

CD13.2b

***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: SUMMARY
on behalf of**

**NORTH WARWICKSHIRE BOROUGH
COUNCIL**

APP/R3705/W/24/3349391

March 2025 – FINAL

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SUMMARY

1. This appeal relates to the refusal by North Warwickshire Borough Council for a solar farm on 61 hectares of land to the south of Fillongley. It was refused for the following reason on 10 July 2024:

“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.”

2. As part of the appeal, the Appellant has indicated that the updated drawings and drainage information to address flood issues claimed by a local flood interest group are not necessary and thus do not comply with the NPPF and Development Plan Policy LP1. A revised plan P007039-09-PlanningLayout_RevH has therefore been provided by the Appellant for consideration by the Inspector.

Green Belt Impact

Whether the development is inappropriate in the Green Belt

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.

4. The recent update to the NPPF has introduced Grey Belt sites within Green Belt designations, with a requirement to show that there is no strong contribution from the land to the Green Belt functions (a), (b) and (d) of Paragraph 143. The Council consider that the site should be considered as part of the Grey Belt.

5. In terms of whether the development is not inappropriate, paragraph 155 of the NPPF, with augmentation of the PPG (ID 64-010-20250225), highlights that there are five elements that all need be met in order for a site to be considered not inappropriate. These are:
 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. The appeal site, when taken as part of the remaining Green Belt is considered to fundamentally undermine its purpose. It accords with the remaining four clauses (as relevant).
7. The impact to the Green Belt as a whole relates to the encroachment of development into the countryside as a result of this development (NPPF paragraph 143 clause (c)). The proposal will provide a significant transition of the landscape from one of a rural setting to one where the solar panels dominate. The topographic arrangement allow views of the development from the surrounding area across a 5 – 6 km distance, resulting from the higher ground level and the provision of solar arrays across the ridge of the domed ground. Views from the east are particularly notable, as the surrounding topography acts as an amphitheatre to focus views towards/across the Appeal site. The development is of a large scale grain that is in substantial contrast to the small grain development currently provided by the scattered houses and small villages. Its development will subdivide the Green Belt by its development.
8. 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 and Local Plan Policy LP3. 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.
9. It is also a material consideration that a solar farm and battery energy storage site appeal was very recently dismissed at Kenilworth/Solihull

(APP/T3725/W/24/3347315 – see [CD 7.80](#)). This is a similar scale and type of proposal set within close proximity of the current Appeal site and dealing with the same matters. The Inspector concluded here that the development is ‘*manifest encroachment into the countryside*’.

Impact upon the Green Belt

9. The PPG recognises that there are a number of factors that influence the openness of the Green Belt. These include the spatial and visual aspects of the land, the duration and remediability, and the level of activity generated.
10. Spatially, the site is 61 hectares and incorporates 10 fields. This represents a significant quantum of land, 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.
11. 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.
12. 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.
13. Visually, the number and extent of public and, to a lesser extent, private views underline the significant impact that is still considered to occur once proposed landscaping has matured (year 15). This includes from footpath M294 across the site, and the Coventry Way and footpath M294A to the east of the site. Significant harm is considered to occur to the visual setting of the site.

14. The key difference between the Appellant's and the 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.
15. The duration of the site is a temporary period of 40 years. This is still a significant timeframe. 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.
16. The degree of activity on a day-to-day basis is low. This needs to be factored into the overall harm to the Green Belt.
17. As a conclusion to the harm to the openness of the Green Belt, this is considered to be 'substantial' weight against this definitional harm by the proposal, and an actual Green Belt harm of 'significant'.

Whether there are Very Special Circumstances to allow Inappropriate Development in the Green Belt

18. Local Plan Policy LP3 reiterates the need for inappropriate development within the Green Belt to demonstrate very special circumstances (paragraph 152 of the NPPF).
19. The Appellant cites the following as the very special circumstances to allow the appeal:
 - Wider Environmental Benefits of Renewable Energy including:
 - Contribution to radically reducing greenhouse 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)
- Providing net gains for biodiversity (NPPF paragraph 187d)
- Achieving multiple benefits from land uses and achieving net environmental gains (NPPF paragraph 125)
- Achieving Good Design (NPPF paragraph 135 and NPS EN1 paragraph 4.7.2)
- Economic, Social and Environmental Objectives (NPPF paragraph 8)

20. The substantial benefits of the development towards the wider renewable energy enhancement are recognised, along with smaller benefits then to biodiversity (moderate), multiple land uses (limited) and the overall social and economic benefits (limited).

21. However, the site specific harms relating to the significant landscape and visual impact that will be retained for the lifetime of the site is considered with the policy and Green Belt harm, along with heritage harm (less than significant) are considered too substantive for the benefits noted to equate to very special circumstances.

22. This appeal represents a significant development on elevated land that cannot be appropriately mitigated. 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 hilltop that forms a horizon in views will always be visible, in its changed form.

23. 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.

24. 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.

Heritage Assets Impacts

25. The Planning (Listed Buildings and Conservation Areas) Act 1990, NPPF, Local Plan Policy LP15 and Neighbourhood Plan Policy FNP06 seek to protect heritage assets, and require where there is identified harm to assets and/or their setting, that the public benefits of a scheme outweigh the harm.

26. 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 impact upon these heritage assets are considered to be **less than substantial harm**.

27. 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.

Landscape and Visual Impacts

28. A separate Proof of Evidence has been prepared by Ms Oxley to cover Landscape and Visual Impacts. This indicates that the site is located beyond the limits to development, within the countryside. It is also designated as Green Belt. 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.
29. 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 will alter its character to one of built development and reduce the sense of openness.
30. 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 area and have an urbanising effect.
31. Ms Oxley considers that important visual effects will still arise from Viewpoints 1, 2, 5, 6, 7, 9, 10, 11 and 13 at Year 15.
32. 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. This level of harm is considered contrary to the landscape policies of the Development Plan, namely LP14, and FNP02.

Best and Most Versatile Land Impact

33. 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.
34. The Appellant's 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.
35. 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. Even if the landscaping areas proposed are retained in perpetuity, the overall loss of agricultural land would be limited.
36. The proposal will allow agricultural use of the site to continue in unison with the generation of energy. The agricultural use of the land will become more limited in terms of output and flexibility during the 40 year period the solar farm is operational. However the dual use of the land (agricultural and energy generation) would be delivered and accords with aim of the PPG noted above. It would also allow soils to improve in quality due to a reduced intensity, compared to their current condition. The use of BMV land in this instance should not be considered contrary to policy or to directly cause harm in this instance.

Development Plan Compliance/Policy Harm

37. As outlined above, there is a fundamental issue with the development in respect of the high level of harm to the landscape and visual setting, and the openness of the Green Belt. This underpins the conflict with the Development Plan, whereby the following level of conflict with the various policies are considered as follows:

Policy*	Compliance/Degree of Harm
North Warwickshire Local Plan	
LP1: Sustainable Development	Moderate Conflict
LP3: Green Belt	Significant Conflict
LP14: Landscape	Significant Conflict
LP15: Historic Environment	Limited Conflict
LP17: Green Infrastructure	Complies
LP29: Development Considerations	Limited Conflict
LP30: Built Form	Moderate Conflict
LP33: Water and Flood Risk Management	Complies
LP35: Renewable Energy and Energy Efficiency	Significant Conflict

Fillongley Neighbourhood Plan	
FNP01: Built Environment	Significant Conflict
FNP02: Natural Environment	Significant Conflict
FNP03: Flooding	Complies
FNP06: Heritage	Limited Conflict

38. 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.

Planning Balance

39. 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.

40. 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

41. 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 land form 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.
42. 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.

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