

Heritage Statement of Common Ground.

Between:

Pegasus Group on behalf of Enviromena Project Management UK Ltd. (the 'Appellant')

&



Keystone Heritage on behalf of Fillongley Parish Council (the 'Rule 6 Party')

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

Date: 07/02/2025

PINS Ref: APP/R3705/W/24/3349391

LPA Ref PAP/2023/0071

Signed: 	Signed: 
Name: Catherine Tuck	Name: Hannah Armstrong
On behalf of: Keystone Heritage (acting on behalf of the Rule 6 Party)	On behalf of: Pegasus Group (acting on behalf of the Appellant)
Date: 07.02.2025	Date: 07.02.2025

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1. Introduction.

- 1.1. This Heritage Statement of Common Ground (SoCG) is agreed between Hannah Armstrong of Pegasus Group (for the 'Appellant') and Catherine Tuck of Keystone Heritage (for the Fillongley Parish Council; henceforth the 'Rule 6 Party') following the refusal by North Warwickshire Borough Council (henceforth referred to as 'NWBC') to grant Planning Permission for the installation of a solar farm at Land 800m South of Park House Farm, Meriden Road, Fillongley (the 'Appeal Site').
- 1.2. Planning Application Ref. PAP/2023/0071 was submitted to NWBC on 22nd February 2023 and validated on 24th February 2023. The application sought Full Planning Permission for the *"Construction of a temporary Solar Farm, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure."*
- 1.3. The scheme was presented to the NWBC Planning Board on three occasions: the first occasion recommended that a site visit was undertaken by Members, with Officers recommending approval at the subsequent 2^{no.} occasions.
- 1.4. In regard to the Heritage matters, the NWBC Case Officer sought internal advice from the NWBC Heritage and Conservation Officer and the Warwickshire County Archaeologist. The NWBC Heritage and Conservation Officer identified that less than substantial harm would arise to a number of designated heritage assets, as a result of a change in setting. The March 2024 report to the NWBC Planning Board acknowledged that the harm identified to the relevant designated heritage assets carried weight in the in final planning balance as *'it has to be weighed against the public benefits of the proposals'*. In undertaking said exercise, it was the opinion of NWBC (as set out within the March 2024 report to the NWBC Planning Board) that the harm identified to the relevant designated heritage assets was outweighed by the public benefits of the scheme. As set out further in Section 3, the County Archaeologist concluded that any potential impacts on the below ground archaeology could be addressed via a suitably worded condition, as confirmed within the March 2024 report to the NWBC Planning Board.
- 1.5. Historic England was not consulted during the determination of the scheme.
- 1.6. The application was refused on 10th July 2024. The Decision Note sets out one reason for refusal 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 FNPO1 and FNPO2 of the Fillongley Neighbourhood Plan 2019. The Local and Neighbourhood Plan policies require new development to conserve and enhance the landscape; to integrate appropriately into the natural environment, harmonise with its immediate and wider settings, as well as to protect the rural landscape of the Parish, the scenic aspects of the village and the setting of the Church. The cumulative harms caused are considered to be substantial because of the development's proposed size, its siting on higher land, there being no surrounding higher land and its public visibility over a wide area. It is not considered that this substantial harm is clearly outweighed by any benefits that the proposal might give rise to."

17. This Heritage SoCG is structured as follows:
- **Section 2** – Matters of Agreement.
 - **Section 3** – Matters Not in Agreement.
 - **Section 4** – Summary of the Position of the Parties.
18. Matters pertaining to the 'planning balance' are set out within the overarching Statement of Common Ground ('SoCG').

2. Matters of Agreement.

Designated Heritage Assets

2.1. It is agreed between the Appellant and Rule 6 Party that:

- The Borough Council's decision did not include a heritage reason for refusal and impacts on the overall heritage significance of designated heritage assets, via a change in setting, did not form a reason for refusal. This is confirmed by NWBC at Section 10.1.10 of the overarching SoCG between the Appellant and NWBC signed 19th November 2024.
- The reference to the Grade II* Listed Church of St Mary and All Saints within the reason for refusal was made by NWBC in regard to their position in relation to Policies LP1, LP14 and LP30 of the North Warwickshire Local Plan 2021 and Policies FNPO1 and FNPO2 of the Fillongley Neighbourhood Plan 2019, as applicable at the date of decision. The reason for refusal does not make reference to Policy LP15 'Historic Environment' of the North Warwickshire Local Plan 2021 nor Policy FNPO6 'Heritage' of the Fillongley Neighbourhood Plan 2019.
- Harm arising to the overall heritage significance of the Scheduled Medieval Ringwork Castle 80m South West of Castle Farm (henceforth referred to as 'Scheduled Ringwork Castle'; NHLE Ref. 1013152) via a change in setting is classified as less than substantial in the terms of the NPPF. As set out in Section 3, there is disagreement between the parties as to where on the spectrum of less than substantial harm this harm lies.
- Harm arising to the overall heritage significance of the Fillongley Conservation Area via a change in setting is classified as less than substantial in the terms of the NPPF. As set out in Section 3, there is disagreement between the parties as to where on the spectrum of less than substantial harm this harm lies.
- Harm to the overall heritage significance of the Grade II Listed Park House (NHLE Ref. 1186219) via change in setting is classified as less than substantial harm in NPPF terms. As set out in Section 3, there is disagreement between the parties as to where on the spectrum of less than substantial harm this harm lies.
- Harm to the overall heritage significance of the Grade II Listed Fillongley Mount (NHLE Ref. 1299309) will be at the lower end of the spectrum of less than substantial harm, via a change in setting. For clarity, it should be noted that this is the position of the Appellant that the identification of such is taking a precautionary approach.
- There will be no harm to the overall heritage significance of Grade II Listed gate piers at Manor House Farm (NHLE Refs. 1186205 and 1034836).

Archaeology

2.2. It is agreed between the Appellant and Rule 6 Party that:

- Matters of below-ground archaeology did not form a reason for refusal.
- The LPA County Archaeologist did not object to the Scheme.
- The LPA County Archaeologist considered matters of below-ground archaeology could be appropriately addressed via condition which would secure a programme of staged archaeological works forming a Mitigation Strategy.

Consideration of Designated Heritage Assets Within the Decision-Making Process

2.3. It is agreed between the Appellant and Rule 6 Party that:

- Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states: *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*
- Section 72(1) of the 1990 Act states that: *'In the exercise, with respect to any buildings or other land in a conservation area, of any [functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'* As set out in Section 3, there is disagreement between the parties as to whether Section 72(1) of the 1990 Act is applicable in this case.
- The Ancient Monuments and Archaeological Areas Act 1979 relates to the protection of Scheduled Monuments. As set out in Section 3, there is disagreement between the parties as to whether The Ancient Monuments and Archaeological Areas Act 1979 is applicable in this case.
- Less than substantial harm to the heritage significance of designated assets should be weighed against the public benefits of the proposals, in accordance with Paragraph 215 of the December 2024 NPPF (previously Paragraph 208), Policy LP15 of the North Warwickshire Local Plan 2021 and Policy FNPO6 of the Fillongley Neighbourhood Plan .
- It is the role of the Decision-Maker to weigh any identified harm to designated heritage assets against the public benefits of the scheme.

¹ UK Public General Acts, Planning (Listed Buildings and Conservation Areas) Act 1990, Section 66(1).

Consideration of Non-Designated Heritage Assets in the Decision-Making Process

2.4. It is agreed between the Appellant and Rule 6 Party that:

- Footnote 75 of the NPPF and PPG (Paragraph: 041 Reference ID: 18a-041-20190723) state that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to Scheduled Monuments should be considered subject to the same policies as those for designated heritage assets.
- There is no basis in policy for describing harm to non-designated heritage assets which are not subject to Footnote 75 as 'substantial' or 'less than substantial', rather the NPPF requires that the scale of any harm or loss is articulated whilst having regard to the scale of any harm and the significance of the identified non-designated heritage asset.
- Should harm be identified to a non-designated heritage asset, said harm should be considered by the Decision-Maker in the context of Paragraph 216 December 2024 NPPF (formally Paragraph 209), Policy LP15 of the North Warwickshire Local Plan 2021 and Policy FNPO6 of the Fillongley Neighbourhood Plan.
- Policy FNPO6 of the Fillongley Neighbourhood Plan sets out 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 (Appendix EBO6/O4 Fillongley Parish Historic EnvirRecord Monuments). 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"*.
- Appendix EBO6/O4 reproduces data from the Warwickshire Historic Environment Record (HER) for the area shown in map, as available at the date to which said data was acquired. Historic England guidance (HEAN:7) states that: *"Local heritage – whether buildings, monuments, sites, places, areas, historic parks and gardens or other designed landscapes – plays an essential role in building and reinforcing a sense of local character and distinctiveness in the historic environment"*. However, the guidance (HEAN:7) also states that *"The inclusion of a site or structure in an HER does not itself identify it as a non-designated heritage asset: inclusion merely records valuable information about it, and does not reflect the planning judgement needed to determine whether it does in fact have a degree of heritage significance which merits consideration in planning decisions."*² The latter is a material consideration when utilising HER data in the Decision-Making process

² Historic England, 2021, Local Heritage Listing: Identifying and Conserving Local Heritage. Historic England Advice Note 7 (2nd ed). Swindon. Historic England

3. Matters Not in Agreement.

3.1. The Appellant and Rule 6 Party are not in agreement on the following matters:

- Where on the spectrum of less than substantial harm the harm to the overall heritage significance of the Scheduled Ringwork Castle via a change in setting lies. The Appellant considers the harm is at the low end of less than substantial, with this taking a precautionary approach. The Rule 6 Party considers that the harm is at the 'very upper end' of less than substantial.
- Where on the spectrum of less than substantial harm the harm to the overall heritage significance of the Fillongley Conservation Area, via a change in setting lies. The Appellant considers the harm is at the low end of less than substantial, with this taking a precautionary approach. The Rule 6 Party considers that the harm is at the 'very upper end' of less than substantial.
- Whether harm arises to the overall heritage significance of the Grade II* Listed Church of St Mary and All Saints, via a change in setting. The Appellant considers no harm arises. The Rule 6 Party considers that harm at a lower level of less than substantial harm arises as referenced in the Reason for Refusal in regard to Local Plan and Neighbourhood Plan policies.
- Whether harm arises to the overall heritage significance of the Grade II Listed White House Farm, via a change in setting. The Appellant considers no harm arises. The Rule 6 Party considers that harm at the lower end of less than substantial harm arises.
- Whether harm arises to the overall heritage significance of the Grade II Listed Barn 20 Metres North of Park Farmhouse or Grade II Listed Cartshed and Granary 5 Metres North East of Park House via a change in setting. The Appellant considers no harm arises. The Rule 6 Party considers that harm at a lower level of less than substantial harm arises.
- Whether the line of an historic footpath (as shown on 19th century sources) that is reflected in the alignment of the current Public Right Way in the western part of the Appeal Site should be classified as a non-designated heritage asset in the terms of the NPPF. The Rule 6 Party considers that this is the case, the Appellant does not.
- Whether an historic section of Meriden Road should be classified as a non-designated heritage asset in the terms of the NPPF. The Rule 6 Party considers that this is the case, the Appellant does not.
- Whether relict features of the medieval and post-medieval landscape (as identified in the Keystone Heritage report) should be regarded as non-designated heritage assets in the terms of NPPF. The Rule 6 Party considers that this is the case, the Appellant does not.
- Whether The Ancient Monuments and Archaeological Areas Act, 1979 is applicable to this case. The Appellant does not consider that The Ancient Monuments and Archaeological Areas Act 1979 is applicable; the Rule 6 Party consider that The Ancient Monuments and Archaeological Areas Act 1979 is applicable.
- Whether Section 72(1) of the 1990 Act is applicable to this case. The Appellant does not consider that Section 72(1) of the 1990 Act is applicable; the Rule 6 Party considers that Section 72(1) of the 1990 Act is applicable.

- Whether NWBC (as the decision-maker) should have consulted Historic England during the determination of the application in accordance with Regulation 5A(3) of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (as amended). The Appellant does not consider that NWBC were required to consult as NWBC, as the decision-maker, did not identify harm to the Church of the St Mary and All Saints. The Rule 6 Party considers that Historic England should have been notified under Regulation 5A(3) of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (as amended) as there was potential for the proposals to affect the setting of a Grade II* Listed building.
- Whether Historic England should have been consulted under Article 18 of and Schedule 4 to the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Appellant does not consider that consultation was required; the Rule 6 Party considers that consultation was required.

4. Summary of the Position of the Parties.

4.1. This section a summary of the case of relevant parties in regard to potential impacts on the historic environment identified for consideration as part of this Appeal.

Relevant Aspect of the Historic Environment	My Position.	Position of the Rule 6 Party
Scheduled Ringwork Castle	Less than substantial harm, at the low end of the spectrum, to the overall heritage significance of the asset via a change in 'setting', taking a precautionary approach.	<i>'Moderate/ large adverse'</i> effect in terms of the matrix format utilised within the Keystone Heritage report. Less than substantial harm, at the very upper end of the spectrum, to the overall heritage significance of the asset via a change in setting.
Fillongley Conservation Area	Less than substantial harm, at the low end of the spectrum, to the overall heritage significance of the asset via a change in 'setting', taking a precautionary approach.	<i>'Moderate/ large adverse'</i> effect in terms of the matrix format utilised within the Keystone Heritage report. Less than substantial harm, at the very upper end of the spectrum, to the overall heritage significance of the asset via a change in setting.
Grade II* Listed Church of St Mary and All Saints	No harm to the overall heritage significance of the asset via a change in 'setting'.	<i>'Slight /moderate adverse'</i> effect in terms of the matrix format utilised within the Keystone Heritage report. Less than substantial harm to the overall heritage significance of the asset via a change in setting.
Grade II Listed Park House Farm	Less than substantial harm, at the low end of the spectrum, to the overall heritage significance of the asset via a change in 'setting', taking a precautionary approach.	<i>'Slight adverse'</i> effect in terms of the matrix format utilised within the Keystone Heritage report. Less than substantial harm to the overall heritage significance of the asset via a change in setting.
Grade II Listed Fillongley Mount	Less than substantial harm, at the low end of the spectrum, to the overall heritage significance of the asset via a change in 'setting', taking a precautionary approach.	Described in the Keystone Heritage Report as 'not appreciable' harm due to the greater distance between Fillongley Mount and the Site. This equates to less than substantial, at the lower end of the spectrum, to the overall heritage significance of the asset via a change in setting.

Relevant Aspect of the Historic Environment	My Position.	Position of the Rule 6 Party
Grade II Listed White House Farmhouse	No harm to the overall heritage significance of the asset via a change in 'setting'.	'Slight adverse' effect in terms of the matrix format utilised within the Keystone Heritage report. Less than substantial harm to the overall heritage significance of the asset via a change in setting.
Grade II Listed Barn 20 Metres North of Park Farmhouse and Grade II Listed Cartshed and Granary 5 Metres North East of Park House	No harm to the overall heritage significance of the asset via a change in 'setting'.	Less than substantial harm, at the lower end of the spectrum, to the overall heritage significance of the asset via a change in setting.
Grade II Gate Piers at Manor House Farm	No harm to the overall heritage significance of the asset via a change in 'setting'.	No harm to the overall heritage significance of the asset via a change in setting.
'Non-Designated Heritage Assets' identified within Rule 6 Party Evidence (excluding potential below ground archaeological remains within the Site).	Do not consider identified features, routes or 'landscapes' to represent non-designated heritage assets in the terms of the NPPF. Accordingly, no harm identified to 'non-designated heritage assets'.	'Slight /moderate adverse' effect in terms of the matrix format utilised within the Keystone Heritage report. Less than substantial harm to the overall heritage significance of the NDHAs via a change in setting.
Archaeology	Archaeology can be suitably and proportionately addressed via the Appellant's commitment to undertaking of a programme of archaeology investigations, based upon which an Archaeological Mitigation Strategy will be prepared and implemented. This approach is to be secured via Condition.	Archaeology can be suitably and proportionately addressed via the Appellant's commitment to undertaking a programme of archaeological investigations, based upon which an Archaeological Mitigation Strategy will be prepared and implemented. This approach is to be secured via Condition.