

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 10th 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 8th 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 4th 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 as 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 FNP02 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

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