

Appeal by

Enviromena Project Management UK Ltd

at

Land 800 Metres South of Park House Farm, Meriden Road,

Fillongley, Warwickshire, CV7 8BP

Planning Inspectorate Reference: APP/R3705/W/24/3349391

Local Planning Authority Reference: PAP/2023/0071

## **Statement on behalf of Fillongley Parish Council**

Author: Gail Collins BSc (Hons) DipTP MRTPI DMS

The Tyler Parkes Partnership Ltd

18<sup>th</sup> November 2024

## **Contents**

1. Introduction	Pg.3
2. Background to the Statement - Fillongley and the appeal site	Pg.3
3. Relevant Policies	Pg. 6
4. Fillongley Parish Council's Objections to the Appeal Proposal	Pg.10
Green Belt	Pg. 10
Landscape and Visual Impact	Pg.18
Heritage Impact	Pg.22
Use of Best and Most Versatile Agricultural Land	Pg.24
5. Planning Balance	Pg. 30

## **Appendices**

**Appendix A – Fillongley Neighbourhood Plan amendments 2024**

**Appendix B - South Cambs Appeal ref: APP/W0530/W/22/3300777**

**Appendix C - Secretary of State decision - land at Milton Road Gayton  
WNS/2021/1858/EIA**

**Appendix D - Birchall Green Farm Appeal ref: APP/J860/W/23/3325112**

**Appendix E – Lullington Solar Park v SoS for Levelling Up Housing and  
Communities 2024 EWHC 295 Admin**

## **1. Introduction**

- 1.1 The following statement on behalf of Fillongley Parish Council supports North Warwickshire's refusal of the planning application PAP/2023/0071. The appeal proposal is contrary to the development plan for the reasons given in the Borough Council's refusal notice dated 10th July 2024.
- 1.2 The Parish Council consider that the appeal proposal is also contrary to other development plan policies not referenced in the Borough Council's refusal and appropriate weight should also be given to these policies, including the impact of the appeal proposal on heritage assets, as set out in the main body of this statement and in the accompanying 'Heritage Report' by Keystone Heritage.
- 1.3 There were numerous local objections to the appeal proposal, including in response to the Appellant's community consultation exercise and via the planning application. In addition to the Parish Council's 2no. submitted objections, the Fillongley Flood Group and Corley Parish Council also objected, and there were in excess of 60 letters of objection to the proposal received from the public (against 2 letters of support), as well as 20 additional representations to the amended plans. The vast majority of objectors are residents of Fillongley and nearby Corley.
- 1.4 This statement is accompanied by the 'Heritage Report' prepared by Keystone Heritage, and the 'Fillongley Solar Farm: Accurate Visual Representations' report prepared by Andy Maw Design and Troopers Hill Limited. These documents, alongside this statement, form the Parish Council's additional comments in respect of the appeal.
- 1.5 This statement has been prepared by Gail Collins, a Director at the Tyler Parkes Partnership Ltd, with over 30 years' experience in development management and planning policy in both local government and the private sector.

## **2. Background to the Statement - Fillongley and the appeal site**

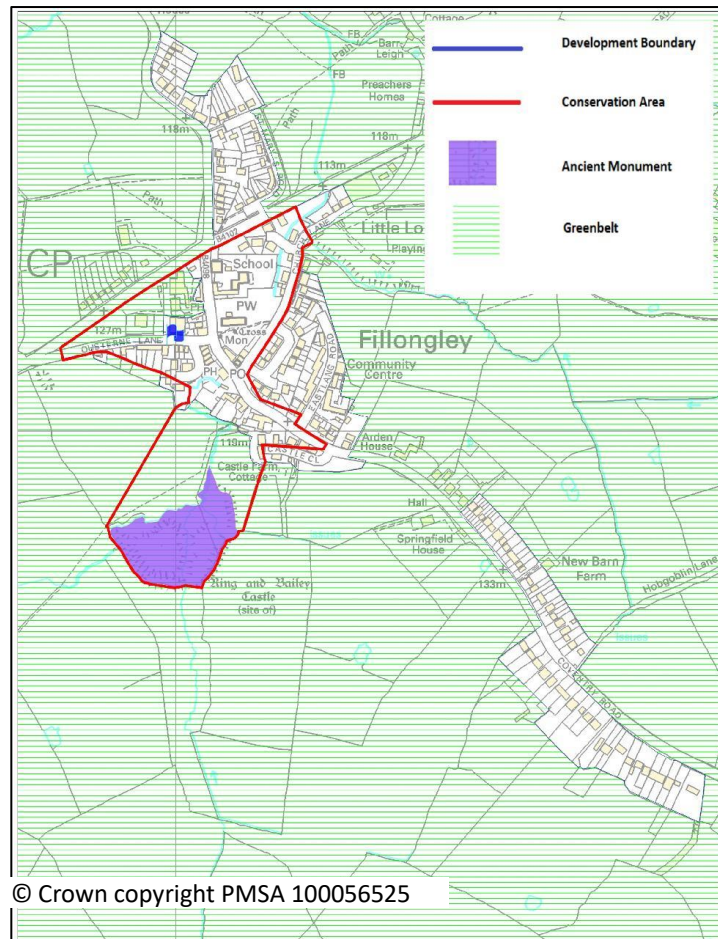
- 2.1 Fillongley Parish covers a large geographical area and is made up of the village centre and numerous hamlets deriving from the farming history of the Parish, which is still very much in evidence today. Indeed, in the Fillongley Neighbourhood Plan of 2019, it was confirmed that there were 26 working farms in the Parish (2.17.5). The Parish had a population of 1,083 residents at the time of the 2021 Census.<sup>1</sup>
- 2.2 It is a predominantly rural Parish, falling in the Ancient Arden Landscape. It is within Green Belt, but the village itself is inset from the Green Belt. There is a Conservation Area covering much of the centre of the village, and that includes a number of listed buildings. In addition, the Conservation Area includes Fillongley Castle which is a Scheduled Ancient Monument, the boundary of which is only some 300m of the northern boundary of the appeal site – the Parish note that the Appellant's Statement

---

<sup>1</sup> <https://fillongley.parish.uk/census/>

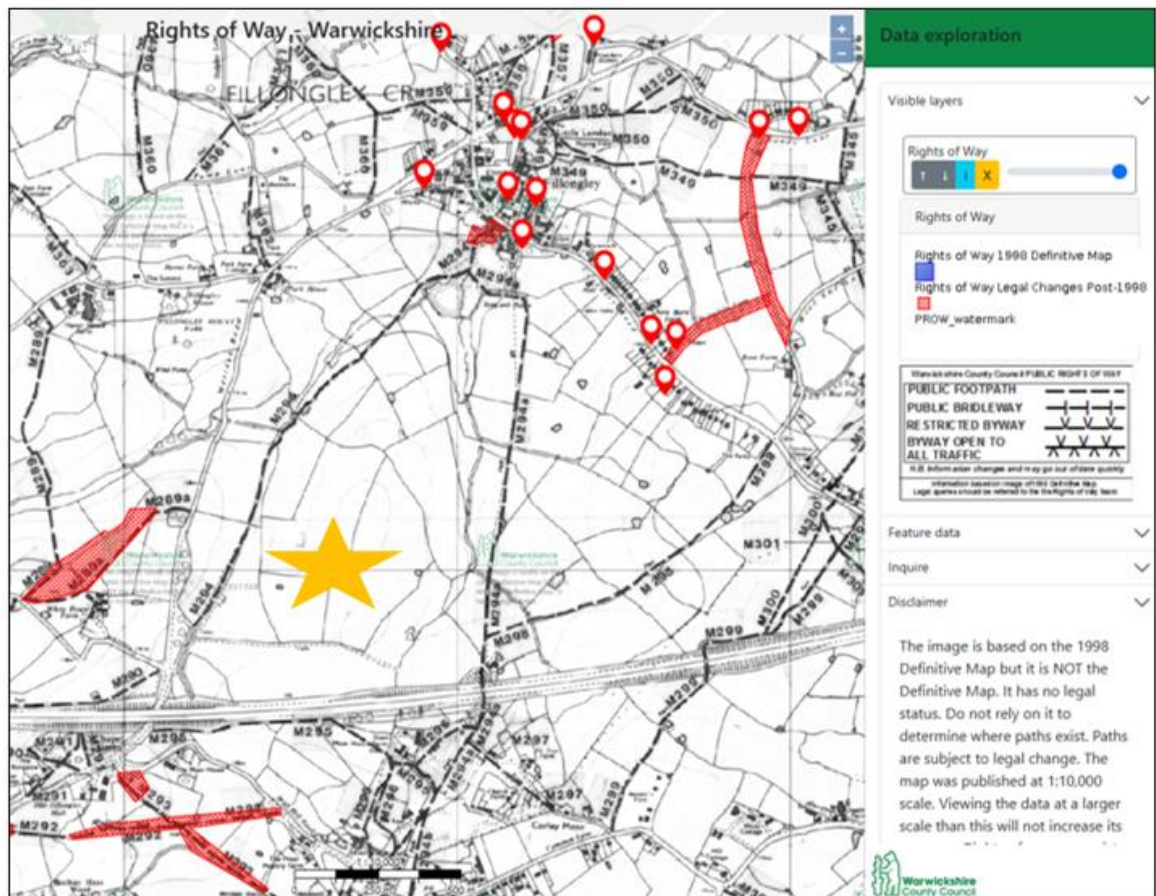
references this incorrectly as being some 2kms from the appeal site.

**Figure 1: Extract from the Neighbourhood Plan showing the extent of the Conservation Area, the site of the SAM, the village development boundary and the Green Belt**



- 2.3 It is an overwhelmingly rural area – the village is a rural village surrounded by farmland – flanked by and containing well walked public footpaths, including the long-distance countryside route, the Coventry Way, and also the recreational North Arden Trail Parish Loop.
- 2.4 The appeal site is crossed and encircled by a number of Public Rights of Way (PRoW) as shown on **Figure 2**.

**Figure 2: Extract from Warwickshire County Council Public Rights of Way<sup>2</sup>,  
location of appeal site indicated by orange star**



- 2.5 The appeal site is to the south of the village towards the M6, and it is undeveloped farmed agricultural land interspersed with some hedgerows and hedgerow trees. It does not contain any buildings or structures. Similarly, the flanking fields do not contain any agricultural buildings, pylons, or built infrastructure. The appeal site and the adjacent field have an undeveloped rural character. The M6 motorway sits on an elevated section past the appeal site, but whilst the sound of traffic is audible close to the motorway/ on its footbridge (M294a), once on the public footpath within the appeal site (M294), noise from the motorway is not overly noticeable. It should also be noted that the jurisdictional boundary of Coventry City Council also lies within some 0.5kms of the southern boundary of the appeal site to the south beyond the motorway at Corley Moor.
- 2.6 The topography of the appeal site is undulating, and it rises up to a ridge in its centre, increasing in height by some 27 metres; as a consequence, the appeal site is able to be seen from many vantage points. These include views from houses and farmsteads in and adjacent to the village, e.g. Far Parks, Park House Farm, Manor House Farm etc, the well walked public right of way network that encircle the appeal site and run through

<sup>2</sup> <https://maps.warwickshire.gov.uk/rightsofway/>

it, the Grade II\* listed church and the Scheduled Ancient Monument, the flanking highways including Meriden Road, as well as Sandy Lane, Green End Road and Coventry Lane. It is also visible from the M6 motorway. The implication is that any development on the appeal site will have an impact from multiple aspects and vantage points.

### **3. Relevant Policies**

#### **The Development Plan**

- 3.1 This Statement does not propose to repeat in any detail the Development Plan policies contained in the Local Plan as referenced in the refusal notice as these will have been covered elsewhere on behalf of the Borough Council; rather it references policies which are also considered relevant to a consideration of the appeal proposal, and those of the Fillongley Neighbourhood Plan, made August 2019.

#### **North Warwickshire Local Plan**

- 3.2 In addition to the relevance of Local Plan policies LP1, LP3, LP14 and LP30, the Appellant and the Parish Council consider that Policy LP35 of the Local Plan is relevant to the appeal proposal, as follows (underlining writer's emphasis) –

*“LP35 Renewable Energy and Energy Efficiency*

*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. New development will be expected to be energy efficient in terms of its fabric and use including, where viable, the production of 10% of operational energy from on-site renewables, in support of the Government's Clean Growth Strategy.”*

- 3.3 Furthermore, the requirements of Local Plan Policy LP15 'Historic Environment' are consistent with national planning policy.

#### **Fillongley Neighbourhood Plan**

- 3.4 The Neighbourhood Plan includes a 'Vision Statement' which is: “To value, protect and promote the parish of Fillongley; a thriving rural community, preserving its historic setting and character whilst working to ensure its long-term future by meeting the needs of those who live and work in this outstanding rural area. The built and natural heritage of the Parish will be maintained and protected. Future housing building should conform to the existing character by comprising small developments in keeping with their

surroundings. Provision of a mix of housing for all sectors of the community must be made. Rural setting and character will be preserved and enhanced for residents and visitors alike.”

- 3.5 The relevant policies of the Neighbourhood Plan include FNP01, FNP02, FNP03, and FNP06. The Neighbourhood Plan does not contain a separate policy on Green Belt but does reference Green Belt policy in the NPPF.
- 3.6 Policy FNP01 ‘Built Environment’ is relevant to the appeal proposal, and whilst noting that the Appellant considers this otherwise in their Statement of Case, the Borough Council refer to it in their reason for refusal. The policy relates to the built environment which the appeal proposal clearly comprises, with its substations, solar panels, fences and CCTV posts. The policy requires that development conserves the built character of the Ancient Arden Landscape and that any development that will affect the setting of the Church should be in accordance with the North Warwickshire Local Plan and the advice of Historic England. Notwithstanding this, the Appellant does in fact ascribe it full weight under ‘Enviromena comments on FNP01’ (Appellant’s Statement of Case paragraph 5.105)
- 3.7 Policy FNP02 ‘Natural Environment’ confirms that development proposals should wherever possible seek to enhance and conserve the natural environment, by meeting a number of conditions including that there are 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; and that existing definitively mapped footpaths that criss-cross our Parish should be protected and enhanced. The Appellant ascribes this policy as having full weight in ‘Enviromena comments on FNP02’ (Statement of Case paragraph 5.109).
- 3.8 These policies are consistent with the National Planning Policy Framework (December 2023), which at paragraph 180 requires that planning policies and decisions should contribute to and enhance the natural and local environment and recognising the intrinsic character and beauty of the countryside, and chapter 12 which establishes that good design is a key aspect of sustainable development.
- 3.9 Policy FNP03 ‘Flooding’ states that development should minimise flood risk within the village whilst maintaining balance with other policies. Any developments should ameliorate flood risks by providing SUDS as required in consultation with the lead flood authority. This policy is consistent with NPPF paragraphs 173 and 175 and the policy is considered up to date.
- 3.10 Policy FNP06 ‘Heritage’ confirms that development should protect, enhance and respect the local built, historic and natural heritage assets or any other locally identified heritage features of the village, and refers to Appendix EB06/04 Fillongley Parish Historic EnvirRecord Monuments. It confirms that applications for development that will harm designated and non-designated heritage assets will be refused unless the circumstances that would permit approval specified in the appropriate part of paragraphs 133 to 135 of the NPPF (2012) apply. It should be noted that the 2012

NPPF paragraphs referenced by Policy FNP06 are essentially the same as paragraphs 207-209 of the latest December 2023 version of the NPPF and therefore Policy FNP06 is considered to be up to date.

- 3.11 The Parish Council is also working on revisions to its Neighbourhood Plan. The currently emerging Neighbourhood Plan has some weight as a material consideration and contains changes to the wording in respect of a number of policies as per **Appendix A**. It is understood that the Neighbourhood Plan revisions will be approved by the Parish Council in advance of the Hearing.
- 3.12 In particular, the Parish is proposing to amend policies FNP01, FNP02, FNP03 and FNP06 all of direct relevance to this appeal. In respect of FNP01 'Built Development', it is noted that it now includes reference to the need to preserve the entire landscape and confirms that no development will be allowed that disrupts this harmony. The caveat 'where possible' is also removed from the policy.

### **National Planning Policy**

- 3.13 Relevant sections within the National Planning Policy Framework (NPPF), December 2023 include the following (any underlining is writer's emphasis):
- 3.14 Paragraph 104 of the NPPF confirms that planning policies and decisions should protect and enhance public rights of way and access.
- 3.15 NPPF paragraph 163.b) guides that applications for renewable and low carbon development should be approved if its impacts are (or can be made) acceptable. The PPG sets out that the benefits of delivering green energy does not automatically override 'environmental protections and the planning concerns of local communities'.<sup>3</sup> (PPG paragraph 003, reference ID: 5-003-20140306, revision date: 06 03 2014)
- 3.16 Paragraph 180(b) which states that planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land (BMV), and of trees and woodland.
- 3.17 Footnote 62 to paragraph 181 of the NPPF confirms:

*'Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.'*

---

<sup>3</sup> Paragraph 003, reference ID: 5-003-20140306, revised 6th March 2014



- 3.18 Planning Practice Guidance (PPG)<sup>4</sup> discusses the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms, recognising that these can have a negative impact on the rural environment, particularly in undulating landscapes. The PPG sets out particular factors that a local planning authority will need to consider, including encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value; where a proposal involves greenfield land, whether (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; the proposal's visual impact and the effect on the landscape, and the need for, and impact of, security measures such as lights and fencing.
- 3.19 In respect of heritage, the same paragraph of the PPG advises great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting, advising that depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset.
- 3.20 Paragraph 173 and 175 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere, and any development should ameliorate flood risks by providing SUDS as required.

### **National Policy Statements**

- 3.21 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 where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of "Best and Most Versatile" agricultural land where possible.

### **Ministerial Statements**

- 3.22 The Written Ministerial Statement on solar energy (25th March 2015) indicates that the use of BMV for solar farms has to be justified by the most compelling evidence. It states:

*'Meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes unnecessary use of high quality agricultural land...we*

---

<sup>4</sup> Paragraph 013, Reference ID: 5-013-20150327, revised 27<sup>th</sup> March 2015

want to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence’.

- 3.23 The May 2024 Statement by the then Secretary of State for Energy Security and Net Zero confirmed that:

*“...due weight needs to be given to the proposed use of Best and Most Versatile land when considering whether planning consent should be granted for solar developments. For all applicants the highest quality agricultural land is least appropriate for solar development and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary.”*

- 3.24 In late July 2024, the Parliamentary Under-Secretary of State for Energy was twice asked about solar power and land use, and specifically whether the Written Statement on Solar and protecting our Food Security and Best and Most Versatile (BMV) Land, published on 15 May 2024, HCWS466, would be retained. The Minister stated (on 23rd<sup>5</sup> and 26th July<sup>6</sup> 2024) that:

*‘The Written Ministerial Statement made in May by the previous government did not change the policy on this matter that is set out in the relevant parts of the National Policy Statement (NPS) for Renewable Energy and the National Planning Policy Framework (NPPF). It quoted extracts from that NPS and the NPPF. Decisions on solar that is Nationally Significant Infrastructure will be guided by the NPS in full, noting there are transitional provisions in place as the NPS was only designated this January. The NPPF will continue to be a material consideration for Local Authority planning decisions on solar.’*

- 3.25 In addition, the Government in “Powering Up Britain: Energy Security Plan” (April 2023) clarified that while ‘solar and farming can be complementary’, developers must also have ‘consideration for ongoing food production’.

#### **4. Fillongley Parish Council’s Objections to the Appeal Proposal**

##### **Green Belt**

- 4.1 All parties agree that the proposed development is inappropriate development in the Green Belt and that substantial weight is given to any Green Belt harm (draft Statement of Common Ground paragraphs 10.1 (4) & (5)).
- 4.2 Some 65% of the area of the Borough is designated Green Belt, meaning that some 35% of the Borough is outside the Green Belt. **Figure 3** below provides a helpful indication of this ‘split’ between Green Belt and non-Green Belt. The northeastern part

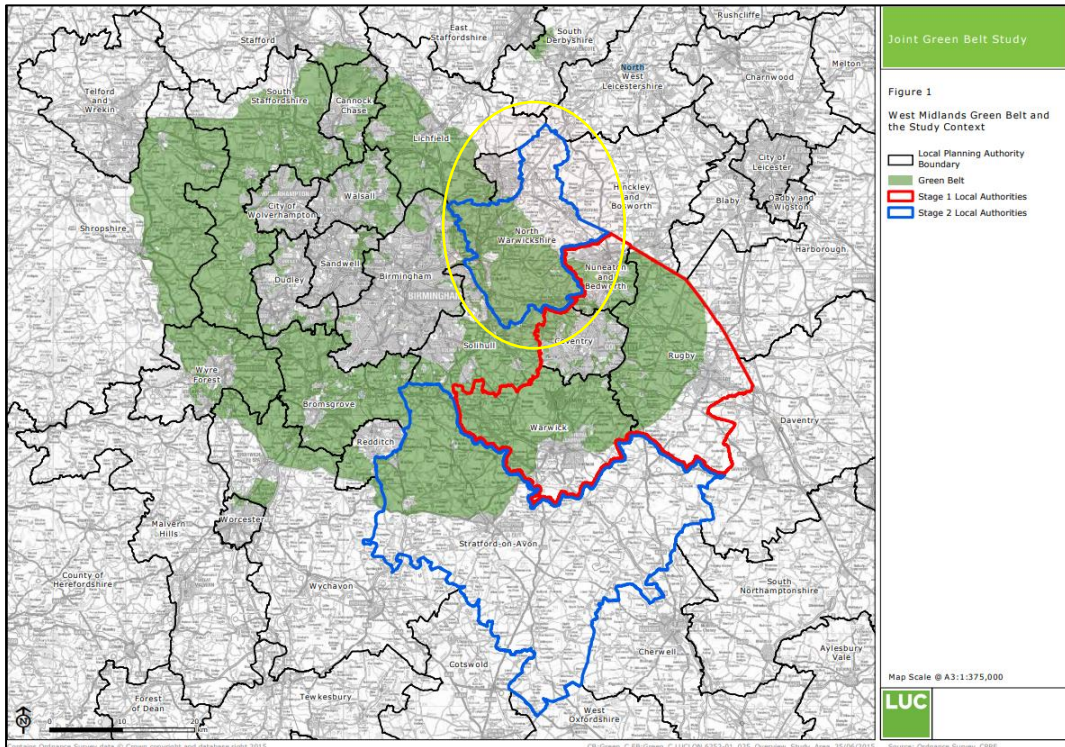
---

<sup>5</sup> <https://questions-statements.parliament.uk/written-questions/detail/2024-07-17/218>

<sup>6</sup> <https://www.theyworkforyou.com/wrans/?id=2024-07-17.389.h>

of the Borough of North Warwickshire is outside the Green Belt; the Borough's Green Belt is predominantly to the south/southwest of the Borough, sitting between the boundaries of the cities of Birmingham and Coventry. It is notable that 3 solar farms that have already been granted planning permission by the Borough Council in the countryside outside the Green Belt (as per the **Table 1**).

**Figure 3: Extract from Stage 2 Final Report for North Warwickshire Borough Council and Stratford-on-Avon District Council Prepared by LUC April 2016, showing North Warwickshire Borough circled in yellow**

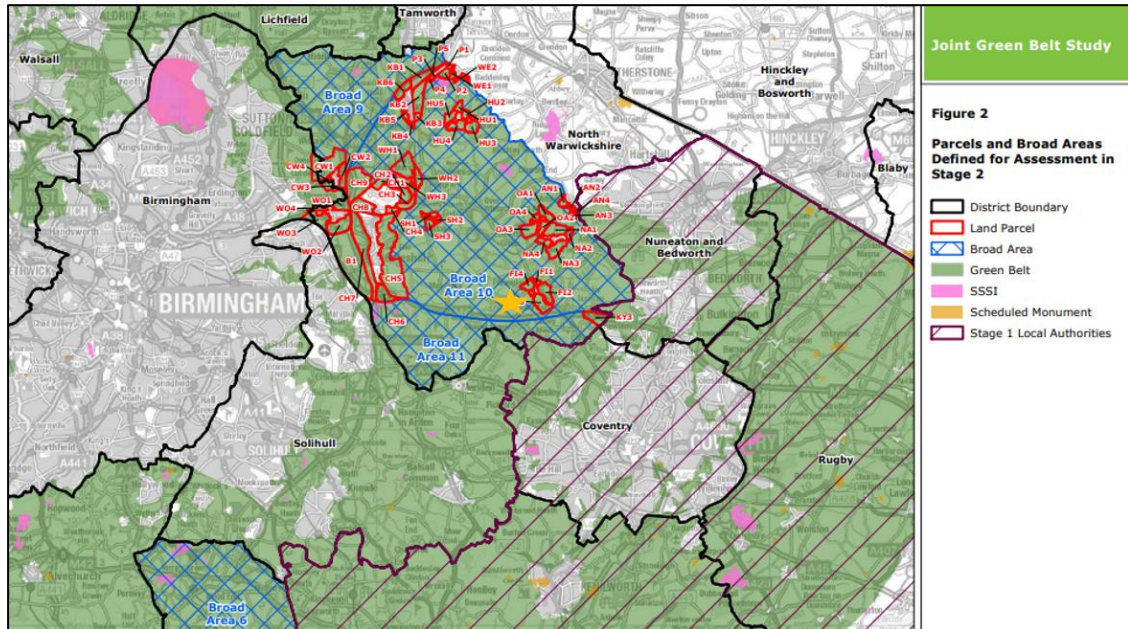


4.3 In the 'Coventry & Warwickshire Joint Green Belt Study' of April 2016<sup>7</sup>, part of the evidence base towards its Local Plan, the appeal site falls within Broad Area 10 of the Study (**Figure 4**). Paragraph 4.6 of the Study referring to the 'Broad Areas' states:

*'As the 'main body' of the Green Belt (as opposed to the edges), they were considered to make a significant contribution to Green Belt purposes; however, some make a more significant contribution than others.'*

<sup>7</sup> Coventry City Council, North Warwickshire Borough Council, Nuneaton and Bedworth Borough Council, Rugby Borough Council, Stratford-on-Avon District Council and Warwick District Council Stage 2 Final Report for North Warwickshire Borough Council and Stratford-on-Avon District Council Prepared by LUC April 2016

**Figure 4: Extract from Figure 2 of Stage 2 Final Report for North Warwickshire Borough Council and Stratford-on-Avon District Council Prepared by LUC April 2016. Appeal site location is marked with an orange star**



- 4.4 The Study found that Broad Area 10 makes a considerable contribution to all of the Green Belt purposes, including:
- Checks the sprawl of Nuneaton and Bedworth, Kingsbury and Piccadilly, Coventry, Coleshill, Fillongley, Old Arley, New Arley, Hurley and Shustoke.
  - Prevents the merging of these settlements.
  - Safeguards the countryside, which contains several ancient woodlands, SSSIs, historic villages and scheduled monuments.
  - Assisting urban regeneration by encouraging the recycling of derelict and other urban land across the West Midlands.
- 4.5 The Local Plan Inspector also considered the Broad Area assessment of the Green Belt in his report at paragraph 213, confirming that *‘They are proportionate evidence at a plan-making stage. They approach the assessment the value of land relative to the five purposes the Green Belt services from a rational, cogent and objective perspective. In that context, at a strategic level, Green Belt boundaries have therefore been informed by appropriate evidence.’*<sup>8</sup>
- 4.6 The designation of the area of Green Belt containing the appeal site has been thoroughly considered by the Borough Council and the Planning Inspectorate as part of the adopted Local Plan. Green Belts are designated as such by virtue of their essential characteristics of ‘openness and permanence’. The appeal proposal is inappropriate development in the Green Belt; it conflicts with the third purpose of including land in the

<sup>8</sup> North Warwickshire Borough Council Local Plan, Inspector’s Report 20 July 2021



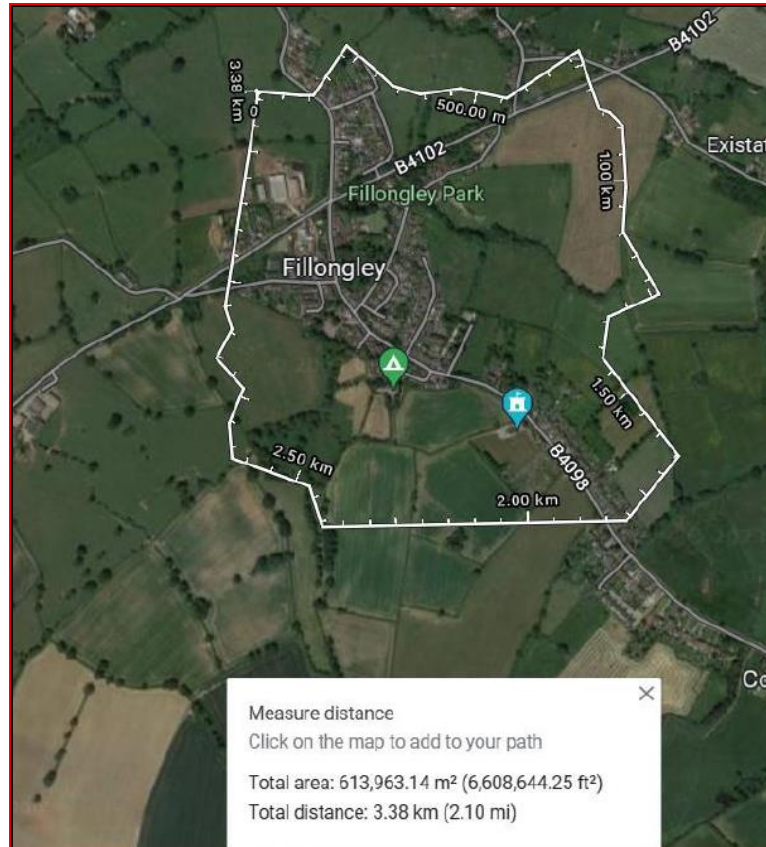
Green Belt – namely the safeguarding of the countryside from encroachment; and substantial weight is given to any Green Belt harm - these points are accepted by the main parties (draft Statement of Common Ground, paragraph 10.1 (4-6)).

- 4.7 The Parish Council agree that the appeal proposal would alter the appearance of a significant area of land incorporating open and undeveloped agricultural fields, constituting encroachment, in contradiction of a Green Belt purpose. The proposed solar farm at 61ha will become a direct neighbour to the village on otherwise open fields. It is many times larger than the footprint of the village itself. Fillongley itself is designated as a 'Category 4' village in the Local Plan, with Policy LP2 'Settlement Hierarchy' confirming that development within the Borough will be proportionately distributed and be of a scale that is in accordance with the settlement hierarchy. The appeal proposal is vastly out of scale with this settlement hierarchy. North Warwickshire is not a highly constrained borough. This is not a case where in order to provide solar farms it is inevitable (or at least likely) that they will have to be located within the Green Belt. There is plenty of non-Green Belt land available for this development (see **Figure 3** above).
- 4.8 Whilst comparative size is not in itself a reason why a development should be allowed or dismissed, the size of the village in relation to the appeal proposal does provide an indication of the incongruity and incompatibility of the scheme in this largely rural environment. The Parish Council's objection at the planning application stage included a visual superimposing the appeal site boundary on top of the centre of Fillongley village (**Figure 5**), demonstrating how the scale of the appeal proposal would dwarf dominate the village.
- 4.9 As set out in Planning Practice Guidance<sup>9</sup>, the courts have identified a number of matters which may need to be taken into account in assessing the impact of a proposal on the openness of the Green Belt. 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;
  - 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; and
  - the degree of activity likely to be generated, such as traffic generation.

---

<sup>9</sup> Paragraph: 001 Reference ID: 64-001-20190722 Revision date: 22 07 2019

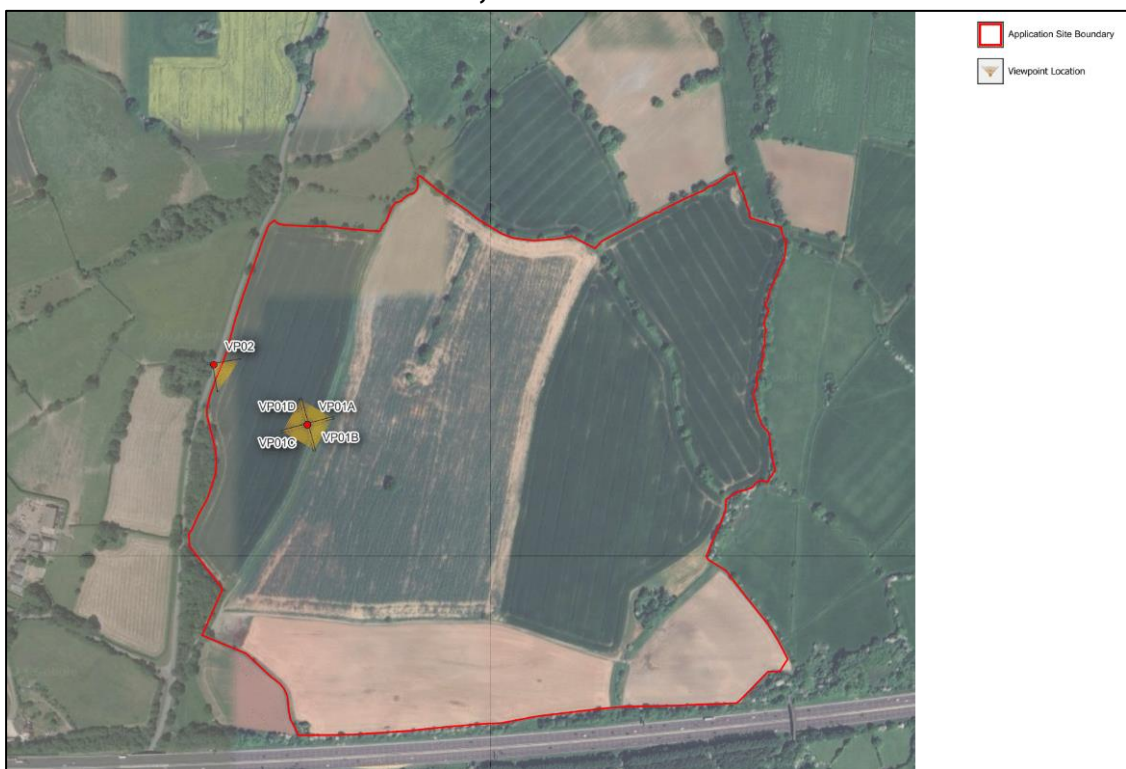
**Figure 5: Extract from 17th February 2024 letter from Fillongley Parish Council to North Warwickshire Borough Council showing the size of the appeal site in relation to Fillongley village**



- 4.10 The Parish Council consider the appeal proposal will have a substantial impact on Green Belt openness, both spatially and visually. Furthermore, this harm will endure for 40 years which is a considerable period.
- 4.11 The appeal site is visible from public vantage points from every aspect due to its topography and the proximity of well used public footpaths both around and through the site, public highways and overlooking houses and farms. Whilst steps are proposed to mitigate its visual impact, the scale of the proposal, the height and density of the panels, the boundary fencing and CCTV posts, the proposal's location in an area of otherwise open farmland and the site's topography, mean that softening not screening will take place. The development will be particularly noticeable in the winter months; it is noted that the Appellant's visualisations are limited to months when the trees are in leaf and do not include winter images. The visibility of the proposal, whilst not by itself a determinate factor of the acceptability or otherwise of a scheme, is a factor in determining the level of harm of a proposal, which in this case in respect of harm to the Green Belt, the Parish consider to be substantial.

- 4.12 The additional photomontages commissioned by the Parish are extremely helpful in demonstrating the impact of the appeal proposal, because they include key visualisations taken from the Public Right of Way within the site (M294), as well as a more representative image on M289a close to an existing viewpoint already submitted by the Appellant (Viewpoint 11 of the 'Nailcote Farm PV Project, Technical Visualisations' 14<sup>th</sup> December 2023) – see extract **Figure 6** below. The visualisations are also in the autumn, whereas the Appellant's photomontages are exclusively when all the trees and hedgerows are in leaf.

**Figure 6: Extract from Fillongley Solar Farm: Accurate Visual Representations' report prepared by Andy Maw Design and Troopers Hill Limited, November 2024.**



- 4.13 The Parish's photomontages clearly show that the proposed development will be highly prominent from both viewpoints and will visually dominate the experience of users of the public footpaths both at the outset of the development and continuing until the development is removed (noting that not all parts are being removed). The proposal represents a clear encroachment in the Green Belt, introducing extensive, prominent and visually obtrusive built forms onto land that is currently open and undeveloped.
- 4.14 Furthermore, as demonstrated in these photomontages, the proposed new hedging running alongside of the PROW in the site will restrict currently open views in every direction across the fields in the appeal site. Currently open rural vistas would be either enclosed by high fences and hedging or would be enclosed by fences with immediate

views of solar panels. As a result, the proposal would cause harm to the perception of openness from this public right of way.

- 4.15 This impact of the appeal proposal on the visual amenity of users of the public rights of way is explored in more detail in the 'Landscape and Visual Impact' commentary below.
- 4.16 The appeal site is not considered to be a suitable location for the development proposed. The triangle of land to the south of Fillongley village formed by the M6 to the south, Meriden Road to the west and Coventry Road to the east extends to over 200ha, sitting firmly within the Green Belt, but with the exception of the scheduled ancient monument to the south of the village, the farmstead of Park House Farm, some modest ribbon residential development and the small village hall off Coventry Road, the countryside does not feature development of any scale. Furthermore the general 'tightness' of the built form of the village means that the existing development, which is largely in its development boundary, does not compromise the openness of the Green Belt. The vast majority of this triangle of land which is open agricultural fields contains no development.
- 4.17 The introduction of a block of development of the size and scale proposed through this appeal would massively encroach into the open expanse of undulating farmland in Green Belt between the village of Fillongley and the M6. It would significantly change the character of this area. This is not a scheme that could be suitably accommodated within the Green Belt without reducing its openness or its effectiveness at safeguarding the countryside from encroachment.
- 4.18 As noted, the Borough is not highly constrained by Green Belt, there is plenty of non-Green Belt land and it is not an inevitable that in order to provide solar farms that they will have to be located within the Green Belt. The proposal represents significant harm to the Green Belt, significantly impacting on its openness, both spatially and visually, and that harm will endure for 40 years. Thereafter, elements of the appeal proposal will remain, e.g. the substations. This harm should be afforded substantial weight in the planning balance. This adds to the harm caused by reason of inappropriateness.
- 4.19 In accordance with paragraph 153 of NPPF substantial weight should be given to any harm to the Green Belt and '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. This is echoed in paragraph 156 of the NPPF which relates directly to renewable energy projects. The Appellant therefore needs to demonstrate very special circumstances (VSC) if the appeal proposal is to proceed. VSC and any other harm resulting from the appeal proposal must be clearly outweighed by other considerations for the appeal proposal to be allowed.
- 4.20 The Appellant's Statement of Case (para 5.58) sets out the Very Special Circumstances relating to the development, referring to the detail in Santec's Planning Statement (summarised at paragraph 6.23 of that document) and its addendum, as well as a subsequent Green Belt assessment by Pegasus.



- 4.21 Whilst the Parish Council agree that substantial weight should be given to the key importance of increasing production of energy from renewable sources and reducing carbon emissions, they consider only moderate weight should be given to the fact that any adverse impacts will be (mainly) reversible when the site is de-commissioned in 40 years. The Parish consider that other arguments put forward by the Appellant as VSC should not be regarded as such and rather should be considered to be material considerations. This would include the rapidity of deployment of the scheme, economic development, air purity, soil health and the combined use of land. At most, these other considerations have limited weight. Biodiversity improvements are considered to have moderate weight. The Appellant's suggestion that 'the rural location of the Site will not result in merging of settlements, unrestricted urban sprawl and preserve setting of historic towns' is a somewhat spurious argument with no weight attributed to it by the Parish Council; there is no assertion from the Borough or the Parish Council that the proposal conflicts with those aspects of Green Belt policy; it is not a VSC. Rather there is clear acknowledgment by all parties of the conflict of the appeal proposal with Green Belt policy in respect of encroachment.
- 4.22 In the planning balance, for the reasons given above, the Parish Council consider the harm to the Green Belt to be substantial because of the extent of the encroachment on Green Belt land and the significant impact the proposal will have on openness. Contrary to the Pegasus Green Belt Assessment which concludes that there would be some limited and localised harm to the Green Belt, the Parish Council consider this harm to be far greater, as evidenced in the accompanying photomontages. Furthermore, there are other harms set out in the remainder of this statement which also weigh against the appeal proposal, including landscape and visual harm, harm to heritage assets, and loss of Best and Most Versatile agricultural land.
- 4.23 In summary, the Green Belt harms by reason of inappropriateness and the other harms arising from the proposal, are not clearly outweighed by the social, economic or environmental benefits argued by the Appellant. The appeal proposal fails to meet the requirements of Policy LP3 of the Local Plan and national planning policy.
- 4.24 As agreed by the Borough Council and Appellant in the draft Statement of Common Ground (paragraph 8.1), the Draft Consultation on the Framework of July 2024 is a material consideration in the appeal, however, the Parish consider it has less weight than the adopted NPPF December 2023 and the subsequent Ministerial Statements. It is notable that the Appellant at paragraph 7.6 of their Statement of Case, acknowledge that decision makers may be affording limited weight to the draft NPPF as a material consideration because it is 'only' at consultation stage. Notwithstanding this, it is noted that the emerging NPPF, despite giving increasing weight to a proposal's contribution to renewable energy generation and a net zero future, does not specifically refer to solar farms as not being inappropriate development in the Green Belt which would surely have been open to the Government if that was what was intended. This suggests that the bar for approving such development in Green Belt continues to be an extremely high one.

## **Landscape and Visual Impact**

- 4.25 Paragraph 180 of the NPPF sets out how planning decisions should contribute to and enhance the natural and local environment by, amongst other things, 'protecting and enhancing valued landscapes', and 'recognising the intrinsic character and beauty of the countryside.' That a landscape is neither designated, nor 'valued' as in NPPF paragraph 180(a) does not equate to an absence of value. In the Parish Council's opinion, 'recognising' connotes a degree of protection regardless of whether a landscape is designated, or 'valued'. Likewise, NPPF paragraph 135 sets out how decisions should ensure, again amongst other things, that development will add to the overall quality of the area and be sympathetic to local character and history, including landscape setting. This is carried through in the Local Plan policies LP1, LP14, LP30 and LP35 and Neighbourhood Plan policies FNP01 and FNP02.
- 4.26 The North Warwickshire Landscape Character Assessment and Capacity Study Final Report August 2010<sup>10</sup> sets out the key characteristics of the Ancient Arden Landscape Character Area, with the appeal site included in Landscape Character Area (LCA) 7: Church End to Corley – Arden Hills and Valleys. The appeal site and the surrounding farmland share many of the key characteristics with this LCA, which include a broad elevated basin with numerous rolling hills and valleys; a mixed agricultural landscape with an ancient pattern of small fields, winding lanes and dispersed, isolated hamlets and farmsteads, and in places a more open network of large arable fields.
- 4.27 The appeal site presently reflects, and contributes to, these identified characteristics. It positively contributes to the rural character of the locality. It is agricultural, predominantly open and undulating. The Borough Council's report to Planning Board of 4th March 2024 agreed and stated that the appeal site's quality lies in its intrinsic largely unchanged rural character (paragraph 4.11). Landscape/ management strategies in this area include maintaining the predominant historic dispersed settlement pattern of hamlets and scattered farmsteads and conserving rural character by restricting changes in the use of rural land, and where appropriate restoring landscape character. The appeal proposal would appear out of place in this rural landscape.
- 4.28 It is accepted that there are not any specifically described, listed or mapped rural and natural features listed in the Neighbourhood Plan but it is clear that elements of the appeal site, including its open undeveloped fields, trees, hedgerows, footpaths constitute 'rural and natural features in the landscape'. Furthermore, Policy FNP02 also requires that the existing definitively mapped footpaths in the Parish should be protected and enhanced wherever possible. It is accepted that this part of the policy does include the caveat 'wherever possible', but the Inspector's attention is drawn to the fact that the points in the policy are not exclusive, rather they should be read as a whole. Whilst the appeal proposal meets some of the listed 'considerations' e.g. increasing biodiversity and interconnectivity of wildlife corridors through hedge planting, the Parish consider that the appeal proposal fails to enhance the affected Public Rights

---

<sup>10</sup> <https://www.northwarks.gov.uk/downloads/file/298/landscape-character-assessment-2010>

of Way by introducing unsympathetic built form in an otherwise rural environment.

- 4.29 The Appellant's Statement refers to Pegasus' Landscape and Visual Impact Assessment conclusions that "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". and overall that "Whilst there would be some limited adverse effects on landscape character and visual amenity, these would be localised" (paragraphs 5.80 and 5.81). The Parish Council do not consider these assertions to be backed up by evidence or observation through visiting the site and its environs.
- 4.30 There are relatively open views of the site along the public rights of way running through and around the site. The public rights of way here are well used, not just by locals but also walkers from the conurbation, and the landscape more broadly is actively experienced by many, including users of the M6 motorway, the flanking highways, and residents of Fillongley village. There are long, open views across the area containing the appeal site. The appeal site, as part of the landscape, has a clear value, both as a resource and visually. This was a comment made by many local residents in their representations, as well as by the Parish Council. Whilst such representations may not technically reference the same approach as the appeal's submitted landscape assessments, such observations are made on lived experience and local knowledge and are considered no less valid.
- 4.31 The appeal proposal, on a large block of currently undeveloped farmland sitting between the motorway and the village of Fillongley, will destroy the buffer this 'open' farmland creates, and due to the scale and nature of the development with extensive site coverage by multiple rows of homogenous of geometric solar panels with long lengths of fencing encircling them, this impact will be more marked. A 61ha development will inevitably bring change to the landscape, particularly through a proposal which introduces built form where there is currently none, and on an undulating site visible from multiple vantage points.
- 4.32 Views of and within the appeal site are achieved from multiple receptors as referenced above and the appeal site's undulating topography, rising by some 27m to the ridge, limits the opportunities for effective screening. Due to this topography, the height of the panels, the fencing and associated equipment would be visible from public vantage points and visually intrusive in this agricultural context, with the proposed development appearing as a utilitarian, discordant feature that results in significant harm to the visual amenity of the area. Whilst Planning Practice Guidance states that the visual impact of a well-planned and well-screened solar farm can be properly addressed within a landscape if planned sensitively, in this case due to the topography, the development, even with maturing mitigation planting, would not be well screened.
- 4.33 The Appellant's visualisations go some way to demonstrating the fundamental change that will be occasioned to the character and appearance of the host landscape.

However, these visuals do not provide the 'worst case scenario' showing the visual impact of the appeal proposal during the winter months. Similarly, there have been no visualisations prepared to demonstrate how the appeal proposal will impact on views for walkers along the Public Right of Way that runs through the appeal site (north/ south) (M294) or those on the Public Right of Way that exits onto Meriden Road directly opposite the appeal site (M289a). In the latter respect, it is noted that a visualisation has been provided by the Appellant (visual 11) on this path, but this is set some way back from the road behind a field hedge with trees partly framing the visual.

- 4.34 The Parish Council's commissioned additional visualisations, taken from within the appeal site and from the public footpath on the west side of Meriden Road, take account of the appearance of the appeal proposal in autumn to provide more representative images of the proposal. It will be noted that the visuals demonstrate that walkers will experience tall fencing and hedges on both sides of Public Right of Way in the site (M294) and will be enclosed by regimented rows of solar panels climbing up the flanking field slopes, even at year 15. The experience of recreational walkers will be fundamentally changed from one of walking through open fields with expansive views of farmland to one of walking between rows of fences with solar panels stretching away in views in most directions. This will result in a major adverse impact on the visual appearance of the rural and natural features in the landscape for users of this footpath; it will in fact largely visually obliterate the natural features. Due to the appeal site's topography, this will not reduce over the lifetime of the development. The appeal proposal clearly fails to 'enhance' this Public Right of Way.
- 4.35 Users of the Public Right of Way on the west side of Meriden Road (and drivers on Meriden Road, although experiencing more transient views) will be also presented with a vista of 2m high boundary fencing along the hedge line of the boundary of the appeal site with regimented rows of solar panels end onto it in east/southeast/northeast views as demonstrated in the Parish's photomontages.
- 4.36 The Parish do acknowledge that the visual impact of the development will be less where public vantage points are more distant to the site, however due to the undulating topography, the site will be visible from other Public Rights of Way, including from the long-distance route, the Coventry Way (M298), as well as by drivers on the flanking highways and the occupiers of houses overlooking the appeal site, e.g. at Far Parks. The visibility of this large block of uncharacteristic development in an otherwise open landscape means that footpath users, drivers and residents will still experience major adverse impacts as a result of the changes to the landscape of the countryside occasioned by the proposal.
- 4.37 The fact that the Appellant has not identified any significant detrimental effects from any of the viewpoints after Year 5 greatly underplays the impact of what will be a huge block of highly visible solar panels and associated infrastructure in a landscape characterised by agricultural fields.
- 4.38 The Parish Council consider the impact of the appeal proposal in terms of the change to the appearance of the site and the wider landscape will be highly noticeable and be

experienced across a sizeable area. Experientially the proposed panels, hedges and fences would enclose the openness of views which is intrinsic to the landscape's character.

- 4.39 This appeal proposal will have a significant impact on the landscape and visual amenity – it will seriously detract from the intrinsic character and beauty of the countryside and users experience of it, and this should be afforded great weight in the planning balance. The Inspector in the South Cambridgeshire appeal (**Appendix B**) considered a period of 25 years to be a relatively long period of time during which adverse impacts would be experienced and the appeal proposes a development which will be in situ for nearly twice as long. The substations are intended to be permanent features. The development would not be reversed entirely at the end of the operational life of the scheme. The landscape harm would endure for many years, with residual development remaining even after the panels and the fencing have been removed. As determined by the Secretary of State in recovered appeal in West Northants in 2024, little weight should be afforded to the potential reversibility of the proposal in landscape or visual terms (paragraph 27, **Appendix C**)<sup>11</sup>. The Secretary of State also found that the effect on a public right of way would have a significant impact for a number of years and that relying on landscape mitigation that would be less effective at certain times of the year, is a major consideration (paragraph 16, **Appendix C**).
- 4.40 The appeal proposal is therefore contrary to Policy LP14 of the Local Plan that requires that new development should look to conserve, enhance and where appropriate restore landscape character so as to reflect that described in the Warwickshire County Council's Landscape Character Assessment of 2010. Policy LP30 says that proposals should ensure they are well related to each other and harmonise with both the immediate and wider surroundings. The Fillongley Neighbourhood Plan policies, respectively FNP01 and FNP02, also require that development proposals where possible do not cause detrimental change to the rural landscape of the Parish and that there should be no adverse impacts where possible on the visual appearance and important scenic aspects of rural and natural features of the landscape, as well as Public Rights of Way being protected and enhanced wherever possible. None of these policy requirements are met in the appeal proposal. The Parish Council consider the weight that should be attached to the visual harm created by the proposal is substantial, particularly from the identified Public Rights of Way and this harm will endure throughout the lifetime of the development. The landscape harm at year 0 is significant but this will reduce to moderate harm as the proposed landscaping matures.

---

<sup>11</sup> Decision was made by Simon Hoare MP, Minister of State for Local Government on behalf of the Secretary of State to S78 appeal by Annesco Ltd, on land at Milton Road, Gayton, Northampton NN7 3HE, ref. WNS/2021/1858/EIA

## **Heritage Impact**

- 4.41 The village centre comprises a Conservation Area including many listed buildings and a Scheduled Ancient Monument close to the appeal site – the Parish Council consider the setting of the village centre to include the farmland to the south comprising the appeal site. The Appellant incorrectly states that the Conservation Area boundary is some 2kms from the appeal site, whereas in fact it is 300m from the northern boundary of the appeal site, where it includes the scheduled monument of Castle Yard. It is clear in views of the village, including as demonstrated in the Appellant’s visualisation from viewpoint 11 submitted as part of the appeal, that the village’s Grade II\* listed St Mary & All Saints Church is prominent in views of the appeal proposal – this particular visual shows the proposed solar farm viewed from the Public Right of Way (path code: 175/M289a/1) to the west of Meriden Road (**Figure 7**).

**Figure 7: Extract from NAILCOTE FARM PV PROJECT, TECHNICAL VISUALISATIONS Reference No: N1329-ONE-ZZ-XX-RP-L-0001\_P03, 14 December 2023 - VIEW 11 - YEAR 0 PHOTOMONTAGE (Grade II\* Listed Church indicated by arrow)**



- 4.42 The accompanying Heritage Report finds that the impact from the solar farm on the historic environment will be universally adverse, in degrees ranging from slight to large adverse. Development will result in harm to the settings of a number of highly designated heritage assets, including the scheduled monument of Castle Yard and grade II\* listed Church of St Mary and All Saints, the latter as referenced in the Borough Council’s reason for refusal.
- 4.43 The accompanying Heritage Report by Keystone Heritage has examined the significance of relevant heritage assets and has evaluated the likely impact on that significance resulting from development. The Report concludes the following –

- Contrary to the conclusion of the Heritage and Archaeology Assessment submitted in support of the development, the impact of the solar farm on the historic environment has been found to be universally adverse in degrees ranging from slight to large adverse;
- It is considered misleading to describe the proposal as temporary in regard to the historic built environment, as unlike solar energy, the historic environment is a finite resource and in regard to numerous assets the effects are likely to be permanent - including the total loss of archaeological remains and the practically irreversible creation of a new layer of features (including fences and hedgerows) overlying the historic field pattern;
- There will be an adverse indirect impact on a number of designated assets as a result of the proposed development, including the scheduled monument of Castle Yard and grade II\* listed Church of St Mary and All Saints.

4.44 In accordance with paragraph 205 of the NPPF:

*'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.'*

- 4.45 The adverse effect on designated assets is assessed as being less than substantial; this harm should be considered under paragraph 208 of the NPPF and the harm weighed against the public benefits of the scheme.
- 4.46 The Heritage Report also finds that there will be both direct and indirect harm to a number of non-designated heritage assets as result of the proposed development, which is also assessed as being less than substantial (although potentially substantial in the case of unknown archaeology), and this harm should be considered under paragraph 209 of the NPPF using a balanced judgement.
- 4.47 Whilst the level of harm to each individual asset has been assessed as less than substantial and when viewed in isolation, this impact may appear acceptable, when considered collectively this degree of harm to numerous heritage assets (both designated and non-designated) becomes much less acceptable.
- 4.48 While the public benefits of moving towards a lower carbon-polluting future are probably undisputed, no evidence has been put forward as part of the proposed development that the same public benefits cannot be achieved in a location of lower historic sensitivity that does not incur the same degree of harm to the historic environment. As such, the proposal is not deemed to comply with paragraphs 208 or 209 of the NPPF.
- 4.49 Scheduled monuments are classed as assets of the highest possible significance. Any harm to scheduled monuments or other designated assets (including from development in their setting) requires clear and convincing justification under paragraph 206 of the

NPPF; justification for this harm has not been provided.

- 4.50 For these reasons, the proposal is contrary to policy LP15 of the North Warwickshire Local Plan, which states that 'The quality, character, diversity and local distinctiveness of the historic environment will be conserved or enhanced', and Policy FNP06 of the Fillongley Neighbourhood Plan, which requires the protection and enhancement of both the recorded assets of the parish, and other locally identified heritage features. In addition, the appeal proposal is contrary to paragraphs 206, 208 and 209 of the NPPF. The Appellant has submitted no evidence that the same public benefits cannot be achieved in a location of lower historic sensitivity that does not incur the same degree of harm to the historic environment.
- 4.51 The Parish Council consider the appeal proposal represents less than substantial harm in terms of its heritage impact, but within that broad category, the overall harm to the built heritage is considered to be significant.

#### **Use of Best and Most Versatile Agricultural Land**

- 4.52 It is agreed by all parties that the appeal site constitutes 'Best and Most Versatile' (BMV) agricultural land; BMV comprises 95% of the appeal site (draft Statement of Common Ground, paragraph 10.1(16)). This is at variance with the sites of other solar planning permissions granted by the Borough Council, most of which have contained no BMV, or at most, a minority of the site has been BMV (**Figure 8**).
- 4.53 In addition, North Warwickshire Council approved a Variation of Condition (Granted 24th November 2023) at Grendon House Farm under PAP/2023/0419. The original solar farm was permitted in 2014. There is no information on agricultural land quality. The site is not in the Green Belt.



**Figure 8: Summary of solar farm schemes in North Warwickshire since 2013**

App Ref:	Site	Status	Development	Site Area	BMV coverage	Green Belt?
PAP/2015/0459	Land South of Pogmore Spinney, Merevale	Granted: February 2016	Solar Farm	5.2ha	Grade 1: 0 Grade 2: 0ha Grade 3a: 0Ha	No
PAP/2021/0651	Land North of Park Lane Farm, Astley	Granted: July 2022	Solar farm and battery storage	39.6Ha	Grade 1: 0 Grade 2: 2ha Grade 3a: 9Ha	Yes
PAP/2021/0605	Land at Smorrall Lane, Astley	Granted: July 2022	Agricultural building, solar farm, and battery storage	21.5Ha	Grade 1: 0 Grade 2: 0ha Grade 3a: 9Ha	Yes
PAP/2022/0544	Land 550 Metres East of Vauls Farm, Astley	Granted: 19 <sup>th</sup> July 2023	Solar Farm	28ha	Grade 1: 0 Grade 2: 0.91ha Grade 3a: 3.31Ha	Yes
PAP/2022/0374	Land North of Stone Cottage, Baddesley Ensor	Granted: 8 <sup>th</sup> September 2023	Solar Farm	10.8Ha	Grade 1: 0 Grade 2: 0ha Grade 3a: 0Ha	No
			Site Total	105.1Ha	<b>24.22Ha, comprising</b>  Grade 1: 0Ha Grade 2: 2.91ha Grade 3a: 21.31Ha	-
			% BMV Total:	23.04%		

**(NB. based on Table 5.3: Summary of solar farm schemes in North Warwickshire since 2013 from 'Agricultural Land Impact Statement' prepared by Santec, August 2023, for PAP/2023/0071)**

4.54 From **Figure 8** it will be noted that out of 105.1Ha of the listed approved solar farm schemes in North Warwickshire Borough, only 24.22Ha is BMV, i.e. 23%. This is at variance with the Appellant's statement (Santec Planning Support Statement, Addendum, November 2023, pg. 3) which discusses agricultural land quality in North Warwickshire and states:

*"Most notably it has, comparatively, significant provision of ALC Grade 1 and Grade 2 land. The ability to find alternative sites of lesser soil quality to accommodate commercial scale solar development is therefore highly constrained."*

4.55 The Parish Council are of the opinion that this is clearly not the case, as demonstrated in the agricultural land classification of the other sites granted planning permission for

solar development in the Borough.

- 4.56 It is also notable that under the new Government, in late July 2024, the Parliamentary Under-Secretary of State for Energy when asked on 2 occasions specifically about whether the Written Statement on Solar and protecting our Food Security and Best and Most Versatile (BMV) Land, published on 15 May 2024, HCWS466, would be retained, he confirmed that the statement in May did not change the policy on this matter that is set out in the relevant parts of the National Policy Statement (NPS) for Renewable Energy and the National Planning Policy Framework (NPPF).
- 4.57 This earlier Ministerial Statement ‘Solar Energy and Food Security: Land Use’<sup>12</sup> confirmed that, where possible, previously developed land, brownfield land, contaminated land and industrial land should be used and only where the use agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land, avoiding the use of ‘Best and Most Versatile’ agricultural land where possible. For solar proposals, this means that the highest quality agricultural land is least appropriate and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary.
- 4.58 NPPF footnote 62 of the NPPF also sets out 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, and the availability of agricultural land used for food production should be considered, alongside the other policies in the NPPF, when deciding what sites are most appropriate for development.
- 4.59 The Officer report to the Borough Council’s Planning Board on 4th March 2024 rightly confirmed at paragraph 4.62 that substantial weight should be given to the use of BMV in the proposal.
- 4.60 However, as part of the appeal proposal, the Appellant has not provided details of the extent of the search area, details of any other sites reviewed, or why these have been discounted. Therefore, it is not possible to understand on what basis other less constrained sites, e.g. those on lower quality agricultural, non-Green Belt sites, brownfield sites, or sites not affecting heritage assets etc have been found to be unacceptable. It would have been impossible for the Borough Council to interrogate why alternative sites became unavailable, as well as to the extent of the area of search undertaken, in relation to the proposed point of connection.
- 4.61 Whilst it is accepted that there is no requirement to undertake a sequential approach to site selection (and that is not mandated in national planning policies or guidance), and national planning policy does not prevent the use of BMV, it does require justification to be provided. The Parish Council consider the Appellant’s evidence for the use of this site, with its high percentage of BMV, its Green Belt designation and its impact on

---

<sup>12</sup> <https://questions-statements.parliament.uk/written-statements/detail/2024-05-15/hcws466#:~:text=Protecting%20the%20Best%20Agricultural%20Land&text=Where%20the%20proposed%20use%20of,Versatile%E2%80%9D%20agricultural%20land%20where%20possible.>

heritage assets, to be insubstantial. The search area is unclear, and there is no clear justification why an alternative site outside of non-BMV agricultural land, or a smaller site elsewhere, would not be acceptable. The fact that the appeal site is in single ownership will no doubt be advantageous to the Appellant, but it is not a material planning consideration of any weight and should not discount the consideration of alternative, less harmful sites, which could still generate a viable amount of output, or sites in multiple ownership.

- 4.62 Whilst the Appellant's Statement of Case (Appendix T) quotes EN-3 of November 2023 there is no detailed objective assessment of the area of search in accordance with that, e.g. 2.10.31 of that referenced document states 'Applicants should explain their choice of site, noting the preference for development to be on suitable brownfield, industrial and low and medium grade agricultural land'.
- 4.63 The Parish Council consider the search area need not be limited to North Warwickshire – noting the appeal site lies close to the Borough's southern boundary, and even if there were plentiful BMV in North Warwickshire, this is not the case countrywide, meaning that retaining such high-quality agricultural land in arable use becomes all the more important. The jurisdictional boundaries of a local authority are an artificial construct in terms of the availability of land and the agricultural quality of soil: the physical limit of a local planning authority's area is not an absolute barrier to development – the Appellant could have investigated surrounding authority areas with lower quality agricultural land and outside the Green Belt.
- 4.64 It is noted in dismissing an appeal in Birchall Green (APP/J1860/W23/3325112 – **Appendix D**), in the absence of a site selection paper identifying suitable (or otherwise) sites, the Inspector held that there was "...an inadequate evidential basis to robustly justify the particular location of the scheme before me, or thereby to give particular weight to meeting national needs or realising economic benefits here specifically." (paragraph 78) The Parish Council consider the appeal proposal should also be refused as there is no evidential basis for selecting the appeal site.
- 4.65 In addition, a High Court challenge of an appeal decision for a solar farm development is of relevance. In that case, on land north of Lullington, Swadlincote<sup>13</sup>, 49% / 34Ha of BMV land was involved (as opposed to the larger amount in this appeal of 95% / 58Ha). In dismissing the appeal, the Inspector considered the proposal '...would harm the BMV resource...and would make an unacceptable indent on the contribution that a large proportion of the site makes towards food security for a significant period of time.' (paragraph 48).
- 4.66 The High Court challenge was on 2 grounds, however the challenge failed <sup>14</sup> (**Appendix E**). The Claimant's grounds of challenge were (a) that it was not practicable or reasonable to require the Claimant to fully investigate every possible location for the proposed development within the study area or to demonstrate that there are no

---

<sup>13</sup> APP/F1040/W/22/3313316 dated 21<sup>st</sup> July 2023

<sup>14</sup> [2024] EWHC 295 (Admin) dated 16<sup>th</sup> February 2024

possible alternatives to the Site; and (b) that the assessment carried out by the Claimant was deficient because of a lack of soil investigation outside of the Site. In dismissing the challenge, His Honour Judge Jarman KC found no inconsistency in the Inspector's conclusions in respect of those matters when reading the decision letter 'fairly and as a whole'. He held that (paragraph 40):

*'The inspector took the view that the claimant's assessment was not sufficiently robust because it failed to carry out any investigation of soil quality outside the appeal site. It assumed that all grade 3 land in the search area was likely to have a similar BMV as the appeal site (namely nearly half), whereas the authoritative ALC shows that there is likely to be a range of between 20-60% of BMV, suggesting the possibility of sites with far less BMV than the appeal site. In my judgment ground 1 is not made out.'*

- 4.67 The judgment concludes (paragraph 45): 'The inspector had to make a planning judgment as to the competing benefits and harms of permitting the proposed development on the one hand and of refusing it on the other. In so doing, he came to a different conclusion to the authority's planning officer, but it was one which he was entitled to come to and one with which this court should not interfere.'
- 4.68 The appeal proposal would limit the agricultural uses to which the land could be put, and the land would certainly not be able to be put to its optimum use for 40 years. Sheep grazing may be achievable, and the land could realistically only be put to that purpose, however sheep can be grazed on land of more inferior quality – it would be a waste of BMV for this land to be used for sheep grazing. The proposed subdivision of the site by hedgerows would likely render any future cropping impractical. In addition, in direct numerical terms, the quantity of available BMV land on site will be reduced (whether by posts supporting solar panels, fencing, CCTV columns and hedgerow planting). It is a fact that some BMV land, albeit small, would be permanently lost. There are no guarantees that the appeal site will continue in agricultural use if the appeal proposal is approved. The appeal proposal will harm the BMV resource and its contribution towards food security for a generation.
- 4.69 In summary, it appears that the appeal proposal has been largely driven by a willing landowner, a large site in single ownership, and the ease of connection to the grid. These are perfectly understandable commercial objectives – but they do not satisfy the requirements of planning policy and practice for the reasons given. The lack of evidence for the selection of the appeal site is material to the consideration of the appeal proposal, and the Parish Council consider the use of a site comprising 95% BMV agricultural land for a solar scheme that will limit the agricultural use of this high quality land to sheep grazing for 40 years carries adverse weight against the scheme, a harm considered moderate in the planning balance.

### **Flooding**

- 4.70 The Parish Council is aware that the Fillongley Flood Group will be submitting a Statement to the Inspectorate. It is clear that planning policy requires development not to increase flooding. Flooding in Fillongley is a major concern for residents and, it is an ongoing issue for the village.
- 4.71 It is noted that the Appellant is requesting the Inspector consider an amended plan (Rev. H) removing the 3no. basins from the proposal. Whilst these basins may be seen as 'betterment' in the appeal scheme, their provision, subject to satisfactory design, will slow down water flow and may assist in ameliorating the current flooding situation in the village itself. The refused plan also contained additional landscaping on the appeal site, which will assist in the screening of the proposed development. The Inspector is therefore respectfully requested to determine the plan refused by the Borough Council.
- 4.72 However, on the basis that the Lead Local Flood Authority did not object to the planning application prior to the introduction of the basins into the design, unfortunately it is conceded that this matter carries neutral weight in the determination of the appeal.

### **Biodiversity**

- 4.73 It is noted that the appeal proposal exceeds the now mandatory requirements for Biodiversity Net Gain, however, due to the age of the original planning application, whilst it is encouraging to see this improvement in the scheme, it is not a requirement of the development. The Parish Council consider this therefore has moderate weight in the planning balance.

### **Economic Implications**

- 4.74 The appeal submission, and before that the planning application, contained somewhat contradictory information on the amount of electricity generated/ the number of homes served by the proposal. The Parish Council were advised by the Appellant's representatives at Parish Council meetings that the village will not directly benefit from this electricity. There is reference to the Borough Council benefitting from business rates as a result of the development. However, there are not considered to be any other specific economic benefits arising from the appeal proposal, outside the potential for some economic benefit during the construction period, albeit this would reduce significantly once the development is operational and the proposal's contribution to renewable energy generation. In the overall planning balance, the Parish considers the economic benefits to have limited weight.

## **5. Planning Balance**

- 5.1 It is accepted and agreed by all parties to the appeal that the proposal is inappropriate development in the Green Belt, and that substantial weight is given to any Green Belt harm. It is also noted that North Warwickshire is not a highly constrained borough - this is not a case where in order to provide solar farms it is inevitable (or at least likely) that they will have to be located within the Green Belt. The Parish Council consider that the appeal proposal will have a substantial impact on Green Belt openness, both spatially and visually. Furthermore, this harm will endure for 40 years, a considerable period. In line with the Framework, substantial weight to the harm the proposal would cause to the Green Belt should be given. The appeal proposal conflicts with Policy LP3 of the Local Plan.
- 5.2 The proposal would cause substantial visual harm from Public Rights of Way, as demonstrated by the Parish's photomontages accompanying this statement; this harm will endure throughout the lifetime of the development. The wider harm to the character and appearance of the landscape is considered to be significant in year 0, but this will reduce to moderate harm as the proposed landscaping matures; however it will not be possible to screen the development, only soften its impact. The appeal proposal is therefore contrary to Policies LP1, LP14, LP30 and LP35 of the North Warwickshire Local Plan 2021, and Policies FNP01 and FNP02 of the Fillongley Neighbourhood Plan 2019. In line with the Framework, planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside (paragraph 180b) and development should add to the overall quality of the area and be sympathetic to local character and history, including landscape setting (paragraph 135). The appeal proposal fails on both accounts.
- 5.3 In addition, the appeal proposal will result in harm to the settings of a number of highly designated heritage assets, including the scheduled monument of Castle Yard and grade II\* listed Church of St Mary and All Saints. Whilst this harm is less than substantial in terms of its heritage impact, within that broad category, the overall harm to the built heritage is considered to be significant. The appeal proposal is therefore contrary to Policy LP15 of the Local Plan and Policy FNP06 of the Neighbourhood Plan.
- 5.4 Furthermore, the appeal proposal comprises 95% Best and Most Versatile Agricultural Land. National policy (footnote 62 to the NPPF) and most recent Ministerial Statements in May and July 2024 confirm that for solar proposals, the highest quality agricultural land is least appropriate and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary. It is considered that the Appellant has not provided sufficient evidence for the selection of BMV for the appeal proposal, and this lack of evidence carries adverse weight against the scheme, a harm considered moderate in the planning balance.
- 5.5 On the other side of the planning balance, the Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable low carbon future as well as improving energy security. The

appeal scheme would make a significant contribution to this, and this should be given substantial weight in the planning balance. Moderate weight should also be given to the fact that any adverse impacts will be (mainly) reversible when the site is de-commissioned in 40 years. These are considered to constitute Very Special Circumstances in favour of the appeal proposal. Whilst not considered VSC, other matters such as the economic benefits (limited weight) and biodiversity gains (moderate weight) are considered to be material.

- 5.6 However, the Parish Council consider that against the identified harms, while the other considerations advanced include a wide range of benefits, some of which have substantial weight, others having moderate or limited weight, they are not sufficient to clearly outweigh the harm to the Green Belt and other harms identified. Consequently the very special circumstances necessary to justify the development do not exist.
- 5.7 Overall, this Statement confirms that the appeal proposal is not a sustainable development, in conflict with Policy LP1 of the adopted Local Plan and the National Planning Policy Framework. The appeal proposal would not accord with the development plan, when considered as a whole, and there are no material considerations, including the provisions of the NPPF, that indicate the proposal should be determined other than in accordance with the development plan.
- 5.8 The Inspector is therefore respectfully requested to dismiss the appeal.