

**CD13.2a**

***AITCHISON  
RAFFETY***



**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL BY ENVIROMENA PROJECT  
MANAGEMENT UK LIMITED**

**LAND 800 METRES SOUTH OF PARK HOUSE  
FARM, MERIDEN ROAD, FILLONGEY**

**PROOF OF EVIDENCE  
on behalf of**

**NORTH WARWICKSHIRE BOROUGH  
COUNCIL**

**APP/R3705/W/24/3349391**

**March 2025 – FINAL**

Prepared by  
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## 1. INTRODUCTION

- 1.1 My name is Jonathan Weekes and I am a Technical Director at Aitchison Raffety, Chartered Town Planning Consultants. I am instructed by North Warwickshire Borough Council (the Local Planning Authority) in respect of this appeal. It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990 following the refusal by the local planning authority in respect of land 800 metres south of Park House Farm, Meriden Road, Fillongley, Warwickshire.
- 1.2 I have an Honours Degree in Physical Geography, a Masters in Town Planning and am a Member of the Royal Town Planning Institute.
- 1.3 I have over 20 years' experience in private practice in planning and development management matters. I have advised and acted on behalf of major housebuilders, private individuals, local authorities, Parish Councils, and resident groups on a wide spectrum of planning work for both major and minor residential, employment, commercial, energy and mixed-use schemes. This has included involvement with appeals (hearings and inquiries) acting for both private and public clients promoting and opposing sizeable renewable energy schemes for solar and battery energy storage.
- 1.4 I will present evidence on planning matters in respect of this appeal. This Proof of Evidence is to be read in conjunction with the landscape and visual evidence provided by Ms S. Oxley, LUC Ltd, acting on behalf of the Council where relevant concerns are raised and included within the planning balance. I have visited the Site and surrounding area as part of my preparation for the appeal.
- 1.5 The evidence that I have prepared and provide for this appeal by way of this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of my professional institution, The Royal Town Planning Institute. I confirm the opinions expressed are my true professional opinions.

- 1.6 The appeal was originally scheduled as a Hearing, with Statement of Cases prepared prior to the appeal being upgraded to an Inquiry. This Proof of Evidence supersedes the Hearing Statement of Case (see [CD 9.5 & 9.6](#)).

## 2. THE APPEAL SITE AND SURROUNDING AREA

- 2.1 The site is a roughly rectangular area of agricultural land comprising ten large irregular shaped arable fields that extend to over 61 hectares. It is situated immediately north of the M6 Motorway and east of the B4102 Meriden Road, where it passes under the Motorway. It is around 600 metres south of Fillongley.
- 2.2 The land undulates, with a relative ridge in the centre of the site running in a north/south direction, with levels falling away on either side. The lowest point is to the north-east, where the fall is around 27 metres. It is currently used for arable crops.
- 2.3 A water course, the Bourne Brook, crosses the north-western boundary. A second unnamed water course runs from the southern boundary towards the south-east. Other on-site ditches drain north towards these watercourses.
- 2.4 There is a public footpath (M294) that runs north/south through the site from the M6 Bridge into Fillongley Close to its western boundary. A further footpath (M294a) runs north/south from Corley Moor into Fillongley, just to the east of the site boundary.
- 2.5 The site is surrounded by agricultural land, with a dispersed pattern of individual residential units and farmsteads. This includes a number of listed buildings, whilst there is a scheduled ancient monument to the north of the site [Ringwork Castle] which contains remnants of the masonry and earthwork of Castle Yard, a ringwork castle and its associated bailey. To the south, beyond the motorway there are commercial enterprises, including at Corley Moor (circa 1km south-east of the Appeal Site).



*Site Location Plan; annotated version taken from FPCR's  
Landscape & Visual Appraisal (CD 1.22); numbers and arrows represent locations  
and directions of photographs below*



*Photograph 1: View eastwards from Footpath M294 on Appeal Site. Foreground will have parking area and associated buildings with the remainder of the land covered by solar arrays up the horizon*



*Photograph 2A: View north-east from Footpath M294 on Appeal Site. Meadow grassland strip is retained along the footpath but remainder of view covered by solar arrays with some new hedgerow planting and strengthening of the tree belt in the background*



*Photograph 2B: View west-north-west from Footpath M294 on Appeal Site. Meadow grassland strip is retained along the footpath but remainder of view covered by solar arrays up to the trees in the background*



*Photograph 3: View west-north-west from Footpath M294A [located immediately east of the site close to the intersection with the Coventry Way footpath]. Boundary vegetation and trees retained and augmented; harvested yellow field will be largely occupied by solar arrays up to the horizon.*





*Photograph 4: View looking north-west from bridge over M6 from Footpath M294A. Appeal Site is visible as the yellow cropped fields. All will be filled with solar arrays, but with some additional landscaping included.*

Please Note: all photographs taken late summer 2024 and thus are up to date representations of the site's appearance; photographs show trees in leaf and therefore winter views will offer greater visibility. See Ms Oxley's Proof of Evidence for winter views.

### 3. EVOLUTION AND DETERMINATION OF THE PLANNING APPLICATION AND APPEAL

- 3.1 The application (reference PAP/2023/0071) was validated on 24 February 2023 and comprised the installation of ground-mounted solar photovoltaic arrays together with ancillary infrastructure, landscaping and biodiversity enhancements. The proposal sought a 40 year temporary consent and will generate 40MW (AC) but is restricted to 49.9 MW (AC).
- 3.2 The panels are to be arranged in east/west rows with approximately 5.3 metres between each row, and at least a 4.0 metre offset to site boundaries in order to prevent overshadowing and allow space for maintenance. The fixed modules are to be angled at circa 20 degrees and mounted facing south, with a maximum height of 2.3 metres above ground level. The solar array will be supported by galvanised steel frame mounting system, fixed using short pile foundations.
- 3.3 There will be 13 substations dispersed across the development site, which are expected to be in the order of 2.6 by 1.1 metre in footprint and have a height of 2.445 metres. At the south-western corner of the site, the switchgear and substation enclosures are proposed. The switchgear structures are 2.8 by 2.8 metres footprint by 1.95 metres high (indicatively) and the substation 7.1 by 2.8 metres with a height of 3.2 metres.
- 3.4 The existing boundary vegetation is to be retained and augmented as part of the proposal, along with additional planting. Additional drainage ponds are also included as part of the proposal. The whole site is intended to be enclosed by deer proof fencing at 2.0 metres high. This will be constructed from timber posts with mesh attached. These fences will also run either side of the footpath that traverses the site.
- 3.5 The application was presented to the Planning Board on 22 May 2023, with observations provided and a recommendation that the Board undertake a site visit prior to its determination (see [CD 2.1](#)).

- 3.6 The application was taken back to the Planning Board on 4 March 2024 (see [CD 2.2](#)). This notes that the following alterations had been made to the proposal, reflecting discussions between the applicant (now appellant) and the Council/respective consultees and groups:
- a. Reducing the angle of tilt of the panels from 25 degrees to 20 degrees which also reduces the height of each panel from 2.7 to 2.3 metres.
  - b. Increased planting along the M6 boundary and in the south-east corner of the site together with additional tree and hedgerow planting in the north-east and north-west corners.
  - c. Division of the central large area with new hedgerows, extended hedgerows and tree planting.
  - d. All new hedgerows to be maintained at a height of 2.5 metres.
  - e. A “clump” of new tree planting on the highest part of the site.
  - f. Widening the corridors either side of the public footpath crossing the site enabling hedgerow and tree planting.
  - g. The provision of a small community garden in the far north of the site adjacent to the stream that runs through the site.
- 3.7 The Planning Officer’s recommendation, based upon Layout Plan Revision D [subsequently agreed that this should have been Revision E due to error in submission – see Statement of Common Ground] was for conditional approval. The report made clear that this was a ‘fine balance’ based upon judgements of the benefits and harms of the proposal (paragraph 4.58 onwards of [CD 2.2](#)). Harm was noted in terms of policy conflict, landscape and visual impacts, heritage, use of the best and most versatile land, and balanced against the renewable energy benefits.
- 3.8 As part of the Board Meeting in March 2024, concern was still being raised by the Fillongley Flood Group on flood risk matters. The Board deferred a decision, to allow additional consideration of the concerns to be undertaken.

3.9 The application was re-presented to the Planning Board on 8 July 2024 (see [CD 2.3](#)). This included an updated layout plan (Revision F) and included additional swales to address previous concerns on drainage. It also included additional landscaping within the north-eastern part of the site. As a consequence of the three additional basins and trees, the biodiversity net gain for habitats as a result of this proposal rises from 62% to 63.17% and from 25% to 25.76% for linear features. It is against this version of the layout plan and drainage scheme that the planning application was determined.

3.10 The Planning Officer's report was finely balanced in recommending conditional approval. However, the Board recommended refusal on the following ground:

*"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."*

3.11 The refusal notice was issued on 10 July 2024 and subsequently appealed (see [CD 2.4](#)).

3.12 The Appeal was initially intended to be heard as a Hearing. At this stage, the Appellant proposed consideration of the appeal scheme without the additional ponds included within the plans determined as part of the application. With and without ponds drawing packages are provided at **CD 8.8 and 8.9**. It is now understood that as part of the Inquiry process, agreement has been reached that the proposal to be considered is the 'with ponds' plan set (**CD 8.9**) which aligns with the plans considered by the Council when the application was determined.

#### 4. THE DECISION-TAKING FRAMEWORK: THE DEVELOPMENT PLAN AND NATIONAL PLANNING POLICY

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

##### The Adopted Development Plan

- 4.2 The Statutory Development Plan comprises the North Warwickshire Local Plan 2021 and the Fillongley Neighbourhood Plan 2018 – 2034. The policies of relevance are set out below, with the key policies highlighted bold.

##### North Warwickshire Local Plan 2021 (NWLP) (adopted September 2021)

- 4.3 The following policies are of relevance to this appeal:
- **Policy LP1 – Sustainable Development**
  - **Policy LP3 – Green Belt**
  - **Policy LP14 – Landscape**
  - Policy LP15 – Historic Environment
  - Policy LP16 – Natural Environment
  - Policy LP17 – Green Infrastructure
  - Policy LP21 – Services and Facilities
  - Policy LP29 – Development Considerations
  - **Policy LP30 – Built Form**
  - Policy LP33 – Water and Flood Risk Management
  - **Policy LP35 – Renewable Energy and Energy Efficiency**
- 4.4 Extracts of the NWLP are provided at **CD 5.1 & 5.2**.

### Fillongley Neighbourhood Plan 2018 – 2034 (Made August 2019) (FNP)

4.5 The following policies are of relevance to this appeal:

- **Policy FNP01 – Built Environment**
- **Policy FNP02 – Natural Environment**
- Policy FNP03 – Flooding
- Policy FNP06 – Heritage

4.6 Extracts of the FNP are provided as [Appendix CD 5.12](#).

### Other Material Considerations

4.7 In addition to the development Plan, there are a number of other material considerations that need to be taken into account as part of this planning appeal. These include:

- The National Planning Policy Framework (February 2025), particularly Sections:
  - 2: Achieving sustainable development
  - 4: Decision-making
  - 6: Building a strong, competitive economy
  - 8: Promoting healthy and safe communities
  - 9: Promoting sustainable transport
  - 12: Achieving well-design and beautiful places
  - 13: Green Belt
  - 14: Meeting the challenge of climate change, flooding and coastal change
  - 15: Conserving and enhancing the natural environment
  - 16: Conserving and enhancing the historic environment

- The draft National Planning Policy Framework (July 2024)
- National Planning Practice Guidance
- Ministerial Written Statement – July 2024
- National Policy Statement on Energy – EN1
- National Statement for Renewable Energy Infrastructure – EN3
- Climate Change Act 2008 – Net zero 2050 (2019)
- National Infrastructure Strategy – November 2020
- Energy White Paper December 2020



## 5. RELEVANT PLANNING APPLICATIONS AND DECISIONS

### Other Relevant Decisions within North Warwickshire Borough

5.1 Beyond the current Appeal, the Council have considered six other solar farm applications and two battery energy storage system (BESS) applications. These applications are briefly summarised below, but vary in scale and visual impact, as well as policy basis, with a number located outside of the Green Belt. Each case has been determined on its own merits, but these other applications were approved by the Council:

1. Application PAP/2014/0483: Land East of Grendon House Farm, Warton Lane, Grendon – Approved 14 November 2014 [see [CD 7.58](#)]  
14.6 MW solar farm on 32 hectares of land on land outside the Green Belt; 25 year period
2. Application PAP/2015/0459: Land South of Pogmore Spinney Merevale Lane, Merevale – Approved 26 February 2016 [see [CD 7.59](#)]  
5 MW solar farm on 5.2 hectares of land outside the Green Belt; 25 year period
3. Application PAP/2021/0562: Environment Agency Lea Marston Depot, Coton Road, Lea Marston – Approved 2 March 2022 [see [CD 7.60](#)]  
3MW solar farm on 10.7 hectares of former landfill site (4.4 ha to be developed) within the Green Belt; 25 year period
4. Application PAP/2022/0544: Land East of Astley Lane, Bedworth – Approved 19 July 2023 [see [CD 7.61](#)]  
16MW solar farm on 28 hectares of land within Green Belt; 40 year period
5. Application PAP/2021/0605 & PAP/2021/0651: Land 350 metres north-west of Marlwood Bungalow and land east of Breach Oak Lane, Corley, Smorrall Lane,

Astley / Land north of Park Lane Farm, Park Lane, Astley – Both Approved 28 July 2022 [see [CD 7.62 & 7.63](#)]

Solar and battery energy storage site on five fields amounting to 40 hectares on land within the Green Belt; 40 year period

6. Application PAP/2021/0473: Land east and south east of Dunton Hall, Kingsbury Road, Curdworth – Approved 4 March 2022 [see [CD 7.64](#)]  
349.9 MW battery energy storage system on 11 hectares of land within the Green Belt; 30 year period
7. Application PAP/2023/0056: Land at Junction Lichfield Road/Watton Lane, Water Orton – Approved 7 November 2023 [see [CD 7.65](#)]  
Battery energy storage system on 0.7 hectares of land within the Green belt; 40 year period

### Appeal Decisions

5.2 The following Green Belt appeal decisions within North Warwickshire Borough are relevant to this appeal:

- APP/R3705/W/24/3340380: Orchards, Bennetts Road North, Corley [see [CD 7.66](#)]
- APP/R3705/W/24/3338275: The Willows, Tamworth Road, Cliff, Kingsbury [see [CD 7.67](#)]
- APP/R3705/W/23/3335824: Old Beretun, Barnes Wood Lane, Whitacre Heath [see [CD 7.68](#)]
- APP/R3705/W/23/3331258: Tameview, Cliff Hall, Lane, Cliff, Kingsbury [see [CD 7.69](#)]
- APP/R3705/W/23/3327296: Land west of Hams Hall roundabout and south of Marsh Lane, Curdworth [see [CD 7.70](#)]

5.3 These appeals, amongst other things, confirm the conformity of Local Plan Policy LP3 [Green Belt] is compliant with the NPPF.

5.4 The following solar farm appeal decisions, as explained within the Main Issue sections, are of relevance to this appeal:

- APP/T3725/W/24/3347315: Land to the south of Birmingham Road, Kenilworth & APP/Q4625/W/24/3347316: Lane to the east of Holly Lane Meer End, Solihull [see [CD 7.80](#)]
- APP/W1525/W/24/3344509 & APP/B1550/W/24/3344510: Land south of Runwell Road, Runwell, Wickford, Essex, SS11 7QH [see [CD 7.34](#)]
- APP/N1920/W/22/3295268: Land to the north of Butterfly Lane, Land surrounding Hillfield Farm and Land west of Hillfield Lane, Aldenham, Hertfordshire [see [CD 7.31](#)]
- APP/P3040/W/23/3329235: Land to the west of Wood Lane and Stocking Lane, Kingston Estate, Gotham, Nottinghamshire, NG11 0LF [see [CD 7.71](#)]
- APP/K2420/W/21/3266505: Hangmans Hall Farm, Twenty Acre Lane, Sutton Cheney, Nuneaton, CV13 0AJ [see [CD 7.72](#)]
- APP/DO840/W/22/3293079: Land at Tregorrick Farm, Tregorrick, St Austell, Cornwall, PL26 7AG [see [CD 7.73](#)]
- APP/J1860/W/23/3325112: Birchall Green Farm, Sinton Green, Hallow, WR2 6NT [see [CD 7.74](#)]
- APP/D1265/W/23/3317593: Land at Cruyton Farm, Cruyton Lane, Cruyton, DT2 0EB [see [CD 7.75](#)]
- APP/L3815/W/23/3329831: Land at Lavant Pumping Station, Down Road, Chichester [see [CD 7.76](#)]
- APP/P1615/W/23/3331416: Land North of Stream Lane, Upleadon, Gloucestershire, GL18 1EL [see [CD 7.77](#)]
- Appeal APP/P0119/W/22/3294810 – Land at Elm Farm, Bristol Road, Iron Acton, Bristol [see [CD 7.78](#)]

- Appeal APP/L3245/W/23/3329815 – Land to the South of Hall Lane, Kemberton, Telford [see [CD 7.3](#)]
- Appeal APP/F1040/W/22/3313316 – Land North of Lullington, Swadlincote, Derbyshire [see [CD 7.79](#)]
- Appeal APP/J1535/W/23/3334690 – Land adjacent to Harlow Road, near Roydon, Essex [see [CD 7.2](#)]
- Appeal APP/W1525/W/22/3300222 – Land East and West of A130 and North and South of Canon Barns Road, East Hanningfield, Chelmsford, Essex [see [CD 7.8](#)]
- Appeal APP/Q3115/W/24/3350890 – Burcot Farm, Burcot, Abingdon, Oxfordshire, OX14 3GW [see [CD 7.46](#)]

5.5 The following Battery Energy Storage System (BESS) appeal decision is also relevant, given it has dealt with the issue of Grey Belt:

- APP/Q4245/W/3354822: Land at Wild Foul Farm, Carrington Lane, Carrington, Greater Manchester, M31 4AD [see [CD 7.47](#)]

## 6. MAIN ISSUE – INTRODUCTION & MAIN ISSUE 1

### INTRODUCTION

6.1 The Inspector’s Case Management Conference Note recognised the following key issues:

1. Whether the proposed development would not be inappropriate development in the Green Belt having regard to the Framework and any relevant Development Plan policies;
2. Likely effects upon the significance of various heritage assets;
3. Likely effects upon the character and appearance of the area having regard to landscape and visual effects – including public viewpoints and effects upon users of public rights of way;
4. The weight to be attached to the effects upon Best and Most Versatile (agricultural) land.

6.2 These matters are dealt with in turn, before turning to the degree of compliance with the Development Plan and planning balance.

### MAIN ISSUE 1: WHETHER THE PROPOSAL WOULD NOT BE INAPPROPRIATE DEVELOPMENT IN THE GREEN BELT

#### Policy Position

#### NPPF

6.3 The Appeal Site is located within the Green Belt. The NPPF December 2023 sets out at paragraph 142 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 143 sets out the five purposes of Green Belts as:

- 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.”*

6.4 NPPF Paragraph 153 (including footnote 55) states

*“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness (other than in the case of development on previously developed land or grey belt land, where development is not inappropriate).*

*Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”*

6.5 NPPF Paragraph 160 states that many renewable energy projects will comprise inappropriate development. In such cases, developers will need to demonstrate very special circumstances.

PPG

6.7 Updated 27 February 2025, the PPG provides guidance on how to consider assessing whether land within the Green Belt should be defined as Grey Belt, and the other factors to consider in whether development is acceptable on Grey Belt land.

6.8 Paragraph 009 (ID 64:009-20250225) states:

*“An assessment of Green Belt will (alongside other considerations) inform the determination of applications which involve reaching a judgement as to whether proposals utilise grey belt land and whether development of the site would fundamentally undermine the purposes of the remaining Green Belt across the plan area.*

*Where grey belt sites are not identified in existing plans or Green Belt assessments, it is expected that authorities should consider evidence, in light of this guidance, on:*

- whether the site strongly contributes to the Green Belt purposes a, b or d; and*
- whether the application of policies to areas and assets of particular importance identified in footnote 7 to the NPPF (other than Green Belt) provide a strong reason to restrict development; and*
- whether development of the site would fundamentally undermine the purposes of the remaining Green Belt across the plan area, as set out in national policy and this guidance.”*

6.9 In respect of the first clause on the purpose of Green Belt (as set out at paragraph 143 of the NPPF), it provides a list of considerations for informing the judgment as to whether land is Grey Belt (paragraph 5 ID 64-05-20250225).

6.10 Paragraph 8 (ID 64-008-20250225) outlines the requirement to assess the Green Belt as to the extent to which release or development of Green Belt land (including but not limited to grey belt land) would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the plan area as whole. In reaching this judgement, authorities should consider whether, or the extent to which, the release or development of Green Belt Land would affect the ability of all the remaining Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way.

6.11 Where a site is judged to be grey belt, and to not fundamentally undermine the purposes of the remaining Green Belt across the plan area if released or developed, wider considerations will still be relevant to the consideration of development proposals on the site. These would include determining whether the development would not be inappropriate development in the Green Belt (NPPF paragraph 155). That question would include consideration of whether a development is sustainably located, and whether there is a demonstrable unmet need for the type of development proposed (paragraph 10; ID 64-010-20250225).

6.12 Paragraph 10 continues, noting that:

*“Where a development is not inappropriate in the Green Belt, this does not itself remove the land from the Green Belt nor require development proposals to be approved. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, wider policies and considerations apply, including those in the area’s adopted Plan, and in the NPPF read as a whole.”*

6.13 Figure 2 then pictorially summarises the matters to consider for when development in the Green Belt is not inappropriate under paragraph 155 of the NPPF.

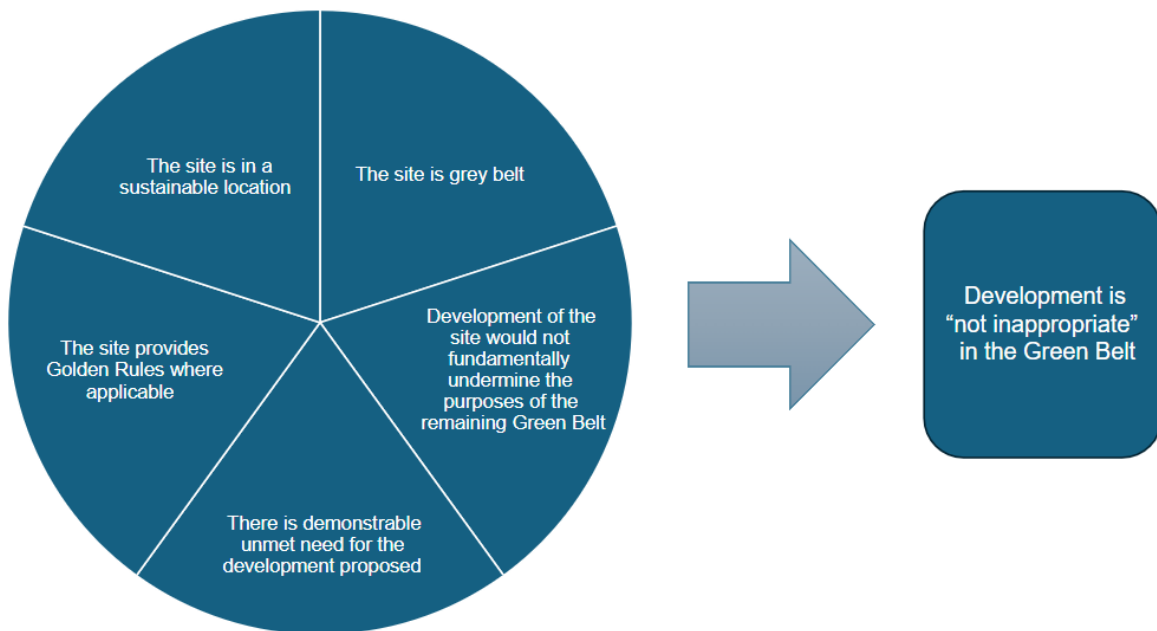


Figure 2 of PPG: When is development in the Green Belt not inappropriate?



## Development Plan

- 6.14 Policy LP3 (see **CD 5.1**) reiterates the NPPF’s intention to protect the Green Belt from inappropriate development and that development should not be approved except in very special circumstances. The policy, inevitably, does not include Grey Belt land as an exception, and thus needs to be read in light of the recent Central Government position, with the weight to this policy tempered accordingly. Notwithstanding this omission, the remainder of the policy is considered compliant with the NPPF.
- 6.15 In respect of the consideration of proposals, points 1 – 5 of Policy LP3 sets out how the designation is enacted via the proposals map and the exceptions that are potentially acceptable. In terms of the application of this policy to considering proposals, it sets out five other points (clauses a – e). Clause e recognises that:
- “planning consideration(s), such as the sustainability of the location, landscape and visual appearance or impact, the loss of employment land and impacts on general amenity will all be considered in the final planning balance in respect of proposals to redevelopment of previously development land within the Green Belt.”*
- 6.16 Whilst clause e refers to the redevelopment of previously developed land, the impact upon these same factors are still relevant to the consideration of development on greenfield land; the policy is essentially worded in this manner, as general development of greenfield sites in the Green Belt is not expected or supported by policy.
- 6.17 Clause e is essentially seeking to provide additional clarity to the factors to be considered in line with paragraph 143 of the NPPF, with particular reference to clause c – protecting the countryside from encroachment.

### Consideration of whether the development is inappropriate within the Green Belt

- 6.18 Both the Development Plan (Policy LP3) and the Central Government position (NPPF / PPG) seeks to protect the Green belt from inappropriate development. This includes paragraph 160 of the NPPF which specifically identifies that many renewable projects will comprise inappropriate development and thereby require very special circumstances in order to be approved.
- 6.19 As part of considering whether development is not inappropriate, in line with Figure 2 of the PPG (ID 64-010-20250225), there are five elements that need to be considered to all be met:
1. The site is Grey Belt;
  2. Development of the site would not fundamentally undermine the purposes of the remaining Green Belt;
  3. There is demonstrable unmet need for the development proposed;
  4. The site provides Golden Rules where applicable;
  5. The site is in a sustainable location.
- 6.20 It is the Council's position that the site can be considered as Grey Belt land, reflecting the NPPF definition and the purposes of relevance noted within paragraph 143. However, development of this land will still fundamentally undermine the purposes (taken together) of the remaining Green Belt by reason of conflict with assisting in safeguarding the countryside from encroachment (paragraph 155 (a) with reference to paragraph 143 (c)). In line with paragraph 153 of the NPPF, substantial weight should be afforded to this harm to the Green Belt. Any identified benefits of the scheme are not considered to amount to very special circumstances to outweigh the harm to the Green Belt.
- 6.21 The sections below set out how these conclusions have been reached.

1. Is the site Grey Belt? (NPPF para 155 (a))

6.22 In line with the definition of Grey Belt in the annex to the NPPF, there is a requirement to consider whether the Appeal Site strongly contributes to any of the purposes of (a), (b) or (d) of NPPF paragraph 143.

(a) To check the unrestricted sprawl of large built-up areas

6.23 The PPG at ID reference 64-006-20250225 sets out expected illustrative features of land that makes a strong contribution to restricting the sprawl of large built-up areas.

6.24 The Appeal Site is not immediately adjacent or near to a large built-up area, and thus it is not considered to make a strong contribution towards the purpose of the Green Belt clause (a).

(b) To prevent neighbouring towns merging into one another

6.25 Referencing back to the expected characteristics of a strong contribution towards preventing merging, as noted in the PPG paragraph 6 on Green Belts, the site does not form a gap between towns, or part of a small gap. The Appeal Site is not considered to make a strong contribution towards the purpose of the Green Belt clause (b).

(d) To preserve the setting and special character of historic towns.

6.26 Relating to historic towns and not villages, the proposal will not make a strong contribution towards this purpose of the Green Belt (clause d).

Grey Belt Conclusion

6.27 In line with the NPPF definition, and using the PPG to augment the understanding of the expected 'strong' level of contribution of a site towards the function of the Green

Belt, it is considered that the site does not fulfil Green Belt functions (a), (b) and (d) to a level that would prevent the Appeal Site being considered Grey Belt.

2. Does the site fundamentally undermine the purposes of the remaining Green Belt?  
(NPPF para 155 (a))

6.28 The five purposes of the Green Belt are set out at paragraph 143 of the NPPF as:

- 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.”*

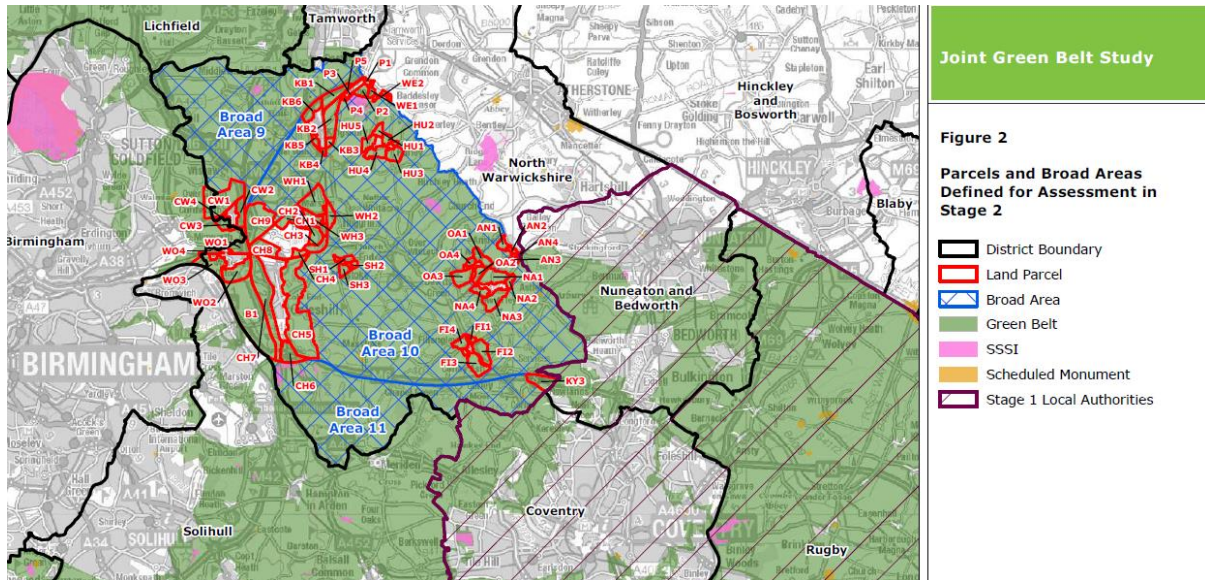
6.29 Conflict with clause (c) occurs in respect of this appeal and its impact upon the overall purpose of the remaining Green Belt land. Justification for this position is outlined below.

6.30 The Appeal Site forms part of the West Midlands Green Belt designation. In particular, it lies within the Green Belt between Birmingham to the west and Coventry, Nuneaton and Bedworth to the east. The latest review covering this Green Belt was undertaken as a joint Coventry and Warwickshire Green Belt Study in April 2016 (prepared by LUC) (see [CD 5.3](#)). This formed part of the evidence base underpinning the adoption of the North Warwickshire Local Plan (2021).

6.31 A review of the Green Belt designation was undertaken in 2018 in respect of an assessment of the Meaningful Gap and Potential Green Belt alterations, but this related to land on the north-western side of the Green Belt, and whether to include additional land between Tamworth and Polesworth/Dordon. No alteration, or

importantly, exclusion of land to the south-eastern side of the Green Belt was proposed (i.e. around Coventry/Bedworth).

6.32 The Appeal Site lies within 'Broad Area 10' of the Green Belt assessment, with an extract of Figure 2 from the Joint Green Belt Study provided below.



*Extract of Figure 2 from Joint Green Belt Study: Appeal Site is located to the right of the wording 'Broad Area 10' on the plan*

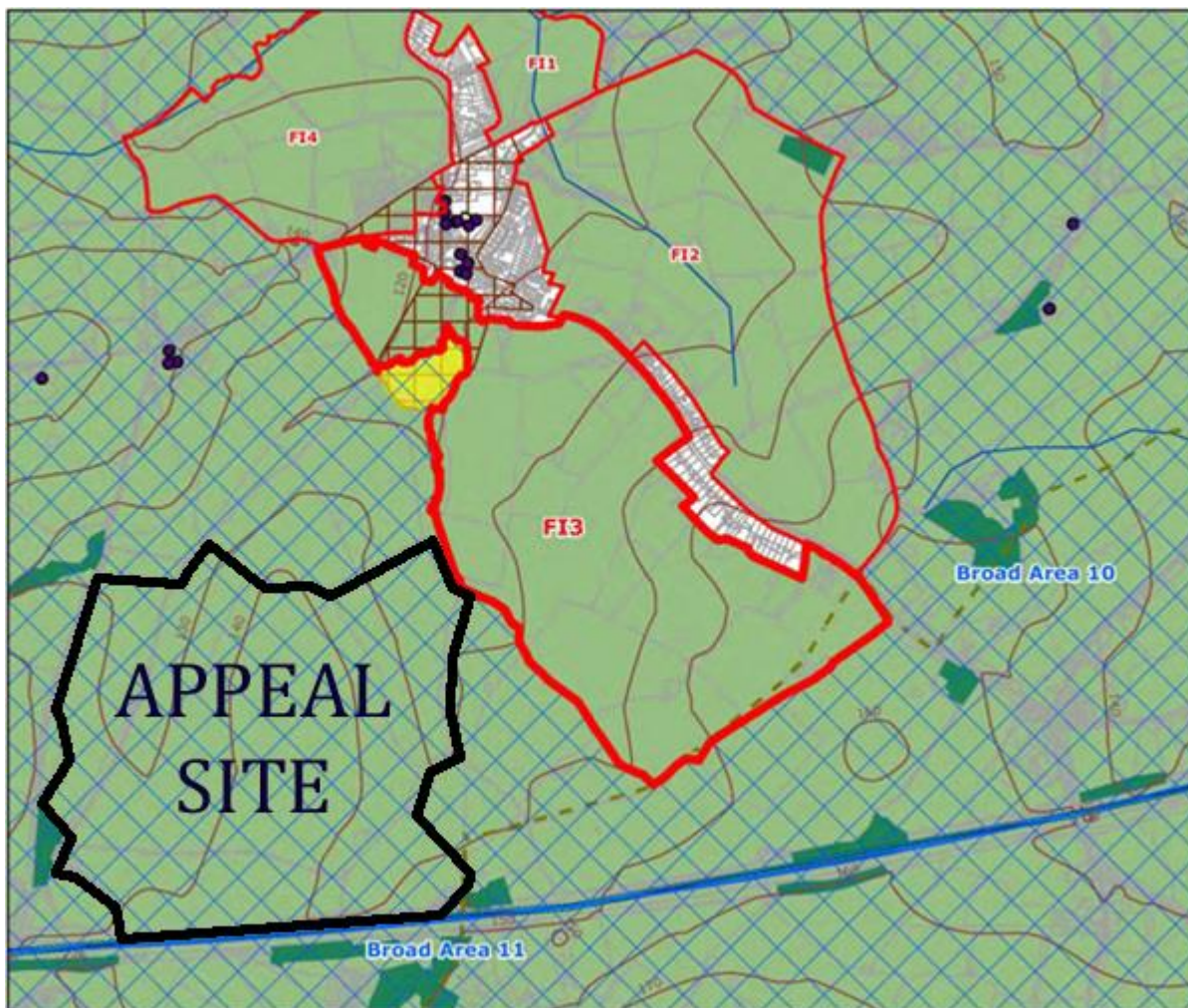
6.33 Broad Area 10 is defined as more precisely lying between Nuneaton and Bedworth to the east, Kingsbury and Piccadilly to the north, Coventry to the south east and Coleshill in the west. In these larger settlements are a number of villages – Fillongley, Old Arley, New Arley, Hurley and Shustoke (paragraph 4.16).

6.34 It is stated at paragraph 4.17 that overall, the broad area makes a considerable contribution to all of the Green belt purposes:

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

- Safeguarding the countryside which contains several ancient woodlands, SSSIs, historic villages and Scheduled Monuments.
- Preserving the setting and special character of the historic town of Coleshill, the historic core of which contains the prominent Grade I listed Church of St Peter and St Paul, which is visible across the western half of the broad area.
- Assisting urban regeneration by encouraging the recycling of derelict and other urban land across the West Midlands.

6.35 The Review also considers more specific land parcels within Broad Area 10, set around existing settlements. This includes four land parcels around Fillongley, with Area FI3 lying to the south of the settlement and close to the eastern boundary of the Appeal Site. In terms of the purpose of this land based against the five purposes of the Green Belt (as set out at paragraph 143 of NPPF) it scores the maximum 4 points on the first four purposes; it is only against the protection of historic towns where a zero is posted. This highlights the important contribution the land adjacent to the Appeal Site has towards multiple purposes of the Green Belt, justifying its referenced as a 'higher performing Green Belt parcel' within the Review (paragraphs 4.25 and 4.27).

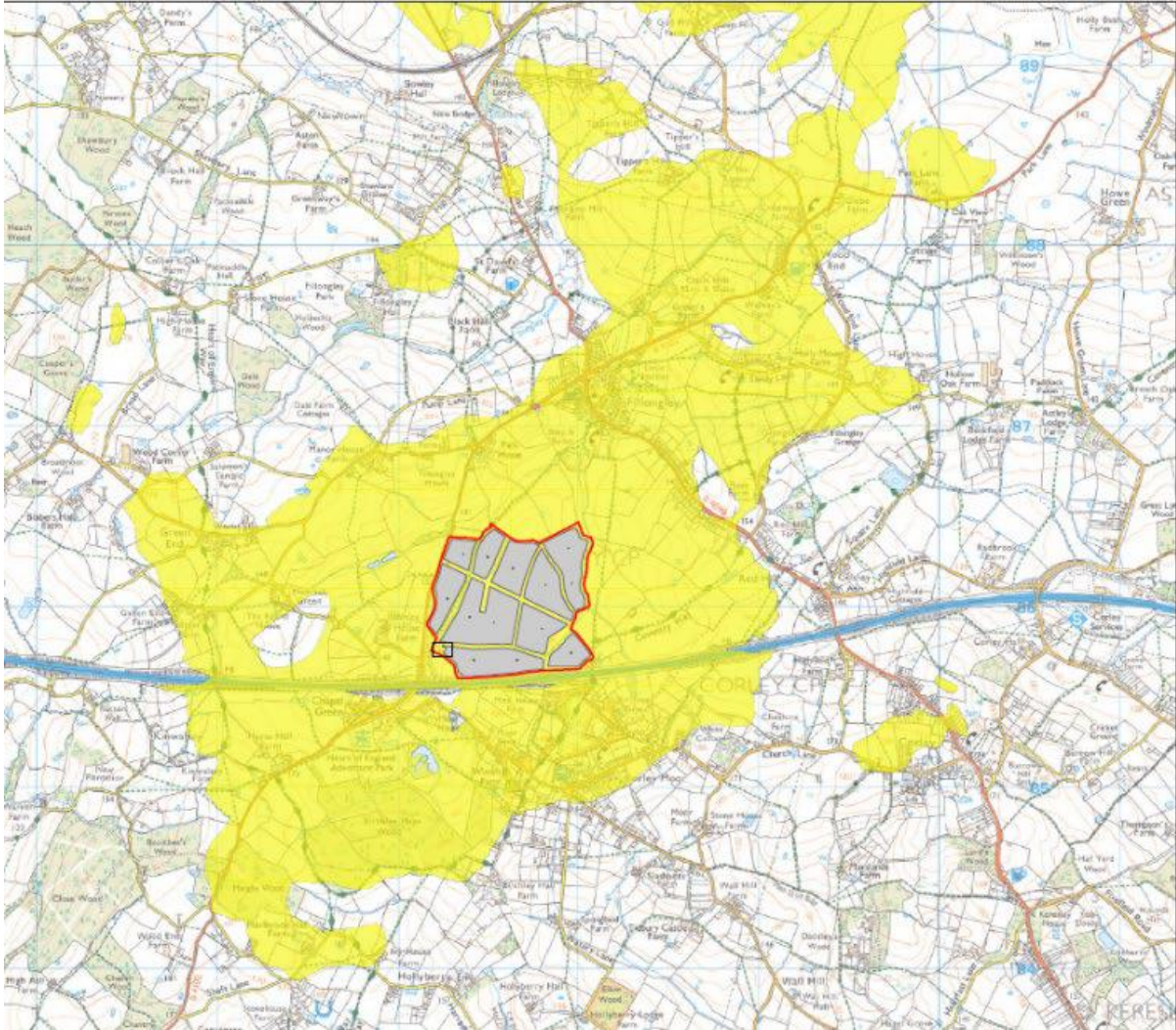


*Parcel F13 plan from Green Belt Review 2016 Appendices (CD 5.3);  
annotated to show location of Appeal Site*

6.36 Broad Area 10 is centrally located within the Green Belt designation, representing a key land parcel within the overall function of this designation. The Appeal Site is located in the southern part of Broad Area 10, with the M6 used as a delineator to Broad Area 11, which itself is considered to also make a strong contribution to the purposes of the Green Belt.

6.37 The topography of the land provides good visibility of the Appeal Site from the surrounding area, with the 140m AOD contour that runs across the site potentially visible from an area of at least 1.5 m around the site in all directions. This extends up to 3 – 4km to the south-west/west, and over 5km to the north-east (taken from ZTV included in the Appellant's Landscape Statement of Case (*CD 9.1 Section A5 Appendix*

9). Intervening vegetation will reduce the extent of visibility compared to this plan but it highlights the range of potential locations that this Site can be viewed from.



*Bare Earth ZTV, Drawing P24-1827\_EN\_09 of Appellant's Statement of Case (CD 9.1 Section A5 Appendix 9)*

6.38 This part of the Green Belt currently provides views of scattered villages and dispersed housing, offering small grain development set clearly within a rural environment. The one contrasting feature to this is the M6 which represents linear infrastructure that extends through the Green Belt. The Appeal development will be in stark contrast to the existing pattern of development in the location, providing solar arrays in regular lines across the majority of the 61 ha site. This represents a large scale intrusion into the rural landscape.



- 6.39 The topography of the land presents the development in a very visible manner, with the arrays extending over the hilltop. The impact of this is particularly strong from the east, where views from the Coventry Way are towards an amphitheatre shaped landscape with the Appeal Site located in its centre. This focuses views towards the Appeal Site and the proposed solar panels.
- 6.40 The transition of the landscape from one of a rural setting to one where the solar panels dominate **undermines the Green Belt function as a whole to safeguard the countryside from encroachment** (paragraph 143 (c)). The physical location of the site within the Green Belt augments this with it being visible from the M6 for transitional movements across the space, as well as movements along the lower order roads from the south-east and east in particular. Coventry and Bedworth are only 2.7km and 4.0 km away (respectively) and the provision of this site as a sizable development when the surrounding grain of development is scattered houses and small villages is at odds with its context and reintroduces a more urban and built appearance. The extent of impact upon the purpose of protecting the countryside appearance of the Green Belt is fundamentally undermined due to its location embedded within the rural section of the Green Belt and the extent of visibility.
- 6.41 This conclusion correlates to the high contribution the land makes towards safeguarding the countryside from encroachment, as set out for Broad Area 10 within which the Appeal Site is located, but also the adjacent smaller parcel FI3. The Appeal scheme therefore fundamentally undermines the purposes (taken together) of the remaining Green Belt, contrary to paragraph 155 (a) of the NPPF. This indicates that the proposal should be considered as inappropriate development in the Green Belt, reflecting that stated at paragraph 160 in respect of renewable energy projects.
- 6.42 Whilst it is noted that the assessment of sites within the Green Belt needs to be considered on a case by case basis, the conclusions on this matter within the Kenilworth/Solihull solar farm appeal decision (APP/T3725/W/24/3347315 – see [CD](#)

**7.80**) are considered to be of particular relevance in this instance. The Kenilworth site is within the same Green Belt area as the current Appeal Site; it is considered within the same Green Belt Assessment (**CD 5.3**). The Kenilworth site is within Broad Area 5, which is also located close to the western edge of Coventry and thus presents a directly comparable impact upon the Green Belt due to encroachment (see paragraph 16 of Inspector's Report **CD 7.80 and CD 5.3 Green Belt Appraisal page 26**). The Inspector indicated that the fields would be covered by structures which is 'manifest encroachment into the countryside' at a significant level due to its scale. The site is also of a comparable size at 47 ha [compared to the Appeal Site at 61 ha](paragraph 9 of Inspector's Report **CD 7.80**). The Inspector's comments are therefore of relevance to this appeal, and echo the view stated that the Appeal proposal will fundamentally undermine the purpose of the remaining Green Belt land.

**3. Is there a demonstrable and unmet need for the development proposed? (NPPF para 155 (b))**

6.43 Paragraph 168 of the NPPF notes that there is not a requirement to demonstrate the overall need for renewable energy within a local planning authority. However, it is clear through the Climate Change Act, Sixth Carbon Budget, the Energy Act 2013, National Policy Statements and other documentation, that there is a pressing need to deliver additional renewable energy projects. It is considered that the need for the proposal has therefore been established, showing compliance with this clause.

**4. Is the site in a sustainable location? (NPPF para 155 (c))**

6.44 The text within the NPPF at paragraph 155 in respect of sustainability relates the justification back to paragraphs 110 and 115 of the NPPF; these relate to transport modes, patterns of growth, safe access and impacts on the transport network.

6.45 The Appeal Site is located away from existing settlements with little access to facilities. However, the proposal will only generate minimal transport movements once

constructed and thus the intentions of locational sustainability for this proposal are not particularly relevant. No conflict with this clause is considered to occur.

6.46 The relevance and implication of the locational sustainability clause has drawn the same conclusion in the recent Kenilworth/Solihull solar farm appeal decision (APP/T3725/W/24/3347315 – see [CD 7.80](#)) and the Carrington BESS appeal decision (APP/Q4245/W/24/3354822 – see [CD 7.47](#)). Namely, that the level of transport movements and employment associated with them at operation stage is so low that the accessibility by non-car borne modes is insufficient reason to conclude non-compliance with paragraph 155 (c) of the NPPF.

#### 5. Does the site comply with the Golden Rules (if applicable)? (NPPF para 155 (d))

6.47 The Golden Rules, as set out at NPPF paragraph 156, apply to residential developments only. The Golden Rules do not therefore apply and thus this clause does not result in the Appeal Site being inappropriate.

#### Conclusions on whether the Appeal proposal represents inappropriate development in the Green Belt

6.48 Paragraph 155 of the NPPF, augmented with clarification in the PPG outlines five requirements that need to be met in order for development in the Green Belt to be ‘not inappropriate’. The Appeal Site is considered to comply with four of these requirements:

- The site is grey belt;
- The site would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- There is a demonstrable unmet need for the development proposed;
- The site provides Golden Rules where applicable; and
- The site is in a sustainable location.

- 6.49 The site is located in the heart of a core area of the Green Belt designation, on elevated land. The surrounding area is characterised by scattered dwellings and small settlements. The Appeal proposal would be in stark contrast to this, providing a 61 ha site of linear solar arrays that run over the hilltop. The topography of the land means that views are focused towards the site from the east, whilst also still visible across a wide area from all directions. This fundamentally changes the visual contribution this land makes to the wider Green Belt allocation, particularly given its comparable close proximity to both Bedworth and Coventry.
- 6.50 Development of this land will fundamentally undermine the purposes (taken together) of the remaining Green Belt by reason of conflict with assisting in safeguarding the countryside from encroachment (paragraph 155 (a) with reference to paragraph 143 (c)). In line with paragraph 153 of the NPPF, **substantial weight should be afforded to the harm to the Green Belt**. Any identified benefits of the scheme are not considered to amount to very special circumstances to outweigh the harm to the Green Belt.

#### Impact upon the Green Belt

- 6.51 The NPPF notes that ‘substantial’ weight should be given to any harm to the Green Belt, including harm to its openness, unless development is considered to be not inappropriate (paragraph 153 and footnote 55). As indicated above, this Appeal scheme is considered inappropriate development and thus any harm attracts substantial weight.
- 6.52 The NPPF notes the essential characteristics of the Green Belt are their openness and their permanence (paragraph 142). The PPG recognises that where assessing the impact of a proposal on the openness of the Green Belt, judgements need to be made on a case by case basis. It continues, noting that the courts have identified a number of matters which may need to be taken into account, including (but not limited to):

- *“openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- *the degree of activity likely to be generated, such as traffic generation.”*  
(paragraph 001 ref ID: 64-001-20190722).

6.53 These matters are considered in turn below, with the impact upon openness highlighted as a significant issue in respect of the development, resulting in harm to the Green Belt.

#### Openness: Spatial element

6.54 The Appeal scheme relates to a 61 hectare site that extends over 10 fields (see layout plan at [CD 1.43](#)). It is currently undeveloped and actively used for arable farming. The extent of land incorporated into the development represents a significant development in terms of its size, with the majority set to be changed in appearance through the provision of solar arrays across the majority of the site, along with substations, compounds, hardstanding, fencing and CCTV.

6.55 Other Inspectors have considered sites smaller in size than the current appeal scheme to be ‘significant’ in terms of their scale. This includes the Iron Acton solar farm appeal, with a 38 hectare site (Appeal APP/P0119/W/22/3294810 – see [CD 7.78 para 13](#)); the current Appeal Site is 50% larger again than the Iron Acton site and should therefore clearly represent a significant development from a spatial perspective.

6.56 The number of fields/field pattern is also a consideration. The Appeal Site contains 10 fields, all of which will have solar arrays located within them. The approved solar farms have tended to be located on sites with larger grain field patterns, such as the Kimberton solar farm which at 20 hectares was just 2 fields (Appeal

APP/L3245/W/23/3329815 – see [CD 7.3](#)). The overall context and form of solar developments can therefore vary significantly between sites; this represents a clear differentiation between the proposals.

- 6.57 Whilst the structures are relatively modest in height overall (between 2.3 and 3.0 metres), the extent of these features within the landscape, coupled with the domed topography of the site means that much of the site is widely visible. The linear, regular arrangement of the panels will also appear at odds to the current rolling and irregular field patterns that exist in the area. Proposed planting will not adequately reduce or remove this perception of the development from many locations. Conversely, the provision of substantial planting which would be necessary to screen the development would then remove the distant views across the site. This would completely curtail the views, having an unintended impact upon the openness of the area.
- 6.58 The Inspector in the Sinton Green solar farm appeal recognised the impact that the regularity of solar panels can have to the character of a site and its contribution to the wider area, whilst also recognising the importance of the topography and how any planting can/cannot be successful in appropriately screening development (Appeal – APP/J1860/W/23/3325112 see [CD 7.74 paras 59 and 63](#));.
- 6.59 The spatial impact of the development will therefore have a significant impact upon the setting of the area, with a clear transition of the site from rural and undeveloped to one that is developed across a substantial area.

#### Openness: Visual element

- 6.60 Ms Oxley's Proof of Evidence highlights the extent of the visual and landscape impact as significant overall. This is identified through the extent of vantage points with a high degree of impact even at Year 15, once vegetation has been established:

- Clear, unrestricted views will be visible as a transient passage along footpath M294 across the site; this generates a substantial impact.
- Transient views will also be possible for large sections of footpaths M294A and the Coventry Way to the east of the site; whilst vegetation will screen this in part by Year 15, the topography ensures that the development will still dominate the horizon within which it is positioned. This represents a significant impact.
- Other views from properties will also be possible over the site, although most are set slightly further away from the development and thus the impact is reduced to a mixture of limited and moderate levels of impact.

6.61 The number and extent of public and, to a lesser extent, private views underline the significant impact that is still considered to occur from a visual perspective upon openness.

6.62 The Appellant also recognises that there would be harm to the openness of the Green Belt and result in a moderate adverse impact upon the landscape character (see Pegasus Green Belt Appraisal and Appellant's Hearing Statement of Case). A new ZTV was also produced as part of the Appellant information, which notably expanded the extent of theoretical visibility beyond that originally stated at application (see *PMs Oxley's Proof of Evidence figures 3.13 and 3.14*).



*Copy of Rule 6 Party's Visual Representation of Appeal scheme at Year 15 at Viewpoint 2 (Meriden Road – 4102); the appeal scheme is still extensively visible over the hilltop*

- 6.63 Introducing flat development platforms to accommodate parking and substations would alter the topography. Large-scale areas of solar panels extending across ten fields would be uncharacteristic of the landscape of the Green Belt in this area. Although planting could help partially filter views of the proposed development in the long-term, it would also reduce open scenic views across the landscape, particularly if placed close to footpaths and allowed to grow to 2.5 metres in height. It will not be effective in filtering views of the higher part of the site which is across a hilltop.
- 6.64 The key difference between the Appellant's and Council's visual conclusions is the degree of contained visual effects possible; the hill top position of the panels means that it cannot be appropriately screened. The Appellant has either understated or missed the grade and geographical extent of visual impact of the development, which explains the difference in expected landscape and visual impacts.
- 6.65 The Appellant has also undertaken two LVAs (*CD 1.43 and 9.1*), using different consultants and these do not align with each other. The reason for the changes in the judgements between the two sets provided by the Appellant is unclear and it is uncertain if SLR support the findings of the original LVA. The changes in grades between the two appraisals are notable, with both increases and decreases noted in respect of the harm identified from various viewpoints (see Table 3.2 of Ms Oxley's Proof of Evidence). This, together with the recent provision of a more accurate ZTV, which appears quite different from the original, makes me question the robustness of the LVAs. These points all indicate that Ms Oxley's considered level of harm as significant at year 15 is accurate.

#### Duration of Development and Remediability

- 6.66 The proposal is for a 'temporary' 40 year period. Whilst it is recognised that the development would not be permanent, 40 years can only realistically be considered a significant time period; entire generations would be born, grow up and potentially leave the area within this timeframe, with this development always forming a backdrop to their life.



- 6.67 The Inspector when considering the solar farm at Tregorrick considered a 30 year period as ‘significant’ (Appeal APP/D0840/W/22/3293079 – see [CD 7.73 para 26](#)); extension of this timeframe by 33% augments this being considered a significant timeframe.
- 6.68 The need to establish additional vegetative planting is also a factor to consider within this temporal matter, given that many hedges and trees will take a long timeframe (15+ years) to become mature and effective (as far as possible) in screening the development; this timeframe is over a third of the lifetime of the proposed development.
- 6.69 However, the manner in which the arrays would be attached to the ground would mean that they could be removed without lasting effects to the land. The quantum of direct hardstanding and structures for the site is less than 5% of the site, and thus the overall *permanent* damage to the site is limited. It needs to be recognised though that any harmful effects from the proposal would still occur for a 40 year period, which is a significant period of time but the ability for the site to be largely remediated means that the harm is time-limited. This needs to be factored into the overall harm to the Green Belt.

#### Degree of Activity on Site

- 6.70 Once established, there would be very low activity associated with the day-to-day operation of the site. This is likely to only be one or two days a month for maintenance (if that). The site from this perspective would not be having any notable impact upon the level of activity on site, or associated traffic on surrounding roads. Again, this is a factor that needs to be factored into the overall harm to the Green Belt.

### Conclusion of Harm to the Openness of the Green Belt

- 6.71 Recognising the scale of the development and the extent to which the site would be visible and impact upon views across the area, even once additional planting has been established, it is considered that significant harm to the openness would occur. The fact that the proposal would be present for 40 years and has little associated activity is considered to temper the harm to the lower end of significant.
- 6.72 This level of harm is elevated compared to that noted in the Board Report (dated 4 March 2024 (see [CD2.2](#)), reflecting on the additional clarification of the landscape and visual setting provided by Ms Oxley as part of this appeal. This has crystallised the extent of impact that a development of this scale has upon the openness of the landscape when it cannot be appropriately assimilated by additional landscaping.
- 6.73 It is therefore concluded that there is ‘substantial’ weight against this definitional harm by the proposal, in accordance with the NPPF. When considering the facts of the case in terms of the visual impact upon openness, this is still considered to cause ‘significant’ harm to the Green Belt. As noted within the NPPF at paragraph 153, any harm to the Green Belt should be afforded **substantial weight**.

### ARE THERE VERY SPECIAL CIRCUMSTANCES TO ALLOW INAPPROPRIATE DEVELOPMENT IN THE GREEN BELT

- 6.74 Local Plan Policy LP3 reiterates the need for inappropriate development within the Green Belt to demonstrate very special circumstances (paragraph 153 of the NPPF).
- 6.75 The Appellant has outlined the very special circumstances as they consider them at paragraph 5.72 of the Hearing Statement of Case ([CD 9.1](#)). These are set out below, with the Council’s position on the various matters.

Wider Environmental Benefits of Renewable Energy including:

- Contribution to radically reducing green house gas emissions (NPPF paragraph 161)
- Valuable contribution to significantly curtailing greenhouse gas emissions (NPPF paragraph 168)
- Minimising vulnerability and improve resilience [to energy supply and security issues] (NPPF paragraph 161)
- Support renewable energy (NPPF paragraph 161)

6.76 The UK has signed up to reduce its greenhouse gases by 80% by 2050 compared to 1990 levels (Climate Change Act 2008). The Government's Sixth Carbon Budget report (December 2020) has recommended bringing this forward to a 78% reduction by 2035; this was adopted in 2021. This outlines the Government's intention for a transition towards cleaner, greener energy generation and consumption within the UK.

6.77 The Energy Act 2013 introduced a legislative framework for delivering secure, affordable low carbon energy, decarbonising the industry. The Government reviewed the Energy Act 2013 in March 2022 and concluded that the power sector is vital to meet the UK's net zero emissions target and that renewables will be the foundation of this, alongside the delivery of low carbon generating capacity.

6.78 The National Policy Statements (NPS) also set out an emphasis on meeting net zero by 2050, including through the provision of a significant amount of new energy infrastructure (paragraph 2.3.4 of NPS EN-1 Overarching NPS for Energy – November 2023).

6.79 NPS EN-3 Renewable Energy Infrastructure confirms that the Government expects a five-fold increase in combined ground and rooftop solar deployment by 2035 (up to 70GW) and is supportive of solar that is co-located within other functions, including agriculture (paragraph 2.10.10).

- 6.80 These policy documents all seek to support the growth of the energy sector and the need to deliver it to secure a greener future. Other documents such as Powering Up Britain: Energy Security Plan (March 2023) then seeks to ensure that the UK is more energy independent, secure and resilient (page 2).
- 6.81 The provision of renewable energy installations such as the Appeal Site is one piece of the puzzle that assists towards the generation of renewable energy and placing the UK in control of its own energy security, including safeguarding against world politics that affect fuel prices. The Appeal Site represents only a fraction of the infrastructure required and the energy demand to meet future energy requirements for the UK. However, these benefits of renewable energy are afforded **substantial positive weight**, given the importance placed in addressing the energy crisis in the UK.
- 6.82 This matter has been considered by numerous Inspectors on previous planning appeals, where significant or substantial weight has been afforded to these matters. This includes the Sinton Green solar farm (APP/J1860/W/23/3325112 – [CD 7.74](#) paragraph 68), Lullington solar farm (APP/F1040/W/22/3313316 – [CD 7.79](#) paragraph 50) and Harlow solar farm (APP/J1535/W/23/3334690 – [CD 7.2](#) paragraph 66). The position and weight outlined above aligns with these decisions.

#### [Providing net gains for biodiversity \(NPPF paragraph 187d\)](#)

- 6.83 The proposal seeks to retain the existing hedgerows and trees on site. These will then be augmented by additional tree planting, plus augmentation of existing hedgerows as necessary along with the planting of additional hedgerows. Overall, the additional planting equates to a 63% increase in habitats and a 26% increase in hedgerow units.
- 6.84 The increase in biodiversity, along with the benefits generated through additional wildlife corridors and appropriate maintenance is considered a notable benefit of the scheme. This is afforded **moderate weight** as a benefit, aligning with the view of the Appellant within the Hearing Statement of Case (see [CD 9.1](#) page 68).

6.85 The application of moderate weight to delivering Biodiversity Net Gain in excess of the standard 10% has been concluded by other Inspector's for solar farm appeals. This has included the Lullington solar farm which was the subject of a high court judgment (APP/F1040/W/223313316 – [CD 7.79](#) paragraph 50).

Achieving multiple benefits from land uses and achieving net environmental gains  
(NPPF paragraph 125)

- 6.86 This is considered within Section 9, concluding that this represents a **limited benefit**. A dual use will occur for the land, but the flexibility of the agricultural use of the land will be reduced for the 40 years that the solar arrays are in situ, yields will effectively be reduced, and a small percentage of the site will be lost from BMV due to the construction of buildings and access roads. These temper the benefit afforded to this, whilst it should be noted that in respect of the loss of BMV land, some Inspector's have considered this as a minor harm overall (e.g. Sinton Green (APP/J1860/W/23/3325112 – **CD 7.74** paragraphs 79 – 88) and Chelmsford (APP/W1525/W/22/3300222 – **CD 7.8** paragraph 55).

Achieving Good Design (NPPF paragraph 135 and NPS EN1 paragraph 4.7.2)

- 6.87 The scheme has sought to retain the existing vegetation on site, and provide new planting to reduce the visual impact of the development. However, the overall layout generates one that is dominated by solar arrays, many of which will still be clearly visible even with the additional mature planting due to the position of the public access routes and the topography of the land.
- 6.88 The layout is also questionable in places, where hedges along footpath M294 appear to have been added as an after thought and the offset provided elsewhere between planting and the arrays have disappeared. This will inevitably cause a reduction in sunlight to the arrays closest to the hedge, whilst there may also be issues over maintenance of the hedges.
- 6.89 The scheme has evolved since the initial submission, enabling the vegetation, which is primarily located around the edges of the site to be maintained. This evolution has occurred through discussion with the Council but there are still in-built inherent issues

that cannot be readily resolved due to the topography of the land. **Limited weight** can be afforded to this harm.

#### Economic, Social and Environmental Objectives (NPPF paragraph 8)

- 6.90 This is phrased to cover the whole planning balance ingrained within the NPPF. As already captured above in Section 9, the benefits are not considered to outweigh the harms, and thus to suggest that these same benefits would then represent very special circumstances to allow the appeal would be counterintuitive. Appropriate weight is afforded to the various merits of the case, but these are not considered to amount to very special circumstances. The proposal overall **does not accord** with the exception to allow inappropriate development in the Green Belt.

#### Very Special Circumstances Conclusions

- 6.91 Proposals for solar farms in the Green Belt need to all be considered on a case-by-case basis, with examples of such proposals being dismissed by Inspectors despite the substantial weight towards the delivery of green / renewable energy and the associated benefits to the grid/energy stability. The key differences relate to the specifics of the site.
- 6.92 In this instance, as justified in full within Section 6 above, and augmented in terms of the landscape with Section 8 (Main Issue 3) and Ms Oxley's Proof of Evidence, the proposal would create large-scale areas of solar panels extending across ten fields would be uncharacteristic of the landscape of the area and have an urbanising effect. This would have important visual effects upon Viewpoints 1, 2, 5, 6, 7, 9, 10, 11 and 13, covering a wide geographical area. The following landscape conclusions occur as a result of the development:
- a. Negatively affect the character and appearance of the rural agricultural farmland by introducing large scale industrial/urban character development into a currently

undeveloped area, where it would be incongruous with the farmland character. This would be particularly the case given the site is outward facing as a dome/ridge of higher land which forms the skyline to views from the east and west.

- b. Have important adverse visual effects, that should be a key consideration in the appeal decision, on recreational receptors using the well-used PRoWs within the Green Belt, notably the Coventry Way to the east of the site.
  - c. The proposed development would also have important adverse effects on residential receptors and road users on the edges of Fillongley along the B4098 including Far Parks, along Meriden Road, and Green End Road - Park House Farm, Home Farm, Fillongley Mount, Manor House Farm and White House Farm.
  - d. Have an adverse impact on the function of the Green Belt by replacing ten open fields with 61ha of solar panels and related development, with deer proof fencing and CCTV. The function of the Green Belt includes safeguarding it from encroachment. Developing the site with solar panels and associated development, which have a built form and do not blend in with the character of the countryside, will result in encroachment and will reduce its openness, as will enclosing it with high hedges, extensive fencing and regularly spaced 3m high poles with CCTV. There are limited existing natural or manmade features / boundaries that would prevent the sense of encroachment of the countryside, given the fact that the site falls across a ridgeline which slopes outwards to the east and west. Planting and reinforcing hedgerows will provide some containment in the long term, but the higher outward facing slopes and hill top that forms a horizon in views will always be visible, in its changed form.
- 6.93 The proposed vegetative enhancements do not adequately mitigate this harm and as such has a significant lasting impact upon the area for the lifetime of the development. **Significant harm** is recognised to occur as a result of the landscape and visual impact.

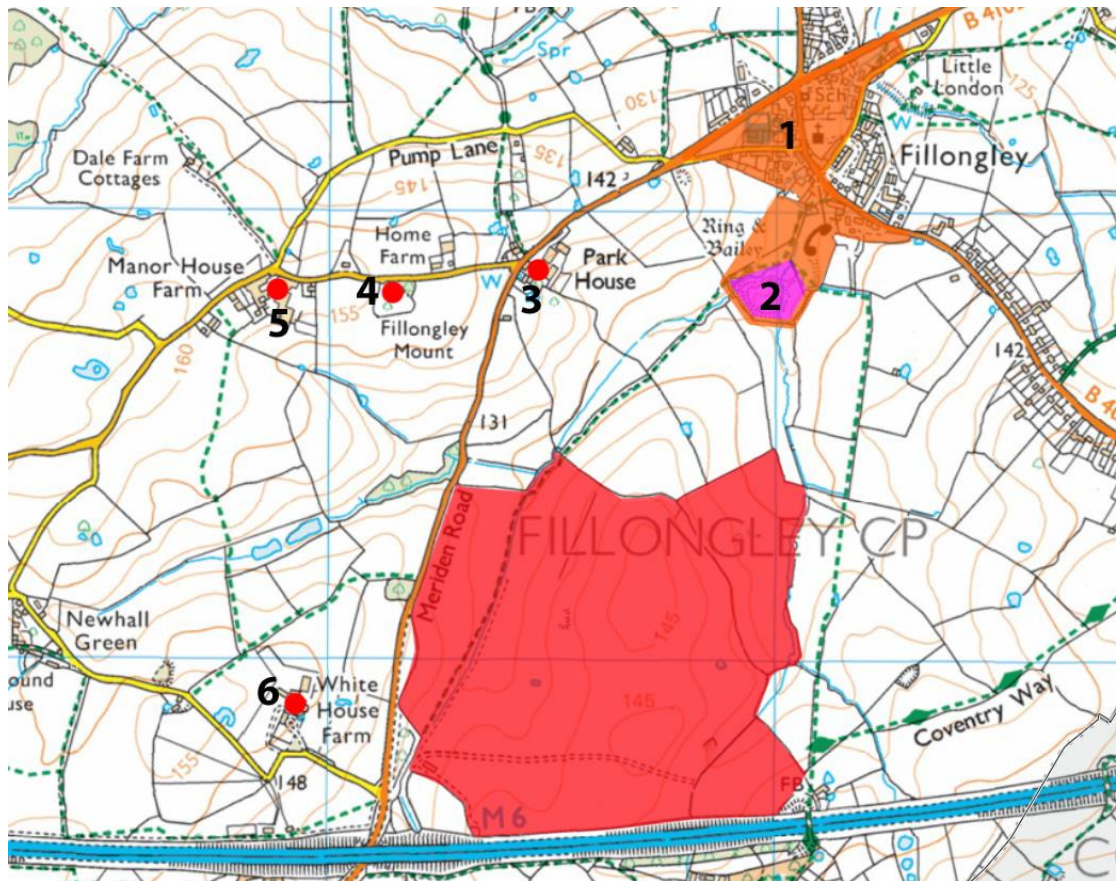


6.94 There are a number of listed buildings, the Fillongley Conservation Area and a 12 Century Ringwork Scheduled Ancient Monument that are within the same visual context as the Appeal site. The proposal will negatively impact upon the setting of a number of these assets. In line with Section 16 of the NPPF, this harm is considered to be less than substantial and thus needs to be considered as a harm within any decision. Impact upon heritage assets is considered in full within Section 7 (Main Issue 2).

6.95 **The benefits of the scheme are not considered to amount to very special circumstances in order to outweigh the in-principle conflict of inappropriate development in the Green Belt and the harms identified in respect of the development proposal.**

## 7. MAIN ISSUE 2: IMPACT UPON HERITAGE ASSETS

- 7.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 highlights the duty to preserve and protect heritage assets and their settings, taking special regard to ensure this occurs.
- 7.2 The NPPF expands upon this noting within Section 16 how harm to assets should be avoided where possible, and an assessment undertaken as to whether the harm is 'substantial' or 'less than substantial'. Where harm is identified, this should be balanced against the benefits of the proposal, and developments refused where the harm outweighs the benefits (paragraphs 214 and 215).
- 7.3 The Development Plan contains Local Plan Policy LP15 (Historic Environment) and Neighbourhood Plan Policy FNP06 (Heritage). Both policies echo the content of the NPPF, effectively to protect heritage assets.
- 7.4 As recognised in the Planning Officer's Board Report (4 March 2024) (**CD 2.2**) at paragraph 4.23 to 4.32, there are a number of designated heritage assets near to the Appeal Site. The impact upon each of these is considered to be as noted in the Board Report; namely:



*Annotated plan showing the heritage assets in respect of the Appeal Site*

1. Fillongley Conservation Area: less than substantial harm  
Located 280 metres to the north of the Appeal Site  
Intervening topography, vegetation and physical separation means that intervisibility does not readily occur; only glimpsed views (e.g. of church tower) occur.
2. Scheduled Ancient Monument: 12<sup>th</sup> Century Ringwork: limited harm  
Located 280 metres north of the Appeal Site.  
The remaining masonry and earthwork remains of Castle Yard and its associated bailey are only visible in glimpsed views from the northern end of the Appeal Site; the Appeal Site does not contribute to the historic or visual setting of the monument.
3. Park House Farm (Grade II Listed): no material impact

Located 500 metres north of the Appeal Site.

Not part of the same immediate setting and intervisibility is limited. Where visible, it is seen as part of the wider panorama.

4. Fillongley Mount (Grade II Listed): no material impact

Located 440 metres north-west of the Appeal site

Separation distances, topography and road network results in there being no intervisibility.

5. Manor House Farm (Grade II Listed): no material impact

Located 750 metres to the north-west of the Appeal Site.

Very limited if any intervisibility and site plays no part of setting of the asset.

6. White House Farm House (Grade II Listed): no material impact

Located 250 metres to the west of the site.

Upper floors have views over the Appeal Site due to an elevated position. Views are however glimpsed and would see the Appeal Site as part of the wider setting.

7.5 The impact upon these heritage assets is considered to be less than substantial harm (NPPF para 215). It should be noted that there are other listed buildings within Fillongley, but no harm is considered to occur to these due to a lack of intervisibility with the Appeal Site.

7.6 In respect of the impact upon archaeology, it is noted that that land lies within an area of significant archaeological potential. There is potential for pre-medieval remains and evaluative fieldwork would need to be undertaken. This could be conditioned upon an approval. The approach to dealing with archaeology is agreed with the County Archaeologist and thus less than substantial harm is afforded to this matter.

7.7 Overall, the harm to heritage assets needs to be considered within the planning balance. However, in terms of the benefits generated from the collective renewable

energy generation benefits are considered to outweigh the heritage harm, when the heritage harm is considered in isolation. It is for this reason that no specific heritage reason for refusal was attached to the decision.

## 8. MAIN ISSUE 3: LANDSCAPE AND VISUAL IMPACTS

- 8.1 Ms Sam Oxley, has assessed the landscape and visual impact situation in respect of this appeal; I rely on Ms Oxley's professional position in respect of the landscape and visual impact, and thus this Proof of Evidence should be read in conjunction with Ms Oxley's written material.
- 8.2 Ms Oxley states that the proposed development would be located on an undeveloped dome of higher land forming a ridgeline to the north of the M6 motorway, which though audible, does not have a characterising influence on the landscape. This land is locally widely visible, as it faces outwards to all sides. The site is not well contained. (Oxley PoE paragraphs 2.24; 3.42).
- 8.3 The alteration to the skyline and horizon would have an urbanising effect, reducing the attractive scenic qualities of this area of countryside, and making it feel less open and undeveloped. It would not feel like countryside. The development of the site will not safeguard the countryside from encroachment by built development. It will alter its character to one of built development and reduce the sense of openness. It will not be contained within strong boundaries as the site extends over a shallow, domed hill/ridge top which would make this impossible to achieve, given it forms a horizon to local views. This would be very different if the site was flat or more bowl-like, or indeed if it broadly sloped in one direction rather than several (Oxley PoE paragraph 5.13).
- 8.4 The landscape of this Green Belt area is rolling farmland across hills and valleys, with areas of hedgerow, tree belt and woodland vegetation. Introducing flat development platforms to accommodate parking and substations would alter the topography. Large-scale areas of solar panels extending across ten fields would be uncharacteristic of the landscape of the Green Belt in this area. Although planting could help partially filter views of the proposed development in the long-term, it would also reduce open scenic views across the landscape. It will not be effective in filtering views of the higher part of the site which is across a hilltop (Oxley PoE paragraph 5.12).

8.5 In comparison to the Landscape and Visual Impact Assessment (LVIA) prepared by the Appellant (see [CD 1.22 and 9.1](#)), Ms Oxley considers the landscape susceptibility and therefore its sensitivity to be greater across the elevated hill ridge of the site. The magnitude of change will therefore remain higher in the longer term, with the landscape effects on the site and its immediate context considered to be Major-Moderate at construction and completion, and Moderate by year 15. It is considered that the effects remain Moderate across the 5 – 6 square km where affected, both directly and through a very apparent change in outlook across the surrounding site facing slopes. This will result in a locally important effect on landscape character. Beyond around 2km from the site and the 5-6 square km that will be physically or perceptually altered, the effect on landscape character will not be an important consideration for this appeal decision (Minor or Negligible) (Oxley PoE paragraph 3.46).

8.6 Ms Oxley considers that important visual effects will arise from Viewpoints 1, 2, 5, 6, 7, 9, 10, 11 and 13, with the following conclusions offered in terms of the development:

- Negatively affect the character and appearance of the rural agricultural farmland due to the proposed introduction of large scale industrial/urban character development into a currently undeveloped area, where it would be incongruous with the farmland character. This would be particularly the case given the site is a dome/ridge of higher land which forms the skyline to views from the east and west. The site is outward facing and not contained as maintained by the Appellant (Oxley PoE paragraph 5.4).
- The proposed development would also have important adverse effects on residential receptors and road users on the edges of Fillongley along the B4098 including Far Parks, along Meriden Road, and Green End Road - Park House Farm, Home Farm, Fillongley Mount, Manor House Farm and White House Farm (Oxley PoE paragraph 5.8).

- Have an adverse impact on the function of the Green Belt by replacing ten open fields with 61ha of solar panels and related development, with deer proof fencing and CCTV. The function of the Green Belt includes safeguarding it from encroachment. Developing the site with solar panels and associated development, which have a built form and do not blend in with the character of the countryside, will result in encroachment and will reduce its openness, as will enclosing it with high hedges, extensive fencing and regularly spaced 3m high poles with CCTV. There are limited existing natural or manmade features / boundaries that would prevent the sense of encroachment of the countryside, given the fact that the site falls across a ridgeline which slopes outwards to the east and west. Planting and reinforcing hedgerows will provide some containment in the long term, but the higher outward facing slopes and hilltop that forms a horizon in views will always be visible, in its changed form (Oxley PoE paragraph 4.8).

8.7 Ms Oxley concludes that the landscape and visual effects, and their effects on and harm to the openness of the Green Belt as well as its landscape and visual character (currently undeveloped rural countryside with scenic qualities), are such that significant weight should be given to these matters in the determination of the appeal (Oxley PoE paragraph 5.21).

8.8 This level of harm is considered contrary to the landscape policies of the Development Plan, namely LP14, and FNP02 which combined seek to protect the undeveloped and open character of the land. It is also contrary to the NPPF which seeks to protect the intrinsic character and beauty of the countryside (paragraph 187 (b)). The fact that the proposal is temporary for a 40 year period does little to offset the extent of visual impact during the lifetime of the development.



## 9. MAIN ISSUE 4: BEST AND MOST VERSATILE LAND IMPACT

- 9.1 Paragraph 187 of the NPPF recognises the importance of protecting soils, with a specific focus on the best and most versatile land (BMV). The glossary to the NPPF defines BMV as soil of Grades 1, 2 and 3a.
- 9.2 National Policy Statement for Energy (EN-1) (Nov 2023) ([CD 6.27](#)) and National Policy Statement for Renewable Energy (EN-3) (Nov 2023) ([CD 6.28](#)) recognise Solar PV development as Critical National Priority Infrastructure. EN-3 recognises that land type should not be a pre-dominating factor in determining the suitability of a development's location, but where proposals use agricultural land, lower quality land should be used in preference to BMV agricultural land where possible.
- 9.3 In respect of renewables and low carbon energy, the PPG notes that where greenfield land is included in schemes, proposals should allow for continued agricultural use where applicable (Reference ID: 5-013-20150327 Paragraph 13).
- 9.4 The Appellants have identified that 96.2% of the Appeal Site comprises BMV ([CD 12.7](#)), and thus forms a relevant consideration as part of the appeal.
- 9.5 The proposal requires less than 5% of the site to be covered by hardstanding and buildings. This land would effectively be permanently lost, as would the land under new biodiversity planting, but it is relatively small in comparison to the site as a whole and thus has limited impact. If all proposed new landscaping is also to be retained beyond the lifetime of the solar farm, then this figure may well be increased but still represents a relatively low percentage of the site.
- 9.6 The proposal will allow agricultural use of the site to continue in unison with the generation of energy. Currently the site is used for arable farming, which utilises the land in a relatively intensive manner. This cannot occur with a solar farm on the land, and it will thus be transferred to pastoral farming, with livestock grazing the land. This

could be argued to reduce the flexibility of the agricultural uses of land and overall productivity (including due to shading of the ground). The design of the scheme would as a matter of principle allow this dual use to occur. The dual use of the land (agricultural and energy generation) accords with aim of the PPG noted above, and thus the use of BMV land in this instance should not be considered contrary to policy or to directly cause harm in this regard.

- 9.7 The appeal scheme is not for permanent fixtures, such that in 40 years' time, there is the potential for the site to revert back to just agricultural use. During this time, the less intensive use of the soil will allow it to recover and thus it would be anticipated to be in better condition than it is at present. It has been noted that where additional hedgerow reinstatement has occurred, this may hinder modern approaches to agricultural use in the future, affecting yields as a result.
- 9.8 In the current appeal, based upon the specifics of this scheme, the dual use of the land / BMV impact is considered to represent a **limited benefit**, as the site will still be actively used for agricultural use over the lifetime of the development and upon its decommissioning, will return the majority of the site back to an unconstrained agricultural use but with improved soil conditions due to a reduction in intensity of activity for a 40 year period.

## 10. DEVELOPMENT PLAN COMPLIANCE/POLICY HARM

10.1 As set out in Section 4 above, there are a number of key policies that are of relevance to the determination of this appeal. These largely align with the policies included on the decision notice. These key policies are considered initially, with comment then provided on the other relevant policies.

10.2 The development plan is considered to be up to date and in accordance with the NPPF. The exception to this is Policy LP3 (Green Belt) which does not encapsulate the Grey Belt exception that has recently been integrated into the NPPF. The remainder of Policy LP3 aligns with the NPPF and thus 'significant' weight can be given to this policy still. All other policies can be afforded full weight.

10.3 In terms of the categorisation of conflict, and subsequently the benefits and harm of the Appeal proposal, the following weighting approach is used:

- Substantial
- Very significant
- Significant
- Moderate
- Limited
- No/Negligible

### Key Policies

#### Local Plan Policy LP1 – Sustainable Development

10.4 Policy LP1 represents an overarching sustainability policy for the Development Plan. It notes that

*“all development proposals must:*

- *be supported by the required infrastructure*

- *be consistent with the approach to place making set out through development management policies, including, where relevant:*
- *integrate appropriately with the natural and historic environment, protecting and enhancing rights of way network where appropriate;*
- *demonstrate a high quality of sustainable design that positively improve the individual settlement's character; appearance and environmental quality of an area;*
- *deter crime;*
- *sustain, conserve and enhance the historic environment;*
- *provide, conserve and enhance biodiversity; and,*
- *create linkages between green spaces, wildlife sites and corridors."*

10.5 It is the Council's position that the proposal does not appropriately integrate with the natural environment and does not protect the quality of the public footpath M294 that traverses the Appeal Site. This stems from the Landscape and Visual Impact Statement provided by Ms Oxley.

10.6 There is also some recognised harm to the historic environment. This harm is considered in more detail within Policies LP15 and FNP06 which deal specifically with heritage. In line with the NPPF approach to considering heritage assets, the Council and Appellant are in agreement that this represents less than substantial harm (paragraph 10.1 point 9 of the SoCG).

10.7 On the basis of the recognised harm as a result of the proposal, and the 'and' element incorporated into the wording of the policy, **moderate conflict** with Policy LP 1 occurs.

### Local Plan Policy LP3 – Green Belt

10.8 This policy seeks to protect the Green Belt from inappropriate development. Renewable energy developments are considered to be inappropriate development to which substantial weight should be afforded (see Section 6 above). The proposal

directly conflicts with the requirement to protect the open character and appearance of the Green Belt and thus **significant conflict** with this policy is considered to occur.

#### Local Plan Policy 14 – Landscape

- 10.9 Although not listed on the decision notice, the impact of the development proposal upon the landscape is of significant importance. Policy LP14 notes that new developments should:

*“look to conserve, enhance and where appropriate, restore landscape character as well as promote a resilient, functional landscape able to adapt to climate change. Specific landscape, geo-diversity, wildlife and historic features which contribute to local character will be protected and enhanced as appropriate.”*

- 10.10 In terms of landscaping proposals, this policy notes that new developments should:

*“as far as possible, retain existing trees, hedgerows and nature conservation features such as water bodies with appropriate protection from construction where necessary and strengthen visual amenity and bio-diversity through further hard and soft landscaping. The Council will seek replacement or enhancement to such natural features where their loss results from proposed development.*

*Development proposals should be designed so that existing and new conservation features, such as trees and hedgerows and water bodies are allowed to grow to maturity without causing undue problems, or are not unacceptably compromised by development, for example by impairing visibility, shading or damage.”*

- 10.11 It is recognised that there are few existing features noteworthy of protection on site; however, the development seeks to retain the trees and hedgerows that are present and augment these which will strengthen the biodiversity value and quantum of soft

landscaping. This is recognised as a positive attribute of the scheme and in line with Policy LP14.

10.12 However, the overarching element of the proposal seeks to ensure that development conserves, enhances and restores landscape character. As noted in Ms Oxley's Proof of Evidence, and Mr Bainbridge's Hearing Statement of Case for the Appellant (paragraphs 5.75 – 5.81), based upon the findings of the Landscape evidence), some landscape harm will occur. The degree of harm differs between the parties, but substantial harm is noted to still occur in the Council's evidence at Year 15 once proposed vegetative enhancements have matured. As a result, it is considered that there is **significant conflict** with this policy.

#### Local Plan Policy LP30 – Built Form

10.13 This policy is primarily designed to inform the appearance of buildings. However, it is recognised that ground mounted solar panels represent structures which are considered to be buildings, based upon the Town and Country Planning Act 1990's definition of a building. The Appellant agree with this point at paragraph 5.97 of the Environmena Hearing Statement of Case. Therefore, this policy can legitimately be applied to the development.

10.14 Policy LP30 expects all development in terms of its layout, form and density to reflect and reflect the surrounding area. All proposals should:

- a. *“ensure that all of the elements of the proposal are well related to each other and harmonise with both the immediate setting and wider surroundings;*
- b. *make use of and enhance views into and out of the site both in and outside of the site;*
- c. *make appropriate use of landmarks and local features;*
- d. *reflect the characteristic architectural styles, patterns and features taking into account their scale and proportion,*

- e. reflect the predominant materials, colours, landscape and boundary treatments in the area;*
- f. ensure that the buildings and spaces connect with and maintain access to the surrounding area and with the wider built, water and natural environment;*
- 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;*
- h. create a safe, secure, low crime environment through the layout, specification and positioning of buildings, spaces and uses in line with national Secured by Design standards;*
- i. reduce sky glow, glare and light trespass from external illumination; and*
- 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.”*

10.15 It is recognised that the design integration is somewhat limited by the necessary appearance and form of the individual arrays. However, the scale of the development, the introduction of regular linear features to an irregular field pattern and its change to the landscape setting means that the proposal does not harmonise with its wider setting. Given the scale of the impacts that will occur (clause a), **moderate conflict** with this policy is considered to occur.

#### Local Plan Policy LP35 – Renewable Energy and Energy Efficiency

10.16 Policy LP35 notes that:

*“Renewable energy projects will be supported where they respect the capacity and sensitivity of the landscape and communities to accommodate them. In particular, they will be assessed on their individual and cumulative impact on landscape quality, sites or features of natural importance, sites or buildings of historic or cultural importance, residential amenity and the local economy.”*

- 10.17 It is recognised that there are no site features of merit on the Appeal Site, with the exception of the hedgerows and trees which are to be retained. However, the notable topographic changes of the site are also a feature to consider. The Appeal scheme works with these, which is commended, but this generates the landscape and visual issues as already highlighted. The landscape is not considered capable of accommodating a development of this scale without being significantly affected.
- 10.18 Based against the landscape impact and its harm to the area as a result, the proposal is considered contrary to this Policy. **Significant conflict** with this policy is considered to occur.

#### Fillongley Neighbourhood Plan Policy FPN01 – Built Environment

- 10.19 Policy FPN01 seeks to ensure that new buildings 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.
- 10.20 As with Local Plan Policy LP30 on design, this is a policy founded in ensuring good design to buildings, rather than renewable energy schemes. However, the same principles can be applied in respect of needing to protect the overall character of the area by way of its visual impact.
- 10.21 Specific reference is made in the policy to the impact upon the rural landscape of the parish. As concluded within Ms Oxley's Proof of Evidence, the proposal will have a substantial impact upon the landscape setting of the parish. Whilst this will not affect the whole parish, it will negatively affect the appearance of the southern part of it, whilst also being visible from some areas to the north of Fillongley village. Whilst the proposal is for a 40 year period, this is still a significant duration and as such the proposal is considered to have **significant conflict** with this policy.



### Fillongley Neighbourhood Plan Policy FPN02 – Natural Environment

- 10.22 This policy requires development proposals wherever possible to enhance and conserve the natural environment. Proposals will be supported in principle providing they accord with a number of considerations. This includes having no adverse impacts on the visual appearance and important scenic aspects of the village centre and other rural and natural features in the landscape.
- 10.23 Whilst the pre-cursor includes the words ‘wherever possible’, it should not be misconstrued that the content of this policy is optional to comply with. The policy is clear in its intentions to protect the character and appearance of the natural environment within Fillongley Parish.
- 10.24 It is recognised that there may be occasions where some negative attributes of a proposal would occur as a result of a development in respect of the natural environment. However, the provision of 60 ha solar farm on elevated land that is readily visible from the surrounding area and has a massive influence upon the setting of the area cannot be considered to accord with the intentions of Policy FNP02. **Significant conflict** with this policy is stated by the Council.

## Other Relevant Development Plan Policies

### Local Plan Policy LP15 – Historic Environment

10.25 This policy notes the importance of conserving and enhancing where possible the historic environment and the contribution it makes to the character, identity and distinctiveness of the area. The policy dovetails with Section 16 of the NPPF in its aims and the duty placed on the decision maker by the Planning (Listed Buildings and Conservation Areas) Act 1990.

10.26 As considered within Section 7 above, there is less than substantial harm to the identified heritage assets. In terms of the benefits generated from the collective renewable energy generation, these are considered to outweigh the heritage harm, when the heritage harm is considered in isolation. It is for this reason that no specific heritage reason for refusal was attached to the decision. Only **limited conflict** with the heritage policy is considered to occur.

### Local Plan Policy LP17: Green Infrastructure

10.27 This policy seeks to identify, maintain and enhance Green Infrastructure assets. In this instance, there are no recognised assets that are protected on or adjacent to the site. The scheme does however retain the existing hedges and trees on site, and intends to augment them as appropriate. This can be secured through conditions and the Section 106 legal agreement. As such, the appeal proposal is considered to **accord** with Policy LP17.

### Local Plan Policy LP29: Development Considerations

10.28 This policy seeks to meet the needs of current residents and businesses without compromising the ability of future generations to ensure the same quality of life. It sets out 17 points which developments are expected to comply with, covering matters of reusing brownfield land, promoting healthier lifestyles, encouraging sustainable

transport, protecting amenity, protecting hydrology and flood risk, protecting mineral reserves, protecting the historic and natural environment and managing the impacts of climate change.

10.29 Many of the points contained within this policy are not relevant to this proposal. However, overall the development accords with the intention to protect residential amenity, flood risk and other technical matters. It is also embedded in the concept of addressing climate change issues through the generation of renewable energy and thus reducing the dependence on fossil fuels.

10.30 The only area of conflict is against point 10, protecting and enhancing the historic and natural environment. Harm is identified to both the historic and natural environment, as already outlined above. **Limited conflict** with this policy is therefore recognised.

#### Local Plan Policy LP33: Water and Flood Risk Management

10.31 This policy seeks to ensure development does not increase flood risk elsewhere, whilst also noting that opportunities to reduce flood risk should be taken. The Appeal is considered to ensure no harm to flood risk as a result of the scheme, with the additional ponds proposed offering betterment. The appeal proposal therefore **accords** with Policy LP33.

#### Fillongley Neighbourhood Plan Policy FNP03: Flooding

10.32 The aims of this policy in respect of flooding echo that of Local Plan Policy LP33. **No conflict** with this policy is therefore considered to occur.

#### Fillongley Neighbourhood Plan Policy FNP06: Heritage

10.33 The aims of this policy in respect of protecting heritage assets echoes that of Local Plan Policy LP15. As noted above, there is less than substantial harm to heritage assets

but the benefits overall outweigh the harms. Notwithstanding this, there is **limited conflict** with the policy due to the identified harm.

### Development Plan Compliance/Conflict Conclusion

10.34 By way of a summary, the compliance/degree of conflict with the relevant Development Plan Policies is as follows:

Policy*	Compliance/Degree of Harm
<b>North Warwickshire Local Plan</b>	
<b>LP1: Sustainable Development</b>	<b>Moderate Conflict</b>
<b>LP3: Green Belt **</b>	<b>Significant Conflict</b>
<b>LP14: Landscape</b>	<b>Significant Conflict</b>
LP15: Historic Environment	Limited Conflict
LP17: Green Infrastructure	Complies
LP29: Development Considerations	Limited Conflict
<b>LP30: Built Form</b>	<b>Moderate Conflict</b>
LP33: Water and Flood Risk Management	Complies
<b>LP35: Renewable Energy and Energy Efficiency</b>	<b>Significant Conflict</b>
<b>Fillongley Neighbourhood Plan</b>	
<b>FNP01: Built Environment</b>	<b>Significant Conflict</b>
<b>FNP02: Natural Environment</b>	<b>Significant Conflict</b>
FNP03: Flooding	Complies
FNP04: Heritage	Limited Conflict

\* Key policies are highlighted in bold.

\*\* Significant weight should be given to this policy, rather than the full weight attributed to all other policies referenced.

10.35 There is conflict with North Warwickshire Local Plan Policies LP1, LP3, LP14, LP15, LP29, LP30, LP35 and Fillongley Neighbourhood Plan Policies FNP01, FNP02 and FNP04. The development does not therefore accord with the Development Plan and there is substantive conflict with the Development Plan, by way of conflict with a number of policies. The development should therefore be dismissed on appeal, unless material considerations indicate otherwise. This planning balance is undertaken in Section 11.

## 11. PLANNING BALANCE

- 11.1 In line with paragraph 11 of the NPPF, a planning balance should be undertaken to establish whether the benefits outweigh the harms. Given that the site is located within the Green Belt, it also needs to be considered whether these benefits amount to very special circumstances to outweigh the harm to the Green Belt. This is set out within Section 6 above.
- 11.2 In undertaking this assessment, it is recognised that not all benefits and harms are afforded equal importance. Consideration needs to be given to each area by the decision maker to reach an overall decision.

### Benefits of the Development

#### Generation of Renewable Energy

- 11.3 These matters are considered in paragraphs 6.72 – 6.82 above which recognises that there is an energy emergency in the UK and that there needs to be additional renewable schemes approved to address this. Stemming from the creation of green energy, there are clear benefits to turning reliance towards clean energy and offering resilience to the system. The conclusion provided that substantial positive weight should be afforded to the wider environmental benefits of renewable energy.
- 11.4 Significant or substantial weight has been afforded to this matter in numerous recent appeal decisions. This is not challenged, with it recognised as a **substantial benefit** within this appeal. However, there is no automatic presumption that the environmental benefits of renewable energy solar farms automatically trump harm to the Green Belt. It needs to be considered on a case by case basis.

### Biodiversity Enhancements

- 11.5 The proposal seeks to retain the existing hedgerows and trees on site. These will then be augmented by additional tree planting, plus augmentation of existing hedgerows as necessary along with the planting of additional hedgerows. Overall, the additional planting equates to a 63% increase in habitats and a 26% increase in hedgerow units.
- 11.6 The increase in biodiversity, along with the benefits generated through additional wildlife corridors and appropriate maintenance is considered a notable benefit of the scheme. This is afforded **moderate weight**, aligning with the view of the Appellant.
- 11.7 The application of moderate benefit to delivering Biodiversity Net Gain in excess of the standard 10% has been concluded by other Inspector's for solar farm appeals. This has included the Lullington solar farm which was the subject of a high court judgment (APP/F1040/W/223313316 – **CD 7.79** paragraph 50).

### Drainage

- 11.8 During the course of the application, the drainage scheme was revised to include additional ponds as shown on Layout Plan E (**CD 1.43**). The Lead Local Flood Authority found this to be acceptable and this was reported to the July 2024 Board. Significant weight is given to the support from the LLFA as it indicates that the proposed drainage scheme as set out in Plan E and the FRA addresses the surface water and flood risks with this development, such that it does not cause flood risk.
- 11.9 The Local Flood Group's concern during the application lead to the inclusion of additional swales/ponds as part of the scheme that was formally refused by the Council. The inclusion of these swales/ponds represented betterment by the proposal, assisting in hopefully addressing some of the flash flooding that occurs in Fillongley village due to surface water run off. This runs from the M6 down towards the village, which is at the bottom of the slope. The additional swales and ponds would increase

the storage capacity and reduce run off rates. The scheme as agreed to be considered as part of the appeal therefore represents betterment, and thus is considered to be recognised as a **limited benefit**.

### Economic

- 11.10 The proposal will generate some short-term benefits to the local economy during the construction phase. This will include construction jobs, sourcing of materials and potentially plant/machinery hire. There may also be some local spend by the construction workers, but generally this is lower in rural locations due to the lack of convenient opportunities available.
- 11.11 Once completed, the renewable energy installations on site will need very little on site presence, with it expected to be no more than a few hours each month by a single person. This equates to considerably less than even one employment position. Some agricultural and hedgerow maintenance will be required, but this would occur anyway, and is expected to be undertaken separately to the solar farm operation.
- 11.12 No information has been provided as part of the application or appeal in respect of the cost for construction or the benefits generated to the local area through spend and employment generation. The Appellant's statement makes reference to the overall value of the energy sector, but since the appeal scheme represents just one small part of the whole system to transfer the values and importance of the industry as a whole to a single site would be incorrect.
- 11.13 Given that the financial benefits have not been quantified and the benefits during the construction phase would be negligible, other than assisting in offering security to the cost of electricity within the country (albeit controlled by Central Government), **limited weight** is afforded to the economic benefits.



11.14 This level of weight accords with the conclusions of the Inspector in the Iron Acton solar farm appeal (APP/P0119/W/22/3294810 – **CD 7.78** paragraph 61) and the Gotham solar farm appeal (APP/P3040/W/23/3329235 – **CD 7.71**). The likely benefits generated by this scheme would be comparable to these other solar farm appeal decisions, indicating alignment between decisions on this matter.

#### Dual Use of Land / Best and Most Versatile Land

11.15 The proposal will allow agricultural use of the site to continue in unison with the generation of energy. As outlined in Section 9 above, this is considered to be a **limited benefit**.

#### Harms of the Development

##### Landscape and Visual

11.16 As outlined in Section 8 above, it is considered that the proposal will have a significant impact upon a number of viewpoints around the site, affecting numerous public rights of way. From these viewpoints, the overall rural countryside appearance will be significantly altered, through the provision of extensive rows of solar arrays across 10 fields on rising land that peaks in the centre of the site. The landscape and visual impact will extend for a number of kilometres around the site and thus cause a high level of change to the rural landscape.

11.17 This harm to the landscape and visual setting of the countryside is considered to represent a **significant harm**.

##### Openness to the Green Belt

11.18 The impact upon the Green Belt has been considered in detail within Section 6 above. This concluded that the scale of the development and the extent to which the site

would be visible and impact upon views across the area, even once additional planting has been established, **significant harm** to the openness would still occur.

11.19 The fact that the proposal would be present for 40 years and has little associated activity is considered to temper the harm to the lower end of significant.

### Heritage Impact

11.20 As considered within the policy compliance section above (Section 7), it is recognised that there would be less than substantial harm to heritage assets. This position is agreed with the Appellant. It is considered to translate into a **limited harm** associated with the proposal.

### Planning Balance Conclusions

11.21 The following benefits and harms are considered to occur as a result of this appeal proposal:

Benefits	Weighting
Generation of renewable energy	Substantial
Biodiversity enhancements	Moderate
Drainage	Limited
Economic	Limited
Dual use of land/BMV	Limited

Harms	Weighting
Landscape and visual	Significant
Openness to the Green Belt	Significant
Heritage	Limited

11.22 The need to deliver renewable energy schemes to meet future requirements is recognised as a nationally important demand. Conversely, the need to protect the countryside for its own sake and the long standing policy protection for Green Belts is also of national importance. In this specific instance, the extent of harm that would be caused by the proposal, due to the landform of the site and surrounding area is considered to be so great that the generation of renewable energy and the other benefits do not outweigh the harms.

11.23 The proposal is contrary to the Development Plan as a whole for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004; there are no other considerations that indicate a decision other than in accordance with the Development Plan should be made.

**AITCHISON  
RAFFETY**



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