

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

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

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

Enviromena Project Management UK Ltd

1 Introduction

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

2 Background

a) The Refusal

2.1 The reason for the refusal of planning permission was:

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

It would additionally cause landscape and visual harm such that it does not accord with Policies LP1, LP14 and LP30 of the North Warwickshire Local Plan 2021, or Policies FNPO1 and FNP02 of the Fillongley Neighbourhood Plan 2019.

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

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

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

b) The NPPF and the Introduction of Grey Belt

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Observations

a) Grey Belt

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

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

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

b) Appropriate or Not Appropriate

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

4 **Conclusion**

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

Recommendation

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