

# CD13.1c

## Planning Proof of Evidence Appendices

Mr. Steven Bainbridge MRTPI

Enviromena Asset Management UK Ltd.

Construction of a temporary Solar Farm, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure.

Land North of the M6 Motorway, Between Birmingham and Coventry

Our ref ENV0076 | LPA ref. PAP/2023/0071 | Appeal ref. APP/R3705/W/24/3349391

March 2025



Image credit: North Warwickshire Council  
(<https://www.northwarks.gov.uk/climate-change>)



# ENVIROMENA

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

(NPPF 161)

*“When determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should: a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and **give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal’s contribution to a net zero future**; b) recognise that small-scale [...] projects provide a valuable contribution to cutting greenhouse gas emissions”*

(NPPF 168)

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## Appendix 1 Extract of Appellant Statement of Case

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

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

○ P007039-09-PlanningLayout\_revH

### 3. Appeal Site & Surroundings

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

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

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

### 4. Planning History

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

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

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

5.2 The development plan consists of:

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

○ Fillongley Neighbourhood Plan (Adopted 2019)

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

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<sup>9</sup> NPPF paragraph 21

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

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

## Policy LP35 Renewable Energy

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

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

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

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

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

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

5.8 The LVA concluded that:

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

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

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

*"The subsequent receipt of the amended mitigation materially affects this conclusion as it addresses these reasons and renders the complete proposal "acceptable" in the terms of the NPPF"*

5.11 And therefore:

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

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

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

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

5.13 The matter was covered in the 4<sup>th</sup> March committee report, which stated at its paragraph 4.60:

*“Looking first at the impact on landscape quality, then the original proposal did not respect the capacity and sensitivity of the local landscape here for the reasons already outlined – its size, the proportion of raised ground, the lack of compartmentalisation and the lack of containment in the wider setting. The subsequent receipt of the amended mitigation materially affects this conclusion as it addresses these reasons and renders the complete proposal “acceptable” in the terms of the NPPF”.*

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

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

5.15 Taking each of these matters in turn:

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

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

5.17 The submitted LVA was clear that:

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

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

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

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

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

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

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

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

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

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

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

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

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



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*refusal'.*

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

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

- 5.27 The submitted Heritage Assessment clearly concluded that:

*"The assessment of designated heritage assets has concluded **the Site does not contribute to the setting or significance of the majority of the designated assets within the study area and there will be no impact on their setting.** The assessment considered four additional assets in further detail due to the intervisibility of the Site and the assets. Three of these assets could be grouped at Park House (1186219, 1034837 and 1034838). The other asset was White House Farmhouse (1034868). These assets are Grade II Listed and have medium importance. In both cases, further assessment concluded the Site does not contribute to the setting or significance of the asset despite its contribution to the rural character of the wider surroundings. Views of the Site will be glimpsed and distant. **The impact upon the setting will be negligible and the significance of effect will be neutral in both cases.** The impacts are assessed as being less than substantial in terms of the NPPF."*

- 5.28 The 4th March committee report was clear at its paragraph 4.61 that *"In respect of heritage impacts, it is acknowledged that the substantial public benefits around from the national energy and planning policy support in principle for the development, would outweigh the less than substantial harm likely to be caused to local heritage assets here. This harm in other words, would not "tilt" the final balance"*.
- 5.29 The draft Statement of Common Ground is clear that *"There is no heritage reason for refusal'.*
- 5.30 Enviromena contend that the conclusion of less than substantial harm must be at the very lowest end because of the conclusion of negligibility on the four assets discussed above. Negligible, is not no harm, but it is very close to it. Nevertheless, the less than substantial harm and public benefit balancing exercise is required, and Enviromena contend that the significant public benefits of renewable energy provision, energy security, helping to stay

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

### *Residential amenity*

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

### *Local economy*

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

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

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



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

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

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

	adverse effect to an undesignated landscape is considered acceptable and to have respected the capacity and sensitivity of the borough's landscape.
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## Policy LP1 Sustainable Development

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

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

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

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

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

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compliance with this part of the policy.

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

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

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

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

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

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## Policy LP3 Green Belt

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

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

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

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



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

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

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

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

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

5.66 Overall the Pegasus LVA/GBA concludes that:

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

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

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

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

5.70 Therefore, the harms are:

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

5.71 To which substantial weight should be afforded.

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

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

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

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

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

### Policy LP14 Landscape

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

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

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

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

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

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

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

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Assessment has concluded:

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

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

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

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

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

5.81 Overall, the Pegasus LVA concluded:

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

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

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

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

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

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

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

## Policy LP30 Built Form

5.86 Development management policy LP30 concerns ‘built form’.

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

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

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

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

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

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

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

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

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

5.93 Policy LP30 summary:

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



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## Policy FNP01 Built Environment

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

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

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

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

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

5.105 Policy FNP01 summary:

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

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

## Policy FNP02 Natural Environment

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

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

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

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

requirements and both protects and increases biodiversity by significant levels.

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

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

5.109 **Policy FNP02** summary:

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

(conflict or compliance and comments)	environment on site and within its environs; the proposal complies with the policy.
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### Policies LP35, LP1, LP3, LP14, LP30, FNP01 and FNP02 Summary

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

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

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

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

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

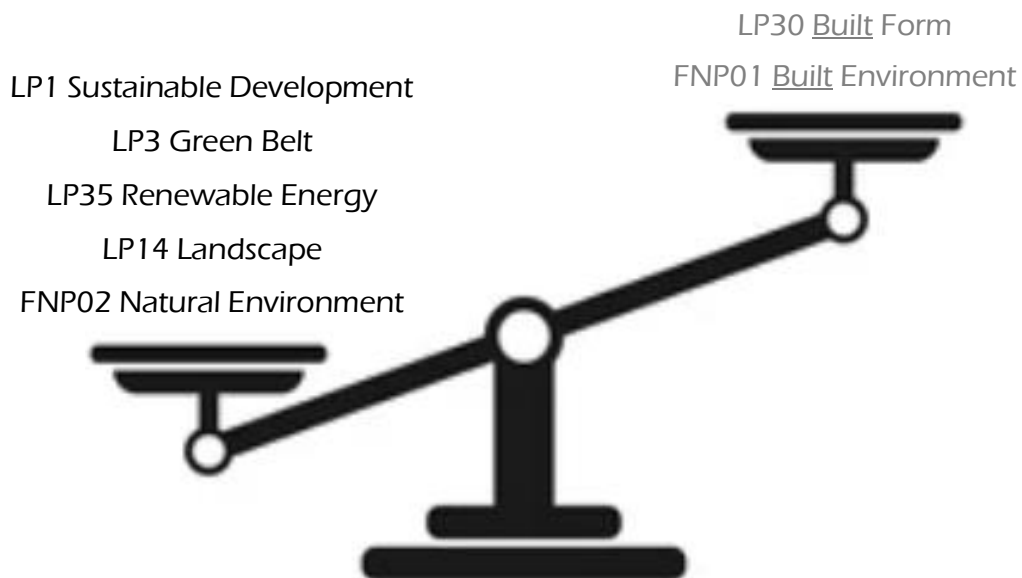
5.118 LP33 Water and Flood Risk Management – at the time of writing it is common ground between that parties that “There is no “*flooding*” or “*drainage*” reason for refusal as the proposal satisfies Local Plan policy LP33 and the relevant NPPF policy (para 175)”.

### Development Plan Summary

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

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

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



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

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

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

## Response to the Reason for Refusal

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Taking these comments in turn:

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

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

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

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

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

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

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

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

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

## 6. Residual Impacts & Planning Controls

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

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Appendix 2 North Warks Planning Board 3/2/25  
Supplementary Report



**SUPPLEMENTARY REPORT for Planning and Development Board - 3 Feb 2025  
PAP/2023/0071**

**Land 800 metres south of Park House Farm, Meriden Road, Fillongley**

**Construction of a temporary solar farm, to include the installation of ground-mounted solar panels together with associated works, equipment and necessary infrastructure for**

**Enviromena Project Management UK Ltd**

**1 Introduction**

1.1 Members will be aware of the “holding report” included in the published agenda for this Board’s February meeting. It outlined the position at that time in respect of a material change in planning circumstances affecting this appeal case. In particular it advised of the need to look at that change with the benefit of updated Guidance. That Guidance had not been published at the time of publication of the February Agenda, and neither had it been so at the time of preparing this Supplementary Report. Members will be advised of the position at the time of the meeting. The contents of this report are therefore subject to update if/when the additional Guidance is published by Central Government.

**2 Background**

**a) The Refusal**

2.1 The reason for the refusal of planning permission was:

“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 FNP02 of the Fillongley Neighbourhood Plan 2019.

The Local and Neighbourhood Plan policies require new development to conserve and enhance the landscape; to integrate appropriately into the natural environment, harmonise with its immediate settings, as well as to protect the rural landscape of the Parish, the scenic aspects of the village and the setting of the Church.

The cumulative harms caused are considered to be substantial because of the development’s proposed size, its siting on higher land, there being no surrounding higher land and its public visibility over a wide area. It is not considered that this substantial harm is clearly outweighed by any benefits that the proposal might give rise to”.

2.2 In summary, this refusal relates to Green Belt, landscape and visual matters.

**b) The NPPF and the Introduction of Grey Belt**

2.3 The material change in planning circumstances referred to above in para 1.1 relates to the Green Belt matter.

2.4 Members are aware that inappropriate development in the Green Belt is harmful to the Green Belt except where very special circumstances can be shown to exist. Local Plan policy LP3 on the Green Belt says in its reasoned justification that the NPPF “provides the strategic policy guidance” on the Green Belt, confirming that it “gives advice on where and what development is appropriate or inappropriate in the Green Belt”. Hence it is what the NPPF says, that is fundamental to what is appropriate development and what is not appropriate development.

2.5 The NPPF also defines the purposes of including land within the Green Belt at para 143. They are:

- a) *To check the unrestricted sprawl of large built-up areas;*
- b) *to prevent neighbouring towns merging into one another,*
- c) *to assist in safeguarding the countryside from encroachment,*
- d) *to preserve the setting and special character of historic towns, and*
- e) *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

2.6 The updated NPPF introduces the concept of “grey belt” and it is this change that has led to this report being prepared.

2.7 A new paragraph at 155 of the NPPF says that:

*“The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where:*

- a) *the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan,*
- b) *there is a demonstrable unmet need for the type of development proposed,*
- c) *the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework, and*
- d) *where applicable, the development proposed meets the “Golden Rules” requirements set out in this Framework at paragraphs 156 and 157”.*

2.8 Criteria (b) and (c) above are subject to footnotes 56 and 57 in the NPPF. These footnotes do not apply to this development.

2.9 The Glossary to the Framework defines “grey belt”.

*“Grey Belt is defined as land in the Green Belt comprising previously developed land (PDL), and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b) or (d) in the Framework paragraph 143. Grey Belt excludes land where the application of the policies relating to the areas or assets in Footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development”.*

2.10 Footnote 7 refers to Framework policies - not to Development Plan policies – which relate to: habitat sites; SSSI’s, Local Green Space, Green Belt, National Landscape, National Parks, Heritage Coast, irreplaceable habitats, designated heritage assets and other heritage assets of archaeological interest and areas at risk of flooding or coastal change.

2.11 The material change brought about by the introduction of “grey belt” at para 2.7, thus means that it is necessary to review whether the land the subject of this proposal might now be “grey belt” as set out in para 2.9. If the site is found to be “grey belt” land, it will then be necessary to assess the proposed development against the criteria in para 2.7, in order to establish whether that development would be appropriate, or not appropriate development in the Green Belt. If it is appropriate development, then no Green Belt harm would be caused and the reason for refusal would need to be re-considered.

### **3 Observations**

#### **a) Grey Belt**

3.1 The starting point is the definition of grey belt. It is agreed that this site is not previously developed land. It is also agreed that purpose (d) of including land within the Green Belt – to preserve the setting and special character of historic towns - is not applicable here.

3.2 The matter thus turns on looking at purposes (a) and (b). The Officers’ reports to the Board in March and July 2024 concluded that the proposal did not conflict with these two purposes. This is repeated in the original Statement of Common Ground (SOCG) submitted by both the appellant and the Council to the Planning Inspectorate. Officers would therefore recommend that this remains the case concluding that the appeal site falls within the definition of “grey belt” land set out in the NPPF.

3.3 Finally, the definition in para 2.9 ends with reference to Footnote 7. The Council’s reasons for refusal did not include matters raised in this footnote, other than the Green Belt. The paragraph above concludes that the appeal site is “grey belt” land, hence consideration under this matter does not arise.

## **b) Appropriate or Not Appropriate**

- 3.4 The conclusion above means that this is “grey belt land” within the Green Belt. It does not mean that the proposed development is appropriate development in the Green Belt. The outcome of this question rests with the assessment of the case under all of the conditions set out in para 2.7.
- 3.5 The first is, that if even if the development would use grey belt land, would it still fundamentally undermine the purposes – taken together – of the remaining Green Belt across the area of the plan? It is evident from the definition of “grey belt” land that purposes (c) and (e) of including land in the Green Belt have been omitted. Purpose (c) relates to assisting in the safeguarding the countryside from encroachment. The Officers’ reports concluded that there was conflict with this purpose and the SOCG referred to above did explicitly include this conclusion as a matter agreed with the appellant. It is not considered that this conclusion has changed with the introduction of “grey belt” land. The physical situation on the site and its setting has not changed since the determination of this application and thus there has been no material change to the “countryside” here. The proposal still remains in conflict with this purpose. Turning to purpose (e), the earlier officer reports referred to above and the SOCG, confirm that there would be no conflict with this purpose.
- 3.6 The second condition is whether there is a demonstrable unmet need for the type of development proposed. The Council has acknowledged that the proposal would provide a “significant benefit” in contributing to the generation or renewable energy – (in the SOCG). However, an unmet need does not mean that every, or all such proposals have to be approved. It is considered that the outcome of final planning balance here is still a matter of difference between the parties.
- 3.7 The third condition is whether the proposal would be in a sustainable location. The reason for refusal does not include such a matter.
- 3.8 The fourth condition does not apply, as that refers to residential proposals.
- 3.9 Overall therefore, officer advice would conclude that the Council’s position remains unchanged. The proposal remains as inappropriate development in the Green Belt notwithstanding the introduction of “grey belt”, as it does not comply with the requirement within condition (a). The NPPF text requires proposals to comply with all four conditions.
- 3.10 The conclusion reached at para 3.10 does not alter the Council’s position in respect of the landscape and visual matters included in the refusal reason.

## 4 **Conclusion**

- 4.1 The publication of the new NPPF in late December 2024 introduced a material change to the planning considerations affecting this appeal. The report sets out the background to that change but concludes that the Council's position remains as before. In other words, the reason for refusal remains, subject to the content of the updated PPG indicating otherwise.

### **Recommendation**

That the Council's position remains unchanged in respect of this appeal subject to the updated PPG indicating otherwise.

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## Appendix 3 North Warks Development Board 3/2/25 Meeting Transcript

Application No: PAP/2023/0071

Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley,

Construction of a temporary Solar Farm, to include the installation of groundmounted solar panels together with associated works, equipment and necessary infrastructure;

for Enviromena Project Management UK Ltd

[Transcriber note: Poor Audio: [?] = inaudible - [...] = audio breaks up causing inaudibility]

Chair: Members we're now going to move to Application 72 for Land 800 Metres South of Park House Farm, Meriden Road, Fillongley. We don't have any speakers on this issue. Mr Brown, would you like to introduce your Report.

Mr Brown: Thank you Mr Chairman, apologies for another supplementary report, which members received before the weekend so close on Friday afternoon. The initial published Report indicated where we were, but I was waiting for the Government's Planning Policy Guidance Notes in respect of the Green Belt. That had not arrived by the weekend and therefore the Supplementary Report that's now in front of you does refer to that absence and that the comments remain the same. We've still not had the PPG published from the Government and we're still waiting for that. The key consideration here is outlined, as you can see in the Report, there's been a material change in circumstance with the publication of the NPPF back in December with the introduction of Grey Belt. The definition of Grey Belt is outlined in the Report and also the subsequent paragraphs outline what the NPPF says about Grey Belt and whether or not developments that may be on Grey Belt land is still appropriate or inappropriate development in the Green Belt. I've gone through that for you and made a conclusion, as you can see. I followed the sequence that is set out in the NPPF, it is our view that this land is Grey Belt land, but on the other hand, it does not comply with all the conditions set out in the NPPF; therefore this is still inappropriate development and the recommendation to you Mr Chairman is that the Council's position in respect of this appeal does not change.

Chair: Thank you. Members as this is to a large extent an issue which is in flux and does not settle all, but I'm pretty much clear [where everyone wants to go and] where the NPPF is. I think it's important that we have some legal guidance and a comment on the revised recommendation. Would you like to guide the Board?

Legal: Thank you Chair. The recommendation is, in light of the updated NPPF of December 2024, the Council's position is that purpose C of including land within the Green Belt, as defined in paragraph 143 of the NPPF continues to apply and thus the Council's position in respect of this appeal remains unchanged.

Page 1 of 2

*No mention here of taking all purposes together or looking at remaining Green Belt across the whole plan area!*

Application No: PAP/2023/0071

Land 800 Metres South Of Park House Farm, Meriden Road, Fillongley,

Construction of a temporary Solar Farm, to include the installation of groundmounted solar panels together with associated works, equipment and necessary infrastructure;

for Enviromena Project Management UK Ltd

[Transcriber note: Poor Audio: [?] = inaudible - [...] = audio breaks up causing inaudibility]

Chair: Thank you. As Mr Brown has advised Members, there is a supplementary report on your desk. Can I just check you've all had a chance to read it or would you like a deferment to give you the opportunity to do so? Okay, thank you Members. Over to you, who would like to start the discussion or any proposals?

?: [...] recommendation Chair.

Chair: Thank you, and a seconder? Cllr Bell. If there's no further discussion, and again Members are clearly clear that this has been aired a number of times as an issue before the Board, so I'm sure you're all aware of the matters. Just to remind you, the advised recommendation is in light of the updated NPPF of December 2024, the Council's position is that purpose C of including land within the Green Belt, as defined in paragraph 143 of the NPPF continues to apply and thus the Council's position in respect of this appeal remains unchanged. That's been proposed and seconded; can I see those in favour of that recommendation? And any against? That's unanimous. Thank you very much.

Not taken.

Again, no mention of taking purposes together or of considering the remaining Green Belt of the whole plan area.



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## Appendix 4 3<sup>rd</sup> Party Reps Table

No.	Name of 3 <sup>rd</sup> Party	Summary of Comments	Summary of Appellant's Response
1	J. Simmons	<p>Three attempts at approval.</p> <p>Losing farmland.</p> <p>Food prices and cost of living.</p> <p>Greenbelt status means the land is protected.</p> <p>Unsure how the development can be classed as temporary. Zero faith the land will be returned to original state.</p> <p>Chemicals used to clean panels.</p> <p>Change the landscape drastically.</p> <p>Wildlife and skylarks.</p> <p>More water travelling from fields into the village.</p>	<p>Commentator is referring to the planning committee meetings at which the planning application was recommended for approval twice.</p> <p>The land is not 'lost' to farming and would remain in pastoral agricultural use.</p> <p>There is no detrimental link between renewable energy and food prices/cost of living, in fact quite the opposite as domestic renewable energy helps secure energy prices.</p> <p>The land is Green Belt, it is not 'protected' as such, but subject to policy considerations. However, the Appellant and LPA agree that it is also Grey Belt.</p> <p>Planning Practice Guidance is clear that "solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use" (Paragraph: 013 Reference ID: 5-013-20150327).</p> <p>The panels are cleaned with fresh water, because chemical use would invalidate the warranties.</p> <p>The commentator is referred to the Proofs of Evidence by the Appellant and Council. Inquiry core documents 13.4 and 13.5 on the main parties methodologies, assessments and conclusions on landscape impact.</p> <p>The commentator is referred to the ecological reports and surveys submitted with the planning application, plus the significant biodiversity net gain that results from this development if approved and the skylark mitigation approved by the Council's ecologist.</p> <p>Climate change will increase rainfall and the risk of flooding to all towns and villages, including Fillongley. Planning policy requires development not to increase flooding elsewhere – this is why the Local Lead Flood Authority did not object to the planning application. The commentator is referred to the submitted flood risk assessment, the drainage strategy and the recently agreed statement of common ground on flooding between the Appellant and Council (inquiry core document 12.5).</p>
2	A. Martin 1 & 2	Site selection process.	There is nothing in planning policy that requires an alternative site selection process, compare and contrast NPPF paragraph 190. Paragraphs 2.10.18 to 2.10.48 of National policy statement NPS EN3

		<p>Direction of the panels.</p> <p>Uncertainty over whether development will exacerbate flooding.</p>	<p>provide guidance on “Factors influencing site selection and design” for Solar Photovoltaic Generation. The commentator is also referred to Section 5 of the Planning Statement (CD 1.29).</p> <p>This was clear in the application documentation, including the glint and glare report which consultees were provided and on which the application was recommended for approval to planning committee twice.</p> <p>Climate change will increase rainfall and the risk of flooding to all towns and villages, including Fillongley. Planning policy requires development not to increase flooding elsewhere – this is why the Local Lead Flood Authority did not object to the planning application. The commentator is referred to the submitted flood risk assessment, the drainage strategy and the recently agreed statement of common ground on flooding between the Appellant and Council (inquiry core document 12.5).</p>
3	J. Mills	<p>Landscape concerns.</p> <p>Green Belt.</p> <p>Farm land lost forever.</p> <p>Traffic disruption.</p> <p>Carbon footprint of renewable energy.</p> <p>Impact on wildlife.</p> <p>Drainage system withdrawn.</p> <p>Reflection blindness.</p>	<p>The commentator is referred to the Proofs of Evidence by the Appellant and Council. Inquiry core documents 13.4 and 13.5 on the main parties methodologies, assessments and conclusions on landscape impact.</p> <p>The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt.</p> <p>The land is not ‘lost’. The lifespan of the development is 40 years. Planning Practice Guidance is clear that “solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use” (Paragraph: 013 Reference ID: 5-013-20150327).</p> <p>Warwickshire County Highways were consulted and did not object. Planning conditions will control this, in particular the commentator is directed to the planning condition requiring a construction traffic management plan should planning permission be given.</p> <p>The Government has stated its support for renewables and ground mounted solar in principle for energy security, climate change etc.</p> <p>The commentator is referred to the ecological reports and surveys submitted with the planning application, plus the significant biodiversity net gain that results from this development if approved.</p> <p>The drainage system was not withdrawn. There was some debate over whether the ‘ponds’ were needed in planning terms. The commentator is referred to the drainage statement of common ground (CD 12.5).</p> <p>The commentator may wish to review the consultation responses of the Highways Authority who were afforded the Glint and Glare report.</p>
4	G. A. Adams	<p>Uncalled for development.</p>	<p>Government policy is clear on the need for renewables.</p>

		<p>Food security.</p> <p>Flooding.</p> <p>Cannot understand why the Council has not put forward the dormant Daw Mill Colliery site for this application.</p> <p>Distraction for drivers.</p> <p>Losing more agricultural land.</p>	<p>Government is clear there is no food security problem, see bullet point at bottom of page 125 of CD6.63 and page 179 where it the Government says "It is plausible that with continued growth in output and conducive market conditions, that food production levels could be maintained or moderately increased alongside the land use change required to meet our Net Zero and Environment Act targets and commitments".</p> <p>Climate change will increase rainfall and the risk of flooding to all towns and villages, including Fillongley. Planning policy requires development not to increase flooding elsewhere – this is why the Local Lead Flood Authority did not object to the planning application. The commentator is referred to the submitted flood risk assessment, the drainage strategy and the recently agreed statement of common ground on flooding between the Appellant and Council (inquiry core document 12.5).</p> <p>Each application is determined on its own merits. If the colliery site is technically plausible then there's nothing stopping any party submitting an application on that site. If no applications have come forward for that site, there may well be perfectly sound reasons for that.</p> <p>The commentator may wish to review the consultation responses of the Highways Authority who were afforded the Glint and Glare report.</p> <p>The land is not 'lost' to farming and would remain in pastoral agricultural use.</p>
5	D. Wardley	<p>Totally inappropriate.</p> <p>Dominate the village.</p> <p>Need power and food.</p> <p>Other places where large solar farms could be placed.</p>	<p>The commentator is directed to the two reports to planning committee recommending approval to the Council's Planning Board.</p> <p>The commentator is referred to the Proofs of Evidence by the Appellant and Council. Inquiry core documents 13.4 and 13.5 on the main parties methodologies, assessments and conclusions on landscape impact.</p> <p>Government is clear there is no food security problem, see bullet point at bottom of page 125 of CD6.63 and page 179 where it the Government says "It is plausible that with continued growth in output and conducive market conditions, that food production levels could be maintained or moderately increased alongside the land use change required to meet our Net Zero and Environment Act targets and commitments".</p> <p>Planning applications must be decided on their own merits and recent Government statistics (CD6.49) are clear that installed solar PV is falling significantly below the growth required to achieve the five-fold increase to 70GW by 2035. This re-emphasises the immediate pressing need for the deployment of new renewable energy generation schemes.</p>

		Destroying Green Belt.	The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate.
6	B. Woollaston	Inappropriate development in Green Belt.  Energy projects should use roof tops etc.	The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate.  Planning applications must be decided on their own merits and recent Government statistics (CD6.49) are clear that installed solar PV is falling significantly below the growth required to achieve the five-fold increase to 70GW by 2035. This re-emphasises the immediate pressing need for the deployment of new renewable energy generation schemes.
7	S. Mills	Swamp the village.  Food security.  Land restoration.  Green Belt protection.  Wildlife.  Traffic disruption.  Reflection blindness.  Flooding.	The commentator is referred to the Proofs of Evidence by the Appellant and Council. Inquiry core documents 13.4 and 13.5 on the main parties methodologies, assessments and conclusions on landscape impact.  Government is clear there is no food security problem, see bullet point at bottom of page 125 of CD6.63 and page 179 where it the Government says "It is plausible that with continued growth in output and conducive market conditions, that food production levels could be maintained or moderately increased alongside the land use change required to meet our Net Zero and Environment Act targets and commitments".  Planning Practice Guidance is clear that "solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use" (Paragraph: 013 Reference ID: 5-013-20150327).  The land is Green Belt, it is not 'protected' as such, but subject to policy considerations. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate.  The commentator is referred to the ecological reports and surveys submitted with the planning application, plus the significant biodiversity net gain that results from this development if approved and the skylark mitigation approved by the Council's ecologist.  Warwickshire County Highways were consulted and did not object. Planning conditions will control this, in particular the commentator is directed to the planning condition requiring a construction traffic management plan should planning permission be given.  The commentator may wish to review the consultation responses of the Highways Authority who were afforded the Glint and Glare report.  Climate change will increase rainfall and the risk of flooding to all towns and villages, including Fillongley. Planning policy requires development not to increase flooding elsewhere – this is why the Local Lead Flood Authority did not object to the planning application. The commentator is referred to the submitted

		<p>Drainage system withdrawn.</p> <p>More appropriate sites.</p>	<p>flood risk assessment, the drainage strategy and the recently agreed statement of common ground on flooding between the Appellant and Council (inquiry core document 12.5).</p> <p>The drainage system was not withdrawn. There was some debate over whether the ‘ponds’ were needed in planning terms. The commentator is referred to the drainage statement of common ground (CD12.5).</p> <p>Planning applications must be decided on their own merits and recent Government statistics (CD6.49) are clear that installed solar PV is falling significantly below the growth required to achieve the five-fold increase to 70GW by 2035. This re-emphasises the immediate pressing need for the deployment of new renewable energy generation schemes.</p>
8	M. Gibson	<p>Farmland instead of a glass factory. Need land for farming.</p> <p>Out of place in Green Belt.</p> <p>Car parks and roof tops.</p> <p>Wildlife.</p> <p>Flood risk.</p> <p>Glare.</p> <p>Cyber attack on the panels.</p>	<p>Government is clear there is no food security problem, see bullet point at bottom of page 125 of CD6.63 and page 179 where it the Government says “It is plausible that with continued growth in output and conducive market conditions, that food production levels could be maintained or moderately increased alongside the land use change required to meet our Net Zero and Environment Act targets and commitments”.</p> <p>The land is Green Belt, it is not ‘protected’ as such, but subject to policy considerations. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate.</p> <p>Planning applications must be decided on their own merits and recent Government statistics (CD6.49) are clear that installed solar PV is falling significantly below the growth required to achieve the five-fold increase to 70GW by 2035. This re-emphasises the immediate pressing need for the deployment of new renewable energy generation schemes.</p> <p>The commentator is referred to the ecological reports and surveys submitted with the planning application, plus the significant biodiversity net gain that results from this development if approved and the skylark mitigation approved by the Council’s ecologist.</p> <p>Climate change will increase rainfall and the risk of flooding to all towns and villages, including Fillongley. Planning policy requires development not to increase flooding elsewhere – this is why the Local Lead Flood Authority did not object to the planning application. The commentator is referred to the submitted flood risk assessment, the drainage strategy and the recently agreed statement of common ground on flooding between the Appellant and Council (inquiry core document 12.5).</p> <p>The commentator may wish to review the consultation responses of the Highways Authority who were afforded the Glint and Glare report.</p> <p>Even if a cyber attack on the panels were possible, the commentator may take comfort is understanding that all it could feasibly achieve would be to deactivate the inverters momentarily; an inconvenience for the operator, and nothing more.</p>

9	M. Sullivan	<p>The proposed solar farm is large.</p> <p>It would urbanise the area. It will be a large loss of landscape, 53 years.</p>	<p>The commentator may be interested in appeal document CD6.41Section 2.1. Plus, wider changes to the planning system consulted on last year, and to be brought into effect this spring, will see the threshold for small-scale solar farms set at 100MW, up from the previous 50MW; the purpose being for more significant schemes to be approved quickly to serve needs.</p> <p>The site is adjacent to the M6. The commentator is referred to the Proofs of Evidence by the Appellant and Council. Inquiry core documents 13.4 and 13.5 on the main parties methodologies, assessments and conclusions on landscape impact.</p>
10	M. Taberer	<p>Massive solar farm will overwhelm the area.</p> <p>Loss of farmland.</p> <p>Food security.</p> <p>Designated Green Belt land.</p> <p>Damage to local wildlife.</p> <p>Flood risk. Additional runoff exacerbating issue.</p> <p>Detrimental to resident's health. Exposure to low-</p>	<p>The commentator may be interested in appeal document CD6.41Section 2.1. Plus, wider changes to the planning system consulted on last year, and to be brought into effect this spring, will see the threshold for small-scale solar farms set at 100MW, up from the previous 50MW; the purpose being for more significant schemes to be approved quickly to serve needs. The site is adjacent to the M6. The commentator is referred to the Proofs of Evidence by the Appellant and Council. Inquiry core documents 13.4 and 13.5 on the main parties methodologies, assessments and conclusions on landscape impact.</p> <p>The land is not 'lost' to farming and would remain in pastoral agricultural use. Planning Practice Guidance is clear that "solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use" (Paragraph: 013 Reference ID: 5-013-20150327).</p> <p>Government is clear there is no food security problem, see bullet point at bottom of page 125 of CD6.63 and page 179 where it the Government says "It is plausible that with continued growth in output and conducive market conditions, that food production levels could be maintained or moderately increased alongside the land use change required to meet our Net Zero and Environment Act targets and commitments".</p> <p>The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate.</p> <p>The commentator is referred to the ecological reports and surveys submitted with the planning application, plus the significant biodiversity net gain that results from this development if approved.</p> <p>Climate change will increase rainfall and the risk of flooding to all towns and villages, including Fillongley. Planning policy requires development not to increase flooding elsewhere – this is why the Local Lead Flood Authority did not object to the planning application. The commentator is referred to the submitted flood risk assessment, the drainage strategy and the recently agreed statement of common ground on flooding between the Appellant and Council (inquiry core document 12.5).</p> <p>There is no evidence or source for this claim.</p>

		<p>frequency electromagnetic fields.</p> <p>Construction and maintenance will generate noise pollution. Increased construction traffic.</p> <p>Significant fire hazard.</p> <p>Pristine landscape.</p> <p>Battery storage.</p> <p>Inefficient use of land.</p> <p>Hardly any electricity generated in winter. Only 11% of capacity.</p> <p>I believe this solar farm will only be connected to the local low voltage distribution system.</p> <p>Panels on roofs.</p>	<p>As with most forms of development, planning conditions can be applied to limit issues during contribution. The commentator is directed to the planning condition requiring a construction traffic management plan should planning permission be given. It is unclear what maintenance noise the commentator is concerned about.</p> <p>It is unclear why the commentator believes that solar farms present a significant fire hazard. Climate change is increasing the risk of wildfires.</p> <p>The site is adjacent to the M6. The commentator is referred to the Proofs of Evidence by the Appellant and Council. Inquiry core documents 13.4 and 13.5 on the main parties methodologies, assessments and conclusions on landscape impact.</p> <p>The scheme does not include battery storage. This error may explain the commutators concern about fire?</p> <p>Planning policy and guidance are clear that ground mounted solar, continued pastoral farming and biodiversity net gain, in combination, is an efficient use of land.</p> <p>The installed capacity of a utility-scale solar farm is typically given in megawatts (MW) whereas the energy generated is given in megawatt-hours (MWh). These are two different units and can not be directly compared. The energy generated by a solar farm is dependent upon many factors however the level of irradiance and number of daylight hours are obviously very important. Hence, December and January are usually the lowest performing months for any solar farm in the UK. For this specific site we are expecting the number of megawatt-hours generated in January to be approximately 80% lower than the monthly average.</p> <p>This is incorrect.</p> <p>Planning applications must be decided on their own merits and recent Government statistics (CD6.49) are clear that installed solar PV is falling significantly below the growth required to achieve the five-fold increase to 70GW by 2035. This re-emphasises the immediate pressing need for the deployment of new renewable energy generation schemes.</p>
11	R. Cassidy	I would like to support the approval	Solar farms are delivering green energy which is needed.



		<p>of this application, I am a local resident and do not believe the impact is unacceptable. If we want to move to a sustainable future we have to support developments like this one. Solar farms can help deliver green energy which in the current climate is needed. It is easier for everyone to object when it happens in our 'back garden' but these renewable solutions have to go somewhere and I believe this location is appropriate.</p>	<p>Renewables do have to go somewhere.</p>
12	S. Martin	<p>Green belt openness.</p> <p>A different, more appropriate location could have been chosen.</p> <p>Glint and glare.</p> <p>The site is a key watershed.</p>	<p>The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate. In which case openness considerations not relevant and very special circumstances not required.</p> <p>No indication of where this other location might be. There is nothing in planning policy that requires an alternative site selection process, compare and contrast NPPF paragraph 190. Paragraphs 2.10.18 to 2.10.48 of National policy statement NPS EN3 provide guidance on "Factors influencing site selection and design" for Solar Photovoltaic Generation. The commentator is also referred to Section 5 of the Planning Statement (CD1.29).</p> <p>The commentator provides no feedback on the submitted glint and glare report. It can be found on the Council's website.</p> <p>Climate change will increase rainfall and the risk of flooding to all towns and villages, including Fillongley. Planning policy requires development not to increase flooding elsewhere – this is why the Local Lead Flood Authority did not object to the planning application. The commentator is referred to the submitted flood risk assessment, the drainage strategy and the recently agreed statement of common ground on flooding between the Appellant and Council (inquiry core document 12.5).</p>

		Food security.	Government is clear there is no food security problem, see bullet point at bottom of page 125 of CD6.63 and page 179 where it the Government says "It is plausible that with continued growth in output and conducive market conditions, that food production levels could be maintained or moderately increased alongside the land use change required to meet our Net Zero and Environment Act targets and commitments".
		Loss of farmland.	The land is not 'lost' to farming and would remain in pastoral agricultural use. Planning Practice Guidance is clear that "solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use" (Paragraph: 013 Reference ID: 5-013-20150327).
13	Badham	Inappropriate in the Green Belt.	The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate. In which case openness considerations not relevant and very special circumstances not required.
		Claims of applicant's wish to keep structures beyond 40 years.	Planning Practice Guidance is clear that "solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use" (Paragraph: 013 Reference ID: 5-013-20150327).
14	T. Burton	Totally unsuitable site.	There is nothing in planning policy that requires an alternative site selection process, compare and contrast NPPF paragraph 190. Paragraphs 2.10.18 to 2.10.48 of National policy statement NPS EN3 provide guidance on "Factors influencing site selection and design" for Solar Photovoltaic Generation. The commentator is also referred to Section 5 of the Planning Statement (CD1.29).
		Desperate shortage of agricultural land.	The land is not 'lost' to farming and would remain in pastoral agricultural use.
		Claims about the landowner.	The commentators comments are not relevant to planning.
		Solar farms have no place in the green belt.	The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate. In which case openness considerations not relevant and very special circumstances not required.
		Better sited elsewhere.	Planning applications must be decided on their own merits and recent Government statistics (CD6.49) are clear that installed solar PV is falling significantly below the growth required to achieve the five-fold increase to 70GW by 2035. This re-emphasises the immediate pressing need for the deployment of new renewable energy generation schemes.
		Dependence on gas turbines.	Government policy seeks a basket of energy solutions.

		Until a suitable storage technology becomes available and is deployed there is no place for solar farms in the UK.	This opinion is at odds with the policy of successive Governments.
15	T. Carpenter obo Corley Parish Council	<p>Food security.</p> <p>Green Belt policy and legislation.</p> <p>Countryside under threat. Solar farms exacerbating the issue.</p> <p>Size and scale inappropriate, will overwhelm area. Completely dominate the landscape.</p> <p>Roofs ideal locations.</p> <p>The soil grade standard has been questioned. We are advised that the land is graded as 2a, 2b and 3. The same soil is predominant in the whole Borough.</p>	<p>Government is clear there is no food security problem, see bullet point at bottom of page 125 of CD6.63 and page 179 where it the Government says "It is plausible that with continued growth in output and conducive market conditions, that food production levels could be maintained or moderately increased alongside the land use change required to meet our Net Zero and Environment Act targets and commitments".</p> <p>The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate. In which case openness considerations not relevant and very special circumstances not required.</p> <p>Unclear what the threat is. Climate change is a threat to the countryside. Solar farms are supported by Government as a part-solution to that threat.</p> <p>The commentator is referred to the Proofs of Evidence by the Appellant and Council. Inquiry core documents 13.4 and 13.5 on the main parties methodologies, assessments and conclusions on landscape impact.</p> <p>Planning applications must be decided on their own merits and recent Government statistics (CD6.49) are clear that installed solar PV is falling significantly below the growth required to achieve the five-fold increase to 70GW by 2035. This re-emphasises the immediate pressing need for the deployment of new renewable energy generation schemes.</p> <p>The soil grading was provided in the submitted ALC report. The soil type is predominant in the borough.</p>

		<p>Loss of the land for agricultural use.</p> <p>It is noted that the appeal states that, if approved, the solar panels will be removed after 40 years and the land restored to agricultural use. Please pardon our scepticism but wish to comment that this commitment is meaningless.</p> <p>There are no new hedges proposed.</p> <p>Flooding.</p> <p>Sheep eating through cabling.</p> <p>Issues relating to glint and glare on roads and confusing nocturnal birds.</p>	<p>The land is not 'lost' to farming and would remain in pastoral agricultural use.</p> <p>Planning Practice Guidance is clear that "solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use" (Paragraph: 013 Reference ID: 5-013-20150327).</p> <p>There are c. 750m of new hedgerow proposed.</p> <p>Climate change will increase rainfall and the risk of flooding to all towns and villages, including Fillongley. Planning policy requires development not to increase flooding elsewhere – this is why the Local Lead Flood Authority did not object to the planning application. The commentator is referred to the submitted flood risk assessment, the drainage strategy and the recently agreed statement of common ground on flooding between the Appellant and Council (inquiry core document 12.5).</p> <p>This is not an issue we are aware of.</p> <p>The commentator may wish to review the consultation responses of the Highways Authority who were afforded the Glint and Glare report. The commentator is referred to the ecological reports and surveys submitted with the planning application, plus the significant biodiversity net gain that results from this development if approved and the skylark mitigation approved by the Council's ecologist.</p>
16	Hickman	<p>Green Belt.</p> <p>Loss of farmland.</p> <p>Fire risk.</p>	<p>The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate. In which case openness considerations not relevant and very special circumstances not required.</p> <p>The land is not 'lost' to farming and would remain in pastoral agricultural use.</p> <p>It is unclear why the commentator believes that solar farms present a significant fire hazard. Climate change is increasing the risk of wildfires.</p>

	<p>Devaluing property.</p> <p>Destruction of nature.</p> <p>Regulations state solar farms on flat land only.</p> <p>Use of the word temporary.</p> <p>Glare.</p> <p>No timescales for return to green belt after 40 years.</p> <p>No benefit to local residents.</p> <p>Flood assessment and pans inadequate.</p> <p>LP3 and very special circumstances.</p> <p>LP14 development will not look to conserve, enhance or promote the landscape.</p>	<p>This is not a planning matter.</p> <p>The commentator is referred to the ecological reports and surveys submitted with the planning application, plus the significant biodiversity net gain that results from this development if approved.</p> <p>Unclear which ‘regulations’ the commentator believes they are referring to.</p> <p>Planning Practice Guidance is clear that “solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use” (Paragraph: 013 Reference ID: 5-013-20150327).</p> <p>The commentator may wish to review the consultation responses of the Highways Authority who were afforded the Glint and Glare report.</p> <p>Planning Practice Guidance is clear that “solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use” (Paragraph: 013 Reference ID: 5-013-20150327). Planning conditions will control this, in particular the commentator is directed to the planning condition requiring details of site restoration should planning permission be given.</p> <p>There is a community garden. Renewable energy and addressing climate change is a benefit.</p> <p>Climate change will increase rainfall and the risk of flooding to all towns and villages, including Fillongley. Planning policy requires development not to increase flooding elsewhere – this is why the Local Lead Flood Authority did not object to the planning application. The commentator is referred to the submitted flood risk assessment, the drainage strategy and the recently agreed statement of common ground on flooding between the Appellant and Council (inquiry core document 12.5).</p> <p>The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate. In which case openness considerations not relevant and very special circumstances not required.</p> <p>The policy test is “look to”. The landscape mitigation proposals look to conserve and enhance landscape.</p>
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		Why Grade 2 and 3a land is being used.	Paragraphs 2.10.18 to 2.10.48 of National policy statement NPS EN3 provide guidance on “Factors influencing site selection and design” for Solar Photovoltaic Generation. The commentator is also referred to Section 5 of the Planning Statement (CD1.29).
17	J. Mayes.	Green Belt land should remain green belt.  Unsure of what will happen after 40 years.  Wildlife.	The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate. In which case openness considerations not relevant and very special circumstances not required.  Planning Practice Guidance is clear that “solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use” (Paragraph: 013 Reference ID: 5-013-20150327).  The commentator is referred to the ecological reports and surveys submitted with the planning application, plus the significant biodiversity net gain that results from this development if approved and the skylark mitigation approved by the Council’s ecologist.
18	N. Wheatley	Wildlife.	The commentator is referred to the ecological reports and surveys submitted with the planning application, plus the significant biodiversity net gain that results from this development if approved and the skylark mitigation approved by the Council’s ecologist.
19	B. Chatha	Many people lying and falsifying information purely for financial reasons.  The application was rejected as it meets zero planning conditions. But the applicants think they can overrule this will financial and political influence.  The applications states that this farm is not on scenic land, this is absolutely a lie.  The original plan did not even include our homes.	No comment.  The application was recommended for approval twice by the Council Head of Planning because it was considered to meet the policies of the local plan. It was the Council’s planning committee that refused it. The planning committee are local politicians.  Incorrect. That is not what the application states.  Many of the plans and drawings used in planning applications are based on Ordnance Survey mapping. It is not unusual for official mapping not to show houses only built in the last 5 years:



		Land that is currently used for food.	Government is clear there is no food security problem, see bullet point at bottom of page 125 of CD6.63 and page 179 where it the Government says "It is plausible that with continued growth in output and conducive market conditions, that food production levels could be maintained or moderately increased alongside the land use change required to meet our Net Zero and Environment Act targets and commitments".
20	K. Chatha	<p>Grade 2 listed farmland.</p> <p>The application does not meet any criteria for the local authorities own planning guidelines.</p> <p>Does not address flood risk.</p> <p>Does not comply with planning guidelines for size of the application.</p> <p>No benefit to the local community.</p> <p>Along with other sites this development encases the residents.</p> <p>Loss of green belt.</p> <p>Loss of agricultural land.</p>	<p>The commentator is confused between agricultural land grading and listed building grading. The land is a mixture of soils grades. There are Grade 2 listed buildings in Fillongley.</p> <p>The application was recommended for approval to the Council's planning committee by the Council's Head of Planning twice.</p> <p>Incorrect. Climate change will increase rainfall and the risk of flooding to all towns and villages, including Fillongley. Planning policy requires development not to increase flooding elsewhere – this is why the Local Lead Flood Authority did not object to the planning application. The commentator is referred to the submitted flood risk assessment, the drainage strategy and the recently agreed statement of common ground on flooding between the Appellant and Council (inquiry core document 12.5).</p> <p>Unclear what planning guidelines the commentator refers to.</p> <p>There is a community garden. Renewable energy and addressing climate change is a benefit. Commentator accuses applicant of bribery. Unclear how commentator expects local benefit to be conveyed.</p> <p>Incorrect. The scheme will not encase residents in combination with other solar farms in the borough.</p> <p>The land is Green Belt. However, the Appellant and LPA agree that it is also Grey Belt. Where development of this type may not be inappropriate. In which case openness considerations not relevant and very special circumstances not required.</p> <p>The land is not 'lost' to farming and would remain in pastoral agricultural use.</p>

		<p>Impact to motorists.</p> <p>Any impact created during construction will take 15 years.</p> <p>The timescales to decommission the site have not been stated.</p> <p>There was an attempt at bribery by the applicants.</p> <p>The farmland is classified as grade 2 listed.</p> <p>Planning authorities must consult Natural England.</p> <p>DEFRA guide to sustainable use of soils on construction sites.</p> <p>There is no justification in the proposal as to why grade 2 and 3a land is being proposed.</p> <p>Property values.</p> <p>The size of this farm is larger than the</p>	<p>The commentator may wish to review the consultation responses of the Highways Authority who were afforded the Glint and Glare report.</p> <p>Incorrect. Planning conditions will control this, in particular the commentator is directed to the planning condition requiring a construction traffic management plan should planning permission be given.</p> <p>Planning Practice Guidance is clear that “solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use” (Paragraph: 013 Reference ID: 5-013-20150327). Planning conditions will control this, in particular the commentator is directed to the planning condition requiring details of site restoration should planning permission be given.</p> <p>Commentator makes this claim in relation to an offer to fund local play equipment; a local benefit which the commentator says the application is missing.</p> <p>The commentator is confused between agricultural land grading and listed building grading. The land is a mixture of soils grades. There are Grade 2 listed buildings in Fillongley.</p> <p>Natural England were consulted. They replied “<i>From the description of the development this application is likely to affect 47.10 ha of BMV agricultural land. We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations.</i>”</p> <p>Document not relevant to this type of development.</p> <p>Paragraphs 2.10.18 to 2.10.48 of National policy statement NPS EN3 provide guidance on “Factors influencing site selection and design” for Solar Photovoltaic Generation. The commentator is also referred to Section 5 of the Planning Statement (CD1.29).</p> <p>Not a planning matter.</p> <p>Incorrect.</p>
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	<p>village centre and its location is central to the whole village.</p> <p>There is no consideration to proximity to homes.</p> <p>Renewable energy is commendable, the environmental impact of large-scale solar farms should be carefully considered.</p> <p>Runoff of sediments and chemicals during construction and maintenance.</p> <p>Fire risk.</p> <p>Solar should go on industrial parks and brownfield sites. This direction should be steered by the local authority and not by capitalists.</p> <p>Is there a detailed plan to return the land to its previous state?</p> <p>My children see this as a business opportunity using green energy as a mask.</p>	<p>Incorrect. Consideration to residential receptors was included in the planning application documents.</p> <p>The planning application was screened for Environmental Impact Assessment. Plus, wider changes to the planning system consulted on last year, and to be brought into effect this spring, will see the threshold for small-scale solar farms set at 100MW, up from the previous 50MW; the purpose being for more significant schemes to be approved quickly to serve needs.</p> <p>Unclear how the commentator sees sediments being runoff, especially bearing in mind that the land is regularly ploughed. Unclear what chemicals the commentator is referring to, however the panels are cleaned with fresh water, because chemical use would invalidate the warranties.</p> <p>It is unclear why the commentator believes that solar farms present a significant fire hazard. Climate change is increasing the risk of wildfires.</p> <p>Planning applications must be decided on their own merits and recent Government statistics (CD6.49) are clear that installed solar PV is falling significantly below the growth required to achieve the five-fold increase to 70GW by 2035. This re-emphasises the immediate pressing need for the deployment of new renewable energy generation schemes.</p> <p>Planning Practice Guidance is clear that “solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use” (Paragraph: 013 Reference ID: 5-013-20150327). Planning conditions will control this, in particular the commentator is directed to the planning condition requiring details of site restoration should planning permission be given.</p> <p>Government are supportive of ground mounted solar schemes. The vast majority of which are delivered by the private sector.</p>
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21	R. Chatha (age 15)	<p>House located 500m from the potential solar farm, would disrupt the aesthetics of my garden, it would disrupt the community built between myself and my neighbours as some have told us they are highly likely to move if the plans are approved.</p> <p>The solar panels would mean more hassle and people moving out of the area.</p> <p>Furthermore, these plans affect me more not only because my garden and bedroom would overlook them but because I am a young person in society and our voices are often neglected or 'pushed aside' because of our age.</p> <p>We are the people who will live and grow up with changes made. Changes that should deeply consider their future impact before being made.</p>	<p>The Appellants are sorry that your neighbours have told you they will move away if the solar farm is approved.</p> <p>You may be interested in a document called the 'Landscape Strategy'. It can be found on the Council's website, or maybe someone can show it to you? On that drawing you will see there is new landscaping proposed on the east side of the solar farm which might help with your concerns about aesthetics from your garden?</p> <p>It is not clear what hassle you mean. There will be some disturbance when the solar farm is being constructed, but maybe you might find that interesting to watch? Once built, the amount of 'hassle' will be very low because someone will visit the site very rarely to check on it.</p> <p>The Appellants trust that you do not feel pushed aside in this appeal. As these comments are being typed, people who work for the solar farm company are visiting a primary school in South Yorkshire to speak to the children to find out their thoughts and ideas on a proposal near them, where a nature space (similar to the community garden proposed for the scheme near you) is proposed, asking the children to help design it.</p> <p>The photograph you included in your comments shows that the solar farm will be in the distance and will not be in the fields nearest your window.</p> <p>We understand this. We would say that small changes made now in helping the planet against climate change will have bigger positive benefits to you later in life.</p> <p>We hope you understand that the field behind your home will not have the panels in.</p>
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		<p>I have chosen photography as a GCSE and have begun to create coursework based on the fields behind my garden as the theme is nature. Having solar panels outside would greatly affect my coursework as solar panels are man-made.</p> <p>Though I am aware that solar panels are helping to save our planet by reducing our compliancy of using non renewable energy sources, I am sure that they could be placed in an area of derelict farmland.</p> <p>Farmland here is used to grow food produce [...] crucial to food security.</p> <p>Little changes in your life can change the bigger picture.</p> <p>Making good farmland redundant.</p>	<p>In terms of nature, you may be interested in the plans to increase nature on the land where the solar farm will be. There is a legal requirement in England for big developments to increase biodiversity by at least 10% compared to what's there now. Our solar farm will increase biodiversity by two different measurements; in terms of habitats it will increase by around 63% and in linear units (hedgerows) it will increase by around 26%. You may want to read the ecology reports.</p> <p>The ability of solar farms to boost biodiversity is well known and a big opportunity for nature. We hope you can cover some of this in your coursework.</p> <p>You are correct, solar panels are helping to save our planet and helping us stop using fossil fuels. The Government provides guidance on how to balance the sometimes-conflicting issues when deciding where to build solar farms. Solar farms, by their nature, go on farmland. The soil is not harmed. The land will continue to be used for livestock farming. It will also be used for biodiversity, much more than it is now.</p> <p>Please rest assured that the Government keeps an eye on food security and there are no food security issues that you need to worry about.</p> <p>We agree. We believe that developing solar farms that will be in place for 40 years will help fight climate change which will negatively affect nature and the planet for much longer than 40 years.</p> <p>Please don't worry that the land will be redundant. It will be supporting nature more than it is now, it will be providing green energy, it will be used for livestock farming. When the solar farm is finished, it is likely that the soil will be in a better condition than it is today because it will not have had decades of chemical fertiliser and pesticides on it, leaving the worms and small creatures to do their beneficial work.</p>
22	J. Chatha (age 12)	I would like to object to the planning application of the solar farm said to be in the view of our back garden.	It is true that you will be able to see parts of the solar farm in the distance from your garden if you look over the fence, but it will not be all of your view, and there will be new trees and hedges and a community garden too.

		<p>It is confusing that this solar farm is to be placed on a farm working and producing goods rather than one that cannot be farmed on.</p> <p>This farm is only 500m away from our home so if there were to be an electrical fault it could easily start a fire near our homes therefore putting not just our home but our whole village in risk.</p> <p>This farm will overlook my bedroom and garden.</p> <p>Animals and ecosystems will be put in endangerment.</p> <p>The local council have come around to our house as well and said the same concerns. There thoughts have been shared into the letter too.</p>	<p>Sorry you have been confused. The land that the solar farm will be on can still be used for farm animals such as sheep. It will also be used for more nature than is there at the moment. It will also be used to produce electricity that helps the environment too.</p> <p>We are very concerned that you have been given this impression. Please do not worry, solar farms are in fact very safe.</p> <p>Sorry that you have been told this by someone. It is true that you may be able to see it in the distance from your bedroom and garden, but it will not very too close and will not be all you see. You will still be able to see the countryside, trees and hedgerows.</p> <p>The amount of nature will actually go up because the people who look after the solar farm will be looking after nature better than how it is at the moment.</p> <p>Noted.</p>
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		<p>The use of the word "temporary" is understated as its designed to be placed for more than half a lifetime (45 years).</p> <p>Please see the photos for how this will effect me, this is beautiful countryside that every in the application is ignoring and saying this is not "scenic quality". This will really make me sad if we lose this countryside.</p>	<p>The word temporary is not chosen by us. The Government use the word, so we do too. This is because when the solar farm is finished, it can be removed and you would hardly know it had been there. It is true that the solar farm will be there for 40 years. But when houses and motorways are built they are not temporary because they stay for lots of years, even hundreds of years.</p> <p>Thank you for sharing your photos. The countryside is beautiful. Climate change may badly affect the countryside and our solar farm will help stop this from happening. We have not ignored this in our planning application. We have sent people out to look at the countryside near you and to think about how it can be helped. They have thought of ways to help the scenic quality, and how to help nature more than it is being helped now.</p> <p>This planning application is going to the planning appeal, and an Inspector from the Government is going to have a look at all the things you and other people have said.</p> <p>We hope that once the solar farm is built, you will see that what people have told you about it is not as bad as you have been told. We hope that the help to nature on the land will help you not be sad.</p>
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## Appendix 5 Drainage Technical Note

## ENVIRONMENT

Enviromena Project Management UK Limited  
Nailcote Farm  
Warwickshire  
Drainage Technical Note

January 2025

<b>Document Number:</b>	NFW-BWB-ZZ-XX-RP-CD-0003_DTN
<b>BWB Reference:</b>	221748_DTN

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P01	30.01.25	S2	Matthew Bailey BSc (Hons)	Rowan Jobling BEng (Hons)	Chris Dodd Beng (Hons) Ieng MICE

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- (i) The date on which this assessment was undertaken, and
- (ii) The date on which the final report is delivered

BWB Consulting makes no representation whatsoever concerning the legal significance of its findings or the legal matters referred to in the following report.

All Environment Agency mapping data used under special license. Data is current as of January 2025 and is subject to change.

The information presented, and conclusions drawn, are based on statistical data and are for guidance purposes only. The study provides no guarantee against flooding of the study site or elsewhere, nor of the absolute accuracy of water levels, flow rates and associated probabilities.

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## 1. INTRODUCTION

- 1.1 This Drainage Technical Note (DTN) has been produced by BWB Consulting Ltd on behalf of Enviromena Project Management UK Limited, to be submitted as part of a planning appeal proof of evidence for a proposed solar farm development at Land 800 meters South of Park House Farm, Meriden Road, Fillongley (Appeal reference: APP/R3705/W/24/3349391).
- 1.2 There were no reasons for refusal of the planning application related to flood risk or drainage. Consultation responses from the Lead Local Flood Authority (as statutory consultees) (LLFA, planning reference: PAP/2023/0071, LLFA References: 'WCC002749/FRM/SR/001', dated 29/03/2023 and 'WCC002749/FRM/SR/002', dated 30/05/2024) raised no objections, subject to conditions.
- 1.3 The Fillongley Flood Group (FFG), a non-statutory third party consultee, objected to the proposals prior to the planning determination and subsequently submitted a third-party representation against the appeal on 19/11/24 and an Addendum on 10/01/2025.
- 1.4 The Appellant (Enviromena Project Management UK Limited) has agreed a Statement of Common Ground (SoCG) on flooding and drainage matters with Fillongley Parish Council and at the time of writing is near to agreeing a SoCG with the LPA and LLFA.
- 1.5 Prior to the determination of the planning application, the drainage strategy was revised to include detention basins (also referred to across other documents as "ponds") to act as natural flood management and to provide further betterment to the flooding situation in Fillongley raised by the FFG. The drainage proposals were approved by the LLFA both without and then with the inclusion of the detention basins.
- 1.6 The SoCG between the appellant and the LLFA outlines the correspondence between the appellant, LLFA and case officer during the planning determination stage and confirms that the LLFA had no objection to the proposals, subject to conditions, with or without the inclusion of the additional detention basins.
- 1.7 The SoCG between the applicant and Fillongley Parish Council agrees that the scheme (if consented) will include the additional ponds and therefore Fillongley Parish Council's drainage concerns have been resolved and they will no longer call upon a drainage expert and the need for a flooding roundtable is no longer required.
- 1.8 The flood risk and drainage documents that should be referred to are as follows:
  - BWB Flood Risk Assessment - NFW-BWB-ZZ-XX-RP-YE-0001\_Flood Risk Assessment\_S2-P07, dated 26/04/2024.
  - BWB Drainage Strategy - NFW-BWB-ZZ-XX-RP-CD-0001\_Drainage Strategy\_S2-P07, dated 25/04/2024.
- 1.9 The proposals have been agreed, subject to conditions, with the relevant statutory flood risk and drainage consultee (i.e., the LLFA). Although the FFG are not a statutory consultee, or Rule 6 party, this DTN will provide responses, where relevant, to technical points raised by the FFG, and other relevant third parties, for the interest of the Inspector.



## 2. FILLONGLEY FLOOD GROUP STATEMENT AND OTHER THIRD PARTIES RESPONSE

### Introduction

- 2.1 The FFG submitted a statement on 19/11/24 and an Addendum on 10/01/25 which outlines points to be addressed before they agree to a Statement of Common Ground. The FFG's points have been copied below, with responses provided in **bold** below each specific point.
- 2.2 Third Party representations have also been provided by Andrew Martin via an email on 9<sup>th</sup> January 2025. This email has been copied below, with a response provided in **bold**.
- 2.3 It should be noted that neither the FFG nor Andrew Martin are statutory consultees. The drainage strategy has been agreed by the LLFA, subject to the submission of the relevant details during the discharge of conditions stage, prior to the commencement of construction works within the site.

### Responses

#### Statement dated 19/11/2024

- 2.4 The FFG note that the appellants' statement of case has removed the attenuation ponds from the proposals.
- 2.5 **Since the FFG's statement was submitted, the ponds have now been added back into the scheme, in agreement with Fillongley Parish Council.**
- 2.6 The FFG state that the LLFA could have "gone further" with their proposed conditions and we have copied and highlighted the extracts below for the LLFA's Local Flood Risk Management Strategy, dated April 2016:

*"Warwickshire County Council actively seeks that new development offers betterment with regard to flood risk in order to mitigate the potential negative flood risk impacts of development.*

*To maximise opportunities for contributions towards existing and proposed flood risk management from new development to address local flood risk."*

- 2.7 **Through the implementation of the interception / buffer swales, the proposed drainage strategy will result in a betterment to the requirement in policy LP33 re. existing surface water runoff rate and volume that will leave the site onto surrounding land and watercourses post-development. This betterment was acknowledged by the LLFA in their letter to North Warwickshire Borough Council on 03/04/2024, as outlined within their SoCG.**

- 2.8 **The addition of the attenuation ponds to the proposals will provide a further degree of betterment to the agreed drainage strategy; by providing additional space for natural flood risk management in the event the water levels rise within the surrounding watercourses to the site. Details on the level at which each detention basin will engage are provided within the BWB Drainage Strategy, although the basin design is subject to agreement with the LLFA as part of the discharge of conditions design work.**
- 2.9 **The degree of betterment provided by these basins has not been quantified prior to the planning determination. As the LLFA have stated in their SoCG, the ponds are not necessary for the proposals to be acceptable; therefore, unnecessary detailed work was not undertaken to quantify the impact of the additional basins prior to the planning determination.**
- 2.10 **However, the inclusion of both the interception swales and attenuation ponds will be providing betterment to the existing surface water runoff rates and volumes leaving the site and will also provide additional natural flood risk management measures that are not currently present at the site.**
- 2.11 **The LLFA's surface water management plan does not quantify the degree of betterment it aspires to see from new development. As the LLFA have no objections to the proposals, subject to conditions, it is considered that the mitigation measures proposed provide a suitable level of betterment to the surrounding area. This is in line with best practice and guidance.**

Statement Addendum dated 10/01/2025

- 2.12 The FFG's points raised in their addendum and BWB's responses, shown in **bold**, are provided below.
- 2.13 The FFG have asked the appellant and LLFA to provide the following documentary evidence and explain the following:
- A. That they have taken into account the potential runoff from the M6 motorway flowing through the site? Please provide documentary evidence of those calculations.
- 2.14 **It is understood that the FFG have issues with works they consider should have been undertaken when the M6 was built. The site specific Flood Risk Assessment (FRA) and Drainage Strategy do not consider the potential runoff from the M6 Motorway because they are not required to do so. The contributing flows from the M6 motorway is considered to be part of the baseline condition which the site has been assessed against. The assessments therefore focus on the site's potential impact against the baseline condition of the site at the time of the planning application.**
- 2.15 **More information on why the reports are not required to consider the issue of M6 Motorway runoff is provided below in response to 'point B'.**

B. If they have not taken into account the runoff calculations please explain why they have failed to do so?

- 2.16 **Notwithstanding the comments at 2.13 above. The information provided by the FFG relating to the potential runoff from the M6 Motorway is a scanned single page extract from page 12 of a report titled “Bourne Brook Catchment Report, Fillongley, North Warwickshire”. The scanned extract is watermarked with “DRAFT” and BWB cannot locate this document readily online. Therefore, BWB have not been able to validate or rely on this data for use in any assessment of the application site.**
- 2.17 **The FRA and Drainage Strategy are site specific and therefore have properly assessed the site in regard to the flood risk to the application site area and potential downstream impacts associated with the proposed development.**
- 2.18 **The Appellant does not have control over the incoming flows associated with the M6 Motorway drainage and also is not obligated to attenuate and provide mitigation for third-party flows as part of their development proposals. Therefore, any flows associated with the M6 motorway do not have any bearing on the FRA and drainage strategy and therefore have not been considered.**
- 2.19 **The LLFA did not raise any concerns with the approach described above in their planning comments.**

C. Please provide documentary evidence of the impact of the runoff from the M6 motorway together with the runoff from the solar panels?

- 2.20 **As outlined in response to ‘point B,’ the data provided for the potential M6 Motorway cannot be relied upon, as the source documentation cannot be found online.**
- 2.21 **On the assumption that the extracted data provided for the M6 Motorway is correct, and notwithstanding our in-principle position, an assessment of the impact of the runoff from the M6 and proposed development is provided below for the benefit of appeal parties.**
- 2.22 **As only a single page extract of a full report has been provided, it has been assumed that the ‘total inflows’ refers to inflows into the village of Fillongley.**
- 2.23 **During the 1 in 100-year return period, the total inflow into Fillongley is assessed to be 4.2m<sup>3</sup>/s (or 4,200l/s), with 0.76m<sup>3</sup>/s (or 760l/s) of the contributing flows coming from the M6 motorway. As outlined within the approved BWB Drainage Statement (reference: NFW-BWB-ZZ-XX-RP-CD-0001\_Drainage Strategy\_S2-P07, dated 25/04/2024), the pre-development flows from the application site during the 1 in 100-year return period is 0.0632m<sup>3</sup>/s (or 63.2l/s).**

2.24 In the post-development pre-mitigation scenario, the introduction of new impermeable surfacing associated with the ancillary equipment (i.e. transformers) may result in an increase in surface water runoff rates and volumes post-development. However, it is proposed that the transformers will be surrounded by infiltration trenches which will capture, attenuate and infiltrate the surface water runoff from the new impermeable surfaces post-development within the site. Therefore, there will be no increase to the surface water runoff rates and volumes in the post-development scenario due to the proposed mitigation measures outlined in the Drainage Strategy Report. Furthermore, the implementation of the interception swales at the site peripheries will reduce the peak flow of surface water leaving the site; thus, providing a betterment to the existing scenario post-development, as referred to by the LLFA in the SoCG.

D. Please provide documentary evidence of the authoritative research for panels with a dual aspect and the runoff effect from the panels?

2.25 The scientific paper “Hydrologic Response of Solar Farms” (Cook and McCuen, 2013) used to underpin the drainage strategy is a research paper that was produced with the intention to be used as a guide for the design of solar farms. This research assessed the potential impact of increased kinetic energy of rainfall draining from solar panels compared to that of direct rainfall.

2.26 The paper concludes that to mitigate the potential erosion from runoff draining from solar panels it is recommended that the grass beneath the panels be well maintained or that a buffer strip [i.e., an interception swale] be placed at the most downgradient row of panels. The proposed drainage strategy takes a highly precautionary approach and provides for both of the recommended mitigation measures to be included in the scheme.

2.27 Additionally, the mitigation measures proposed are in accordance with the LLFA’s specific guidance outlined in their local guidance document “Flood Risk & Sustainable Drainage – Local Guidance for Developers” (Version 4, dated January 2020), which was the latest iteration of their guidance at the time of the planning application being validated.

2.28 The direction that the panels are facing (i.e., dual aspect) should not result in a significant change to the kinetic energy from runoff dripping from the panels to the ground. If the panels are sloped such that runoff drips from a panel’s corner, there may be an increase in kinetic energy from rainfall onto the ground by the corner of each respective panel; however, this will be mitigated by surrounding areas that do not have any runoff dripping from the rest of the panel and also the introduction of the interception swales, as recommended by Cook and McCuen, and the LLFA.

E. We understand that the Appellant's flood risk assessment/drainage strategy did not consider or model the runoff from dual aspect panels. Given climate change and the likelihood of exceptionally dry/wet periods, when the land no longer acts as a sponge, the effect on runoff rate and increased flood risk does not appear to have been addressed. Please confirm that this is the case.

2.29 **The calculations presented within the Drainage Strategy Report (reference: NFW-BWB-ZZ-XX-RP-CD-0001\_Drainage Strategy\_S2-P07, dated 25/04/2024) have been undertaken using the IH-124 method, which is considered to be the most appropriate method for a site between 50-200 hectares (ha), as recommended by Table 6.1 within the Interim Code of Practice for Sustainable Drainage Systems (National SuDS Working Group, July 2004).**

2.30 **The calculations also consider the future impact of climate change on the rainfall intensity. Although the assessment does directly assess the potential for runoff from the exceptionally dry/wet periods, the assessment made is based on a comparison of the impact to surface water runoff rates and volume in a pre- and post-development scenario. The potential change in runoff regime in a like-for-like assessment is not anticipated to result in a significant change post-development.**

F. There has been no response from the Appellant or the Lead Local Flood Authority to the Edenvale Young Associates Report of 4th July 2024. In particular the LLFA and Appellant need to consider and comment on the conclusions of EYA's report numbers 19 to 26 listed below:

"19. The swale design as shown will not reduce the runoff rates anticipated. The design should be developed to ensure that water is captured and managed – such as by infiltration with check dams, and that the overflow mechanism is predicted and illustrated. The swales do not manage runoff as presently shown and would simply convey flows to the lowest points and cause unchecked erosion and silt mobilisation.

2.31 **The LLFA will have opportunity to review the detailed drainage design through the discharge of conditions, which will provide the level of detail requested.**

20. The detention basins as shown will not attenuate flows in the existing watercourses. The inlets need to be designed to receive water from the watercourses and the outlets designed to mobilise storage – they do not, as presently shown. An indication of the benefits delivered by these ponds should be given, to provide monitoring.

2.32 **Given that the basins were not deemed necessary for the drainage proposals to be acceptable to the LLFA, it was agreed that time-consuming and costly hydraulic modelling to assess the potential impacts of the additional detention basins was not required or justified to determine the planning application.**

2.33 **There is the opportunity for the benefits of the additional basins to be quantified and amendments to the design to be undertaken to optimise the basins effectiveness as a form of natural flood risk management as part of discharging the relevant condition if required by the LLFA and LPA.**

21. The scale and duration of grazing should be specified to ensure that the vegetation is effective in managing runoff.

2.34 **BWB understand that this information is provided in the LEMP, which will be conditioned and FFG will have the opportunity to comment on that at the appropriate time.**

22. Tracks should be formed in permeable granular material, usually expected to have 30% voids.

2.35 **No tracks are proposed. If they were, the surface type of any internal tracks can be agreed with the LLFA during the discharge of conditions works.**

23. A project programme should be submitted showing the detention basins and swales installed as a first stage to bring benefits during construction. A project programme should be submitted showing the detention basins and swales installed as a first stage to bring benefits during construction.

2.36 **Noted.**

24. It is customary to ensure that the fields are vegetated prior to trafficking and the commencement of construction, and that trafficking is avoided in wet conditions when the soil characteristics in the long term can be damaged.

2.37 **Noted. General construction and operational mitigation measures are outlined within the Drainage Strategy Report.**

25. It is important to FFG and the community of Fillongley that the LLFA ensures that recommended planning conditions are included in the Decision Notice, if approved, and that the conditions are fully considered by the LLFA prior to being Discharged.

2.38 **Noted.**

26. On other solar farms the Developer has agreed to have an annual walkaround with the community group to promote good relations and show that the maintenance is being undertaken. We suggest that FFG seeks to agree this with the Operator.

2.39 **Noted. This is not a planning matter.**

G. We are aware that the cost of the Appellant's application has taken valuable resources away from providing everyday flooding solutions and preventative measures not just in Fillongley but the whole of the county. The FFG are therefore concerned that the Appellant has not even secured a generator licence having made enquiries with the NESO. We would ask the Appellant to provide documentary evidence of the generator licence for the site.

2.40 **This point is not relevant to flood risk and drainage.**

Andrew Martin Email 09/01/2025

- 2.41 Andrew Martin's email and BWB's response, shown in **bold**, are provided below.
- 2.42 As mentioned in my earlier submissions the solar arrays proposed will lie in a dual plane. This was confirmed by representatives of the appellant at a site meeting. Whilst the appellants application refers to the arrays facing south, they will infact face not only south but, dependent on topography, also either to the east or the west. Consequently any comments on glint and glare will have been based upon incorrect information as the spread of glint/ glare will be wider than suggested. This will also affect visual impact.
- 2.43 **This point is not relevant to flood risk and drainage.**
- 2.44 Of more concern; the appellants drainage report refers to research carried out by Cook and McCuen 2013 as the basis for the appellants assertions as to the flood risk. However the aforesaid research was based upon the premise the arrays would discharge rainfall equally along the whole of the bottom edge of the arrays. As mentioned the arrays proposed will be dual plane and therefore rainfall will not discharge evenly along the whole of the bottom edge but will discharge mainly from the lowest corner. This will produce a stream of greater quantity and force which is likely to result in quicker runoff as channels are likely to be formed by increased erosion.
- 2.45 **This research paper by Cook and McCuen (2013) does not state that their study is based on the premise that the arrays discharge rainfall equally along the whole bottom edge of the arrays, only that "the energy of water draining from the panel onto the ground can be nearly 10 times greater than the rain itself falling onto the ground area".**
- 2.46 **The paper concludes that to mitigate the potential erosion from runoff draining from solar panels it is recommended that the grass beneath the panels be well maintained or that a buffer strip [i.e., an interception swale] be placed at the most downgradient row of panels. The proposed drainage strategy takes a highly precautionary approach and provides for both of the recommended mitigation measures to be included in the scheme.**
- 2.47 **Additionally, the mitigation measures proposed are in accordance with the LLFA's specific guidance outlined in their local guidance document "Flood Risk & Sustainable Drainage – Local Guidance for Developers" (Version 4, dated January 2020), which was the latest iteration of their guidance at the time of the planning application being validated.**
- 2.48 **Furthermore, as shown in the Environmena Section Views drawing "P.NailcoteFarm\_06\_SectionViews\_RevA" dated 05/12/2022, the individual panels within the solar arrays will have gaps between each panel, which will spread the areas that dripping occurs across the solar arrays, in areas that the panels are installed at a sloped angle. The sections view drawings are included within the BWB Drainage Statement report appendices.**
- 2.49 **The direction that the panels are facing (i.e., dual aspect) should not result in a significant change to the kinetic energy from runoff dripping from the panels to the ground.**

- 2.50 **If the panels are sloped such that runoff drips from a panel's corner, there may be an increase in kinetic energy from rainfall onto the ground by the corner of each respective panel; however, this will be mitigated by surrounding areas that do not have any runoff dripping from the rest of the panel and also the introduction of the interception swales, as recommended by Cook and McCuen, and the LLFA.**
- 2.51 **The slope of the panels will not impact the quantity of water draining from each respective panel.**
- 2.52 Consequently the assertions by the appellant as to the flood risk are fundamentally flawed and also do not take into account extended periods of very dry or very wet weather when the ground will not act as a "sponge".
- 2.53 **The calculations presented within the Drainage Strategy Report (reference: NFW-BWB-ZZ-XX-RP-CD-0001\_Drainage Strategy\_S2-P07, dated 25/04/2024) have been undertaken using the IH-124 method, which is considered to be the most appropriate method for a site between 50-200 hectares (ha), as recommended by Table 6.1 within the Interim Code of Practice for Sustainable Drainage Systems (National SuDS Working Group, July 2004).**
- 2.54 **The calculations also consider the future impact of climate change on the rainfall intensity. Although the assessment does directly assess the potential for runoff from the exceptionally dry/wet periods, the assessment made is based on a comparison of the impact to surface water runoff rates and volume in a pre- and post-development scenario. The potential change in runoff regime in a like-for-like assessment is not anticipated to result in a significant change post-development.**
- 2.55 **The method used for calculating runoff rates from the site presented within the Drainage Strategy is a widely accepted methodology. The LLFA has not raised any concerns with the methodology used to assess the runoff rates from the site.**
- 2.56 **Fundamentally the will site will experience periods of very dry and very wet weather in the future, regardless of if the development is consented or not. The assessment presented within the Drainage Strategy demonstrates that the site will in effect continue to operate under greenfield conditions in the post-development scenario.**