasonably undertake for any one proposal. Even if it is possible to undertake such an assessment, it strikes me it is one that would have to be carried out at a national level and involve high level political decisions/choices that are outside the remit of an individual decision maker in a planning appeal.
72. Drawing all this together, the appellant has undertaken a robust and appropriate agricultural land classification assessment that shows the land falls outside the definition of B&MV agricultural land. Only a very small proportion of the site would be permanently lost from agricultural use and the remainder would continue to be used for agriculture in the form of sheep grazing. There is no evidence that the minor, permanent loss, and the change from arable to pasture farming would unacceptably affect the viability



of the individual holding. Accordingly, the proposal would not conflict with the objectives of the Framework or AD&M Policy DM8.

### Issue 3 – Planning Balance

73. A material consideration is the time limited nature of the proposal. I acknowledge that 40 years is a long time and materially longer than many references to the life of a solar farm in national and industry guidance where 25 years appears. However, I am aware that technical advances have improved the longevity of solar panels. Accordingly, given the contribution the Government expects solar generated electricity energy to make to the national energy supply, it would be unreasonable to limit the life of a solar farm to an arbitrary figure based on older and less efficient equipment. That said, I recognise that the proposed 40-year life of the solar farm is significantly more than a generation and I accept that a child born today in the village would reach middle age by the time the solar farm would be decommissioned. Thus, in coming to my conclusion I have these factors/concerns uppermost in my mind.
74. Both national and development plan policy recognise that large scale solar farms may result in some landscape and visual impact harm. However, both adopt a positive approach indicating that development can be approved where the harm is outweighed by the benefits. This is a planning judgement. Here, through a combination of topography, existing screening and landscape mitigation, the adverse effect on landscape character and visual impact would be limited and highly localised. Moreover, as the existing and proposed planting matures, adverse effects, would be progressively mitigated and once decommissioned there would be no residual adverse landscape effects. Rather the scheme would leave an enhanced landscape consistent with the objectives of development plan policy and the SPD. In these circumstances, whilst there would be some localised harm to landscape character and some visual harm in conflict with the relevant development plan policies, the imperative to tackle climate change, as recognised in legislation and energy policy, and the very significant benefits of the scheme clearly and decisively outweigh the limited harm.
75. Sections 66 and 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged. Section 66 requires the decision maker to pay special regard to the desirability of preserving LBs, their settings, and any architectural features they may possess. Section 72 requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of a CA.
76. Whether a proposal results in substantial or less than substantial harm to the significance of a HA, Framework Paragraph 199 requires the decision maker to attach great weight to its conservation. Framework paragraph 200 says that where a proposal would lead to less than substantial harm to the significance of a HA, this harm is to be weighed against the public benefits of the proposal.
77. The proposal would result in less than substantial harm at the lower/lowest end of that spectrum to the heritage significance of several HAs albeit that harm would be temporary until the solar farm was decommissioned. In relation to the CA as a whole, the proposal would, on balance, preserve its character and appearance. In this context, recognising the great weight that is required to be attached to the conservation of a HA, I consider the

imperative to tackle climate change, as recognised in legislation and energy policy, and the very significant benefits of the scheme clearly and decisively outweigh the temporary and less than substantial harm to the HAs involved.

78. Drawing the above together, I conclude the proposal would make a material and early contribution to the objective of achieving the decarbonisation of energy production and that to allow the proposed solar farm would not conflict with the objectives of relevant development and national planning policy when read as a whole. Accordingly, and having taken all other matters into account, the appeal is allowed.

### **Conditions**

*(The numbers in brackets refer to the conditions listed in Annex A)*

79. A list of conditions, including 5 pre-commencement conditions, were agreed by the parties. The solar farm is required for a period of 40 years with the DNO Substation retained permanently. Conditions are necessary to confirm the extent of the temporary period, to provide for removal of the solar farm when the permission expires or if it ceases to operate (2, 3 4 & 5). In the interests of certainty, a condition listing the approved plans is imposed (6).
80. In the interests of the appearance of the area, conditions and pre-commencement conditions relating to, the finish of the solar panels, ancillary structures, details of tree and hedgerow planting, the protection of retained trees/hedgerows including areas identified on the margins of the site, implementation of landscape mitigation and external lighting are reasonable and necessary (7, 8, 9, 10, 11 & 16 & 18). In the interests of protecting living conditions, conditions specifying construction hours and limits on noise generation are reasonable and necessary (12 & 24).
81. In the interests of enhancing and protecting biodiversity, conditions and pre-commencement conditions relating to a Biodiversity Management Plan, the submission of details relating to the protection of Great Crested Newts, the timing of vegetation clearance and external lighting are all reasonable and necessary (13, 14, 15, 17, & 18). In the interests of highway safety, conditions relating to the construction of the access and compliance with a Construction Management Plan are reasonable and necessary (19 & 20). The site potentially contains archaeological remains and conditions to provide for appropriate site works and recording are reasonable and necessary (21 & 22). In the interests of water management and the flood mitigation, a condition relating to surface water management is reasonable and necessary (25).

*George Baird*

Inspector

## **ANNEX A – SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall not begin later than 3 years from the date of this permission.
2. The planning permission hereby granted shall be for a temporary period only, to expire 40 years and 6 months after the first export date of the development, except for the DNO substation, which will remain on the site in perpetuity. Written confirmation of the first export date shall be provided to the local planning authority within one month after the event.
3. If the solar farm hereby permitted ceases to operate for a continuous period of 12 months, then a scheme for the decommissioning and removal of the solar farm and ancillary equipment, except for the DNO Substation, shall be submitted within 6 months of the end of the cessation period to the local planning authority for its written approval. The scheme shall make provision for the removal of the solar panels and associated above ground works approved under this permission. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, and details of site restoration measures.
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, except for the DNO substation, 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 and agreed in writing by the local planning authority.
5. The solar farm and its ancillary equipment, except for the DNO substation, shall be dismantled and removed from the site and the land restored in accordance with the approved Scheme and, in any event shall be removed within a period of 40 years and 6 months following the first export date.
6. The development hereby permitted shall not be carried out except in complete accordance with the following approved plans reference:

P18-2917\_02 – Rev E - Site Location Plan (deposited 8th January 2021).  
HLG-01-2001 Rev 01 - Indicative WPD and Customer Compound Layout.  
HLG-01-2002 Rev 01 - Indicative WPD and Customer Compound Elevations.  
BHA\_665\_03 - Tree Protection Plan – Highways Access.  
P18-2917 Figure 1 Rev A - Site Access Visibility Splays.  
JBM-HALLOU-SD-02 - Typical Fence, Track & CCTV Details.  
JBM-HALLOU-SD-03 - Typical Trench Section Details.  
JBM-HALLOU-SD-04 - Typical Inverter Substation Details.  
JBM-HALLOU-SD-05 - Typical Spares Container Details.  
JBM-HALLOU-SD-06 Rev A - Typical Battery Storage Systems Details.

JBM-HALLOU-SD-07 Rev A - Typical Customer Switchgear Details.  
P18-2917\_12 Rev M - Site Layout and Planting Proposal.  
Typical PV Table Details 3P Rev A - Typical PV Table Details (x 3).  
Typical PV Table Details Rev A - Typical PV Table Details (x 6).  
P18-2917 Figure 2 Rev A - Swept Path Analysis: Proposed Site Access 15.4m  
Articulated Vehicle.

7. Notwithstanding the approved plans contained in Condition 6, 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 proposed development.
8. No works or development shall take place until the local planning authority has approved in writing the full details of the tree, shrub, and hedgerow planting (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards. The landscaping scheme should be based on the Species List for the Mid Nottinghamshire Farmlands Landscape Character Type included within the Newark and Sherwood Landscape Character Assessment.
9. The approved landscaping scheme shall be carried out within the first planting season following the date when electrical power is first exported ("first export date"). If within a period of 7 years from the date of planting any tree, shrub, hedgerow, or replacement is removed, uprooted, destroyed, or dies then another of the same species and size of the original shall be planted at the same place.
10. Notwithstanding the submitted details, no works or development shall take place until an Arboricultural Method Statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the local planning authority. This scheme shall include:
  - a. a plan showing details and positions of the ground protection areas.
  - b. details and position of protection barriers.
  - c. details and position of underground service/drainage runs/soakaways and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
  - d. details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g., in connection with foundations, bridging, water features, hard surfacing).
  - e. details of construction and working methods to be employed for the installation of access tracks within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - f. details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

All works/development shall be carried out in accordance with the approved arboricultural method statement and tree/hedgerow protection scheme.

11. The following activities must not be carried out under any circumstances:
  - a. no fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
  - b. no equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site.
  - c. no temporary access within designated root protection areas without the prior written approval of the local planning authority.
  - d. no mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
  - e. no soakaways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - f. no stripping of topsoil(s), excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - g. no topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - h. no alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the local planning authority.
12. Except for emergency works, construction works on the site shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1400 hours on Saturdays and at no time on Sundays or Bank Holidays.
13. The development hereby permitted shall be carried out in strict accordance with the pre, post and during construction mitigation, enhancement and management measures outlined within the Biodiversity Management Plan (V2 09/07/2020 by Avian Ecology). For the avoidance of doubt, this shall include compliance with the Ecological Mitigation Measures set out in Section 3, the Ecological Enhancement Measures in Section 4, and the Habitat Management Measures in Section 5 in addition to the Management Schedule set out in Section 7. Save for the installation of the bird boxes (which should be installed in the autumn, September to November) the Wildlife Enhancement Measures should be installed in accordance with the timescales embodied within the management schedule following the cessation of construction works. The Biodiversity Management Plan shall be implemented for the lifetime of the development.
14. The development hereby permitted shall be carried out in strict accordance with the Ecological Assessment Report V2 09/07/2020 (including Appendices 2, 3 and 4) by Avian Ecology. For the avoidance of doubt, this shall include the pre-construction survey work and/or mitigation measures as summarised in Table 5.1. The measures shall be undertaken in accordance with the timescales embodied within the report.

15. Prior to the commencement of development, a methods statement of Reasonable Avoidance Measures (RAMs) for Great Crested Newts (GCN) shall be submitted to and approved in writing by the local planning authority. All works shall thereafter be carried out in accordance with the approved details. If RAMs are not sufficient to safeguard GCN, proof of a Low Impact Class Licence or full European Protected Species Mitigation License from Natural England (whichever is applicable), supported by a detailed Method Statement shall be submitted to and approved in writing by the local planning authority.
16. Prior to the commencement of development, a Scheme for the retention, ongoing maintenance, and replacement of any trees and/or hedgerows which die within the areas indicated with green notation on "Areas of Existing Planting" which are within the land edged in blue and red (drawing number P18-2917\_30) shall be submitted to and approved in writing by the local planning authority. The approved Scheme shall be implemented in accordance with the approved details until the solar farm hereby approved is decommissioned.
17. No tree works or vegetation clearance shall take place during the bird nesting period (beginning of March to end of August inclusive) unless a precautionary pre-start nesting bird survey has been carried out by a qualified ecologist/ornithologist and the findings have been submitted to and approved in writing by the local planning authority.
18. No external lighting (other than low level lighting required on ancillary buildings during occasional maintenance and inspection visits) shall be erected/used on site unless precise details of any lighting are first submitted to and approved in writing by the local planning authority. The lighting shall be installed and thereafter maintained in accordance with the approved details of the lifetime of the development.
19. No part of the development hereby permitted shall otherwise commence until the access to the site has been completed (as shown on approved plan ref. P18-2917 Figure 1A) and surfaced in a bound material for a minimum distance of 10m behind the edge/extent of the public highway and the crossing of the highway and footway verge is available for use, in accordance with details to be first submitted to and approved in writing by the local planning authority.
20. Development shall take place in strict accordance with all the mitigation measures set out in the Construction Traffic Management Plan (July 2020) by Pegasus Group. For the avoidance of doubt, this shall include i. that deliveries shall not take place outside 1000 hours to 1600 hours or 1800 to 2000 hours and at no time on Sundays or Bank Holidays; ii. compliance with the mitigation measures details at Section 7 in the Construction Traffic Management Plan (July 2020).



21. No development shall take place until an archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. This scheme shall include the following:

1. an assessment of significance and proposed mitigation strategy (i.e., preservation by record, preservation in situ or a mix of these elements).
2. a methodology and provisional timetable of site investigation and recording.
3. provision for site analysis.
4. provision for publication and dissemination of analysis and records.
5. provision for archive deposition and
6. nomination of a competent person/organisation to undertake the work.

The scheme of archaeological investigation must only be undertaken in accordance with the approved details.

22. The archaeological site work must be undertaken only in full accordance with the approved Written Scheme of Investigation. The developer/site operator shall notify the local planning authority of the intention to commence at least 2 working weeks before the start of archaeological work to facilitate adequate monitoring arrangements. No variation to the methods and procedures set out in the approved Written Scheme of Investigation shall take place without the prior written consent of the local planning authority.

23. The post-investigation assessment and final report must be completed in accordance with the programme set out in the approved Written Scheme of Investigation and shall include provision for analysis, publication, dissemination of results, submission of the final report to the local planning authority and Nottinghamshire HER and deposition of the archive being secured.

24. The rating level of sound emitted from any fixed plant and/or machinery associated with the development shall not exceed a rating level of 35 dB LAeq,15 minute at the nearest sound-sensitive premises. All measurements shall be made in accordance with the methodology of BS4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest sound-sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

25. No part of the development hereby permitted shall commence until a detailed surface water drainage scheme based on the principles set out in the approved Calibro Flood Risk Assessment (FRA) ref. BR-629-007 dated 2 July 2020, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The submitted scheme shall:

1. provide detailed design (plans, network details and calculations) in support of the surface water drainage system required to manage runoff from the proposed building associated with the substation in accordance with the approach discussed in Section 7 and presented in drawing BR-629-0007-100\_02 Surface Water Drainage Proposals (Appendix D of the FRA).
2. provide detailed design (plans and calculations) in support of the proposed bunded storage areas and associated cut-off swales proposed to reduce flow in the Potwell Dyke as presented in Section 6.3 of the FRA.
3. provide a maintenance schedule for the attenuation basin and bunded storage areas to ensure their performance over the lifetime of the development.
4. provide a maintenance schedule to ensure run-off from solar panels is managed to reduce any detrimental impacts on the natural formation of the agricultural land beneath and around the panels.

## **ANNEX B – APPEARANCES & DOCUMENTS**

### **FOR THE APPELLANT**

Thea-Osmund Smith of Counsel, instructed by Paul Burrell, Executive Director, Pegasus Group.

She called:

Paul Burrell BSc (Soc Sci) Hons, Dip UP, MRTPI.  
Executive Director, Pegasus Group.

Andrew Cook BA (Hons) MLD, CMLI, MIEMA, CENV.  
Executive Director, Pegasus Group.

Laura Garcia BA (Hons) MCIfA.  
Associate Heritage Consultant, Pegasus Group.

### **FOR THE LOCAL PLANNING AUTHORITY**

Ruchi Parekh of Counsel, instructed by Newark and Sherwood District Council.

She called:

Adam Partington, BA (Hons), MSc.  
Director, Locus Consulting Limited.

Cathy Gillespie, BSc, Dip LM, CMLI, Assoc RTPI.  
Head of Environmental Management and Design, VIA East Midlands Limited.

Honor Whitfield, BSc (Hons) MSc, MRTPI.  
Planning Officer, Newark and Sherwood District Council.

### **INTERESTED PERSONS**

Professor M McCaskill	-	Local Resident.
Professor S Bamford	-	Local Resident.
Ms H Hanmer	-	Local Resident.
Ms B Cast	-	Honorary Secretary, Thoroton Society of Nottinghamshire.
Mr B Haigh	-	Chairman, Southwell Civic Society.

### **DOCUMENTS SUBMITTED TO THE INQUIRY**

Doc 1 - Statement by Professor McCaskill.  
Doc 2 - Statement by Professor Bamford & Email dated 13/12/2021.  
Doc 3 - Statement by Ms B Cast, Thoroton Society of Nottinghamshire.  
Doc 4 - Statement by Mr B Haigh, Southwell Civic Society.  
Doc 5 - Agreed Landscape Summary Comparison Schedule.  
Doc 6 - Agreed Landscape & Visual Impacts Summary Comparison Schedule.  
Doc 7 - Biodiversity Net Gain Note & Metric 3 Schedule dated 8 December 2021.  
Doc 8 - Agreed list of suggested conditions.  
Doc 9 - Email dated 13 December 2021, Appellant's agreement to pre-commencement conditions.

Doc 10 - Revised Biodiversity Net Gain calculation using Biodiversity Metric 3.

**DOCUMENTS SUBMITTED FOLLOWING THE ADJOURNMENT OF THE INQUIRY**

Doc 11 - Submission by Professors McCaskill & Usherwood on the Environmental Statement.

Doc 12 - Submission by Mr Struggles on behalf of the Southwell Civic Society on the Environmental Statement.

Doc 13 - Appellant's response to submissions on the Environmental Statement.

Doc 14 - Lpa comment on the revised Biodiversity Net Gain Metric 3 Statement.

Doc 15 - Appellant's response to lpa's Biodiversity Net Gain Metric 3 Statement.



---

## Appeal Decision

Hearing Held on 23 November 2022

Site visits made on 22, 23 and 24 November 2022

**by Philip Major BA(Hons) DipTP MRTPI**

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

**Decision date: 1 December 2022**

---

**Appeal Ref: APP/J3720/W/22/3292579**

**Land near to Bishop's Itchington, Stratford on Avon, Warwickshire**

- 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 against the decision of Stratford on Avon District Council.
  - The application Ref: 20/02839/FUL, dated 7 October 2020, was refused by notice dated 13 August 2021.
  - The development proposed is the construction of a solar farm together with all associated works, equipment and necessary infrastructure.
- 

### Preliminary Matters

1. The application was accompanied by a plethora of written material, including an Environmental Statement. 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. The single reason for refusal of the proposal relates to the impact of the proposed development on the character and appearance of the surrounding landscape. 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, but I nevertheless deal with other representation made later in this decision.
2. Since the Council made its decision the Appellant has slightly amended the proposal by reducing the number of solar panels and the area which they would cover. The amendment lessens any potential impact, but not to the extent that the Council's and third party objections are removed or materially affected. In these circumstances it would not prejudice any party if I were to accept the amended drawings and I am content to do so. The layout and landscaping drawings and plans I am taking into account, therefore, are those numbered 7782/ASP3/LSP Revision C, and 7782/ASP4/LP produced by Aspect Landscape Planning in January and February 2022. I have also noted the contents of the updated biodiversity net gain calculation and the glint and glare study update.
3. The appeal site is of significant size at around 82.5Ha, but not all of that area would be used for solar panels or associated development and infrastructure. Something over 25Ha would be free of solar panels. It is not disputed that the majority of the land is grade 3b quality, with the remainder being grade 4. Therefore, none of the appeal site is recognised as best and most versatile agricultural land as set out in the National Planning Policy Framework (NPPF). The application is for a time limited development for a period of 40 years.

4. Although the lead local flood authority (LLFA) has made comments on a revised submitted scheme (which is not before me) there was no objection to the appeal proposal from the LLFA subject to the imposition of an appropriate condition. That remains the position.
5. Matters of agreement are set out in the Statement of Common Ground which was signed on behalf of the Appellant and the Council on 21 November 2022. In particular I note here that there is agreement on the quantum of biodiversity net gain (BNG) at an increase of 96.5%; that there is no objection from the Highway Authority; that residential amenity would not be unacceptably harmed; and that any less than substantial harm to heritage assets should not form a reason for refusing the proposal.

### **Decision**

6. The appeal is allowed and planning permission is granted for the construction of a solar farm together with all associated works, equipment and necessary infrastructure on land near to Bishop's Itchington, Stratford on Avon in accordance with the terms of the application, Ref: 20/02839/FUL, dated 7 October 2020, subject to the conditions set out in the attached schedule.

### **Main Issue**

7. As intimated above, the main issue in the appeal is the effect of the proposed development on the character and appearance of the surrounding landscape.

### **Reasons**

#### ***Character and Appearance***

8. The proposed development would be located in the Feldon Vale Farmlands landscape character type (LCT) of the Stratford on Avon Renewable Energy Landscape Sensitivity Study (LSS) of 2014. The area is also dealt with as part of the Feldon area in the Warwickshire Landscape Guidelines of 1993, and the Vale Farmlands of the District Design Guide of 2001. These documents, taken in the round, identify characteristics typical of the study areas. The appeal site has many of these characteristics, such as being mainly flat, with occasional small undulations, medium to large scale field pattern, areas of permanent pasture, numerous hedgerows and some hedgerow trees. The appeal site itself is also largely self-contained by the extensive hedgerows and some tree belts associated with small streams.
9. The overriding character of the locality is one of a mixed pastoral and arable landscape which is perceived as being deeply rural because of the narrow connecting lanes which criss-cross the area, and the general lack of built development outside the scattered settlements and farmsteads. Although the area is rural it is also affected by some audible intrusion from the nearby M40, and this in turn reduces the tranquillity which is experienced.
10. The LSS is, in my judgement, the most relevant landscape study because of its fine grained approach and its relatively recent publication (at least in comparison with other studies). The study identifies the area as having a medium susceptibility to solar energy development, and a medium to high value. It is clear from the study that the main elements contributing to higher value are the proximity to the Cotswolds Area of Outstanding Natural Beauty (AONB) and heritage assets scattered throughout the area. The sensitivity to



solar development is affected by these features and by proximity to higher ground. It is notable that the LSS concludes (on sensitivity) that where there is enclosure of hedgerows some distance from hill fringes, and where there is movement and disturbance, there may be potential for solar energy development.

11. The LSS goes on to find that in relation to the size of solar energy developments the most suitable location would be limited to broader, flatter or very gently sloping areas where there is potential for hedge or tree screening away from the views from surrounding higher ground. Sensitivity is assessed as medium to high for developments of 25Ha or more. There is an expressed potential for field solar energy developments. Whilst the LSS is of assistance it cannot, of course deal with individual proposals. I do, though, find its assessment criteria to be helpful.
12. In particular I agree that the susceptibility and sensitivity assessment sets out sensible and logical matters which need to be taken into account. In relation to the proposed development I note here that the appeal site is not in close proximity to the higher ground surrounding the site, especially in the case of the notable and prominent outcrop at Burton Dassett Country Park to the south. The site is closer to higher land at, for example, Christmas Hill to the north-west, but this is at a significantly lower height. In addition there are few heritage assets nearby, the only proximate listed building being at Old Town Farm (which I address later). The Cotswolds AONB is some distance away. As a result it seems to me that the appeal site, albeit typical of a low lying rural area, has no special features which raises it above commonplace countryside. The sensitivity to development is therefore, in my judgement, assessed correctly as being in the medium bracket.
13. That said, it is inevitable that an array of solar panels covering almost 55Ha of the appeal site would have an impact on the existing character. Rather than being a typical if unremarkable tract of countryside the character would change to an area of countryside with a solar farm within it. But the magnitude of the change in character would be mitigated by the presence of hedgerows which currently exist, by their management, and by the increase in hedgerow and tree cover which is proposed and which can be ensured by the imposition of suitable conditions. Furthermore the proposed development would be developed in blocks which take account of the existing field pattern.
14. I have taken careful note of the review of the landscape and visual impact assessment prepared on behalf of the Council. This takes a somewhat unusual approach and uses what appears to be drone photography, which is of limited use since it does not illustrate what is experienced on the ground. Nonetheless those photographs show the localised existing character of the land, and some of the field compartments into which solar panels would be placed.
15. In the early part of the life of the development there would be some locations where the magnitude of change in landscape character would be high. This would notable be on the periphery of the site where there are locations of limited vegetation. Elsewhere the essential character would be changed, but at a more moderate level because of the retained and strengthened landscape features. I disagree with the Council's overall assessment that the magnitude of change would be such as to lead to a significant and adverse impact on landscape character. In my judgement the impact would, bearing in mind the

medium sensitivity to development of this type, be moderate and adverse overall at the time of development, but reducing over time to a minor adverse impact.

16. Turning to the visual impact, it is clear that the most noticeable parts of the development would be on the edges of the site. Any recreational walkers, or horse riders, who have an agreed high sensitivity to adverse impacts, would see the panels from locations adjacent to local roads and the public rights of way to the south and east. The visual impact here would be high and likely to be adverse. But I disagree with the Council's suggestion that the response of users of the lanes and footpaths would inevitably be "what a shame". There are many who would no doubt welcome the presence of measures designed to deliver 'green' energy. However, I do not seek to find that there would be visual benefits to the landscape or its enjoyment here as the panels and associated inverters, fencing and other infrastructure would not be typical of a rural landscape. They would introduce regular and regimented structures which would be assimilated to a degree by landscaping proposals, but the visual impact would not be wholly mitigated. In my judgement it would be of moderate adverse impact reducing over time to a moderate to minor impact.
17. Other people likely to see the proposal are those who would pass the site in vehicles, or on cycles. To some extent their sensitivity to development would be less (especially those in vehicles routinely travelling from place to place) and as such the visual impact of the development would be less likely to be perceived as being unfavourable. The impact for these people would be likely to be minor.
18. In longer distance views, such as that from Burton Dassett Country Park, it would be possible to catch a glimpse of solar panels in the distance. But these glimpses would be of an array of panels visually fragmented by vegetation. There would be an impression of a darker layer of material interspersed with trees and hedgerows but remaining within the established field pattern. I agree with the Appellant that it is likely that the array would be perceived as being akin to a body of water in the distance. The fact that the submitted study (which is not contested) finds that there would be no adverse impact from glint or glare adds weight to this finding. There would therefore be a minor visual impact from these longer distance viewpoints.
19. Reference has been made to the fact that there is a solar farm near Bishop's Itchington a little distance to the north-west of the appeal site. However, there is no intervisibility between that site and this proposal and there would be no cumulative impact on either landscape character or visual amenity.
20. Taking this issue in the round it can be summarised as follows:
  - There would be a change to the character of the landscape in the immediate locality of the solar farm;
  - That change would be adverse and, given the moderate sensitivity of the site, the overall magnitude of impact would also be moderate, reducing over time to a minor impact as the mitigating landscaping took effect;
  - There would be a moderate visual impact overall, albeit with some locally major magnitudes of impact in the short term. In the longer term visual impact would be reduced to a minor level.

21. It is agreed that development plan<sup>1</sup> Policy CS.3 is one of the most important policies for determining this case. This deals specifically with renewable and low carbon energy generation. In respect of solar energy the policy is supportive of such development where the impacts are, or can be made, acceptable (which follows the advice of the NPPF). A number of issues are identified against which proposals will be assessed. Most of the issued are uncontested by the Council. The only matter at issue is the impact on landscape character and visual amenity.
22. It is my judgement that the proposed development has addressed the matter of landscape and visual impact in an appropriate manner, and that it has been shown that the impacts can be made acceptable. That is not to say there would be no impact, but any impact would be at a level which would not be unduly harmful. The Council's LSS clearly indicates that solar farms of more than 25Ha could be possible in the Feldon Vale Farmlands and it is my view that this particular proposal would be at the lower end of any finding of harm to landscape or visual amenity (no more than moderate to minor over time). I therefore find that the proposal accords with Policy CS.3.
23. Policy CS.2, also agreed as one of the most important policies, seeks to address the challenge of climate change. Amongst its objectives is the promotion of low carbon renewable energy. Albeit that the policy is primarily aimed at general development, this proposal follows the themes of providing renewable energy whilst addressing flood risk and biodiversity. Taken overall the proposal accords with Policy CS.2.
24. Because I have found that the landscape and visual impacts would be acceptably mitigated and minimised it also follows that the proposal meets the objectives of Core Strategy CS.5 which seeks to achieve those aims. In some ways the development would assist in enhancing landscape features such as hedgerows and tree planting, thus meeting a further objective of Policy CS.5. This policy is also agreed as being most important in determining the appeal.

### **Other Matters**

25. Although the dispute between the Appellant and Council revolves around one main issue there are some other matters which have been raised in writing and at the hearing which I deal with here.
26. First, although the Council takes no issue with the proposed access to the site, many residents are concerned that construction and, in due course, decommissioning of the solar farm would be disruptive and damaging to local highway conditions. I acknowledge that concern, and note that construction would take place during a relatively short time period. No doubt any decommissioning would be of similar length. Highway matters can be controlled by condition, and I have no reason to disagree with the position of the Highway Authority that this scheme can be accommodated safely.
27. It is correctly pointed out that despite being largely graded as 3b land, much of the appeal site is capable of growing crops (as I saw at my site visits). But the NPPF is clear that best and most versatile land is that to which particular consideration should be given in weighing economic and other benefits. That position has not changed in national policy. Therefore, the fact that the land

---

<sup>1</sup> Stratford on Avon District Core Strategy 2011 to 2031 (adopted July 2016)

can support cropping is not a matter to which I can attach weight against the proposal in this instance.

28. There are particular comments and concerns raised in relation to the potential for damaging archaeological remains. This is not a matter of concern to the Council and can be controlled by condition. I am therefore satisfied that the archaeological resource in the locality can be satisfactorily protected.
29. Similarly the impact on the closest listed building at Old Town Farm is of concern to some. This building is hardly discernible from the edge of the appeal site, and is shielded by vegetation. I note the comments made in relation to the setting of the listed building, but in reality there is no impression of the setting extending beyond the immediate locality of the building itself. In my judgement there would not be any impact on the setting of the building, or its significance, as a result of this development. Other heritage assets are further afield, and although there would be some distant views of the site from, for example, the Beacon Tower at Burton Dassett Country Park, these assets would retain their essential relationship with their surroundings such that there would be no material impact on their heritage significance.
30. I have also been made aware of criticisms of the consultation exercise carried out by the Appellant with the local community. However it is clear that the details of the proposed development have been widely shared and I have no evidence to suggest that local people have not had an opportunity to express their views on this proposal.

### **The Planning Balance**

31. The Council declared a climate emergency in July 2019, following which it has resolved to support actions which, amongst other things, encourages the use of renewable energy such that by 2030 the local planning authority will be at the forefront of climate change adaptation.
32. These actions dovetail with central government intention in relation to the reduction of greenhouse gas emissions. Over a significant period of time there have been national objectives and policies which seek to encourage renewable energy developments where they are appropriate. I do not need to recite them all in detail here but note that the NPPF follows this route, as does the now somewhat aged National Policy Statement for Energy (EN-1) and its draft replacement. Of note are the recent Energy White Paper – Powering our Net Zero Future of December 2020 and the Net Zero Strategy: Build Back Greener of 2021. One of the key policies in the latter is to enable the UK to be powered entirely by clean electricity by 2035. Included in this key policy is the provision of more solar renewable energy. Although some of these policies and objectives are aimed at nationally significant infrastructure projects above 50MW in size, the direction of travel applies equally to schemes such as that in this appeal.
33. The need for energy security has been highlighted by recent international developments, and this scheme, which would provide power to about 16,500 homes, would assist in achieving that aim. I agree with the Appellant that the provision of clean renewable energy which contributes to security of supply attracts substantial positive weight.

34. There would be an agreed, and high, level of biodiversity net gain resulting from this scheme, and some enhancement to the land around the solar panels by the introduction of flower rich meadows. This attracts significant weight in favour of the proposal.
35. The provision of jobs and sourcing of materials associated with the construction of the solar farm and the operational phase of development would bring economic benefits of a moderate magnitude, and this attracts some limited weight.
36. Set against these positive benefits is the moderate initial harm to landscape character and appearance, reducing over time to a limited impact. It would be time limited, although I acknowledge that 40 years is a long period of time. Overall, in my judgement the positive weight which attaches to the proposed scheme clearly outweighs the harm identified. Furthermore, the proposal accords with the most important policies of the development plan when read as a whole, and also accords with the objectives of national policy and advice.
37. None of the other matters raised in writing or at the hearing affects my judgement or alters the weight which I attach to the positive and negative factors in this appeal.

### **Conditions**

38. An agreed list of conditions was supplied, in the event that planning permission was granted. Conditions controlling the longevity of the permission, the removal of the development at the end of the 40 year period, and the approved plans are necessary in the interests of accurately defining the permission.
39. It is also necessary to impose conditions to ensure that development is carried out with minimal disruption during construction and decommissioning. In addition conditions are necessary to ensure that access to the development site is suitable and safe, and that drainage matters are properly dealt with.
40. In order to best protect the appearance of the area conditions requiring landscaping, tree protection, the finish of materials associated with the development and lighting are reasonable and necessary. Biodiversity gain and protection of particular species can be ensured by imposing appropriate and necessary conditions. In order to ensure that there would be no unacceptable impact on the nearest dwellings a condition controlling proposed CCTV is necessary. An archaeological investigation condition is necessary to ensure the protection of any such remains.

### **Overall conclusion**

41. For the reasons given above, and subject to the imposition of necessary conditions, I conclude that the appeal should be allowed.

*Philip Major*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The planning permission hereby granted shall be for a temporary period to expire 40 years and 6 months after the first export date of the development. Written confirmation of the first export date shall be provided to the local planning authority within one month after the event.
- 3) The development hereby permitted relates to the following drawing numbers:
  - Drawing LCS015-SP-01 Rev 03 'Site Location Plan'
  - Drawing LCS015-SD-02 Rev 02 'Indicative Customer Substation Container Standard Detail'
  - Drawing LCS-SD-01 Rev 02 DNO Substation Elevations and Dimensions Plan
  - Drawing LCS015-SD-03 Rev 02 'Indicative CCTV Post - Standard Drawings'
  - Drawing LCS015-SD-04 Rev 02 'Indicative DNO Track Cross Section Standard Detail'
  - Drawing LCS015-SD-05 Rev 02 'Cable Trench Cross Section'
  - Drawing LCS015-SD-06 Rev 02 'Indicative Access Track Cross Section Standard Detail'
  - Drawing LCS015-SD-07 Rev 02 'Indicative Deer Fence - Standard Detail'
  - Drawing LCS015-PAP-08 Rev 02 'Indicative Inverter/Transformer Elevations and Dimensions Plan'
  - Drawing LCS015-PAP-09 Rev 02 'Inverter/Transformer Roof Plan'
  - Drawing L481-11 Typical Porous Sub-base Detail
  - Drawing LCS015-PL-03\_rev02 Substation Detail Plan
  - Drawing 7782/ASP4/LP Site Layout and Landscaping Plan
  - Drawing 7782/ASP3/LSP Rev C - Landscape Strategy Plan
- 4) No development shall take place, including any demolition works, until details of a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved details shall be adhered to throughout the construction period. The Construction Management Plan shall be in general accordance with approved Construction Traffic Management Plan rev A, and shall provide for:
  - a. the parking of vehicles of site operatives and visitors;
  - b. loading and unloading of plant and materials, including the times of such loading and unloading;
  - c. storage of plant and materials used in constructing the development or stockpiling during development;
  - d. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;



- e. wheel washing facilities including the location of wheel washing facilities;
  - f. measures to control the emission of dust and dirt during construction;
  - g. a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - h. the hours of demolition and/or construction. No works (including the deliveries) shall take place outside 08.00 hours to 18.00 hours Mondays to Fridays; 08.00 hours to 13.00 hours on Saturdays or at any time on Sundays or Public Holidays);
  - i. details of any piling together with details of how any associated vibration will be monitored and controlled;
  - j. the location and noise levels of any site electricity generators or industrial equipment and hours of use of such equipment;
  - k. means of access and routing plan for construction traffic;
  - l. management of surface water run-off;
  - m. contact telephone number(s) and email address(es) of the site manager(s) which shall be displayed on the site;
  - n. details of external lighting required during construction;
  - o. measures to prevent degradation of the public highway by construction vehicles.
- 5) Notwithstanding the details shown on the submitted soft landscaping plans, prior to the commencement of development hereby permitted a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include:
- a) planting plans;
  - b) written specifications including cultivation and other operations associated with tree, plant and grass establishment;
  - c) a schedule of plants noting species, plant sizes and proposed numbers/densities;
  - d) existing landscape features such as trees, hedges and ponds to be retained accurately plotted (where appropriate);
  - e) existing landscape features such as trees, hedges and ponds to be removed accurately plotted (where appropriate);
  - f) existing and proposed finished levels (to include details of grading and contouring of earthworks and details showing the relationship of proposed mounding to existing vegetation and surrounding landform where appropriate);
  - g) a hedgerow management plan.
- The approved scheme shall be carried out in accordance with the approved details within the first planting season following the first implementation of the development.
- 6) Any planting approved as part of the soft landscaping details within condition 5, that is removed, uprooted, severely damaged, destroyed or dies during the operational life of the development, shall be replaced with

the same species and size of the original planting, unless the local planning authority gives its written approval to any variation. This shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.

- 7) No demolition, site clearance or building operations of any type shall commence, or equipment, machinery or materials be brought onto site until a scheme for the protection of all existing trees and hedges has been submitted to and approved in writing by the local planning authority. The tree protection measures shall include:
  - a) The submission of a Tree Protection Plan and appropriate working methods - the Arboricultural Method Statement in accordance with BS5837:2012 Trees, in relation to design, demolition and construction - Recommendations.
  - b) The scheme must include details of the erection of stout protective fencing in accordance with British Standard BS5837:2012, Clause 6.2.
  - c) Fencing shall be shown on the Tree Protection Plan and installed to the extent of the tree Root Protection Area (RPA) as defined in BS5837:2012 and as agreed in writing by the local planning authority.
  - d) No equipment, machinery or structure shall be attached to or supported by a retained tree.
  - e) No mixing of cement or use of other contaminating materials or substances shall take place within, or close to, a root protection area (RPA) such that seepage or displacement could cause them to enter a root protection area.
  - f) No fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree within or adjacent to the site.

The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed from the site.
- 8) No later than 6 months prior to the expiry of the planning permission or within 6 months of the cessation of electricity generation by the solar PV facility, whichever is the sooner, a detailed site restoration scheme for the removal of all solar panels and associated apparatus, structures and access tracks hereby permitted and for the restoration of the land to a condition suitable for exclusive agricultural use shall be submitted to and approved in writing by the local planning authority. The site restoration scheme shall include a timetable for the completion of restoration works and shall be implemented wholly in accordance with the agreed restoration details and timetable. The operator of the solar farm shall notify the Council in writing no later than five working days following the cessation of electricity generation.
- 9) No later than 6 months prior to the expiry of the planning permission or within 6 months of the cessation of electricity generation by the solar PV facility, whichever is the sooner, a detailed Decommissioning Statement (in accordance with the general principles of the Construction Method Statement for the site) including safeguards for protected species, a HGV routing plan, details of traffic management measures and measures to

prevent mud and debris on the public highway, and identifying suitable areas for the parking of contractors and visitors and the loading of materials during decommissioning shall be submitted to and approved in writing by the local planning authority. The Decommissioning Statement shall include a timetable for the completion of decommissioning works and shall be implemented wholly in accordance with the agreed decommissioning details and timetable. The operator of the solar farm shall notify the Council in writing no later than five working days following the cessation of electricity generation.

- 10) Notwithstanding the approved drawings contained in Condition 3, 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 including boundary treatments, 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 be retained as such for the lifetime of the proposed development.
- 11) No external lighting shall be erected or used on site unless precise details of any lighting are first submitted to and approved in writing by the local planning authority. The lighting shall be installed and thereafter retained in accordance with the approved details for the lifetime of the development.
- 12) Notwithstanding the information submitted with the application, full details of the direction and field of vision of the CCTV cameras shall be submitted to and approved in writing by the local planning authority. The cameras and poles shall thereafter be installed wholly in accordance with these agreed details in accordance with Policy CS.5 and CS.9 of the adopted Stratford-on-Avon Core Strategy (2011-2031).
- 13) No development shall take place until the applicant, or their agents or successors in title, has secured and had implemented a programme of archaeological work in accordance with a written scheme of investigation and timetable which has been submitted to and approved in writing by the local planning authority.
- 14) The development hereby approved shall be carried out in full accordance with the avoidance and protection measures for badgers contained in the Badger Report by Avian Ecology, version 3, report dated 25/09/2020.
- 15) The development hereby approved shall be carried out in full accordance with the ecological mitigation and enhancement measures contained in the Biodiversity Management Plan by Avian Ecology, version 2, report dated 18/09/2020, the Biodiversity Metric 3.0 Report by Avian Ecology dated 27/02/2022 and Drawing 7782/ASP3/LSP Rev C – Landscape Strategy Plan.
- 16) No construction shall be undertaken until the existing northern vehicular access to the site has been remodelled in accordance with drawing number P20-0362 FIGURE 3 of the Construction Traffic Management Plan (CTMP) by Pegasus Group, dated September 2020, and the existing southern vehicular access to the site has been remodelled in accordance with drawing number P20-0362 FIGURE 5 of the same CTMP.
- 17) No construction shall be undertaken until visibility splays have been provided to the northern vehicular access to the site in accordance with

drawing number P20-0362 FIGURE 3 and Designer's Response document P20-0362 dated May 2021. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

- 18) No construction shall be undertaken until visibility splays have been provided to the southern vehicular access to the site in accordance with drawing number P20-0362 FIGURE 5. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.
  - 19) Within six months of the commencement of the development hereby permitted, all parts within the public highway of the proposed northern bell mouth access shall be closed and a verge crossing access shall be reinstated in accordance with the standard specification of the highway authority.
  - 20) No occupation and subsequent use of the development shall take place until a detailed, site specific maintenance plan has been provided to and approved by the local planning authority in consultation with the lead local flood authority (LLFA). Such maintenance plan should:
    - a. Provide the name of the party responsible, including contact name, address, email address and phone number;
    - b. Include plans showing the locations of features requiring maintenance and how these should be accessed;
    - c. Provide details on how surface water at each relevant feature shall be maintained and managed for the lifetime of the development;
    - d. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.
-

## **APPEARANCES**

### FOR THE APPELLANT:

Ms Thea Osmund-Smith	Of Counsel
Mr Rhys Bradshaw BA(Hons) MSc MRTPI	Director, DLP Planning Ltd
Mr Ben Wright BA(Hons) DipLA CMLI	Director, Aspect Landscape Planning Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Brooke	Stratford on Avon District Council
Dr David Hickie BSc(Hons) MA PhD	Managing Director, David Hickie Associates

### INTERESTED PERSONS:

Ms Cynthia Bettany	Vice Chair, Burton Dassett Parish Council
--------------------	-------------------------------------------

## **DOCUMENTS HANDED IN AT THE HEARING**

- 1 Confidential Badger Report by Avian Ecology
- 2 Statement of Cynthia Bettany



## Appeal Decision

Site visit made on 1 February 2023

**by Paul Thompson DipTRP MAUD MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 29 September 2023**

---

### **Appeal A: APP/A2525/W/22/3295140**

#### **Gunthorpe Road Solar Farm, Land south of Gunthorpe Road, Walpole Marsh, Wisbech near PE14 7JH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Walpole Green Limited against South Holland District Council.
  - The application Ref H-18-0741-21, is dated 8 July 2021.
  - The development proposed is installation of a solar farm and battery storage facility with associated infrastructure.
- 

### **Appeal B: APP/V2635/W/22/3295141**

#### **Gunthorpe Road Solar Farm, Land south of Gunthorpe Road, Walpole Marsh, Wisbech near PE14 7JH**

- 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 Walpole Green Limited against the decision of the Borough Council of King's Lynn and West Norfolk.
  - The application Ref 21/01442/FM, dated 8 July 2021, was refused by notice dated 24 February 2022.
  - The development proposed is installation of a solar farm and battery storage facility with associated infrastructure.
- 

## **Decision**

### *Appeal A*

1. The appeal is allowed and planning permission is granted for installation of a solar farm and battery storage facility with associated infrastructure at Gunthorpe Road Solar Farm, Land south of Gunthorpe Road, Walpole Marsh, Wisbech near PE14 7JH in accordance with the terms of the application, Ref H-18-0741-21, dated 8 July 2021, subject to the attached schedule of conditions.

### *Appeal B*

2. The appeal is allowed and planning permission is granted for installation of a solar farm and battery storage facility with associated infrastructure at Gunthorpe Road Solar Farm, Land south of Gunthorpe Road, Walpole Marsh, Wisbech near PE14 7JH in accordance with the terms of the application, Ref 21/01442/FM, dated 8 July 2021, subject to the attached schedule of conditions.



## **Procedural Matters**

3. The appeal site straddles the administrative boundary between local authorities in two different counties, South Holland District Council (SHDC) in Lincolnshire; and the Borough Council of Kings Lynn and West Norfolk (KLWN), in Norfolk. While an application was submitted to each Council, on 21 January 2022 SHDC's Planning Chairman's Panel considered a report that raised no objections to the proposal. Its resolution was that decision-making authority should be delegated to KLWN, as the greater proportion of the site lies in its administrative area, and they issued a notice of non-determination on 25 February 2022. This stated no further action would be taken on that application. SHDC therefore failed to determine the application submitted to it and Appeal A is made on this basis. In its Statement of Case, SHDC suggest it does not wish to defend the appeal and has no objection to the proposal.
4. Although I have determined the appeals independently, given that authority was delegated to KLWN to determine the proposal, the main issues are the same and based on the reasons advanced by KLWN on its Decision Notice. I have had regard to all correspondence submitted by consultees and other interested parties to both Councils.

## **Main Issues**

5. The main issue is the effect of the proposed development on the use of best and most versatile agricultural land.

## **Reasons**

### *Planning Policy*

6. The Decision Notice only refers to Policy DM20 of KLWN's Site Allocations and Development Management Policies Plan<sup>1</sup> (SADMPP). This states proposals for renewable energy and associated infrastructure will be assessed to determine whether or not the benefits they bring in terms of energy generated are outweighed by the impacts, either individually or cumulatively, upon a number of factors. It also states the Council will seek to resist proposals where there is significant loss of agricultural land; or where land in the best and most versatile grades of agricultural land [BMV] are proposed to be used. However, it goes on to clarify that development may be permitted where adverse impacts can be satisfactorily mitigated against and secured by planning condition or legal agreement. This mirrors the approach in paragraph 158 of the National Planning Policy Framework (the Framework).
7. Policy 31 of SHDC's South East Lincolnshire Local Plan 2011-36<sup>2</sup> (SELLP) states renewable energy facilities and associated infrastructure will be permitted provided, individually or cumulatively, there would not be significant harm to, amongst other things, agricultural land take.
8. The National Planning Practice Guidance<sup>3</sup> (NPPG) explains that where a proposal involves greenfield land, consideration should be given to whether the use of any agricultural land has been shown to be necessary, whether poorer quality land has been used in preference to higher quality land and to whether

---

<sup>1</sup> Adopted September 2016.

<sup>2</sup> Adopted March 2019.

<sup>3</sup> Paragraph: 013, Reference ID: 5-013-20150327, Revision date: 27 March 2015.

the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. This approach is also reflected in the Framework, which states where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality<sup>4</sup>. Framework paragraph 174 requires the economic and other benefits of the best and most versatile land to be recognised in planning decisions. The NPPG also provides a link to the Written Ministerial Statement (WMS) of 25 March 2015 regarding unjustified use of agricultural land and expects any proposal for a solar farm involving BMV to be justified by the most compelling evidence.

9. The Framework clarifies in its glossary at Annex 2 that BMV equates to land falling within Grades 1, 2, and 3a of the Agricultural Land Classification. This land therefore requires greatest consideration when determining appeals.

#### *Effect of the Proposal*

10. The appellant's Site Selection fixed the study area for the proposal to 5km from a connection point of an existing electricity substation with additional capacity. The appeal site covers an area of 78ha, comprises two large agricultural fields south of Gunthorpe Road and west of the River Nene and land within nearby roads for cabling to export energy to the Grid at the Walpole Substation.
11. The concerns identified by KLWN are not with the site selection process but with what they describe as the loss of further Grade 1 land, having regard to other BMV land already occupied by or consented for use as solar farms in the locality. Moreover, the appellant's Agricultural Land Classification report<sup>5</sup> confirms the entirety of the land within the site is Grade 1 and all nearby land is either Grade 1 or Grade 2. This is common across the area where most agricultural land appears to lie within the BMV category. As a consequence, finding an alternative site that could viably connect to the spare capacity at the nearby substation would appear to have been addressed.
12. Notwithstanding this, the proposal would take land out of arable use, including for food production, for a temporary period of 35 years. This would not represent a total loss of agricultural land as sheep would be grazed between and under the arrays, a matter which could be secured through a management plan; and, following decommissioning, the land would be restored to agricultural use. The proposal would also allow for biodiversity and landscape enhancements around the panels. However, in accordance with the NPPG, these conditions need to be met alongside the use of BMV land. There would be a reduction in the productivity of this land and poorer quality land would not be used in preference to higher quality land, as required by the WMS, NPPG and the Framework, albeit it would appear that such poorer quality land is not viably available.
13. The total area of agricultural land within each of the Council's administrative areas is significant. However, the evidence before me shows the extent of land that would be occupied by solar farms, including the proposal, would represent a relatively small part of this, particularly regarding Grade 1 and 2 land available and that is utilised. While I note the Council's concerns that a tipping point of sorts has been reached with several solar farms located on BMV land,

---

<sup>4</sup> Footnote 58, within paragraph 175.

<sup>5</sup> 22 June 2021.

there are many competing demands for agricultural land, and some represent total loss. In the case of solar farms, there is a partial loss for a temporary period, and that loss must be balanced against the benefits of any scheme, which I address in the Planning Balance.

14. Nevertheless, I conclude that the loss of BMV throughout the lifetime of the proposed development has not been justified by the most compelling evidence, as required by the WMS, NPPG and the Framework. There would also be conflict with the aims of SADMPP Policy DM20 and SELLP Policy 31, as there would be temporary loss of 78 hectares of BMV land, which, particularly in combination with the other approved solar farms in the area, can be considered to represent significant agricultural land take from the proposal either individually or cumulatively.

## **Other Matters**

### *Character and Appearance*

15. The site is traversed by the Walpole St Peter Footpath 1 and there are others surrounding it, including at an elevated position alongside the River Nene. There are also numerous rural roads in the context of the site. Accordingly, the site is conspicuous within its local environment and, together with existing energy developments including other solar farms nearby, it would increase their influence within the local environment. However, there is no compelling evidence before me that undermines the accuracy of the appellant's Landscape and Visual Impact Assessment. Moreover, while there would be some landscape and visual harm associated with the proposal, this would be limited in its scale and extent, including cumulatively in relation to other solar farms nearby. Furthermore, these effects would reduce with the proposed scheme of planting, as it develops, and would be entirely reversible with decommissioning of the site and its restoration to agricultural use, which would also be controlled by planning condition.

### *Heritage*

16. There are several Grade II listed buildings within the local area, and my attention is drawn to the 'County Boundary Post', 'Footbridge, Road Bridge and Sluices', and 'Ingleborough Mill'. I have also been referred to the Grade I listed Church of Saint Peter at Walpole St Peter; the Church of Saint Leonard at Leverington; and the Churches of Saint Mary at Long Sutton, Tydd St Mary, and West Walton. I have therefore had regard to the statutory duty referred to in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA).
17. The listed buildings draw significance from their settings and are experienced from rights of way in the locality. To my mind, the site does not contribute to the setting of any of the assets, given their distance, but they would remain visible and prominent from many other locations. Accordingly, the proposal would be unlikely to affect how they are understood or experienced in their respective contexts. In particular, I am mindful of the contribution made by agricultural landscapes to the setting of churches, but the proposal would not compete with the aforementioned churches or interrupt any designed views of them. The effect on the setting of the listed buildings would therefore be negligible and would not conflict with the requirements of the PLBCAA.

18. The site may also possibly include archaeological deposits, dating back as far as the Iron Age. A precautionary approach would therefore be appropriate in the context of the conflicting evidence before me regarding the potential for archaeological deposits. A condition requiring a programme of archaeological works would be reasonable and proportionate.
19. It would therefore not be necessary for me to consider the heritage balance or the concept of less than substantial harm referred to in the Framework.

*Living Conditions and Risks Associated with the Development*

20. Residential properties in the locality are some distance from the site, particularly those aspects that are more likely to generate noise, such as the substation and battery storage. The appellant's Noise Impact Assessment (NIA) confirms that noise generated by the proposal would be below background noise readings but the tonality of noise from some equipment may be 'just perceptible'. However, I am satisfied this level would not be such, in light of the background noise levels, so as to represent harm to living conditions of the occupiers of those properties from noise, subject to control over operational noise levels stated in the NIA.
21. While interested parties have raised concerns regarding noise and dust, I am satisfied that, subject to further inclusion of matters raised by KLWN's Community Safety and Neighbourhood Nuisance Officer, these can be addressed by conditions.
22. Interested parties have also raised concern regarding the potential for glint and glare from the proposal and its visual impact when viewed from nearby properties. The proposal would cover a large area, but the appearance and scale of the solar arrays, as well as the potential effects of glint and glare, would generally be addressed by the combined screening effect of existing and proposed planting. Any glint or glare perceptible beyond this would be so limited to not represent harm to living conditions of the occupiers of any affected property. The proposal would not therefore result in harm to the outlook and, thereby, the living conditions of occupants of the properties, and no further mitigation would be necessary.
23. Concerns have been raised with regard to the proposed battery storage and the risk of fire. This is an issue highlighted in other solar farm cases, and there have been examples of fires associated with such facilities, albeit that was some time ago and technology and design measures have changed. However, in such circumstances this issue can be addressed by a suitably worded condition, which would deal with comments from Norfolk County Council's Fire and Rescue Service.
24. The site would be monitored by CCTV served by infra-red lighting. With such security measures in place, the proposed development would be unlikely to exacerbate the potential for or fear of crime for neighbouring occupiers.

*Vehicular Access (Including During Construction and Decommissioning)*

25. The extent of traffic associated with the construction, operational, and decommissioning phases of the proposal would be 16 movements per day over the construction period and only the occasional visit for maintenance during the operation phase. In my view, and in comparison to existing traffic on these roads, this would not be a material increase and would have a negligible effect

on air quality. The width of the roads is also not uncharacteristic for a rural area such as that surrounding the site.

26. In any event, implications for the local network, including overrun of verges near to King John Bank and Gunthorpe Road crossroads, can be mitigated through the proposed Construction Traffic Management Plan and works to the highway. The former would include measures to direct traffic along a specified route. I note that neither of the local highway authorities in Lincolnshire or Norfolk raised concerns with the proposal subject to such provisions.

### *Ecology*

27. The appellant's Ecological Impact Assessment is reasonable and proportionate for the nature of development proposed and includes mitigation measures that would ensure that Priority and Protected Species would not be harmed, including nesting birds. In addition, the biodiversity enhancements for the site may provide improvements to habitat for some of those species.

### *Other Considerations*

28. The applications were submitted with the site identified on the requisite drawings. While an interested party has indicated there is a land ownership issue regarding part of the site, which could impact on the proposed development, this is a legal matter which cannot be dealt with in the appeals, and is for the relevant parties to resolve. Nevertheless, I am satisfied that the certificates of ownership for the applications and notification have been carried out in the correct manner. Similarly, whether the cabling proposed to connect to the substation could be implemented and any implications for the development, are matters for the developer and highway authority to resolve. Furthermore, boundary screening planted between land owned by separate parties could be implemented outside the scope of the appeal, subject to it being on land under the control of the appellant, so it would be unreasonable to insist it be set away from a boundary.

### **Planning Balance**

29. Despite the absence of harm regarding several 'other matters' outlined above, conflict with SADMPP Policy 20 and SELLP Policy 31 renders it contrary to the relevant development plans. However, BMV land is plentiful in the Councils' administrative areas and the proposal would utilise a small amount of that land. Furthermore, given the proposed connection to the intended substation, this proposal could also not be located on previously developed land or non-BMV land, as demonstrated by other solar farms that have been located on such land nearby. I am also mindful the SADMPP does not identify any suitable sites for the location of solar farms in KLWN. Accordingly, I only afford moderate weight to the conflict of the proposal with the development plans to effectively avoid development of BMV land.

### Benefits of the Appeal Scheme

30. The UK Government declared a Climate Emergency in May 2019 and KLWN followed suit in September 2021. In doing so, it adopted a Climate Change Strategy and Action Plan, Phase 2 of which is aligned with the amended Climate Change Act 2008<sup>6</sup> to achieve net zero greenhouse gas emissions by

---

<sup>6</sup> The (2050 Target Amendment) Order 2019.

2050, from a 1990 baseline. SHDC, together with two other Lincolnshire Councils, has a Strategy with an identical target. Furthermore, the UK Net Zero Strategy: Build Back Greener<sup>7</sup> sets a 78% reduction by 2035 and the Government's latest approach to energy is contained within the *Powering Up Britain Strategy*<sup>8</sup>, which builds on the targeted reduction by committing to a fivefold increase in solar energy generation by 2035. The latest draft of the National Policy Statement EN-1<sup>9</sup> also reiterates the urgency of energy development deployment to support this commitment.

31. Given the scale and urgency of the emergency, I attach significant weight to this material consideration, including the impact of climate change on food production. A balance therefore needs to be struck to reduce the former to protect the latter, including in certain cases BMV. Energy and food security are therefore both key issues, which are affected by foreign markets.
32. The proposal has a current design of 39MW, with potential to generate up to 49.9MW, enough to power approximately 10,150 family homes, in a manner that would reduce the potential implications of CO<sub>2</sub> pollutants generated by equivalent electricity produced from fossil fuels by 8927 Tonnes each year it is operational. These would therefore amount to significant environmental and energy security benefits.
33. I am mindful that biodiversity net gain BNG is not yet mandatory for new developments, but the Framework is supportive of measurable attempts to secure such benefits. There would be BNG and landscape enhancement through implementation of the proposal, with onsite enhancement and mitigation measures, including considerable new hedgerow planting. Most of these benefits would be at least throughout the lifetime of the development, as there is a commitment to monitor and report on biodiversity, with a contingency to re-seed pasture and species-rich grassland areas if they do not establish. Environmental benefits associated with these aspects of the proposal would be of significant weight.
34. Although fallow periods can improve soil health, there is no substantive evidence before me to suggest that this would be the case for the specific soil types prevalent within the site in the context of the fallow period associated with the proposal. In this context, I am only able to afford this limited weight as a long-term benefit to agricultural production.
35. The selection of the proposed site ensures a viable scheme through minimised transmission losses, but this is the starting point for any scheme of this nature, and it would primarily serve to benefit the appellant, so it would only result in economic and environmental benefits of limited weight.
36. The proposal would enable the farm holding to diversify its income and help to secure the viability of the farming business in the long term. There is also no substantive evidence before me to demonstrate that land taken out of arable production would affect the workforce or overall viability of the farm holding, or that sheep grazing would be incompatible with reducing carbon emissions.
37. The construction phase would be over several months, a relatively short period, due to the lightweight nature of the proposals, but there are likely to be some

---

<sup>7</sup> October 2021.

<sup>8</sup> March 2023.

<sup>9</sup> March 2023.



benefits to the economy from the labour market and the procurement of materials and equipment, and some long-term employment through management, maintenance, monitoring and security of the site. Given the scale of the development proposed these would be social and economic benefits of moderate significance.

38. Taken together, I have outlined that the appeal scheme includes significant benefits in respect of energy security and the environment regarding the nature of energy generated, as well as biodiversity and landscape enhancements. There would also be some other moderate and limited benefits. This is balanced against the moderate weight to the conflict of the proposal with the development plans in respect of the loss of BMV land. When assessed against the policies in the Framework, taken as a whole, this leads me to an overall conclusion that material considerations indicate the decisions should be taken otherwise than in accordance with the development plans. This would therefore justify the grant of planning permission for the appeals.

### **Conditions**

39. I note the appellant's general acceptance of the planning conditions listed provided by KLWN but, where appropriate, I have amended wording for clarity and removed tailpieces to conditions that circumvent the statutory route to vary conditions or deprive interested parties of the opportunity to comment.
40. I have imposed standard conditions relating to the commencement of development and compliance with the submitted plans, in the interests of achieving a satisfactory development. Moreover, in terms of the latter, it is not necessary to include a condition to secure further details of the proposed structures, as these are clearly set out on the drawings and acceptable for their intended purposes. I have also omitted the condition controlling height of solar panels as a maximum height is already specified on the drawings; and the condition regarding glint and glare, as the evidence shows further mitigation not to be necessary.
41. I have altered the wording of the conditions referring to the cessation and decommissioning or early decommissioning of the site for clarity. However, they remain necessary to ensure the land is returned to agricultural use as soon as it is no longer required for the development. The decommissioning period would be agreed in a scheme for the same.
42. A pre-commencement condition to secure a revised Construction Traffic Management Plan and Method Statement is reasonable in the context of the information provided to firm up the details in the application document. However, in the interests of living conditions of residents, I have amended the condition to refer to, amongst other things, construction machinery noise and dust. A separate condition is used to cover working hours during construction and decommissioning.
43. Pre-commencement conditions are also necessary to ensure proposed works to the access into the site and off-site highway works are carried out in the interests of safety of users of the affected roads; and to secure a scheme of archaeological works for safeguarding potential deposits in the site.
44. Despite the Environment Agency suggesting buildings have been designed to be flood resilient and resistant, to ensure safe operation of the battery storage

system and avoid fire risks and pollution, it is necessary to secure a safety management plan for the same.

45. A condition is necessary to ensure development is constructed in compliance with flood risk mitigation measures to safeguard it at times of high risk of flooding. Despite this, a detailed scheme of drainage is necessary to agree a satisfactory sustainable drainage scheme at the start of the development.
46. To minimise light pollution in the countryside, details of the luminance and fields of illumination of lighting for buildings and areas of the site are necessary prior to their use. I have merged all the conditions dealing with landscaping and tree protection, landscape and ecological management and biodiversity net gain, for clarity and to avoid duplication. These are necessary in the interests of the appearance and ecology of the development.
47. The appellant has provided a Solar Farm Grazing Management Plan, which satisfactorily explains how sheep grazing of the land around panels will be maintained throughout the development. This can be controlled by a condition.
48. The Councils have requested different planning conditions to deal with operational noise from the development. I favour that referred to by KLWN's Community Safety and Neighbourhood Nuisance Officer, as it refers to the tonal noise relevant to the development and identified in the appellant's NIA.
49. To reduce the potential impact of other works on the agricultural land value of the site and its ecology, it would be relevant to the proposal to restrict any further buildings, enclosures, or other works; and for cabling to only be installed underground, except where it relates to connections between panels. A condition to secure mitigation for unexpected contamination is also necessary to safeguard the living conditions of residents.

## **Conclusion**

50. The proposed development would be contrary to the development plans of SHDC and KLWN, when considered as a whole. Despite this, the material considerations I have set out, including the Framework, indicate that the appeals should be determined other than in accordance with them. Accordingly, for the reasons given, I conclude that both appeals should be allowed and, in respect of Appeal A, planning permission should be granted.

*Paul Thompson*

INSPECTOR

## **Schedule of Conditions for Both Appeals**

- 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: 003 Rev 003; GR2.0 Revision 05A; GR3.0 Revision 03; GR4.0 Revision 01; GR5.0 Revision 01; GR6.0 Revision 01; GR7.0 Revision 01; GR8.0 Revision 01; GR9.0 Revision 01;

GR10.0 Revision 01; GR11.0 Revision 01; GR12.0 Revision 01; GR13.0 Revision 01; GR14.0 Revision 01.

- 3) Within 1 month of the date of first export of electricity, confirmation shall be given in writing to the local planning authority of the date of first export to the Grid. The development hereby permitted shall cease on or before the expiry of a 35-year period from the date of the first export of electricity and the local planning authority shall be notified of the cessation of electricity generation and storage in writing no later than 5 working days after the event. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work (the Decommissioning Scheme).
- 4) The Decommissioning Scheme shall be submitted to and approved in writing by the local planning authority no later than 6 months prior to decommissioning and shall include provision for the dismantling and removal from the site of the solar PV panels, frames, foundations, inverter housings and all associated structures, storage facilities and fencing. The decommissioning shall be carried out strictly in accordance with the approved scheme.
- 5) In the event the site ceases to generate and store electricity for supply to the electricity grid network for a period of 12 months, an Early Decommissioning Scheme shall be submitted to and approved in writing by the local planning authority, no later than 3 months from the end of the 12-month period. The scheme shall include the same provisions referred to in Condition 4 and the decommissioning shall be carried out strictly in accordance with the approved scheme.
- 6) Notwithstanding the submitted details, no development shall take place, including any site clearance or works of demolition, until a Construction Traffic Management Plan and Method Statement shall have been submitted to, and approved in writing by the local planning authority. This shall indicate measures to mitigate against traffic generation and drainage of the site during the construction stage of the proposed development and provide for:
  - a) phasing of the development to include access construction;
  - 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 washing facilities;
  - f) the routes of construction traffic to and from the site including any off-site routes for the disposal of excavated material;
  - g) strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawing(s) showing how the drainage systems (permanent or temporary) connect to an outfall (temporary or permanent) during construction;
  - h) measures to control the emission of dust and dirt during construction; and
  - i) measures to control noise generated by construction machinery.

The Construction Traffic Management Plan and Method Statement shall be strictly adhered to throughout the construction period for the development.

- 7) No development shall take place, including any site clearance or works of demolition, until the existing access onto Gunthorpe Road shall have been widened and all obstructions exceeding 0.6 metres high cleared from the land within the visibility splays as illustrated on Drawing number SK01 Rev D, and thereafter the visibility splays shall be kept free of obstacles exceeding 0.6 metres in height.
- 8) No development shall take place, including any site clearance or works of demolition, until the works to improve the public highway by means of carriageway junction widening at the crossroads of King John Bank/Marsh Road/Gunthorpe Road in accordance with the details as shown on Drawing number SP01 Rev E have been certified complete by the local planning authority.
- 9) No development shall take place, including any site clearance or works of demolition, until a Written Scheme of Investigation and timetable for a programme and reporting of archaeological works has been submitted to, and approved in writing by, the local planning authority. Development shall only be implemented in accordance with the approved scheme and timetable.
- 10) Prior to first use of the Battery Storage System, a Battery Safety Management Plan (BSMP) shall be submitted to, and approved in writing by, the local planning authority. The BSMP must prescribe measures to facilitate safety during the construction, operation and decommissioning of the battery storage system. The BSMP shall only be implemented as approved.
- 11) Notwithstanding the submitted details, prior to the development first becoming operational, a surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development and provide details of:
  - a) how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
  - b) attenuation and discharge rates which shall be restricted to 1.4 litres per second;
  - c) the timetable for and any phasing of implementation for the drainage scheme; and
  - d) how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

The development shall not become operational until the approved scheme has been completed or provided on the site in accordance with the approved phasing and thereafter retained and maintained strictly in accordance with the approved details.

- 12) Details of the external illumination of all buildings and areas of the site, including details of luminance and fields of illumination, shall be submitted to, and approved in writing by, the local planning authority, prior to the first use of those buildings and areas and there shall be no external illumination other than that so approved.
- 13) The development shall be carried out in accordance with the Landscape & Ecological Management Plan, the mitigation measures in the Ecological Impact Assessment, and the Biodiversity Net Gain Assessment, all prepared by Delta Simons and dated February 2022, June 2021 and November 2021 respectively; and the approved details of landscaping, shown on Drawing No 1284/10 - Revision E, shall be implemented in the first planting season following the completion of the development.

Any trees/shrubs/plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Similarly, any trees shown to be retained on the drawing shall be protected during construction work as follows:

- a) chestnut pale or similar fencing 1.5 metres in height shall be provided around the trees to be retained before development is commenced at a minimum distance from the trunks equal to the spread of the crowns of the trees;
  - b) no materials, equipment, site huts, fuels or other items shall be placed or stored within the areas enclosed by the fencing so erected and the ground levels within those areas shall not be altered, nor shall any excavation be made;
  - c) no burning of materials or other items shall take place within 3 metres of the crown spread of any of the trees to be retained;
  - d) no services shall be routed under the spread of the crowns of the trees to be retained;
  - e) no retained tree shall be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority; and
  - f) if any tree which is to be retained dies or is to be removed it shall be replaced within six months thereafter with a tree of such size and species which shall be first be agreed in writing by the Local Planning Authority.
- 14) For the duration of the construction and decommissioning periods, construction/deconstruction activities and deliveries received at or despatched from the site, shall only occur between the hours of 0800- and 1800-hours Monday to Friday, 0800- and 1330-hours on Saturday and not at all on Sundays and Bank Holidays other than with the prior written approval of the local planning authority.
  - 15) The development shall be undertaken in accordance with the Solar Farm Grazing Management Plan (SFGMP) dated March 2022 submitted as part

of the appeal statement. If for any reason grazing by sheep fails to occur for a period of more than 12 months, the solar panels, battery storage facilities and the related ancillary equipment shall be decommissioned and removed from the site in accordance with Condition 4 above.

- 16) The development must adhere to the predicted operational noise levels stated in Chapter 5 of the Noise Impact Assessment, dated 21 June 2021.
- 17) The development hereby permitted shall be implemented in accordance with the flood risk mitigation recommendations contained in the Flood Risk Assessment and Outline Surface Water Drainage Strategy, dated October 2021.
- 18) All cabling (with the exception of that connecting between solar arrays) shall be installed underground.
- 19) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.
- 20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no buildings, structures, fences, gates, posts, solar panels, hardstandings, footings, platforms, pavements, bunding, earthworks or other engineering operations shall be constructed, installed, or carried out on site other than in accordance with the details on the approved drawings.

## **End of Schedule**





## Appeal Decision

Hearing held on 7 February 2023

Site visit made on 7 February 2023

**by Mr M Brooker DipTP MRTPI**

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

**Decision date: 25 May 2023**

---

### **Appeal Ref: APP/X1355/W/22/3308881**

#### **Agricultural land to the south of Murton and north of South Hetton**

- 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 against the decision of Durham County Council.
  - The application Ref DM/21/03420/FPA, dated 29 September 2021, was refused by notice dated 19 July 2022.
  - The development proposed is the installation and operation of a ground mounted photovoltaic solar farm, inclusive of solar arrays, transformers, substation, landscaping, fencing, internal access tracks, access, CCTV and other associated works, for the purpose of generating and exporting renewable energy to the electricity grid network.
- 

#### **Decision**

1. The appeal is allowed and planning permission is granted for the installation and operation of a ground mounted photovoltaic solar farm, inclusive of solar arrays, transformers, substation, landscaping, fencing, internal access tracks, access, CCTV and other associated works, for the purpose of generating and exporting renewable energy to the electricity grid network at Agricultural land to the south of Murton and north of South Hetton, SR7 9SF in accordance with the terms of the application, Ref DM/21/03420/FPA, dated 29 September 2021, and the plans submitted with it, subject to the conditions set out in the attached schedule.

#### **Preliminary Matters**

2. The parties have submitted an agreed Statement of Common Ground (SoCG) identifying areas of agreement and continued disagreement. A list of conditions, including pre-commencement conditions, is also included.
3. As agreed at the hearing, an agreement under section 39 of the Wildlife and Countryside Act 1981 to manage and maintain the land in accordance with the provisions of the Biodiversity Scheme and Management Plan for the 35-year life of the proposed development and restoration of the land afterwards, has been submitted.

#### **Main Issue**

4. The main issues are the landscape and visual effects of the scheme and whether there are other material considerations that would outweigh those effect.

## Reasons

5. The Decision Notice refers to the National Planning Policy Framework (the Framework) and three policies of the County Durham Plan adopted 2020 (CDP). Policy 10 of the CDP restricts development in the countryside unless allowed for by specific policies in the plan, renewable energy projects are specifically referred in the relevant footnote to the policy, the policy also details general design principles for all development in the Countryside. Policy 33 of the CDP details that 'Renewable and low carbon energy development in appropriate locations will be supported' and that 'significant weight will be given to the achievement of wider social, environmental and economic benefits'.
6. Policy 39 of the CDP supports new development where it does 'not cause unacceptable harm to the character, quality or distinctiveness of the landscape' and refers to incorporating appropriate mitigation measures and having regard to the County Durham Landscape Character Assessment and County Durham Landscape Strategy contributing to the conservation or enhancement of the local landscape.
7. Turning to the Framework, Paragraph 174 refers to the intrinsic character and beauty of the countryside should be recognised. Specific reference is made to the protection of valued landscapes. The Framework does not define what constitutes a valued landscape. However, given that all landscapes are valued by someone at some time, the term, valued landscape must, in this context, refer to a landscape that is of greater than just open countryside.
8. The SoCG notes that 'The Appeal Site is not covered by any specific national or local landscape designations and there are no ecological designations on the Appeal Site, or on land adjoining' and that, referencing the County Durham Landscape Value Assessment (2019), the appeal site is located within an area with no landscape attribute of elevated value. The SoCG goes on to state that it is agreed between the parties that the appeal site is not considered as forming part of a valued landscape. I find no substantive reason to conclude otherwise given these facts.
9. The appeal site is described by the Council as being 'located on broad undulating open farmland.<sup>1</sup>' Furthermore, I saw at the site visit that there are few trees except for those located in the hedgerows found within and to the edge of the site. The area is punctuated by development including overhead powerlines, electricity substations and the settlements of Murton and South Hetton, the appeal site forming a gap between the two settlements. These features enclose the otherwise open site.
10. The appeal scheme would, in the form of the solar panels and associated infrastructure, introduce a significant element of development that would occupy the previously open farmland.
11. Paragraph 8.4 the SoCG details that 'It is agreed that the proposals would result in a high level of change to the character and appearance of the Appeal Site which would result in significant adverse effects. These effects would be localised and limited to the Appeal Site itself and immediate surrounding area'.

---

<sup>1</sup> PROOF OF EVIDENCE ON LANDSCAPE CHARACTER AND VISUAL AMENITY Stephen Laws Durham County Council

Based on the evidence before me, the discussions at the hearing and my observations at the site visit I agree.

12. The Appellant details that 'it would be impossible to site a solar array of this scale in the UK without significantly affecting the character of at least the site and immediate surroundings'<sup>2</sup>, this statement is accepted by the Council as being 'generally correct'<sup>3</sup>.
13. The appeal scheme includes substantive planting in the form of trees and hedgerows to the boundaries of the site and adjacent to the PRowS. Such works are incorporated within a Biodiversity Management Plan. The proposed additional planting would increase screening of the appeal scheme and would substantially enclose and divide the site.
14. The submitted plans show and the SoCG details that "there are several Public Rights of Way (PRow) within and around the Appeal Site. Footpaths 8 and 9 (Murton Parish) pass through the Appeal Site from west to east. These join Footpath No. 11 (Murton Parish), which runs from north to south through the Appeal Site. Bridleway Number 7 (Murton Parish) runs along the western boundary of the Appeal Site." I note the strong feelings eloquently expressed both at the hearing and in writing by local residents and the Parish Council about their attachment, active use of and value that they place on the appeal site. Evidence at the Hearing detailed that these PRow are well used by local residents, and this was confirmed by my observations at the site visit.
15. The submitted plans show that the PRowS would be retained in the appeal scheme, often of an enhanced width, but bound by new and enhanced hedgerows. The experience of a user of a PRow through the site is therefore considerably changed from open to enclosed.
16. New hedgerows and tree planting would be normally considered as an enhancement to the local area as referred to by the County Durham Landscape Strategy. However, the Council asserts that the proposed planting has little regard to the existing or historic landscape pattern and as such simply screens the proposals from public footpaths and settlement.
17. It was discussed at the hearing that the appeal site and local area may at one time have been an open moor like area with views from the higher parts of the site to the surrounding area, including towards the sea and former pit sites that are important to the local community. The Council also acknowledged that pre-1946 there may have been more hedgerows on the site. On the basis of the evidence before me I am satisfied that the primary purpose of the proposed planting is to screen the proposed development and in doing so would reduce these views and divide the land into smaller compartments without reference to the historic landscape pattern, eroding the character of the area.
18. I am therefore satisfied that, with regards Policy 33 of the CDP the appeal site is an appropriate location for renewable energy development but, with regard Policies 10 and 39 of the CDP, there would nonetheless be significant adverse changes in the character of the landscape, reducing as the planting becomes established and ultimately limited to the 35-year life of the proposal with the exception of the planting that would remain. In this regard the appeal scheme is contrary to CDP Policies 10 and 39.

---

<sup>2</sup> Hawthorn Pit Solar Farm Landscape and Visual Assessment September 2021

<sup>3</sup> PROOF OF EVIDENCE ON LANDSCAPE CHARACTER AND VISUAL AMENITY Stephen Laws Durham County Council

## **Other considerations**

### *Renewable energy generation*

19. The Government recognises that climate change is happening through increased greenhouse gas emissions, and that action is required to mitigate its effects. One action being promoted is a significant boost to the deployment of renewable energy generation. The Climate Change Act 2008, as amended sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100%, Net Zero, by 2050. The British Energy Security Strategy 2002 recognises the contribution that ground mounted solar will make to future energy needs.
20. A material consideration in the determination of planning proposals are 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. Whilst NPSs EN-1 and EN-3 do not specifically refer to solar generated power they reiterate the urgent need for renewable energy electricity projects to be brought forward. Draft updates to NPSs EN-1 and 3 identify that, as part of the strategy for the low-cost decarbonisation of the energy sector, solar farming provides a clean, low cost and secure source of electricity.
21. The December 2020 Energy White Paper (WP) reiterates that setting a Net Zero target is not enough, it must be achieved through, amongst other things, a change how energy is produced. The WP sets out that solar is one of the key building blocks of the future generation mix. In October 2021, the Government published the Net Zero Strategy: Build Back Greener where under Key Policies it explains that subject to security of supply, the UK will be powered entirely by clean electricity through, amongst other things, the accelerated deployment of low-cost renewable generation such as solar.
22. The proposed development would have a capacity of some 49.9Mw, generating a significant amount of electricity from what is considered to be a clean, renewable source. This would provide for an increase in local 'renewable energy generation in the County by approximately 9%' and meet the energy needs of approximately 17,305 homes<sup>4</sup>. I understand that the site benefits from a beneficial grid connection, the absence of which can delay or prevent development. As such, the scheme could make an early and significant contribution to the objective of achieving the statutory Net Zero target, this is a material consideration and in accordance with Policy 33 of the CDP I afford it significant weight.

### *Ecology and Biodiversity*

23. It is not at dispute between the parties that the proposed mitigation planting would increase the extent of green infrastructure and biodiversity across the site over the long term.
24. The SoCG states that in accordance with the details and assessment submitted with the planning application, the proposed development would deliver

---

<sup>4</sup> Figures as detailed in the appellant's Statement of Case – September 2022

biodiversity net gains in the form of habitat (124.23% increase) and hedgerow (136.83%), and these gains can be secured by conditions and other Agreements between the developer/owner and LPA. While I have been presented with various figures in this regard (119% and 235%), it is clear that the appeal scheme would provide significant ecology and biodiversity net gains.

25. Furthermore, a Biodiversity Management Plan has been developed for the proposals and can be secured by a Section 39 agreement. On this basis I am satisfied that the appeal scheme would provide considerable Ecology and Biodiversity gains for the site, and in accordance with Policy 33 of the CDP I afford this matter significant weight.

### **Planning Balance and Conclusion**

26. A material consideration is the time limited nature of the proposal. I acknowledge that 35 years is a long time and materially longer than the 25 years that many earlier renewable energy schemes were limited to. However, I am aware that technical advances have improved the longevity of solar panels. Accordingly, given the contribution the Government expects solar generated electricity energy to make to the national energy supply, it would be unreasonable to limit the life of a solar farm to an arbitrary figure based on older and less efficient equipment.
27. That said, I recognise that the proposed 35-year life of the solar farm is significantly more than a generation and I accept many older residents of the area will not live long enough to see the site decommissioned. Thus, in coming to my conclusion I have had due regard to these factors and concerns.
28. Both national and policies of the CDP recognise that renewable energy developments may result in some landscape and visual impact harm. However, both adopt a positive approach indicating that development can be approved where the harm is outweighed by the benefits. This is a planning judgement. Here, through a combination of topography, existing features and landscape mitigation, the adverse effect on landscape character and visual impact would be significant but localised.
29. Moreover, as proposed planting matures adverse effects would be progressively mitigated and once decommissioned, residual adverse landscape effects would be limited to the retained and by this point established planting, these effects are substantively off set by the clear biodiversity and ecology gains that will result from the planting.
30. On balance the scheme would leave a landscape with enhanced biodiversity and ecology consistent with the objectives of development plan policy, in particular Policy 33 of the CDP. In these circumstances, whilst there would be some localised harm to landscape character in conflict with the relevant development plan policies, the imperative to tackle climate change, as recognised in legislation and energy policy, and the very significant benefits of the scheme clearly and decisively outweigh the harm I have identified.

### **Conditions**

31. I have considered the suggested conditions in light of the national Planning Practice Guidance and the use of planning conditions and Paragraph 56 of the Framework. The SoCG details a list of planning conditions, including pre-

commencement conditions, to be attached to any planning permission resulting from the appeal.

32. The solar farm is sought for a period of 35 years. A condition is therefore necessary to manage the life of the permission and the extent of the operation period and to provide for removal of the solar farm when the permission expires (1 and 2). In the interests of certainty, a condition listing the approved plans is imposed (3).
33. In the interests of highway safety and the environment a condition requiring the submission and adherence to a construction management plan (4) is necessary and reasonable. Similarly in the interests of the environment and highway safety conditions relating to the access track (5 and 6) are necessary.
34. In the interests of protecting living conditions a condition specifying construction hours (7) and noise (8) are reasonable and necessary. In the interests of water management and the flood mitigation, a condition relating to surface water management (9) is reasonable and necessary.
35. In the interests of the appearance of the area, conditions relating to, the finish of the solar panels, details of a landscaping scheme footpath infrastructure (10 11 and 12) are reasonable and necessary.
36. The site potentially contains archaeological remains and conditions to provide for appropriate site works and recording (13 and 14) are reasonable and necessary.
37. A condition requiring the submission the decommissioning and restoration of the site, in the event that the site is inoperative for a period of 6 months (15) is reasonable and necessary.
38. I have not included a condition requiring the developer to notify the council of the commencement of development because this is not necessary. I have incorporated the condition requiring the submission of details regarding vehicle washing facilities into the construction management plan.

### **Final conclusion**

39. For the reasons set out above, the appeal is allowed.

*Mr M Brooker*

INSPECTOR



**APPEARANCES**

FOR THE APPELLANT:

Thea Osmund-Smith	No5 Chambers
George Wilyman BA (Hons) MA MRTPI	Aura Power Developments Ltd
Andrew Ross BSc (Hons), MA, MRTPI	Turley
Joanna Ede BA (Hons), MA, DipLD, CMLI	Turley
George Wilyman BA (Hons), MA, MTRPI	Aura Power Developments Ltd
Chloe Hood BA (Hons)	Aura Power Developments Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Laws	for Durham County Council
Chris Shields	Durham County Council

INTERESTED PARTIES:

Brian Brown	Murton Residents Action Group
Hazel Napier	Murton Parish Council
Nikola Honnor	Murton Parish Council
Robert Adcock-Forster	Murton Parish Council
Mrs Beatrice Hollins	Local Resident
Cllr Julie Griffiths	Durham County Council
Mr Gerard Mann	Local Resident

### **Schedule of Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. This consent is granted for a period of 35 years from the date of energisation of the Solar Farm to when the buildings, structures and infrastructure works hereby approved shall be removed and the land restored to its former condition in accordance with details to be submitted to and approved by the Local Planning Authority. The approved details shall then be implemented in full within 6 months of approval of those details.
3. The development hereby approved shall be carried out in strict accordance with the following approved plans:
  - Site Location Plan (Drawing No. Figure 1);
  - Site Layout Plan (Drawing No. 0016.M4.001.0.S);
  - Indicative Transformer (Drawing No. 0016.M4.014.1.A);
  - Customer Substation-Compound Layout Plan (Drawing No. Figure 5A);
  - Customer Substation-Compound Layout Elevation (Drawing No. Figure 5B);
  - Indicative Spare Parts Container (Drawing No. 0016.M4.021.3.A);
  - Typical Cable Trench Cross Section (Drawing No. 0016.E4.017.3.A);
  - Indicative CCTV (Drawing No. 0016.M4.018.4.B);
  - Indicative Track Cross Section (Drawing No. 0016.M4.018.4.B);
  - Site Entrance and Visibility Splays Overview (Drawing No. 2296.M4.038.0);
  - Indicative Hedge Gate (Drawing No. 9400.M2.037.1.0);
  - Gate and Deer Fence (Drawing No. 2259.M4.016.3.0); and
  - Indicative Footpath Measures (Drawing No. AP.13).
4. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following: – A Dust Action Plan including measures to control the emission of dust and dirt during construction taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014;
  - Details of methods and means of noise reduction, or controlling noise impacts during construction;
  - Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration;
  - Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.
  - Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
  - Designation, layout and design of construction access and egress points;
  - Details for the provision of directional signage (on and off site);
  - Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;

- Details of provision for all site operations for the loading and unloading of plant, machinery and materials;
- Details of provision for all site operations, including visitors and construction vehicles for parking and turning within the site during the construction period;
- Routing agreements for construction traffic;
- Details of wheel and vehicle washing facilities.
- Details of the erection and maintenance of security hoarding;
- Details of construction and decommissioning working hours;
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works; and
- Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The Construction Management Plan shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

5. Prior to the commencement of development a scheme shall be submitted to the Local Planning Authority for the improvement of the access track between South Hetton and the site, as shown on Drawing TMP Figure 1 'Indicative Route to Site' for approval in writing, unless an alternative access route is secured. The improvements to the access track shall be carried out prior to the first delivery of photovoltaic panels to the site.
6. Prior to the commencement of development a scheme for surveying the pre-commencement and post-completion condition of the route to the site shown on Drawing TMP Figure 1 'Indicative Route to Site' shall be submitted to the Local Planning Authority for approval in writing. Any remediation works required to repair damage caused by vehicles associated with the approved development shall be carried out within 12 months of the development being brought into use.
7. Construction operations shall only take place within the following hours:
  - 07.30 to 19.00 Monday to Friday
  - 07.30 to 12.00 Saturday

No construction operations including the maintenance of vehicles and plant shall take place outside of these hours or at any time on Bank, or other Public Holidays, save in cases of emergency when life, limb, or property are in danger. The Local Planning Authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

8. The rating level of noise emitted from the solar farm on the site shall not exceed the modelled noise levels confirmed within the Ion Acoustics Noise Assessment for Planning, dated 27 September 2021. On written request by the Local Planning Authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level.

9. The development shall be carried out in accordance with the submitted flood risk assessment ` Hawthorn Pit Solar Farm FRA and Outline Drainage Strategy' September 2021 . The mitigation measures detailed with the flood risk assessment (for example implementation of swales) shall be fully implemented prior to commencement of operations of the development being brought into use. These measures shall be retained and maintained thereafter throughout the lifetime of the development.
10. Prior to the commencement of development precise details of the colours and finishes for all buildings, fixed plant and machinery shall be agreed in writing with the Local Planning Authority and the development carried out in accordance with agreed details.
11. Prior to the commencement of development, a landscaping scheme shall be submitted for approval in writing. This scheme shall include provision for long term management for trees within the site boundary. The approved landscaping scheme shall be implemented on site in the first planting season following the development being brought into use. Any tree or shrub which may die, be removed or become seriously damaged within a period of 5 years from the first implementation of the approved landscaping scheme shall be replaced in the first available planting season thereafter.
12. Prior to the operation of the development, designs of footpath infrastructure measures in accordance with the Indicative Footpath Measures (Drawing No. AP.13) drawing shall be submitted to and agreed in writing with the Local Planning Authority. Within six months of the first operation of the solar farm, the agreed footpath measures will be implemented and retained for the lifetime of the development.
13. Prior to the commencement of development, a Written Scheme of Investigation setting out a phased programme of archaeological work in accordance with 'Standards For All Archaeological Work In County Durham And Darlington' shall be submitted to the Local Planning Authority for approval in writing. The programme of archaeological work will then be carried out in accordance with the approved Written Scheme of Investigation.
14. No part of an individual phase of the development as set out in the agreed programme of archaeological works shall be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.
15. In the event that the solar farm is inoperative for a period of 6 months or longer, a scheme for the restoration of the site, including the buildings, structures and infrastructure works, dismantling and removal of all elements, shall be submitted to and be approved in writing by the Local Planning Authority not later than 12 months following the last export of electricity from the site. The approved scheme shall be carried out and completed within 6 months of approval of the scheme.

**End of Schedule**



## Appeal Decision

Hearing held on 31 May 2023

Site visits made on 30 May and 1 June 2023

**by Alison Partington BA (Hons) MA MRTPI**

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

**Decision date: 27<sup>th</sup> June 2023**

---

**Appeal Ref: APP/G2713/W/23/3315877**

**Land south of Leeming Substation, west of the village of Scruton, bordering Fence Dike Lane, part of Low Street and Feltham Lane, DL7 0RG**

- 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 Lightrock Power Ltd against the decision of Hambleton District Council.
  - The application Ref 21/01362/FUL, dated 29 April 2021, was refused by notice dated 8 August 2022.
  - The development proposed is the installation of a solar photovoltaic array/solar farm with associated infrastructure.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the installation of a solar photovoltaic array/solar farm with associated infrastructure at land south of Leeming Substation, west of the village of Scruton, bordering Fence Dike Lane, part of Low Street and Feltham Lane, DL7 0RG in accordance with the terms of the application, Ref 21/01362/FUL, dated 29 April 2021, subject to the conditions set out in Annex A.

### Application for costs

2. At the Hearing an application for costs was made by Lightrock Power Ltd against North Yorkshire Council. This application is the subject of a separate Decision.

### Procedural Matters

3. On 1 April 2023 Hambleton District Council merged with other Councils in North Yorkshire to form North Yorkshire Council. However, the development plan for the area formally covered by the District Council remains in place until such time as it is revoked or replaced. I have determined the appeal on this basis.
4. The Parish Council has raised concerns that the author of the Agricultural Considerations Report produced for the appellant by Kernon Countryside Consultations has not provided a signed declaration as required for RICS Surveyors acting as an Expert Witness. As such, they state that little weight should be given to this evidence. However, the appeal is being determined by way of an informal hearing not a public inquiry and so participants are not called upon as "expert witnesses", and signed declarations are not required as they are in proofs of evidence submitted to an inquiry.

## Main Issue

5. The main issue in the appeal is the effect of the proposed development on, and the potential loss of, agricultural land.

## Reasons

6. The appeal site comprises a number of agricultural fields that are used for a mix of arable and pasture. A short distance to the north of the site lies Leeming Bar Substation which would provide a grid connection for the proposed solar farm via an existing underground cable.

### *Planning Policy Context*

7. Policy S1 of the *Hambleton Local Plan (adopted February 2022)* (HLP) sets out a number of sustainable development principles. These include making efficient and effective use of land, protecting and enhancing the high quality natural and historic environment, and supporting development and infrastructure provisions that take available opportunities to mitigate and adapt to climate change.
8. Policy RM6 of the HLP supports renewable and low carbon energy installations where all potential adverse impacts are, or can be made, acceptable. Similarly, paragraph 158 of the *National Planning Policy Framework* (the Framework) also indicates that applications for renewable and low carbon development should be approved if the impacts are, or can be made, acceptable.
9. HLP Policy S5 indicates that development in the countryside will only be supported where it is in accordance with national planning policy or other policies in the HLP and would not harm the character, appearance and environmental qualities of the area. In addition, where significant development is demonstrated to be necessary, the loss of the best and most versatile (BMV) agricultural land should be avoided wherever possible. If the benefits of the development justify the loss, areas of the lowest grade available must be used except where other sustainability considerations outweigh agricultural land quality considerations.
10. 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.
11. 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.
12. However, the Framework which has been updated on several occasions since 2015, makes no such requirement and only indicates where significant development of agricultural land is demonstrated to be necessary, areas of

---

<sup>1</sup> Paragraph ID:5-013-20150327



poorer quality land should be preferred to those of higher quality<sup>2</sup>. In addition, whilst the draft *National Policy Statement for Renewable Energy (EN-3) (March 2023)*, seeks to avoid the use of BMV land where possible, it also indicates that land type should not be a pre-dominating factor in determining the suitability of the site location. Whilst this is a draft and relates largely to proposals that form part of the National Infrastructure regime, it still gives an indication of the government's most recent thinking on this issue.

### *Agricultural Land Quality*

13. The national Agricultural Land Classification map indicates that the site is Grade 2 land. However, as I heard at the hearing 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 Classification report (the Amet report). This indicates that the majority of the site is Grade 3b agricultural land with a small portion (5ha) being Grade 2. However, a similar report produced for the Council (the ADAS report) indicates that the majority of the land is Grade 2 with a small amount (5.85ha) being Grade 3b. Both reports find the principal limitation to agricultural use of the land is soil droughtiness. Whilst I note the concerns raised regarding the location of one of the appellant's trial pits, from what I heard at the hearing I consider that the methodology used for both assessments was appropriate.
14. An assessment of both the Amet and the ADAS reports on behalf of the appellant concluded that the difference in the classification of the land turns on whether or not there is the potential to alleviate the compacted layer that both surveys found generally occurs at a depth of around 30-50cm, (although in some places is deeper), by standard agricultural operations. This conclusion was not disputed by other parties.
15. The *Revised guidelines and criteria for grading the quality of agricultural land (MAFF 1988)* (MAFF guidelines) highlights that sandy soils readily form compacted layers if cultivated or traversed when wet. Where such damage can be corrected by normal soil management methods it indicates it does not affect the grading. However, it also states that where significant compaction occurs below 35cm it may be difficult or impossible to ameliorate practically or economically. Such compaction is therefore said to be a long-term limitation which is taken into account through reduced permeability and available water capacity in the wetness and droughtiness assessments.
16. The reports both indicate that the compaction layer occurs below 35cm. Mr Shepherd, a local farmer indicated at the hearing that this was far deeper than a traditional 'plough pan' which would form directly below the layer of the plough at around 20cm. He also indicated that, in his view, it would not be possible to carry out subsoiling to this depth. In addition, the appellant's evidence states that the farmer of West House Farm, whose land comprises the larger part of the appeal site, has tried subsoiling but found it did not benefit yields and was uneconomic to carry out.
17. There was significant evidence provided in support of the different land gradings, including information on yields and evidence on root growth, although the MAFF guidelines clearly states that yield maps are excluded from

---

<sup>2</sup> Footnote 58

determining agricultural grade. It was also disputed whether the compaction layer was likely to be a natural or man-made feature.

18. Nonetheless, irrespective of whether this compaction layer is a man-made or natural feature, given its depth, the advice from the MAFF guidelines which is supported by evidence from the farmers, is that both practically and economically it is not possible to ameliorate this compaction layer by normal soil management methods. As such, I consider it is a long term limiting factor that should be taken into account when considering the grading of the land. I therefore consider that the Amet report which takes the impact of the compaction layer into account provides a more reasonable assessment of the agricultural land quality. Given this I consider that the majority of the appeal site does not form BMV agricultural land.

#### *Loss of agricultural land*

19. However, even if it were considered to be BMV agricultural land, Policy S5 of the HLP does not prevent the use of such land but requires that the benefits need to justify its loss. Similarly, the national guidance outlined above does not prevent the use of such land.
20. The proposal would change the use of the land for a period of 40 years, which accords with the life expectancy of new panels. Whilst this is a significant period of time it is not permanent. Furthermore, during the operational period the land around the solar panels would be used for the grazing of sheep, with both farmers expecting to expand their current flocks. Given the height and angle of the proposed panels I consider grass will be able to grow under the panels satisfactorily as well as between the rows of panels, enabling such grazing to take place.
21. 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 and it is the intention that it would be returned fully to agricultural land at the end. Moreover, I am satisfied from the evidence before me that resting the land from intensive agriculture would be likely to improve soil health by increasing the organic matter in the soil and improving soil structure and drainage, even if a return to arable farming would then start to reverse this improvement.
22. I note the concerns that the productivity and versatility of the land would be reduced. Nevertheless, the specific way agricultural land is used is not a matter that is subject to planning controls. As such, there would be nothing in planning terms to prevent the farmers using the fields that form the appeal site for the grazing of sheep at present or even leaving them fallow. 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. Furthermore, current government schemes actually encourage farmers to take land out of production and put it to grass, meadows, or trees for carbon capture.
23. Various concerns were also raised regarding the potential impact, particularly of the construction phase, on soil quality. A condition requiring a Soil Resource Management Plan can ensure how and when construction work takes place so that damage to the soil is minimised. In addition, I consider that the advice in the *Construction Code of Practice for the Sustainable Use of Soils on*

*Construction Sites (DEFRA 2009)*, does not mean that it is necessary to remove all the top soil on the site prior to any construction taking place. In my view this guidance relates to sites where soil would have to be removed as part of the construction process, rather than every construction site. This is borne out for example, by the advice regarding Soil Resource Plans in section 5.1 which says such plans should provide maps showing the areas where soil is to be stripped and where it is being left in-situ.

24. Whilst the panels will need to be cleaned on a periodic basis, the appellant indicated that this only requires the use of water, but in any case, this can be controlled by a condition to ensure it does not impact on soil quality.
25. As such, the proposal would not result in either the temporary or permanent loss of BMV land as the land would continue to be used for some agricultural purposes whilst also being used to produce solar energy. Nor would the proposal be detrimental to the soil quality, so a return to arable production at a later date would still be possible.

#### *Food Security*

26. Whilst the reason for refusal refers to the impact of the proposal on the nation's food security, the Council agreed in the Statement of Common Ground and at the hearing, that there are no national or local policies, guidance or strategies that relate to food security and production. The appellant highlighted numerous government documents that state, and statistics that show, that there is no food security problem in the country and that the level of food production is good, and none of this was disputed by the Council. This accords with the fact, noted above, that they are paying farmers to take land out of production and/or utilise less intensive production methods. Moreover, I note that the majority of crops grown on the appeal site at present are largely used for industrial purposes rather than supplying the food chain, whereas if it were to be used for grazing of sheep it would be contributing food for human consumption. As such, I am satisfied that the proposed use of the land would not be detrimental to the nation's food security.

#### *Alternative Sites*

27. I have not been provided with any evidence that indicates that there is any national or local policy requirement to carry out an assessment of alternative sites for solar farm developments. Nevertheless, the appellant provided a sequential assessment. This concluded that there were no sequential preferable sites in the area. Moreover, the Council have not put forward any brownfield or lower grade alternative sites.
28. It was suggested that the area of search in the assessment could have been wider and that it should have considered more than just the Leeming Bar substation. To this end the Parish Council drew my attention to some other appeal decisions where a more substantial catchment area was required. However, given the proposal is seeking to use the spare grid capacity at this sub-station, and bearing in mind the limited opportunities that currently exist for grid connections nationally, I consider it is, in this case, justified to only consider sites within an area that could also make use of this capacity, rather than capacity that may exist at other substations elsewhere. In addition, from the technical considerations set out by the appellant at the hearing regarding

how connections to the substation need to be made, I consider that the area of search utilised in the appellant's assessment is reasonable.

29. Whilst the levels of solar irradiance are higher in the south of England, given the government's requirement to significantly increase the amount of energy produced from solar power, which I outline in more detail below, I am not persuaded that solar developments should only take place further south in the country.
30. Overall, I consider that even if the proposal is considered to represent the loss of Grade 2 agricultural land, there are no alternative sites available on lower grade land.

#### *Conclusion on main issue*

31. Bringing all these points together, I consider that the majority of the appeal site does not form BMV agricultural land. So, to accord with the policies outlined above consideration needs to be given to whether it would harm the character and appearance of the area and if any adverse impacts can be made acceptable. I return to this below.
32. Moreover, even if it was BMV agricultural land, it would not result in the loss of this agricultural land and there are no lower grade alternative sites available, so subject to the above considerations its use would be justified.

#### **Benefit arising from the provision of renewable energy**

33. The proposal would have an installed capacity of 49.9MW, estimated to provide sufficient electricity to power around 10,800 homes. The site benefits from an immediate connection to the grid by way of an underground cable to the nearby substation.
34. In recent years both the Government and the local 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. To achieve this ambitious target, 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. In addition, the Council, in seeking to be carbon neutral by 2034, identifies the need to look at viable solar /renewable energy as one of its actions, even if there may not be any quantifiable target for renewable energy production in the area. The proposed development would make a valuable contribution to achieving these local and national goals.
35. Concerns have been raised regarding the manufacturing of the panels and how "green" solar power is. Be that as it may, the government clearly identifies solar energy as a renewable form of energy and one in which they want to see significant growth. Nor is there any requirement for the energy produced to be "needed" or used "locally". Moreover, the efficiency of the panels has increased markedly in recent years.
36. 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 must be accorded substantial weight.

## Other Matters

37. The application was accompanied by a Landscape and Visual Appraisal which assessed the potential landscape and visual effects of the proposal, including the cumulative effects with other solar farms in the wider area. The Council concluded that the harmful impacts the proposal would create would be relatively localised and could be effectively mitigated. From the evidence before me and what I saw on my site visits, I see no reason to come to a different conclusion.
38. The proposal would include a variety of landscape and biodiversity measures including new and improved hedging, wildflower grass strips, areas of new woodland, and the provision of bird and bat boxes. In addition, ecological and wildlife corridors would be provided across the site, and the areas of woodland would still be accessible to wildlife. The biodiversity metric shows that the proposal would result in a substantial increase in biodiversity net gain in terms of habitat, hedgerow and river units. As such, the limited amount of existing hedging that would need to be removed for the accesses to the site would be more than adequately compensated for.
39. The site is a short distance from junction 51 of the A1M, and the route to the site from this junction is such that traffic to the site would pass a very small number of houses. Given this and the level of traffic generation predicted over the construction period, the impact on the local highway network or on the living conditions of residents would not be significant. Once operational traffic generation would be minimal.
40. Subject to a condition the Ministry of Defence have confirmed that they have no objection to the proposal and its potential effect on pilots using RAF Leeming. The Glint and Glare study also assessed the impact on road users, including the A684. From my own observations, I agree with the conclusion that due to the distance between the road and panels, their relative orientation and the existing and proposed vegetation there is unlikely to be an impact on drivers. Nonetheless, it is recommended that a site survey is undertaken once the proposed perimeter fencing is established to see if further mitigation is required. I consider that would be appropriate.
41. Leases Hall and its Ice House are both Grade II Listed Buildings. The appellant's Heritage Impact Assessment considered the changes to the setting of these as a result of the proposal. Due to the considerable intervening vegetation that already exists, it concluded that the proposal would not harm the setting of these heritage assets. From the evidence before me, and what I saw at my site visits, I agree that there would be no harm to the setting of these heritage assets.
42. There are a number of isolated dwellings in the vicinity, and to the east of the site lies the village of Scruton. 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. Nor is there any compelling evidence to show that the noise during construction would be detrimental to any horses in the locality.
43. 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. Subject to a condition, 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.

44. The Parish Council suggested that a Section 106 agreement should be provided to ensure the provision of a community fund for projects in Scruton, a new bridleway and a footpath from Scruton station to the bus stop on the A684. However, I am not persuaded that such contributions would meet the tests set out in the Framework and the CIL Regulations for planning obligations, as they would not be necessary to make the development acceptable in planning terms nor would they be directly related to the development.
45. I note that the Wensleydale Heritage Railway runs to the south of the site. Whilst tourism can rely considerably on the quality of the countryside, the effect on this has already been assessed above and found to be acceptable. I am not persuaded that the changes to the landscape in this case would lead to the loss of viability to the railway or any other existing tourism related business.

### **Planning Balance, Conclusion and Conditions**

46. The Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable future. The appeal scheme would make a valuable contribution to this. In addition, significant biodiversity enhancements would be achieved. The proposal would however be a significant development in the countryside and policy requires that any impacts are, or can be made, acceptable. The only adverse impact identified is a limited localised harm to the landscape character and visual impact. This impact can be effectively mitigated.
47. Moreover, although I have concluded the land is not BMV agricultural land, even if it was, the proposal would not result in the loss of the agricultural land and there are no suitable alternative sites on lower grade land.
48. Consequently, I consider the proposal would not have an unacceptable impact on, or result in the loss of, agricultural land and so it would accord with Policies RM6 and S5 of the HLP. As such, there would be no conflict with the sustainable development principles set out in Policy S1 of the HLP.
49. For the reasons set out above I conclude the appeal should be allowed.
50. The Council and the appellant agreed a set of potential conditions, and these 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 following the discussion at the hearing.
51. 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, 4 and 5 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.
52. In the interest of the character and appearance of the area condition 6 is necessary. For the same reason and in the interest of biodiversity, conditions



- 14 and 15 are required. Also, for biodiversity reasons, conditions 17, 18 and 19 are necessary.
53. To protect soil quality and so enable the reinstatement of its agricultural land quality, conditions 7, 8 and 20 are required. Conditions 9 and 10 are necessary for reasons of highway safety. For this reason, as well as to protect the living conditions of local residents, condition 16 is required. In the interest of aviation safety condition 13 is necessary.
54. Condition 11 is necessary to ensure sufficient access for the maintenance of the water mains, whilst condition 12 is required to ensure the site is properly drained. To protect and record any potential archaeological remains on the site, condition 21 is necessary.
55. Conditions 7, 16 and 21 are all pre-commencement conditions and need to be so because they relate to how the construction phase is carried out. Conditions 9 and 13 are also pre-commencement conditions. The former because it is necessary to ensure a safe access is provided for construction traffic before construction work begins and the latter because the Glint and Glare Plan could affect the design of the proposal. 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:

Paul Burrell BSc(Hons) DipUP MRTPI	Planning Director, Pegasus
Tony Kernon BSc(Hons) MRICS FBIAC	Kernon Countryside Consultants Ltd
James Fulton	Amet Property
Thea Osmund-Smith	Counsel
Chris Sowerbutts	Lightrock Power

### FOR THE LOCAL PLANNING AUTHORITY:

Ian Nesbit	Senior Planning Officer, North Yorkshire Council
Ruth Metcalfe	ADAS

### INTERESTED PARTIES:

Maurice Daley	Scruton Parish Council
Harry Shepherd	Scruton Solar Action Farm Group
Tim Chapman	Local Farmer

## DOCUMENTS SUBMITTED AT THE HEARING

1. Copies of various of the submitted plans at A3
2. Location Plan and EIA Screening Opinion Decision for a potential Solar Farm at Cobshaw Lane, Langthorne.
3. Schedule of suggested conditions with comments submitted by the appellant
4. Copy of email sent on 9 April 2023 in response to the appeal notification by Mr T Chapman
5. Sequential Testing and Alternatives legal opinion submitted by the appellant.

## **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 carried out in accordance with the following approved plans: Site Location Plan Planning Drawing 1a 4004-REP-037; Land Under the Applicants Control Planning Drawing 1b 4004-REP-038; Indicative Site Layout 4004-SCT-DR-PRE-0002 REV G; Typical PV Panel Section Planning Drawing 4 4004\_SCT\_P\_0001; Inverter/Transformer Planning Drawing 5 4004\_SCT\_P\_0002; 53ft Battery Container (HVAC on ground) Planning Drawing 6 4004\_SCT\_P\_0003; 2MW Inverter Transformer skid (8m) Planning Drawing 7 4004\_SCT\_P\_0004; Security Fencing and CCTV Planning Drawing 8 4004\_SCT\_P\_0005; Security Gate Planning Drawing 9 4004\_SCT\_P\_0006; Access Track Cross Section Planning Drawing 10 4004\_SCT\_P\_0007; Container Storage Units Planning Drawing 11 4004\_SCT\_P\_0008; Indicative Temporary Construction Compound Planning Drawing 12 4004\_SCT\_P\_0009; Client Substation Planning Drawing 13 4004\_SCT\_P\_0010; DNO Substation Planning Drawing 14 4004\_SCT\_P\_00011; Landscape Mitigation Plan 4004-DR-LAN-101 REV D; Proposed Access Junction Visibility Splay Assessment 4004-DR-ALR-002a; and Fence Dike Lane Proposed Access Junction Visibility Splay Assessment 4004-DR-ALR-0003.
- 3) The permission hereby granted 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 occurring.
- 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) If the solar farm hereby permitted ceases to operate for a continuous period of 12 months, then a scheme for the decommissioning and removal of the solar farm and ancillary equipment, shall be submitted within 6 months of the end of the cessation period to the local planning authority for its written approval. The scheme shall make provision for the removal of the solar panels and associated above ground works approved under this permission. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, and details of site restoration measures.

- 6) 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.
- 7) Prior to the commencement of each phase of development (Construction, Operational and Decommissioning), a Soil Management Plan shall be submitted to, and approved in writing by, the local planning authority. The plan shall include, but not be limited to details pertaining to careful soil management during each phase, including consideration of the appropriate time of year for soil handling, planting beneath the panels and return to the former land quality as indicated in the Agricultural Land Classification survey dated 8th December 2020 – Issue 2 carried out by Amet Property. The Management Plan shall adhere to the guidance set out in the following documents (or any subsequent replacement versions):
  - Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (September 2009); and.
  - The British Society of Soil Science Working with Soil Guidance Note on Benefiting from Soil Management in Development and Construction.

The Soil Management Plan as so approved shall be implemented, and adhered to, for each phase of the development.

- 8) To ensure against soil compaction and overland flow route disruption during construction, the soil should be chisel ploughed or similar and it should be restored to a pre-construction condition immediately post construction, the date of which should be notified in writing to the local planning authority within 14 days of it occurring. For the first three years after the completion of the construction phase, every six months, inspections of the planting and soil must be carried out by a qualified soil scientist, to ensure adequate growth of the planting and that any compaction or channelisation of the soil can be identified and addressed. Any remedial work identified in the inspection should take place within 6 months of the date of the inspection.
- 9) No development shall take place until the details on the accesses to be provided to Low Street and Fence Dike Land have been submitted to, and approved in writing by, the local planning authority. Prior to the commencement of the development the site access on Low Street shall be constructed and prior to the First Export Date the access on Fence Dike Lane shall be constructed. Both accesses shall be provided in accordance with: the approved details; with Standard Detail number E20 Rev A; and the following requirements:
  - any gates or barriers must be erected a minimum distance of 13m back from the edge of the carriageway of the existing highway and must not be able to swing over the existing highway.
  - Provision to prevent surface water from the site discharging onto the existing highway have been constructed and maintained thereafter to prevent discharges.

The accesses shall be retained as such for the lifetime of the development hereby permitted.

- 10) Prior to the proposed accesses on Low Street or Fence Dike Lane being brought into use, the visibility splays shown on the following approved plans
  - Proposed Access Junction Visibility Splay Assessment 4004-DR-ALR-002a and
  - Fence Dike Lane Proposed Access Junction Visibility Splay Assessment 4004-DR-ALR-0003shall have been provided. Once constructed the visibility splays must be maintained clear of any obstruction and retained for that purpose at all times.
- 11) No building or other obstruction including landscape features and tree planting shall be located over or within five metres either side of the centre line of both public water mains that cross the site i.e. a protected strip width of ten metres. If the required stand-off distances are to be achieved via diversion or closure of the water main(s), the developer shall submit evidence in writing to the local planning authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.
- 12) The development hereby approved shall not be brought into use until the surface water drainage arrangements have been provided in full, in accordance with details which shall previously have been submitted to, and approved in writing by, the local planning authority. The approved measures shall be retained for the lifetime of the development.
- 13) No development shall take place until a Glint & Glare Management Plan (GGMP) has been submitted to, and approved in writing by, the local planning authority. The submitted GGMP shall contain, but not be limited to:
  - detailed design, to include specifications of both solar panel (surface types, anti reflective coating), mounting systems, illustrated with sectional plans as appropriate to show the angle of elevation and angle of azimuth of each solar panel in the development.
  - a schedule to regularly check and maintain the alignment of the solar panels;
  - a protocol through which glint and glare complaints can be submitted, investigated, and any issues rectified/ addressed/ mitigated to include procedures to ensure that any mitigation needed is implemented following MOD consultation and agreement only;
  - procedures through which complaints, associated actions/outcomes will be recorded/communicated and made available to the MOD on request;
  - provision to urgently address any incidents of a major impact that may occur that restricts aviation operations at RAF Leeming to

apply interim measures that will stop the source of glint or glare until measures to provide an enduring mitigation can be implemented; and

- timescales for completing investigations, implementing remedial works and the provision of interim and, or enduring mitigations to address any impact.

The provisions set out in the GGMP and any modifications/mitigation, as agreed in writing with the local planning authority shall be maintained for the life of the development.

- 14) The development hereby approved shall be implemented in accordance with the management measures set out in the Landscape and Biodiversity Management Plan prepared by Arcus Consultancy Services dated April 2021.
- 15) Notwithstanding the previously submitted details, prior to the erection of the solar panels, a landscaping scheme shall be submitted to, and approved in writing by, the local planning authority. The submitted scheme shall include, but is not limited to:
- details of the species;
  - numbers and locations of planting;
  - timescales for implementation; and
  - a Management and Maintenance plan covering the life of the development.

The landscaping of the site shall take place in accordance with the approved details and implementation programme. The site shall be maintained in accordance with the approved Management and Maintenance Plan for the life of the development hereby approved, and any planting which within a period of five years of planting dies, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

- 16) No development shall commence 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 relating to traffic management including measures to enable vehicles to enter and leave the site in a forward gear;
  - Hours of operation and hours during which construction and delivery traffic will travel to and from the site; 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.

- 17) The development hereby approved shall be implemented in accordance with the recommendations contained within paragraph 5.3.1 of the Ecological Impact Assessment prepared by Arcus Consultancy Services dated April 2021.



- 18) 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.
- 19) Prior to the First Export Date the Biodiversity enhancements shown on the Landscape Mitigation Plan 4004-DR-LAN-101 REV D, and the mitigation and enhancement measures detailed within section 5.4 of the Ecological Impact Assessment prepared by Arcus Consultancy Services dated April 2021 shall be implemented and retained as such for the lifetime of the development hereby approved.
- 20) Prior to the First Export Date details of the cleaning procedure for the panels shall be submitted to, and approved in writing by, the local planning authority. The details shall include but not be limited to the frequency of cleaning, volumes of water required, details of any detergents to be used and any required mitigation. The cleaning of the panels shall thereafter take place in accordance with the approved details.
- 21) 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 & 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.

---

# Appeal Decision

Site visit made on 30 April 2024

**by Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC**

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

**Decision date: 28 May 2024**

---

**Appeal Ref: APP/E3335/W/24/3337226**

**Land North of Transmitting Station, Washford, Watchet, Williton, West Somerset, TA23 0JD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Elgin Energy EsCo Ltd against the decision of Somerset Council.
  - The application Ref is 3/39/21/028, dated 24 November 2021 and refused by decision dated 31 July 2023.
  - The development proposed is Installation of a ground mounted solar farm, battery storage and associated development.
- 

## Decision

1. The appeal is allowed and planning permission is granted for the installation of a ground mounted solar farm, battery storage and associated development at Land North of Transmitting Station, Watchet, Williton, TA23 0JD in accordance with the terms of the application, Ref 3/39/21/028, subject to the conditions in Appendix A.

## Procedural Matters

2. The proposal was screened by the Secretary of State with regard to *The Environmental Impact Assessment Regulations 2017*. In their letter, dated 17 April 2024, the Screening Direction considered that the proposal is not 'EIA development'. I see no reason to disagree with that Direction, and have proceeded on this basis.
3. On 15 May 2024 the Written Ministerial Statement '*Solar and protecting our Food Security and Best and Most Versatile (BMV) Land*<sup>1</sup> (the 2024 WMS) was made in Parliament. Both the Local Planning Authority and Appellant were given an opportunity to address any matters arising from the WMS.

## Main Issues

4. Taking into account the Council's Decision Notice, the representations made and all the evidence before me, I consider that the main issues are:
  - The effect of the proposal on the character and appearance of the area, and;
  - Whether the proposal would result in the unacceptable loss of Best and Most Versatile Agricultural Land (BMVAL), and;
  - The effect of the proposal on heritage assets.

---

<sup>1</sup> <https://questions-statements.parliament.uk/written-statements/detail/2024-05-15/hcws466>  
Statement UIN HCWS466

## Reasons

### *Character and appearance*

5. Policy NH5: Landscape Character Protection of the *West Somerset Local Plan to 2032* (adopted 2016) (LP) sets out that *'Within the identified landscape character areas ... development should be located and designed in such a way as to minimise adverse impact on the quality and integrity of that local landscape character area.'*
6. Policy NH14: Nationally Designated Landscape Areas of the LP sets out that *'Major development proposals within the Quantock Hills Area of Outstanding Natural Beauty will be determined in accordance with national planning policy. Where development is likely to affect the Quantock Hills AONB or Exmoor National Park, regard will be had to their statutory purposes. Applications for development should have regard to location, siting, orientation and landscaping to achieve high quality design and to ensure that the proposals conserve or enhance the natural beauty, wildlife, cultural heritage and tranquillity of the AONB or the National Park and their settings. Development which would conflict with the achievement of the statutory purposes of the AONB or the National Park, or their settings or which would adversely affect the understanding or enjoyment of the National Park's special qualities, will not be permitted.'*
7. The appeal site is located to the northeast of Washford and the A39 with the B3190 to the east. To the north of the site lies the access road to Kentsford Farm. To the east lie agricultural fields, Crossyard Business Park and Washford Transmitting Station with the B3190 beyond. Further to the east is the Quantock Hills Area of Outstanding Natural Beauty<sup>2</sup> (AONB). This is considered to have a 'setting' which is broadly defined within the *Quantock Landscape Partnership Scheme Landscape Character Assessment Final Report February 2019*. This 'setting' does not appear to be replicated on the Policies Map for the LP.
8. To the south lie agricultural fields and the village of Washford. To the west of the site are agricultural fields and the course of the Washford River which flows from south to north entering the Bristol Channel at Watchet. On the opposite, western side of the Washford river is a footpath which follows the course of the old Mineral Line railway. There are no Public Rights Of Way (PROWs) within the appeal site.
9. The appeal site is not located within the Exmoor National Park nor is it located within the Quantock Hills AONB. It is also not located within a locally identified 'setting' for the Quantock Hills AONB. The proposal would not, therefore, have a directly adverse effect on these designated landscapes in themselves. The special qualities of the Exmoor National Park, which include the distinct and diverse landscape of softly rounded hills and ridges, a landscape mostly free of intrusive development such as major roads, power lines, quarrying and light pollution, and a mosaic of habitats supporting a great diversity of wildlife will not be directly affected by the proposal<sup>3</sup>. Accordingly, I find that the special qualities of the Exmoor National Park will not be adversely affected by the proposal.

---

<sup>2</sup> Areas of Outstanding Natural Beauty (AONB) are also now known as 'National Landscapes', albeit this name change is not reflected within local planning policy or many parts of national policy or legislation. To avoid confusion I have adopted the familiar term AONB as used in the local plan.

<sup>3</sup> See Appellant's Appendix I (i Part 1) pages 26 to 27

10. Turning to the indirect potential effects, the Appellant has submitted a Landscape and Visual Impact Assessment (LVIA) together with an Addendum to it. The Addendum provides further viewpoints and photo viewpoints showing the proposed development and the wider context. It is possible to see that the proposal would be situated within a mixed and managed landscape. Whilst there is a predominance of what most people would recognise as 'countryside' visible within the views, this predominates towards the fringes of the site to the east and west respectively, where the Exmoor National Park and Quantock Hills AONB are located.
11. Beyond and outside of these designated areas, there are a number of visual features within the landscape including the settlements of Williton, Watchet, and Washford. It is also possible to see manmade features in the form of the tall Radio transmitting towers at Washford, which are a dominant technological landmark within the countryside, and Hinkley Point Power Stations located a few miles away to the west.
12. I acknowledge the various objections and concerns raised by local residents and also by bodies such as the Exmoor National Park Authority. The latter who have reiterated s245 of the *Levelling Up and Regeneration Act 2023* in terms of the duty to seek to further National Park purposes<sup>4</sup>.
13. Clearly, the insertion of a solar farm with associated infrastructure into what are currently agricultural fields used for pastoral and arable farming, will change their character and appearance for a period of around 40 years. There would be some change in character in comparison to arable farming, with solar and pastoral farming taking place.
14. However, I concur with the assessment of the LVIA in that the views from within the National Park and AONB would not be significantly impacted by the proposal. This is because such views would not only be mitigated through the use of sensitive landscaping within the appeal site over its lifetime, which could be reasonably secured by condition, but also because the proposed development would be viewed within the wider landscape. Most viewers would see the proposal as a tiny part of a kinetic experience when travelling through the AONB and/or National Park rather than as a visually dominating feature within the landscape. Furthermore, when seen from limited viewpoints within either the National Park or AONB, most viewers are likely to feel a heightened sense of 'specialness' of those designated landscapes themselves and their importance which, in the main, are devoid of modern developments.
15. I undertook an unaccompanied site visit on Tuesday 30 April 2024 to view the site from various locations. I was able to see the many views from the local highway network, along roads such as the A39, Washford Hill (the B3190) and Cleve Hill, are obscured. This is not only because the development itself would be located a distance away from these highways, but also due to the fact for large stretches of these roads they are lined with dense hedging of a height that prevents car drivers or passengers sight of the appeal site. Together, with the undulations in the landscape, means that for most road users (and passengers) there would be limited-to-no views of the proposal. As such, I do not find that

---

<sup>4</sup> Pursuant to the Planning Inspectorate as a 'relevant authority' in accordance with section 11A of the National Parks and Access to the Countryside Act 1949. Thus, it has a duty to seek to further National Park purposes, of conserving and enhancing the natural beauty, wildlife and cultural heritage of the national parks; and of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.

proposal would have an adverse effect on the character and appearance of the area in this respect.

16. I note that there is a Public Right Of Way (PROW) which runs along the railway line to the west. This is located some distance from the site, with intervening Washford River and fields separating the site from the footpath. Given the ensuing vegetation along this path and the vegetation forming the field boundaries and proposed as part of the landscaping of the site, I do not find that the proposal would have an adverse effect on the users of this footpath.
17. Accordingly, I find that the proposal would promote the understanding and enjoyment of the Exmoor National Park including its multiple special qualities. For similar reasons, I find that the setting of Quantock Hills AONB – in its broadest sense and beyond that identified locally – would not be adversely affected by the proposal.
18. Lastly, when considering the proposal in more general character and appearance terms, whilst I note that it would be visible from various viewpoints by users, such as walkers, it is mitigated in part by existing vegetation or the undulating landform and there are suitable and appropriate ways in which it can be appropriately mitigated. As such, I conclude that the proposal would not have an adverse effect on the character and appearance of the area. It would not, therefore, conflict with Policies NH5 and NH14 of the LP which seek the aforesaid aims.
19. I also find that the proposal would accord with the Policies of the *National Planning Policy Framework* (the Framework) which include Paragraphs 180 to 184, in relation to development within National Parks and AONBs, and to Paragraph 180 in relation to recognising the intrinsic character and beauty of the countryside.

#### *Agricultural Land*

20. Policy NH8 of the LP requires that the best and most versatile agricultural land (grades 1, 2 and 3a) will be protected from significant development proposals. The 2024 WMS reiterates national policy, including highlighting that food security is an essential part of national security. It also sets out information in respect of cumulative impacts, soil surveys and supporting solar on rooftops and brownfield sites.
21. Local tenant farmers, who farm parts of the appeal site, have submitted a report undertaken in June 2018 by Luscombe Maye. The report indicates it was for the 'sole purpose of the assessment of the land in relation to its suitability for solar development'. The report summarises that 'it is considered that the land at Washford is an example of some of the better quality arable land in this area of West Somerset.' This appears to be an assessment made on the basis of a site inspection and desktop research, with the ALC map indicating the site comprising mainly Grade 2 agricultural land (within BMVAL). However, given the limited remit of the report, as indicated above, and the fact that the analysis and assessment is based on little more than a walk-over of the fields and high level ALC maps from the 1980s, I afford this report little weight in this case.
22. CPRE Somerset submitted a document called the Soil Site Report – Extended Soil Report Kentsford, dated 28 Jan 2022. However, this report is for personal use, and appears to be based upon a desktop assessment as part of the

National Soil Map for England and Wales, produced by Cranfield University's National Soil Resources Institute. Yet, the report offers no detailed analysis of the appeal site itself. Instead it is around 80 pages of perhaps interesting soil groups, but it adds little to understanding the agricultural land classification of the site. This report is therefore afforded little weight in this instance.

23. Lastly, the Appellant has submitted an *Agricultural Land Classification (ALC)* report<sup>5</sup>, dated September 2018 following survey work in November 2017. This survey work included a soil investigation in accordance with the '*Agricultural Land Classification of England and Wales: Revised Guidelines and Criteria for Grading the Quality of Agricultural Land*', October, 1988. During this assessment, the soil's properties and profile at 63 locations across the site were examined using a Dutch (Edleman) soil auger. Two soil pits were hand dug. Top soil samples from six auger locations were sent to a laboratory to determine the definitive texture class of the topsoil; including to distinguish between medium clay loams, heavy clay loams and clays. The report goes on to conclude that:

*'the detailed ALC survey work undertaken identifies that the Site comprises entirely lower quality Grades 3b and 4 agricultural land. The Site therefore comprises no "best and most versatile" agricultural land and the proposed development would not significantly harm agricultural interests...'*

24. With concerns raised by local farmers, who indicated that the Appellant's ALC report did not appear to accurately reflect the grade of the land (including the rates they were paying which regarded the land as higher than Grades 3b and 4), the Council appointed Mott Macdonald to independently review the Appellant's ALC report. On the basis of this review, the Local Planning Authority considers in their Appeal statement that *'there may be areas of the site that can be classified as Grade 3a'*.
25. This evidence presents a conflicting picture. Soil samples from the site indicate that the site comprises 'entirely lower quality Grades 3b and 4 agricultural land'. However, I recognise that the ALC process is based on more than soil samples. Factors such as soil wetness and flooding are also factored into the equation. Moreover, changes in the weighting of these factors have the potential to alter the overall Grade of the land.
26. At the same time, the national maps for ALC from the 1960s-80s, which although not showing detailed site specific information, indicate that the land could be within the category of BMVAL. This view is fortified by the fact that local farmers, who have farmed the land for some time, attest to its bountiful harvest over the years. Whilst not a scientific measure in the way soil samples can be, this is important local knowledge that should be considered in informing a decision.
27. Taken in the round, I am nonetheless persuaded by the evidence of the Appellant in this instance. This is because even though it has limitations, it is based upon more than a walk over of the field as undertaken by Luscombe Maye or a desktop assessment of soils as undertaken by Kentsford (CPRE Somerset). Whilst I acknowledge the local knowledge of farmers and the limitations inherent within the number of soil samples taken and then analysed at the

---

<sup>5</sup> With their Statement of Case, Appendix E (viii)



laboratory, I find that the evidence before me points towards the site not comprising land that falls within the category of BMVAL in this case.

28. At the same time, it is important to note that the appeal site is to be used for pastoral farming as well as solar 'farming' – the latter not being an agricultural use. I also note the concerns raised by interested parties that the productivity and versatility of the land would be reduced. Nonetheless, the specific way agricultural land is used is not a matter that is subject to planning controls. For example, there would be nothing in planning terms to prevent the farmers and/or landowners<sup>6</sup> using the fields that form the appeal site solely for the grazing of sheep at present or even leaving them fallow.
29. Given this, the fact that the proposal would limit the ability to carry out any arable farming does not, in my view, mean that it results in the loss of agricultural land when it can still be used for other agricultural purposes. As such, the proposal would not result in either the temporary or permanent loss of BMVAL as the land would continue to be used for some agricultural purposes whilst also being used to produce solar energy. Furthermore, the proposal would not be detrimental to the soil quality, so a return to arable production at a later date would still be possible.
30. In terms of the 2024 WMS, I note that the Government has '*heard concerns about the perceived inaccuracy and unfairness of soil surveys undertaken as part of the planning process for solar development*'. However, in this instance there is no evidence that the soil surveys and the person(s) undertaking them were not suitably qualified<sup>7</sup> – in this case they are members of the British Society of Soil Science – and as such I see no reason to doubt the veracity of the soil analysis and evidence undertaken by them.
31. Accordingly, I find that the proposal would not result in the unacceptable loss of Best and Most Versatile Agricultural Land. It would therefore accord with Policy NH8 of the LP which seeks to protect BMVAL from significant development.
32. For similar reasons, I also find that the proposal would be in accordance with the broad thrust of national Policy and Guidance relating to such matters. For example, it would accord with Footnote 62 of the Framework in that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality (as part of Paragraph 181). It would also accord with the 2024 WMS in relation to solar and protecting our food security and Best and Most Versatile Agricultural Land.

#### *Heritage assets*

33. Section 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended, requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the Secretary of State shall have special regard to the desirability of preserving the building or its setting.

---

<sup>6</sup> This does not impinge on how a tenant farmer may or may not use the land; rather it is to make the point that in planning terms how land is farmed is not controlled by the planning system. The tenancy itself is a separate (and private) matter from planning controls between the parties involved. I consider the tenancy aspects within the Other Matters section of this decision.

<sup>7</sup> In this case, they are members of the British Society of Soil Science and I see no reason to doubt the applicability of this professional body here.

34. Historic England, the government's adviser on the historic environment, provide comments to the application in March 2022 and January 2023. They, together with other consultees, identify that the proposal is within what they consider are the setting of a number of designated heritage assets.
35. This includes Daws Castle to the north of the proposal, Battle Gore round barrow Cemetery to the east and Cleeve Abbey to the south. These are all Scheduled Monuments. There are also a number of listed buildings which Historic England identify the settings are affected by the proposals, including the Grade II\* Listed Building Kentisford Farmhouse around 27 metres to the north-west from the proposed site, and the Grade I Listed Church of St Decuman to the north, which also includes a Scheduled Monument cross within the church yard.
36. Historic England consider that the proposals are harmful as a result of the marked change from a rural landscape to a large industrial development with fields of PV panels and associated infrastructure. The changes that would bring to the historic rural landscape which forms part of the setting of the heritage assets above would result in harm in these views and to the significance derived from the setting of this historic landscape. This would result in harm of a less than substantial magnitude, which should nonetheless be afforded great weight.
37. In considering the points raised by Historic England, I have dealt with broader character and appearance matters earlier in this decision. My focus here is on the potential harm to heritage assets through changes to their settings. In this respect, I concur that the proposal would alter the context of how various heritage assets are experienced. This would be especially so for those sharing a close proximity to the appeal site and/or a historic connection – through use or experience. The Grade I listed building of St Decuman's Church for example, would have its existing rural setting partly eroded through the introduction of pastoral and solar farming in fields located a short distance to the south.
38. There are other assets identified, such as the pre-historic barrow at Battle Gore which is a Scheduled Monument, where the setting is more ambiguous. The Appellant has submitted a response from Foundations Heritage dated 24 February 2023, provided by a Member of the Chartered Institute for Archaeologists. This response details that Historic England do not comment on how the setting contributes to the setting of that scheduled monument. The response goes on to detail how such settings are usually connected with the ritual site itself and their contribution marking boundaries along with the construction of new social hierarchies.
39. In light of this, it is unclear as to how the proposal would result in harm to the setting of this asset beyond the fact it lies within a distance of the appeal site. The Appellant's ascribes negligible effect on setting to this asset at worst. I see little reason not to concur with that assessment given that 'setting' for some heritage assets in this case appear to have been sometimes mistakenly conflated with visual amenity.
40. Nevertheless, taken in the round, I agree that the proposal would result in harm to the setting of nearby heritage assets through changes in their context arising from the proposal. This would be harm that falls into less than substantial harm category set out in the Framework; albeit to articulate this harm further, as suggested by the national Planning Practice Guidance, this harm would be towards the low end of the less than substantial scale.

41. This is because, as a matter of planning judgment, I consider that the proposal would not result in any changes to the fabric of any of the structures or listed buildings. Moreover, only small parts of the visual settings of the heritage assets would be affected by the proposal. In the main, as an example, future generations would still be able to see the fortified Saxon site called Daws Castle and its relationship with the sea and as a defensive works against Viking coastal incursions in the late AD800s. Similar experiences could continue to be had between the other heritage assets and their settings.
42. Nonetheless, Paragraph 208 of the Framework requires that the less than substantial harm is weighed against the public benefits of the proposal. The proposal in this case would lead to a renewable energy development providing energy equivalent to around 7,500 dwellings. This is power that would contribute to national targets to reduce greenhouse gas emissions and help power homes, schools, businesses, and/or hospitals through distribution to the wider power grid network. I find that the public benefits arising in the form of the not insignificant creation of renewable energy outweighs the less than substantial harm to the identified heritage assets.
43. I therefore conclude that the proposal would accord with Policy NH1 of the LP in that any harm to settings of heritage assets are outweighed by the public benefits in this case. In doing so, I take a similar view to that of the Council's Officer Report to Committee, and by extension the Council, who did not object to the proposal on the grounds of heritage harms<sup>8</sup>. It would also accord with Policies of the Framework, including those set out in Chapter 16. Accordingly, the harm to heritage assets arising here do not provide justification for the dismissal of the appeal.

### **Other Matters**

44. A number of other matters were raised by interested parties during the 18 months or so the application was with the Local Planning Authority. Further representations have also been made at the appeal stage. I have taken all of these into account in determining this appeal. More specifically concerns have been raised on the following matters, which I consider in more detail below.

#### *Tenant farmers*

45. There are two tenant farmers, including one with an interest in approximately 21 hectares of the appeal site land. Written submissions have been made by the tenant farmers, as well as agents acting on their behalf and the Tenant Farmers Association and the National Farmers Union. The written submissions indicate that the holdings are farmed for both arable and pastoral agriculture. It has been indicated that permitting the proposed development would have an impact on the tenants owing to the potential reduction of roughly 21 hectares in their overall land holdings of around 120 hectares.
46. There is disagreement between the Council and these parties as to the materiality of such matters in the decision-making process. The Committee Minutes of 18 July 2023 indicate that:

*'Personal circumstances. It was clarified that Officers were not advising Members that they were unable to take personal circumstances into account. Personal circumstances were capable of being material considerations, but only*

---

<sup>8</sup> See also the Committee Minutes where heritage harm is not detailed.

*exceptionally. It was a matter for Members to consider and decide whether the circumstances of the tenant farmers were exceptional and should be treated a material and, if so, the weight to be afforded to the same in the planning balance. It was the view of Officers that little or no weight could be afforded, but ultimately it was a matter for Members to determine.'*

47. I am unable, on the basis of the Minutes<sup>9</sup>, to ascertain what weight the Committee gave in its decision. Typically land ownership and tenancy are private matters between the relevant parties. Moreover, it is well established planning practice that planning acts in the wider public interest, and the personal circumstances of specific parties do not typically outweigh those.
48. Nonetheless, the tenant farmers in this case have a specific interest in the land that they farm and have farmed for a number of years. This is not only in terms of an economic interest – though that clearly is an important personal factor given that farms are not 'charities' but instead businesses – but also in terms of how the land is managed. The tenant farmers have a vested interest in ensuring that the land is managed in a way that it is protected for future generations; regardless of ALC grade or whether that is for arable or pastoral farming. Were they to fail in that endeavour, then it would likely have adverse impacts; not only on their livelihoods, but also on the immediate local environment through a lack of land management.
49. In this respect, I find that the personal circumstances of the tenant farmers, as detailed in their submissions and those of Unions/Associations and of local residents on their behalf, are material in this case. I also note the references to caselaw including that of *R v Vale of Glamorgan District Council (ex parte Adams) [2000]* and *Westminster City Council v Great Portland Estates plc [1985]*.
50. I acknowledge the points made that:
- 'the legislation governing the tenancy enjoyed by one of the tenant farmers confers security of tenure for his lifetime and with rights of succession, should this planning application be approved, he would face an incontestable notice to quit from his landlord, which would unseat him, and his son, being his future successor, from his agricultural tenancy on the land comprised within this application. The land he farms within this application forms a substantial part of his holding, and it includes some of the best arable land within his holding. Losing this area to the proposed development would be devastating to his farm business'<sup>10</sup>.*
51. However, I have not been provided with any detailed information on the scale or quantum of this impact on this tenant farmers business. That is not surprising given that it is private business information. That said, I have no reason to doubt that the use of the appeal site for solar and pastoral farming rather than arable farming will alter the financial returns for the land owner(s) and the tenant farmers. What it is not possible to establish from the evidence before me, is whether such financial returns would inevitably be negative for both parties.
52. I am also cognisant with the fact that the planning system has no control over what is farmed on agricultural land. I understand that one of the tenant

---

<sup>9</sup> Either those of 20 June 2023 or 18 July 2023.

<sup>10</sup> See representation from the Tenants Farmers Association dated 26 April 2024.

farmers already grazes and keeps sheep on parts of the site. It is not illogical to assume that such activities would continue to take place in and around the proposed development. It is also not unreasonable to consider that the tenant farmer would seek to maximise the yields from their fields to ensure a financially sustainable future. This might include responsibilities for land stewardship around the solar panels and associated infrastructure in addition to grazing sheep.

53. The point being that whilst the personal circumstances of the tenant farmers and their families are material in this case, I do not find that they provide justification in themselves for the dismissal of the appeal scheme. The land would continue to have an agricultural function during the lifetime of the proposed development; albeit focussed towards biodiversity and pastoral farming rather than arable farming. Furthermore, at the end of the proposed lifetime, an element which can be secured by condition, the land would then again be available for arable farming.

*Impact on local tourism and no benefits for local people*

54. Concerns have been raised that developers are 'making lots of money and get the benefits' whereas the proposed development would affect local people. This includes the potential impact on tourists visiting the area, which makes up an important part of the local economy. One reason for tourists visiting is to enjoy the natural splendour of Exmoor National Park and the Quantock Hills AONB.
55. I acknowledge this, and also that tourists will also visit the area to see the coast, stand at Daws Castle (and experience how life may have been in the 800s), or to visit Tropiquaria Wildlife Park, amongst many other activities. However, the proposal would be set back from the main highways and views, as detailed elsewhere in this decision, would be partially screened – either through existing vegetation and/or proposed vegetation in addition to the distances involved. The impact to tourists visiting the area is unlikely to be any different to other users of the surrounding area, which I have found to be acceptable.
56. I note the points made in terms of benefits arising to the developer. However, as discussed elsewhere, I have found that whilst there would clearly be benefits to the operator of the proposal, there would also be a number of economic, social and environmental benefits to the local area. This includes the creation of renewable energy to power various buildings and services – including jobs – and biodiversity benefits, for example.
57. I do not, therefore, find that proposal would have an adverse effect on local tourism which would justify the dismissal of the appeal in this case.

*Electromagnetic Compatibility (EMC) or Electromagnetic Field (EMF)*

58. As part of their consideration of the planning application the Council consulted with a number of statutory consultees, including the HSEs Explosive Inspectorate, the Office for Nuclear Regulation, and Wales and West Water Utilities, due to its proximity to its infrastructure. None of these consultees raised an objection to the proposed development.
59. There are also no detailed objections from the Council's environmental health team regarding the potential impact on human health or other services from the proposal. I note the points made in terms of electromagnetic fields and compatibility. However, in the absence of any objections from statutory



consultees on such matters and with limited evidence before me that suggests the proposal would interfere with such activities, I find no reason to dismiss the appeal on these grounds.

### *Biodiversity*

60. I note the concerns raised in terms of biodiversity and the potential impact on mammals including deer from the fencing restricting movement. However, approximately 1.70km of new native species hedgerow will be planted within the appeal site and managed to be in 'good' condition. The hedgerows will comprise a mixture of native shrubs and trees and will be maintained at a width of 2-4m and a height of 3-4m.
61. Furthermore, the scheme proposes new tree planting in the area which provides some habitat gain and also the opportunity to provide some additional screening to the western boundary. Lastly, the Biodiversity Net Gain Assessment concludes that the proposal would exceed the 10% biodiversity net gain objectives of recently adopted legislation. I do not, therefore, find that this provides justification for the dismissal of the appeal.

### *Highway safety during construction phase*

62. In terms of highway safety during the construction phase, typically the implementation of permission for schemes such as that proposed here occur within a short timeframe – months rather than years. Whilst during such periods there would be a small increase in vehicular traffic movements to and from the site, this would be onto main roads and can be reasonably managed through a construction management plan. This does not, therefore provide justification for the dismissal of the appeal scheme.

### *Battery Energy Storage Systems (BESS) and fire risk*

63. In terms of the potential risk of fire, the HSE have advised that BESS proposals are typically not a relevant development in relation to land use planning in the vicinity of major hazard sites and major accident hazard pipelines. This is due to them not introducing people into the area.
64. The national Planning Practice Guidance<sup>11</sup> (the Guidance) was updated in August 2023, and encourages Local Planning Authorities to consult with their local fire and rescue service as part of the formal period of consultation. The Guidance was updated after the Council made its decision and the Guidance only 'encourages' this to take place.
65. However, there are some residential dwellings (such as Kentisford Farm, those clustered along the highways known as Five Bells and near to Washford, for example) and businesses such as those based at Crossways Business Park and Tropiquaria Wildlife Park, that naturally would be concerned that there was no specific Battery Safety Management Plan in place that had been reviewed by the local fire and rescue service. As the Guidance advises, consideration should be given to what would happen in the event of an incident, prevention of the impact of thermal runaway, and emergency services access.
66. To that end, I would impose a planning condition requiring the submission and approval of a Battery Safety Management Plan before the installation of any

---

<sup>11</sup> <https://www.gov.uk/guidance/renewable-and-low-carbon-energy>  
Paragraphs: 032 to 36 inclusive. Reference ID: 5-032-20230814



such equipment on the appeal site. This would be a reasonable condition and necessary to minimise any risks arising from the Battery Energy Storage System to human health and property should an incident arise.

67. I also note that Wales and West Utilities have provided comments and informatives at the application and appeal stages. It is, therefore, not only clear as to where utility lines may run, but also the need to inform various bodies when works may take place in order to minimise the risk to such infrastructure.

#### *Other Appeal decisions*

68. The Appellant has brought to my attention a number of planning appeal decisions. Whilst I note that these relate to solar developments, I do not have the full particulars. Moreover, I note that these decisions relate to sites across England including in Essex, Burnley and Ludlow. I afford them little weight in relation to the appeal before me, which, in any case, I have determined on the basis of its own merits.

#### *Summary on Other Matters*

69. I have considered a number of other matters raised by interested parties. I find, when taking all of these into account, they do not provide justification whether individually or cumulatively for the dismissal of the appeal proposal.

#### **Conditions**

70. At the Planning Committee stage, the Local Planning Authority suggested a list of 17 planning conditions to impose were permission to be granted. I have taken these into account in light of Paragraph 56 of the Framework and the Guidance and the use of planning conditions. I have also taken into account the Appellant's final comments in relation to conditions, dated 20 May 2024.
71. Conditions relating to time limits for implementation, the total time limit for the 'temporary' development of forty years, the removal of the development at the end of its lifetime, and for it to be carried out in accordance with the submitted drawings are necessary to provide certainty and for the avoidance of doubt. However, I alter the removal period from three months to six to give ample opportunity for the removal of the parts of the proposed development no longer required at the end of the permission time period.
72. A condition requiring material samples would be onerous and it is unclear as to why such a condition is necessary in this case. As it does not meet the tests set out in Framework Paragraph 56, I have not imposed it.
73. Conditions requiring the site access road to be provided, and details of turning, parking and so on, are necessary and reasonably related to the scale of the proposal in order to minimise any effects on highway safety and to ensure the safety of operators on site.
74. Suggested condition 8 refers to a joint inspection of the route to be used by construction vehicles and that any damage to the highway resulting from traffic movements generated by the application site shall be repaired within three months of detection and at no cost to the Highways Authority. I find that this condition is imprecise and not reasonable. This is because it is unclear as to whom the costs would be borne by and fails to identify the methodology for determining damage to the highways arising from the proposal and damage to

the highways which can arise through inadequate maintenance or other road users. This condition does not meet the tests of Paragraph 56 of the Framework and I have not therefore imposed it.

75. The submission of a Written Scheme of Investigation relating to archaeology is reasonable given that the proposal will involve ground works which could unknowingly affect such heritage assets.
76. A condition requiring an ecological mitigation and enhancements scheme to be submitted and approved is necessary and reasonable given that these are a benefit weighing in favour of the proposal and to ensure that biodiversity gains are achieved for the local environment.
77. Conditions relating to landscaping schemes, no forms of external illumination (except low level), and the submission of a colour scheme for plant, equipment and buildings are necessary and related in scale and kind to the development in order to protect the visual amenity of the area.
78. A condition requiring the submission and approval of a Construction Environmental Management Plan (CEMP) is necessary in order to minimise the impact of the proposal on local residents and businesses arising from the proposed development during its construction phase. This includes that the CEMP contains delivery hours, wheel washing facilities, and workers parking for example. I have tweaked this slightly to insert the wording 'typically being' as the original wording could prevent vehicles from leaving their depot until within the set times.
79. A condition requiring the Construction Traffic Management Plan to be implemented as submitted is necessary to ensure highway safety for all road users.
80. A condition requiring the submission of a Battery Storage System Safety Plan is necessary and reasonable in order to reassure the Council, local residents and businesses to the safe operation of this element of the proposal. It would also assist in ensuring that operatives, when on the site, are protected from any risks arising from such infrastructure.
81. Lastly, a condition requiring detail and a scheme to minimise off-site flooding arising from surface water flooding in order to prevent pollution is necessary and reasonable in order to minimise any risks to the local environment from such occurrences.

### **Planning Balance**

82. Section 38(6) of the *Planning and Compulsory Purchase Act 2004*, as amended, sets out that if regard is to be had to the development plan for the purpose of any determination under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
83. In this case, I have found that the proposal would not conflict with Policies NH5, NH8 and NH14 of the LP. I also find, in the absence of conflict with these policies and those of the Framework, that the proposal would not conflict with Policies CC1 and SD1 of the LP which relate to sustainable development. Whilst I have found there to be less than substantial harm to the setting of heritage assets, this harm is outweighed by the public benefits. Accordingly, the proposal would accord with the development plan when considered as a whole.

84. In terms of material considerations, I have considered these throughout this decision including the personal circumstances of tenant farmers. However, as a matter of planning judgement, I have not found that these material considerations point to a decision of dismissing the appeal given its accordance with the LP.

**Conclusion**

85. For the reasons given above the appeal should be allowed.

*C Parker*

INSPECTOR

## **Appendix A - List of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The permission hereby granted shall be limited to a period of forty 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 fourteen days of the event occurring.
- 3) The development hereby permitted shall be carried out in accordance with the approved plans:
  - DRNO JPW0622-WASHFORD-013 REV B Red Line Boundary
  - DRNO JPW0622-WASHFORD-12 REV I Solar Layout
  - DRNO 24 Landscape Proposal Rev E
  - DRNO JPW1056-001 Typical Panel Planning Details
  - DRNO JPW1056-002 Typical Invertor Planning Details
  - DRNO JPW1056-003 Typical CCTV Planning Details
  - DRNO JPW1056-004 Typical Access Road Planning Details
  - DRNO JPW1056-005 Typical Fence and Gate Planning Details
  - DRNO JPW1056-006 Typical DNO Building Details
  - DRNO JPW1056-007 Typical Battery Unit Details
  - DRNO JPW1056-009 Existing and Proposed Cross Sections
- 4) Within six months of the solar array permanently ceasing to be used for the generation of electricity, or the end of this permission, whichever is the earliest, the development hereby permitted shall cease and the array, and associated infrastructure, shall be permanently removed from the land, and the site restored to its former condition (allowing for any appropriate enhancements) in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority prior to such works being carried out.
- 5) No other part of the development hereby approved shall be commenced until the site access roads shall be hardened, surfaced, drained and maintained thereafter for a distance of not less than 6 metres back from its junction with the public highway.
- 6) Subject to Condition 5 hereof, no other part of the development hereby approved shall be commenced until the until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.
- 7) No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been first submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other scheme as may be subsequently agreed in writing by the Local Planning Authority.

- 8) Prior to the commencement of development a detailed scheme of ecological mitigation and enhancement measures set out in a Biodiversity Management Plan (BMP), in accordance with the recommendations of the submitted Biodiversity Net Gain Assessment (January 2023, Ref: ECO02396 1), has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include proposals for protective measures during the construction process; external lighting; and planting, including a timetable for implementation. The development shall thereafter be undertaken in accordance with the approved BMP.
- 9) All approved landscaping details shall be carried out in the first planting and seeding seasons following the erection of the solar panels, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards.
- 10) No external form of illumination of the site shall be installed or used on the site other than low level lighting required on ancillary buildings during occasional maintenance and inspection visits.
- 11) The installation or construction of all plant, equipment, and buildings shall be undertaken using a colour scheme which has previously been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved colour scheme.
- 12) Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, typically being between 8:00am and 6pm Mondays to Fridays inclusive: 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank or Public Holidays unless agreed in writing by the Local Planning Authority in advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
  - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works;

(j) details of wheel washing facilities and road sweeping measures with the respective obligations;

(k) details of the amount and location of construction worker parking;

All works shall be carried out in accordance with the approved CEMP thereafter.

- 13) The construction of the development shall be undertaken in accordance with the Construction Traffic Management Plan prepared by RPS dated April 2021 (JNY9508-03).
- 14) Prior to the implementation of the Battery Energy Storage System comprised in the development, a detailed Battery Safety Management Plan (BSMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and operated only in accordance with the approved BSMP.
- 15) 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 to prevent pollution has been submitted to, and approved in writing, by the Local Planning Authority. The scheme shall subsequently be implemented as approved.

**\*\*\* END OF CONDITIONS \*\*\***





## Appeal Decision

Hearing held on 9 April 2024

Site visit made on 10 April 2024

**by Anne Jordan BA (Hons) MRTPI**

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

**Decision date: 23<sup>rd</sup> April 2024**

---

### **Appeal Ref: APP/E2530/W/24/3337544**

### **Land associated with Washdyke Farm to the North of Billingborough Rd, Folkingham, Lincolnshire, NG34 0EZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by GS Ignis Ltd against the decision of South Kesteven District Council.
  - The application Ref is S23/0511.
  - The development proposed is installation of a solar farm comprising ground mounted solar PV panels with a generating capacity of 27 megawatts (MW), including mounting system, inverters, underground cabling, stock proof fencing, CCTV, internal access tracks and associated infrastructure, landscaping and environmental enhancements for a temporary period of 40 years.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for installation of a solar farm comprising ground mounted solar PV panels with a generating capacity of 27 megawatts (MW), including mounting system, inverters, underground cabling, stock proof fencing, CCTV, internal access tracks and associated infrastructure, landscaping and environmental enhancements, for a temporary period of 40 years at Land associated with Washdyke Farm to the North of Billingborough Road, Folkingham, NG34 0EZ in accordance with the terms of the application, Ref S23/0511, and the plans submitted with it, subject to the conditions in the attached schedule.

### **Applications for costs**

2. An application for costs was made by GS Ignis Ltd during the hearing against the decision of South Kesteven District Council. This application is the subject of a separate decision.

### **Preliminary Matters**

3. Prior to the hearing the Council confirmed that subject to the provision of an appropriate scheme to mitigate the impacts of development on skylarks, they were no longer defending reason for refusal 4. At the hearing, I was provided with a Memorandum of Understanding and supporting evidence of title in relation to the provision of an off-site skylark mitigation scheme. I have taken these into consideration in reaching a decision.

### **Main Issues**

4. Accordingly, the main issues for the appeal are:

- Whether the proposal would lead to an unacceptable loss of best and most versatile agricultural land (BMV);
- The effects of the proposal on the setting of heritage assets, in particular the site of the Anglo Saxon Nunnery and Medieval Chapel at Stow Green which is a Scheduled Monument;
- The visual effects of the proposal, in particular the effects of the proposal on users of public right of way PRoW Thre/2/1 and the character and appearance of the ;
- The effects of the proposal on protected species, in particular its effects on breeding habitat for ground nesting birds;
- Whether the proposal would conflict with the requirements of Local Plan policy in relation to a demonstration of public support for Solar PV proposals.

## **Reasons**

### *Policy*

5. The development plan for the area is the South Kesteven Local Plan (2020). Policy SP1 seeks to protect BMV in order to protect opportunities for food production and the agricultural economy. Development affecting BMV will only be permitted where there is insufficient lower grade land available at that settlement, and land is restored to its former agricultural use on at least equal quality post development.
6. Policy RE1 relates specifically to renewable energy development and seeks to support such development provided it does not negatively impact the District's agricultural land asset and can demonstrate the support of affected local communities. Appendix 3 of the Local Plan comprises a set of criteria against which renewables schemes, including solar proposals will be judged. Solar Energy Criteria 9 indicates that the use of BMV for a solar farm needs to be justified by a sequential type search that indicates that no site that has less of an impact on agricultural land is suitable.
7. Policy DE1 relates to promoting good quality design. It seeks development that makes a positive contribution to the character of an area including through retaining and incorporating important on-site features, such as trees and hedgerows and where possible, providing nature conservation and biodiversity enhancement as part of the development. Policy EN1 – Landscape Character, seeks development which is appropriate to the character of the landscape within which it is situated, and contributes to its conservation, enhancement or restoration. Policy EN3 seeks to maintain and improve the green infrastructure network in the District.
8. Policy EN2 seeks to conserve, enhance and promote the District's biodiversity. In line with national policy, where a detrimental impact on protected species cannot be avoided, the scheme will be required to provide appropriate mitigation. This requirement is reflected in Solar Energy Criteria 7 of the Local Plan Renewable Energy Appendix. Policy EN6 of the Local Plan seeks to protect and enhance heritage assets and their settings.

9. South Kesteven published a climate change strategy in 2023. This, amongst other things seeks to maximise opportunities for the District to become more self-sufficient for energy and to reverse biodiversity loss and expand existing habitats. It also recognises that the development of renewable energy at every level will be important to drive local energy generation and provide a tangible contribution to national Net Zero targets.
10. The Written Ministerial Statement (WMS) of the 18 June 2015 requires public support for wind turbine schemes to demonstrated but does not place a similar test on Solar PV. The WMS on solar energy (25 March 2015) indicates that the use of BMV for solar farms has to be justified by the most compelling evidence.
11. Policy in the Framework indicates that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality. It also sets out that National Policy Statements may be material considerations in planning applications. National Policy Statement for Energy (EN-1) (Nov 2023) and National Policy Statement for Renewable Energy (EN-3) (Nov 2023) recognise Solar PV development as Critical National Priority Infrastructure. EN-3 indicates that land type should not be a pre-dominating factor in determining the suitability of the site location but nonetheless seeks to avoid the use of BMV land where possible.
12. Planning Practice Guidance (PPG) on renewable and low carbon energy, provides a list of planning considerations that relate to large scale ground mounted solar photovoltaic farms. These include locating Solar PV developments on previously developed and non-agricultural land provided it is not of high environmental value and where a proposal involves the use of any agricultural land, that it has been shown to be necessary and poorer quality land has been used in preference to higher quality land. Such developments should allow for continued agricultural use where applicable and implement biodiversity improvements around arrays. This guidance predates national policy set out in the Framework.

#### *Nature and Benefits of the Scheme*

13. The appeal site is made up of around 27 hectares of agricultural land, which makes up part of a wider agricultural holding of 60ha at Washdyke Farm. It is occupied by a tenant and is farmed in conjunction with other land in the wider area. It has historically been in arable use. It is edged in part by mature hedging with hedging partly defining a field boundary within the site.
14. The current application seeks full planning permission for the installation of a solar farm comprising ground mounted solar PV panels with a generating capacity of 27 megawatts (MW) which would provide sufficient energy to power up to 8,710 homes per annum<sup>1</sup>. This would connect to the National Grid via the Sleaford Substation from a cable buried underneath Mareham Lane.
15. The development would be accessed via the existing field access on Mareham Lane and would comprise Photovoltaic (PV) panels to be arranged on a simple metal framework (table) aligned east-west across the site and facing south, including mounting system. Inverters would be located on the underside of the solar array and would be installed approximately 1m above the ground.

---

<sup>1</sup> Appellant's planning statement.

16. Five transformer stations would be positioned around the site. These would be approximately 2.9m high by 6.1m in length and 2.45m in width. The panels would be connected by an internal network of access tracks which would be 3.5m wide and would be constructed of a permeable crushed stone. A District Network Operator (DNO) Substation would be located adjacent to the access from Mareham Lane measuring 2.6m in height, 3.6m in width and 3.1 metres in depth. A storage container and a customer control building which would measure 2.85m in height, 2.4m in width and 4.5m in length would be located alongside the DNO station.
17. The external works would also comprise stock proof fencing, CCTV, internal access tracks, landscaping and environmental enhancements including hedgerow planting, a series of swales, which would manage surface water runoff from the site and species rich grassland throughout the site. The supporting documentation indicates that it would provide Biodiversity Net Gain (BNG) throughout the lifetime of the scheme calculated at 192.56% in habitat units and 18.12% hedgerow units.
18. The proposed development would be operational for a 40-year period and at the end of this period, all solar modules and supporting infrastructure would be removed for the site, and the land returned to agricultural use.

#### *Agricultural Land*

19. The scheme is accompanied by an Agricultural Land Classification Report<sup>2</sup> which identifies that 11.23ha of the site comprises Grade 2, 2.77ha is Grade 3A and the remaining 13.87ha comprises Grade 3B. As such, the scheme would lead to the temporary loss of around 14 hectares of BMV agricultural land from arable production.
20. Taken together, the Appendix, Policy RE1 and Policy SP1 direct that, in order to protect the District's agricultural land resource, any development which involves agricultural land, including Solar PV schemes, must first be justified by a search which indicates no lower grade agricultural land is available. Although broadly consistent with the Framework, the absence of any threshold for such schemes goes much further than the Framework, which refers to significant loss.
21. The appellant has provided an Alternative Site Assessment (ASA) which I consider to be overly restrictive in its approach, in that it largely restricts the search to the Sleaford Sub-Station and adopts an extremely cautious approach to the potential constraints for other identified sites. I note the appellant's concerns regarding the difficulty in carrying out such an assessment when information on whether land is Grade 3a and therefore BMV or Grade 3b and therefore not BMV is not available at a District wide scale – however, the temporary loss of Grade 2 land in this case renders this point redundant. It was also put to me that a recent High Court Decision<sup>3</sup> is a relevant consideration in this case, but I do not consider that it adds anything that would alter my conclusions in relation to agricultural land.
22. I am therefore of the view that as the ASA has been applied over an insufficiently broad area and appears to show a number of sites with largely similar levels of constraints to the appeal site on solely Grade 3 land, it fails to

---

<sup>2</sup> Wardell Armstrong dated November 2022

<sup>3</sup> Doc 3 – Lullington Solar Park Ltd – High Court Decision – [2004] EWHC 295 (Admin) AC-2023-LON-002550

satisfy the criteria set out in Appendix 3 and so, as a consequence, the scheme would be contrary to Policy RE1 and SP1 of the Local Plan. It would also conflict with Policy SP1 which also seeks to support the retention of agricultural land unless there is insufficient lower grade land available. This conflict weighs against the proposal in the planning balance.

23. The scheme would lead to 14 Hectares of agricultural land being put out of arable use for 40 years. It would not be permanently lost, and could still be used for grazing, although I acknowledge that this use would be unlikely to be as productive as a site not primarily in solar use. Having regard to the amount of BMV under consideration, its continued potential for agricultural use and the period of the project, I do not consider that the proposal would lead to a significant loss of agricultural land and find no conflict with the national policy in Framework.

#### *Heritage Assets*

24. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Framework directs that Scheduled Monuments are heritage assets of the highest significance. Policy EN6 of the Local Plan reflects the statutory duty in the Act. This duty is also reflected in the Framework which categorises any harm to the significance of a heritage asset as either 'substantial harm to or total loss of significance of an asset' or 'less than substantial harm to the significance of an asset'.
25. The Council concluded that the proposal would result in less than substantial harm to the significance of the Anglo Saxon Nunnery and Medieval Chapel at Stow Green, which is a Scheduled Monument. This harm was identified as arising through erosion of the rural setting of the Nunnery, which was considered to contribute to its significance.
26. The Nunnery and adjoining church are buried assets and is likely to hold high archaeological interest because the buried remains have the potential to survive relatively undisturbed. These may provide significant information about monastic life in the early medieval period and the phases of occupation within the site and so the significance of the asset lies in the archaeological and historic interest of the remaining fabric.
27. Above ground the land at the Nunnery is in agricultural use, and lies some distance from the appeal site. When intact the setting of the asset would have been relatively limited being mostly defined by its position on a thoroughfare at an intersection of two roads, which also formed the locality of the historic fairground and was part of an established route for pilgrims. It is also likely that the Nunnery would have been relatively inward looking and enclosed. I noted on site that views across the wider agricultural landscape are available from the asset, but these are incidental and do not contribute to the assets significance. Accordingly, I conclude that the proposal would have a neutral effect on the significance of the Anglo-Saxon Nunnery and Medieval Chapel at Stowe Green.

28. I take into account the two heritage assessments provided by the appellant which reach different conclusions in relation to harm to the asset. I also take into account the comments from both Conservation Officers from the Council, who also reached opposing views in relation to the effects of the proposal on the significance of the Scheduled Monument. I note that none of these assessments identify any harm to the significance of other heritage assets, and I find no reason to dispute this view.
29. Accordingly, on the second matter, I find no conflict with Policy EN6 of the Local Plan which seeks to protect and enhance heritage assets, or with the Framework, which has similar aims.

*Visual Effects of the Proposal*

30. The Council concerns in relation to the visual effects of the proposal are limited to its effects in relation to users of the public footpath (PRoW Thre/2). In this regard the Council is broadly satisfied that the proposal would not lead to harm at a landscape scale, and that the long and medium range visual impacts of the proposal would be largely mitigated by the extensive boundary planting proposed as part of the scheme.
31. The public footpath crosses the site and continues to the east on slightly higher land. As the path is largely open, users have an expansive view of rolling fields. The scheme proposes to screen views to the north and south with high boundary hedges adjoining a wide walkway through the site. In this regard, at least when within the site, footpath users would have very limited views of the development, although some views of the site would be likely to be available as the footpath rises away from the site to the east. Nevertheless, the experience of the open landscape would be lost when within the site.
32. I also noted on site that the site rises to the north with land continuing to rise beyond the site on the approach to Stow Lane. To the south it reaches a low point south of Billingborough Road before rising again. The 3-metre high hedging would effectively screen the site when at close range and travelling alongside the site on Mareham Lane and Billingborough Road. However, in views further along Mareham Lane the central portion of the fieldscape would be prominently visible in the approach from higher land to the north. Furthermore, along Brickyard Lane to the south higher portions of the site would be likely to be visible above boundary planting. In these views due to the manmade appearance of the panels, and the extent to which they would cover the site, the proposal would have an intrusively harmful effect of the appearance of the site and detract from rural character of the area immediately surrounding it.
33. In longer-range views from the east and west some glimpsed views are likely to be available. However, as the development would form only part of the overall view, and available views would be broken up by hedgerow and boundary trees, its effects would be less intrusive and would have only a slightly harmful visual effect, reducing as distances from the site increase. The Council and the appellant agree that there are no other solar developments that may contribute to cumulative visual effect.
34. The proposed development is for a period of 40 years after which the panels would be dismantled and removed. Nevertheless, harm would occur to the rural character and appearance of the countryside, in short and midrange



views. There is some dispute between the Council and appellant as to whether policy EN1 is relevant, given that the Council have not identified wider harm to the landscape. As the harm identified would be relatively localised I concur that there would be no material harm at a landscape scale and so find no conflict with EN1. The proposal would, however, cause harm to the character of the area to the extent identified above and so would conflict with policy DE1 of the Local Plan. This weighs against the proposal in the planning balance.

35. The footpath would not be altered and so I find no harm to Green Infrastructure and no conflict with EN3. The Council have also referred to Solar Energy Criteria 2 of the Renewable Energy Appendix. This relates to residential visual amenity which is not an issue raised by the Council and so I find no conflict with it.

#### *Protected Species*

36. The Council refused the scheme on the basis of potential impacts on ground nesting birds. Since then the appellant has provided a Skylark Mitigation Strategy. Lincolnshire Wildlife Trust have accepted that the mitigation process has been fully considered, and that the monitoring strategy is appropriate. They are therefore content that subject to these works the development would ensure no adverse effects on this protected species. This is supported by evidence<sup>4</sup> to demonstrate the scheme would be capable of being implemented and would therefore be effective.
37. As such, subject to an appropriately worded condition, the proposals would be in accordance with Policy EN2 of the Local Plan, Solar Energy Criteria 7 of the Renewable Energy Appendix, and national policy in the Framework, which seeks to protect and enhance biodiversity and requires that any significant effects on protected species, where they cannot be avoided, are adequately mitigated.

#### *Public Support for the Scheme*

38. Policy RE1 of the Local Plan includes a number of criteria against which renewable energy schemes should be assessed, amongst which includes in RE1(b) a requirement that renewable energy proposals can demonstrate the support of local communities. Policy RE1 is also explicit that renewable energy proposals should meet the criteria set out in Appendix 3 of the Plan. The Appendix sets out in Wind Energy Criteria 29 that wind turbine schemes should be accompanied by evidence setting out how the community has been consulted on a proposal and how the submitted proposal has sought to address concerns. However, no equivalent requirement is set out for Solar PV schemes.
39. I note that the wording of policy RE1 does not make any distinction between types of renewables schemes. I also note that it specifically requires that proposals meet the requirements set out in the Appendix. So, as there is no community support test within the Appendix in relation to Solar PV, I find no firm basis for applying one. I also bear in mind that the national policy and guidance referred to in the Plan did not require a public support test for solar farms when the Plan was adopted and to require one would go much further than the current requirements of national policy in the Framework.

---

<sup>4</sup> Memorandum of Understanding and evidence of title showing ownership of available sites for provision of alternative nesting locations.

40. I note that two Parish Councils objected to the scheme, along with a small number of local residents. I set out my reasoning in relation to the substance of these objections elsewhere in the report. However, in the absence of a requirement within Appendix 3 to demonstrate local support I do not consider that the existence of objections in itself weighs against the proposal and find no conflict with Policy RE1(b) in this regard.

### **Other Matters**

41. A number of other issues were raised by residents. Some local residents expressed concern that increased surface water run-off from the site had the potential to exacerbate existing localised flooding issues in nearby settlements. The scheme is accompanied by a drainage strategy which includes on-site attenuation measures as part of the landscaping scheme. I am satisfied that the scheme would limit peak flows from the site and would not lead to surface water flooding issues off site. This matter does not therefore weigh against the proposal.

42. During the construction phase the scheme would have the potential to cause highways and amenity issues in and around the site. whilst some inconvenience and disturbance is unavoidable, I am satisfied that most harmful and intrusive effects can be mitigated with an agreed construction management plan which could be secured by an appropriate condition. This matter does not therefore weigh against the proposal. I am also satisfied that the proposal would not lead to significant issues of glint or glare for either residential occupiers, or for users of the highway network.

43. I note the requests from local Parish Councils relating to funding from the community fund proposed by the developer. Such funding does not form part of the proposal before me and cannot in any case be taken into account in considering the merits or otherwise of the scheme. Such funding therefore carries no weight in my considerations.

### **The Planning Balance**

44. The proposal would have a significantly harmful impact on the appearance of the countryside in some very limited local views. It would have a more moderate impact in some mid-range views which could in part be mitigated. These effects would be temporary and reversible and the more severe aspects of this harm would be localised. I therefore attribute moderate weight to the harm arising to the character and appearance of the countryside and to conflict with Policy DE1 of the Local Plan. It would also lead to the temporary loss of the site from arable production, some of which would be "best and most versatile" agricultural land. The amount of BMV affected reduces the harm that would arise and I attribute only limited weight to it and to the conflict with Policies SP1 and RE1 of the Local Plan.

45. The proposal would provide up to 27 MW of power from a renewable source. The Framework identifies moving to a low carbon economy as being an important environmental objective in achieving sustainable development. I therefore attribute substantial weight to this benefit. It would also bring some ecological benefits to which I attribute moderate weight.

## **Conclusion and Conditions**

46. Taken together, the identified harm arising from the development would, on balance, be outweighed by the benefits of the scheme identified above the scheme can be said to be sustainable when assessed against the Framework as a whole. For the reasons given above, I conclude that the appeal should be allowed.
47. In addition to conditions relating to the period of implementation, the period of the permission and adherence with the approved plans, it is reasonable and necessary to require the site is decommissioned at the end of the period of permission. In the event that the development is brought out of use before that period a further condition is necessary to ensure its decommissioning in that instance.
48. In order to ensure an acceptable appearance for the development, and to ensure that the proposed ecological improvement measures are provided, it is necessary to impose conditions relating to landscaping including replacement planting and habitat improvement measures. A condition requiring a skylark mitigation strategy is necessary to ensure effective mitigation for protected species on site. Conditions are also necessary to ensure the protection of trees on site and the replacement of failed landscaping. In the interests of protecting the amenity of residential occupiers a condition requiring a Construction and Environmental Management Plan which shall include traffic management measures are also reasonable and necessary. Furthermore, to ensure that disruption is minimised during repair and maintenance works a condition requiring an agreed Operational Environmental Management Plan (OEMP) is reasonable and necessary.
49. In the interests of protecting any archaeological interest the site may have, it is necessary to impose a condition in relation to archaeological investigation and evaluation. As part of the site has been previously developed, conditions relating to site investigation, and if necessary remediation, are reasonable and necessary in the interests of environmental protection and public health. To ensure a satisfactory appearance for the scheme a condition is necessary to ensure the scheme is constructed in the approved materials. Finally, a condition relating to illumination on site is also necessary in the interests of limiting the visual impacts of the proposal outside daylight hours.

*Anne Jordan*

INSPECTOR

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Adam Murray MRTPI	Principal Planning Officer South Kesteven District Council
James Adams MA	Conservation Officer South Kesteven District Council
Phil Jordan MRTPI	Development Management Manager South Kesteven District Council

### **FOR THE APPELLANT:**

Odette Chalaby of Counsel  
Jonathan Storey BSc (Hons) MRTPI  
Tony Kernon BSc (Hons) MRICS FBIAC  
Andrew Cook BA (Hons) MLD CMLI MIEMA CEnv  
Laura Garcia BA (Hons) MCIfa  
Howard Fearn MSc MCIEEM  
Andrew Cowley MSc MEI

### **INTERESTED PERSONS:**

Mike Rudkin	Billingborough Resident
-------------	-------------------------

## **APPEAL DOCUMENTS**

Doc 1a – Register of Title provided in relation to Skylark Mitigation Scheme

Doc 1b – Memorandum of Understanding provided in relation to Skylark Mitigation

Doc 2 Washdyke Solar – Technical Note

Doc 3 – Lullington Solar Park Ltd – High Court Decision – [2004] EWHC 295 (Admin) AC-2023-LON-002550

## CONDITIONS

1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

2) Written confirmation of the first export date shall be provided to the Local Planning Authority no later than 20 days following the event. The development hereby permitted shall cease on or before the expiry of a 40 year period from the date of first export of electricity from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning. The land shall thereafter be restored to its former condition in accordance with a scheme of decommissioning work ("Decommissioning Scheme") which shall make provision for the removal of the solar panels and all other associated equipment, and the subsequent restoration of the site. The scheme shall include details of:

- a. The extent of equipment and foundation removal, and the site restoration to be carried out.
- b. The management and timing of any works
- c. A Traffic Management Plan to address the likely traffic impacts arising during the decommissioning period.
- d. An Environmental Management Plan to include details of measures to be taken during the decommissioning period to protect wildlife, habitat features and trees on the site.
- e. The location of any temporary compound and parking areas.
- f. Full details of the removal of the solar arrays, associated buildings and plant, any access tracks and sub-surface cabling and all associated works of ground restoration, including trench backfilling.
- g. Full details of all other works to the land to allow for renewed agricultural production following the removal of structures from the site.
- h. A programme of implementation.

The Decommissioning Scheme shall be submitted to and approved in writing by the Local Planning Authority, no later than 39 years from the date of first export of electricity, and subsequently implemented as approved.

3) The development hereby permitted shall be carried out in accordance with the following list of approved plans:

- a) Proposed Block Plan (Ref: GM11883-128)
- b) Proposed Landscape Strategy Plan (Ref: GM11883-127/Rev F)
- c) Proposed Solar PV Array Detail Plan (Ref: 1009-D01/Rev A)
- d) Proposed Fence and CCTV Plan (Ref: 1009-D02/Rev A)
- e) Proposed Internal Access Track Plan (Ref: 1009-D03/Rev A)
- f) Proposed Transformer Station Plan (Ref: 1009-D04/Rev A)
- g) Proposed DNO Substation Plan (Ref: 1009-D05/Rev A)
- h) Proposed Control Building Plan (Ref: 1009/D07/Rev A)
- i) Proposed Spares Container Plan (Ref: 1009/D08/Rev A)

Unless otherwise required by another condition of this permission.

4) Before the development hereby permitted is commenced, a Written Scheme of Archaeological Investigation shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the archaeological investigations shall

also have been completed in accordance with the approved Written Scheme of Investigation prior to the commencement of development.

5) No works pursuant to this permission shall commence until the Tree Protection measures indicated on the Tree Protection Plan (Wardell Armstrong) (Ref: GM11883- 009/Rev B) have been implemented in full. Thereafter, the development must be carried out in accordance with the approved details and the approved measures shall be retained until all construction activities have been completed.

6) No development shall take place until a detailed Construction and Environmental Management Plan, based on the details contained within the Construction and Environmental Management Plan (Wardell Armstrong) (March 2022) (GM11883/0012) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include measures to mitigate against the adverse impacts of vehicular movements; noise, dust and vibration during the construction stage of the proposed development. The submitted CEMP shall include:

- a. The phasing of the development, to include access construction
  - b. Hours of construction and deliveries
  - c. The parking of all vehicles and site operatives
  - d. The loading and unloading of all plant and materials
  - e. Wheel cleaning facilities
  - f. The routing of all vehicles associated with the construction stage of the development
  - g. A Method Statement for the installation for the proposed cable connection from the approved development to the point of connection at the Sleaford substation
  - h. Any temporary diversion of public rights of way during the construction period.
  - i. Measures of dust suppression during the construction period.
- Thereafter, the approved CEMP shall be strictly adhered to throughout the construction period.

7) No works pursuant to this permission shall commence, unless otherwise agreed in writing by the Local Planning Authority, until there have been submitted to and approved in writing:

- a. A site investigation report assessing the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate within the Phase I Ground Investigation Study (Wardell Armstrong) (March 2023) (GM11883/0008)
- b. A detailed scheme for remedial works (should such works be required) and measures to be undertaken to avoid risk from contaminants and / or gases when the site is developed, and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

8) No works pursuant to this permission shall commence, until a Skylark Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Skylark Mitigation Strategy shall be in broad accordance with the



draft Skylark Mitigation Strategy (Avian Ecology) (Ref: Renew-919-003599) and shall include the following:

- a. Purpose and conservation objectives for the proposed measures
- b. Detailed methodology for the measures to be delivered
- c. Location of the proposed measures by appropriate maps and / or plans; and
- d. Mechanism for implementation and monitoring of delivery.

Thereafter, the mitigation strategy shall be implemented in the first nesting season following the commencement of development, and in accordance with the approved details, and all features shall be retained for the lifetime of the development.

9) All works on site during the construction period shall be carried out in accordance with the recommendations contained within the Preliminary Ecological Appraisal (Wardell Armstrong) (March 2023) (GM11883/001), including reasonable avoidance measures for protected species.

10) Before the end of the first planting / seeding season following the date when electrical power is first exported ("first export date"), all landscape works shown on the approved Proposed Landscape Strategy Plan (Ref: GM11833-127/Rev F) shall have been carried out in full.

11) Before the development is operational, the external elevations of all built form on site shall have been completed in accordance with the materials listed in the application form and detailed on the approved plans listed under Condition 3.

12) The development hereby permitted shall not be occupied or brought into use until a verification report has been submitted to and approved in writing by the Local Planning Authority. The report shall have been submitted by the agreed competent person and identify that the approved remedial works have been implemented. The report shall include, unless otherwise agreed in writing:

- a. A complete record of remediation activities, and data collected, as identified in the remediation scheme to support compliance with the agreed remediation objectives.
- b. As built drawings of the implemented scheme
- c. Photographs of the remediation works in progress; and
- d. Certificates demonstrating that imported and / or material left in situ is free from contamination.

Thereafter, the scheme shall be monitored and maintained in accordance with the approved remediation scheme.

13) No permanent illumination of the site shall be permitted unless otherwise agreed in writing by the Local Planning Authority. In such circumstances, prior to the erection of any external lighting on the site, a lighting plan 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 retained for the lifetime of the development.

14) The approved development must be carried out in accordance with the approved Landscape and Ecological Management Plan (Wardell Armstrong) (March 2023) GM11883/0016), unless otherwise agreed in writing by the Local Planning Authority.

15) Within a period of five years from the first export date, any trees or plants provided as part of the approved Landscaping Plan that die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced in the first planting season following any such loss with a specimen of the same size and species, unless otherwise agreed by the Local Planning Authority.

16) In the event that the site ceases to generate electricity for a period of 12 months prior to the cessation of the 40 year period, a scheme of Decommissioning Works ("Early Decommissioning Scheme") shall be submitted no later than 6 months from the end of the 12 month non-electricity generating period to the Local Planning Authority for approval in writing. The early decommissioning scheme shall include the same details required under the Decommissioning Scheme set out in Condition 2 of this permission. Thereafter, the early decommissioning scheme shall be carried out in accordance with the approved details.

17) Prior to the date of first export of electricity from the development hereby permitted, an Operational Environmental Management Plan (OEMP) relating to any maintenance or repair works of the approved development, shall be submitted to, and approved in writing by the Local Planning Authority.

---

Appendix 4 Planning for solar farms. House of Commons  
Library Research Briefing Published Monday, 20 May, 2024



## House of Commons Library

# Planning for solar farms

## Research Briefing

Published Monday, 20 May, 2024

Felicia Rankl

This briefing covers planning policy for solar farms in England and the devolved administrations and commentary on the use of agricultural land for solar farms.

The government set a legally binding target to reduce the UK's greenhouse gas emissions by 100% by 2050, compared with 1990 levels. This is known as the 'net zero target'. To meet this target, the government has set the aim of "a fully decarbonised, reliable and low-cost power system by 2035".

The government said a fully decarbonised power system would be "composed predominantly of wind and solar". It aims to achieve 70 gigawatt (GW) of solar power by 2035 (up from 15.8 GW as of March 2024).

## Planning consent for solar farms

Solar farms usually require planning permission. The size of a solar farm will determine which body decides the application. For example, in England:

- Solar farms with a generating capacity below 50 megawatts (MW) need planning permission from the local planning authority (LPA).
- Solar farms with a generating capacity above 50 MW need development consent from the Secretary of State for Energy Security and Net Zero, because they are nationally significant infrastructure projects' (NSIPs).

Planning is a devolved matter. In the devolved administrations, the size of a solar farm will also determine whether the LPA or the government decide an application. However, thresholds differ across the UK.

## Policies for small-scale solar farms (below 50 MW)

LPAs in England will decide applications for smaller-scale solar farms in line with their local plan and the national planning policies. Government guidance advises LPAs to approve renewable energy developments whose “impacts are (or can be made) acceptable”.

Government guidance states that there “are no hard and fast rules about how suitable areas for renewable energy [developments] should be identified”. It advises LPAs to consider their potential impacts on the local environment and the views of local communities when identifying suitable sites.

However, government guidance generally guides development away from the ‘best and most versatile’ agricultural land and states that renewable energy developments are not usually “appropriate” development for green belt land.

## Policies for large-scale solar farms (above 50 MW)

The Secretary of State will decide applications for large-scale solar farms in line with energy national policy statements. These were updated in January 2024. They now state that the development of low-carbon infrastructure, such as solar farms, is a ‘critical national priority’. This means that the Secretary of State should generally grant consent to low-carbon infrastructure.

The updated national policy statement for renewable energy infrastructure advises that solar farms should be sited on previously developed and non-agricultural land. However, it does not prohibit the siting of solar farms on agricultural land.

## Land use for solar farms

Solar farms are not evenly distributed across the UK. 43% of ground-mounted installations (that have a capacity of at least one megawatt) that are already operational or are awaiting/under construction are located in the South East and South West of England.

It is not possible to calculate how much land is used for solar farms and how much of different types of land are used.

Some organisations, such as the countryside charity CPRE, have expressed concern that “valuable farmland” is often “the location of choice for solar developments”. CPRE has said it is “essential” to preserve agricultural land for food production.

Renewable energy groups, such as Solar Energy UK, have argued that “solar farms pose no threat to the UK’s food security” (PDF). They also point to the multi-functional use of land, for example, grazing sheep on solar farms, to highlight that solar power and farming are not always mutually exclusive.

## Barriers to the deployment of solar power

As of March 2024, the cumulative installed capacity of solar power in the UK was 15.8 GW. The government aims to achieve 70 GW of solar power by 2035.

The Environmental Audit Committee, a Commons Select Committee, said meeting this target would be “challenging given existing barriers and current rates of deployment” (PDF). The government’s advisory Climate Change Committee also said current deployment rates were “significantly off track”.

Two of the main barriers to the expansion of solar power they identified were grid capacity and delays in securing grid connections. The Environmental Audit Committee said “upgrading the electricity grid is a crucial prerequisite to the achievement of net zero”

---



## Current page URL

<https://commonslibrary.parliament.uk/research-briefings/cbp-7434/>

## Links on this page

- <https://www.legislation.gov.uk/ukpga/2008/27/contents>
- <https://www.gov.uk/government/publications/net-zero-strategy>
- <https://www.gov.uk/government/publications/british-energy-security-strategy/british-energy-security-strategy>
- <https://www.legislation.gov.uk/ukpga/2008/29/contents>
- <https://www.gov.uk/government/publications/national-planning-policy-framework--2>
- <https://www.gov.uk/government/publications/national-planning-policy-framework--2>
- <https://www.gov.uk/government/collections/national-policy-statements-for-energy-infrastructure>
- <https://www.gov.uk/government/publications/national-policy-statement-for-renewable-energy-infrastructure-en-3>
- <https://www.gov.uk/government/publications/renewable-energy-planning-database-monthly-extract>
- <https://www.cpre.org.uk/resources/statement-on-solar-energy/>
- <https://committees.parliament.uk/writtenevidence/113682/pdf/>
- [https://www.solarpowerportal.co.uk/blogs/balancing\\_energy\\_security\\_with\\_food\\_security\\_on\\_solar\\_farms](https://www.solarpowerportal.co.uk/blogs/balancing_energy_security_with_food_security_on_solar_farms)
- <https://www.gov.uk/government/publications/british-energy-security-strategy/british-energy-security-strategy>
- <https://committees.parliament.uk/publications/39836/documents/193860/default/>
- <https://www.theccc.org.uk/publication/2023-progress-report-to-parliament/>
- <https://committees.parliament.uk/publications/39836/documents/193860/default/>

© House of Commons 2024. Re-use our content freely and flexibly with only a few conditions under the [Open Parliament Licence](#).

---

# Appendix 5 FPCR Landscape Note: Landscape & Visual Harm, August 2024

## LANDSCAPE NOTE: Landscape & Visual Harm

### Environmena

#### Nailcote Farm, Fillongley (PAP/2023/0071)

02 August 2024

### Introduction

- 1.1 This Landscape Note has been prepared on behalf of Environmena (the appellant) in response to the landscape and visual harm component of the single reason for refusal given at 8th July planning committee, and issued on 10<sup>th</sup> July 2024, for the Fillongley solar farm planning application. The reason for refusal is worded as follows:

*“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”.*

- 1.2 FPCR is a multi-disciplinary environmental and design consultancy established over 60 years, with expertise in architecture, landscape, ecology, arboriculture, urban design, masterplanning and environmental impact assessment. The practice is a member of the Landscape Institute and Institute of Environmental Management and Assessment and is frequently called upon to provide expert evidence on landscape and visual issues at Public and Local Plan Inquiries.

### Context

- 1.3 The officer's report to committee dated 8<sup>th</sup> July 2024 recommended that the Council GRANT planning permission. Officer's noted that the application was referred to the Board's March meeting but was deferred to seek clarification on matters raised by the Fillongley Flood Group and that committee report was included at Appendix 1 of the officer's report.
- 1.4 The officer's report dated 4<sup>th</sup> March 2024 included a detailed analysis of the level of landscape and visual harm resulting from the proposed development at paragraphs 4.9 – 4.21. It concluded that, with the incorporated landscape mitigation, **the landscape harm is “moderate in impact”** and with regards visual impact on residential properties concludes that:

*“Taken together, and when considered against the original submission, any adverse visual impacts from existing residential property would have been considered to be generally minor.*

The amended plans address these harms and overall, they would be reduced to having a limited impact”.

- 1.5 The officer concludes that visual impact on drivers of the adjoining highways is ‘minor’ and impacts on users of the PRow through the site would be ‘major’, with impacts on other footpaths moderate or limited. The officer concludes at paragraphs 4.19 & 4.20 on visual impact that:

**“When these visual impact matters are assessed cumulatively together with the mitigation proposed, it is considered that overall, there are generally minor impacts on residential property and road users, but more moderate impacts on footpath walkers. These have to be added to the moderate harm to the landscape character as concluded above”.**

- 1.6 In conclusion the officer states:

*“In all of these circumstances, the proposal would not wholly satisfy Local Plan policies LP1, LP14 and LP30 as the landscape character would not be conserved or enhanced and the proposal would not integrate or harmonise well with its surroundings. Neither would it satisfy the Neighbourhood Plan Policy FNP02 on the important scenic aspects of the natural landscape. This means that para 180 of the NPPF is also neither satisfied. However, the degree of noncompliance is moderate in impact”.*

- 1.7 The officer continues to assess the final planning balance noting at paragraph 4.51 that the **“moderate landscape and minor visual impacts”** form a part of the “harm” side of the planning balance. At paragraph 4.59 the officer refers to the NPPF Paragraph 263 which clearly conditions support to cases “where the impacts are, or can be, acceptable” and states:

*“This is put into a local context by Local Plan Policy LP35, which says that such projects will be supported, where they “respect the capacity and sensitivity of the landscape and communities to accommodate them. In particular, they will be assessed on their individual and cumulative impact on landscape quality, sites or features of natural importance, sites or buildings of historic or cultural importance, residential amenity and the local economy”.*”

- 1.8 On “capacity and sensitivity of the landscape”, the officer concludes at 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. It is also acknowledged that there would be no cumulative landscape impact when considered alongside recent planning permissions for similar proposals given the lack of inter-visibility between them and the separation distances. As a consequence, it is considered that the amended proposal, whilst not fully satisfying Local Plan policies LP1, LP14 and LP30, does mean that the degree of non-compliance is not significant”**”*

- 1.9 In consideration of all components of Policy LP35 together the officer concludes at paragraphs 4.66-4.68 that: the impact is “acceptable” in overall planning terms, that “it was also concluded above that there would be unlikely to be any adverse residential amenity impacts” and that

*"Drawing all of these matters together, it is concluded that in overall terms the amended proposal would be acceptable under Policy LP35".*

- 1.10 Finally, the officer concludes the following at paragraphs 4.69 and 4.70 and states that the Council is minded to GRANT planning permission:

**"As indicated before, the NPPF condition also asks whether these impacts can be made acceptable. It is considered that they can.**

**The final balance therefore comprises the weight given to the applicant's case for renewable energy and the cumulative weights attributed to actual Green Belt and landscape harm. In this particular case it is considered that the proposals do accord with the relevant planning policies for renewable energy projects as set out in paragraph 4.59 above and thus can be supported".**

- 1.11 The committee decision and reason for refusal is therefore contrary to the officer's analysis and subsequent recommendation for approval, as summarised in paragraphs above. Two major contradictions within the reason for refusal comprise the reference to 'cumulative substantial harm' without any clear justification and the omission of the most pertinent Local Plan policy - LP35 Renewable Energy.

- 1.12 Importantly, it is noteworthy (by reference to the committee reports and the meeting transcripts) that neither the officer, nor the committee decision express any concern over the methodology or conclusions of the submitted landscape and visual appraisal report (LVA). The conclusions of the officer's report with regards landscape and visual effects concurs with the conclusions of the LVA (Revision E) which states –

*"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".*

*...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.*



*...In conclusion, it is assessed that the proposed development would not result in any unacceptable long-term landscape and visual effects."*

### **Landscape and Visual Appraisal (LVA) Methodology**

1.13 The LVA report submitted with the planning application has been written by qualified members of the Landscape Institute (LI) and utilises the FPCR methodology, which is based upon the Guidelines for Landscape and Visual Impact Assessment, third edition (GLVIA3), published by the LI and the Institute of Environmental Management and Assessment, 2013. This methodology has been rigorously tried and tested through numerous public inquiries and hearings and has proven to be reliable and robust.

1.14 With regards the methodology for landscape and visual assessment, GLVIA3 states the following (paragraphs 2.23 – 2.25) -

*"Professional judgement is a very important part of LVIA. While there is some scope for quantitative measurement of some relatively objective matters, for example the number of trees lost to construction of a new mine, much of the assessment must rely on qualitative judgements, for example about what effect the introduction of a new development or land use change may have on visual amenity, or about the significance of change in the character of the landscape and whether it is positive or negative.*

*The role of professional judgement is also characteristic of other environmental topics, such as ecology or cultural heritage, especially when it comes to judging how significant a particular change is. In all cases there is a need for the judgements that are made to be reasonable and based on clear and transparent methods so that the reasoning applied at different Stages can be traced and examined by others. Professional judgements must be based on both training and experience and in general suitably qualified and experienced landscape professionals should carry out Landscape and Visual Impact Assessments.*

*Even with qualified and experienced professionals there can be differences in the judgements made. This may result from using different approaches or different criteria, or from variation in judgements based on the same approach and criteria. Ideally, and especially for complex projects, more than one person should be involved in the assessment to provide checks and balances, especially in identifying the likely significant effects. If, for example, the professional judgements made on behalf of different interested parties vary widely it is the decision makers in the competent authority who will ultimately need to weigh up the evidence and reach a conclusion".*

1.15 As stated in paragraph 1.7 of the appellant's Statement of Case (SoC), the planning committee decision, which contradicts the recommendations of the officer's report to committee, failed to articulate the level of harm they saw, how they reached their conclusion, and how the harm they saw related to the relevant policies and policy tests.

1.16 From verbal discussions with the LPA in the 10-day appeal notice period, the appellant anticipates agreeing with the LPA through the Statement of Common Ground (SoCG) that the LVA, its methodology and findings are not disputed. However, reflecting the planning committee decision, it is the application of the LVA findings to the policy tests that is in dispute. It is understood that this approach depends on the format which the appeal takes.

## Application of LVA Findings to the Policy Tests

- 1.17 The officer's report to committee clearly sets out the policy tests and relevant policies that have been considered in relation to the potential for landscape and visual harm resulting from the proposed development. Policies referenced were Local Plan policies LP1, LP14, LP30, LP35 and Neighbourhood Plan policy FNP02. The Council decision omits policy LP35 and adds in policy FNP01.

### National Policy

- 1.18 On landscape, the NPPF paragraph 180 states:

*"Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*a) **protecting and enhancing valued landscapes, [my emphasis]** 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, [my emphasis]** 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; ...*

Paragraph 181 advises that:

*"Plans should: distinguish between the hierarchy of international, national and locally designated Sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries".*

- 1.19 Paragraph 182 goes on to add:

*"Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues". And*

*"The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas."*

- 1.20 The Site is within an undesignated landscape with no special protected status and is not in the setting of a nationally designated landscape. The LVA assesses the character of the Site and its immediate context to help inform decisions regarding *"the intrinsic character and beauty of the countryside"* and considers the potential to enhance green infrastructure networks.

- 1.21 No party has claimed it to be a valued landscape (NPPF 180a).

### Local & Neighbourhood Plan Policy

- 1.22 In relation to landscape and visual matters, the following North Warwickshire Local Plan 2021 strategic policies have been cited in the reason for refusal -

- LP1 Sustainable Development

- LP14 Landscape

1.2 Policy LP1 is a general policy, applicable to all forms of development, with a focus on settlement and placemaking, and as such much of the landscape-related text of policy LP1, summarised below, does not appear directly applicable to the solar farm proposals -

*"All development proposals must: ...*

- *be consistent with the approach to placemaking set out through development management policies, including, where relevant*
- ***integrate appropriately*** *with the natural and historic environment, protecting and enhancing rights of way network where appropriate*
- *demonstrate a high quality of sustainable design that positively improve the individual settlement's character; appearance and environmental quality of an area;...*"

1.3 With regards 'integrate appropriately' this is a subjective measure. The landscape proposals, as shown on the Planning Layout (dwg. P007039-09 revision H) and assessed within the submitted LVA, demonstrate how the proposed development will be accommodated within the existing landscape structure, comprising arable fields bound by hedgerows and trees, and show how this structure will be strengthened through additional native hedgerow and tree planting, with meadow creation. The public right of way through the site is protected within a broad green corridor with hedgerow planting to soften and screen views of the solar panels. From a landscape perspective, the proposed development in principle complies with the above wording of policy LP1, where applicable to the proposed development.

1.4 Policy LP14 is worded as follows -

*"Within landscape character areas as defined in the Landscape Character Assessment (2010), Arden Landscape Guidelines (1993) and the Historic Landscape Characterisation Project (June 2010) (or successor document) **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. Specific landscape, geo-diversity, wildlife and historic features which contribute to local character will be protected and enhanced as appropriate.*

*A: Landscaping Proposals*

*New development should, as far as possible **retain existing trees, hedgerows and nature conservation features such as water bodies** with appropriate protection from construction where necessary and **strengthen visual amenity and biodiversity through further hard and soft landscaping**. The Council will seek replacement or enhancement to such natural features where their loss results from proposed development. Development proposals should be designed so that existing and new conservation features, such as trees and hedgerows and water bodies are allowed to grow to maturity without causing undue problems, or are not unacceptably compromised by development, for example by impairing visibility, shading or damage. Development will not be permitted which would directly or indirectly damage existing mature or ancient woodland, veteran trees or ancient or species-rich hedgerows (other than where appropriate avoidance, mitigation, or compensation has been taken and any minimised harm is justified having considered the policies in this plan as a whole).*

*B: New Landscape Features.*

*The landscape and hydrological impacts of development proposals which themselves directly alter the landscape, or which involve associated physical change to the landscape such a recontouring, terracing, new bunds or banks and new water features such as reservoirs, lakes, pools and ponds will be assessed against the descriptions in the Landscape Character Areas. Particular attention will be paid in this assessment as to whether the changes are essential to the development proposed; the scale and nature of the movement of all associated materials and deposits, the cumulative impact of existing and permitted schemes, the impact on the hydrology of the area and its catchment, any consequential ecological impacts and the significance of the outcome in terms of its economic and social benefits. New landscape schemes will look to use native species and incorporate benefits for biodiversity. Species that are invasive or problematic to the natural environment will be avoided."*

1.5 The Landscape Character Assessment (2010) locates the site within Landscape Character Area (LCA) 7 Church End to Corley – Arden Hills and Valleys, for which the landscape management strategy is 'conserve and restore' and recommends a series of measures for retention and strengthening of the landscape framework of pastoral land, hedgerows, hedgerow trees and woodland. In accordance with the Part A policy wording, the proposed development largely retains the existing landscape features of the site and introduces additional hedgerows and tree planting, further strengthening the landscape structure. With regards Part B of the policy, there is no recontouring of the site proposed and the proposed development is incorporated within the natural landform. The landscape features of the site are quantifiable, and it can be demonstrated objectively that they are to be retained and strengthened in compliance with the policy.

1.6 The following non-strategic (development management and Fillongley Neighbourhood Plan 2019) policies are cited in the reason for refusal -

- LP30 Built Form
- FNP01 Built Environment
- FNP02 Natural Environment

1.23 From a landscape perspective policy LP30 is not of any direct relevance to the proposed development. It describes the general principles for built form and is applicable to all forms of development generally, it primarily relates to building design and makes no specific reference to renewable energy development. The following extracts appear most applicable to landscape matters –

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

*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;*

*b) make use of and enhance views into and out of the site both in and outside of the site;*

*c) make appropriate use of landmarks and local features;...*

*e) reflect the ... landscape and boundary treatments in the area;*

*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;"*

1.24 The proposed development has been sited some distance from settlement, within arable fields close to the M6. It responds to its setting through retention and strengthening of the field boundary structure, which will divide and contain the solar panels. Whilst 'respect' is a subjective term, the proposed solar farm layout demonstrably reflects the existing pattern, character and appearance of its setting.

1.25 Policy FNP01 of the Fillongley Neighbourhood Plan is referred to in the reason for refusal, however, this refers to the design of new buildings within the village and throughout the Parish and, from a landscape perspective, does not appear applicable to the proposed development.

1.26 Policy FNP02 does not reference renewable energy applications and looks to apply to all forms of development. The following wording appears relevant to landscape matters –

*"Development proposals should wherever possible should seek to enhance and conserve the Natural Environment. Proposals will be supported in principle providing they meet the following considerations –*

- *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...*
- *Existing definitively mapped footpaths that criss-cross our Parish should be protected and enhanced wherever possible...*
- *Protect traditional Arden landscaped hedges and native trees wherever possible."*

1.27 The LVA demonstrates that the proposed development will not impact adversely on the village centre. It will inevitably result in some impacts on the 'important scenic aspects' of the natural landscape as assessed within the LVA and discussed within the officer's report to committee. The measure of 'No adverse impact' is unrealistic and precludes all development. With regards the natural features of the landscape, the landscape proposals, assessed within the LVA, demonstrate that these will not be adversely impacted. To the contrary, the proposed landscaping, incorporating retained and protected hedges and native trees, will deliver some minor benefits to landscape features of the site as it matures. The footpath through the site is protected, and mitigation measures incorporated.

### **Judged Landscape & Visual Effects and Agreed Extent of Harm**

1.28 In conclusion, it is considered from a landscape perspective, that the Council, in their decision to refuse the planning application, has misapplied and / or misinterpreted policies LP14, LP30 and FNPO2 and that these local and neighbourhood plan policies are evidently a 'misfit' for the type of development proposed.

1.29 Local Plan Policy LP35 (Renewable Energy), the relevant local plan policy for renewable energy is absent from the decision notice, and as identified by the planning officer, is the key test for the performance of the proposed development on landscape (and other) grounds. The first part of this policy states –

*"Renewable energy projects will be supported where they **respect the capacity and sensitivity of the landscape and communities to accommodate them**. In particular, they will be assessed on their individual and cumulative impact on landscape quality, sites or features*

*of natural importance, sites or buildings of historic or cultural importance, residential amenity and the local economy.”.*

1.30 Respect is a subjective term and whilst capacity and sensitivity of the landscape is also a matter of judgement, the GLVIA3 provides the framework and methodology to enable a professional judgement of landscape and visual effects of the proposed development, taking account of the proposed landscape mitigation, against a defined landscape and visual baseline. The LVA considers landscape capacity in the assessment of effects..

1.31 The judged landscape effects within the LVA are summarised as initially Moderate Adverse for the site and immediate landscape context, reducing to Moderate / Minor Adverse as mitigation planting matures. Visual effects range from Moderate Adverse – Negligible at the outset and reduce as planting matures. Only the public right of way through the site is assessed as Major/Moderate adverse initially, however landscape mitigation as it matures will reduce these effects to Moderate Adverse.

1.32 The officer concurs with these judgements stating that –

**“When these visual impact matters are assessed cumulatively together with the mitigation proposed, it is considered that overall, there are generally minor impacts on residential property and road users, but more moderate impacts on footpath walkers. These have to be added to the moderate harm to the landscape character as concluded above”.**

1.33 On “*capacity and sensitivity of the landscape*”, the officer concludes at 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. It is also acknowledged that there would be no cumulative landscape impact when considered alongside recent planning permissions for similar proposals given the lack of inter-visibility between them and the separation distances. As a consequence, it is considered that the amended proposal, whilst not fully satisfying Local Plan policies LP1, LP14 and LP30, does mean that the degree of non-compliance is not significant**”*

1.34 The FPCR LVA report concludes 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 would not result in any unacceptable long-term landscape and visual effects”.*

- 1.35 The appellant states that, approached positively and by reference to the 'best-fit' / relevant policies and 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.



**FPCR Environment and Design Ltd**

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH  
Company No. 07128076. [T] 01509 672772 [E] mail@fpcr.co.uk [W] www.fpcr.co.uk

This report is the property of FPCR Environment and Design Ltd and is issued on the condition it is not reproduced, retained or disclosed to any unauthorised person, either wholly or in part without the written consent of FPCR Environment and Design Ltd. Ordnance Survey material is used with permission of The Controller of HMSO, Crown copyright 100019980.

---

# Appendix 6 Pegasus Landscape Statement of Case, October 2024

## Summary Landscape Statement of Case

### Land South of Park House Farm, Meriden Road, Fillongley

Installation of a 40MW solar photovoltaic array/solar farm with associated infrastructure.

On behalf of the Appellant, Enviromena

Date: 14/10/2024 | Pegasus Ref: P24-1827

LPA Ref: PAP/2023/0071

Author: Andrew Cook BA (Hons) MLD CMLI MIEMA CEnv





## Document Management.

Version	Date	Author	Checked/ Approved by:	Reason for revision
1	14.10.2024	AC	AC/CR	-



# Contents.

1. Summary Statement.....3

# 1. Summary Statement

## Introduction

- 1.1. The author is instructed to present evidence relating to landscape and visual issues in respect of the scheme for which planning permission is sought for the construction of a solar farm together with all associated works, equipment and necessary infrastructure. This statement should be read in conjunction with the Statement of Case prepared by Enviromena. The Proposed Development was a full application to North Warwickshire Borough Council (reference PAP/2023/0071). Having visited the Appeal Site and surrounding area and having reviewed all the relevant documentation pertaining to this scheme, the author has drawn the following conclusions which are set out in the proceeding paragraphs. .

## Scale, Location, Layout and Appearance

- 1.2. With regard to scale, the proposal seeks to deliver a 40MW solar farm that by virtue of its scale would contribute significantly towards the renewable energy targets in light of the climate emergency. The quantum of development that is anticipated would extend over several fields, however there would be no opportunity to appreciate the total scale of this scheme from any one location. The topography together with mature tree cover, woodlands, tree belts, and hedges in the intervening landscape would mean that there would be very limited opportunity to appreciate the scale of the scheme.

## Effect on Landscape Elements

- 1.3. 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.

## Effect on Land Cover

- 1.4. Land cover is a specific term which refers to the way in which the land is managed. The site is currently managed for arable use. Alternating between pasture and arable is not a matter subject to planning. The scheme would require the host fields to be managed as pasture for the duration of a project but would be grazed and would benefit the fields from a soil/agronomy perspective.
- 1.5. Furthermore, the introduction of meadows would bring about material ecological enhancements. The local published Landscape Character Assessment advocates the management of pasture which is precisely what this scheme would seek to achieve. It is accepted that solar panels would be suspended above the grass swards. The introduction of the solar farm would have a moderate adverse degree of effect with regard to land cover associated with the site, given the arable land is converted to pasture with panels.
- 1.6. The character of the field parcels within the site would inevitably change in terms of their landscape character with the solar farm in place, but the character of the landscape beyond the immediate environs of the site would remain unchanged with the scheme in place and that would apply to the vast majority of the Landscape Character Area. Whilst this is an



inevitable consequence of delivering renewable energy infrastructure, only a fraction of this area would physically change in terms of its character.

### **Effect on the Visual Amenity of the Area**

- 1.7. With regard to visual amenity, of particular note from the authors perspective is that this is an extensive solar scheme across a number of fields yet given the level and gently undulating nature of the local topography, combined with the field and hedgerow network and patchwork quilt of woodlands, the actual visual envelope and the degree to which this scheme would be seen from the surrounding area would be very limited.
- 1.8. Energy infrastructure (pylons) is an integral part of the local landscape. The scheme's effect upon visual amenity of the area would be very limited in degree and very localised in extent.
- 1.9. The visual effects would be very limited given the scale of the proposal. Policies require careful integration through existing landscape features and new planting to mitigate adverse effects to minimal levels. The author understands that no policy in the Development Plan specifies absolutely no visibility whatsoever. The author considers that were it so, it would set such a high bar it would be impossible to achieve.
- 1.10. 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.

### **Effect on Landscape Character**

- 1.11. In terms of landscape character associated with the site, this is defined by the combination of various landscape elements principally topography, land cover, hedgerows, tree cover and the configuration of the fields themselves, the field pattern is sometimes referred to as the "grain" of the landscape. With the exception of some small areas of development such as the substation and inverters which would require some small loss of agricultural land, these landscape elements would be retained and remain as part of the landscape whilst the scheme is in place. It is accepted that where the panels would be located the continued agricultural use would be in the form of grazing rather than arable use.
- 1.12. The hedgerows would be reinforced with further hedgerow planting and the tree cover resource associated with the site would also be reinforced with some additional tree planting. Some of the hedgerows would be managed such that they would be maintained at a slightly higher level than is currently the case.
- 1.13. The trees over the project lifetime, both those existing and those introduced as part of the landscape proposals would all continue to grow developing larger canopies apart from those trees that are already fully mature. This growth over a 40-year period which is a significant period of time for both hedgerow and tree growth would result in reinforcing the defining positive characteristics of the site, with regard to these features. Furthermore, the increased vegetation growth would create a stronger sense of physical and visual containment associated with the Appeal Site. This change would reduce visual effects that would come about over the project timescale.
- 1.14. Upon completion of the decommissioning phase, all built infrastructure would be removed both above and below ground across the entirety of the site. The management and growth



of the hedgerows and trees across the site would continue to remain as part of the landscape post-decommissioning phase and would leave a positive legacy in terms of landscape character given that trees and hedgerows contribute to the landscape character locally.

- 1.15. Beyond the environs of the Appeal the landscape character of the area would remain unchanged. With the proposed scheme in place, the character of the fields within the site would change as they would now accommodate solar arrays, but the underlying character of the fields would still be there and would fully return with decommissioning of the solar farm in the longer term. However, it is proposed that as an integral part of the scheme, new hedgerow and tree planting would be introduced, and wildflower meadows created with arable land converted to pasture as advocated in the landscape character documents. All of these elements could and would remain after decommissioning as a positive legacy of the scheme and bring about enhancement to the landscape character in the long-term.
- 1.16. The proposed scheme involves solar arrays and some associated infrastructure located in several fields which are managed for arable use. However, depending on farm management and maintenance and crop rotation, these fields could revert to pasture for a fallow period without any recourse to planning and similarly, grazed as pasture, again without any recourse to planning, such is the minor consequence to such a change of use in farming circumstances terms. It is intended that whilst the solar arrays would be installed and operational, that the fields would continue to function as fields and accommodate grazing stock, sheep for farming for the whole duration of the lifetime of the project. The site would continue to have an agricultural use.
- 1.17. Most of the existing landscape elements, vegetation, trees, hedges would continue to remain and be reinforced. Therefore, the character of the fields would remain accepting that they would also accommodate a solar farm, a renewable energy generating installation and as such, would change the current existing character of those developed fields. Beyond the confines of the red line site boundary, there would be no change to the physical fabric of the landscape character of the area.
- 1.18. 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.

### **Effect on the Openness of the Green Belt**

- 1.19. As far as the solar farm is concerned, this benefits from a high degree of visual containment evidenced by the fact that there are only limited locations from where receptors can appreciate the proposal in terms of views from the countryside to the north, south, east and west and as such, any associated perception of openness related to this land is very limited. The perception of openness is most readily appreciated from the adjacent and nearby roads and PRoW around the Appeal Site, but even from these locations, the perception of openness would not materially change with the presence of the solar farm associated with the site and its countryside surroundings as a backdrop and context to the Appeal Site as it still would feel very much part of the countryside and little difference in perception as local views would continue to over sail the Appeal Site as if there was a high crop, like miscanthus or sweetcorn.
- 1.20. The introduction of the proposed solar farm would undoubtedly introduce built form where there is none currently. The aspect of openness is derived in part with regard to two aspects,

the visual component and a spatial component. With regard to the visual aspect, it is evident that the perception of openness as it relates to the site is only readily appreciated from the nearby roads and PRoW.

- 1.21. The proposed solar farm would be relatively modest in mass and footprint with regular spaces between the solar arrays that would reduce the overall scale of the development. Furthermore, the proposed scheme 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 still not permanent. Therefore, the impact on the openness of the Green Belt would be reduced and the site completely reinstated to its current open character. Consequently, both visually and spatially, the proposed development would result in some limited and localised harm to the openness of the Green Belt.
- 1.22. In terms of the visual aspect of openness, the author considers the harm would be minor (adverse) and in terms of the spatial aspect of openness, the harm would be minor. And in overall terms, the author considers 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.

### **Effects on the Purposes of the Green Belt**

- 1.23. The proposed scheme would not have any bearing upon the first purpose of Green Belt, namely, to check the unrestricted sprawl of large built-up areas. Whilst there are towns in every direction of the site, these are located several kilometres in distance and with the introduction of the proposed scheme, the solar farm would not cause any neighbouring towns to merge into one another. Indeed, the geographical disposition of neighbouring towns would remain unchanged with the proposed scheme in place and as such, the proposal would not conflict with this purpose. The proposal would inevitably introduce built infrastructure into ten fields where the character of the site would experience a minor adverse effect with the introduction of the solar farm. Beyond the site and its immediate environs, the character would remain unchanged. The proposal would cause encroachment in the countryside and as such, conflict with this particular purpose. The proposal would not affect the setting and special character of historic towns. The proposal would not have a bearing upon the recycling of derelict and urban land and as such, would not conflict with this purpose so far as it is relevant. In conclusion, the proposed solar farm would only conflict with one purpose in Green Belt terms.
- 1.24. 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.
- 1.25. The proposed solar farm, does not in my view contribute or fulfil any role with regard to the other four purposes of Green Belt and therefore would be a suitable site to be considered as Grey Belt.



## Conclusions

- 1.26. For the reasons articulated in the preceding paragraphs, it is the authors professional judgement that whilst there would be some limited adverse effects on landscape character and visual amenity, these would be localised. There would be localised minor adverse harm to the openness of the Green Belt and the proposal would conflict with one purpose of Green Belt in terms of encroachment in the countryside. The other four remaining purposes would not be affected by the proposed solar farm. 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 on 'land 800 Metres South Of Park House Farm, Meriden Road, Fillongley'.

**Cirencester**

33 Sheep Street, Cirencester GL7 1RQ  
T 01285 641717  
Cirencester@pegasusgroup.co.uk  
Offices throughout the UK and Ireland.

# Expertly Done.

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE



All paper sources from sustainably managed forests

Pegasus Group is a trading name of Pegasus Planning Group Limited (07277000) registered in England and Wales.  
Registered office: Querns Business Centre, Whitworth Road, Cirencester, Gloucestershire, GL7 1RT We are ISO certified 9001, 14001, 45001



[Pegasus\\_Group](#)



[pegasusgroup](#)



[Pegasus\\_Group](#)

**[PEGASUSGROUP.CO.UK](http://PEGASUSGROUP.CO.UK)**

## Landscape Statement of Case

### Land South of Park House Farm, Meriden Road, Fillongley

Installation of a 40MW solar photovoltaic array/solar farm with associated infrastructure.

On behalf of the Appellant, Enviromena

Date: 14/10/2024 | Pegasus Ref: P24-1827

LPA Ref: PAP/2023/0071

Author: Andrew Cook BA (Hons) MLD CMLI MIEMA CEnv





## Document Management.

Version	Date	Author	Checked/ Approved by:	Reason for revision
4	14.10.2024	AC	AC/CR	-



# Contents.

1. Author’s Background and Particulars .....	3
2. Introduction and Scope of Statement.....	4
3. Effect on Landscape Elements .....	10
4. Effect on Landscape Character .....	18
5. Effect on General Visual Amenity .....	31
6. Effect on Residential Visual Amenity.....	38
8. Effect on the Purposes of the Green Belt .....	47
9. Summary Statement.....	51

# Appendices.

APPENDIX 1: SITE LOCATION PLAN

APPENDIX 2: ENVIRONMENTAL DESIGNATIONS PLAN

APPENDIX 3: LANDSCAPE CHARACTER AREA PLAN

APPENDIX 4: ROAD NAMES PLAN

APPENDIX 5: GREEN BELT PLAN

APPENDIX 6: TRANQUILLITY PLAN

APPENDIX 7: HISTORIC MAP (1887)

APPENDIX 8: LANDSCAPE STRATEGY

APPENDIX 9: BARE EARTH ZONE OF THEORETICAL VISIBILITY

APPENDIX 10: VIEWPOINT LOCATION PLAN

APPENDIX 11: VIEWPOINTS

APPENDIX 12: PEGASUS LVIA METHODOLOGY

APPENDIX 13: SUMMARY OF VISUAL EFFECTS SCHEDULE





# 1. Author's Background and Particulars

- 1.1. Andrew Cook holds a Bachelor of Arts degree in Geography (BA Hons) and a Masters Degree in Landscape Design (MLD). He is a Chartered Landscape Architect, Chartered Member of the Landscape Institute (CMLI), Chartered Environmentalist (C Env) and Member of the Institute of Environmental Management and Assessment (M IEMA).
- 1.2. He is one of the founding Executive Directors of Pegasus Group which was established in 2003. Since then, the company has grown, establishing sixteen offices across the UK, employing approximately 400 planning and environmental planning professionals. He jointly heads the environmental planning division in which planning for renewable development accounts for a significant part of the business and his work. The company is a corporate member of the Institute of Environmental Management and Assessment (IEMA) and was a founding member of IEMA's Quality Mark scheme, which he managed.
- 1.3. He has gained over 35 years of landscape planning consultancy experience. Prior to Pegasus Group, he was an Environmental Director at RPS (formerly Chapman Warren Planning Consultants) where he specialised in addressing landscape planning issues related to a wide range of development projects. He has had considerable experience with and involvement in a wide range of renewable development and built infrastructure projects throughout the UK, many of which have involved Appeal Sites in Green Belts as well as statutory protected landscapes including National Parks (NP), and National Landscapes (formerly known as Areas of Outstanding Natural Beauty (AONB)) as 'valued landscapes'. He has presented evidence at public inquiries on many occasions to address various landscape and visual issues.
- 1.4. He is based in the Cirencester office of Pegasus Group where he manages a team of 22 environmental planners and landscape architects. Andrew and the Landscape Architects within his team at Pegasus Group undertake their work in compliance with the Landscape Institute's Code of Standards of Conduct and Practice for Landscape Professionals.
- 1.5. His landscape statement of case is based on his professional judgement and is presented in accordance with the guidance of his professional institution the content of which is true to the best of his knowledge and belief and is presented irrespective of by whom he is instructed.



## 2. Introduction and Scope of Statement

### Introduction

- 2.1. In presenting this statement of case the author explains why, in landscape and visual terms, the scheme is considered acceptable given the character and appearance of the Appeal Site (Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley), and its surrounding settlement and countryside context, recognising that the overall planning balance is for the planner, Steven Bainbridge, to comment upon.
- 2.2. An application for full planning permission (ref: PAP/2023/0071) was submitted to North Warwickshire Borough Council (NWBC or the LPA) and validated on 24<sup>th</sup> February 2023. The application was considered by NWBC Planning Committee on three occasions, twice recommended for approval but overturned on 8<sup>th</sup> July 2024 by the Planning Committee.
- 2.3. The Decision Notice dated 10<sup>th</sup> July 2024 includes one Reason for Refusal (RfR):

***“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 FNPO1 and FNPO2 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.”***

- 2.4. Pegasus consider that the Appeal Site and the Proposed Development have been carefully considered by the Appellant and that the scheme would be suitable given its location and current development context and as such, the landscape and visual effects arising from this proposal are not considered unacceptable.
- 2.5. In preparing this statement of case the author has reviewed a number of documents, the principal ones of which are set out below:
  - Decision Notice
  - Committee Reports
  - Consultee responses
  - Landscape and Visual Appraisal (LVA)
  - Landscape Strategy Plan (Drawing 17)
  - Elevations of the proposed infrastructure

- Arboricultural Impact Statement
- Design and Access Statement
- Relevant published landscape reports
- Relevant planning policies
- Relevant correspondence
- Relevant Core Documents
- Other documents, not necessarily referenced here

2.6. Where appropriate, the author has drawn upon relevant information from these documents and has sought to avoid unnecessary repetition of the same information and therefore summarised his analysis in this statement.

2.7. The author has undertaken a detailed review of the LVA which was submitted as part of the planning application. He has reviewed this together with other supporting documents and also assessed the scheme with reference to the LVAs' viewpoints surrounding the Appeal Site together with the application visuals that illustrate the appearance of the scheme. Having reviewed the application LVA, the author understands and agrees with the broad conclusions set out in the LVA as far as scale and degree of effect are concerned with regard to effects on landscape elements, landscape character and visual amenity.

2.8. Notwithstanding the LVA's findings, the author has undertaken his own assessment regarding the character and appearance to inform his judgements. Consequently, he has come to slightly different professional conclusions which is not unusual, as rehearsed in Guidelines for Landscape and Visual Impact Assessment 3rd Edition (GLVIA3). The Proposed Development would result in effects ranging from adverse to beneficial where relevant and as stated. The analysis considers the landscape and visual effects with reference to the issues raised in the Reason for Refusal and makes informed professional judgements concerning such matters. Within the scope of his area of expertise, he has assessed whether the level of harm is deemed to be acceptable or otherwise from a landscape and visual perspective, mindful that the planning balance is for the planner.

## Scope of Evidence

2.9. In line with the Appellant's overarching Statement of Case, the author shall discuss the following in his proof:

- how the proposals relate to the aims of the Green Belt, its essential open characteristics and the five purposes of Green Belts,
- aspects of the Green Belt openness,
- how the character of the appeal site, coupled with the typology, temporary and reversible nature of the scheme, and proposed planting mitigate the harm,
- that the Appeal Site and its locality are not a 'valued' landscape in the context of the NPPF,

- effects on landscape character,
- effects on visual amenity,
- long lasting benefits of the proposed planting and its positive contribution to landscape character,
- increase in the quality of soils at the appeal site, and
- appeal site selection and design.

2.10. In short, the author's landscape statement explains how the proposal would affect landscape elements, landscape character and visual amenity, and in particular how these aspects relate to the sense of openness and the Green Belt purposes.

2.11. The author also relies upon the Statement of Common Ground (SoCG) where the parties have reached a without-prejudice agreement.

2.12. The Landscape Strategy (Drawing 17) prepared by FPCR which was assessed as part of the LVA illustrates the layout of the development and landscape proposals which were considered by the planning committee on 8<sup>th</sup> July 2024.

2.13. Appendix 8 of this Landscape Statement includes a Landscape Strategy Plan prepared by Pegasus Group which reflects the Landscape Strategy (Drawing 17) but has been graphically refined to clearly illustrate the landscape proposals and better reflect the existing landscape features across the Appeal Site.

2.14. The author notes that as part of this appeal, the Appellant has submitted a Planning Layout (Revision H) which illustrates alternative drainage arrangements, and includes areas of panels and associated infrastructure such as fencing where there were previously attenuation basins in Fields 1, 5 and 9. No amendments would be made to the landscape proposals such as the proposed shrub, tree and hedgerow planting or the existing landscape features within the Appeal Site.

2.15. Whilst the author has prepared this Statement based on the Landscape Strategy Plan in Appendix 8, they note there would be no change to the assessment presented within this Landscape Statement as a result of Planning Layout (Revision H).

## **Representative Viewpoints and Visualisations**

2.16. The author considers the LVA photographs as representative viewpoints in the landscape surrounding the Appeal Site. It is anticipated that the Inspector would visit these representative viewpoints set out in the LVA and use the visuals that have been provided as an aide memoire.

2.17. It should be recognised that it is not practical to include viewpoints from every possible location. The viewpoints which have been selected illustrate a range of visual receptors at different distances and directions from the Appeal Site. The locations of the viewpoints have been carefully considered and the photography has been undertaken when atmospheric conditions and visibility were good. The photography is considered appropriate given the type and scale of Proposed Development. The representative viewpoints and visualisations have been prepared in accordance with GLVA3 and Landscape Institute guidance relevant

at the time of production, however, it is recognised that there is no substitute for visiting the viewpoints in the field to gain a first-hand appreciation of the viewing context.

- 2.18. With regard to the history of viewpoint analysis, it should be noted that the LVA included a wide range of representative viewpoints supplemented by the additional viewpoints, by which to appropriately assess the application.
- 2.19. However, in correspondence between the Appellant and LPA during the appeal process, the LPA stated that some of the photography presented in the LVA was now of inadequate quality. As a result, the author has retaken all of the existing LVA viewpoints, these retaken viewpoints are presented in Appendix 11.
- 2.20. In addition during the correspondence noted above, NWBC stated that the Appellant should prepare a 'bare earth' Zone of Theoretical Visibility (ZTV), this is presented in Appendix 9 of the author's evidence. It should be noted however that GLVIA3 cautions against the over-reliance on computer-generated visibility mapping analysis and that the 'visual envelope' of a Proposed Development is best established during fieldwork, and this was communicated to the LPA.
- 2.21. The author notes, however, that although the ZTV indicates that there are large areas across the landscape surrounding the Appeal Site where views 'theoretically' could be experienced of the Development. That the opportunities to experience views are significantly reduced by intervening built form, areas and belts of well-established trees and, well-maintained and robust hedgerows. The actual area from which opportunities to view the Development are therefore possible is better reflected by the 'approximate visual envelope' presented at Figure 6 of the FPCR LVA. The Appellant therefore asserts that the Case Officer was fully informed of the potential visibility (and any anticipated adverse effects) of the Development when they recommended that Committee members grant planning permission.

## Professional Judgement and Nature of Effect

- 2.22. Mindful of the GLVA3 and the recently published Landscape Institute Technical Guidance Note (LITGN) 2024-01 (August 2024) Notes and Clarifications on Aspects and Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3) the author has reviewed the Proposed Development based on the viewpoints as part of the fieldwork and site visits. This has allowed the author to ascertain both the landscape and visual effects and make informed professional judgements concerning these matters and to establish the level and nature of change from a landscape and visual perspective. The assessment was based on winter/early spring views; however, the author has been mindful of summer views in the analysis upon which the judgement is based. It is noted that the Inspector is likely to experience winter views of the Appeal Site.
- 2.23. The degree of landscape or visual effect is identified by means of a descriptive scale as per the GLVA3 guidance. However, it is also necessary to consider the nature of the landscape and visual effects. GLVA3 assists by noting that with regard to landscape effects paragraph 5.37 states that:

***“One of the more challenging issues is deciding whether the landscape effects should be categorised as positive or negative. It is also possible for effects to be neutral in their consequences for the landscape. An informed professional judgement should be made about this and the criteria used in reaching the judgement should be clearly stated. They might include, but should not be restricted to:***

- *The degree to which the proposal fits with existing character*
- *The contribution to the landscape that the development may make its own right, usually by virtue of good design, even if it is in contrast to existing character*

*The importance of perceptions of landscape is emphasised by the European Landscape Convention, and others may of course hold different opinions on whether the effects are positive or negative, but this is not a reason to avoid making this judgement, which will ultimately be weighed against the opinions of others in the decision-making process.” (author’s emphasis)*

2.24. With regard to visual effects, paragraph 6.29 states that:

*“As with landscape effects and informed professional judgement should be made as to whether the visual effects can be described as positive or negative (or in some cases neutral) in their consequences for views and visual amenity. This will need to be based on a judgement about whether the changes will affect the quality of the visual experience for those groups of people who will see the changes, given the nature of the existing views.” (author’s emphasis)*

2.25. The author has reviewed the LVA that was prepared for the application and notes the effects that were identified with regard to landscape character and visual amenity. The author agrees with the general conclusions that are reached in this document. However, given the author is addressing the Reasons for Refusal, he has undertaken his own assessment as to how the Proposed Development would have an effect upon landscape elements, landscape character and visual amenity. The author’s assessment is based on a methodology which is set out in Appendix 12. In undertaking this exercise, there are some differences between the author of this statement and that of the author of the application scheme LVA. Overall conclusions are not dissimilar. The original Proposed Development with its landscape design is acceptable from a landscape planning perspective.

2.26. In this instance and for the purposes of this statement, the effects upon the landscape are specifically considered in terms of effect upon firstly landscape elements and secondly landscape character, which considers the combinations of landscape elements. The author’s statement also sets out how the Proposed Development would have a bearing upon the general visual amenity associated with the area. The proposed design includes green infrastructure which would be in character and in keeping with the rural area. The author is aware that people on the whole generally adopt an adverse reaction to change, particularly with regard to their local environments, with which they are very familiar irrespective of whether it’s harmful or indeed beneficial. The author has adopted a precautionary approach here and as such considers that the Proposed Development would be adverse in terms of nature of effect in landscape character and visual terms unless otherwise stated. There would, however, be beneficial effects for some landscape elements as identified as appropriate.

## **Officer’s Reports to Committee**

2.27. The Officer’s Reports (OR) to the planning committees prepared by NWBC provide a comprehensive assessment of the impact of the Proposed Development in terms of its landscape impact, the residential amenities of nearby properties, and on the local highway network.



2.28. NWBC found the Proposed Development to be acceptable in these regards and the Planning Officers also confirmed in the OR that the Proposed Development is acceptable in all other respects and recommended the Proposed Development for approval, subject to conditions. A detailed summary of the points raised in relation to landscape and visual matters are summarised in the FPCR Landscape Note in Appendix 1 of the Appellants overarching Statement of Case.



### 3. Effect on Landscape Elements

#### Introduction

- 3.1. This section of the statement assesses the effects on those landscape elements (features) that currently characterise the Appeal Site and provide the structural integrity of its environment. It particularly considers the introduction of the new elements that make up the scheme and how these will physically affect the existing features present within the Appeal Site. It also explains why the Proposed Development would in overall terms result in a beneficial effect as far as some landscape elements are concerned.
- 3.2. As illustrated by the Landscape Strategy Plan (Appendix 8), the Appeal Site is comprised of a series of 10 Fields.



Figure 1: Field Numbers

- 3.3. The solar panels and supporting infrastructure have been set back from the existing watercourse within the Appeal Site with generous buffers comprising swathes of native species-rich meadow grassland and wet-tolerant grassland. The existing PRoW footpath (ref. M294/1) runs between Fields 1,2 9 and 10 and will be maintained on its current alignment set within botanically diverse, species-rich wildflower meadow grassland, with new lengths of

native hedgerow proposed to aid in mitigating views of the Proposed Development. The external boundaries to the fields are also proposed to be infilled and reinforced with additional shrub planting. Proposed tree, hedgerow and shrub planting across the Appeal Site would use species which are native, and of local provenance, reflecting species present in the locality whilst also being compliant with the guidelines set out for the host Landscape Character Area.

- 3.4. Fields 1 and 10 are located to the west of PRow footpath M294/1, and at the time of the site visit these two fields contained a crop of sweetcorn. The security fencing has been designed so that it encompasses both fields, offset from exiting boundary vegetation. As part of the landscape proposals the western boundary of the fields, adjacent to B4102 Meriden Road will be reinforced with additional shrub planting an attenuation basin is also proposed in the northern extent of Field 1. A field boundary is also proposed on an east-west axis between the two fields.



*Figure 2: View from PRow footpath M294/1 within the Appeal Site, looking north with the sweetcorn in Field 10 visible*

- 3.5. The route of PRow footpath M294/1 has been accommodated on its current alignment and is proposed to be set within a 'Green Lane' with native species-rich hedgerows proposed along either side, creating a wide green corridor. The placement of these new hedgerows to form the green lane reflects historic field boundaries visible on the 1778 mapping (Appendix 7)
- 3.6. Fields 2, 3, 4, 5, 7 and 9 are grouped together and surrounded by a continuous length of security fencing. Fields 2 and 9 will be contained along their western boundary by new lengths of hedgerow which reflect historic field boundaries. A new hedgerow is also proposed on a broad northwest, and southeast axis and then a second hedgerow on a north-south



orientation through this area, which will aid in breaking up the appearance of the solar panels, as well as reintroducing a smaller-scale field pattern across the Appeal Site. The eastern boundary of Field 5 would be reinforced by additional shrub planting an attenuation basin is also proposed in the northern extent of the field and the southwestern corner of Field 9.



*Figure 3: View from PRoW footpath M294/1 within the Appeal Site, looking southeast across Fields 8 and 9 towards M6*

- 3.7. At the northern extent of Field 2 adjacent to PRoW footpath M294/1, a Community Garden is proposed which would include scattered native trees.
- 3.8. Fields 6 and 8 are in the far southern extent of the Appeal Site. For both of the fields, their southern boundaries are defined by vegetation alongside the M6 motorway, where gaps exist, these are proposed to be infilled with shrub planting. To aid in mitigating views from the Coventry Way Long Distance Footpath, new shrub planting is proposed in the eastern corner of Field 6, and additional shrub planting punctuated with trees is also proposed along the western boundary of Field 6.
- 3.9. In the far western extent of Field 8 an area of hard standing would accommodate both the customer substation and the Distribution Network Operator substation. Access into the Appeal Site would utilise the existing agricultural access off B4102 Meriden Road.

## **Effect upon the Land Cover/Land Use**

- 3.10. The Proposed Development would introduce a new type of development into an area which, at the time of the Appeal Site visits in August and October 2024, comprised arable crops. The existing ground cover is considered to be of medium value being characteristic of the



local landscape yet of low susceptibility, being a managed vegetation. In terms of its sensitivity to the proposals, it is considered to be medium.

- 3.11. The existing ephemeral farmland and grassland that characterise the Appeal Site would be temporarily removed and/or disturbed across the majority of the Appeal Site. Following the completion of the construction stage, the area beneath and between the solar panels would be sown with a suitable grazing grassland mix to benefit biodiversity. This would be managed as permanent pasture. The grassland margins beyond the security fencing would be sown with species-rich grassland mixes as illustrated in the Landscape Strategy Plan, appropriate to the ground condition and soil type.
- 3.12. The proposals would allow the land to effectively rest from arable use for the life of the Proposed Development. With the land managed for grazing, the sheep droppings would add humus and allow the soil to become more enriched in soil habitat terms. At the end of the operational period, the soil resource would be a better-quality enriched resource for farming as a consequence.
- 3.13. On balance, taking into account the enhancement measures and extent of the infrastructure, the proposals would result in a medium magnitude of change upon land cover. The effects are therefore considered to be moderate adverse.
- 3.14. The analysis set out above is based on a number of considerations relating to this aspect of the Proposed Development and is noted in the following paragraphs.
1. The land is predominantly currently used for pasture and silage. The land management can change to pasture as a good farming practice without the requirement for planning permission.
  2. With the scheme as proposed, the land would be managed as pasture where the solar panels are located within the existing fields.
  3. This land cover would be retained across the entire Appeal Site, with the solar panels superimposed over this managed grassland, in contrast to other forms of development which remove agricultural use and are permanent.
  4. Sheep grazing will be undertaken to ensure that the grassland is appropriately managed and maintained for the lifetime of the project. Sheep are able to effectively graze across any of the grassland whether it is under the panels or between the panels themselves.
  5. Throughout the life of the project, the land would be farmed based on sheep grazing and therefore would remove any intensive arable farming practice but maintain agricultural use.
  6. The amount of actual loss of agricultural land as a result of the scheme would be negligible given the overall size of the Appeal Site. As set out in the application documentation, the actual land that would be temporarily lost to accommodate the proposed built form such as the access tracks and substation would equate to approximately 0.0446 hectares (ha) – the Appeal Site covers approximately 61 ha in total.
  7. It is good practice to break the agricultural cultivation of the land, with the land left fallow and retained as pasture to allow the soil ecology to recover. With the land managed for grazing, the sheep droppings would add humus and would allow the soil to become more enriched in soil habitat terms. At the end of the period, the soil resource would be a

better-quality enriched resource for farming as a consequence. There will be as a result, long-term benefits for the soil from being rested for 40 years. Furthermore, with the land managed for pasture with sheep grazing present, the proposal would allow carbon sequestration with regard to the soil resource within the Appeal Site.

8. The physical form of grassland would remain with the solar panels in place.
9. The fields are currently free of built development and therefore have a sense of openness associated with the field units. The introduction of the solar panels whilst extending across the topography at a maximum height of 2.3m (2266cm) above ground, would nonetheless result in some reduction concerning the sense of openness associated with the field units. It is this particular aspect that would result in an adverse nature of effect as it relates to land cover, as the actual physical impact and loss would be limited in scale across the entirety of the Appeal Site as described above.

- 3.15. No land will be permanently lost as a result of the proposals. The installation of the solar arrays would not seal the land, nor would it cause any downgrading of quality. Only a small area for access tracks, infrastructure and substation compound would be physically lost but this land would be restored on decommissioning. The installation and decommissioning process would not have any significant or long-term adverse effects on soils subject to the Proposed Development following good practice in terms of pasture management and maintenance.

### **Effect upon Topography in the Appeal Site**

- 3.16. The sloping nature of the Appeal Site is considered to be uncomplicated and forms part of the wider gently undulating vale landscape. The existing levels across the Appeal Site mean that only limited earthworks would be necessary to accommodate the Proposed Development. The susceptibility of the topography to the type of development proposed is considered to be medium, which combined with a medium value, would result in an overall medium sensitivity.
- 3.17. Due to the light footprint of the proposed solar panels and their character, the prevailing ground levels and indeed the perception of the landform would continue as currently experienced. The arrangement of the solar panels would follow the topography of the Appeal Site and reflect any variation in its contours. Some ground disturbance would occur during the construction of the access track and foundations for the ancillary elements including the fencing, with the panels pile driven into the ground and not requiring any footings or foundations. Any changes would be minimal and limited, with the area reinstated to the existing ground levels. The magnitude of change is therefore assessed as negligible resulting in a negligible effect across the Appeal Site.

### **Effect upon Hedgerows and Shrubs within the Appeal Site**

- 3.18. Hedgerows represent a traditional but typical field boundary treatment in this area. For this reason, the value of shrub vegetation is considered to be medium. In terms of susceptibility of hedgerow vegetation, this is considered to be medium to the proposals with this type of vegetation requiring some time to mature and establish as a landscape element. Overall, the sensitivity of hedgerow vegetation is medium.
- 3.19. As illustrated by the Landscape Strategy Plan (Appendix 8), no sections of existing hedgerow or shrubbery are required to facilitate the Proposed Development.



- 3.20. The proposals would bring about a net gain in the Appeal Site’s hedgerow resource through the creation of a substantial amount of native species-rich shrubs and native hedgerows. Therefore, the proposed planting would result in a medium magnitude of change and moderate beneficial effects upon the hedgerow resource.

### **Effect upon the Tree Resource**

- 3.21. None of the trees within the Appeal Site’s boundaries are part of a designed or designated landscape. However, mature and well-established trees are present within and along the boundaries of the Appeal Site. As a whole, the value of trees within the Appeal Site is considered to be medium alongside high susceptibility given the difficulty of their replacement. Overall, therefore the sensitivity of the trees is assessed as high.
- 3.22. The proposals would bring about a net gain in the Appeal Site’s tree resource as illustrated by the Landscape Strategy Plan. Therefore, the proposed planting would result in a medium magnitude of change and major beneficial effects upon the tree resource.



*Figure 4: Existing hedgerow and trees along the northern boundary of Field 1.*

### **Effect upon Public Rights of Way (PRoWs)**

- 3.23. There is one Public Right of Way (PRoW) reference M294/1 which crosses north to south through the Appeal Site (Appendix 2) the Coventry Way Long Distance Footpath also grazes the southeast corner of the Appeal Site; all of those beyond the Appeal Site would be physically unaffected by the scheme in place. None of the PRoWs near or passing through the Appeal Site would have to be closed or diverted. The Proposed Development therefore would not have any direct effects upon these assets. The PRoWs within the Appeal Site would be retained and for much of their length be accommodated within ‘green lanes’ framed by hedgerows and hedgerow trees (refer to the Landscape Strategy Plan). With a high susceptibility, value and sensitivity combined with no magnitude of change, there would be



no physical degree of effect on the PRow as a resource and facility. The effect upon the amenity of these routes is addressed later.

## **Effect upon Water Features**

- 3.24. As noted in the LVA and confirmed by the Appeal Site visit, a small watercourse is present within the Appeal Site. The Proposed Development has been designed to allow a separation buffer between this feature and the Proposed Development. In short, the existing water features would be retained and not physically affected.
- 3.25. The value, susceptibility and sensitivity of water features are assessed as high. As part of the proposals, the existing waterbodies are proposed within generous buffers, and additional attenuation basins and swales are also proposed (Appendix 8) which would contain a wet-tolerant grassland mix resulting in a low magnitude of change, and subsequent moderate beneficial effect.

If the proposals were assessed based on the Planning Layout (Revision H), the magnitude of change would remain as low, due to the introduction of swales, resulting in moderate beneficial effects.

## **Summary of Effects upon Landscape Elements**

- 3.26. The Proposed Development would have a moderate adverse effect on the land use/ land cover of the Appeal Site, taking into account the associated enhancement measures and extent of the infrastructure. In terms of the Appeal Site's topography, the effects would be negligible. With regard to the tree and hedgerow resources, the landscape proposals would bring about moderate beneficial effects upon hedgerows and major beneficial effects upon the tree resource. Other existing landscape features, such as the PRows, would be retained and would not be affected. The overall effect on water features is assessed as moderate beneficial.
- 3.27. The Proposed Development would result in some beneficial effects with regard to landscape elements that currently define the landscape character of the Appeal Site. However, the elements that currently contribute to defining the field character of the Appeal Site, namely trees and hedgerows, would be retained and enhanced to form a solar farm within farmland managed for pasture. Furthermore, the proposed hedgerows would reflect some of the historic field boundaries and a sense of scale across the Appeal Site which have been lost due to the intensification of farming practices.
- 3.28. It is also worth reiterating that the scheme can be described as long-term in nature (i.e., 40 years), with the land cover being temporary; meaning that it will be possible for the land to return to solely agricultural use. Solar farms are characterised by their low profile, light footprint and reversible nature. The timescale of 40 years is similar for some other elements in the landscape such as timber crop production.
- 3.29. After 40 years, at the decommissioning stage, all infrastructure would be removed. However, all the new planting introduced would have matured along with the ongoing management and maintenance of the other retained features and as a result, there would be a clear beneficial legacy from this project in terms of landscape elements which collectively would also enhance landscape character as noted in the published Landscape Character Assessments.,





- 3.30. The author recognises that the Proposed Development would bring about an inevitable change to the character of the Appeal Site itself, introducing solar panels and associated infrastructure superimposed over grassland managed as pasture and grazing. However, such a change would in physical terms be confined within the Appeal Site boundaries.

## 4. Effect on Landscape Character

### Introduction

- 4.1. This section of the statement explains how the Proposed Development would have a bearing upon the landscape character of the surrounding area. As defined in the GLVIA3 glossary, landscape character is ***“A distinct, recognisable and consistent pattern of elements in the landscape that makes one landscape different to another...”***.
- 4.2. To further clarify a distinction in the use of terms, Landscape Character Areas (LCAs) are discrete geographical areas of a particular landscape, as opposed to Landscape Character Types (LCTs), which are defined in GLVIA3, page 157 as follows:
- “These are distinct types of landscape that are relatively homogeneous in character. They are generic in nature in that they may occur in different areas in different parts of the country, but wherever they occur they share broadly similar combinations of geology, topography, drainage patterns, vegetation and historical lands use and settlement pattern, and perceptual and aesthetic attributes”***
- 4.3. A number of landscape character assessments have been undertaken in recent years to identify landscape character types and areas and published to assist professionals in understanding how decisions can affect landscape character.
- 4.4. The preceding chapter provides some narrative to explain how the Proposed Development would have a bearing upon the landscape elements which form the landscape character of the Appeal Site. The author agrees with the detailed analysis set out in the FPCR LVA that the Appeal Site is assessed as medium value based on the criteria set out in Technical Guidance Note O2-21: Assessing landscape value outside national designations given that it is located within an undesignated landscape, the landscape condition is fair with the landscape features generally well-maintained, noting there are gaps in some of the boundary hedgerows; and although not rare elements, the topography, scale and vegetation within the Appeal Site is typical of the local landscape character.
- 4.5. The susceptibility of the Appeal Site to the type of development is assessed as medium, due to the level of enclosure provided by existing vegetation along the boundaries of the Appeal Site, combined with the gradual variations in topography within the immediate locality.
- 4.6. A medium value and medium susceptibility equate to a medium sensitivity.

### National Level – National Character Area 97: Arden

- 4.1. The Appeal Site and the surrounding area are located within the National Character Area (NCA) Arden number 97.

## National Character Area 97 Arden

Note: In most instances, the NCA boundary is not precisely mapped and should be considered as a zone of transition between NCAs.

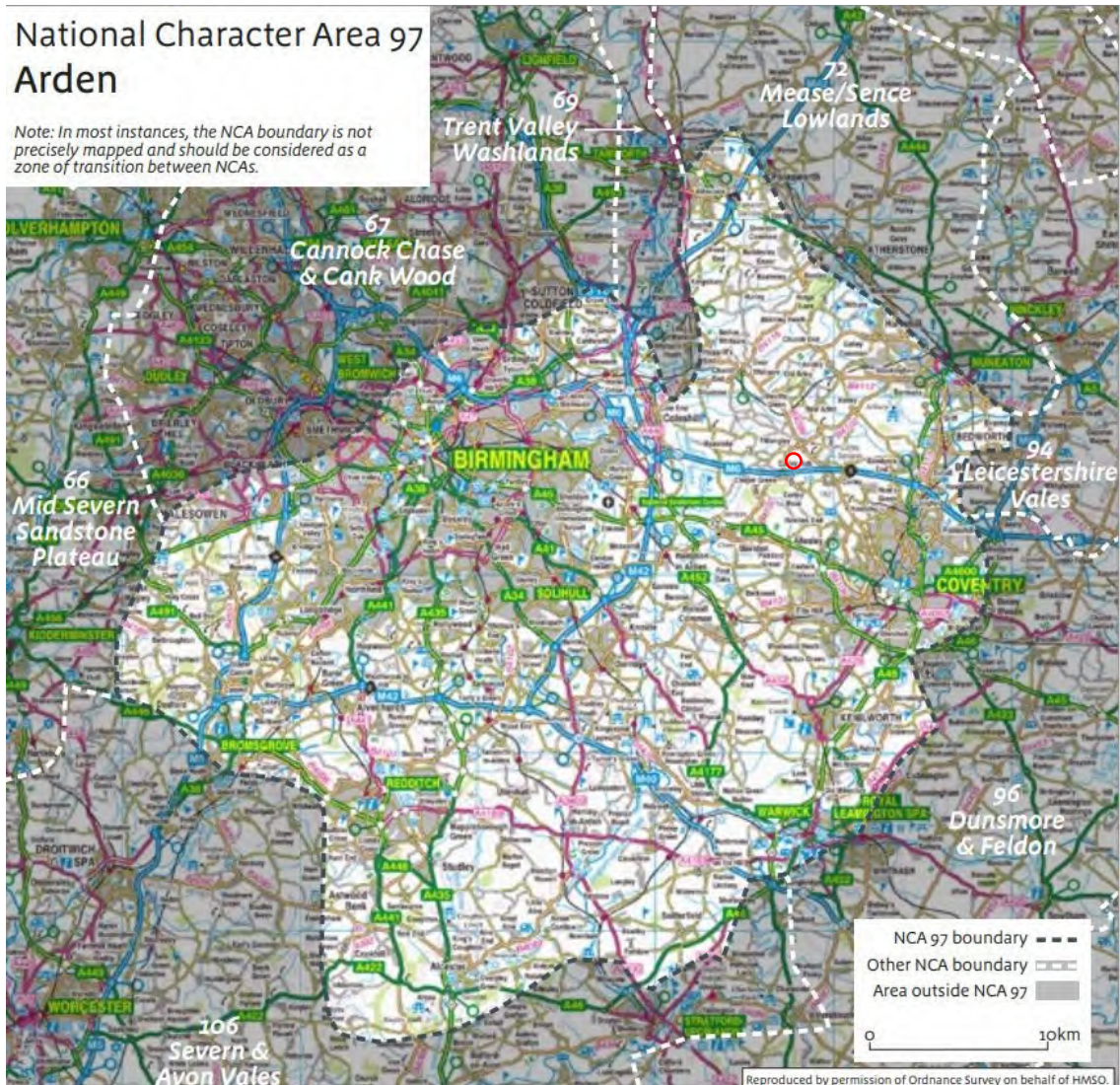


Figure 5: Plan showing the location of the Appeal Site (red circle) within NCA 97 Arden

4.2. This NCA forms part of an assessment of the character of England's landscape, first undertaken by the Countryside Agency but now the responsibility of Natural England. The key characteristics of this NCA are described on page 5 of the document as follows:

- ***“Well-wooded farmland landscape with rolling landform.***
- ***Geologically diverse with rocks ranging from the Precambrian to the Jurassic and overlain by superficial Quaternary deposits.***
- ***Mature oaks, mostly found within hedgerows, together with ancient woodlands, and plantation woodlands that often date from the time of enclosure. Woodlands include historic coppice bounded by woodbanks.***
- ***Narrow, meandering clay river valleys with long river meadows...***
- ***Numerous areas of former wood-pasture with large, old, oak trees often associated with isolated remnants of more extensive heathlands. Village greens/commons have a strong association with remnant lowland heath. Fragmented heathland persists on poorer soils in central and northern areas.***

- *Diverse field patterns, ranging from well hedged, irregular fields and small woodlands that contrast with larger semi regular fields on former deer park estates...*
- *Complex and contrasting settlement pattern with some densely populated where traditional settlements have amalgamated to form the major West Midlands conurbation while some settlements remain distinct and relatively well dispersed.*
- *Transport infrastructure, the M42, M40, M6 and M5 are major transport corridors that sit within the landscape of this NCA.*
- *Shakespeare's 'Forest of Arden', featured in 'As You Like It', is still reflected through the woodland cover, mature oaks, small ancient woodlands and former wood pasture."*

4.3. All of these key characteristics identified above would remain and prevail beyond the Appeal Site itself with the Proposed Development in place. Any landscape effects would be negligible beyond the environs of the Appeal Site.

4.4. The author notes that the following Statements of Environmental Opportunity (SEO) are identified in the description of the NCA 97 Arden:

***"SEO 1: Manage and enhance the valuable woodlands, hedgerows, heaths, distinctive field boundaries and enclosure patterns throughout the NCA, retaining the historic contrast between different areas while balancing the needs for timber, biomass production, climate regulation, biodiversity and recreation.***

***SEO 2: Create new networks of woodlands, heathlands and green infrastructure, linking urban areas like Birmingham and Coventry with the wider countryside to increase biodiversity, recreation and the potential for biomass and the regulation of climate." (underlining is my emphasis)***

4.5. The Proposed Development retains and enhances the existing field boundaries with an increase in the tree and woodland cover, and the scheme responds positively to the above-quoted Statements of Environmental Opportunity SEO1 and SEO2.

4.6. Furthermore, the field pattern, hedgerows and hedgerow trees and the grain of the landscape would all remain in place. The Appeal Site would still be in agricultural use just not so obvious given the solar panels and associated infrastructure. There would be no net loss of any features other than the current arable land use, the only difference is that the solar panels would be introduced along with the other infrastructure within the framework of the fields. In character terms, beyond the Appeal Site and its immediate environs, there would be no material change to the physical and experiential characteristics of the landscape.

4.7. In summary, the author notes that the overall key characteristics of the NCA reveal a settled and managed landscape with specific references to built infrastructure. It acknowledges (page 6 of the NCA 97 document) that the Arden landscape ***"...is a true mix of urban and rural with the heavily urbanised centres of Birmingham, Coventry, Redditch, Nuneaton and Tamworth set within and around a landscape of farmland, parkland and former wood pasture."*** This Natural England document is inevitably a high-level character assessment, but it provides a useful overview to understand the character of the local and wider landscape and its surroundings.



4.8. The author notes also that the description of the NCA 97 Arden states:

*"There are many mature hedgerow oaks, numerous patches of ancient woodland and parks containing remnants of wood-pasture. The association with former common and heathland also imparts a strong unity, reflected by the widespread occurrence of heathland vegetation and roadside bracken. The larger commons have been enclosed within a rectilinear pattern of larger fields, straight roads and hedges, but there are still smaller commons as well as extensive areas of farmland, characterised by small, irregular fields, dense, thick hedges, winding lanes and trackways. (...) Common oaks are still the dominant tree species and can be found both within towns and villages and as part of the hedgerow systems. The woods themselves range from 20th century plantations to species-rich ancient woodlands. Some of the woodlands contain important populations of lichens and fungi. Oak and ash wood with bracken, bramble and dog's mercury are also particularly distinctive."*

4.9. In comparison, the Appeal Site is best described as arable land with poor semi-improved grassland field margins typical of intensively managed arable margins, areas of scrub vegetation, semi-improved grassland areas, contained by generally well-maintained field hedgerows with hedgerow trees, and standard trees some of which were semi-mature or mature. The Appeal Site is not common land, there are no examples of heath habitat within the site, and no Ancient Woodlands within or abutting the site. The Ancient Woodlands located in close proximity would not be physically affected. The fields are medium to large scale and have been enlarged in the past.

4.10. At this higher level, it is considered that the Proposed Development would not have any discernible effect with regard to the key defining characteristics of this NCA as identified above. It is more informative to examine the local character assessments.

### **County Level – Warwickshire Landscapes Guidelines (1993)**

4.11. Warwickshire County Council produced 'Warwickshire Landscapes Guidelines' in 1993 which maps and describes the special characteristics of each of the county's seven landscape character areas. The guidelines also provide strategies for managing and enhancing these landscapes.

4.12. The Appeal Site is located within Arden Regional Character Area, a large area extending between Tamworth in the north, to Warwick and Redditch in the south. The Arden Regional Character Area is further broken down into distinct types of landscape, with the site being located within the Ancient Arden Landscape Type.

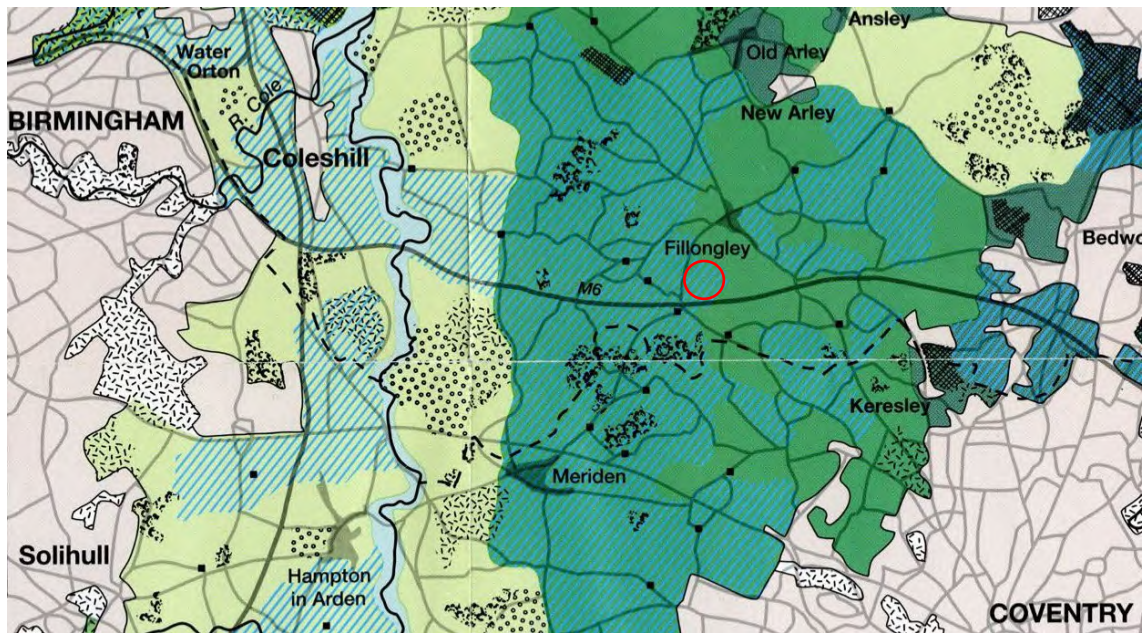


Figure 6: Plan showing the location of the Appeal Site (red circle) within the Ancient Arden Landscape Type

- 4.13. The overall character and qualities of the 'Ancient Arden' landscape type are **"A small scale farmed landscape with a varied, undulating topography, characterised by an irregular pattern of \_fields and narrow, winding lanes"**.
- 4.14. The Ancient Arden is described as follows:

*"This is the most extensive Arden landscape and forms the core of ancient countryside in Warwickshire. It is located in two main areas: the northern section covers the eastern half of the North Warwickshire plateau, while the southern section forms the undulating countryside between Hatton and Redditch. It is a small scale, intricate landscape with many low rounded hills, steep scarps and small incised valleys. Landform is rarely dominant but in places it is emphasised by hilltop woodlands and wooded scarps. Within the area landform relates intimately with tree cover and field pattern to form a strong sense of enclosure. Views are restricted by thick roadside hedgerows and are often short, overlooking two or three fields to a wooded skyline. Occasional distant views are afforded from hilltops and ridgelines revealing a varied, wooded topography.*

*The farmed landscape is characterised by a well-defined small to medium sized irregular field pattern, complemented by an irregular pattern of narrow lanes. Most lanes and trackways are tightly defined by thick hedgerows often on hedgebanks. Pockets of permanent pasture are closely associated with small scale field patterns around hamlets and lanes. These form the treasured, undisturbed Arden landscapes where a combination of ancient hedgerows, unimproved pasture and grazing animals creates a strong sense of place and a peaceful reminder of times past. The intimacy of the landscape is often reinforced by the presence of sunken trackways and old field ponds which provide the finishing touches to tranquil, typically English rural scenes.*

*Throughout much of the area the landscape has a well wooded character formed by a mixture of woodlands, hedgerow trees, small parks and strongly wooded*



*streamlines. Woodlands are particularly prominent on higher ground on the North Warwickshire plateau between Meriden and New Arley. The majority of woodlands are less than 5 hectares in size, although several such as Close Wood and Birchley Hays Wood just north east of Meriden are considerably larger. Most are oak dominated, but a substantial proportion particularly of larger woods have been replanted with mixed broadleaved and coniferous species. The irregular shape of most woodlands reflects the large number that have ancient origins. Hedgerow trees are mainly associated with pastoral landscapes, such as those found around Tanworth-in-Arden. Free standing field trees and groups of trees around field ponds are also locally important. Elsewhere trees are more scattered, but in combination with thick hedgerows they often maintain a semblance of wooded character.*

*An integral element of the landscape is the dispersed settlement pattern of hamlets and farmsteads. Many historic brick and timber farmhouses and parish churches are particularly prominent. Modern houses are found on the edges of most hamlets and along roadsides, but in north and south Arden these do not markedly detract from traditional settlement character. In central Arden however, in the parishes of Allesley, Berkswell, Corley and Meriden, urban influences give a suburban feel to the landscape. (underlining authors emphasis)*

4.15. The characteristic features of Arden Parklands are set out as follows:

- *"A varied undulating topography.*
- *A network of winding lanes and trackways often confined by tall hedgebanks.*
- *An ancient irregular pattern of small to medium sized fields.*
- *Hedgerow and roadside oaks.*
- *Field ponds associated with permanent pasture.*
- *Many place names ending in Green or End.* (underlining authors emphasis)

4.16. All of these key characteristics associated with the landscape beyond the site would remain and prevail with the proposed solar farm in place. Landscape effects would be negligible beyond the environs of the site.

4.17. The specific landscape guidelines associated with Arden Parklands landscape type are as follows:

- *"Conserve and restore the ancient irregular landscape pattern.*
- *Conserve and restore the irregular pattern of ancient hedgerows.*
- *New hedge planting should reflect the irregular field pattern and include only mixed native species.*
- *Conserve pastoral character and identify opportunities for conversion of arable land back to permanent pasture.*
- *Retain and manage field ponds in areas of permanent pasture.*

- **Encourage the natural regeneration of hedgerow oaks.**
- **Enhance tree cover through small scale woodland planting.**
- **Conserve rural character by restricting changes in the use of rural land.”**  
(underlining authors emphasis)

4.18. The landscape proposals for the scheme would be in accordance with the majority of these landscape guidelines for the host Ancient Arden by reflecting some historic field boundaries across the Appeal Site which have been lost, reintroducing a smaller scale and irregular landscape pattern and restoring ancient hedgerows. As part of the Proposed Development sheep grazing could be introduced, which as a result would change the current arable use of the Appeal Site to pastoral grazing. Attenuation basins could be introduced as part of the Proposed Development, set within grassland and new areas of shrub and tree planting would be introduced, with native species such as English Oak within the tree mix (see Appendix 8, Landscape Strategy Plan).

## The North Warwickshire Landscape Character Assessment (2010)

4.19. The assessment was commissioned in November 2009 to undertake a Landscape Character Assessment of North Warwickshire Borough and a Landscape Capacity Study for the land adjacent to the main settlements and local service centres within the Borough.

4.20. The assessment identifies 13 Landscape Character Areas (LCA) across the whole of the North Warwickshire Borough landscape. The Appeal Site is located within LCA 7: Church End to Corley Hills & Valleys which covers “**...an extensive area extending from just south of Birchley Heath in the north to Corley Moor in the south...**” noting that areas of settlement are excluded from the study as a series of insets.

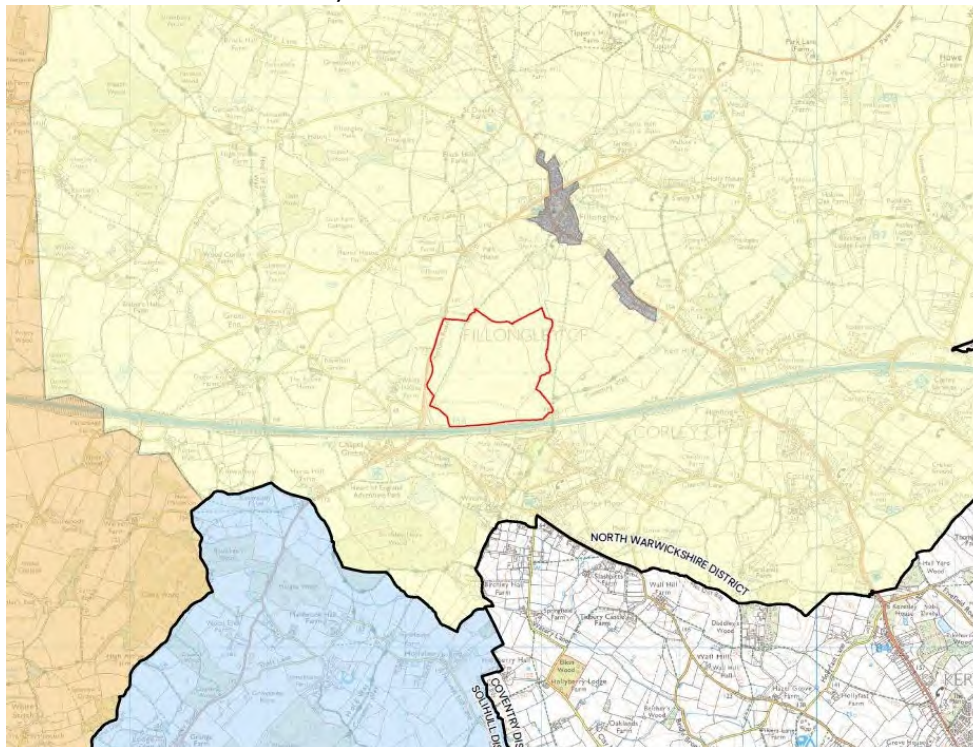


Figure 7: Plan showing the Appeal Site within LCA 7 Church End to Corley Hills & Valleys

4.21. Key characteristics of LCA 7 are listed as:

- ***"A broad elevated basin with numerous rolling hills and valleys;***
- ***Mixed agricultural landscape with an ancient pattern of small fields, winding lanes and dispersed, isolated hamlets and farmsteads, particularly notable to the west of Fillongley Hall;***
- ***Heavily wooded character** due to presence of large woodland blocks on hilltops and associated with these numerous areas of former woodpasture with large, old oak trees and field ponds, often associated with heathland remnants;*
- ***Wooded escarpments at the northern, eastern and southern boundaries;***
- ***In places a more open network of large arable fields;***
- ***To the east and south, towards Coventry, the area is permeated by a number of larger settlements with modern expansion with increasingly busy roads;***
- ***The M6 motorway rows of pylons cut through the south and are highly visible locally from elevated slopes;***
- ***Long views from western slopes across the Blythe Valley to Birmingham."**  
(underlining authors emphasis)*

4.22. The landscape character, key description for LCA 7 is as follows:

***"An elevated farmed landscape of low, rounded hills, steep scarps and small incised valleys. This landform combined with extensive hilltop woodlands and tree cover creates an intricate and small scale character, punctuated by numerous scattered farms, and hamlets.***

***Streams within the valley bottoms generally converge to the west and outfall towards the Shustoke Reservoir. A rail line winds discretely through the base of the central valley. Daw Mill Colliery is nestled within this valley adjacent to the rail line and has little influence on the wider landscape. This settled landscape includes a dense network of older hamlets and farmsteads, ancient moated sites such as at Astley Castle as well as a number of settlements that have been subject to modern expansion, including Old and New Arley, Ansley, Fillongley, Corley and Corley Moor. The majority of these settlements are located to the south and east where they are connected by a network of busier lanes which link to the nearby urban areas of Nuneaton, Bedworth and Coventry. Collectively, and combined with the M6 motorway and lines of pylons within the south, this area has many suburban elements.***

***The majority of the character area is deeply rural and the tranquil. Ancient Arden landscape is apparent in the complex pattern of woodland, former wood pasture and heath, winding, frequently sunken hedged lanes and scattered farms and hamlets, built of wood or timber. This is most notable in close proximity to the hilltop woodland blocks and particularly to the west of Fillongley, where a complex and irregular network of small well-hedged pastoral fields with field ponds and numerous field trees is apparent in the vicinity of Fillongley Hall. There are similar areas around Fillongley Lodge and towards Over Whitacre. Elsewhere fields have been enlarged for***



*arable production, although many still retain an irregular outline. To the south of Ansley and New Arley, numerous hedgerow trees around larger semi-regular arable fields combine to provide a sense of Parkland character towards Arbury Park located just to the east within the Nuneaton and Bedworth District.*

*Throughout much of the area the landscape has a well wooded character formed by a mixture of woodlands, spreading hedgerow and field oaks, small parks and strongly wooded streamlines. Some areas retain a heathy character, and this is noted at Shaw Lane, where there is oak/birch mix woodland with an understory of bracken. Large mixed broadleaved and coniferous woodland blocks are located upon the peripheral escarpment to the north, east and south, framing the LCA.*

*Within the area landform relates intimately with tree cover and field pattern to provide enclosure. In the more intimate pastoral areas views tend to be restricted by thick roadside hedgerows and are often short, overlooking two or three fields to a wooded skyline. Elsewhere there are local views across small valleys, often to wooded skylines. Occasional distant views are afforded from hilltops and ridgelines revealing a varied, wooded topography. From elevated western parts of the area and from the steep scarp at the western edge of the LCA there are occasional panoramic views across the Blythe Valley to Birmingham.” (underlining authors emphasis)*

4.23. The assessment then goes on to set out the landscape related designations which fall within the LCA, none which are listed are of relevance to the Appeal Site.

4.24. Pressures for change/ key issues for LCA 7 include:

*“This area retains much of the classic ‘Arden’ landscape characteristics, the main pressure for change comprises agricultural intensification and conversion of broad land swathes to arable. Associated changes in land management practices lead to gradual loss or deterioration of hedgerows, field ponds, wetland and heathland habitats and hedgerow trees. Around the south and eastern peripheries settlement expansion and associated increase in peripheral road traffic along with the presence of the M6 motorway and pylons have an urbanising influence and bring associated ongoing development pressures.” (underlining authors emphasis)*

4.25. Landscape /management strategies for LCA 7 which are relevant to the Appeal Site include;

***“Conserve and restore the typical rural ‘Arden’ landscape character of this area;***

- Conserve and enhance tree cover within and around settlements, any new development should be integrated within the landscape through implementation of landscape framework planting appropriate to the local landscape character;*
- Conserve rural character by restricting changes in the use of rural land;*
- Maintain the quiet, peaceful character of the area and only encourage informal recreation;*
- Conserve areas of pastoral character and identify opportunities for conversion of arable back to permanent pasture;*

- **Conserve and manage any remaining old permanent pastures and grassland areas;**
- **Retain and manage field ponds in areas of permanent pasture;**
- **Encourage development of wide and diverse field margins;**
- **New hedge planting should reflect the irregular field pattern and include only mixed native species;**
- **Conserve and enhance tree cover through natural regeneration of hedgerow oaks;**
- **Encourage new woodland planting; plant native, locally occurring species and predominantly oak. The design of new woodland planting should complement the shape and scale of the surrounding landscape pattern, large woodland blocks predominate on higher land;**
- **Enhance the continuity and wooded character of stream corridors.”**

4.26. The positive character-defining features of the LCA would be physically unaffected and would remain and continue to prevail beyond the Appeal Site itself with the Proposed Development in place. The current arable field would be converted to pasture as advocated in the LCA assessment. Species-rich meadow grassland would be sown across the Appeal Site, inside the security fencing and in the areas beyond to create wide botanically diverse field margins.

4.27. The Proposed Development would strengthen existing and establish new hedgerows within the Appeal Site in line with the land management guidelines which include reintroducing historic field boundaries and a more intimate field pattern. Species proposed within new hedgerows, areas of shrubs and individual trees would be native and reflect the local provenance of the area, including English Oak.

4.28. All of the key characteristics associated with the landscape beyond the Appeal Site would remain and prevail with the Proposed Development in place, with the Landscape Strategy Plan illustrating the additional landscape enhancements which would be introduced as part of the proposals such as the historic field boundaries, would remain after the Proposed Development is decommissioned as a legacy of landscape character enhancement.

4.29. There would be a negligible effect on the LCA 7 Church End to Corley Hills & Valleys beyond the Appeal Site itself.

### **Analysis Concerning Effect on Landscape Character**

4.30. At the national, regional and local landscape character area level the Proposed Development would not change existing topography, vegetation, or drainage pattern, and would not change the local distinctive nature of these features and would be imperceptible at this scale.

4.31. The Appeal Site, and indeed the majority of the surrounding wider landscape in the vicinity, is not subject to any statutory or non-statutory landscape designations. The Appeal Site represents a typical example of a managed agricultural landscape. The landscape is therefore not of high value in the context of the NPPF. The value of the landscape within the Appeal Site and its environs is considered medium. With regard to its susceptibility to solar farms, the



analysis confirmed that the local landscape is of medium susceptibility. Overall, the Appeal Site and its environs are of medium sensitivity to solar farms.

- 4.32. The Proposed Development would represent a change from arable agriculture to a landscape containing solar panels. Existing hedgerows would be retained with opportunities for enhancement to maintain and develop the key characteristics, as well as reflecting historic field patterns.
- 4.33. During construction and on completion, the Proposed Development would bring about a medium magnitude of change to the Appeal Site itself the Appeal Site would change from an arable landscape to one which contains solar panels with sheep grazing, resulting in a moderate adverse effect. However, as the proposed planting across the Appeal Site matures, this adverse effect would reduce.
- 4.34. Following decommissioning at the end of the operational life of the panels, the Appeal Site would be returned to at least its current condition. However, the landscape enhancements such as reinstated field boundaries would remain. There would be some long-term beneficial effects on the local landscape character arising from the mitigation measures brought forward as part of the Proposed Development which include enhancements to the characteristic landscape elements and biodiversity within the Appeal Site.
- 4.35. Whilst any construction or decommissioning works would involve machinery operating within the Appeal Site boundary which would disturb the tranquillity of the area to some degree, the CPRE tranquillity mapping identifies the appeal site as being in an area assessed as being towards the 'least tranquil' end of the assessment spectrum, and construction or decommissioning effects would also be temporary.

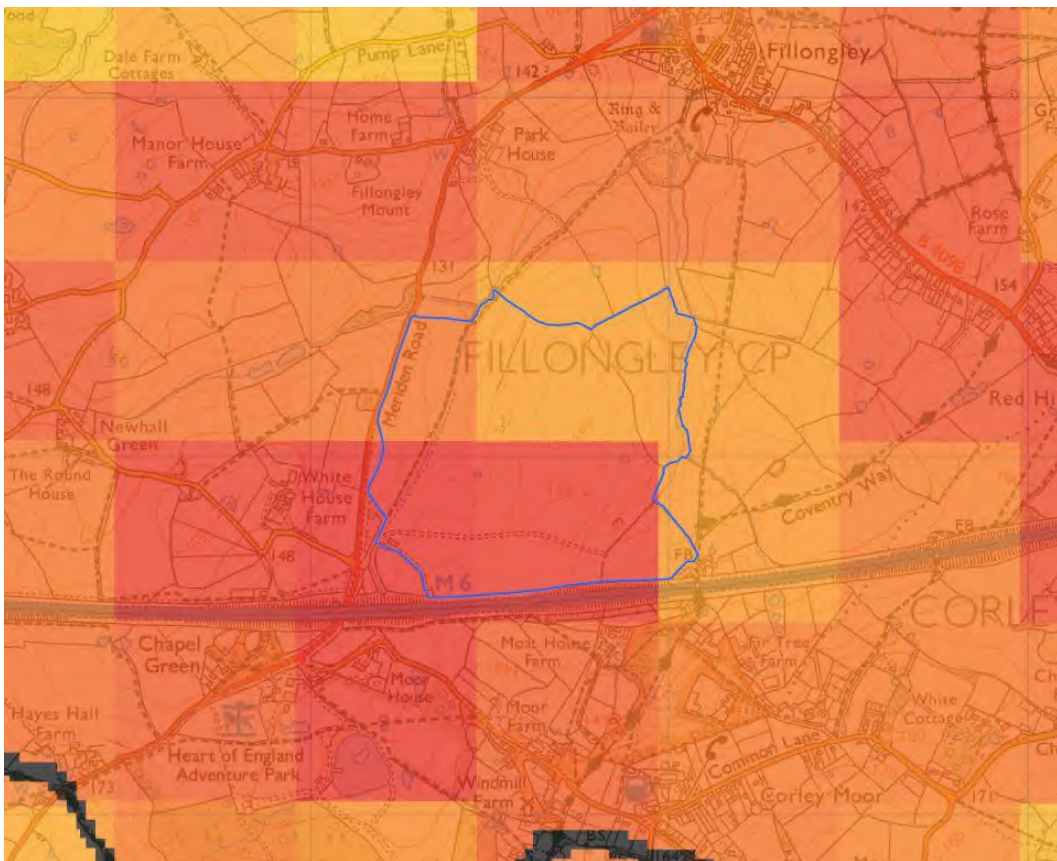


Figure 8: CPRE Tranquillity Mapping



## Summary

- 4.36. In overall terms, it is considered that there would be a moderate adverse effect upon the landscape character of the Appeal Site itself. The physical character of the surrounding landscape would remain and prevail unchanged with the Proposed Development in place.
- 4.37. In terms of landscape character associated with the Appeal Site, this is defined by the combination of various landscape elements, principally topography and land cover, hedgerows, tree cover and the configuration of the fields themselves. The field pattern is sometimes referred to as the "grain" of the landscape. With the exception of some small areas of development such as inverters which would require the temporary loss of some agricultural land, all of the landscape elements would be retained and remain as part of the landscape whilst the scheme is in place. It is accepted that where the panels would be located, the Appeal Site would continue to be used as grazing, accommodating sheep.
- 4.38. The hedgerows would be reinforced with further hedgerow planting and the tree cover resource associated with the Appeal Site would also be reinforced with additional tree planting.
- 4.39. All the hedgerows would be maintained at 2.5m in height, which is higher than the solar panels which are approximately 2.3m (2266cm) on their highest edge.
- 4.40. The trees over the project lifetime, both those existing and those introduced as part of the landscape proposals, would all continue to grow developing larger canopies apart from those trees that are already fully mature. This growth over a 40-year period, which is a significant period of time for both hedgerow and tree growth, would result in reinforcing the defining positive characteristics of the Appeal Site with regard to these features. Furthermore, the increased vegetation growth would create a stronger sense of physical and visual containment associated with the Appeal Site. This change would reduce the visual effects that would come about over the project timescale.
- 4.41. Upon completion of the decommissioning phase, all built infrastructure would be removed across the entirety of the Appeal Site. The management and growth of the hedgerows and trees across the Appeal Site would continue to remain as part of the landscape post-decommissioning phase and would leave a positive legacy in terms of landscape character given that trees and hedgerows contribute to the landscape character locally.
- 4.42. Beyond the environs of the Appeal Site, the landscape character of the area would remain materially unchanged. With the Proposed Development in place, the character of the fields within the Appeal Site would change as they would now accommodate solar arrays, however the underlying character of the fields would still be there, the fields would continue to be used for pasture farming, and they would return to solely agricultural use with the decommissioning of the solar farm in the longer term. However, it is proposed that as an integral part of the scheme, new hedgerows and tree planting would be introduced, and meadows created. All of these elements could and would remain after decommissioning as a positive legacy of the scheme and bring about enhancement to the landscape character in the long term.
- 4.43. The Proposed Development involves solar arrays and some associated infrastructure located across several fields that are managed as arable farmland. It is intended that whilst the solar arrays are operational, the fields would continue to be used for agricultural purposes in the



form of sheep grazing for the whole lifetime of the project. The Appeal Site would therefore continue to have an agricultural use.

- 4.44. Most of the existing landscape elements, vegetation, trees, and hedgerows would continue to remain and be reinforced. Therefore, the general agricultural character of the fields would remain accepting that they would also accommodate a solar farm and as such would change the current existing character of those fields. Parcels of land within the Appeal Site boundary would remain materially unchanged in terms of their character as farmland. Beyond the confines of the Appeal Site boundary, there would be no material change to the physical fabric of the landscape character.

## 5. Effect on General Visual Amenity

### Introduction

- 5.1. To reiterate, character and appearance are two different aspects. The physical character of the surrounding landscape would remain unaltered with the Proposed Development in place.
- 5.2. In order to gain a better understanding of the extent and nature of the change brought about by the Proposed Development on the appearance of the local landscape, the visual effects of the Proposed Development on the general visual amenity of the landscape and the perception of those visual receptors (people) using the landscape are examined.
- 5.3. The assessment relates to the representative LVA viewpoints.
- 5.4. Visual amenity is defined on page 158 in the Glossary of GLVIA3 as:  
  
***“The overall pleasantness of the views people enjoy of their surroundings, which provides an attractive visual setting or backdrop for the enjoyment of activities of the people living, working, recreating, visiting or travelling through an area.”***
- 5.5. The LVA analysis demonstrated that much of the landscape within the locality would be visually unaffected by the Proposed Development. In reality, the actual visual envelope from where the Proposed Development would be seen would be severely constrained owing to the layering effect of vegetation including the field boundaries and hedge trees in the intervening landscape between the visual receptor (person) and the Appeal Site boundary. This statement relies upon the detailed analysis set out in the LVA and visualisations which are not repeated in this statement. Further analysis is described to provide context to this detailed analysis.
- 5.6. The appreciation of views from the countryside is mainly gained from locations accessible to the public. The two main ways in which members of the public can gain an appreciation of views when in the countryside are primarily from public highways and by using the various PRoW that pass through the landscape.
- 5.7. Within the local area, the network of public highways is limited (as illustrated in Appendix 1). The typical character of these roads is that they are lined with hedgerows and hedgerow trees. Consequently, within the local landscape, the presence of such roadside vegetation means that a road user using these highways often has only a restricted opportunity to gain views of the countryside. The view of the user is most often channelled along the road itself in the direction of travel. The user’s appreciation of the wider countryside can be limited to the direction of travel and to a narrow landscape corridor associated with the highway in front of the vehicle. Thus, the opportunity to gain a panoramic appreciation of the landscape and of the Proposed Development within the Appeal Site would generally be very restricted regarding roads in the locality. This would be the case here. This section provides further clarification with regard to highways locally as set out in the proceeding paragraphs.
- 5.8. In the proceeding paragraphs, further context is provided with regard to PRoW in the vicinity of the Appeal Site.

## Views of the Solar Farm from the Countryside to the North

- 5.9. As PRoW users continue along PRoW M294/1 beyond the Appeal Site to the north, this route gradually descends, and as such only parts of the solar farm would be visible from locations in close proximity to the north boundary.
- 5.10. To the north of the Appeal Site is located the settlement of Fillongley which sits within a shallow valley. A combination of topography and well-established vegetation, including areas of woodland prevent views towards the Appeal Site (see Viewpoint 3), as PRoW users approach the Appeal Site from Fillongley along footpath M294a/1, dense, robust vegetation, which includes a high percentage of trees, would obscure views of the Proposed Development.
- 5.11. For road users travelling along Meriden Road (B4102) to the north of the Appeal Site, whilst much of the route is lined by roadside vegetation, views in a southerly direction are possible at agricultural field accesses near Park House, as illustrated by Viewpoint 9. Whilst the Appeal Site would be partially visible in the middle ground, the glimpsed and transient nature of the view, which would be only experienced by road users travelling away from Fillongley, must be emphasised.
- 5.12. During the site visit it was established that as road users travel along the B4098, opportunities to experience views towards the Appeal Site are prevented, primarily due to topography, with the orientation of the road following a broad ridgeline, meaning the 'shoulder' of the ridge occupies the foreground of any views looking westward towards the Appeal Site. Users of this highway would be visually unaffected by the proposal. Furthermore, whilst the bare earth ZTV indicated that it would be theoretically possible for receptors to experience views from highways and PRoWs to the north of Fillongley, the site visit confirmed that these routes would also be visually unaffected by the Proposed Development due to intervening built form and layers of vegetation (noting the ZTV does not take account of either of these elements as screening features).
- 5.13. There is a network of PRoW associated with the parkland grounds of Fillongley Park and its parkland. The boundaries of the park are generally defined by tree belts to physically and visually frame the parkland. As a result of this perimeter tree belt planting coupled with scattered individual parkland trees within the grounds, views from the PRoW and indeed, anywhere within the parkland would be visually unaffected by the Proposed Development.
- 5.14. Fillongley Village Hall and the adjacent allotments were also visited during the site visit and the existing well-established vegetation including trees around their periphery would prevent longer-ranging views south-west towards the Appeal Site.



*Figure 9: View from Fillongley Village Hall west side car park, looking west southwest*

## Views of the Solar Farm from the Countryside to the South

- 5.15. The southern boundary of the Appeal Site runs adjacent to the M6 motorway, which is lined along much of its length by well-established trees and shrubbery. Sections of the route as it passes close to the Appeal Site are also on a slight embankment and also lined with 2m high acoustic fencing (near Fillongley Livery Yard, to the west of the Appeal Site). This existing vegetation combined with limited variations in topography and built form, heavily restricts views towards the Appeal Site.
- 5.16. Roads to the south of the M6 and the Appeal Site are often flanked by vegetation, with views contained to the foreground by well-established areas of woodland and isolated trees which exhibit a parkland character, particularly around the settlements of Chapel Green, Corely Moor and Corely.
- 5.17. Currently, users of the Coventry Way Long Distance Footpath can experience partial views of the Appeal Site from short sections of the route; noting this route is a 40-mile circular long-distance walk which extends around Coventry and passes close to many elements of built infrastructure.
- 5.18. As the Coventry Way continues south, it passes over a bridge on the M6. From this bridge users of the route can experience an elevated view looking over part of the Appeal Site. Whilst parts of the solar farm would be visible, users of the long-distance route at this location are already acutely aware of the adverse effects of the M6 and its six lanes of fast-moving vehicles, both audibly and visually on their experience.
- 5.19. Continuing south, users of the Coventry Way descend from the southern side of the footbridge and down steps into the Open Access Common Land at Corley Moor. During the site visit this area of open access land was walked, and it was established that trees and woodland within the common land itself, combined with the well-established trees along the M6 screen views northward towards the Appeal Site (see Viewpoint 14).
- 5.20. Whilst the bare earth ZTV indicated theoretical visibility across the areas west of Corley Moor, Chapel Green, Birchley Hays Wood and Meighs Wood, it was confirmed during the site visit that views from PRoW routes and roads in these areas would be visually unaffected by the Proposed Development due to intervening vegetation.
- 5.21. Views from Corley are illustrated by Viewpoint 16, as illustrated whilst views towards the Appeal Site are theoretically possible from the elevated land on the edge of the settlement, in reality, the layers of intervening vegetation which includes tree belts and areas of woodland, prevent views of the Appeal Site.

## Views of the Solar Farm from the Countryside to the East

- 5.22. As noted above, during the site visit it was established that as road users travel along the B4098, opportunities to experience views towards the Appeal Site are prevented, primarily due to topography, with the orientation of the road following a broad ridgeline. For the residents of the properties along the B4098 it was noted during the site visit that vegetation within the gardens of the properties, or in the intervening fields, would largely obscure clear views towards the Appeal Site from their gardens or lower floor windows. From upper-floor windows, views could be possible from a limited number of properties located along the western side of the B4098, however, due to distance and the portion of the panoramic views



currently experienced which already contain infrastructure and vehicles associated with the M6 motorway, any adverse effects are expected to be limited.

5.23. Users of the Coventry Way Long Distance footpath descending from the B4098 have the opportunity from sections of the route as it descends down the valley side to meet PRow M294a/5, to experience wide, panoramic views of the vale landscape to the south of Fillongley within which the Appeal Site is located. As illustrated by the photography at Viewpoint 13 the Appeal Site which is partially visible, is located in the mid-view. Once the proposed solar panels are in situ, due to their low-lying form which would follow the underlying topographic profile, they would not break the skyline of the view, which would remain as well-wooded, a key characteristic of the local LCA. Furthermore, once the proposed planting across the Appeal Site is implemented it will contribute to the well-wooded appearance of the valley, the reintroduced field boundaries will also aid in breaking up the appearance of the panels.

5.24. As users of the Coventry Way Long Distance footpath continue descending down the valley side towards the Appeal Site intervening vegetation along field boundaries intermittently aid in filtering views of the Proposed Development. There are no publically assessable locations where the entirety of the Proposed Development could be seen in one field of view. The Coventry Way joins PRow footpath 294a/5 near the eastern boundary of the Appeal Site. The route of the Coventry Way passes through the southeastern corner of the Appeal Site, where currently users can experience views across part of the Appeal Site. As the proposed shrub planting matures, replicating other belts of linear vegetation in the locality, clear views of the proposed built form would diminish.



*Figure 10: View from the Coventry Way to the southwest of LVA viewpoint 13*

5.25. Views across this valley from the Coventry Way would reveal part of the Proposed Development, but it would form a small element within these wide views. With the



introduction of the Proposed Development and the mitigation planting, the general composition of the view would remain with small areas of the proposed solar farm visible.

5.26. As users travel along PRoW footpath 294a/1 oblique views west into parts of the Appeal Site are possible from sections of the route. However, these views are filtered by existing boundary vegetation which includes trees, views which encompass the whole Appeal Site would also not be possible due to the topography of the Appeal Site. As the proposed shrub planting along parts of the Appeal Site's eastern boundary matures, the opportunities for users to experience views of the built form would reduce.

5.27. In terms of PRoWs, there are a number at a distance to the east of the Appeal Site, beyond Fillongley, all of which would be visually unaffected as the Proposed Development would be screened by vegetation, built form and topography.

### **Views of the Solar Farm from the Countryside to the West**

5.28. Running along the eastern boundary of the Appeal Site is a section of Meriden Road (B4102), much of which would be visually unaffected though some short sections would afford some visibility of the solar farm, however, these would be fleeting and oblique views and only experienced during the early life of the proposals, prior to the shrub planting along the Appeal Sites western boundary maturing. Other highways to the east of the Appeal Site such as Newhall Green and Green End would be visually unaffected by the proposal, including the minor road which passes near White House Farm which is heavily wooded.



*Figure 11: View from near the entrance of White House Farm looking east*

5.29. The proposed access point from Meriden Road (B4102) would utilise an existing agricultural point which is currently used by large-scale agricultural machinery and as such, no

vegetation would need to be removed to facilitate its use for the Proposed Development. As illustrated by Viewpoint 8, vegetation, including trees flank Meriden Road near the location of the proposed access, allowing only fleeting and oblique views towards the Appeal Site.

- 5.30. Users of PRow to the west of the Appeal Site on PRow footpath M289a/1 are represented at Viewpoints 11 and 15. In Viewpoint 11 the Proposed Development would be visible when PRow users are using this short section of the PRow (approximately 112m in length, which runs on a east-west orientation, before crossing into another field). Once the vegetation has begun to mature, views of the Proposed Development would be restricted. Viewpoint 15 is from the west of White House Farm and demonstrates the level of vegetation around the farm, the Appeal Site is not visible from this section of the PRow, the high ground visible on the horizon of the view is located beyond the Appeal Site, near Fillongley.
- 5.31. For users on PRow footpath M289/1 near Manor House Farm (Viewpoint 10) due to the elevated location of the route, the Appeal Site which is partially visible, is located in the mid-view. Once the proposed solar panels are in situ, due to their low-lying form which would follow the underlying topographic profile, they would not break the skyline of the view, which would remain as well-wooded, a key characteristic of the local LCA. Furthermore, once the proposed planting across the Appeal Site is implemented it will contribute to the well-wooded appearance of the valley, the field boundaries which will be reintroduced will also aid in breaking up the appearance of the panels.
- 5.32. Beyond those routes noted above, there is a network of PRows to the west of the Appeal Site, however, the topography, tree cover and hedgerows in the intervening landscape would substantially reduce or entirely prevent views of the Proposed Development from these routes.
- 5.33. Views across this valley would reveal the Proposed Development, but it would form a small element within these wide views. With the introduction of the Proposed Development and the mitigation planting, the general composition of the view would remain materially unchanged, though the view itself would change with the proposed solar farm visible.

## **Views within the Appeal Site**

- 5.34. There is one PRow reference M294/1 which crosses north to south through the Appeal Site (Appendix 2) the Coventry Way Long Distance Footpath also grazes the southeast corner of the Appeal Site.
- 5.35. Both PRows would be retained on their current alignments, with PRow M294/1 set within a generous 'green lane', with hedgerows along either side of the route with species-diverse meadow grassland proposed between the new hedgerows. With existing and new hedgerows maintained at 2.5m in height, there would be little opportunity to observe the Proposed Development from these routes. The scheme would be visible from some locations where field gates and access track routes punctuate these hedgerows, however, such views would be fleeting in nature and limited in a kinetic viewing experience.
- 5.36. It is worth noting that as users of PRow M294/1 currently walk along the route, views along much of its length are contained to the fore or middle ground, by tall sweetcorn crops (in Fields 1 and 10) and when looking east, the rising landform within the Appeal Site. This results in the views not being as open or expansive as one may expect when viewing the PRow route on mapping. Whilst the proposed hedgerows alongside M294/1 would enclose views from the PRow, the alignment of the planting would reflect some of the historic field boundaries which



were present across the Appeal Site in 1887 (Appendix 7), in line with the guidelines for the Church End to Corley Hills & Valleys LCA.

- 5.37. Shrub planting is proposed along the southeast boundary of Field 6, which over time will prevent views of the Proposed Development from Coventry Way Long Distance Footpath.

## **Summary of Visual Effects**

- 5.38. It is evident from the LVA and the visual analysis undertaken for this statement that the Proposed Development would be visually well-contained due to the low visual profile of the scheme, with the panels at a maximum height of 2.3m (226cm). The Proposed Development would be set within existing fields and within a wider field pattern landscape where field boundaries are demarcated by established hedges and tree cover. Based on the viewpoint assessment (Appendices 11 and 13) and Appeal Site visits, it is evident that the Proposed Development would be well contained as a result of topographical variations in the local landscape, vegetation screening including mature hedgerows, tree belts, woodlands, and roadside vegetation across the landscape. The majority of the visual receptors would be generally close to the Appeal Site near its perimeter, or located within it. More distant views across the valley would see the Proposed Development in a wider valley context. The majority of the identified and assessed viewpoints and receptors would not be subject to a major degree of visual effect.

## 6. Effect on Residential Visual Amenity

### Public Interest Test

- 6.1. It is right to make a distinction between residential and general visual amenity. The latter term from a planning policy perspective usually relates to the public realm and the wider landscape whilst the former is concerned with the private visual amenity of an individual residential property.
- 6.2. The separation between what is a private interest and what should be considered in the public interest is clear and has no status in terms of being part of statutory documentation, planning policy or guidance. Furthermore, it is noted that no individual has the right to a particular view but there does come a point where, by virtue of the proximity, size and scale of a given development, residential property or properties would be rendered so unattractive as a place in which to live that planning permission should justifiably be refused. The test relates to the position which would pertain with the Proposed Development in situ, irrespective of the position beforehand. In other words, the test is not whether, in relative terms, a property would become a substantially less attractive place to live, the test is whether viewed objectively and in the public interest, a property would become an unattractive place in which to live. Such a situation if left unchecked would lead clearly to undesirable consequences. In this regard, Inspector Lavender within the Carland Cross Appeal Decision (APP/DO840/A/O921030260) summarised within paragraph 23:

***“The planning system is designed to protect public rather than private interests, but both interests coincide here where, for example, a visual intrusion is of such a magnitude as to render a property an unattractive place to live. This is because it is not in the public interest to create such living conditions where they did not exist before. This I do not consider that simply being able to see a turbine or turbines from a particular window or part of a garden of a house is sufficient reason to find the visual impact unacceptable (even though a particular occupier might find it objectionable). However, when turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden, there is every likelihood that the property concerned would come to be widely regarded as unattractive (rather than simply less attractive, but not necessarily uninhabitable) place in which to live.”<sup>1</sup>***

- 6.3. The test of what would be unacceptably unattractive should be an objective test, albeit professional judgement is required in its application to the circumstances of each particular case. There needs to be a degree of harm over and above an identified substantial adverse effect on a private interest to take a case into the category of refusal in the public interest. Change in the outlook from a property is not sufficient; indeed, even a fundamental change in outlook is not necessarily unacceptable.
- 6.4. It is worthy of note that the visual component of residential amenity should be addressed “in the round” taking into account factors such as distance, the direction of the view, size of the solar farm and its layout, the layout of particular dwellings in terms of their floor plans, their garden environment, and the lines of sight towards the scheme.

---

<sup>1</sup> Paragraph 23, Carland Cross Appeal Decision (APP/DO840/A/O921030260)



- 6.5. The author has visited the Appeal Site and noted that there are some residential properties relatively close to the Appeal Site which can be shown on the Road Names Plan (Appendix 4).
- 6.6. Given the position of the solar panels and the distances between these and the existing residential properties, mindful that there are substantial existing mature trees and hedgerows along the boundary between the properties and the solar farm, and mindful of the proposed additional planting, any effect on the outlook for the elevations of these properties and their garden spaces, the author is of the view that the Proposed Development would not breach the public interest test here. The rear elevation and back gardens of properties on the western side of the B4098 between Fillongley and Corley Ash are generally framed by mature tree cover and hedgerows such that these properties would be little affected by the proposal.
- 6.7. This view is echoed by the Case Officer in the OR dated 4<sup>th</sup> March 2024 which concluded that ***“Taken together, and when considered against the original submission, any adverse visual impacts from existing residential property would have been considered to be generally minor. The amended plans address these harms and overall, they would be reduced to having a limited impact”.***



## 7. Effect on the Openness of Green Belt

### Introduction

- 7.1. The government attaches great importance to Green Belts with the fundamental aim of the policy to prevent urban sprawl by keeping the land permanently open and therefore, the essential characteristics of Green Belts are their 'openness.' This is set out in the National Planning Policy Framework (NPPF) (December 2023) internal paragraph 142).
- 7.2. The aspect of openness relates to landscape having an absence of built form.
- 7.3. The author proceeds to consider how the proposed solar farm would have a bearing upon the openness with regard to the Green Belt in this locality. In so doing, the author considers the scheme in its entirety with regard to its various elements including the substation, and solar arrays.
- 7.4. Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgement based on the circumstances of the case (see NPPG Reference ID 64-001-20190722). To elaborate, the Courts have identified a number of matters which may need to be taken into account in undertaking any such assessment. These include but are not limited to; openness is capable of having both spatial and visual aspects, in other words, the visual impact of the proposal may be relevant, as could its volume in spatial dimension terms. A further consideration is the duration of the development and its remediability taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness. A further factor relates to the degree of activity likely to be generated, such as traffic generation for instance.

### Spatial Aspect

- 7.5. In terms of the solar farm proposals, there is minimal ancillary infrastructure such as invertors and the substation, with the majority of the development characterised by the configuration of solar arrays. These would be orientated east-west and on a fixed axis. The length of the solar arrays is determined by the panel configurations such that some of these in plan form look irregular in terms of their boundary edges. Between the arrays, the land would be managed as pasture. The arrays would sit within the existing field boundaries, whilst also allowing suitable buffers to new sections of hedgerows which will replicate historic field boundaries.
- 7.6. The arrays would be set back from the boundaries of the fields with wide field margin planting to create wildflower grass corridors between the field boundaries and the solar arrays such that the solar panels would be set into the fields and not up to their boundaries. The panels have also been set back where there are existing trees and tree groups to account for their canopies and associated shadows so as to avoid any pressure to reduce or remove canopies. The solar panels would be 2.3m (226cm) in height and would be arranged on fabricated steel frame legs such that the arrays would have a very limited physical footprint on the ground itself.
- 7.7. Given all of these design parameters, the proposed solar farm would have a light footprint. A significant proportion of the area would remain free of built infrastructure, equating to over half the site area. Furthermore, the solar farm would not generally extend above 2.3m (226cm) in height which is not dissimilar to tall crops like sweetcorn, maize, and miscanthus; noting that sweetcorn is currently being grown on part of the Appeal Site, adjacent to the PRoW.



The perimeter hedgerows are currently variable in height in terms of immediate landscape context. The solar farm equipment will appear as solar arrays accommodated within retained pastoral fields and the openness of these fields would continue to prevail above 2.3m (226cm) in height as would be the case with a tall farm crop. So whilst the proposal would introduce built form, this would be limited in spatial terms there would remain a sense of openness as associated with the fields that form the site.

- 7.8. The introduction of the proposed solar farm would inevitably introduce various elements of built form and reduce the spatial aspect associated with the site to some degree, though this would be limited given the low profile nature of the development combined with its light footprint. Given the hedgerows around the perimeter of the Appeal Site being of a comparable height, the perceived loss of any spatial aspect associated with the fields would be limited resulting in a limited and minor degree of harm in this regard. The solar farm with its various elements would inevitably reduce the sense of openness of the Green Belt from a spatial point of view.

### **Visual Aspect**

- 7.9. In terms of the visual aspect (perception) of openness, there is already a relatively strong sense of enclosure associated with the Appeal Site. This is due to the substantial presence of mature hedgerows and tree cover which frame the Appeal Site, along with the undulating landform. This aspect of strong enclosure would continue to remain and prevail with the proposed solar farm in place such that wider area of countryside within the Green Belt beyond the Appeal Site, there would be generally very little visibility of the proposed scheme and as such, there would be little change to the perceived sense of openness within the locality and this particular part of the Green Belt as a result of the proposed solar farm.
- 7.10. The author also notes that the field pattern across the Appeal Site used to be considerably smaller, and that significant historic hedgerow removal has taken place internally across the Appeal Site; and had that not been the case, the sense of enclosure would be even more noticeable, especially as hedgerows used to exist on either side of the route of the PRoW, which would be reintroduced as part of the Landscape Strategy for the Appeal Site.
- 7.11. The visual aspect of openness as it relates to the Appeal Site can be most readily appreciated from locations where members of the public have access to the countryside passing through the environment and therefore, the author primarily focuses on both public highways and PRoW as well as other public locations and facilities. Mindful of this, the author continues to proceed and consider how the sense of openness is appreciated from both public highways and PRoW in the locality to provide further understanding as to how the scheme would affect the visual aspect of openness.

### **Visual Aspect as perceived from the Countryside to the North**

- 7.12. As PRoW users continue along PRoW M294/1 beyond the Appeal Site to the north, this route gradually descends, and as such some views of parts of the solar farm though only some elements of the solar farm would be visible from locations in close proximity to the north boundary. The effect upon the sense of openness in this locality would not materially change for much of this route, it is only where this route travels closer to the Appeal Sites northern boundary that the solar farm would be visually apparent and there would be a minor effect upon the sense of openness in this immediate area.

- 7.13. To the north of the Appeal Site is located the settlement of Fillongley which sits within a shallow valley. A combination of topography and well-established vegetation, including areas of woodland prevent views towards the Appeal Site (see Viewpoint 3), as PRow users approach the Appeal Site from Fillongley along footpath M294a/1, dense, robust vegetation, which includes a high percentage of trees, would obscure views of the Proposed Development, receptors along this section of the route would be visually unaffected as would the opportunity to appreciate the sense of openness,
- 7.14. At Viewpoint 4, during the early years of the proposed planting, partial views of the panels within the eastern part of the Appeal Site would be visible. Once the proposed planting matures, opportunities to view the Proposed Development will be limited. Mindful of the proposal's very limited visual envelope and degree of effect, there would be a minor degree of harm with regard to the visual aspect of openness in the immediate locality.
- 7.15. For road users travelling along Meriden Road (B4102) to the north of the Appeal Site, whilst much of the route is lined by roadside vegetation, views in a southerly direction are possible at agricultural field accesses near Park House, as illustrated by Viewpoint 9. Whilst the Appeal Site would be partially visible in the middle ground, the glimpsed and transient nature of the view, which would only be experienced by road users travelling away from Fillongley, must be emphasised. For the much of the route, road users would be unaffected by the proposal and as such, there would be no change to the perception of openness. At Viewpoint 9, which can only readily be appreciated if the road user were to stop at the gateway, the affect upon the perception of openness would be minimal and minor in degree.
- 7.16. During the site visit it was established that as road users travel along the B4098, opportunities to experience views towards the Appeal Site are prevented, primarily due to topography, with the orientation of the road following a broad ridgeline, meaning the 'shoulder' of the ridge occupies the foreground of any views looking westward towards the Appeal Site. Users of this highway would be visually unaffected by the proposal. For receptors to on the highways and PRow to the north of Fillongley, the site visit confirmed that these routes would also be visually unaffected by the Proposed Development due to intervening built form and layers of vegetation would be visually unaffected as would the opportunity to appreciate the sense of openness.
- 7.17. There is a network of PRow associated with the parkland grounds of Fillongley Park and its parkland. The boundaries of the park are generally defined by tree belts to physically and visually frame the parkland. As a result of this perimeter tree belt planting coupled with scattered individual parkland trees within the grounds, views from the PRow and indeed, anywhere within the parkland would be visually unaffected by the Proposed Development. As a result receptors at Fillongley Park would be visually unaffected as would the opportunity to appreciate the sense of openness
- 7.18. Fillongley Village Hall and the adjacent allotments were also visited during the site visit and the existing well-established vegetation including trees around their periphery would prevent longer-ranging views south-southwest towards the Appeal Site as such, the perceived sense of openness would not change with the Proposed Development in place.

### **Visual Aspect as perceived from the Countryside to the South**

- 7.19. The southern boundary of the Appeal Site runs adjacent to the M6 motorway, which is lined along much of its length by well-established trees and shrubbery. Sections of the route as it passes close to the Appeal Site are also on a slight embankment and also lined with 2m high

acoustic fencing (near Fillongley Livery Yard, to the west of the Appeal Site). This existing vegetation combined with limited variations in topography and built form, heavily restricts views towards the Appeal Site as such, the perceived sense of openness would not change with the scheme in place.

- 7.20. As the Coventry Way passes over a bridge on the M6. From this bridge users of the route can experience an elevated view looking over part of the Appeal Site. Whilst parts of the solar farm would be visible, users of the long-distance route at this location are already acutely aware of the adverse effects of the M6 and its six lanes of fast-moving vehicles, both audibly and visually on their experience. Therefore, the effect upon the perception of openness would be minimal and minor in degree.
- 7.21. Continuing south, users of the Coventry Way descend from the southern side of the footbridge and down steps into the Open Access Common Land at Corley Moor. During the site visit this area of open access land was walked, and it was established that trees and woodland within the common land itself, combined with the well-established trees along the M6 screen views northward towards the Appeal Site (see Viewpoint 14) as such, the perceived sense of openness would not change with the scheme in place.
- 7.22. Whilst the bare earth ZTV indicated theoretical visibility across the areas west of Corley Moor, Chapel Green, Birchley Hays Wood and Meighs Wood, it was confirmed during the site visit that views from PRoW routes and roads in these areas would be visually unaffected by the Proposed Development due to intervening vegetation as such, the perceived sense of openness would not change with the scheme in place.
- 7.23. Views from Corely are illustrated by Viewpoint 16, as illustrated whilst views towards the Appeal Site are theoretically possible from the elevated land on the edge of the settlement, in reality, the layers of intervening vegetation which includes tree belts and areas of woodland, prevent views of the Appeal Site resulting in receptors being visually unaffected as would the opportunity to appreciate the sense of openness.

## **Visual Aspect as perceived from the Countryside to the East**

- 7.24. As noted above, during the site visit it was established that as road users travel along the B4098, opportunities to experience views towards the Appeal Site are prevented, primarily due to topography, with the orientation of the road following a broad ridgeline as such, the perceived sense of openness would not change with the scheme in place.
- 7.25. For the residents of the properties along the B4098 it was noted during the site visit that vegetation within the gardens of the properties, or in the intervening fields, would largely obscure clear views towards the Appeal Site from their gardens or lower floor windows. From upper-floor windows, views could be possible from a limited number of properties located along the western side of the B4098, however, due to distance and the portion of the panoramic views currently experienced which already contain infrastructure and vehicles associated with the M6 motorway, the affect upon the perception of openness would be minimal and minor in degree.
- 7.26. Users of the Coventry Way Long Distance footpath descending from the B4098 have the opportunity from sections of the route as it descends down the valley side to meet PRoW M294a/5, to experience wide, panoramic views of the vale landscape to the south of Fillongley within which the Appeal Site is located. As illustrated by the photography at Viewpoint 13 the Appeal Site which is partially visible, is located in the mid-view. Once the

proposed solar panels are in situ, due to their low-lying form which would follow the underlying topographic profile, they would not break the skyline of the view, which would remain well-wooded; a key characteristic of the local LCA. Furthermore, once the proposed planting across the Appeal Site is implemented it will contribute to the well-wooded appearance of the valley, the historic field boundaries which will be reintroduced will also aid in breaking up the appearance of the panels. Mindful of the proposal's very limited visual envelope and degree of effect, there would be a minor degree of harm in the longer term with regard to the visual aspect of openness in the immediate locality.

- 7.27. In terms of PRoWs, there are a number at a distance to the east of the Appeal Site, beyond Fillongley, all of which would be visually unaffected as the Proposed Development would be screened by vegetation, built form and topography as such, the perceived sense of openness would not change with the scheme in place.

### **Visual Aspect as perceived from the Countryside to the West**

- 7.28. Running along the eastern boundary of the Appeal Site is a section of Meriden Road (B4102), much of which would be visually unaffected though some short sections would afford some visibility of the solar farm, however, these would be fleeting and oblique views and only experienced during the early life of the proposals, before the shrub planting along the Appeal Sites western boundary maturing. It is only where this route passes in close proximity to the Site, adjacent to its western boundary that the solar farm would be visually apparent and there would be a minor effect upon the sense of openness in this immediate locality.
- 7.29. Other highways to the east of the Appeal Site such as Newhall Green and Green End would be visually unaffected by the proposal, including the minor road which passes near White House Farm which is heavily wooded as such, the perceived sense of openness would not change with the scheme in place.
- 7.30. As illustrated by Viewpoint 8, vegetation, including trees flank Meriden Road near the location of the proposed access, allowing only fleeting and oblique views towards the Appeal Site. Users of the route at this location would be visually unaffected as would the opportunity to appreciate the sense of openness.
- 7.31. Users of PRoWs to the west of the Appeal Site on PRoW footpath M289a/1 are represented at Viewpoints 11 and 15. In Viewpoint 11 the Proposed Development would be visible when PRoW users are using this short section of the PRoW (approximately 112m in length, which runs on a east-west orientation, before crossing into another field). Once the vegetation has begun to mature, views of the Proposed Development would be restricted. Mindful of the proposal's very limited visual envelope and degree of effect, there would be a minor degree of harm in the longer term with regard to the visual aspect of openness in the immediate locality
- 7.32. Viewpoint 15 is from the west of White House Farm and demonstrates the level of vegetation around the farm, the Appeal Site is not visible from this section of the PRoW, the high ground visible on the horizon of the view is located beyond the Appeal Site, near Fillongley, users at this location would be visually unaffected as would the opportunity to appreciate the sense of openness.
- 7.33. For users on PRoW footpath M289/1 near Manor House Farm due to the elevated location of the route, the Appeal Site which is partially visible, is located in the mid-view. Once the proposed planting across the Appeal Site is implemented it will contribute to the well-

wooded appearance of the valley, the historic field boundaries which will be reintroduced will also aid in breaking up the appearance of the panels. The perception of openness would not materially change with the proposed scheme in place

- 7.34. Beyond those routes noted above, there is a network of PRoWs to the west of the Appeal Site, however, the topography, tree cover and hedgerows in the intervening landscape would substantially reduce or entirely prevent views of the Proposed Development from these routes as such, the perceived sense of openness would not change with the scheme in place.

### **Summary Regarding Visual Aspect of Openness**

- 7.35. The opportunity to observe the proposed solar farm from public locations, i.e. public highways and rights of way in the locality would be very limited and as such, the perception of change to the sense of openness would be equally very limited. There would be two PRoW located within the Appeal Site where in the short term, until the proposed new hedgerows and shrub planting reach 2m in height, there would be a minor effect upon the sense of openness within the Appeal site itself. With establishment of the hedgerows and their management at 2.5m in the medium and long term, there would be a negligible effect upon the perception of openness for these routes to cross the fields as the solar farm would not generally be visible. Noting that if the Appeal Site had not been subject to historic hedgerow removal, that the proposals would not be as visible. Furthermore, there would be very few opportunities to observe the proposed solar farm from public highways or PRoW routes in all directions. Therefore, the effect upon the perception of openness would be minimal and minor in degree.

- 7.36. For the PRoWs which cut across the Appeal Site, the effect upon the sense of openness would be minor initially, reducing to a negligible level of harm in terms of perception of openness in the medium and longer term. Mindful of the proposal's very limited visual envelope and degree of effect, there would be a minor degree of harm in the longer term with regard to the visual aspect of openness in the immediate locality.

### **Duration of the Development and Remediability**

- 7.37. The proposed solar scheme is planned to be temporary for 40 years and is therefore time limited development. The plan is to remove all built infrastructure of the solar farm, returning to its original state in terms of openness. With regard to this matter, the author considers that the solar scheme would only cause limited harm to the Green Belt whilst operational. The Appeal Site would continue to have a countryside character with the solar farm in place, i.e. anyone would recognise that it is located in a series of fields. With full decommissioning at the decommissioning stage, the site would fully reverse to a series of farm fields together with a sense of openness that is currently experienced today without development present. The duration of harm to the visual and spatial aspect would therefore be time limited and fully removed post-decommissioning stage with no residual harmful effects on openness. Whilst the existing and new trees and hedges would have continued to grow, creating a stronger sense of visual containment, this in the author's view has no bearing upon the perceived sense of openness, i.e. an environment free of built form.

## Degree of Activity

- 7.38. The proposed scheme would generate little activity in the form of traffic, both with regard to management and maintenance. Any activity associated with traffic movement would not have a material bearing upon the openness of the Green Belt.
- 7.39. The proposed solar farm would generate some limited traffic movement as a result of routine maintenance. However, the opportunity to appreciate these traffic movements would be limited, restricted by the screening effect of the surrounding landscape framework. Furthermore, the activity associated with the solar farm would generally be limited and similar of agricultural traffic movement associated with the management of the land and therefore not cause material harm to the appreciation of openness.

## Summary

- 7.40. It is accepted that the introduction of the solar farm would detract to some degree from the openness of the landscape with the introduction of various infrastructure elements. However, the existing field pattern together with hedgerows and significant tree cover, the effect on openness would be mitigated by the frequent hedges and mature trees which would provide a good level of vegetation cover. The overall rural character of the Appeal Site would prevail as the solar farm would still be seen located within fields and due to the degree of physical and visual containment, the landscape would have a high capacity to assimilate the solar farm with the character of the landscape beyond largely unaffected. The spatial and visual aspects of openness would be affected and in overall terms, there would be a local minor adverse effect on openness as a result.



## 8. Effect on the Purposes of the Green Belt

### Introduction

- 8.1. The NPPF at internal paragraph 143 identifies five purposes for Green Belt. These are namely:
- 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 special character of the historic towns
  - e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land
- 8.2. The author addresses each of these purposes in turn in this section.

### Coventry & Warwickshire Joint Green Belt Study

- 8.3. The study was undertaken in two parts and published in 2015 and 2016 and assessed the Green Belt against the five purposes of Green Belts, as set out in the NPPF. The study portioned the Green Belt into a series of large Broad Areas and, in some locations, at a finer level of study, Land Parcels.
- 8.4. The Appeal Site was located within Broad Area 10.

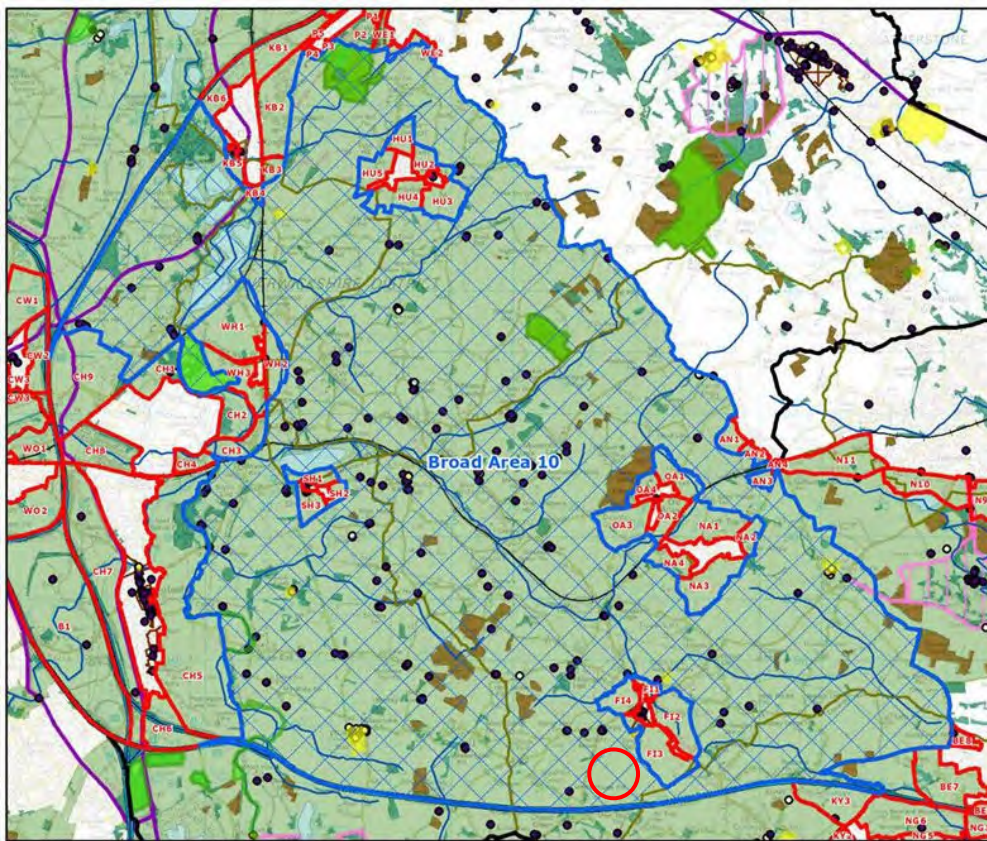


Figure 12: Plan showing the extent of Broad Area 10, and the location of the Appeal Site (red circle)

8.5. The summary text within the study states the following:

*“Broad area 10 lies between Nuneaton and Bedworth to the east, Kingsbury and Piccadilly to the north, Coventry to the south east and Coleshill in the west. In between these larger settlements are a number of villages – Fillongley, Old Arley, New Arley, Hurley and Shustoke. The broad area contains several Scheduled Monuments and pockets of ancient woodland, two of which are designated as SSSIs: Hoar Park Wood and Kingsbury Wood. There are two other SSSIs within the broad area, Whitacre Heath and the River Blythe.*

*Overall, the broad area makes a considerable contribution to all of the Green belt purposes:*

*Checking the sprawl of Nuneaton and Bedworth, Kingsbury and Piccadilly, Coventry, Coleshill, Fillongley, Old Arley, New Arley, Hurley and Shustoke.*

*Preventing the merging of Nuneaton and Bedworth, Kingsbury and Piccadilly, Coventry, Coleshill, Fillongley, Old Arley, New Arley, Hurley and Shustoke.*

*Safeguarding the countryside which contains several ancient woodlands, SSSIs, historic villages and Scheduled Monuments.*

*Preserving the setting and special character of the historic town of Coleshill, the historic core of which contains the prominent Grade I listed Church of St Peter and St Paul, which is visible across the western half of the broad area.*

*Assisting urban regeneration by encouraging the recycling of derelict and other urban land across the West Midlands.”*

8.6. Whilst the author acknowledges the findings for the Broad Area set out in the study, it is noted that the Appeal Site comprises a very small part, or which the study defines as a considerably large area. It is therefore more appropriate to look at the Appeal Site in a finer level of detail, as set out in the following paragraphs.

### **To check the unrestricted sprawl of large built up areas**

8.7. Unrestricted sprawl is directly related to the sprawl of large built-up areas. The author notes that the Appeal Site does not lie adjacent to any large built-up areas and there are no large settlements in close proximity to the site. The nearest large scale settlements include Coventry to the east and Nuneaton in the northwest, these lie at some distance from the Appeal Site. As such, there would be no perception of unrestricted sprawl associated with large built-up areas with the scheme in place.

8.8. The Proposed Development would not conflict with this Green Belt purpose concerning checking unrestricted sprawl and therefore, the strategic function of this purpose would remain and prevail with the scheme in place.

### **To prevent neighbouring towns merging into one another**

8.9. This purpose specifically focuses on towns and avoiding such settlements merging into one another. The nearest town to the site is Nuneaton to the northeast lying over 6km from the Appeal Site, Tamworth over 14km to the north, and Kenilworth over 12km to the south. In

summary, the Appeal Site lies in the centre of the Green Belt well away from these towns. The Green Belt in its wider context, extends over countryside to maintain spatial separation between each of these towns. With the proposed scheme in place, the physical and visual separation that currently exists defined by Green Belt between these settlements would remain unchanged with the scheme in place. As such, the proposed scheme would have no bearing upon this purpose and would therefore not conflict with it in Green Belt terms. The proposal would not harm this purpose.

### **To assist in safeguarding the countryside from encroachment**

- 8.10. In terms of encroachment, the Proposed Development would introduce solar arrays across ten fields. Their operation would be supported by other associated infrastructure. However, the solar arrays would be arranged with grass corridors between the arrays and would inevitably alter the appearance of the fields from a sequence of open green spaces to accommodating a solar farm within pasture land. Such an effect would result in encroachment and conflict with this particular purpose of the Green Belt.
- 8.11. Introducing built infrastructure into what is currently an open field would represent encroachment of development into the countryside.

### **To preserve the setting and special character of the historic towns**

- 8.12. The author notes that paragraph 138 of the NPPF relates to the preservation of '*setting and special character of historic towns*', not individual heritage assets such as listed buildings and scheduled monuments. The Heritage Statement confirms that the site does not fall within the setting of a historic town. The strategic function of the remaining Green Belt for this purpose would remain intact.

### **To assist in urban regeneration, by encouraging the recycling of derelict and other urban land**

- 8.13. A further purpose of the Green Belt is to deflect new development towards previously developed land (PDL) to assist urban regeneration. The author notes that the nature of solar farms is highly constrained in terms of location due to accessibility, connectivity and capacity with regard to the local electricity grid. Accordingly, the proposal would not be in conflict with this purpose of the Green Belt so far as it is relevant here.

### **Green Belt Purposes Conclusion**

- 8.14. The Proposed Development would conflict with one purpose concerning encroachment in the countryside.
- 8.15. 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.
- 8.16. 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.

8.17. 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.

8.18. It is noted in the consultation concerning the, 'Proposed reforms to the National Planning Policy Framework and other changes to the planning system.' Chapter 5 is concerning brownfield, grey belt and Green Belt. The publication defines the grey belt as follows:

***“For the purposes of Plan-making and decision-making, grey belt is defined as land in the Green Belt comprising Previously Developed Land and any other parcels and/or areas of Green Belt land that make a limited contribution to the five Green Belt purposes (as defined in para 140 of this Framework) but excluding those areas or assets of particular importance listed in footnote 7 of this Framework (other than land designated as Green Belt).”***

8.19. The areas of assets listed at footnote 7 of the Draft NPPF (July 2024) habitats sites, and/or designated as Sites of Special Scientific Interest; land designated as Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets and areas at risk of flooding or coastal change.

8.20. None of these areas or assets are applicable to the Appeal Site, and as summarised above the reversibility of the Proposed Development and limited impact at the lower end of the scale (lower performing site) concerning the purposes of the Green Belt the Appeal Site would fit the definition of 'Grey Belt' which the draft NPPF (July 2024) is discussing.

## 9. Summary Statement

### Introduction

- 9.1. The author is instructed to present evidence relating to landscape and visual issues in respect of the scheme for which planning permission is sought for the construction of a solar farm together with all associated works, equipment and necessary infrastructure. This statement should be read in conjunction with the Statement of Case prepared by Enviromena. The Proposed Development was a full application to North Warwickshire Borough Council (reference PAP/2023/0071). Having visited the Appeal Site and surrounding area and having reviewed all the relevant documentation pertaining to this scheme, the author has drawn the following conclusions which are set out in the proceeding paragraphs. .

### Scale, Location, Layout and Appearance

- 9.2. With regard to scale, the proposal seeks to deliver a 40MW solar farm that by virtue of its scale would contribute significantly towards the renewable energy targets in light of the climate emergency. The quantum of development that is anticipated would extend over several fields, however there would be no opportunity to appreciate the total scale of this scheme from any one location. The topography together with mature tree cover, woodlands, tree belts, and hedges in the intervening landscape would mean that there would be very limited opportunity to appreciate the scale of the scheme.

### Effect on Landscape Elements

- 9.3. 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.

### Effect on Land Cover

- 9.4. Land cover is a specific term which refers to the way in which the land is managed. The site is currently managed for arable use. Alternating between pasture and arable is not a matter subject to planning. The scheme would require the host fields to be managed as pasture for the duration of a project but would be grazed and would benefit the fields from a soil/agronomy perspective.
- 9.5. Furthermore, the introduction of meadows would bring about material ecological enhancements. The local published Landscape Character Assessment advocates the management of pasture which is precisely what this scheme would seek to achieve. It is accepted that solar panels would be suspended above the grass swards. The introduction of the solar farm would have a moderate adverse degree of effect with regard to land cover associated with the site, given the arable land is converted to pasture with panels.
- 9.6. The character of the field parcels within the site would inevitably change in terms of their landscape character with the solar farm in place, but the character of the landscape beyond the immediate environs of the site would remain unchanged with the scheme in place and that would apply to the vast majority of the Landscape Character Area. Whilst this is an



inevitable consequence of delivering renewable energy infrastructure, only a fraction of this area would physically change in terms of its character.

### **Effect on the Visual Amenity of the Area**

- 9.7. With regard to visual amenity, of particular note from the authors perspective is that this is an extensive solar scheme across a number of fields yet given the level and gently undulating nature of the local topography, combined with the field and hedgerow network and patchwork quilt of woodlands, the actual visual envelope and the degree to which this scheme would be seen from the surrounding area would be very limited.
- 9.8. Energy infrastructure (pylons) is an integral part of the local landscape. The scheme's effect upon visual amenity of the area would be very limited in degree and very localised in extent.
- 9.9. The visual effects would be very limited given the scale of the proposal. Policies require careful integration through existing landscape features and new planting to mitigate adverse effects to minimal levels. The author understands that no policy in the Development Plan specifies absolutely no visibility whatsoever. The author considers that were it so, it would set such a high bar it would be impossible to achieve.
- 9.10. 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.

### **Effect on Landscape Character**

- 9.11. In terms of landscape character associated with the site, this is defined by the combination of various landscape elements principally topography, land cover, hedgerows, tree cover and the configuration of the fields themselves, the field pattern is sometimes referred to as the "grain" of the landscape. With the exception of some small areas of development such as the substation and inverters which would require some small loss of agricultural land, these landscape elements would be retained and remain as part of the landscape whilst the scheme is in place. It is accepted that where the panels would be located the continued agricultural use would be in the form of grazing rather than arable use.
- 9.12. The hedgerows would be reinforced with further hedgerow planting and the tree cover resource associated with the site would also be reinforced with some additional tree planting. Some of the hedgerows would be managed such that they would be maintained at a slightly higher level than is currently the case.
- 9.13. The trees over the project lifetime, both those existing and those introduced as part of the landscape proposals would all continue to grow developing larger canopies apart from those trees that are already fully mature. This growth over a 40-year period which is a significant period of time for both hedgerow and tree growth would result in reinforcing the defining positive characteristics of the site, with regard to these features. Furthermore, the increased vegetation growth would create a stronger sense of physical and visual containment associated with the Appeal Site. This change would reduce visual effects that would come about over the project timescale.
- 9.14. Upon completion of the decommissioning phase, all built infrastructure would be removed both above and below ground across the entirety of the site. The management and growth



of the hedgerows and trees across the site would continue to remain as part of the landscape post-decommissioning phase and would leave a positive legacy in terms of landscape character given that trees and hedgerows contribute to the landscape character locally.

- 9.15. Beyond the environs of the Appeal the landscape character of the area would remain unchanged. With the proposed scheme in place, the character of the fields within the site would change as they would now accommodate solar arrays, but the underlying character of the fields would still be there and would fully return with decommissioning of the solar farm in the longer term. However, it is proposed that as an integral part of the scheme, new hedgerow and tree planting would be introduced, and wildflower meadows created with arable land converted to pasture as advocated in the landscape character documents. All of these elements could and would remain after decommissioning as a positive legacy of the scheme and bring about enhancement to the landscape character in the long-term.
- 9.16. The proposed scheme involves solar arrays and some associated infrastructure located in several fields which are managed for arable use. However, depending on farm management and maintenance and crop rotation, these fields could revert to pasture for a fallow period without any recourse to planning and similarly, grazed as pasture, again without any recourse to planning, such is the minor consequence to such a change of use in farming circumstances terms. It is intended that whilst the solar arrays would be installed and operational, that the fields would continue to function as fields and accommodate grazing stock, sheep for farming for the whole duration of the lifetime of the project. The site would continue to have an agricultural use.
- 9.17. Most of the existing landscape elements, vegetation, trees, hedges would continue to remain and be reinforced. Therefore, the character of the fields would remain accepting that they would also accommodate a solar farm, a renewable energy generating installation and as such, would change the current existing character of those developed fields. Beyond the confines of the red line site boundary, there would be no change to the physical fabric of the landscape character of the area.
- 9.18. 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.

### **Effect on the Openness of the Green Belt**

- 9.19. As far as the solar farm is concerned, this benefits from a high degree of visual containment evidenced by the fact that there are only limited locations from where receptors can appreciate the proposal in terms of views from the countryside to the north, south, east and west and as such, any associated perception of openness related to this land is very limited. The perception of openness is most readily appreciated from the adjacent and nearby roads and PRoW around the Appeal Site, but even from these locations, the perception of openness would not materially change with the presence of the solar farm associated with the site and its countryside surroundings as a backdrop and context to the Appeal Site as it still would feel very much part of the countryside and little difference in perception as local views would continue to over sail the Appeal Site as if there was a high crop, like miscanthus or sweetcorn.
- 9.20. The introduction of the proposed solar farm would undoubtedly introduce built form where there is none currently. The aspect of openness is derived in part with regard to two aspects,

the visual component and a spatial component. With regard to the visual aspect, it is evident that the perception of openness as it relates to the site is only readily appreciated from the nearby roads and PRoW.

- 9.21. The proposed solar farm would be relatively modest in mass and footprint with regular spaces between the solar arrays that would reduce the overall scale of the development. Furthermore, the proposed scheme 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 still not permanent. Therefore, the impact on the openness of the Green Belt would be reduced and the site completely reinstated to its current open character. Consequently, both visually and spatially, the proposed development would result in some limited and localised harm to the openness of the Green Belt.
- 9.22. In terms of the visual aspect of openness, the author considers the harm would be minor (adverse) and in terms of the spatial aspect of openness, the harm would be minor. And in overall terms, the author considers 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.

### **Effects on the Purposes of the Green Belt**

- 9.23. The proposed scheme would not have any bearing upon the first purpose of Green Belt, namely, to check the unrestricted sprawl of large built-up areas. Whilst there are towns in every direction of the site, these are located several kilometres in distance and with the introduction of the proposed scheme, the solar farm would not cause any neighbouring towns to merge into one another. Indeed, the geographical disposition of neighbouring towns would remain unchanged with the proposed scheme in place and as such, the proposal would not conflict with this purpose. The proposal would inevitably introduce built infrastructure into ten fields where the character of the site would experience a minor adverse effect with the introduction of the solar farm. Beyond the site and its immediate environs, the character would remain unchanged. The proposal would cause encroachment in the countryside and as such, conflict with this particular purpose. The proposal would not affect the setting and special character of historic towns. The proposal would not have a bearing upon the recycling of derelict and urban land and as such, would not conflict with this purpose so far as it is relevant. In conclusion, the proposed solar farm would only conflict with one purpose in Green Belt terms.
- 9.24. 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.
- 9.25. The proposed solar farm, does not in my view contribute or fulfil any role with regard to the other four purposes of Green Belt and therefore would be a suitable site to be considered as Grey Belt.



## Conclusions

- 9.26. For the reasons articulated in the preceding paragraphs, it is the authors professional judgement that whilst there would be some limited adverse effects on landscape character and visual amenity, these would be localised. There would be localised minor adverse harm to the openness of the Green Belt and the proposal would conflict with one purpose of Green Belt in terms of encroachment in the countryside. The other four remaining purposes would not be affected by the proposed solar farm. 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 on 'land 800 Metres South Of Park House Farm, Meriden Road, Fillongley'.

**Cirencester**

33 Sheep Street, Cirencester GL7 1RQ  
T 01285 641717  
Cirencester@pegasusgroup.co.uk  
Offices throughout the UK and Ireland.

# Expertly Done.

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE



All paper sources from sustainably managed forests

Pegasus Group is a trading name of Pegasus Planning Group Limited (07277000) registered in England and Wales.  
Registered office: Querns Business Centre, Whitworth Road, Cirencester, Gloucestershire, GL7 1RT We are ISO certified 9001, 14001, 45001



[Pegasus\\_Group](#)



[pegasusgroup](#)



[Pegasus\\_Group](#)

**PEGASUSGROUP.CO.UK**

## Landscape Statement of Case Appendices

### Land South of Park House Farm, Meriden Road, Fillongley

Installation of a 40MW solar photovoltaic array/solar farm with associated infrastructure.

On behalf of the Appellant, Enviromena

Date: 14/10/2024 | Pegasus Ref: P24-1827

LPA Ref: PAP/2023/0071

Author: Andrew Cook BA (Hons) MLD CMLI MI





# Appendices.

APPENDIX 1: SITE LOCATION PLAN

APPENDIX 2: ENVIRONMENTAL DESIGNATIONS PLAN

APPENDIX 3: LANDSCAPE CHARACTER AREA PLAN

APPENDIX 4: ROAD NAMES PLAN

APPENDIX 5: GREEN BELT PLAN

APPENDIX 6: TRANQUILLITY PLAN

APPENDIX 7: HISTORIC MAP (1887)

APPENDIX 8: LANDSCAPE STRATEGY

APPENDIX 9: BARE EARTH ZONE OF THEORETICAL VISIBILITY

APPENDIX 10: VIEWPOINT LOCATION PLAN

APPENDIX 11: VIEWPOINTS

APPENDIX 12: PEGASUS LVIA METHODOLOGY

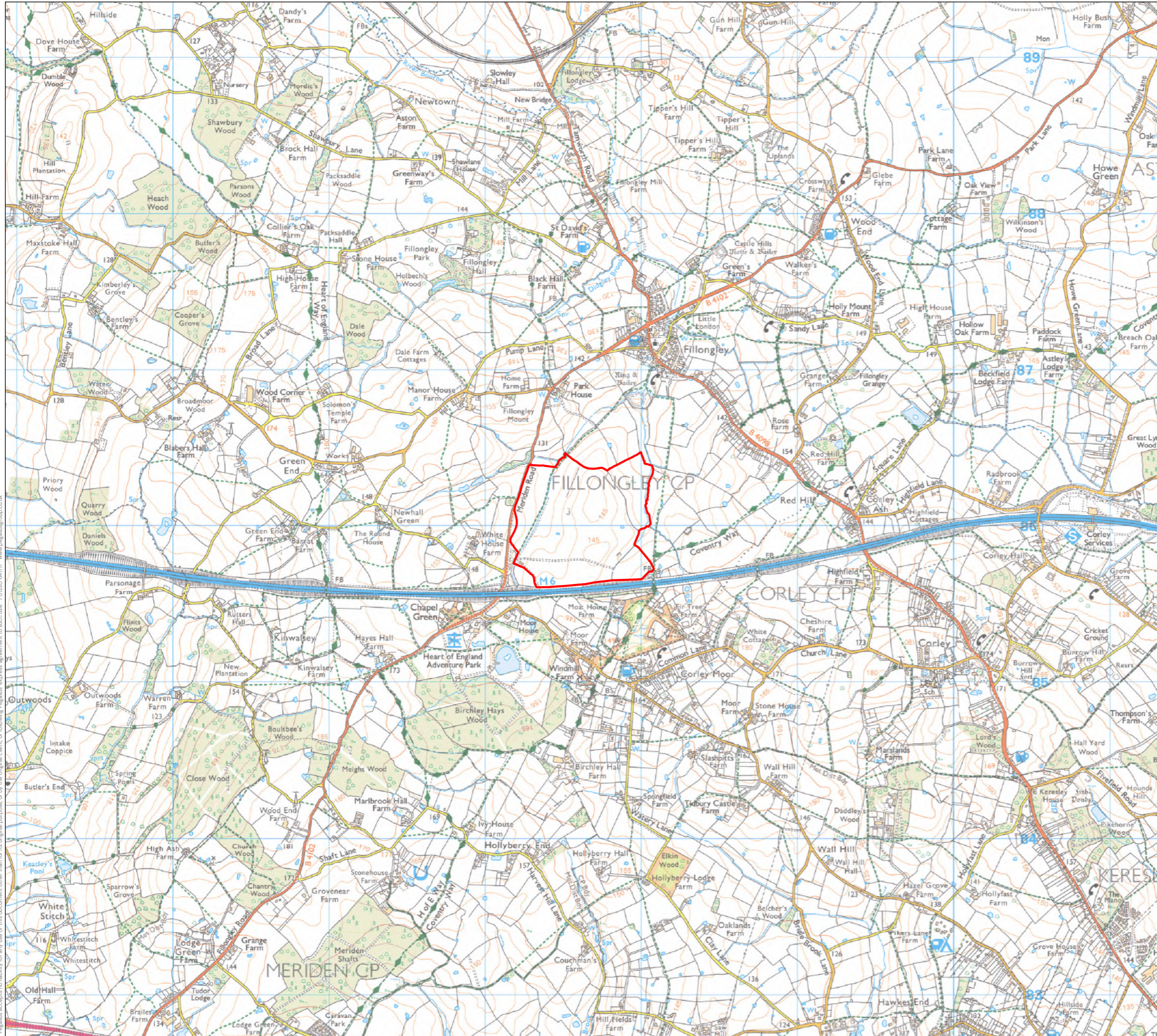
APPENDIX 13: SUMMARY OF VISUAL EFFECTS SCHEDULE





## APPENDIX 1: SITE LOCATION PLAN





**KEY**

Site Boundary

NOTES:  
REVISIONS:

**SITE LOCATION PLAN**

LAND SOUTH OF PARK HOUSE FARM, FILLONGLEY

ENVIROMENA PROJECT  
MANAGEMENT UK LTD



DATE	SCALE	TEAM	APPROVED
02/10/2024	1:25,000@A3	EH	CR

SHEET	REVISION
-	A

DRAWING NUMBER  
P24-1827\_EN\_01

Copyright Pegasus Planning Group Ltd. © Crown copyright and database rights 2024. Ordnance Survey 100042093. Emaprise Licence number 0100303673. Promap Licence number 000202449. Pegasus accepts no liability for any use of this document other than for its original purpose, or for any other purpose, or for any other purpose, or for any other purpose, or for any other purpose.





## APPENDIX 2: ENVIRONMENTAL DESIGNATIONS PLAN





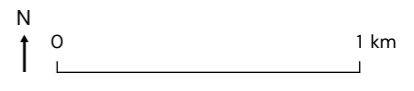
**KEY**

- Site Boundary
- District Boundary
- Grade II\* Listed Building
- Grade II Listed Building
- ◆◆◆ Coventry Way Long Distance Route
- Public Footpaths
- Public Bridleways
- + + Public Byway open to all traffic
- CRoW Access Land
- Scheduled Monuments
- Conservation Area
- Ancient Woodland
- Green Belt
- EA Flood Zone 3
- EA Flood Zone 2

NOTES:  
REVISIONS:

**ENVIRONMENTAL DESIGNATIONS PLAN**

LAND SOUTH OF PARK HOUSE FARM, FILLONGLEY  
 ENVIROMENA PROJECT  
 MANAGEMENT UK LTD



DATE	SCALE	TEAM	APPROVED
02/10/2024	1:25,000@A3	EH	CR
SHEET	REVISION		
-	B		

DRAWING NUMBER  
P24-1827\_EN\_02



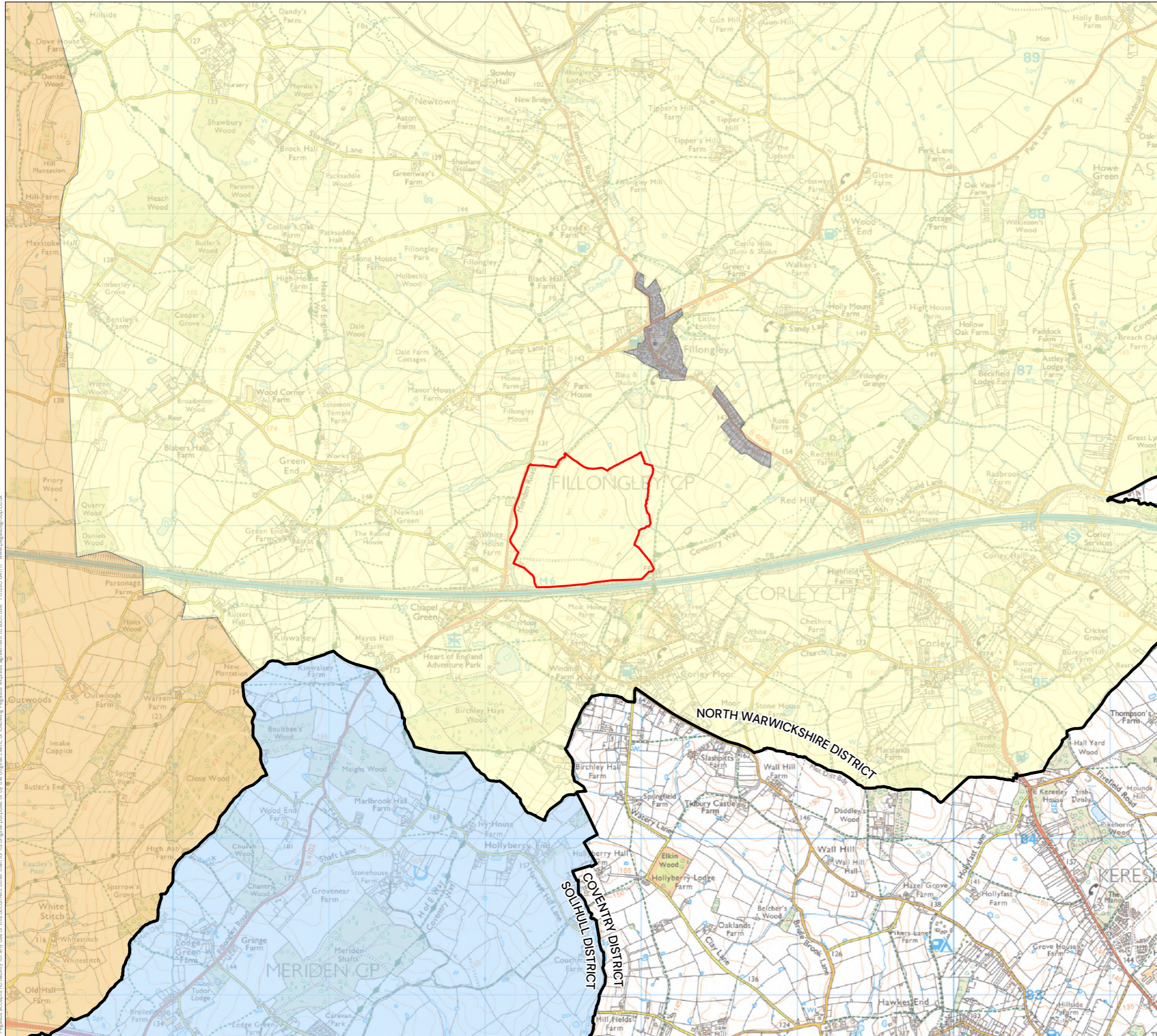
Copyright Pegasus Planning Group Ltd. © Crown copyright and database rights 2024. Ordnance Survey 100042093. Emaprise Licence number 0000381673. Promap Licence number 000203419. Pegasus accepts no liability for any use of this document other than for its original client, or for any other client, or following written agreement to such use. T 01226 54777 www.pegasusgroup.co.uk





## APPENDIX 3: LANDSCAPE CHARACTER AREA PLAN





**KEY**

- Site Boundary
- District Boundary

**North Warwickshire Local Landscape Assessment (2010)**

**Landscape Character Areas**

- Blythe Valley Parkland Farmland
- Church End to Corley Hills & Valleys
- Urban (Not LCA)

**Solihull Borough Landscape Character Assessment (2016)**

**Landscape Character Areas**

- Northern Upland

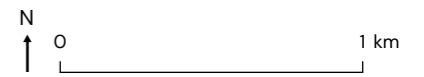
NOTES: The site falls entirely within National Character Area 97: Arden

NOTES:  
REVISIONS:

**LANDSCAPE CHARACTER PLAN**

LAND SOUTH OF PARK HOUSE FARM, FILLONGLEY

ENVIROMENA PROJECT  
MANAGEMENT UK LTD



DATE	SCALE	TEAM	APPROVED
02/10/2024	1:25,000@A3	NC	CR

SHEET	REVISION
-	A

DRAWING NUMBER  
P24-1827\_EN\_03



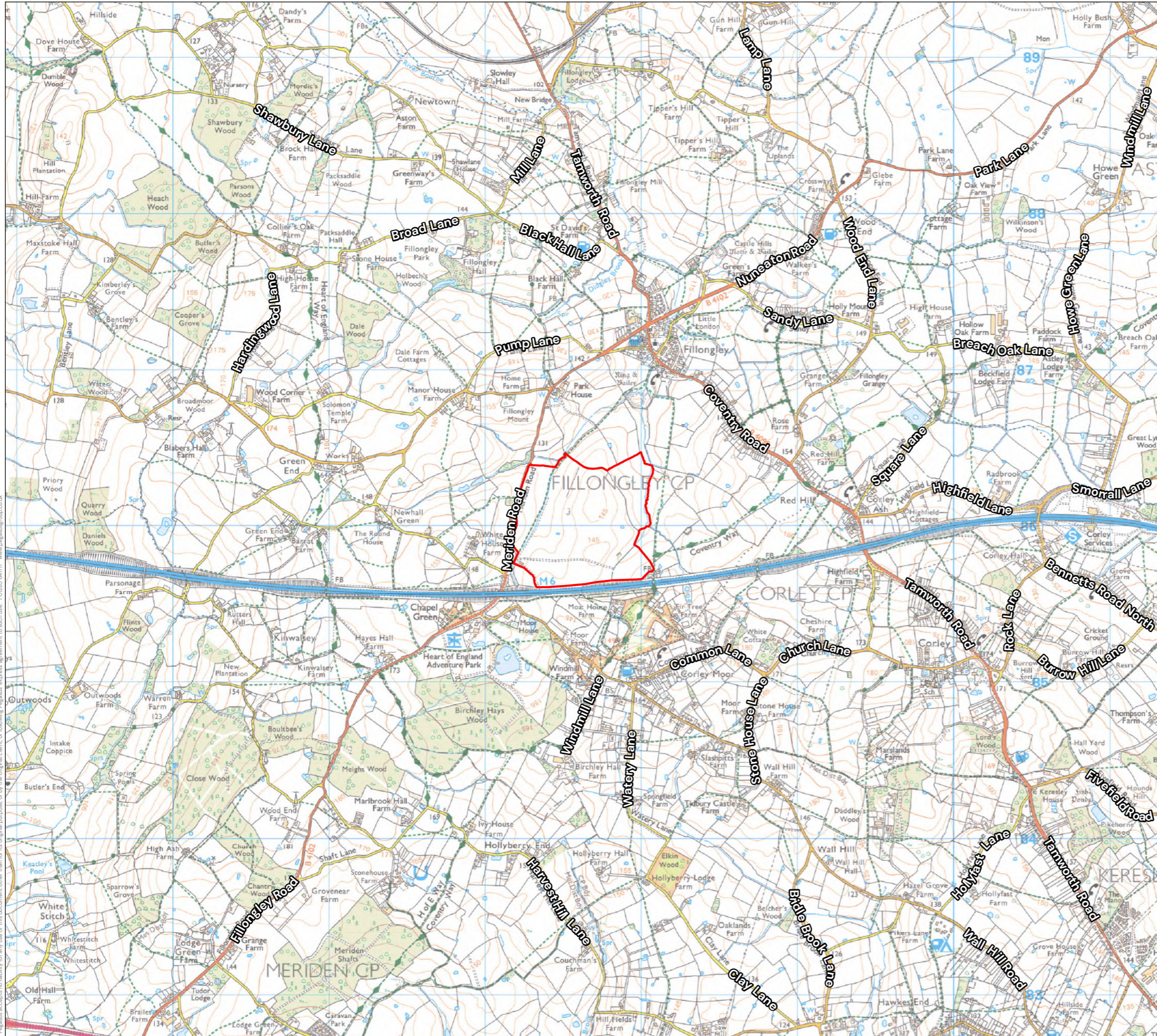
Copyright Pegasus Planning Group Ltd. © Crown copyright and database rights 2024. Ordnance Survey 100042093. Emaprise Licence number 0100303670. Promap Licence number 00020449. Pegasus accepts no liability for any use of this document other than for its original purpose, or by the original client, or following Pegasus express agreement to such use. T 01225 24777. www.pegasusgroup.co.uk





## APPENDIX 4: ROAD NAMES PLAN





**KEY**

Site Boundary

NOTES:  
REVISIONS:

**ROAD NAMES PLAN**

LAND SOUTH OF PARK HOUSE FARM, FILLONGLEY

ENVIROMENA PROJECT  
MANAGEMENT UK LTD



DATE	SCALE	TEAM	APPROVED
02/10/2024	1:25,000@A3	NC	CR

SHEET	REVISION
-	A

DRAWING NUMBER  
P24-1827\_EN\_04

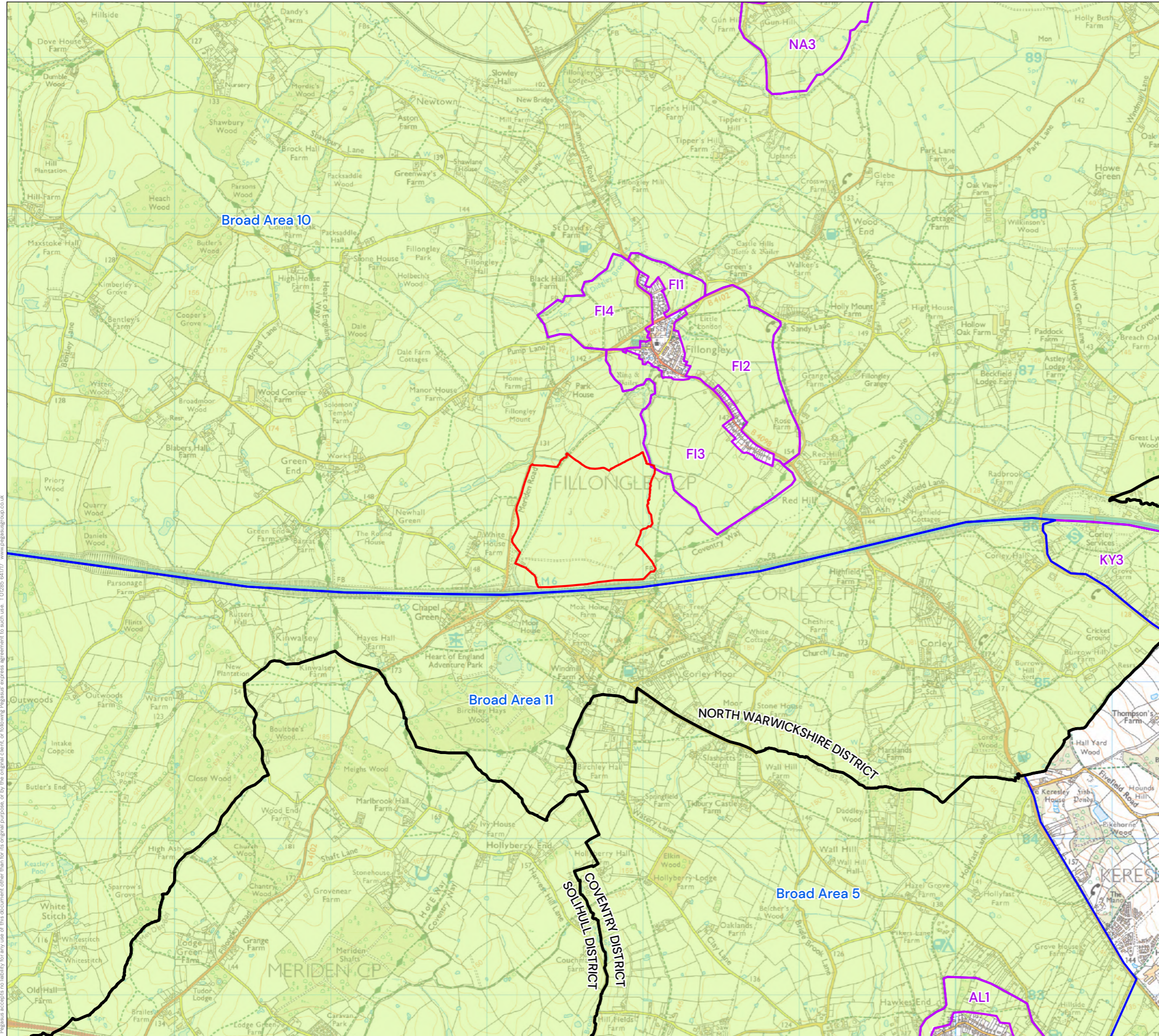
Copyright Pegasus Planning Group Ltd. © Crown copyright and database rights 2024. Ordnance Survey 100042093. Emaprise Licence number 000038673. Promap Licence number 00020449. Pegasus accepts no liability for any use of this document other than for its original purpose, or for any other purpose, or for any other purpose, or for any other purpose, or for any other purpose.





## APPENDIX 5: GREEN BELT PLAN





**KEY**

- Site Boundary
- District Boundary
- Green Belt
- Broad Area
- Land Parcel

Coventry & Warwickshire Joint Green Belt Study (2016)

Copyright Pegasus Planning Group Ltd. © Crown copyright and database rights 2024. Ordnance Survey 100042093. Emaprise Licence number 0100303673. Promap Licence number 00020449. Pegasus accepts no liability for any use of this document other than for its original purpose, or by the original client, or following Pegasus express agreement to such use. T 01225 84707. www.pegasusgroup.co.uk

NOTES:  
REVISIONS:

**GREEN BELT PLAN**

LAND SOUTH OF PARK HOUSE FARM, FILLONGLEY

ENVIROMENA PROJECT  
MANAGEMENT UK LTD



DATE	SCALE	TEAM	APPROVED
02/10/2024	1:25,000@A3	NC	CR

SHEET	REVISION
-	A

DRAWING NUMBER  
P24-1827\_EN\_05



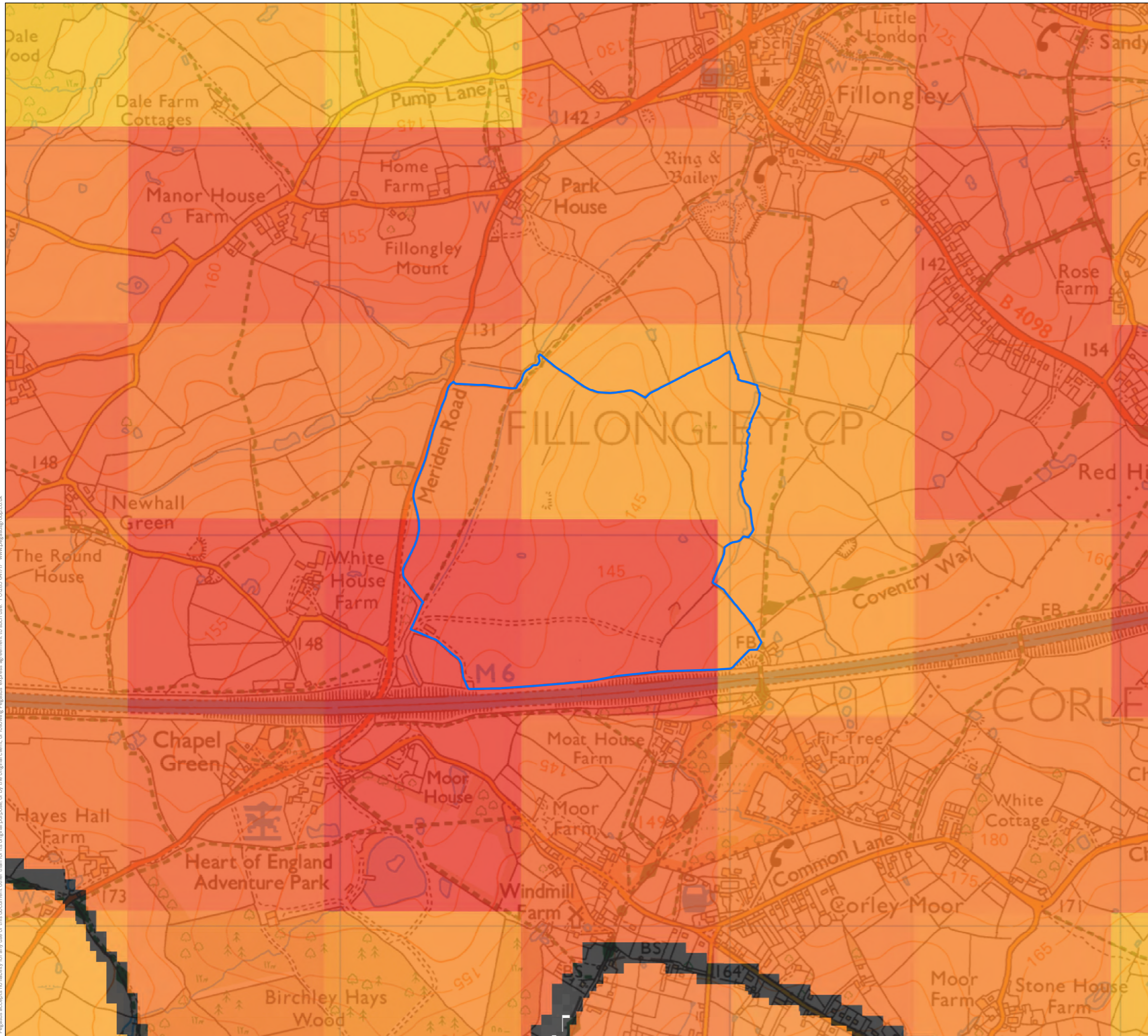






## APPENDIX 6: TRANQUILLITY PLAN



Copyright Pegasus Planning Group Ltd. © Crown copyright and database rights 2024. Ordnance Survey 100042093. Emap Licence number 0100038763. Promp Licence number 00020449. Pegasus accepts no liability for any use of this document other than for its original purpose, or by the original client, or following Pegasus' express agreement to such use. T 01285 847077 www.pegasusgroup.co.uk



**KEY**

-  Site Boundary
-  Most Tranquil  
Least Tranquil

NOTES:  
REVISIONS:

**CPRE TRANQUILLITY PLAN**

LAND SOUTH OF PARK HOUSE FARM, FILLONGLEY

ENVIROMENA PROJECT  
MANAGEMENT UK LTD



DATE	SCALE	TEAM	APPROVED
02/10/2024	1:10,000@A3	NC	CR

SHEET	REVISION
-	A

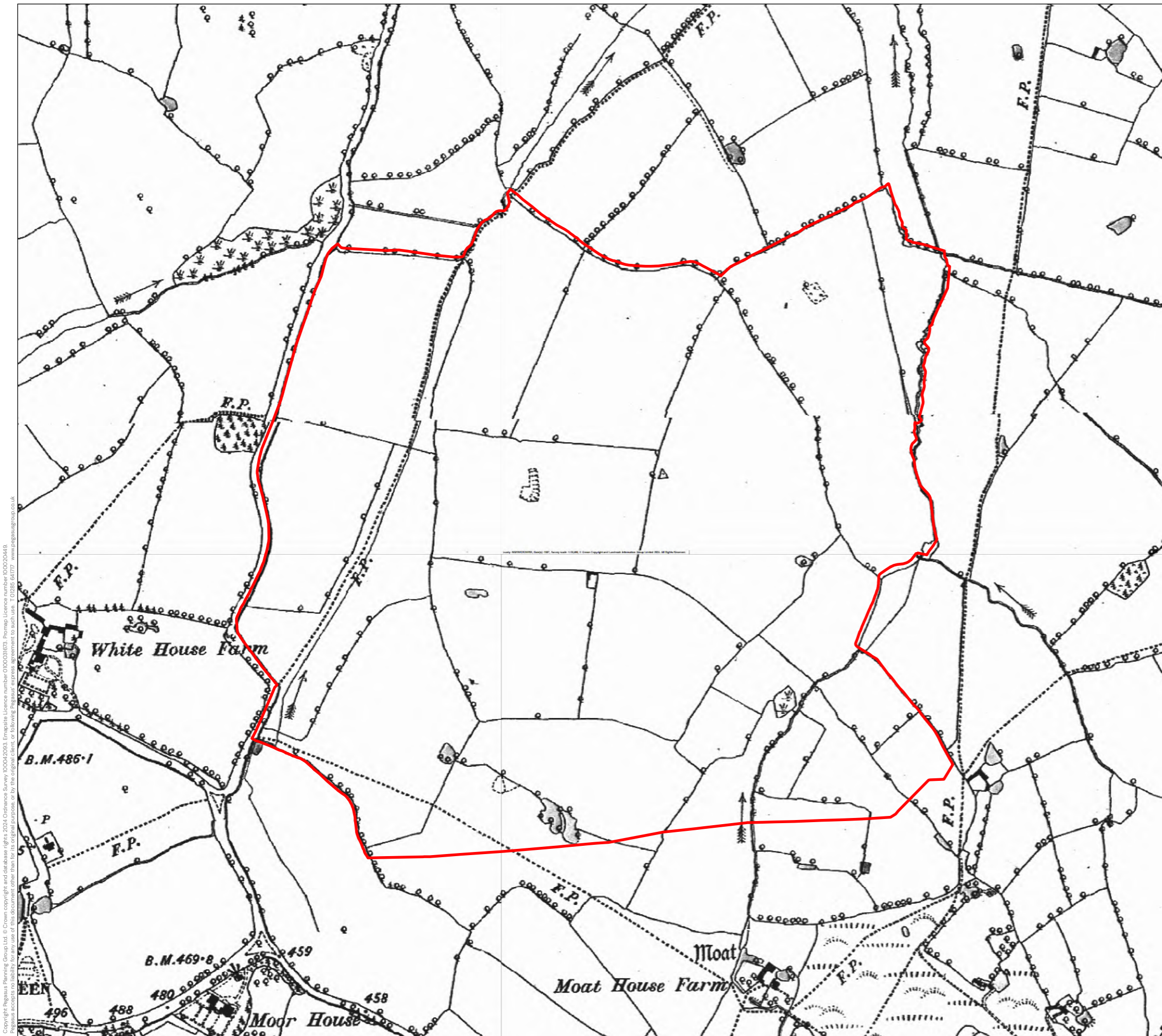
DRAWING NUMBER  
P24-1827\_EN\_06







## APPENDIX 7: HISTORIC MAP (1887)



**KEY**

Site Boundary

NOTES:  
REVISIONS:

**HISTORIC MAP - 1887**

LAND SOUTH OF PARK HOUSE FARM, FILLONGLEY

ENVIROMENA PROJECT  
MANAGEMENT UK LTD



DATE	SCALE	TEAM	APPROVED
02/10/2024	1:5,000@A3	NC	CR

SHEET	REVISION
-	A

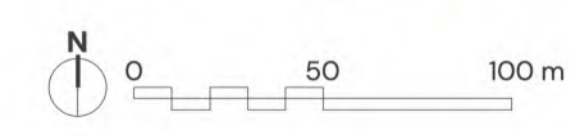
DRAWING NUMBER  
P24-1827\_EN\_07

Copyright Pegasus Planning Group Ltd. © Crown copyright and database rights 2024. Ordnance Survey 100042093. Emaprise Licence number 000038673. Promap Licence number 00020448. This document is the property of Pegasus Planning Group Ltd. It is to be used only for the purposes for which it was prepared and is not to be distributed, copied, or otherwise used in any way without the prior written permission of Pegasus Planning Group Ltd. www.pegasusgroup.co.uk



## APPENDIX 8: LANDSCAPE STRATEGY





**Proposed Landscape Mitigation**

Species listed below consider site constraints and meet the required landscape and management strategies outlined in the relevant landscape character study. This is only an indicative list of potential species that could be used on the site.

**Proposed Meadow Grassland**

SPECIAL Solar Park Diverse Low Maintenance Mix (Cotswold Seeds Ltd) Management/maintenance details provided by the supplier/manufacturer. Basic sowing rate 10kg/acre.

1.40 kg (1.4)	certified Toddington perennial ryegrass
0.50 kg (0.5)	certified Teno smaller calstail
0.65 kg (0.65)	certified Winnelou timothy
1.50 kg (1.5)	certified Evora smooth stalked meadow grass
1.25 kg (1.25)	certified Maxima creeping red fescue
0.50 kg (0.5)	certified Archibal slender creeping red fescue
1.85 kg (1.85)	certified Caracat red/chewings fescue
0.40 kg (0.4)	certified Senu meadow fescue
0.20 kg (0.2)	certified Merwi white clover
0.20 kg (0.2)	certified S184 wild white clover
0.40 kg (0.4)	certified Leo birdsfoot trefoil
0.05 kg (0.05)	certified Virgo Pajbjerg yellow trefoil
0.70 kg (0.7)	Burnet forage herb
0.25 kg (0.25)	certified Altaswede late flowering red clover
0.15 kg (0.15)	certified Aurora alsike clover

**Proposed Shade/Semi-Shade Tolerant Meadow**

Hedgerow mixture (Emorsgate EH1) or similar approved product. Management/maintenance detail provided by the supplier/manufacturer. Basic sowing rate of 4g/m2.

<i>Achillea millefolium</i>	Yarrow	0.10%
<i>Alliaria petiolata</i>	Garlic Mustard	1.00%
<i>Anthriscus sylvestris</i>	Cow Parsley	0.50%
<i>Carex divisa spp. divisa</i>	Grey Sedge	1.50%
<i>Centaurea nigra</i>	Common Knapweed	2.00%
<i>Chaerophyllum temulum</i>	Rough Chervil	3.00%
<i>Cruciata laevipes</i>	Crosswort	2.00%
<i>Dipacus fullonum</i>	Wild Teasel	0.20%
<i>Galium album</i>	Hedge Bedstraw	0.50%
<i>Geranium pratense</i>	Meadow Crane's-bill	0.10%
<i>Geranium pyreniacum</i>	Hedge Crane's-bill	1.00%
<i>Geum urbanum</i>	Wood Avens	0.30%
<i>Knautica arvensis</i>	Field Scabious	0.20%
<i>Leucanthemum vulgare</i>	Moon Daisy	1.00%
<i>Malva moschata</i>	Musk Mallow	1.00%
<i>Plantago lanceolata</i>	Ribwort Plantain	2.00%
<i>Silene dioica</i>	Red Campion	3.00%
<i>Silene flos-cuculi</i>	Ragged Robin	0.50%
<i>Tortilis japonica</i>	Upright Hedge-parsley	0.10%
<i>Agrostis capillaris</i>	Common Bent	1.00%
<i>Anthoxanthum odoratum</i>	Sweet Vernal-Grass	2.00%
<i>Brachypodium sylvaticum</i>	False Brome	1.00%
<i>Cynosurus cristatus</i>	Crested Dogtail	50.00%
<i>Deschampsia cespitosa</i>	Tufted Hair-grass	2.00%
<i>Festuca rubra</i>	Red Fescue	20.00%
<i>Poa nemoralis</i>	Wood Meadow-grass	4.00%

**Proposed Trees**

(Exact species will depend on location of tree, proximity to PVs and Ultimate Height)

<i>Quercus robur</i>	English Oak	10-12cm
<i>Prunus avium</i>	Bird Cherry	10-12cm
<i>Alnus glutinosa</i>	Alder	10-12cm
<i>Betula pendula</i>	Birch	10-12cm
<i>Salix caprea</i>	Goat Willow	10-12cm
<i>Corylaeus monogyna</i>	Hawthorn	10-12cm
<i>Malus sylvestris</i>	Crab Apple	8-10cm
<i>Acer campestre</i>	Maple	10-12cm

**Proposed Native Hedgerow**

(Hedgerow to be maintained at a height of 2.5m)

<i>Cornus sanguinea</i>	Common Dogwood	10.00%
<i>Corylus avellana</i>	Hazel	10.00%
<i>Crataegus monogyna</i>	Hawthorn	40.00%
<i>Salix alba</i>	White willow	10.00%
<i>Prunus padus</i>	Bird Cherry	10.00%
<i>Malus sylvestris</i>	Crab Apple	10.00%
<i>Ilex aquifolium</i>	Holly	10.00%

**Proposed Native Screening Shrub Mix**

Mixture of whips and Feathered Tree Species (F).

<i>Crataegus monogyna</i>	Hawthorn	60-80cm
<i>Corylus avellana</i>	Hazel	60-80cm
<i>Viburnum opulus</i>	Guelder Rose	60-80cm
<i>Prunus avium</i>	Bird Cherry	125-150cm(F)
<i>Quercus robur</i>	English Oak	125-150cm(F)
<i>Acer campestre</i>	Field Maple	60-80cm
<i>Salix caprea</i>	Goat Willow	60-80cm
<i>Betula pendula</i>	Silver Birch	125-150cm(F)

**Proposed Wet-tolerant Grass Seed Mix for Attenuation Basins**

Wetland mixture (Emorsgate EM8) or similar approved product. Management/maintenance detail provided by the supplier/manufacturer. Basic sowing rate of 4g/m2.

<i>Achillea millefolium</i>	Yarrow	2.00%
<i>Agrimonia eupatoria</i>	Agrimony	0.60%
<i>Centaurea nigra</i>	Common Knapweed	3.60%
<i>Filipendula ulmaria</i>	Meadowsweet	1.00%
<i>Galium verum</i>	Lady's Bedstraw	2.00%
<i>Geum rivale</i>	Water Avens	0.20%
<i>Lathyrus pratensis</i>	Meadow Vetchling	0.50%
<i>Leontodon hispidus</i>	Rough Hawkbit	0.10%
<i>Leucanthemum vulgare</i>	Oxeye Daisy (Moon Daisy)	1.20%
<i>Lotus corniculatus</i>	Birdsfoot Trefoil	0.10%
<i>Lotus pedunculatus</i>	Greater Birdsfoot Trefoil	0.40%
<i>Plantago lanceolata</i>	Ribwort Plantain	3.20%
<i>Primula veris</i>	Cowslip	0.20%
<i>Prunella vulgaris</i>	Selfheal	0.10%
<i>Ranunculus acris</i>	Meadow Buttercup	0.40%
<i>Rhinanthus minor</i>	Yellow Rattle	1.40%
<i>Rumex acetosa</i>	Common Sorrel	1.20%
<i>Sanguisorba officinalis</i>	Great Burnet	1.00%
<i>Silene flos-cuculi</i>	Ragged Robin	0.30%
<i>Succisa pratensis</i>	Devil's-bit Scabious	0.10%
<i>Vicia cracca</i>	Tufted Vetch	0.40%

<i>Agrostis capillaris</i>	Common Bent (w)	4.00%
<i>Anthoxanthum odoratum</i>	Sweet Vernal-grass (w)	4.00%
<i>Carex divisa subsp. divulsa</i>	Grey Sedge (w)	1.60%
<i>Cynosurus cristatus</i>	Crested Dogtail	34.40%
<i>Deschampsia cespitosa</i>	Tufted Hair-grass (w)	1.60%
<i>Festuca rubra</i>	Red Fescue	20.00%
<i>Hordeum secalinum</i>	Meadow Barley (w)	4.00%
<i>Poa trivialis</i>	Rough-stalked Meadow-grass	8.00%
<i>Schedonorus arundinaceus</i>	Tall Fescue	2.40%

**KEY**

**SITE CONSTRAINTS**

- Site boundary
- Public right of way
- Existing vegetation retained - As per tree survey plan
- Existing vegetation retained - As per aerial photography, topographical survey and site observation - not recorded by tree survey
- Existing watercourse
- Existing easement
- Existing hard-surface

**SOFT LANDSCAPE PROPOSALS**

- Meadow grassland mix
- Shade / semi-shade tolerant grassland mix
- Wet-tolerant grassland mix to attenuation basins/swales
- Native tree
- Native hedgerow
- Native screening shrub mix

**HARD LANDSCAPE PROPOSALS**

- Stock-proof fence
- Hard-surfacing
- Solar panel
- Transformer station
- DNO substation
- Customer substation
- Community garden area to include seating, information boards & additional planting

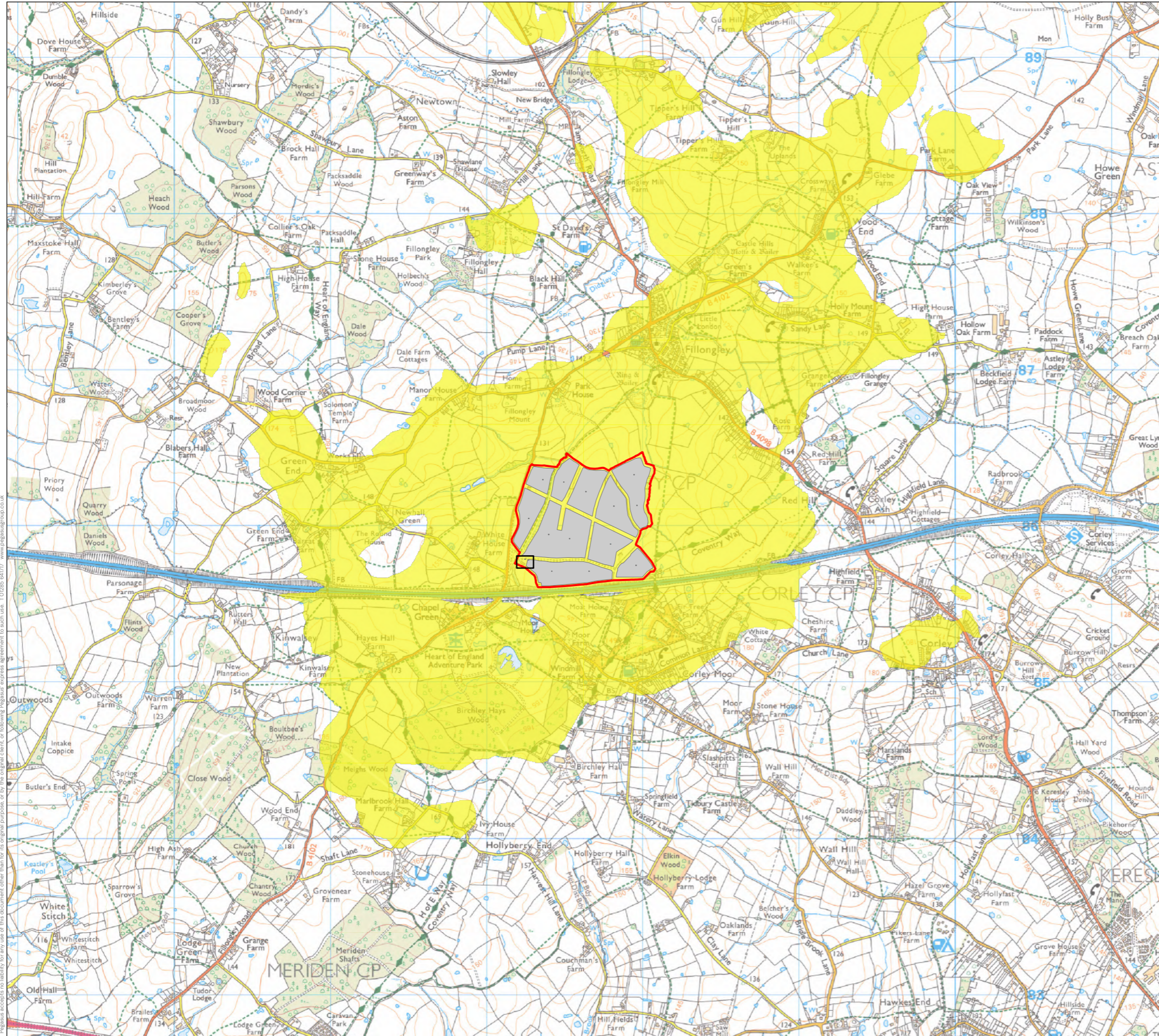
**LAND AT NAILCOTE FARM, FILLONGLEY – LANDSCAPE STRATEGY PLAN**





## **APPENDIX 9: BARE EARTH ZONE OF THEORETICAL VISIBILITY**





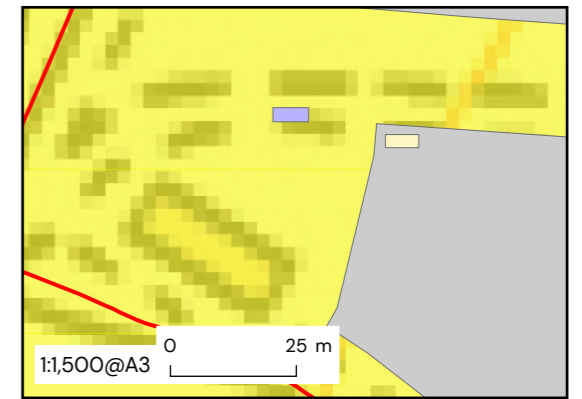
**KEY**

- Site Boundary
- Proposed Development**
- Solar PV Areas - 2.3m Development Height
- Transformer Station - 2.6m Development Height
- Customer Substation - 3m Development Height
- DNO Substation - 3m Development Height
- Bare Earth Zone of Theoretical Visibility - Multiple Development Heights

Bare Earth ZTV Production Information -  
 - DTM data used in calculations is OS Terrain 5 that has been combined with OS Open Map Local data for woodland and buildings to create a Digital Surface Model (DSM).

- Viewer height set at 1.7m  
 (in accordance with para 6.11 of GLVIA Third Edition)  
 - Calculations include earth curvature and light refraction

N.B. This Zone of Theoretical Visibility (ZTV) image illustrates the theoretical extent of where the development may be visible from, assuming 100% atmospheric visibility, and includes the screening effect from vegetation and buildings, based on the assumptions stated above.



NOTES:  
 REVISIONS:

**BARE EARTH ZONE OF THEORETICAL VISIBILITY**

LAND SOUTH OF PARK HOUSE FARM, FILLONGLEY

ENVIROMENA PROJECT  
 MANAGEMENT UK LTD



DATE	SCALE	TEAM	APPROVED
02/10/2024	1:25,000@A3	NC	CR

SHEET	REVISION
-	A

DRAWING NUMBER  
 P24-1827\_EN\_09



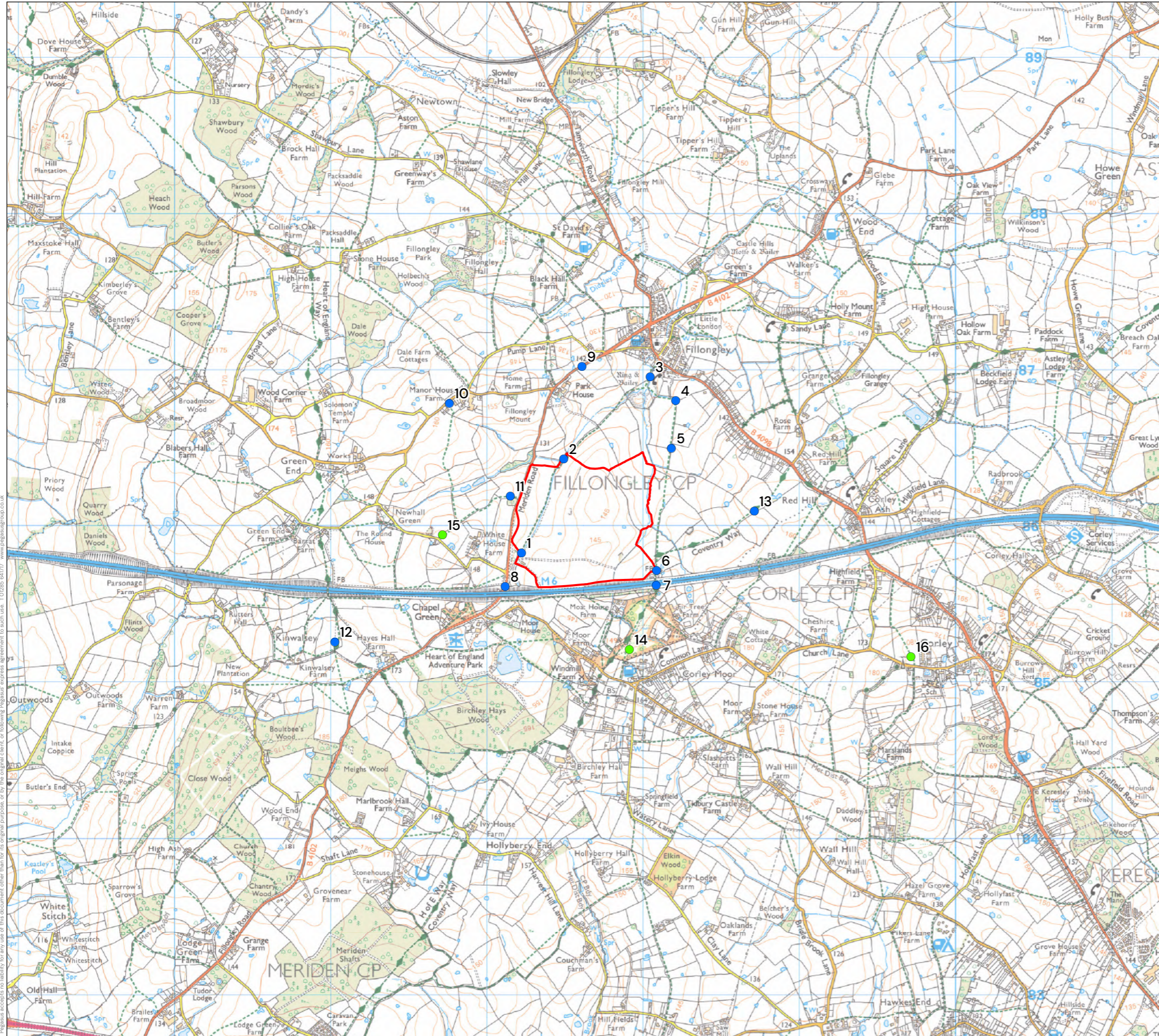
Copyright: Pegasus Planning Group Ltd. © Crown copyright and database rights 2024. Ordnance Survey 100042093. Emaprise Licence number 0100303673. Promap Licence number 00020449. Pegasus accepts no liability for any use of this document other than for its original purpose, or for any other use, or for any other use, or for any other use, or for any other use.





## APPENDIX 10: VIEWPOINT LOCATION PLAN





**KEY**

- Site Boundary
- LVA Viewpoints
- Additional Viewpoints

NOTES:  
REVISIONS:

**VIEWPOINT LOCATION PLAN**

LAND SOUTH OF PARK HOUSE FARM, FILLONGLEY

ENVIROMENA PROJECT  
MANAGEMENT UK LTD



DATE	SCALE	TEAM	APPROVED
07/10/2024	1:25,000@A3	NC	CR

SHEET	REVISION
-	A

DRAWING NUMBER  
P24-1827\_EN\_10



Copyright Pegasus Planning Group Ltd. © Crown copyright and database rights 2024. Ordnance Survey 100042093. Emaprise Licence number 0100303673. Promap Licence number 000202419. Pegasus accepts no liability for any use of this document other than for its original purpose, or for any other purpose, or for any other use, or for any other use, or for any other use.



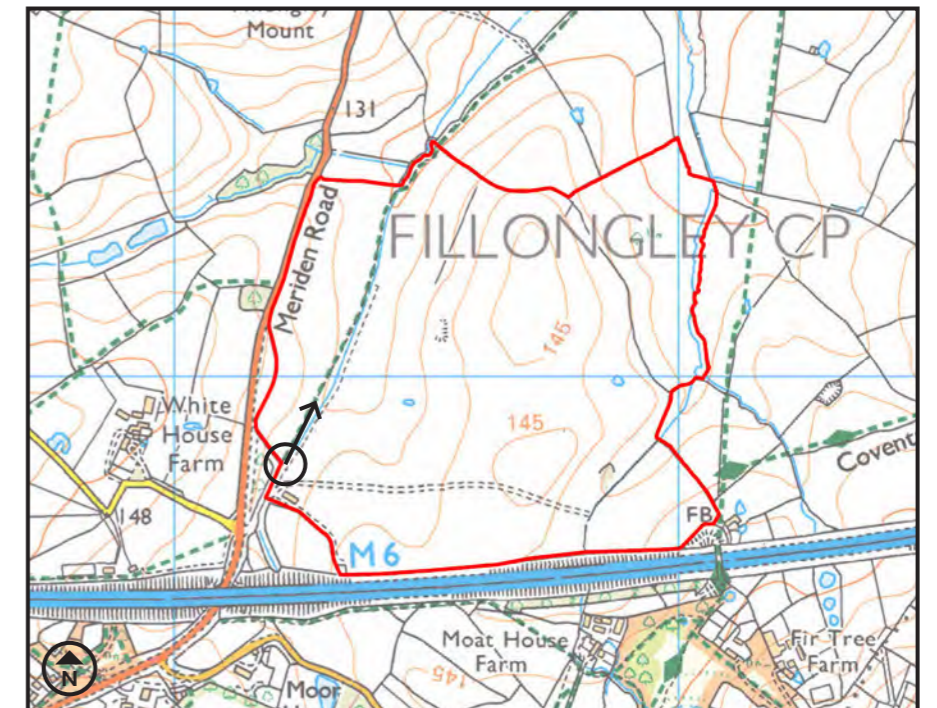


## APPENDIX 11: VIEWPOINTS





**CONTEXT BASELINE VIEWPOINT 1A**  
View north east from Public Right of Way M294/1



Camera make & model	- Canon EOS 6D Mark II, FFS	Viewpoint height (AOD)	- 132m
Date & time of photograph	- 03/10/2024 @ 14:58	Distance from site	- 0m
OS grid reference	- 427222, 285829		