

## Fillongley – Appeals and Case Law submitted by the Appellant

CD	Authority	Explanation
7.1	Great Wheatley Farm solar farm, 11th March 2024.	Solar farm acceptable in the Green Belt, refer to the analysis in particular of visual openness
7.2	Harlow Road solar farm, 3rd May 2024	Solar farm acceptable in Green Belt and on BMV, useful analysis of Green Belt openness
7.3	Kemberton solar farm, 22nd February 2024.	Solar farm acceptable in Green Belt and on BMV, useful analysis of Green Belt encroachment
7.4	Fobbing solar farm, 22nd March 2024	Solar farm acceptable in Green Belt
7.5	Sherbourne solar farm, 25th September 2023	Solar farm found acceptable in the Green Belt
7.6	Park Farm Essex solar farm, allowed 5 <sup>th</sup> April 2023	Solar farm that was found acceptable in the Green Belt. Reference to time-limited nature of consent in context of Green Belt PPG.
7.7	Crays Hall solar farm, 30th August 2023	Solar farm that was considered acceptable in the Green Belt
7.8	Canon Barns Road, Chelmsford solar, 6 <sup>th</sup> February 2023	Solar farm allowed in the Green Belt, relevant discussion of spatial openness
7.9	Graveley Lane Wymondley, solar farm, allowed on 11th March 2024.	Secretary of State called-in solar farm allowed in the Green Belt, with impacts including to heritage, landscape and BMV
7.10	Thoroton / Longhedge solar farm, allowed 23rd October 2024	Solar farm allowed on BMV and commentary on alternatives assessments
7.11	Gunthorpe Road Walpole solar farm, 23 <sup>rd</sup> September 2023	Solar farm allowed on Grade 1 BMV agricultural land
7.12	Halloughton solar farm, 18th February 2022.	Solar farm allowed with impacts to a number of heritage assets. Found some landscape impacts from large solar 'inevitable'.
7.13	Washdyke solar farm, 23 <sup>rd</sup> April 2024.	Solar farm allowed on BMV, on a site with footpaths bisecting it.
7.14	Washford solar farm, 28 <sup>th</sup> March 2024	Solar farm allowed where impacts to BMV, landscape and heritage.

7.15	Bramley solar farm allowed on 13th February 2023.	Solar farm allowed where impacts to BMV and landscape. Useful discussion of BMV considerations for solar.
7.16	Scruton solar farm, 27th June 2023.	Useful discussion of BMV considerations for solar.
7.17	Bishops Itchington, solar farm 1st December 2022.	Useful discussion of solar landscape impacts.
7.18	Murton Road Durham solar farm, 25 <sup>th</sup> May 2023	Solar farm allowed on undulating open farmland not designated or valued. Discussion on the time-limited nature of the development and the resultant enhanced landscape.
	R. (on the application of William Corbett) v The Cornwall Council [2020] EWCA Civ 508.	The development plan should be read as a whole, and conflict with one policy need not mean conflict with the plan as a whole (§41)
7.19	Bewley-Homes-PLC-v-Secretary-of-State-for-Levelling-Up-Housing-and-Communities-Anor	Clarifies the weight to economic benefits under the NPPF
7.20	Catesby Estates Ltd v. Steer, EWCA Civ 1697, 2018	Whilst issues of visibility are important when assessing setting of heritage assets, visibility does not necessarily confer a contribution to significance and factors other than visibility should also be considered (§§25-26)
7.21	Bedford Council v Secretary of State and Nuon Ltd [2013] EWHC 2847 (Admin).	<p>“Substantial” harm is harm that would “have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced” (§25)</p> <p>“Special regard may lead to the giving of special weight, but it does not necessarily do so.” (§36)</p>
7.22	Palmer v Herefordshire Council Anr, EWCA Civ 1061 [2016].	“[the] duty to accord “considerable weight” to the desirability of avoiding harm [to a heritage asset] does not mean that any harm, however slight, must outweigh any benefit, however great, or that all harms must be treated as having equal weight. The desirability of avoiding a great harm must be greater than that of avoiding a small one.” (§31)
7.23	Jones v. Mordue and Secretary of State and South Northamptonshire	The Inspector can discharge the duty to give reasons in relation to heritage by following the stepped approach to

	Council, EWCA Civ 1243 (2015).	consideration of heritage assets set out in the NPPF (§§26 & 28)
7.24	Barnwell v. East Northamptonshire DC, English Heritage, National Trust and Secretary of State, EWCA Civ 137 (2014) .	Parliament’s intention in enacting section 66(1) was that decision-makers should give “considerable importance and weight” to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise (§29)
7.25	Edith Summerskill House, Clem Attlee Court, APP/H5390/V/21/327713 [2023].	“In cases where the impact is on the setting of a designated heritage asset, it is only the significance that asset derives from its setting that is affected. All the significance embodied in the asset itself would remain intact. In such a case, unless the asset concerned derives a major proportion of its significance from its setting, then it is very difficult to see how an impact on its setting can advance a long way along the scale towards substantial harm to significance.” (§12.50)
7.26	Land Off Station Road, Long Melford, Suffolk, April 2020	Consideration of how the various aspects of the ‘setting’ of a Church may contribute to its overall heritage significance – “ <i>It [the Church] derives much of its significance from its architectural quality, scale, location and presence providing evidential illustrative and aesthetic value. It forms a local landmark and can be seen from significant distances in the surrounding area however visibility is not the test of the contribution to significance albeit it may influence that. These values are best appreciated in reasonably close proximity to the church, the adjacent graveyard, the Green and the more immediate surrounding area</i> ” (§382)
7.27	Travis Perkins (Properties) Limited v Westminster City Council [2017] EWHC 2738 (Admin).	The High Court confirmed at §44 that the only requirement of the NPPF in respect of non-designated heritage assets is “ <i>that the effect of an application on the significance should be taken into account</i> ”
7.28	Pugh v SoS for Communities and Local Government [2015] EWHC 3 (Admin)	The High Court held that where the decision-maker works through the sequence for dealing with proposals which impact upon heritage assets in the context of Paragraph 212-215 of the December 2024 NPPF (formally 205-208) and finds that any harm to significance is

		outweighed by public benefits, then the clear and convincing justification referred to at Paragraph 213 of the December 2024 NPPF (formally Paragraph 206) is in place
7.29	Honiley Road solar farm, allowed on XX	Green Belt solar farm allowed. Useful discussion of weight to various benefits of solar. Secretary of state call-in.
7.30	Bramley Solar v SoS EWHC High Court Decision	There is no sequential test in national policy or guidance for siting of a solar farm on BMV agricultural land.  Clarifies protection for landscapes that are not valued under the NPPF weaker than for valued landscapes.
7.31	Butterfly Lane solar farm, 8 <sup>th</sup> April 2024	Discussion of Green Belt, heritage and landscape considerations for a proposed solar farm
7.32	Penhale Moor solar farm	No weight given to Written Ministerial Statement from 2015 on BMV referenced in PPG and commentary on food production
7.33	Steerway Farm, Telford solar farm, allowed on 9 <sup>th</sup> May 2023	49.9MW solar farm allowed in setting of AONB and on valued landscape
7.34	Southlands solar farm, allowed 2024	Solar farm acceptable in the Green Belt. Useful discussion of wide-ranging benefits of solar farms.
7.35	R (Lee Valley) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404	If the proposal is not 'inappropriate' there is no need to consider impacts on Green Belt openness / purposes and no harm to Green Belt.
7.36	Woodlands Stowmarket 7 <sup>th</sup> January 2025	Post NPPF 2024. Solar farm with heritage the main issue. Dispute between parties on the theoretical scale of less than substantial harm to several heritage assets. Justified by the proposal's contribution to national decarbonisation targets. Plus s106 for Skylark mitigation.
7.37	Walsall Grey Belt battery storage, allowed 2025	Post 2024 NPPF, a battery energy storage proposal was consented in the 'Grey Belt', with the Inspector considering it passed the tests of §155 NPPF such that it was not 'inappropriate'.
7.38	Land west of Thaxted solar farm, 18 <sup>th</sup> December 2023	40MW solar farm on BMV with heritage impacts. Useful discussion on BMV and food impacts of solar.

7.39	Land north of Little Cheveney solar farm Marden, allowed on 5 <sup>th</sup> February 2024	49.9MW solar farm with useful discussion of impacts on BMV.
7.40	Squirrel Lane solar farm, allowed on 7 <sup>th</sup> July 2023	Solar farm allowed on BMV, with impacts on setting of AONB
7.41	Berden Hall solar farm, allowed on on 18 <sup>th</sup> July 2024	Commentary on the approach to alternatives in the WMSs
7.42	Bottesford solar farm, allowed 2025	Solar farm allowed with impacts on Grade 1 and 2* heritage assets
7.43	Halse Road solar farm, allowed on 14 <sup>th</sup> November 2023	Useful discussion about landscape impacts of solar development
7.44	New Works Lane, Telford solar farm, allowed on 27 <sup>th</sup> March 2023	Solar farm allowed on valued landscape in setting of AONB
7.45	Church Farm solar farm, allowed on August 2023	Solar farm allowed on Grade 2 & 3a BMVAL
7.46	Burcot Grey Belt solar farm, allowed 2025	Solar farm allowed in the Grey Belt and on 100% BMV, following new NPPF & PPG on Grey Belt
7.47	Carrington Grey Belt battery storage, allowed 2025	Battery storage allowed in the Grey Belt and per §155 NPPF, following new NPPF & PPG on Grey Belt
7.48	3302752 Appeal Decision	Discussion on suitability of utilising a matrix led approach for the assessment of potential harm to heritage assets <i>outside</i> of an EIA situation and how resulting conclusions from the approach set out in the NPPF - <i>"Taking the value into account in assessing the effect on assets must differ from the approach expected by the Framework as it can only lead to counting the value of the asset twice in calculating the weight to be derived."</i> (§101)
7.49	James Hall v City of Bradford, [2019] EWHC 2899 (Admin)	Consideration of the application of the statutory duty of §72(1) of the Act in regard to changes outside of the boundary of a Conservation Area.
7.50	R (Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin)	Assessment of harm to a listed building is a matter of planning judgment, and the requirement to give harm <i>"considerable importance and weight"</i> does not mean the weight to harm that would be limited

		or less than substantial should be the same as harm that is substantial (§49)
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